

WHISTLEBLOWER PROTECTIONS REGULATIONS [2024]

Regulations to make provision for the protection of whistleblowers where they make good faith disclosures in respect of matters concerning the Abu Dhabi Global Market.

Date of Enactment: [●]

The Board of Directors of the Abu Dhabi Global Market (“**ADGM**”), in exercise of its powers under Article 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi, hereby enacts the following Regulations:

PART 1: CITATION, ENTRY INTO FORCE, DEFINITIONS AND INTERPRETATION**1. Citation and entry into force**

- (1) These Regulations may be cited as the Whistleblower Protections Regulations [2024].
- (2) These Regulations come into force on the date of publication.

2. Definitions and interpretation

- (1) In these Regulations, unless otherwise defined, the terms used shall have meanings ascribed to them in the Schedule.

3. Transitional provisions and power to make rules

- (1) Global Market Establishments shall not be required to comply with sections 6(1) to 6(3) of these Regulations until six months from the date of publication of these Regulations.
- (2) The Board may by rules make any transitional, transitory, consequential, saving, incidental or supplementary provision in relation to these Regulations (including their commencement) as appear to the Board to be in the interests of the ADGM.

PART 2: WHISTLEBLOWER PROTECTIONS**4. Protected disclosures**

- (1) A person who discloses information specified in section 4(2) to a person specified in section 4(3) makes a **Protected Disclosure** and is entitled to the protections specified in sections 5(1) and 5(2).
- (2) For the purposes of subsection (1), to be a Protected Disclosure, the information disclosed must:
 - (a) relate to knowledge or a reasonable suspicion that a Global Market Establishment, or an officer, employee or agent of a Global Market Establishment:
 - (i) has or may have contravened, or is likely to contravene, an Applicable Law; or
 - (ii) has or may have engaged, or is likely to engage, in money laundering, fraud or any other financial crime; and

- (b) be disclosed in good faith.
- (3) For the purposes of subsection (1), to be a Protected Disclosure, the information must be disclosed to any one or more of the following:
 - (a) any director, officer or any person in a management position of the relevant Global Market Establishment;
 - (b) any person or group of persons designated by the Global Market Establishment to receive a disclosure of information under this section;
 - (c) any Registered Auditor or Registered Audit Principal or Audit Principal that provides Audit Services to the Global Market Establishment;
 - (d) in the case of information disclosed with respect to a Global Market Establishment (or an officer, employee or agent of a Global Market Establishment) which is a Licensed Financial Global Market Establishment, a person performing a Controlled Function or acting as a Key Individual (as applicable) for the Licensed Financial Global Market Establishment;
 - (e) the Registrar;
 - (f) the Financial Services Regulator;
 - (g) the Office of Data Protection;
 - (h) a criminal law enforcement agency of the State; or
 - (i) any other person or regulatory authority prescribed by the Board for the purposes of this section.

5. Whistleblower protections

- (1) Where a person makes a Protected Disclosure:
 - (a) the person shall not be subject to any civil or contractual liability for making the Protected Disclosure;
 - (b) no contractual, civil or other remedy or right shall be enforced against the person by another person for making the Protected Disclosure; and
 - (c) the person shall not be dismissed from their current employment, or otherwise subject to any action by their employer or any related party of the employer which is reasonably likely to cause detriment or disadvantage, in connection with making the Protected Disclosure.
- (2) A Court may, on application of an aggrieved person, make any order for relief where a person who has made a Protected Disclosure has been subject to any loss of employment or other detriment or action referred to in section 5(1).
- (3) For the avoidance of doubt, to qualify for protection under this section it is not necessary for a person who makes a Protected Disclosure to identify themselves when making the disclosure.

6. Policies and procedures

- (1) A Global Market Establishment must implement and maintain appropriate and effective arrangements to:
 - (a) facilitate persons making Protected Disclosures;
 - (b) assess and, where appropriate, escalate concerns arising from information received in a Protected Disclosure; and
 - (c) protect the identity of a person who makes a Protected Disclosure,that are proportionate to the size and complexity of its business and operations.
- (2) The arrangements required under subsection (1) must be set out in written policies and procedures.
- (3) The requirement under subsection (2) does not apply to a Global Market Establishment if it is a Small Company and it is not also an Authorised Person, Recognised Body or Designated Non-Financial Business or Profession.
- (4) A Global Market Establishment must periodically review the arrangements, policies and procedures required pursuant to subsections (1) and (2), as applicable, to ensure they are appropriate, proportionate, effective and up to date.
- (5) A Global Market Establishment must maintain the following records in writing:
 - (a) each Protected Disclosure received and any relevant supporting documents; and
 - (b) information, including internal findings and analysis, relating to the Global Market Establishment's investigation, assessment and determination of matters relevant to the Protected Disclosure.
- (6) The records referred to in subsection (5) must be maintained for a period of at least six years from the date that determination of all matters relevant to the Protected Disclosure have been completed and closed.

PART 3: POWERS OF THE REGISTRAR

7. Sanctions

- (1) If the Registrar considers that a Global Market Establishment has contravened any part of these Regulations, it may take any or all of the following courses of action in relation to the Global Market Establishment —
 - (a) issue a private or public censure in relation to such contravention; or
 - (b) impose a financial penalty; or
 - (c) suspend or withdraw the Global Market Establishment's commercial license.
- (2) A censure statement must describe in such detail as the Registrar may determine the nature of the contravention and may include such guidance as to any remedial action

that the Global Market Establishment should consider taking to avoid any repetition of such contravention or any other contravention taking place, as the Registrar may see fit to specify. A public censure statement must be published in such manner as the Registrar determines and a copy of the censure statement must be sent by the Registrar to the Global Market Establishment.

- (3) Any financial penalty imposed by the Registrar may be in such amount and may be payable on such terms, as it considers appropriate, provided that the financial penalty does not exceed the amount specified for level 8 on the standard fines scale.

8. The Registrar's Procedures

- (1) The Registrar will exercise its powers and discharge its responsibilities as set out in these Regulations in each case accordance with established principles of natural justice, ensuring that its actions are fair and transparent.

SCHEDULE: DEFINITIONS

“ADGM” has the meaning given in the preamble;

“ADGM Founding Law” has the meaning given in the Interpretation Regulations 2015;

“ADGM regulations” has the meaning given in the Interpretation Regulations 2015;

“Applicable Law” means:

- (1) any provision of any ADGM regulations, or any rules or legislation made under any ADGM regulations; and
- (2) any provision of any other laws, regulations, rules or other legislation administered by the Registrar, the Financial Services Regulator or any other Global Market Authority;

“Audit Principal” has the meaning given in the Companies Regulations (Auditors) Rules 2023;

“Audit Service” has the meaning given in the Companies Regulations (Auditors) Rules 2023;

“Authorised Person” has the meaning given in FSMR;

“Board” means the Board of Directors of the ADGM;

“Controlled Function” has the meaning given in FSMR;

“Court” has the meaning given in the Interpretation Regulations 2015;

“Designated Non-Financial Business or Profession” has the meaning given in FSMR;

“Global Market Authority” has the meaning given in the ADGM Founding Law;

“Global Market Establishment” has the meaning given in the ADGM Founding Law¹;

“FSMR” means the Financial Services and Markets Regulations 2015;

“Financial Services Regulator” has the meaning given in the Interpretation Regulations 2015;

“Key Individuals” has the meaning given in FSMR;

“Licensed Financial Global Market Establishment” has the meaning given in the ADGM Founding Law;

“Office of Data Protection” has the meaning given in the Data Protection Regulations 2021;

¹ Note included to assist internal reviewers – delete prior to publication. Defined in the Founding Law - **Global Market Establishments**: Company, any branch, representative office, institution entity, or project registered or licensed to operate or conduct any activity within the Global Market by any of the Global Market Authorities according to the provisions of this law or the Global Market Regulations or the executive resolutions including the licensed financial Global Market Establishments.

“person” means any natural or legal person;

“Protected Disclosure” has the meaning given in section 4(1) of these Regulations;

“Recognised Body” has the meaning given in FSMR;

“Registrar” has the meaning given in the Interpretation Regulations 2015;

“Registered Audit Principal” has the meaning given the Companies Regulations (Auditors) Rules 2023;

“Registered Auditor” has the meaning given the Companies Regulations (Auditors) Rules 2023;

“Small Company” is a company which qualifies as small under sections 369 to 371 of the Companies Regulations 2020; and

“State” means the United Arab Emirates.