



FINAL NOTICE ISSUED UNDER
SECTION 936 OF THE
COMPANIES REGULATIONS 2020

To: Half Moon Investments Limited



Email:



Date: 20 March 2023

1. DECISION

1.1 This Final Notice ("Notice") is issued under section 936 of the *Companies Regulations 2020* ("CR 2020").

1.2 For the reasons given in this Notice, the Registrar of Abu Dhabi Global Market ("ADGM") has decided to impose a financial penalty on Half Moon Investments Limited ("Half Moon") of:

- i) **USD 8,000** for a contravention of section 426 of CR 2020 (*default in filing accounts and reports: contraventions*), for failing to file its accounts and reports for the financial year ending 31 December 2021 in compliance with section 415 of CR 2020, before the end of the period for filing those accounts and report, namely 30 September 2022.

1.3 CR 2020 requires Half Moon to deliver its audited annual accounts and reports for the year ending 31 December 2021 to ADGM by 30 September 2022. Half Moon failed to deliver its accounts by 30 September 2022. Therefore, it failed to file accounts and reports in compliance with section 415 before the end of the period for filing those accounts and reports.

2. DEFINED TERMS AND RELEVANT REGULATIONS

2.1 Defined terms are identified in the Notice in parentheses, using the capitalisation of the initial letter of a word or of each word in a phrase, and are either defined in the Regulations, or in the body of this Notice at the first instance the term is used. Unless the context otherwise requires, where capitalisation of the initial word is not used, an expression has its natural meaning.

2.2 Extracts of Regulations and Rules referred to in this Notice are attached in **Annexure A**. Complete copies of the Regulations and Rules are accessible on the ADGM website www.adgm.com/legal-framework/rules-and-regulations.

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3. SUMMARY OF EVIDENCE SUPPORTING THE DECISION

The year ending 31 December 2020 accounts

- 3.1 Half Moon is an ADGM private limited company, licensed to carry on proprietary investment company and proprietary asset management company activities. CR 2020 required Half Moon to deliver its audited annual accounts and reports for the year ending 31 December 2020 to the Registration Authority ("RA") by 30 September 2021.
- 3.2 On 28 September 2021 at 15:59, Half Moon filed a balance sheet made up to 31 December 2020 ("2020 Balance Sheet"), purportedly in compliance with the provisions applicable to micro sized companies under CR 2020.
- 3.3 A review of the balance sheet filing by staff of the RA ("RA Staff") caused RA Staff to make further enquiries in order to be satisfied as to whether or not the company met the threshold criteria to qualify as micro (or small).
- 3.4 On 17 October 2021, RA Staff emailed staff of Alpha Management Limited (an ADGM licensed professional services provider who had filed the accounts on behalf of Half Moon) and requested clarification on 1) the principle activity of Half Moon, 2) the revenue figures for the last 3 years, and 3) whether the entity had engaged an external auditor.
- 3.5 On 2 November 2021, Mr Shaukat Murad ("Mr Murad") responded answering each of the three points raised in RA Staff's email of 17 October 2021. The revenue figures provided in his email were:
- a) 2018: USD 50,016,646;
 - b) 2019: USD 42,273,324; and
 - c) 2020: USD nil.
- 3.6 On 3 November 2021, RA Staff requested from Half Moon the audited accounts for the period ending 2020.
- 3.7 On 11 November 2021, Half Moon provided (unconsolidated) audited accounts ("2020 Audited Accounts").
- 3.8 The revenue figures presented in the 2020 Audited Accounts were:
- a) 2019: USD 42,273,324; and
 - b) 2020: USD nil.
- 3.9 Pursuant to section 373 of CR 2020, to qualify as a micro company, both of the following qualifying conditions must be met:
- a) *Turnover not more than USD 2.5 million, and*
 - b) *Number of employees not more than 9.*



- 3.10 Pursuant to section 369 of CR 2020, to qualify as a small company, both of the following qualifying conditions must be met:
- a) *Turnover not more than USD 13.5 million, and*
 - b) *Number of employees not more than 35.*
- 3.11 Section 369(3) of CR 2020 requires that the qualifying conditions for micro and small company regimes must occur in two consecutive financial years to avail the exemption in CR 2020's micro and small companies regime.
- 3.12 Accordingly, based on its review and consideration of Half Moon's revenue figures in the 2020 Audited Accounts, RA Staff held concerns that Half Moon did not qualify to file accounts as either micro or small both in the 2018, 2019 and 2020 accounting reference periods.
- 3.13 On 18 November 2021, RA Staff requested clarification from Half Moon for the basis on which the company had filed the 2020 Balance Sheet under the micro company regime, among some other enquiries.
- 3.14 On 28 November 2021, Mr Murad, a Half Moon director, responded that, in his view, Half Moon met the threshold conditions to qualify as a micro company.
- 3.15 On 7 December 2021, RA Staff informed Mr Murad that based on its review, the company did not qualify as small in the 2018 and 2019 accounting reference periods.
- 3.16 On 21 December 2021, a virtual (video) call on MS Teams took place between RA Staff and Mr Murad. The purpose of the call was to explain the small / micro company regime and the reasons for RA Staff's view that Half Moon did not qualify for the small companies regime and to discuss rectification.

The required remediation action

- 3.17 Following that call, the RA issued a letter, dated 26 December 2021, to Mr Murad setting out the RA's requested actions of Half Moon. The required actions were:
- a) Half Moon is to provide a full set of financial statements that have been audited by an ADGM registered auditor ("ADGM Auditor") for the year ended 31 December 2021, by no later than 31 March 2022, and
 - b) Half Moon is to provide an assurance report over the revenue figures of 2019 and 2018 conducted and prepared by an ADGM Auditor, by no later than 31 March 2022.
- 3.18 On 4 January 2022, Mr Murad emailed the RA and requested an extension as well as some clarifications.
- 3.19 On 10 January 2022, the RA issued a letter to Mr Murad providing an extension of the deadline given in the RA's 26 December 2021 letter, to 30 June 2022 (the "First Extension"), as well as responses to the other clarifications sought.
- 3.20 On 1 June 2022, Mr Murad emailed the RA, providing an update on the appointment of an ADGM Auditor to Half Moon and seeking a further extension to 30 September 2022. The



reasons cited for the extension request involved ongoing audit work of Half Moon's Spanish subsidiaries.

- 3.21 On 2 June 2022, the RA issued a letter to Mr Murad requesting a detailed explanation on why an ADGM Auditor has still not been appointed (over 5 months since the RA's letter of 26 December 2021) as well as clarification on how auditors for Half Moon's Spanish subsidiaries could be carrying out audit of the subsidiaries absent direction from the parent entity's ADGM Auditor, given one had not been appointed yet.
- 3.22 On 6 June 2022, Mr Murad emailed RA Staff providing responses to the RA's letter of 2 June 2022. An update regarding the audit of subsidiaries was also provided by Mr Murad on 10 June 2022.
- 3.23 On 15 June 2022, a virtual (video) call on MS Teams took place between RA Staff and Mr Murad to discuss the RA's concerns.
- 3.24 Following the call Mr Murad emailed RA Staff to thank them for a positive call and reiterate the request for an extension. In his email Mr Murad noted he was confident that the requested actions would be completed before the end of September 2022.
- 3.25 On 17 June 2022, the RA issued a letter to Mr Murad confirming an extension of the deadline to 30 September 2022 (the "Second Extension"). The RA's letter noted that there will be no further extensions.
- 3.26 On 30 August 2022, Mr Murad emailed RA Staff to advise that Crowe Mak LLP (an ADGM Auditor) had been appointed and is carrying out the audit.

The year ending 31 December 2021 accounts

- 3.27 The Second Extension (i.e., 30 September 2022) is also the statutory deadline for Half Moon to file its audited accounts for the period ending 31 December 2021. On this day, Mr Zia Murad, a Half Moon director, ADGM submitted an application pursuant to section 416 (5) of CR 2020 for extension of time until 30 November 2022 in which to file these accounts. The application cited the issues related to incomplete component audits of Spanish sub-subsidiaries and associates as the special reason for additional time. The accounts for the period ending 31 December 2021 were not delivered by the Second Extension.
- 3.28 On 1 November 2022, after considering the application for extension, the RA responded confirming that it would not grant any further extensions as per its letter of 17 June 2022, citing that the group structure was well known to Half Moon.
- 3.29 The accounts and reports of Half Moon for the period ending 31 December 2021 were not filed until 9 February 2023 and the required remediation actions (i.e., assurance report) remain outstanding.



4. CONTRAVENTIONS

- 4.1 Based on the facts and matters noted above, the Registrar considers that Half Moon has contravened section 426 of CR 2020 for failing to file its accounts and reports for the financial year ending 31 December 2021, in compliance with section 415 of CR 2020, before the end of the period for filing those accounts and report, namely 30 September 2022.
- 4.2 Half Moon failed to file its 2021 annual accounts by 30 September 2022.

5. SANCTIONS

Financial penalties

- 5.1 In deciding to impose financial penalties, the Registrar has considered the factors and considerations in the Registrar's Decision Procedures, Disqualification and Enforcement Manual (the "Manual").

Determination to impose a financial penalty

- 5.2 With reference to paragraph 4.7 of the Manual, the Registrar considers the following factors to be of relevance in imposing financial penalties against Half Moon:
- a. To promote compliance with the Regulations and achieve the Registrar's objectives by:
 - i. penalising persons who have committed contraventions;
 - ii. deterring persons that have committed or may commit similar contraventions; and
 - iii. depriving persons of any benefit that they may have gained as a result of their contraventions.

- 5.3 The Registrar has decided to impose financial penalties, given the seriousness of the contravention and the circumstances.

Determination of the level of financial penalty

- 5.4 With reference to paragraph 4.8 of the Manual, the Registrar has considered the factors and considerations for determining the appropriate level of the financial penalty that it has decided to impose, which are set out as follows.

The seriousness of the contraventions

- 5.5 The contravention is serious for several reasons as follows. Filing accounts with the Registrar is a key legal obligation for ADGM companies. The RA has a responsibility to ensure that the UAE adheres to international commitments and standards concerning the provision of accounts to the Registrar, such as the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes.



- 5.6 Half Moon was originally requested to provide audited accounts for 2021 and assurance reports for 2018 and 2019 by 31 March 2021. Two further extensions were granted by the RA, taking the final deadline to 30 September 2022. However, despite this the 2021 accounts were not filed with the Registrar until more than 12 months after the RA issued its required actions letter of 26 December 2021, and the 2018 and 2019 assurance reports remain outstanding.
- 5.7 Furthermore, the RA issued the required actions letter in December 2021. However, an Auditor was not appointed until July 2022 (over 6 months later). Meanwhile, auditors in Spain were purportedly auditing Half Moon's Spanish subsidiaries, which meant that the Spanish auditors were carrying out their audit of the subsidiaries without any direction or oversight from the group auditor.
- 5.8 These points suggest that the matter was not being handled by Half Moon and its directors with appropriate care, skill and diligence and this is likely contributed to the ongoing default in Half Moon filing the 2021 accounts and 2018 and 2019 assurance reports by the deadline.
- 5.9 Half Moon and its directors have failed to adhere to ADGM's accounts obligations and when brought to their attention, have failed to rectify the matter in timely fashion and in accordance with the requests of the Registrar.

Deliberate or reckless

- 5.10 In RA Staff's dealings with Mr Murad, he was cooperative and RA Staff did not perceive Half Moon's non-compliance to be deliberate. Rather, a lack of care, skill and diligence appears to be a contributing factor.

Whether the person is an individual

- 5.11 Half Moon is not an individual, so this factor was not considered.

Effect on third parties

- 5.12 This factor was not considered.

Deterrence

- 5.13 Deterrence is one of the main purposes of taking enforcement action. That is, deterring persons who have committed contraventions from committing further contraventions.
- 5.14 The penalty imposed must deter Half Moon and other ADGM companies from failing to file accounts or filing accounts incorrectly.
- 5.15 The small companies regime is designed to support small businesses by reducing the regulatory burden of ADGM's accounting obligations. Given its size, Half Moon (and its directors), did not qualify for the small companies regime and had an obligation to file audited group accounts.



- 5.16 Any sanction must send a message of deterrence that companies must take care to not incorrectly avail the exemptions provided in the small companies regime.

Financial gain or loss avoided

- 5.17 This factor was not considered.

Subsequent conduct

- 5.18 Since receiving the RA's letter of 26 December 2021 setting out the requested actions and deadline, Half Moon and its directors have sought multiple extensions and ultimately failed to satisfy the Registrar's requests and their legal obligations. Although the 2021 accounts were filed with the Registrar in February 2023, the filing was late, and the 2018 and 2019 assurance reports remain outstanding.

Disciplinary record and compliance history

- 5.19 Apart from the contravention related to accounts and reports, Half Moon has no disciplinary record nor is the Registrar aware of any other concerns in relation to Half Moon.

Maximum penalty

- 5.20 The maximum penalty for a contravention of section 426 of CR 2020 is level 5 (i.e., USD 15,000).

6. PROCEDURAL MATTERS

Representations

- 6.1 On 9 December 2022, the Registrar issued Half Moon with a Warning Notice in which it proposed to impose on Half Moon financial penalties in the amount of USD 8,000.
- 6.2 Half Moon was provided with an opportunity to make written representations regarding the Registrar's concerns and the actions proposed.
- 6.3 On 31 December 2022, Half Moon through its Managing Director, Mr Murad, stated that it was clear that Half Moon did not meet the standards set by the CR and that the fine "*whilst not welcome will be acceptable*".
- 6.4 Having taken into the accounts the facts, matters and circumstances of the contraventions above, the Registrar has decided to impose on Half Moon financial penalties in the amount of USD 8,000.

Opportunity to Have the Matter Referred to the ADGM Courts

- 6.5 On 10 February 2023, the Registrar issued a Decision Notice to Half Moon pursuant to section 936 of CR 2020.

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6.6 Half Moon had the opportunity to refer the Decision Notice to the ADGM Courts. As of the date of this Final Notice, no referral has been made by Half Moon to the ADGM Courts.

6.7 As a referral was not made to the ADGM Courts for a review of the Decision Notice within the time period specified in the Decision Notice, the Registrar has proceeded to issue this Final Notice.

Payment of the financial penalty

6.8 The financial penalty imposed by this Notice is to be paid by Half Moon on or before the date stated in the invoice attached with this Notice.

6.9 In the event that any part of the financial penalty remains outstanding on the date by which it must be paid, the obligation to make the payment is enforceable as a debt by the Registrar.

6.10 Payment of the financial penalty can be made by electronic funds transfer. The account details are listed in the invoice attached with this Notice.

Confidentiality and publicity

6.11 As this Notice has now been issued, the Registrar may, at his discretion, publish the details about the matter to which this Notice relate.

Signed:



Tarek Kardahji
Senior Manager, Office of the Chief Executive Officer, Registration Authority
Delegate of the Registrar, Registration Authority

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ANNEXURE A

EXTRACTS OF THE REGULATIONS AND RULES REFERRED TO IN THIS NOTICE

EXTRACT OF THE *COMPANIES REGULATIONS 2020*

PART 14: ACCOUNTS AND REPORTS

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369. Companies qualifying as small: general

- (1) A company qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.
- (2) Subject to subsection (3), a company qualifies as small in relation to a subsequent financial year if the qualifying conditions are met in that year.
- (3) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a small company only if it occurs in two consecutive financial years.
- (4) The qualifying conditions are met by a company in a year in which it satisfies both of the following requirements—
 1. Turnover Not more than 13.5 million US dollars
 2. Number of employees Not more than 35
- (5) For a period that is a company's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.
- (6) The number of employees means the average number of persons employed by the company in the year, determined as follows—
 - (a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),
 - (b) add together the monthly totals, and
 - (c) divide by the number of months in the financial year.
- (7) This section is subject to section 370 (companies qualifying as small: parent companies).

373. Companies qualifying as micro-entities

- (1) A company qualifies as a micro-entity in relation to its first financial year if the qualifying conditions are met in that year.

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- (2) Subject to subsection (3), a company qualifies as a micro-entity in relation to a subsequent financial year if the qualifying conditions are met in that year.
- (3) In relation to a subsequent financial year, where on its balance sheet date a company meets or ceases to meet the qualifying conditions, that affects its qualification as a micro-entity only if it occurs in two consecutive financial years.
- (4) The qualifying conditions are met by a company in a year in which it satisfies both of the following requirements—
 1. Turnover not more than 2.5 million US dollars
 2. Number of employees not more than 9
- (5) For a period that is a company's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.
- (6) The number of employees means the average number of persons employed by the company in the year, determined as follows—
 - (a) find for each month in the financial year the number of persons employed under contracts of service by the company in that month (whether throughout the month or not),
 - (b) add together the monthly totals, and
 - (c) divide by the number of months in the financial year.
- (7) In the case of a company which is a parent company, the company qualifies as a micro-entity in relation to a financial year only if—
 - (a) the company qualifies as a micro-entity in relation to that year, as determined by subsections (1) to (7), and
 - (b) the group headed by the company qualifies as a small group, as determined by section 369(2) to (6).

415. Duty to file accounts and reports with the Registrar

- (1) The directors of a company must deliver to the Registrar for each financial year the accounts and reports required by—

section 418 (filing obligations of companies subject to small companies regime),
section 419 (filing obligations of companies entitled to small companies exemption: additional requirements),
section 420 (filing obligations of medium-sized companies), and
section 421 (filing obligations of companies generally).

- (2) This is subject to—

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section 422 (unlimited companies exempt from filing obligations), and section 423 (dormant subsidiaries exempt from filing obligations).

- (3) Subject to section 411(7), this Chapter shall not apply to a company that is a restricted scope company unless the Registrar has given notice to any restricted scope company that this Chapter applies to it and following notice such restricted scope company shall deliver to the Registrar all accounts required to be prepared by it under these Regulations.
- (4) Accounts of restricted scope companies will not be subject to public disclosure by the Registrar.

426. Default in filing accounts and reports: contraventions

- (1) If the requirements of section 415 (duty to file accounts and reports) are not complied with in relation to a company's accounts and reports for a financial year before the end of the period for filing those accounts and reports, the company and every person who immediately before the end of that period was a director of the company, commits a contravention of these Regulations.
- (2) A person does not commit the contravention referred to in subsection (1) if he proves that he took all reasonable steps for securing that those requirements would be complied with before the end of that period, and for this purpose, it is not enough to prove that the documents in question were not in fact prepared as required by this Part.
- (3) A person who commits the contravention referred to in subsection (1) shall be liable to a fine of up to level 5.

PART 31: THE REGISTRAR OF COMPANIES

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936. The Registrar's functions

- (1) The Registrar shall—
 - (a) perform the functions conferred on the Registrar by or under the ADGM Founding Law, these Regulations, the Commercial Licensing Regulations 2015 or any other law or regulation applicable in the Abu Dhabi Global Market, and
 - (b) perform such functions on behalf of the Board, in relation to the registration of companies or other matters, as the Board may from time to time direct by resolution.
- (2) Without limiting the generality of subsection 1(a) or (b), the functions of the Registrar shall include—
 - (a) the preparation indicative and non-binding guidance on these Regulations and advising the Board when any such guidance is issued;

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- (b) prescribing forms to be used for any of the purposes of these Regulations, the Commercial Licensing Regulations 2015 or any other regulations administered by the Registrar;
- (c) any tasks and powers properly delegated to it by the Board or any other authority in the Abu Dhabi Global Market; and
- (d) where it considers it appropriate to do so, delegating such of its functions and powers as may more efficiently and effectively be performed by its officers or employees and, with the approval of the Board, to any other Abu Dhabi Global Market authority (other than the Court).
- (3) The Registrar shall assist the United Arab Emirates in complying with its obligations under any international treaty or other agreement to which the United Arab Emirates is a party through the exercise of its powers and functions.
- (4) In exercising its powers and performing its functions the Registrar shall act in an independent manner.
- (5) References in these Regulations to the functions of the Registrar are to functions within subsections (1) and (2).

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