

11 December 2024

Investcorp Saudi Pre-IPO Growth General Partner Limited
805, 8th floor
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 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 Investcorp Saudi Pre-IPO Growth General Partner Limited (“IGP”) 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 IGP has:
 - a. failed to submit its risk assessment as requested by the FSRA in connection with its administration of the CRS Regulations (“CRS Risk Assessment”) by the due date of 31 July 2023, in contravention of subsection 6(1) of the CRS Regulations;
 - b. failed to submit its risk assessment as requested by the FSRA in connection with its administration of the FATCA Regulations (“FATCA Risk Assessment”) by the due date of 31 July 2023, in contravention of subsection 6(1) of the FATCA Regulations;
 - c. classified itself as a Reporting Financial Institution for the purposes of the CRS Regulations (“CRS RFI”) and failed to submit the required annual information return for the 2022 calendar year (“CRS Annual Return”) by the due date of 15 August 2023, in contravention of subsection 6(1) of the CRS Regulations; and

- d. classified itself as a Reporting UAE Financial Institution as defined in and for the purposes of the FATCA Regulations (“FATCA RFI”) and failed to submit the required annual information return for the 2022 calendar year (“FATCA Annual Return”) by the due date of 15 August 2023, in contravention of subsection 6(1) of the FATCA Regulations.

Accordingly, subsection 9(1)(b) of both Regulations apply.

4. The FSRA has decided to impose a penalty of AED 66,000 on IGP pursuant to subsection 9(1) of the Regulations.

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 3 October 2021, IGP was registered as a Private Company Limited By Shares.

13. On or around 27 January 2022, IGP submitted its completed CRS / FATCA entity self-certification form (“Self-Certification Form”) to the FSRA. In its Self-Certification Form, IGP classified itself as an ‘Investment Entity’ and, therefore, an RFI for the purposes of the CRS, and a FATCA RFI for the purposes of FATCA.
14. 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 for the purposes of CRS and FATCA (“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.
15. 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 defined in CRS Cabinet Resolution) or a Nil Report (as defined in the FATCA Cabinet Resolution).
16. 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.
17. On 25 June 2023, MOF published on its website a ‘FATCA/CRS Risk Assessment Questionnaire – User Guide’ specifying that RFIs are required to complete a CRS Risk Assessment and/or a FATCA Risk Assessment (as applicable) by the stipulated deadline, with instructions on how to do so.
18. 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 for the 2022 calendar year by the deadline of 31 July 2023.
19. 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.
20. On 6 July 2023, IGP registered as a CRS RFI and a FATCA RFI on the AEOI portal.
21. 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 IGP and its agent (“Agent”) informing them of the extended deadline for submission of Annual Returns and also noting that the deadline for submission of the Risk Assessments remained 31 July 2023 and that the system would not accept late submissions.
22. On 1 September 2023, the FSRA sent an email to IGP stating that IGP had failed to file its Annual Returns by the deadline of 15 August 2023. IGP was informed of the applicable penalties for failing to file pursuant to the CRS Regulations and FATCA Regulations. The FSRA also advised IGP that the MOF had advised that the AEOI portal would be temporarily unavailable from 1 to 30 September 2023, and that accordingly the daily penalty applicable for continued failure to file Annual Returns pursuant to the CRS Regulations and FATCA Regulations respectively would not accrue on those dates. The FSRA informed IGP that the MOF had advised that the AEOI portal would become available again for filing of Annual Returns from 1 October 2023 and that accordingly on that date the daily penalty applicable for continued failure to file Annual Returns

would then continue to accrue. The FSRA noted that it was imperative for IGP to promptly complete the required submissions as soon as the AEOI portal became available again on 1 October 2023.

23. On 6 September 2023, the FSRA sent a further email to IGP and its Agent requiring IGP's urgent attention to IGP's failure to submit the Risk Assessments by the deadline. The FSRA requested that IGP provide an explanation for this failure by 12 September 2023.
24. On 15 September 2023, the FSRA sent a reminder to IGP requesting its attention to its email of 6 September 2023 as a matter of priority, particularly given the deadline to respond was 12 September 2023.
25. On 18 September 2023, IGP responded to the FSRA by email stating that the Risk Assessments were not completed because the deadline was extended only for reporting and not for the Risk Assessments and when IGP tried to complete the Risk Assessments the portal stated that the deadline had passed, and that they would be able to complete the Risk Assessments if the portal was reopened.

FAILURE TO SUBMIT RISK ASSESSMENT FOR CRS BY THE DUE DATE

26. Subsection 6(1) of the CRS Regulations requires CRS RFIs to collect and report all information in accordance with the CRS Regulations and the CRS Cabinet Resolution.
27. Article 4(7) of the CRS Cabinet Resolution requires CRS 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.
28. As mentioned in paragraphs 18 and 21 above, the FSRA sent reminders to IGP that the submission of the CRS Risk Assessment was due by 31 July 2023.
29. IGP had failed to submit the CRS Risk Assessment by the deadline stipulated. Accordingly, IGP has contravened subsection 6(1) of the CRS Regulations and Article 4(7) of the CRS Cabinet Resolution.

FAILURE TO SUBMIT RISK ASSESSMENT FOR FATCA BY THE DUE DATE

30. 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.
31. Article 5(3)(e) of the FATCA Cabinet Resolution requires FATCA RFIs to provide to the FSRA or MOF any information, records or documents required to be submitted in a complete and accurate manner.
32. As mentioned in paragraphs 18 and 21 above, the FSRA sent reminders to IGP that the submission of the FATCA Risk Assessment was due by 31 July 2023.
33. IGP had failed to submit the FATCA Risk Assessment by the deadline stipulated. Accordingly, IGP has contravened subsection 6(1) of the FATCA Regulations and Article 5(3)(e) of the FATCA Cabinet Resolution.

FAILURE TO SUBMIT A RETURN FOR CRS BY THE DUE DATE

34. Subsection 6(1) of the CRS Regulations requires RFIs to collect and report all information in accordance with the CRS Regulations and the CRS Cabinet Resolution.

35. Article 4(1) of the CRS Cabinet Resolution requires each RFI to collect and report to the MOF all information required by the Regulations. Such information must be reported via the reporting system stipulated (i.e. via the AEOI portal) and by the date specified (i.e. 30 June of the year following the calendar year to which the information relates). As per paragraph 21, this deadline was extended by the MOF to 15 August 2023 for annual returns relating to the 2022 calendar year.
36. Having self-certified as an Investment Entity and thus an RFI, IGP was required to file either an annual return or a Nil Return for the purposes of CRS, pursuant to subsection 6(1) of the CRS Regulations and either Article 4(2) or 4(3) of the CRS Cabinet Resolution (as applicable).
37. To date, IGP has not submitted its CRS Annual Return for the 2022 calendar year. Accordingly, IGP has contravened subsection 6(1) of the CRS Regulations.

FAILURE TO SUBMIT A RETURN FOR FATCA BY THE DUE DATE

38. Subsection 6(1) of the FATCA Regulations requires Reporting UAE Financial Institutions to collect and report all information in accordance with the FATCA Regulations and the FATCA Cabinet Resolution.
39. Article 5(3)(c) of the FATCA Cabinet Resolution requires each Reporting UAE Financial Institution to collect and report to the MOF or indirectly to the FSRA. Such information must be reported via the system stipulated (i.e. via the AEOI portal) and by the date specified (i.e. 30 June of the year following the calendar year to which the information relates). As per paragraph 21, this deadline was extended by the MOF to 15 August 2023 for annual returns relating to the 2022 calendar year.
40. Having self-certified as an Investment Entity and thus a Reporting UAE Financial Institution, IGP was required to file either an annual return or a Nil Return for the purposes of FATCA, pursuant to subsection 6(1) of the FATCA Regulations and either Article 5(3)(b) or 5(3)(c) of the FATCA Cabinet Resolution (as applicable).
41. To date, IGP has not submitted its FATCA Annual Return for the 2022 calendar year. Accordingly, IGP has contravened section 6(1) of the FATCA Regulations.

PENALTY

42. The FSRA considers that IGP contravened subsection 6(1) of the CRS Regulations and Article 4(1) and 4(7) of the CRS Cabinet Resolution, and accordingly subsection 9(1)(b) of the CRS Regulations applies. The FSRA also considers that IGP contravened subsection 6(1) of the FATCA Regulations and Article 5(3)(c) and 5(3)(e) of the FATCA Cabinet Resolution and accordingly subsection 9(1)(b) of the FATCA Regulations applies.
43. The penalties for the contraventions are set out in Article 5(3)(b) and 5(6)(a) of the CRS Cabinet Resolution, and Articles 7(3) and 7(6) of the FATCA Cabinet Resolution.
44. The total penalty imposed by the FSRA on IGP is AED 66,000.
45. The breakdown of the penalty imposed by the FSRA on IGP pursuant to the Regulations are as follows:

Reference	Contravention	Penalty (AED)
Article 5(3)(b) of the CRS Cabinet Resolution	An RFI fails to submit a Nil Return in the timeframe stipulated. A fine of AED 1,000 shall apply for every day the failure continues up to a maximum amount of AED 30,000	26,000
Article 5(6)(a) of the Cabinet Resolution	An RFI that fails to comply with any other provision of the Cabinet Resolution	10,000
Article 7(3) of the FATCA Cabinet Resolution	A FATCA RFI that fails to submit an Annual Report or a Nil Report	20,000
Article 7(6) of the FATCA Cabinet Resolution	A FI that fails to comply with any other provisions of the FATCA Cabinet Resolution	10,000

PROCEDURAL MATTERS

Appeal in relation to the penalty imposed

46. 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,

IGP has until **5:00 pm on 9 January 2025** to make an appeal **in writing** to the FSRA, signed by an authorised representative of IGP setting out the grounds of appeal in relation to the penalty imposed.

47. In accordance with Article 7(2) of the CRS Cabinet Resolution and Article 9(2) of the FATCA Cabinet Resolution, IGP 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.

48. 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]

49. 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 IGP within sixty (60) business days:
- of the acknowledgement of the appeal for contraventions of the CRS Regulations; and
 - of the date of the appeal for contraventions of the FATCA Regulations.

Manner and time for payment of penalty

50. 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 IGP within thirty (30) business days after the date of this notice, i.e. on or before **22 January 2025**.
51. 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]

52. 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

53. 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]

Executive Director – Enforcement
 Abu Dhabi Global Market Financial Services Regulatory Authority