

11 December 2024

Investcorp Saudi Pre-IPO Growth Fund LP
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 Fund LP ("ISPG") 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 ISPG 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; and
 - 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.

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

4. The FSRA has decided to impose a penalty of AED 20,000 on ISPG 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 12 October 2021 ISPG was registered as a Limited Partnership.
13. On or around 27 January 2022, ISPG submitted its completed CRS / FATCA entity self-certification form (“Self-Certification Form”) to the FSRA. In its Self-Certification Form, ISPG 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 CRS Annual Returns and FATCA Annual Returns (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.

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 that term is defined in CRS Cabinet Resolution) or Nil Report (as that term is 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 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’ informing RFIs that they are required to complete a Risk Assessment Questionnaire by the stipulated deadline for each Compliance type, i.e. FATCA and/or CRS, 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 FATCA and CRS 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.
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 starting from 10 July 2023 until 31 July 2023.
20. 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 ISPG’s 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 will not accept late submissions.
21. On 9 August 2023 registered as a CRS RFI and a FATCA RFI on the AEOI portal.
22. On 6 September 2023, the FSRA sent an email to ISPG and its Agent requiring ISPG’s urgent attention to ISPG’s failure to submit the Risk Assessments by the deadline. The FSRA requested that ISPG provide an explanation for this failure by 12 September 2023.
23. On 11 September 2023, the Agent sent an email to the FSRA stating that they believed that the deadline for submission of the Risk Assessment was 15 August 2023. The Agent explained that they had encountered issues with registration and had sent an email to MOF outlining their issues, together with a copy of their Risk Assessment. The Agent stated that once ISPG’s registration was processed, they attempted to submit the Risk Assessments daily but were met with a loading screen.
24. Subsequent correspondence between the FSRA and ISPG and its Agent related to the filing of Annual Returns not the submission of the Risk Assessments.

FAILURE TO SUBMIT RISK ASSESSMENT FOR CRS BY THE DUE DATE

25. 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.

26. 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.
27. As mentioned in paragraphs 18 and 20 above, the FSRA communicated to ISPG, through the publication of Notices on 26 June 2023 and 28 July 2023 and an email sent on 28 June 2023 to ISPG's agent, that the submission of the CRS Risk Assessment was due by 31 July 2023.
28. ISPG had failed to submit the CRS Risk Assessment by the deadline stipulated. Accordingly, ISPG 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

29. 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.
30. 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.
31. As mentioned in paragraphs 18 and 20 above, the FSRA communicated to ISPG that the submission of the FATCA Risk Assessment was due by 31 July 2023.
32. ISPG had failed to submit the FATCA Risk Assessment by the deadline stipulated. Accordingly, ISPG has contravened subsection 6(1) of the FATCA Regulations and Article 5(3)(e) of the FATCA Cabinet Resolution.

PENALTY

33. The FSRA considers that ISPG contravened subsection 6(1) of the CRS Regulations and Article 4(7) of the CRS Cabinet Resolution, and accordingly subsection 9(1)(b) of the CRS Regulations applies. The FSRA also considers that ISPG contravened subsection 6(1) of the FATCA Regulations and Article 5(3)(e) of the FATCA Cabinet Resolution and accordingly subsection 9(1)(b) of the FATCA Regulations applies.
34. The penalties for the contraventions are set out in Article 5(6)(a) of the CRS Cabinet Resolution, and Article 7(6) of the FATCA Cabinet Resolution.
35. The total penalty imposed by the FSRA on ISPG is AED 20,000.
36. The breakdown of the penalty imposed by the FSRA on ISPG pursuant to the Regulations are as follows:

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

37. 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,

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

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

39. 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]

40. 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 ISPG 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

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

42. Payment of the penalty can be made by electronic funds transfer into the following account:

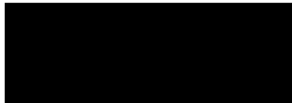
Account Name	[REDACTED]
Account Number	[REDACTED]
IBAN Number	[REDACTED]
Account Type	[REDACTED]
Bank Name	[REDACTED]
Swift Code	[REDACTED]
Reference	[REDACTED]

43. 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

44. 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