

13 February 2025

ABV Dragon 1 SPV Ltd
DD-14-124-019, 14th floor
WeworkHub71
Al Khatem Tower
Abu Dhabi Global Market Square
Al Maryah Island
Abu Dhabi
United Arab Emirates

Attention:

[REDACTED]

[REDACTED]

Sent by e-mail:

[REDACTED]

Dear Sirs

CONFIRMATION OF DECISION IN RELATION TO PENALTY IMPOSED FOR CONTRAVENTIONS OF THE COMMON REPORTING STANDARD REGULATIONS 2017 AND THE FOREIGN ACCOUNT TAX COMPLIANCE REGULATIONS 2022

1. The Financial Services Regulatory Authority (“FSRA”) of the Abu Dhabi Global Market (“ADGM”) hereby confirms its decision to impose a penalty on ABV Dragon 1 SPV Ltd (“ABV”) 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”. This notice is issued pursuant to Article 7(5) of Cabinet Resolution No. 93 of 2021 (“CRS Cabinet Resolution”) which applies pursuant to the CRS Regulations, and Article 9(5) of Cabinet Resolution No. 63 of 2022 (the “FATCA Cabinet Resolution”), which apply pursuant to the FATCA Regulations, following due consideration of an appeal submitted by ABV dated 26 November 2024 and 5 February 2025 (“Appeal”) in response to a notice from the FSRA dated 30 October 2024 (“October Notice”).

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 ABV is:
 - a. a Reporting Financial Institution for the purposes of the CRS Regulations (“CRS RFI”) and:

- i. opened accounts without collecting a valid self-certification form from two (2) Account Holders and one (1) Controlling Person;
 - ii. failed to apply due diligence procedures,
 - b. a Reporting UAE Financial Institution as defined in and for the purposes of the FATCA Regulations (“FATCA RFI”) and:
 - i. opened accounts without collecting a valid self-certification form from two (2) Account Holders and one (1) Controlling Person; and
 - ii. failed to apply due diligence procedures.
4. Following due consideration of ABV’s appeal submitted pursuant to subsection 9(2) of the Regulations, the FSRA has decided to impose a total penalty of AED 86,000 on ABV, pursuant to subsection 9(1) of the CRS Regulations and subsection 9(1) of the FATCA 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 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 the FATCA Cabinet Resolution in the ADGM pursuant to subsection 2(1) of the FATCA Regulations.

RELEVANT FACTS

12. On 25 March 2022, ABV was registered as a Private Company Limited By Shares.
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 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 RFIs were required to fulfil their obligations for the 2022 calendar year by the deadline of 31 July 2023.
17. 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.
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 ABV informing it of the extended deadline for submission of Annual Returns.
19. On 11 August 2023, ABV submitted a self-certification form to the FSRA in which it self-classified as a CRS RFI and FATCA RFI.
20. On 15 August 2023, ABV submitted Annual Returns for CRS. Due to a technical error, ABV was unable to file an Annual Return for FATCA.
21. On 17 August 2023, the FSRA sent an email to ABV’s agent (“Agent”) informing ABV 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 as submitted on the AEOI portal. The FSRA requested ABV to complete the CRS and FATCA audit questionnaires (“Questionnaires”) by 20 September 2023, and to acknowledge the FSRA’s email by 22 August 2023.
22. On 18 August 2023, the Agent acknowledged receipt of the FSRA’s email of 17 August 2023 and stated that it would submit the completed Questionnaires before the deadline.
23. On 20 September 2023, the Agent sent an email to the FSRA attaching the completed Questionnaires.

24. On 21 September 2023, the FSRA sent an email attaching a letter to the Agent informing ABV that the Review would be conducted on 16 October 2023, and requested ABV to submit documents requested by the FSRA by 29 September 2023. In its email the FSRA requested ABV to acknowledge receipt of the email and letter by 22 September 2023. On the same day, the Agent acknowledged receipt of the email.
25. On 25 and 28 September 2023, the FSRA and the Agent communicated by email in relation to the arrangements for the Review.
26. On 13 October 2023, the FSRA sent an email to the Agent requesting self-certifications dated within the 2022 reporting year for all its clients, and other documents to be sent to them on the same day.
27. On 13 October 2023, the Agent sent an email to the FSRA explaining that no self-certifications were obtained in the 2022 reporting year. The Agents stated that they were approached to provide services relating to FATCA and CRS in July 2023, and at that point it was determined that ABV was an RFI. The entity's previous compliance officer had classified it as a Passive NFE, which, was incorrect.
28. On 16 October 2023, the FSRA conducted the Review.

FAILURE TO COLLECT SELF-CERTIFICATION FOR CRS

29. 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.

Client 1

30. Section IV subparagraph A of the CRS requires a CRS RFI to obtain a self-certification from an Account Holder at account opening.
31. The Review found that ABV had opened a New Individual Account (as defined in the CRS) for Client 1, as identified in Annexure A to the October Notice, on 2 July 2022. However, the self-certification form for Client 1 was not collected by ABV until 25 July 2023.

Client 2

32. Section VI subparagraph A(1)(a) of the CRS requires a CRS RFI to obtain a self-certification from an Account Holder at account opening.
33. The Review found that ABV had opened a New Entity Account (as defined in the CRS) for Client 2, as identified in Annexure A to the October Notice, on 2 July 2022. However, the self-certification form for Client 2 was not collected by ABV until 25 July 2023.
34. Section VI subparagraph A(2) of the CRS requires a CRS RFI to determine whether an Account Holder is a Passive NFE (as defined in the CRS) with one or more Controlling Persons that are Reportable Persons (as defined in the CRS). In determining whether a Controlling Person is a Reportable Person, section VI subparagraph A(2)(c) of the CRS sets out that an RFI may rely on a self-certification form from the Account Holder or such Controlling Person.
35. The Review found that ABV did not collect a self-certification form for CP1, as identified in Annexure A to the October Notice, as the Controlling Person of Client 2.

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

FAILURE TO COLLECT SELF-CERTIFICATION FOR FATCA

37. 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 and New Entity Account (as those terms are defined in the FATCA Cabinet Resolution).

Client 1

38. As noted in paragraph 31 above, the Review found that ABV opened a New Individual Account for Client 1 on 2 July 2022. However, the Self-Certification Form for Client 1 was not collected by ABV until 25 July 2023.

Client 2

39. As noted in paragraph 33 above, the Review found that ABV had opened a New Entity Account for Client 2 on 2 July 2022. However, the Self-Certification Form for Client 2 was also not collected by ABV until 25 July 2023.
40. The purpose of the FATCA Cabinet Resolution is to implement the IGA in the UAE. Annex 1, subsection V(B)(3)(b) of the IGA requires that, if the Account Holder is a Passive NFFE (as defined in the IGA), the FATCA RFI must identify the Controlling Person(s) and determine whether any such person is a U.S. citizen or resident on the basis of a self-certification from the Account Holder or such person.
41. As noted in paragraph 35 above, in its Self-Certification Form, Client 2 had self-classified as a Passive NFFE, with CP1 as its Controlling Person. However, the Review found that ABV had not collected a self-certification form for CP1.
42. Accordingly, the FSRA considers that ABV has contravened subsection 6(1) of the FATCA Regulations.

FAILURE TO APPLY DUE DILIGENCE PROCEDURES

43. Subsection 6(2) of the CRS Regulations requires every CRS RFI to establish and implement appropriate systems and internal procedures to enable its compliance with the CRS, the CRS Cabinet Resolution and the CRS Regulations. Subsection 7(1) of the CRS Regulations requires every CRS RFI to keep records of the steps undertaken and any evidence relied upon for the performance of the due diligence procedures and the measures to obtain those records that the CRS RFI obtains or creates for the purposes of complying with the CRS Cabinet Resolution and CRS Regulation.
44. Subsection 6(2) of the FATCA Regulations requires every FATCA RFI to establish and implement appropriate systems and internal procedures to enable its compliance with the FATCA Cabinet Resolution and the FATCA Regulations. Subsection 7(1) of the FATCA Regulations requires FATCA RFIs to keep records of steps undertaken and any evidence relied upon for the performance of the due diligence procedures and the measures to obtain those records that the

FATCA RFI obtains or creates for the purpose of complying with the FATCA Cabinet Resolution and the FATCA Regulations.

45. As mentioned in paragraph 27 above, ABV did not have policies and procedures in place for the purposes of compliance with the Regulations during the 2022 reporting year. Accordingly, ABV was unable to apply due diligence procedures and keep records of the relevant steps and measures undertaken in accordance with the requirements of the Regulations.
46. Accordingly, the FSRA considers that has ABV contravened subsection subsections 6(2) and 7(1) of the CRS Regulations and 6(2) and 7(1) of the FATCA Regulations.

PENALTY

47. The FSRA considers that ABV contravened:
- a. subsection 6(1), 6(2) and 7(1) of the CRS Regulations and accordingly subsection 9(1)(b) of the CRS Regulations applies; and
 - b. subsections 6(1), 6(2) and 7(1) of the FATCA Regulations, and accordingly subsection 9(1)(b) of the FATCA Regulations applies.
48. The penalties for the contraventions are set out in Articles 5(2) and 5(5) of the CRS Cabinet Resolution and Articles 7(1) and 7(2) of the FATCA Cabinet Resolution.
49. The total penalty imposed by the FSRA on ABV is AED 86,000.
50. The breakdown of the penalty imposed by the FSRA on ABV pursuant to the CRS and FATCA Cabinet Resolutions are as follows:

Reference	Contravention	Penalty (AED)
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 per contravention x 3
Article 5(5) of the CRS Cabinet Resolution	A CRS RFI that fails to apply due diligence	40,000
Article 7(1) of the FATCA Cabinet Resolution	A FATCA RFI that fails to apply due diligence procedures as set out in Article 5(1) of the FATCA Cabinet Resolution	40,000
Article 7(2) of the FATCA Cabinet Resolution	An FATCA RFI 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 per contravention x 3

CONSIDERATION OF APPEAL

51. In the October Notice, the FSRA imposed a penalty of AED 86,000 on ABV.
52. Under subsection 9(2) of the CRS Regulations and Article 7(1) of the CRS Cabinet Resolution, and subsection 9(2) of the FATCA Regulations and Article 9(1) of the FATCA Cabinet Resolution, ABV had the opportunity to appeal against the FSRA's decision set out in the October Notice.
53. On 26 November 2024 and 5 February 2024 respectively, ABV submitted its Appeal to the FSRA.
54. In its Appeal, ABV dated 26 November 2024 asked the FSRA to take certain matters into consideration as follows:
 - a. ABV was incorporated in March 2022 and accepted investors between April and July 2022. ABV had a total of three (3) investors, and as a new entity still setting up its operations and onboarding investors, it collected CRS and FATCA self-certification forms for one (1) investor., Client 2, using an old subscription form. The other two (2) investors, Client 1 and CP1, were onboarded using new subscription agreements which included self-certification forms. ABV did not seek to collect the CRS/FATCA additional self-certification forms on this basis.
 - b. ABV has appointed a new Compliance Officer and MLRO in May 2023 who highlighted the gaps in the CRS and FATCA documents. ABV immediately took action in preparation for the 2023 reporting year and hired a third party to remediate the missing self-certification forms of the two (2) investors. The third party made all efforts in coordinating with the investors. However, up to July 2023 it was unable to obtain the required self-certification within the deadline to submit the return.
55. The FSRA requested further information from ABV on 4 February 2025.
56. On 5 February 2025, ABV responded to the FSRA stating that:
 - a. The CRS and FATCA self-certification form had inadvertently been omitted from the new subscription agreement referred to in paragraph 54(a) above, which was included in the previous version of the form for the first investor. ABV took immediate corrective action upon identifying the oversight.
 - b. ABV acknowledges its ultimate responsibility. However, it relied on its legal counsel to provide a comprehensive form that addressed all the required information from its investors. ABV had Reportable Accounts in 2022 and 2023 for CRS and FATCA and completed the reporting in those years. The two (2) investors mentioned in paragraph 54(a) above are partners in the parent entity and were well known to ABV's directors. Further, a penalty of such magnitude would cause significant reputational damage.
57. The FSRA has considered each of the representations made in support of the Appeal and summarises its decision in relation to the Appeal as follows:
 - a. The limited grounds for appeal against penalties applied for contravention of the Regulations are set out in Article 7(2) of the CRS Cabinet Resolution and Article 9(2) of the FATCA Cabinet Resolution.
 - b. In response to paragraphs 54(a) and 56(a) above, the FSRA notes that ABV had over a year from the date of incorporation to the deadline for submission of the Annual Returns for the calendar year 2022 to familiarise itself with the CRS and FATCA requirements. ABV has confirmed that the self-certification forms of for Client 1 and CP1 were inadvertently omitted

from the new subscription agreement. Further, the self-certification forms for Client 1, Client 2 and CP1 were all collected only in July 2023, and not 2022, which was the relevant year for the FATCA and CRS review.

- c. In response to paragraph 54(b) above, the FSRA notes the corrective action taken by ABV. It is ABV's responsibility to ensure that it is in compliance with the Regulations.

58. Given the facts and matters set out above, and having given due consideration to ABV's appeal, the FSRA has decided to confirm its decision in this matter to impose a penalty of AED 86,000 on ABV.

PROCEDURAL MATTERS

Manner and time for payment of penalty

59. Pursuant to Article 6(4) of the CRS Cabinet Resolution and Article 10(2) of the FATCA Cabinet Resolution, the penalty imposed pursuant to this notice is to be paid by ABV within fifteen (15) business days from the date of this notice, i.e. on or before **6 March 2025**.
60. 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]

61. 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

62. The FSRA will generally publish, in a manner we consider appropriate and proportionate, information and statements relating to enforcement action. Accordingly, the FSRA will publish relevant information about the decision in this notice, including the notice itself, as the FSRA considers appropriate. The publication of enforcement outcomes is consistent with the FSRA's commitment to open and transparent processes and our objectives.

Yours sincerely,



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