

25 February 2025

Abrdn Investcorp Infrastructure Partners (ME) L.P.  
2459, 24<sup>th</sup> 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

## **CONFIRMATION OF DECISION IN RELATION TO PENALTY IMPOSED FOR CONTRAVENTION OF THE COMMON REPORTING STANDARD REGULATIONS 2017**

1. The Financial Services Regulatory Authority ("FSRA") of the Abu Dhabi Global Market ("ADGM") hereby confirms its decision to impose a penalty on Abrdn Investcorp Infrastructure Partners (ME) L.P. ("AIIIP") pursuant to subsection 9(1) of the *Common Reporting Standard Regulations 2017* (the "Regulations"). This notice is issued pursuant to Article 7(5) of Cabinet Resolution No. 93 of 2021 ("Cabinet Resolution"), which applies pursuant to the Regulations, following due consideration of an appeal submitted by AIIIP on 3 December 2024 ("Appeal") in response to a notice from the FSRA dated 7 November 2024 ("November 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 AIIIP has failed to submit its risk assessment as requested by the FSRA in connection with its administration of the Regulations ("Risk Assessment") by the due date of 31 July 2023, in contravention of subsection 6(1) of the Regulations, and accordingly, subsection 9(1)(b) of the Regulations applies.
4. The FSRA has decided to impose a penalty of AED 10,000 on AIIIP 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 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 Regulations by the Board of Directors of ADGM in 2017. The Regulations apply 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.
9. On 8 September 2022, AIP was registered as a Limited Partnership.
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 Annual Returns, with training scheduled on 28 April 2023 and 4 May 2023.
11. 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 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, with instructions on how to do so.
13. On 25 June 2023, MOF published on its website a 'FATCA/CRS Risk Assessment Questionnaire – User Guide' specifying that RFIs were required to complete a Risk Assessment by the stipulated deadline, with instructions on how to do so.
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 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.
15. 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 with respect to the submission of Annual Returns and Risk Assessments.
16. 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 AIP's representative ("Agent") informing it of the extended deadline for submission of Annual Returns and also noting that the deadline for submission of the Risk Assessment remained 31 July 2023, and that the system will not accept late submissions.
17. On 15 August 2023 AIP registered as an RFI on the AEOI portal.
18. On 16 August 2023, AIP submitted an Annual Return for the calendar year 2022.

19. On 16 August 2023, the FSRA sent an email to the Agent noting that AIIP had attempted to register on the AEOI portal as an Investment Entity, and therefore an RFI for the purposes of CRS. AIIP was requested to complete a self-certification form ("Entity Self-Certification Form") and to ensure that the FSRA has at all times an up-to-date classification for the purposes of CRS on record.
20. On 17 August 2023, AIIP sent an Entity Self-Certification Form to the FSRA.
21. On 24 August 2023, the FSRA informed AIIP that the Self-Certification Form submitted by AIIP related to a different entity, and requested it submit a form in relation to AIIP.
22. On 30 August 2023, the FSRA sent a reminder to AIIP for an urgent response to the email of 24 August 2023. On the same day, AIIP responded with an updated Entity Self-Certification Form for AIIP, in which it classified itself as an 'Investment Entity' and, therefore, an RFI for the purposes of the CRS.
23. On 6 September 2023, the FSRA sent an email to the Agent requiring AIIP's urgent attention to AIIP's failure to submit the Risk Assessment for the 2022 reporting period by the deadline of 31 July 2023. The FSRA requested that AIIP provide an explanation for this failure by 12 September 2023.
24. On 11 September 2023, the Agent sent an email to the FSRA stating that they were under the belief 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 AIIP's registration was processed, they attempted to submit the Risk Assessments daily but were met with a loading screen.

#### **FAILURE TO SUBMIT RISK ASSESSMENT BY THE DUE DATE**

25. Subsection 6(1) of the Regulations requires RFIs to collect and report all information in accordance with the Regulations and the Cabinet Resolution. Article 4(7) of the Cabinet Resolution requires 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.
26. As mentioned in paragraphs 14 and 16 above, the FSRA sent reminders to AIIP that the submission of the Risk Assessment was due by 31 July 2023.
27. AIIP failed to submit the Risk Assessment by the deadline stipulated. Accordingly, AIIP has contravened subsection 6(1) of the Regulations and Article 4(7) of the Cabinet Resolution.

#### **PENALTY**

28. The FSRA considers that AIIP contravened subsection 6(1) of the Regulations and 4(7) of the Cabinet Resolution and accordingly subsection 9(1)(b) of the Regulations applies.
29. The penalty for such a contravention is set out in Article 5(6)(a) of the Cabinet Resolution.
30. The total penalty imposed by the FSRA on AIIP is AED 10,000.
31. The breakdown of the penalty imposed by the FSRA on AIIP pursuant to the Regulations is as follows:

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

## CONSIDERATION OF APPEAL

32. In the November Notice, the FSRA imposed a penalty of AED 10,000 on AIIP.
33. Under subsection 9(2) of the Regulations and Article 7(1) of the Cabinet Resolution, AIIP had the opportunity to appeal against the FSRA's decision set out in the November Notice.
34. On 3 December 2024, AIIP submitted its Appeal to the FSRA.
35. In its appeal AIIP asked the FSRA to take certain matters into consideration as follows:
- AIIP engaged the Agent to submit the CRS and FATCA Annual Returns and Risk Assessments in the AEOI portal. Due to a miscommunication between the Agent and AIIP, AIIP misunderstood that the extension of time to 15 August 2023 for submission of Annual Returns did not apply to the Risk Assessment. AIIP communicated with the FSRA explaining the circumstances that caused the delay in submission of the Risk Assessment.
  - AIIP's directors have acknowledged the FSRA's notice and have taken internal measures to avoid the repetition of such incidents and ensure that timely regulatory submissions will take place in future.
36. The FSRA has considered AIIP's representations made in support of the Appeal and summarises its decision in relation to the Appeal as follows:
- In response to paragraph 35(a) above, the FSRA notes AIIP's representations that the delay was a result of miscommunication between AIIP and its Agent. As mentioned in paragraphs 16 to 24 above, and in the November Notice, the FSRA was aware of and had taken the reasons for the delay in submitting the Risk Assessments into consideration prior to issuance of the November Notice.
  - In response to paragraph 35(b) above, the FSRA notes the corrective action taken by AIIP. It is AIIP's responsibility to ensure that it is in compliance with the Regulations.
  - The grounds for appeal are prescribed at Article 7(2)(a)-(c) of the Cabinet Resolution and AIIP does not dispute that the violation occurred nor that the penalty exceeds the limit determined in accordance with the Cabinet Resolution. The penalty imposed cannot be disproportionate as it is as prescribed in the Cabinet Resolution.
37. Given the facts and matters set out above, and having given due consideration to AIIP's Appeal, the FSRA has decided to confirm its decision in this matter to impose a penalty of AED 10,000 on AIIP.

## Manner and time for payment of penalty

38. Pursuant to Article 6(4) of the Cabinet Resolution, the penalty imposed pursuant to this notice is to be paid by AIIP within fifteen (15) business days from the date of this notice, i.e. on or before **18 March 2025**.
39. Payment of the penalty can be made by electronic funds transfer into the following account:

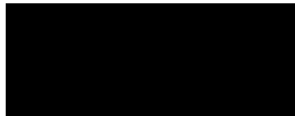
Account Name	[REDACTED]
Account Number	[REDACTED]
IBAN Number	[REDACTED]
Account Type	[REDACTED]
Bank Name	[REDACTED]
Swift Code	[REDACTED]
Reference	[REDACTED]

40. 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

41. 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,



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