

**FINAL NOTICE ISSUED UNDER SECTION 251 OF
THE FINANCIAL SERVICES AND MARKETS REGULATIONS 2015**

To: **Sarwa Digital Wealth (Capital) Limited**
16-115, WeWork Hub 71,
Al Khatem Tower
Abu Dhabi Global Market Square
Al Maryah Island
Abu Dhabi
United Arab Emirates

Date: 15 May 2024

1. ACTION

- 1.1. This Final Notice (“Notice”) is issued under section 251 of the *Financial Services and Markets Regulations 2015* (the “Regulations”).
- 1.2. For the reasons given in this Notice, the Financial Services Regulatory Authority (the “Regulator”) has decided to impose on Sarwa Digital Wealth (Capital) Limited (“Sarwa”):
- a financial penalty of US\$ 122,500 under section 232 of the Regulations; and
 - a Requirement pursuant to section 35 of the Regulations to undertake a review of its governance, systems and controls, as approved by the FSRA, to ensure compliance with the Regulations,

for the contraventions set out below.

2. DEFINED TERMS

- 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 a Rulebook, Glossary, 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. Annexure A sets out extracts from the regulations, rules and guidance relevant to this Notice.

3. SUMMARY OF REASONS FOR THE DECISION

- 3.1 The Regulator has decided to take the action set out in this Notice because it considers that, over the period from around April 2023 to around May 2023 (the “Relevant Period”), Sarwa made an Offer of Securities in the Abu Dhabi Global Market (“ADGM”) without an Approved Prospectus. In doing so, Sarwa contravened sections 58(1) and 61(1) of the Regulations as set out in this Notice.

FINANCIAL SERVICES REGULATORY AUTHORITY
سلطة تنظيم الخدمات المالية



4. FACTS AND MATTERS RELIED ON

Background

- 4.1. On 26 January 2020, Sarwa registered with the ADGM Registration Authority as a private company limited by shares.
- 4.2. On 20 February 2020, Sarwa was granted a Financial Services Permission (190037) by the FSRA under which it was permitted to undertake the Regulated Activities of “*Advising on Investments or Credit*”, “*Arranging Deals in Investments*” and “*Managing Assets*”.
- 4.3. Sarwa is a wholly owned subsidiary of a non-operational holding company based in the British Virgin Islands (“Related Entity A”).
- 4.4. Sarwa provide a financial platform via a mobile phone application for trading stocks, saving and investing.

4.5. Relevant Facts

- 4.6. On 28 April 2023, Related Entity A signed an agreement with a company registered in the Cayman Islands (“Entity C”) (the “Agreement”) to enable the sale of a number of shares owned by the shareholders of Related Entity A. The shareholders offered the shares to a network of investors sourced by Sarwa.
- 4.7. Related Entity A engaged Entity C for the purpose of grouping the shareholders under a segregated portfolio referred to as the “Sarwa Collective | ZE SP17”, or the “SPV”.
- 4.8. A company related to Entity C based in the UAE (“Entity D”) operated a liquidity solutions platform and a streamlined investment process to enable the acquisition of the shares from the “Sarwa Collective | ZE SP17” by investors (“Entity D Website” or “Entity D Platform”).

The Marketing Campaign

- 4.9. During the Relevant Period, Sarwa maintained and operated the Sarwa Collective website at URL: <https://sarwa.co/collective/> (the “Website”) and the email address at collective@sarwa.co (the “Collective Email”).
- 4.10. In April 2023, Sarwa sent three (3) emails to its members and to potential investors. In particular:
 - a. On 11 April 2023, Sarwa sent an email titled “*Introducing the Sarwa Collective*”. This email was sent to 96,701 email accounts of registered members who had subscribed to marketing emails. The email contained a link to the Website and stated:
 - i. A “*14-day program that allows you to become a shareholder in Sarwa alongside top investors.*”
 - ii. The platform [Entity C] is offering “*a secondary transaction that lets you invest in Sarwa and be part of our journey.*”
 - iii. “*...there is a limited allocation available. The deadline is April 25th, 2023, and it will be on a first-come-first serve basis.*”



- b. On 18 April 2023, Sarwa sent an email from the Collective Email titled *“The 3 pillars behind our journey to \$1B in trading volume”*. The email was sent to 20,721 recipients who had opened the email previously sent on 12 April 2023. The email contained a link to the Website and stated:
 - i. *“Sarwa surpassed \$1 Billion in trading volume. Our community has more than 180,000 registered users and it keeps growing.”*
 - ii. *“With the Sarwa Collective, our community can now invest directly in Sarwa alongside top stakeholders.”*
 - iii. *“The 14 day program closes in 6 days.”*
- c. On 24 April 2023, Sarwa sent a further email from the Collective Email titled *“Sarwa Collective: it’s a wrap!”*. This email was sent by Sarwa to 21,061 recipients. The email contained links to Entity C’s registration webpage and the Website and stated:
 - i. *“We’ve been oversubscribed with millions in commitments...we will be closing the program...Any new commitment...will be waitlisted.”*
 - ii. *“For those who have already placed a bid through [Entity C], you’ll receive an email from them by Friday this week with the details on how to finalize and fund by April 30th.”*

4.11. Over the Relevant Period, Sarwa published the following statements on the Website:

- a. *“We’ve partnered with [Entity C] to create a Special Purpose Vehicle that allows accredited investors to invest in Sarwa stock. Through secondary transactions, you can purchase shares from existing shareholders selling a minority stake.”*
- b. Under the heading *“How it works”*, the Website had three (3) tabs that each had a link to Entity D’s Webpage and which directed visitors to:
 - i. *“Sign up to [Entity C], our trusted partner to facilitate this transaction seamlessly.”*
 - ii. *“Reserve your allocation...Place a bid, from \$10K up to \$2m. Limited allocation available first-come, first served basis.”*
 - iii. *“Fund your account...Sign the transaction documents and fund your investment.”*
- c. Under the heading *“Historical performances of the Sarwa share price”*, Sarwa described how much US\$100,000 invested in Sarwa’s seed round led by a third party in 2017 (the “Third Party”) would be worth over time. Specifically, it stated that US\$100,000 invested in 2017 was worth:
 - i. *\$357,143 in the Pre-Series A led by [the Third Party] in 2018;*
 - ii. *\$725,392 in Series A led by [another third party] in 2020; and*
 - iii. *\$1,660,746 in Series B led by [a different third party] in 2021.*
- d. Under the heading *“Frequently Asked Questions”* (“FAQ”):



- i. Q, “Can I sign up?” A, “You can sign up here. Please note that only accredited investors can invest. This is an opportunity for Sarwa customers on a first come first serve basis.”
 - ii. Q, “Is there a minimum amount to invest?” A, “The minimum you will need is \$10,000 and the maximum you can participate with is \$2,000,000.”
 - iii. Q, “What is the timeline? Am I guaranteed an allocation once I fund?” A, “You have until April 25, 2023, to sign up to [Entity C]. We’ll do our best to guarantee your allocation, however, there is a chance we may not be able to give you your full allocation.”
 - iv. Q, “Are there any fees?” A, “No fees apply.”
 - v. Q, “Will I receive information rights?” A, “Unfortunately, information rights are exclusive to major investors who hold a significant stake in the company”
 - vi. Q, “When do I get paid? When do I make a return?” A, “This investment takes patience and is for clients who can have their money tied up for 5-10 years. You make a return when Sarwa gets acquired or goes for an IPO. This is an illiquid investment. Keep in mind, all investing involves risk.”
 - vii. Q, “Will you allow us to buy shares in other fast-growing companies in the future?” A, “That’s very likely! Our plan is to democratize investing, and that includes private investments. Note that investing in single companies is risky and involves a higher level of risk. If there are specific companies you would like access to, please drop us a note.
- e. A link on the page titled “Reach out” enabled visitors to send a message to the Collective Email.

The Registration, Bid and Purchase Procedure

- 4.12. In the period between April and May 2023, Sarwa sent four (4) emails from the Collective Email on:
- a. 29 April 2023, to 172 persons who placed a bid on Entity D’s website, thanking them for joining the Sarwa Collective and informing them that funding instructions would be sent:
 - b. 1 May 2023, to 107 persons who had placed a bid but had not provided funds asking them to sign documentation from Entity C and receive funding details;
 - c. 4 May 2023, to 23 persons who had placed a bid but had still not yet provided funds asking them to sign the documentation and fund their accounts; and
 - d. 4 May 2023, to 11 persons who had missed the deadline to bid but had provided KYC details to Entity D and joined a waiting list for the Sarwa Collective program, asking them to reply to the email with the amount they wished to fund.



- 4.13. The Agreement required investors to subscribe for Class A Subscription Shares at a price of US\$1 per share. The portfolio investment objective was set out to acquire “Class A and Class B Common Shares in [Related Entity A] at US\$ 3,756.11 per share.”
- 4.14. After 14 days, 144 investors committed to approximately US\$2.1 million which was held in an escrow account.
- 4.15. Sarwa facilitated the transactions by communicating with potential investors and offering to discuss with them by telephone. Some of Sarwa’s email replies to investors included:
- a. *“We are not paying dividends at this stage. You should have a 5-10 year view in this investment and consider it illiquid. It’s possible that we don’t go for an IPO or M&A in the next 5-10 years and choose to remain private & independent. In that event, what’s likely is to do a secondary offering, but it’s not guaranteed.”;*
 - b. *“To answer your question below, you can review the historical performance of Sarwa’s shares to date on [the Website] and make some assumptions from that, however please remember that as with any investing, your capital is at risk. Past performance is not an indication of future performance.”;*
 - c. *“Regarding exit opportunities, you should have a 5-10 year view in this investment and consider it illiquid. It’s possible that we don’t go for an IPO or M&A in the next 5-10 years and choose to remain private & independent. In that event, what’s likely is to do a secondary offering, but it’s not guaranteed. Using an acquisition or IPO as the example: the ... SPV (which you will be a unit holder of) will be included in the exit via drag-along rights, this will be communicated to you at the time through [Entity D’s] platform.”;*
 - d. Investor Question: *“As such, and to be able to better informed about this investment, I would like to request Sarwa’s historical financial performance (eg breakdown of revenues by source, gross and EBITDA margins, burn rate) and user base metrics (eg active users, new users, retention rates, users average initial investments and average investments 1 year after joining), in addition to its projections for next 3-5 years.”* Response from Investor Relations: *“Information rights are exclusive to major investors who hold a significant stake in the company, therefore all the information that we are able to disclose has been made available on [the Website] and on the [Entity D’s] platform ...”;*
 - e. *“Thank you for your interest in our Sarwa Collective initiative! Unfortunately the minimum allocation is \$10,000.00 for this secondary. However if you still wish to have a one-on-one to discuss this opportunity, walk through the process and next steps - here is my schedule, please book a convenient time...”;*
 - f. *“Please review the due diligence information available on the sarwa.co/collective website, and on [Entity D’s] platform”;*
 - g. *“Confirmed the price per share is \$3,756.11. Once the bids have been accepted, they are binding, so if you would like to increase, please reach out to [Entity D] directly so that they can make any changes in the back end.”;*
 - h. *“Sarwa is a privately held company and as the offering is for Common shares only, information rights are exclusive to major investors who hold a significant stake in the company. We have provided the due diligence information we are able to disclose on [the Website], and on [Entity D’s] platform.”;*



- i. *“No, ... SPV shareholders will not be able to sell their investment in the SPV later in the secondary market.”;*
- j. *“...and here is the information on funding: Funding is in USD (Bank account will be...) Documentation and funding to start 5 days after closing ie. by 1st May. On that date: Subscription forms will be sent out to investors through the platform As soon as you sign, funding instructions will be shared both on the platform and by email Let me know if you have any other questions at this stage.”*

Offer of Securities without an Approved Prospectus

- 4.16. Section 58(1) of the Regulations prohibits a person from making an Offer of Securities in the ADGM except as provided by or under the Regulations.
- 4.17. Section 61(1) of the Regulations prohibits a person from making an Offer of Securities in the ADGM unless (i) there is an Approved Prospectus in relation to the relevant Securities, (ii) the offeror is an Exempt Offeror, or (iii) the Offer of Securities qualifies as an Exempt Offer in accordance with Chapter 4 of the Markets Rules (MKT).
- 4.18. Section 59 of the Regulations defines an ‘Offer of Securities’ to mean a communication to any person in any form or by any means, presenting information on the terms of the Offer and the Securities offered, so as to enable an investor to decide to buy or subscribe to those Securities.
- 4.19. The shares in Related Entity A which are being sold by Sarwa is a Security defined under Section 258 of the Regulations.
- 4.20. An Approved Prospectus should contain all the information which an investor would reasonably require and expect to find in a Prospectus for the purpose of:
 - a. the assets and liabilities, financial position, profits and losses and prospects of the Issuer and any guarantor; and
 - b. the nature of the Securities and the rights and liabilities attaching to those Securities.
- 4.21. The Regulator found that Sarwa had made an Offer of Securities having sent three (3) initial marketing emails mentioned in paragraph 4.9 above to its retail customers and a number of subsequent emails to potential investors mentioned in paragraph 4.15 above contained information on the terms of the Offer and the Securities offered, to enable investors to buy the Securities.
- 4.22. Sarwa is not an Exempt Offeror and, as the Offer of Securities did not meet the qualifications set out in MKT 4.3.1, the Offer of Securities made by Sarwa did not constitute an Exempt Offer.
- 4.23. In particular, the emails described in paragraphs 4.10 and 4.15 above contained information on the terms of the Offer of Securities to potential investors so as to enable them to decide to buy the securities by providing:
 - a. the share pricing;
 - b. information on the structure of the shares;
 - c. information on the term and nature of the investment i.e. that investors should have a 5 to 10 year view, consider the investment illiquid and that, if Sarwa does not proceed with an IPO or M&A, Sarwa may consider a secondary offering; and



- d. information on how to sign up by providing links to the Website.

4.24. In addition, over the Relevant Period, Sarwa maintained and controlled the Website which was created to provide further marketing and information on the terms of the Offer which contained information on the terms of the Offer and enabled investors to buy the securities by providing:

- a. the identity and a description of the company whose shares are being sold;
- b. specific information concerning the past size and growth of the company;
- c. the precise start and end of the 14-day window during which the shares are available for purchase;
- d. information on how to subscribe;
- e. the acceptance requirements (i.e. offers between US\$10k and US\$2M, sold to interested persons on a first come, first serve basis); and
- f. advice in the FAQ section about the investment as mentioned in paragraph 4.11 above.

4.25. The Regulator therefore considers that the communications made by Sarwa via emails and its Website constitute an Offer of Securities in the ADGM as defined in section 59 of the Regulations, and that the Offer of Securities was not an Exempt Offer. Therefore, the Regulator considers that Sarwa has contravened section 58(1) of the Regulations.

4.26. In addition, the Regulations prohibit Sarwa from making an Offer of Securities in the ADGM which is not an Exempt Offer unless there is an Approved Prospectus in relation to the relevant Securities. However, Sarwa failed to submit a prospectus to the Regulator for approval prior to making an Offer of Securities, and no prospectus was given to Investors. The Regulator therefore considers that Sarwa has contravened section 61(1) of the Regulations.

5. CONTRAVENTIONS

5.1. Given the facts and matters set out above, the Regulator has found that Sarwa has contravened:

- a. Section 58(1) of the Regulations by making an Offer of Securities in the ADGM; and
- b. Section 61(1) of the Regulations by making an Offer of Securities to the Public without an Approved Prospectus in relation to the relevant Securities.

6. SANCTION

6.1. In deciding to impose a financial penalty on Sarwa, the Regulator has taken into account the factors and considerations set out in sections 8.2 to 8.4 of the Regulator's Guidance & Policies Manual ("GPM").

Decision to impose a financial penalty

6.2. With reference to section 8.2 of GPM, the Regulator considers the following factors to be of particular relevance in proposing to impose the financial penalty on Sarwa:

- a. 8.2.1(a) - the Regulator's objectives under section 1(3) of the Regulations to:



- i. foster and maintain confidence in the ADGM;
 - ii. promote and enhance the integrity of the ADGM Financial System;
 - iii. prevent, detect and restrain conduct that causes or may cause damage to the reputation of the ADGM through appropriate means including the imposition of sanctions;
 - iv. to secure an appropriate degree of protection for direct and indirect users, and prospective users of the ADGM; and
 - v. promote public understanding of the regulation of the ADGM.
- b. 8.2.1(b) - the deterrent effect of the penalty and the importance of deterring other persons from committing similar contraventions.
- c. 8.2.1(c) – In terms of nature, seriousness, duration and impact of the contravention:
- i. Sarwa’s contraventions were reckless and not deliberate;
 - ii. Sarwa’s contraventions occurred over a relatively short period of time;
 - iii. Sarwa demonstrated disregard of the requirements of the Regulations;
 - iv. The contraventions are indicative of weaknesses in Sarwa’s governance;
- d. 8.2.1(d) - Sarwa’s contraventions involved a significant number of potential investors.
- e. 8.2.1(e) – Sarwa reversed the transaction promptly so no benefit was gained by it.
- f. 8.2.1(f) – In terms of Sarwa’s conduct after the contravention, it has:
- i. cooperated fully with the Regulator;
 - ii. promptly provided requested evidential material to the Regulator;
 - iii. returned all of the monies belonging to the Investors immediately upon being informed of the Regulator’s concerns;
- g. 8.2.1(h) – Sarwa did not attempt to hide the transaction in any way and had notified the Regulator of its plans to undertake a transaction involving the offering of an interest in its group to the attention of the Regulator before conducting the transaction.
- h. 8.2.1(i) – Sarwa does not have any history of non-compliance of a similar nature.

Determination of the level of financial penalty

- 6.3. The Regulator applies a five-step framework to determine the appropriate level of financial penalty. The Regulator has taken into account the factors and considerations set out in the five-step framework in section 8.4 of GPM as follows:

Step 1: Disgorgement



6.4. This step is not considered to be relevant, as the Regulator has not seen evidence of Sarwa deriving any financial benefit from the contraventions.

Step 2: The seriousness of the contraventions

6.5. The Regulator considers Sarwa's conduct to be serious because:

- a. retail investors may have been put at risk when they were invited to purchase an investment for which they did not receive adequate disclosure of risk which they may not have fully understood;
- b. by not providing an Approved Prospectus, potential investors were not provided with sufficient information to make an informed decision;
- c. Sarwa's contravention involved a significant number of recipients, in that the first email was sent by Sarwa to 96,701 accounts; and
- d. the contravention may have an adverse effect on the public's confidence in the Regulator.

6.6. Taking the above factors into account, the Regulator considers that a financial penalty of US\$250,000 appropriately reflects the seriousness of the contraventions.

Step 3: Mitigating and aggravating factors

6.7. The Regulator considers that the following factors have a mitigating effect on the contraventions:

- a. Sarwa has fully cooperated with the Regulator;
- b. Sarwa reversed all transactions promptly upon being informed of the contraventions by the Regulator and the contraventions have not resulted in any investor detriment;
- c. Sarwa gave the Regulator prior notice of its plans to undertake a transaction involving the offering of an interest in its group but did not obtain legal advice regarding the Regulations, and in doing so Sarwa's conduct was reckless and not deliberate;
- d. Sarwa's contravention occurred over a relatively short period of time; and
- e. Sarwa does not have any previous history of non-compliance of a similar nature.

6.8. Having taken the above factors into account, the Regulator considers that the mitigating factors outweigh the aggravating factors, and therefore has applied a 30% reduction to the level of financial penalty which it would have otherwise imposed.

6.9. Accordingly, the figure after step 3 is US\$175,000.

Step 4: Adjustment for deterrence

6.10. Section 8.5.9 of GPM provides that, if the Regulator considers the level of the financial penalty which it has arrived at after Step 3 is insufficient to deter the firm that committed the contravention, or others, from committing further or similar contraventions, then the Regulator may increase the financial penalty. Section 8.5.9 of GPM sets out the circumstances in which the Regulator may do this.



6.11. In this instance, the Regulator considers that the figure arrived at after Step 3 is sufficient for the purposes of deterring Sarwa and others from committing further or similar contraventions. Accordingly, the Regulator does not consider it necessary to adjust the amount of the fine arrived at after Step 3 for the purposes of deterrence.

6.12. Accordingly, the figure after Step 4 is US\$175,000.

Step 5: Adjustment for cooperation/early settlement

6.13. Where the Regulator and the firm on which the financial penalty is to be imposed come to an agreement on the amount of the financial penalty, section 8.5.10 of GPM provides that the amount of the financial penalty which might have otherwise been payable will be reduced to reflect the stage at which the agreement is reached.

6.14. The Regulator and Sarwa have reached an agreement on the relevant facts and matters relied on, the regulatory action to be taken, and the financial penalty to be imposed.

6.15. In addition, the Regulator recognises that Sarwa has also reached an agreement with another regulatory authority within the UAE, with whom the Regulator has coordinated in investigation and enquiries in this matter, within the same timeframe and in similar terms.

6.16. Having regard to the stage at which this agreement has been reached and in recognition of the benefit of this agreement, the Regulator has applied a 30% discount to the level of the financial penalty which it would have otherwise imposed.

6.17. Accordingly, the figure after Step 5 is US\$122,500.

The level of the financial penalty

6.18. Given the fact and matters set out above and all the circumstances, the Regulator has determined that it is proportionate and appropriate to impose on Sarwa a financial penalty of US\$122,500 for the alleged contraventions.

7. THE REQUIREMENT

7.1. Pursuant to subsection 35(2) of the Regulations, the Regulator has decided to impose on Sarwa a Requirement that it must, within a scope and timeframe to be approved by the Regulator engage an independent and suitably skilled external third party approved by the Regulator ("Independent Third Party"), including the letter of engagement, to carry out a review of Sarwa's governance, systems and controls.

7.2. Sarwa is required to:

- a. provide the Regulator with a copy of the report from the Independent Third Party within two (2) business days from the date of its receipt of the report;
- b. pay the costs and expenses of the engagement of the Independent Third Party; and
- c. submit to the Regulator for its approval a plan of remedial actions required to ensure compliance with the Regulations; and
- d. undertake and complete the remedial actions, as approved by the Regulator under c. above.



8. PROCEDURAL MATTERS

Settlement

- 8.1. The Regulator and Sarwa have reached an agreement on the relevant facts and matters relied on, the regulatory action to be taken and the financial penalty to be imposed. In agreeing to the action set out in this Final Notice and deciding to settle this matter, Sarwa has agreed not to refer this matter to the Appeals Panel.

Payment of financial penalty

- 8.2. The financial penalty imposed by this Final Notice is to be paid by Sarwa on or before 14 June 2024.
- 8.3. Payment of the financial penalty is to be made by electronic funds transfer according to the instructions set out in the table below:

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

- 8.4. In the event that any part of the financial penalty remains outstanding on the date by which it must be paid, then the Regulator may recover the outstanding amount of the financial penalty as a debt owed by Sarwa and due to the Regulator.

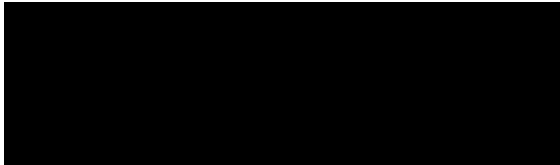
Publicity

- 8.5. As this Final Notice has now been given to Sarwa, pursuant to section 252(3) of the Regulations the Regulator may publish the details about the matter at its discretion.
- 8.6. Pursuant to section 252(4) of the Regulations, Sarwa is not permitted to publish the notice or any details concerning it unless the Regulator has published the notice or those details in accordance with section 252(3).
- 8.7. The Regulator will publish on its website:
- this Final Notice (not including Annexure A); and



- b. subject to section 252(5) of the Regulations, a press release in a form and manner the Regulator considers appropriate.

Signed:



ADGM Financial Services Regulatory Authority