



1 October 2024

ORP Participations LP
C/- ORP Participations GP Holding Ltd
2462 ResCowork01,
24th Floor, Al Sila Tower,
Abu Dhabi Global Market,
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 AND THE FOREIGN ACCOUNT TAX COMPLIANCE REGULATIONS 2022

1. This notice is issued by the Financial Services Regulatory Authority ("FSRA") of the Abu Dhabi Global Market ("ADGM") to ORP Participations LP ("ORP") pursuant to subsection 9(1) of the *Common Reporting Standard Regulations 2017* (the "CRS Regulations") and subsection 9(1) of the *Foreign Account Tax Compliance Regulations 2022* (the "FATCA Regulations"), together 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 ORP has:
 - a. classified itself as a Reporting Financial Institution for the purposes of the CRS Regulations ("CRS RFI") and opened five (5) accounts without collecting a self-certification form from the Account Holders.
 - b. classified itself as a Reporting UAE Financial Institution for the purposes of the FATCA Regulations ("FATCA RFI") and opened five (5) accounts without collecting self-certification forms.
4. Accordingly, the FSRA has decided to impose a total penalty of AED 10,000 on ORP, pursuant to subsection 9(1) of the CRS Regulations and subsection 9(1) of the FATCA Regulations.

FINANCIAL SERVICES REGULATORY AUTHORITY
سلطة تنظيم الخدمات المالية

BACKGROUND

CRS Regulations

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 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 CRS Regulations by the Board of Directors of ADGM in 2017. The CRS Regulations apply Cabinet Resolution No. 93 of 2021 (the “CRS Cabinet Resolution”) in the ADGM pursuant to subsection 2(1) of the CRS 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 CRS 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.

FATCA Regulations

9. The Foreign Account Tax Compliance Act (“FATCA”) was introduced by the United States of America (“US”) in 2010 to target non-compliance by US taxpayers using foreign accounts. FATCA requires financial institutions outside the US to report information on financial accounts held by their US customers to the Internal Revenue Service.
10. On 17 June 2015, the UAE signed a Model 1B Intergovernmental Agreement (“IGA”) with the US to improve international tax compliance and to implement FATCA reporting by FATCA RFI’s. The IGA was ratified by Federal Decree 9 of 2016.
11. Appropriate legislation to support the implementation of FATCA in the UAE has been issued at both a federal level in the UAE and in the ADGM. This includes the enactment of the FATCA Regulations by the Board of Directors of ADGM in 2022. The FATCA Regulations apply Cabinet Resolution No. 63 of 2022 (the “FATCA Cabinet Resolution”) in the ADGM pursuant to subsection 2(1) of the FATCA Regulations.

RELEVANT FACTS

12. On 12 January 2021, ORP was registered as a Limited Partnership in ADGM.
13. 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 and FATCA (together “Annual Returns”) by CRS RFIs and FATCA RFIs (together “RFIs”) for the 2022 calendar year, with training scheduled on 28 April 2023 and 4 May 2023.

14. On 25 May 2023, the FSRA published Notice No. 16 of 2023 in which it invited 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 CRS Cabinet Resolution) or Nil Report (as that term is defined in the FATCA Cabinet Resolution) as applicable.
15. 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.
16. On 21 June 2023, ORP registered as a CRS RFI and FATCA RFI on the AEOI portal.
17. 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 was enabled on the AEOI portal, and that all RFIs were required to fulfil their obligations for the 2022 calendar year by the deadline of 31 July 2023.
18. 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 starting from 10 July 2023 until 31 July 2023.
19. On 13 July 2023, ORP submitted a Nil Return and a Nil Report via the AEOI portal.
20. On 17 August 2023, the FSRA sent an email to ORP's agent (the "Agent") informing ORP that it had been selected for an audit review for compliance with the Regulations in respect of the 2022 calendar year ("Review"), and that the Review would be based on its Annual Returns submitted on the AEOI portal. The FSRA requested ORP to complete the CRS and FATCA audit questionnaires ("Questionnaires") by 20 September 2023, and to acknowledge the FSRA's email by 22 August 2023.
21. On 19 September 2023, the Agent sent an email to the FSRA attaching the completed Questionnaires, requesting confirmation of receipt.
22. On 21 September 2023, the FSRA sent a letter to the Agent informing ORP that the Review would be conducted on 29 November 2023, and requesting that ORP submit documents requested by the FSRA by 29 September 2023.
23. On 29 November 2023, the FSRA conducted the Review.

FAILURE TO COLLECT SELF-CERTIFICATION FOR CRS

24. Subsection 6(1) of the CRS Regulations requires CRS RFIs to collect and report all information in accordance with the CRS, the CRS Regulations and the CRS Cabinet Resolution.
25. Section IV subparagraph A of the CRS requires an RFI to obtain a self-certification from an Account Holder at account opening.
26. The Review found that ORP had opened New Individual Accounts (as defined in the CRS) for each of Clients 1 to 5, as identified in Annexure A to this notice, on 11 October 2021. However, self-

certification forms were not collected by ORP at the time of account opening. Self-certification forms for Clients 1 to 5 were not collected until September 2023.

27. Accordingly, the FSRA considers that ORP has contravened subsection 6(1) of the CRS Regulations.

FAILURE TO COLLECT SELF-CERTIFICATION FOR FATCA

28. Subsection 6(1) of the FATCA Regulations requires FATCA RFIs to collect and report all information in accordance with the FATCA Regulations and the FATCA Cabinet Resolution. The FATCA Cabinet Resolution defines a Self-Certification Form as “...*the form required to be collected and validated... establishing where an Account Holder or Controlling Person is resident for tax purposes.*” Article 5 of the FATCA Cabinet Resolution requires each FATCA RFI to collect and validate a Self-Certification Form for each New Individual Account (as defined in the FATCA Cabinet Resolution).
29. As noted above, the Review found that ORP had opened New Individual Accounts for each of Clients 1 to 5 on 11 October 2021. However, Self-Certification Forms were not collected for Clients 1 to 5 until September 2023.
30. Accordingly, the FSRA considers that ORP has contravened subsection 6(1) of the FATCA Regulations.

PENALTY

31. The FSRA considers that ORP contravened:
- a. subsection 6(1) of the CRS Regulations and accordingly subsection 9(1)(b) of the CRS Regulations applies; and
 - b. subsection 6(1) of the FATCA Regulations, and accordingly subsection 9(1)(b) of the FATCA Regulations applies.
32. The penalties for the contraventions are set out in Article 5(2) of the CRS Cabinet Resolution and Article 7(2) of the FATCA Cabinet Resolution.
33. The total penalty imposed by the FSRA on ORP is AED 10,000.
34. The breakdown of the penalty imposed by the FSRA on ORP pursuant to the CRS and FATCA Cabinet Resolutions are as follows:

Reference	Contravention	Penalty (AED) per contravention
Article 5(2) of the CRS Cabinet Resolution	A CRS RFI that 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 x 5

Article 7(2) of the FATCA Cabinet Resolution	A FATCA RFI that that opens a New Individual Account or New Entity Account without collecting a valid Self-Certification Form or without validating such Self-Certification Form	1,000 x 5
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PROCEDURAL MATTERS

Appeal in relation to the penalty imposed

35. Under:

- a. Article 7(1) of the CRS Cabinet Resolution which applies pursuant to subsection 9(2) of the CRS Regulations; and
- b. Article 9(1) of the FATCA Cabinet Resolution which applies pursuant to subsection 9(2) of the FATCA Regulations,

ORP has until **5:00 pm on 30 October 2024** to make an appeal **in writing** to the FSRA, signed by an authorised representative of ORP setting out the grounds of appeal in relation to the penalty imposed.

36. In accordance with Article 7(2) of the CRS Cabinet Resolution and Article 9(2) of the FATCA Cabinet Resolution, ORP 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 prescribed.

37. 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]

38. 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 ORP within sixty (60) business days:

- a. of the acknowledgement of the appeal for contraventions of the CRS Regulations; and
- b. of the date of the appeal for contraventions of the FATCA Regulations.

Manner and time for payment of penalty

- 39. 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 ORP within thirty (30) business days after the date of this notice, i.e. on or before **13 November 2024**.
- 40. 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]

- 41. 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

- 42. 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