



26 September 2024

LFVostok Holding Limited  
Desk 82, 11<sup>th</sup> floor  
Al Sarab Tower  
Abu Dhabi Global Market Square  
Al Maryah Island  
Abu Dhabi  
United Arab Emirates

Attention:



Sent by e-mail:



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 LFVostok Holding Limited ("LFV") 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 LFV has classified itself as a Reporting Financial Institution ("RFI") for the purposes of the Regulations and opened Accounts for Account Holders without collecting a valid self-certification form from the Account Holders.
4. Accordingly, the FSRA has decided to impose a total penalty of AED 2,000 on LFV, 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

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 RFI. A similar regime applies in the UAE pursuant to inter-governmental arrangements in relation to the Foreign Account Tax Compliance Act (“FATCA”) of the United States of America).
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.

## **RELEVANT FACTS**

9. On 4 October 2022, LfV 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 information returns for the purposes of CRS (“Annual Returns”) by RFI for the 2022 calendar year, with training scheduled on 28 April 2023 and 4 May 2023.
11. On 25 May 2023, the FSRA published Notice No. 16 of 2023 in which it invited all RFI to attend a mandatory training session on the AEOI portal. The training was to provide a comprehensive review of the new portal and guide RFI on completing and submitting Annual Returns, including a Nil Return (as that term is defined in the 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 in respect of the 2022 calendar year, with instructions on how to do so.
13. On 23 June 2023, LfV registered as an RFI for the purposes of CRS on the AEOI portal.
14. On 26 June 2023, the FSRA published ‘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 was enabled on the AEOI portal, and that all RFI were required to fulfil their obligations for the 2022 calendar year by the deadline of 31 July 2023.
15. On 5 July 2023, the FSRA published Notice No. 22 of 2023 informing RFI that the MOF would be conducting training and web-based sessions starting from 10 July 2023 until 31 July 2023.
16. On 21 July 2023, LfV submitted its Annual Return for CRS.

17. 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 LFV informing it of the extended deadline for submission of Annual Returns.
18. On 17 August 2023, the FSRA sent an email to LFV's agent ("Agent") informing LFV that it has been selected for an audit review for compliance with the CRS and FATCA requirements in respect of the 2022 calendar year ("Review"), and that the Review would be based on the CRS and FATCA information returns submitted on the AEOI portal. The FSRA requested LFV to complete the CRS and FATCA audit questionnaires ("Questionnaires") by 20 September 2023, and to acknowledge the FSRA's email by 22 August 2023.
19. On 18 August 2023, the FSRA's email of 17 August 2023 was acknowledged by the Agent.
20. On 20 September 2023, the Agent sent an email to the FSRA attaching the completed Questionnaires together with other information.
21. On 21 September 2023, the FSRA sent a letter to the Agent informing LFV that the Review would be conducted on 3 November 2023, and requested that LFV submit documents requested by the FSRA by 29 September 2023.
22. On 3 November 2023, the FSRA conducted the Review.

#### **FAILURE TO OBTAIN A SELF-CERTIFICATION**

23. Subsection 6(1) of the Regulations requires RFIs to collect and report all information in accordance with the Regulations and the Cabinet Resolution. Section IV subparagraph A of the CRS requires an RFI to obtain a self-certification from an Account Holder at account opening.
24. Subsection 3(1) of the Regulations applies any commentary published by the OECD for the purposes of assisting with the interpretation of the CRS as part of the CRS. Paragraph 7 of Section IV of the OECD's *Commentaries on the Common Reporting Standard*<sup>1</sup> concerning due diligence of new entity, accounts provides that self-certifications are only valid if signed (or otherwise positively affirmed) by the person with authority to sign for the Account Holder and dated.
25. The Review found that LFV had opened Accounts for each of Clients 1 and 2, as identified in Annexure A to this notice, with self-certification forms that were not dated.
26. Accordingly, LFV failed to collect a valid self-certification with respect to Clients 1 and 2. The FSRA considers that LFV has contravened subsection 6(1) of the Regulations in failing to collect valid self-certifications for Clients 1 and 2.

#### **PENALTY**

27. The FSRA considers that LFV contravened subsection 6(1) of the Regulations, and accordingly subsection 9(1)(b) of the Regulations applies.

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<sup>1</sup> OECD (2017), *Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition*, OECD Publishing, Paris

28. The penalties for the contraventions are set out in Article 5(2) of the Cabinet Resolution.
29. The total penalty imposed by the FSRA on LFV is AED 2,000.
30. The breakdown of the penalty imposed by the FSRA on LFV pursuant to the Regulations is as follows:

Reference	Contravention	Penalty (AED)
Article 5(2) of the Cabinet Resolution	An RFI who opens an account to an Account Holder or Controlling Person (as applicable) without obtaining a valid self-certification and/or failing to validate such self-certification	1,000 per contravention

## PROCEDURAL MATTERS

### Appeal in relation to the penalty imposed

31. Under Article 7(1) of the Cabinet Resolution which applies pursuant to subsection 9(2) of the Regulations, LFV has until **5:00 pm** on **24 October 2024** to make an appeal **in writing** to the FSRA, signed by an authorised representative of LFV setting out the grounds of appeal in relation to the penalty imposed.
32. In accordance with Article 7(2) of the Cabinet Resolution, LFV 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.
33. 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]
34. 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 LFV within sixty (60) business days of the acknowledgement of the appeal.

**Manner and time for payment of penalty**

- 35. 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 LFV within thirty (30) business days after the date of this notice, i.e. on or before **7 November 2024**.
- 36. 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]

- 37. 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**

- 38. 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,



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