



# **Abu Dhabi Global Market Guiding Principles on Whistleblowing**

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## 1. BACKGROUND

- 1.1. ADGM believes that fairness, transparency and integrity are fundamental to a thriving and sustainable international financial centre. It is important to ensure that ADGM entities conduct their activities to the highest standards of business practice. This provides protection for the ADGM business community and maintains confidence in ADGM.
- 1.2. In line with global movements in favour of transparency, accountability and integrity, ADGM believes a culture that supports speaking up with confidence forms part of any progressive business environment. With that in mind, ADGM has issued these non-binding Guiding Principles (the “Guiding Principles”) on whistleblowing to support entities and individuals operating within ADGM.

## 2. AIMS

- 2.1. The Guiding Principles serve as guidance for all ADGM entities when designing, implementing and maintaining the policies, procedures and organisational infrastructure that make up their own whistleblowing framework (**Whistleblowing Framework**). They are intended to help ensure that whistleblowers are given adequate opportunities to speak up and are fairly treated when doing so and should also help ADGM entities understand those practices that are encouraged to foster a culture that supports speaking up where appropriate.
- 2.2. The Guiding Principles should be seen as complementary to the detail of ADGM’s published regulatory frameworks, both as they currently exist and as they evolve. Whilst the Guiding Principles are not legally binding, there may be circumstances where it is appropriate to consider the extent to which an ADGM entity has conducted its activities in line with them.

## 3. PRINCIPLES

### *Principle 1 – Guiding Definition of Whistleblowing*

- 3.1. The international approach to whistleblowing has evolved in recent years and there are various definitions of what constitutes whistleblowing. The terms “whistleblowing” or “whistleblower” can mean different things in different circumstances. In general terms, however, “whistleblowing” means the reporting of suspected wrongdoing to someone in authority and a “whistleblower” being the person who makes the report; that person might be part of the relevant organisation (such as an employee) or an external third party.
- 3.2. ADGM encourages ADGM entities to use a broad definition of whistleblowing when formulating their own Whistleblowing Framework. It could include, but need not be

limited to, references to fraud, money laundering, corruption, breaches of legal or regulatory requirements, unethical conduct and/or acts to cover up wrongdoing.

- 3.3. It should be made clear that whistleblowing is distinct from an employee grievance or a customer complaint. ADGM entities should ensure that clear and easy to understand information is available to distinguish between these different concerns.

### ***Principle 2 – Non-Retaliation***

- 3.4. Whistleblowers are unlikely to raise concerns if they are not afforded appropriate protection against some of the negative consequences that may result from speaking up. Accordingly, it is important for ADGM entities to have a Whistleblowing Framework that adequately protects whistleblowers from any and all forms of retaliation or disadvantage that might result from their whistleblowing. This policy of non-retaliation should be supported at the highest level in the relevant entity, in order to be credible and convincing.
- 3.5. ADGM condemns any kind of retaliation or discrimination that occurs as a result of whistleblowing, including but not limited to:
- a. withholding of promotions or training;
  - b. harassment;
  - c. loss of status or benefits;
  - d. a negative change in role duties;
  - e. changes to hours of work;
  - f. physical harm; or
  - g. threatening any of the foregoing.

### ***Principle 3 – Confidentiality and Due Process***

- 3.6. Effective Whistleblowing Frameworks protect the identity of the whistleblower through strict adherence to principles of confidentiality. ADGM entities should have controls in place to prevent unauthorised access to whistleblowing reports, in particular to any information that might inadvertently or inappropriately reveal the identity of a whistleblower or the subject(s) of any whistleblowing report.
- 3.7. Preservation of confidentiality also ensures that the subject(s) of any whistleblowing report are protected pending the outcome of any investigation and reduces the risk of actual or alleged retaliation against the whistleblower. Management within an ADGM entity may wish to make it explicitly clear that they will not ask who made a report and that they expect others to follow this example.
- 3.8. A Whistleblowing Framework in line with global best practices accommodates receiving reports from whistleblowers who wish to remain anonymous. An ability to communicate with the whistleblower is invaluable to a thorough investigation of any report made.

Whistleblower anonymity may impact an ADGM entity's ability to take action in relation to a report, depending on the circumstances.

- 3.9. Disclosure of information to appropriate external whistleblowing channels - such as a regulator - should be expressly exempted from an ADGM entity's approach to protecting the confidential information. ADGM encourages whistleblowers to use existing channels to raise concerns about any instances of suspected wrongdoing in ADGM entities. This should be reflected in an ADGM entity's Whistleblowing Framework without a requirement that internal channels should be used first.

#### ***Principle 4 – Reporting in Good Faith***

- 3.10. The protection afforded to whistleblowers who make reports via whistleblowing channels will not be unconditional. An important qualification is that the protections apply only to reports made in good faith.
- 3.11. A “report made in good faith” is a protected disclosure based on an honestly held belief that the information offered at the time of disclosure is true. This means that inaccurate reports made by a whistleblower but based on a genuine misunderstanding should still be protected.
- 3.12. Effective Whistleblowing Frameworks will not protect deliberately false disclosures or those made exclusively in self-interest. Such disclosures may need to be handled through the Human Resources processes of an ADGM entity and result in disciplinary action, in certain circumstances.
- 3.13. In addition, ADGM entities should take care not to assume that a report is maliciously made based exclusively on the context within which a report being made. For example, valid concerns warranting investigation may still be raised by individuals undergoing employment-related disciplinary processes. ADGM entities should ensure that appropriately independent skilled professionals are involved in assessing and managing whistleblowing reports.

#### ***Principle 5 – Components of a Whistleblowing Framework***

- 3.14. ADGM acknowledges that there is no one-size-fits-all approach to creating an effective Whistleblowing Framework for individual ADGM entities. Each Whistleblowing Framework, including appropriate resources to support it, will vary depending on the size, business, risk profile and complexity of the relevant ADGM entity. Small entities may need to focus more on external rather than internal channels for whistleblowing in certain circumstances and integrate the key aspects of their Whistleblowing Framework into existing requirements, such as their company code of ethics and employment contracts.
- 3.15. Whistleblowing policies and procedures implemented under a Whistleblowing Framework should be clear, simple, accessible and easily understood, whether they are

stand alone or incorporated into other policies or procedures. At a minimum, they should address the protection of whistleblowers and a policy of non-retaliation; how whistleblowing reports are handled and a commitment to confidentiality; and independent assessment and investigation. They should also be supported with appropriate training and awareness sessions for all staff, including training for managers on how to handle whistleblowing reports and concerns raised to them directly.

- 3.16. Internal channels for raising issues within an ADGM entity should be provided and communicated clearly to staff and, where appropriate, third parties. External channels for whistleblowing should also be identified and clearly communicated to staff. In most cases, whistleblowers should be able to choose the most suitable from a range of reporting channels available from both inside and outside the ADGM entity.

### ***Principle 6 – Culture***

- 3.17. The ultimate purpose of a Whistleblowing Framework is to help protect entities and the market from the effects of misconduct through effective reporting mechanisms that foster an organisational culture of trust and transparency.
- 3.18. An apparently robust Whistleblowing Framework can be wholly ineffective if an entity culture does not, in fact, support whistleblowing in practice. Under-resourcing, low responsiveness to reports, inappropriate involvement of management, inadequate investigation and poor confidentiality all result in a Whistleblowing Framework that has limited substance and so fails to deliver on the overarching objective of such a framework.
- 3.19. In order to build a true organisational culture of transparency, ADGM encourages ADGM entities to consider instilling such through the “tone from the top”, and to communicate clearly to staff why whistleblowing is supported and that there are policies in place to protect whistleblowers. Training, surveys and workshops should be considered as well as easy access to the relevant policies, procedures and reporting channels.
- 3.20. The best whistleblowing programs are usually sponsored and ultimately overseen by the relevant entity’s Board of Directors – being independent of management - with support from functions with the requisite level of objectivity or third parties (as appropriate).
- 3.21. Staff with responsibilities in relation to the Whistleblowing Framework of an ADGM entity should be properly skilled and trained. Management and managers should lead by example and demonstrate their commitment to creating an open culture where disclosures are welcome, ultimately in the best interests of all.
- 3.22. The underlying premise is to ensure that whistleblowers feel safe to raise issues, and that there are credible channels they are aware of and can use.

#### **4. CONCLUSION**

- 4.1. In line with an increased emphasis on corporate transparency, accountability and integrity in jurisdictions across the world, ADGM believes that effective Whistleblowing Frameworks are a cornerstone of a progressive and dynamic business environment. As a leading international financial centre, ADGM considers transparency and accountability to be critical in ensuring that markets operate with certainty and integrity, safeguarding the interests of all market participants.
- 4.2. The Guiding Principles are intended to support ADGM entities as they continue to strive to meet global best practices.