

13 September 2024

ICGS Investment Management Limited
Office 2480, Level 24
Al Sila Tower
Abu Dhabi Global Market Square
Al Maryah Island
Abu Dhabi
United Arab Emirates

Attention: [REDACTED]

Sent by e-mail: [REDACTED]

Dear Sirs

PENALTY IMPOSED FOR CONTRAVENTIONS OF THE COMMON REPORTING STANDARD REGULATIONS 2017

1. This notice is issued by the Financial Services Regulatory Authority (“FSRA”) of the Abu Dhabi Global Market (“ADGM”) to ICGS Investment Management Limited (“ICGS”) pursuant to subsection 9(1) of the *Common Reporting Standard Regulations 2017* (the “Regulations”).

Defined Terms

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

SUMMARY

3. The FSRA considers that ICGS has failed to submit its risk assessment as requested by the FSRA in connection with its administration of the Regulations (“Risk Assessment”) by the due date of 31 July 2023, in contravention of subsection 6(1) of the Regulations, and accordingly, subsection 9(1)(b) of the Regulations applies.
4. The FSRA has decided to impose a penalty of AED 10,000 on ICGS pursuant to subsection 9(1) of the Regulations.

BACKGROUND

5. The Organisation for Economic Co-operation and Development (“OECD”) developed the Common Reporting Standard (“CRS”), which came into force in October 2014. The CRS was established in

FINANCIAL SERVICES REGULATORY AUTHORITY
سلطة تنظيم الخدمات المالية

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

T +971 2 333 8888 adgm.com

the United Arab Emirates (“UAE”) with effect from 1 January 2017 pursuant to the ratification of various conventions and declarations by the UAE, and publication of Federal Law No. 54 of 2018.

6. The CRS sets out the required information to be exchanged, the types of entities required to report, the different types of financial accounts and account holders in scope and the common due diligence procedures to be followed by Reporting Financial Institutions (“RFIs”).
7. Appropriate legislation to support the implementation of the CRS in the UAE has been issued at both a federal level in the UAE and in the ADGM. This includes the enactment of the Regulations by the Board of Directors of ADGM in 2017. The Regulations apply Cabinet Resolution No. 93 of 2021 (the “Cabinet Resolution”) in the ADGM pursuant to subsection 2(1) of the Regulations, and the CRS and any explanatory material and commentary published by the OECD in relation to the CRS pursuant to subsection 3(1) of the Regulations.
8. On 27 January 2017, the ADGM published the ‘*Notification of collection of information under the Common Reporting Standards*’ prepared by the UAE’s Ministry of Finance (“MOF”), setting out the requirements for implementation of the CRS across all jurisdictions within the UAE.
9. On 2 June 2019, ICGS was registered as a private company limited by shares.
10. On 24 April 2023, the FSRA published Notice No. 10 of 2023 informing Senior Executive Officers (“SEOs”), Money Laundering Reporting Officers (“MLROs”) and ADGM Licensed Persons (“LPs”) of the MOF’s new Automatic Exchange of Information (“AEOI”) portal for submission of Annual Returns, with training scheduled on 28 April 2023 and 4 May 2023.
11. On 25 May 2023, the FSRA published Notice No. 16 of 2023, inviting all RFIs to attend a mandatory training session on the AEOI portal. The training was to provide a comprehensive review of the new portal and guide RFIs on completing and submitting Annual Returns, including a Nil Return (as that term is defined in Cabinet Resolution).
12. On 8 June 2023, the FSRA published Notice No. 18 of 2023 addressed to SEOs, MLROs and LPs to notify them that the new AEOI portal was operational and open for registration in advance of submission of Annual Returns, including Nil Returns, with instructions on how to do so.
13. On 25 June 2023, MOF published on its website a ‘FATCA/CRS Risk Assessment Questionnaire – User Guide’ specifying that RFIs were required to complete a Risk Assessment by the stipulated deadline, with instructions on how to do so.
14. On 26 June 2023, the FSRA published and sent by email ‘FCCP FSRA Notice No. 21 of 2023 – FATCA and CRS System Live’ informing SEOs, MLROs and LPs that the functionality for submission of Annual Returns and Risk Assessments was enabled on the AEOI portal, and that all RFIs were required to fulfil their obligations by the deadline of 31 July 2023.
15. On 4 July 2023, ICGS registered as an RFI on the AEOI portal.
16. On 5 July 2023, the FSRA published Notice No. 22 of 2023 informing RFIs that the MOF would be conducting training and web-based sessions from 10 July 2023 until 31 July 2023 with respect to the submission of Annual Returns and Risk Assessments.
17. On 12 July 2023, ICGS submitted a Nil Return via the AEOI portal for the calendar year 2022.

18. On 28 July 2023, the MOF extended the deadline for submission of Annual Returns for the 2022 calendar year to 15 August 2023. On the same day, the FSRA sent an email to ICGS informing it of the extended deadline for submission of Annual Returns and noting that the deadline for submission of the Risk Assessment remained 31 July 2023, and that the system will not accept late submissions.
19. On 6 September 2023, the FSRA sent a further email to ICGS's agent ("Agent") requiring ICGS's urgent attention to ICGS's failure to submit the Risk Assessment for the 2022 reporting period by the deadline specified by the FSRA. The FSRA requested that ICGS provide an explanation for this failure by 12 September 2023.
20. On 6 September 2023, the Agent responded stating that it was possible that the Risk Assessment requirement "slipped through" during the transition of MLRO and noted that FATCA/CRS registration was completed on the AEOI portal, its Nil Return (for the purposes of CRS) had been submitted and that there was nothing to report under FATCA as it was a 'Deemed Compliant RFI'. The Agent requested advice as to where to submit the Risk Assessment, so that it could submit it immediately.

FAILURE TO SUBMIT RISK ASSESSMENT BY THE DUE DATE

21. Subsection 6(1) of the Regulations requires RFIs to collect and report all information in accordance with the Regulations and the Cabinet Resolution. Article 4(7) of the Cabinet Resolution requires RFIs to provide any other information, documentation and records as may be reasonably requested by the FSRA and MOF within the time prescribed by them.
22. As mentioned in paragraphs 14 and 18 above, the FSRA communicated to ICGS that it was required to file a Risk Assessment pursuant to the direction of the MOF and that the deadline for filing such Risk Assessment was 31 July 2023.
23. ICGS failed to submit the Risk Assessment by the deadline stipulated. Accordingly, ICGS has contravened subsection 6(1) of the Regulations and Article 4(7) of the Cabinet Resolution.

PENALTY

24. The FSRA considers that ICGS contravened subsection 6(1) of the Regulations and Article 4(7) of the Cabinet Resolution, and accordingly subsection 9(1)(b) of the Regulations applies.
25. The penalty for such a contravention is set out in Article 5(6)(a) of the Cabinet Resolution.
26. The total penalty imposed by the FSRA on ICGS is AED 10,000.
27. The breakdown of the penalty imposed by the FSRA on ICGS pursuant to the Regulations is as follows:

Reference	Contravention	Penalty (AED)
Article 5(6)(a) of the Cabinet Resolution	An RFI that fails to comply with any other provision(s) of the Cabinet Resolution	10,000

PROCEDURAL MATTERS

Appeal in relation to the penalty imposed

28. Under Article 7(1) of the Cabinet Resolution which applies pursuant to subsection 9(2) of the Regulations, ICGS has until **5:00 pm on 11 October 2024** to make an appeal **in writing** to the FSRA, signed by an authorised representative of ICGS setting out the grounds of appeal in relation to the penalty imposed.
29. In accordance with Article 7(2) of the Cabinet Resolution, ICGS may appeal against any penalty on one of the following grounds:
- a. that it did not commit the violation attributed to it;
 - b. the administrative penalty imposed is not proportionate to the violation; or
 - c. the administrative penalty imposed exceeds the limit determined for the administrative violation attributed to it in accordance with the provisions of the Cabinet Resolution.
30. Any appeal made should be addressed to:

Mr Adrian Bock
Executive Director – Enforcement
Financial Services Regulatory Authority
Abu Dhabi Global Market Square
Al Maryah Island
Abu Dhabi
United Arab Emirates

Email: [REDACTED]

31. If an appeal within time is made to the FSRA, the FSRA will consider the appeal and provide a written notice of its decision to ICGS within sixty (60) business days of the acknowledgement of the appeal.

Manner and time for payment of penalty

32. In the event that an appeal is not made to the FSRA, then the penalty imposed pursuant to this notice is to be paid by ICGS within thirty (30) business days after the date of this notice, i.e. on or before **25 October 2024**.
33. Payment of the penalty can be made by electronic funds transfer into the following account:

Account Name	[REDACTED]
Account Number	[REDACTED]
IBAN Number	[REDACTED]
Account Type	[REDACTED]

Bank Name	[REDACTED]
Swift Code	[REDACTED]
Reference	[REDACTED]

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

Publicity

35. The FSRA will generally publish, in a manner we consider appropriate and proportionate, information and statements relating to enforcement action. The publication of enforcement outcomes is consistent with the FSRA's commitment to open and transparent processes and our objectives.

Yours sincerely,

[REDACTED]

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