



FINAL NOTICE ISSUED UNDER
SECTION 50 OF THE
COMMERCIAL LICENSING REGULATIONS 2015

To: HSQ Holdings Ltd
[REDACTED]
Abu Dhabi Global Market Square
Al Maryah Island,
Abu Dhabi, United Arab Emirates

Email: [REDACTED]

Date: 20 June 2023

1. DECISION

1.1 This Final Notice ("Notice") is issued under section 50 of the *Commercial Licensing Regulations 2015* ("CLR 2015").

1.2 For the reasons given in this Notice, the Registrar of Abu Dhabi Global Market ("ADGM") decides to impose a financial penalty on HSQ Holdings Ltd ("HSQ"), with registration number (000002494) of:

USD 15,000 for a contravention of section 4 of CLR 2015 - carrying on a controlled activity or purporting to do so otherwise than in accordance with the licence.

1.3 Below is the relevant extract of Section 4 under Part 1 of CLR 2015:

4. Licensed persons exceeding scope of licence

(1) If a licensed person carries on a controlled activity in the Abu Dhabi Global Market, or purports to do so, otherwise than in accordance with a licence given to that person under these Regulations he commits a contravention of these Regulations and shall be liable to a fine not exceeding level 5 on the standard fines scale.

(2) In proceedings in respect of a contravention under subsection (1), it is a defence for the person accused of the contravention to show that he took all reasonable precautions and exercised all due diligence to avoid committing the contravention.

1.4 This Notice is issued to HSQ only. Other persons may be referred to in this Notice due to their factual connection to the matter under the Notice. This Notice does not construct a determination by the RA or ADGM that any other person other than HSQ has committed a

contravention of ADGM's enactments or subordinate legislation, nor it is a reflection upon any other person or entity.

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.

3. SUMMARY OF EVIDENCE SUPPORTING THE DECISION

Incorporation and Licensing

- 3.1 On 11 June 2019, HSQ was incorporated as ADGM private company limited by shares, specifically as Special Purpose Vehicle ("SPV"). Its permitted business activities under ADGM commercial licence fall under Category B classification - Non-Financial, Special purpose vehicle (activity code: 7017) described as:

A Body Corporate whose sole purpose, either generally or when acting in a particular capacity, is to carry out one or more of the following functions:

- *issuing Investments;*
- *redeeming or terminating or repurchasing, whether with a view to re issue or to cancellation, an issue, in whole or part, of Investments; or*
- *entering into transactions or terminating transactions involving Investments in connection with the issue, redemption, termination or re purchase of Investments; and*

And has been explicitly established for the purpose of:

- *securitising assets; or*
- *investing in Real Property*

- 3.2 The directors of HSQ are Mr. Mohammed Wasim Nazir ("Nazir") and ONYX Investments Holding Ltd ("ONYX")¹. Nazir is also the ultimate beneficial owner of HSQ.
- 3.3 HSQ submitted its business plan to the RA dated 25 February 2019 as part of its registration application, which contained the following:

¹ ONYX was an ADGM SPV that was incorporated on 24 April 2019 and deregistered on 8 September 2021 without any objection following an application for voluntary strike off pursuant to section 867A of CR 2020. Nazir was its sole director.



- a. An acknowledgement signed by Nazir confirming that *“the proposed SPV will only be used as a passive entity and will not be used as an operational entity to conduct economic or commercial business activities”*.
 - b. The description of the reason for the establishment of the SPVs is indicated as *“Holding Company of Property Investment Agreements”*.
 - c. A signed declaration stating HSQ will *“comply with the licensed activities and undertake not to exceed the licensed activities and engage in any commercial operational activities throughout the lifecycle of the legal entity”, “undertake to convert this SPV into operational legal entity should the business concept requires so”* and *“under no circumstances this SPV would conduct any other business activities apart from those stated in the license issued by ADGM Registration Authority without prior authorization obtained from ADGM Registration Authority”*.
- 3.4 Since its incorporation and registration in June 2019, HSQ did not apply for any variations of its ADGM commercial licence.
- 3.5 On 27 September 2020, HSQ filed its annual account for the year ending 31 December 2019 (the “2019 Annual Account”). The 2019 Annual Account indicate Fixed Assets of USD 50,000 and Net Liabilities of USD (1,260) for “Creditors: amounts falling due within one year”.
- 3.6 On 30 September 2021, HSQ filed its annual account for the year ending 31 December 2020 (collectively, the “2020 Annual Account”). As with the 2020 Annual Account, HSQ purportedly had fixed assets of USD 50,000 and no liabilities.

Voluntary Strike-Off Application

- 3.7 On 8 June 2021, HSQ filed an application to voluntarily strike the company’s name off the register pursuant to section 867A of CR 2020 (“Strike-Off”). The following information was submitted to the RA as part of the applications:
- a. pursuant to section 867A and 867C of CR 2020, Nazir signed and submitted prescribed statement dated 6 June 2021 for HSQ (“Prescribed Statement”). The Prescribed Statements confirmed the following for HSQ:

That all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including contingent or prospective liabilities and liabilities in respect of current or former Directors, employees or clients).
 - b. pursuant to section 867A of CR 2020, Nazir signed and submitted shareholders’ resolution dated 6 June 2021.



Objections to HSQ Voluntary Strike-Off Application

- 3.8 On 20 June 2021, a public notice was issued on ADGM's website for HSQ (Notice ID 00212/2021) as per section 876A of CR 2020 stating that "The company has applied for voluntary striking off under section 867A of the Companies Regulations 2020. The Registrar of companies may strike the company's name off the register when two months have passed since the publication of this notice".
- 3.9 Since 13 July 2021, the RA has received notices of objection to the HSQ Strike-Off from 77 persons ("HSQ Objectors"). Key claims and information submitted by HSQ Objectors include the following:
- a. HSQ was the Resort Manager of an investment property under the name of Hanover Square and located in Jumeirah Village in Dubai ("Hanover Square Investment Property").
 - b. HSQ is still maintaining and renting apartment units despite having applied for Strike-Off.
 - c. HSQ failed to pay returns to a number of apartment owners and other creditors.
 - d. Legal cases have been initiated by apartments owners against HSQ.
- 3.10 As a result of receiving these objections, the RA suspended the de-registration process for HSQ. On 30 November 2021, [REDACTED], the company service provider acting for HSQ, was advised that the strike-off applications would, "remain on hold pending enquiries being conducted by the Registration Authority."

Commencement of Investigation

- 3.11 On 18 April 2022, pursuant to section 31 of CLR 2015 an investigation was commenced to look into the conduct of HSQ including other persons (the "Investigation").
- 3.12 On 25 April 2022, HSQ and Nazir received notices of Appointment of Investigators, the receipt of which were acknowledged by Nazir via phone and email on 11 May 2022.
- 3.13 During the course of the Investigation, the appointed investigators:
- a) Obtained information and documents from six selected objectors on a sample basis from HSQ Objectors ("Selected Objectors");
 - b) Interviewed some Selected Objectors;
 - c) Obtained documents and information from HSQ and Nazir via two requirement notices issued on 2 June 2022 ("2 June Requirement Notice") and 30 June 2022 ("30 June Requirement Notice") pursuant to section 33(1)(b) and section 33(2) of Part 3 of CLR 2015; and
 - d) Multiple attempts were made to interview Nazir pursuant to section 33(1) of CLR 2015. Three interview requirement notices were issued from 8 August 2022 to 19 September 2022 as part of these efforts to interview Nazir. However, Nazir did not attend any of these compulsory interviews.

Contravention of section 4 of CLR 2015

3.14 The following facts and evidence were gathered during the Investigation:

3.14.1 Hanover Square Investment Property apartment owners entered into a Sale and Purchase Agreement (“SPA”) with the property developer [REDACTED] which is registered in Dubai with Real Estate Regulatory Authority as a property developer². As per the SPA, [REDACTED] is incorporated and registered in the British Virgins Islands with a Dubai address as well. As part of the SPA, a Management and Income Pooling Agreement (“MIPA”) was also signed by apartment owners with [REDACTED].

3.14.2 As per the SPA and MIPA:

- The purchase price was to be paid in instalments by apartment owners to [REDACTED] until the completion date of the investment properties.
- The developer [REDACTED] would assign a Resort Manager to manage the investment property³.
- The primary purpose of MIPA was to “*create investment returns for Owners by maximising occupancy by rent-paying tenants..*”.
- The apartment owner agreed to grant the Resort Manager the right to manage the apartment for 20 years.
- 60% of the Net Operating Profit (“NOP”) generated by the Resort Manager is payable to owners and the remaining 40% shall belong to the Resort Manager.

3.14.3 As per MIPA, Resort Manager responsibilities included the following:

- Pay apartment owners their sums due (percentage of the NOP).
- Perform all management and operational obligations necessary to operate the investment property.
- Responsible for repair/maintenance of the apartments.
- Pay the operating cost and expenses associated with the operation and management of an executive residence out of the gross revenue.
- Authorised to demand, receive and receipt for gross revenue from the occupancy of the apartment.
- Terminate MIPA by 90 days notice in writing from the Resort Manager. Only the Resort Manager is entitled to terminate MIPA.

3.14.4 From 8 July 2019 to 1 August 2021, HSQ was the Resort Manager of Hanover Square Investment Property. On 8 July 2019, HSQ was announced as the new Resort Manager on the investor portal of Hanover Square Investment Property, (access to the portal via unique username and password is provided to the investors/apartment owners).

3.14.5 On 1 August 2019, an Assignment Agreement (“HSQ Assignment Agreement”) was entered into between HSQ, Hanover Square DWC – which is a Dubai based company

² [REDACTED]

³ The name of the Resort Manager is not mentioned under the SPA. The SPA gives the developer [REDACTED] the right to appoint any management company as the Resort Manager. There has been different Resort Managers appointed over the years once the SPA was signed

that was the Resort Manager from 3 January 2016 to 8 July 2019 (“Hanover Square DWC”) and [REDACTED]. In summary, the Assignment Agreement indicates that HSQ will assume Hanover Square DWC rights, duties, liabilities and obligations in relation to the execution, implementation and performance of the pooled investment scheme.

3.14.6 On 2 August 2019, a License Agreement (“HSQ License Agreement”) was entered into between HSQ and Orxy Property Management (“Oryx”) licensed by the Dubai Department of Economic Development (DDED), License No. 609259⁴. The beneficial owner and managing director of Oryx appears to be Nazir as per the HSQ business plan submitted to the RA at the incorporation stage. In summary, the HSQ License Agreement indicates that HSQ “licensed” “certain rights and obligations” in relation to the pooled investment scheme to Oryx with the exception of the allocation of 40% of the NOP which will be retained by HSQ. The “licensed” right/obligations to Oryx included dealing with the management and operation of the pooled investment scheme on behalf of HSQ, manage the apartments, rent the apartments, receive rent amounts and deal with apartment owners and relevant authorities. Oryx will charge a fee of 15% of gross rental income billed each month to HSQ. It is noted that the HSQ License Agreement was signed by Nazir on behalf of both parties (HSQ and Oryx).

3.14.7 Supporting evidence gathered during the course of the Investigation in relation to HSQ’s contravention of Section 4 of CLR 2015 also include the following:

i. Return Statements

3.14.8 Copies of return statements sent via the investor portal to Hanover Square Investment Property apartment owners and issued on 24 February 2020 for the period 1 January 2019 to 31 December 2019 bearing a stamp with HSQ name and reference to ADGM.

3.14.9 Sending periodic return statements to Hanover Square Investment Property apartment owners is one of the Resort Manager obligations. Based on other copies of similar previous return statements that were issued to the apartment owners, it appears that, prior to HSQ assuming the role of Resort Manager, the previous Resort Manager was issuing similar return statements to apartment owners (i.e. return statements issued prior to 8 July 2019 were issued under the name of Hanover Square DWC).

ii. Investment Scheme Termination Communication

3.14.10 Copies of written communication and formal letters stating that HSQ as the Resort Manager decided to terminate the investment scheme effective 1 July 2020 due to COVID19 pandemic. The formal letters include the following extract:

⁴ [ORYX_202203301454585196.pdf](#)



We are writing to inform you that due to the COVID19 pandemic and dramatic increase in the supply of the rental properties in the market the “Managed Apartment Pooled Rental Income Scheme” that in the current market conditions the scheme has ceased to be profitable. In accordance with Clause 6.3.3 of the Sale & Purchase Agreement [SPA] HSQ Holdings Ltd is exercising its right to terminate the contract for your unit contract as the scheme is no longer economically viable.

.....
.....

The termination of the pooled income will come into effect from 01st July 2020 after which you can let your apartment directly in the market.

3.14.11 The letters were from HSQ bearing ADGM registration number and registered address.

3.14.12 Further, the content of the letters clearly stated that HSQ is exercising the right of the Resort Manager as per MIPA.

iii. Appointment of Third Parties

3.14.13 Following the investment scheme termination communications sent by HSQ to apartment owners, HSQ sent further letters informing apartment owners about the appointment of a third party () for the handover of properties. The letters included HSQ name, ADGM registration number and address.

3.14.14 On 27 July 2020, additional letters were sent by a company called () stating that they have been appointed by “M/s HSQ Holdings Ltd as the Owners Association Management company for Hanover Square”.

4. CONTRAVENTIONS

4.1 Based on the facts and matters noted above, the Registrar considers that HSQ contravened section 4 of CLR 2015 - carrying on a controlled activity or purporting to do so otherwise than in accordance with the licence.

5. SANCTIONS

Financial Penalties

5.1 In reaching its final decision 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 deciding to impose financial penalties against HSQ:
- 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 decided to impose, which are set out as follows.

The seriousness of the contraventions

- 5.5 It is a serious contravention for a licensed person to purport or to carry on a controlled activity otherwise than in accordance with its ADGM licence.
- 5.6 It is highly aggravating for a licensed person like HSQ to exceed the scope of its passive SPV licence and act as Resort Manager by managing investment apartments for multiple investors without an appropriate licence.
- 5.7 HSQ has sent multiple communications to apartments owners bearing the name of ADGM and purporting to be licenced to carry out controlled activities when it only holds a passive SPV licence.

Deliberate or reckless

- 5.8 These contraventions of section 4 of CLR 2015 by HSQ, as directed by Nazir, appear to be deliberate due to the following:
- Nazir signed and submitted acknowledgments and declarations at the incorporation stage confirming that the proposed SPV will only be used as a passive entity and will not engage in any commercial operational activities.
 - As per Nazir's written response dated 14 July 2022 to the RA's 30 June 2022 Requirement Notice, it appears that Nazir is fully aware of the limited scope of HSQ's SPV licence.

- Nazir concealed the following material evidence from the RA when it was clearly required under the RA's 30 June 2022 Requirement Notice:
 - Investor portal notification to apartments owners announcing that HSQ will be the new Resort Manager and HSQ will send all return statements to apartment owners;
 - Periodic return statements sent by HSQ to apartment owners during its incorporation at ADGM and bearing the name of HSQ; and
 - Written communications to apartment owners with the ongoing dispute.
- Nazir has repeatedly failed to attend his compulsory interview with the RA despite various written communications, multiple opportunities given to him to schedule the interview and three notices were issued pursuant to pursuant to section 33(1) of CLR 2015.

Whether the person is an individual

5.9 This factor was not considered to be relevant.

Effect on third parties

5.10 The apartment owners who have objected to HSQ's voluntary Strike-Off application, claimed that their investment properties were mismanaged by HSQ resulting in poor returns.

Deterrence

- 5.11 Deterrence is one of the main purposes of taking enforcement action. That is, deterring persons who have committed contraventions from committing further contraventions, and deterring other licenced persons from committing similar contraventions.
- 5.12 The penalty imposed must deter HSQ and other ADGM licenced companies, in particular SPVs, from submitting or attempting to submit misleading information and making false statements to the Registrar to the greatest extent possible during the incorporation process, as well as from exceeding the limited scope of ADGM's passive SPV licence.
- 5.13 HSQ's contraventions are serious, and any sanction will send a strong and meaningful message of deterrence to other ADGM licenced companies and their employees.

Financial gain or loss avoided

5.14 As per the License Agreement and MIPA, HSQ has retained 40% of the NOP of the investment scheme by purporting to be the Resort Manager and without having an appropriate ADGM commercial licence. Therefore, HSQ has made financial profit by purporting to be the Resort Manager.

- 5.15 The exact amount of profit by HSQ has not been determined as apartment owners claimed that they were not receiving full information about the total returns and profit being generated from the investment scheme. Further, the NOP is not included under the 2019 Annual Account and 2020 Annual Account submitted by HSQ to the RA.
- 5.16 HSQ has also gained financially by not obtaining and maintaining a fully operational ADGM commercial licence which is significantly more expensive than an ADGM SPV licence, including the need to maintain a physical registered office address.

Subsequent conduct

- 5.17 Lack of cooperation from Nazir towards the Investigation given that:
- a. Nazir concealed material documents and information from the RA in response to 2 June 2022 Requirement Notice and 30 June 2022 Requirement Notice; and
 - b. Nazir failed to attend his compulsory interview despite various communications and opportunities provided by the investigators to Nazir to schedule the interview.

Disciplinary record and compliance history

- 5.18 At the time of the contravention and to the knowledge of the RA, HSQ has no disciplinary record.

Maximum Penalty

- 5.19 Pursuant to section 4(1) of Part 1 of CLR 2015, a person who commits a contravention of section 4 of CLR 2015 is liable to a fine not exceeding level 5 on the standard fines scale.
- 5.20 Level 5 on the standard fines scale equals USD 15,000.
- 5.21 HSQ purported to be the Resort Manager in its communication with various apartment owners (at a minimum there were seventy seven apartment owners that objected to HSQ's voluntary Strike-Off application). There are over four hundred managed apartments at Hanover Square Investment Property. Therefore, the number of apartment owners that HSQ purported to exceeding the scope of its ADGM licence to in its communications can be reasonably concluded to be higher than seventy seven.
- 5.22 The Registrar considers that a financial penalty of USD 15,000 would be wholly appropriate in order to reflect the seriousness of the contravention.
- 5.23 Accordingly, the Registrar imposes the maximum financial penalty of **USD 15,000** against HSQ for its contraventions of section 4 of CLR 2015.

6. HSQ REPRESENTATIONS

- 6.1 On 3 April 2023, the Registrar issued HSQ with a Warning Notice pursuant to section 43 of CLR 2015 in which it stated that it proposed to impose a financial penalty.
- 6.2 HSQ was provided with an opportunity to make written representations in response to the Warning Notice and the action proposed.
- 6.3 As at the date of this Notice, no representations have been submitted by HSQ.
- 6.4 Having taken into account the facts, matters and circumstances of the contraventions above, the Registrar has decided to impose the financial penalty on HSQ.

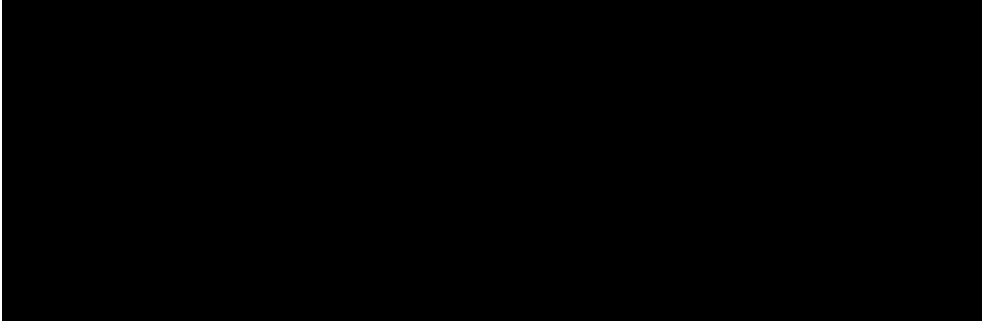
7. PROCEDURAL MATTERS

Issuance of Decision Notice

- 7.1 On 8 May 2023, the Registrar issued a Decision Notice to HSQ pursuant to section 44 of the CLR 2015.
- 7.2 Under section 44(4) of the CLR 2015, HSQ had the opportunity to refer the Decision Notice to the ADGM Courts.
- 7.3 HSQ acknowledged the receipt of the Decision Notice on the same day of issuing the Decision Notice (8 May 2023) and as at the date of this Final Notice, no referral has been made by HSQ to the ADGM Courts.
- 7.4 As a referral was not made to the ADGM Courts for a review of the Decision Notice within 28 days of HSQ's receipt of the Decision Notice, the Registrar has proceeded to issue this Final Notice pursuant to section 50 of the CLR 2015.

Confidentiality and publicity

- 7.5 As this Final Notice has now been issued, pursuant to section 51(5) of the CLR 2015, the Registrar must publish the details about the matter to which the Final Notice relates as it considers appropriate.



Sami Mohammed

ADGM Commissioner of Data Protection, Registration Authority
Delegate of the Registrar, Registration Authority

ANNEXURE A

EXTRACTS OF THE REGULATIONS AND RULES REFERRED TO IN THIS FINAL NOTICE

EXTRACT OF THE *COMMERCIAL LICENSING REGULATIONS 2015*

PART 1: LICENSING OF CONTROLLED ACTIVITIES

...

1. The general prohibition

(1) No person may carry on a controlled activity in or from the Abu Dhabi Global Market, or purport to do so, unless he is –

- (a) a licensed person; or
- (b) an exempt person.

(2) The prohibition is referred to in these Regulations as the general prohibition.

(3) For the purposes of these Regulations, a "licensed person" is a person who has a valid licence to carry on one or more controlled activities.

4. Licensed persons exceeding scope of licence

(1) If a licensed person carries on a controlled activity in the Abu Dhabi Global Market, or purports to do so, otherwise than in accordance with a licence given to that person under these Regulations he commits a contravention of these Regulations and shall be liable to a fine not exceeding level 5 on the standard fines scale.

(2) In proceedings in respect of a contravention under subsection (1), it is a defence for the person accused of the contravention to show that he took all reasonable precautions and exercised all due diligence to avoid committing the contravention.

PART 3: INFORMATION GATHERING AND INVESTIGATIONS

30. Appointment of persons to carry out general investigations

(1) If it appears to the Registrar that there is good reason for doing so, it may appoint one or more competent persons to conduct an investigation on its behalf into –

- (a) the nature, conduct or state of the business of a licensed person;
- (b) a particular aspect of that business; or
- (c) the ownership or control of a licensed person.

(2) If a person appointed under subsection (1) thinks it necessary for the purposes of his investigation, he may also investigate the business of a person who is or has at any relevant time been –

- (a) a member of the group of which the person under investigation ("A") is part; or
- (b) a partnership of which A is a member.

(3) If a person appointed under subsection (1) decides to investigate the business of any person under subsection (2) he must give that person written notice of his decision.

(4) The power conferred by this section may be exercised in relation to a former licensed person but only in relation to –

- (a) business carried on at any time when he was a licensed person; or
- (b) the ownership or control of a former licensed person at any time when he was a licensed person.

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(5) "Business" includes any part of a business even if it does not consist of carrying on controlled activities.

31. Appointment of persons to carry out investigations in particular cases

(1) Subsection (2) applies if it appears to the Registrar that there are circumstances suggesting that a person may have committed a contravention of any enactment or subordinate legislation where such contravention is punishable by a fine.

(2) The Registrar may appoint one or more competent persons to conduct an investigation on its behalf.

32. Investigations: general

(1) This section applies if the Registrar appoints one or more competent persons ("investigators") under sections 30 or 31 to conduct an investigation on its behalf.

(2) The Registrar must give written notice of the appointment of an investigator to the person who is the subject of the investigation ("the person under investigation").

(3) Subsections (2) and (9) do not apply if the investigator is appointed as a result of section 31 and the Registrar believes that the notice required by subsections (2) or (9) would be likely to result in the investigation being frustrated.

(4) A notice under subsection (2) must –

- (a) specify the provisions under which, and as a result of which, the investigator was appointed; and
- (b) state the reason for his appointment.

(5) Nothing prevents the Registrar from appointing a person who is a member of its staff as an investigator.

(6) An investigator must make a report of his investigation to the Registrar.

(7) The Registrar may, by a direction to an investigator, control –

- (a) the scope of the investigation;
- (b) the period during which the investigation is to be conducted;
- (c) the conduct of the investigation; and
- (d) the reporting of the investigation.

(8) A direction may, in particular –

- (a) confine the investigation to particular matters;
- (b) extend the investigation to additional matters;
- (c) require the investigator to discontinue the investigation or to take only such steps as are specified in the direction;
- (d) require the investigator to make such interim reports as are so specified.

(9) If there is a change in the scope or conduct of the investigation and, in the opinion of the Registrar, the person subject to investigation is likely to be significantly prejudiced by not being made aware of it, that person must be given written notice of the change.

33. Powers of persons appointed under section 30

(1) An investigator may require the person who is the subject of the investigation ("the person under investigation") or any person connected with the person under investigation –

- (a) to attend before the investigator at a specified time and place and answer questions; or
- (b) otherwise to provide such information as the investigator may require.

(2) An investigator may also require any person to produce at a specified time and place any specified documents or documents of a specified description.

(3) A requirement under subsections (1) or (2) may be imposed only so far as the investigator concerned reasonably considers the question, provision of information or production of the document to be relevant to the purposes of the investigation.

(4) For the purposes of this section, a person is connected with the person under investigation ("A") if he is or has at any relevant time been –

- (a) a member of A's group;
- (b) a controller of A;
- (c) a partnership of which A is a member; or
- (d) in relation to A, a person mentioned in Part 1 or Part 2 of the Schedule.

(5) "Investigator" means a person conducting an investigation under section 30.

(6) "Specified" means specified in a notice in writing.

34. Additional power of persons appointed as a result of section 31

(1) An investigator has the powers conferred by section 33.

(2) An investigator may also require a person who is neither the subject of the investigation ("the person under investigation") nor a person connected with the person under investigation –

- (a) to attend before the investigator at a specified time and place and answer questions; or
- (b) otherwise to provide such information as the investigator may require for the purposes of the investigation.

(3) A requirement may only be imposed under subsection (2) if the investigator is satisfied that the requirement is necessary or expedient for the purposes of the investigation.

(4) "Investigator" means a person appointed as a result of section 31.

(5) Subsections (6) to (8) apply if an investigator considers that any person ("A") is or may be able to give information which is or may be relevant to the investigation.

(6) The investigator may require A –

- (a) to attend before him at a specified time and place and answer questions; or
- (b) otherwise to provide such information as he may require for the purposes of the investigation.

(7) The investigator may also require A to produce at a specified time and place any specified documents or documents of a specified description which appear to the investigator to relate to any matter relevant to the investigation.

(8) The investigator may also otherwise require A to give him all assistance in connection with the investigation which A is reasonably able to give.

(9) "Specified" means specified in a notice in writing.

35. Admissibility of statements made to investigators

(1) A statement made to an investigator by a person in compliance with an information requirement is admissible in evidence in any proceedings, so long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question.

(2) "Investigator" means a person appointed under sections 30 or 31.

(3) "Information requirement" means a requirement imposed by an investigator under sections 33, 34 or 36.

36. Information and documents: supplemental provisions

(1) If the Registrar or an investigator has power under this Part to require a person to produce a document but it appears that the document is in the possession of a third person, that power may be exercised in relation to the third person.

(2) If a document is produced in response to a requirement imposed under this Part, the person to whom it is produced may –

(a) take copies or extracts from the document; or

(b) require the person producing the document, or any relevant person, to provide an explanation of the document.

(3) A document so produced may be retained for so long as the person to whom it is produced considers that it is necessary to retain it (rather than copies of it) for the purposes for which the document was requested.

(4) If the person to whom a document is so produced has reasonable grounds for believing –

(a) that the document may have to be produced for the purposes of any legal proceedings; and

(b) that it might otherwise be unavailable for those purposes, it may be retained until the proceedings are concluded.

(5) If a person who is required under this Part to produce a document fails to do so, the Registrar or an investigator may require him to state, to the best of his knowledge and belief, where the document is.

(6) A lawyer may be required under this Part to furnish the name and address of his client.

(7) No person may be required under this Part to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless –

(a) he is the person under investigation or a member of that person's group;

(b) the person to whom the obligation of confidence is owed is the person under investigation or a member of that person's group;

(c) the person to whom the obligation of confidence is owed consents to the disclosure or production; or

(d) the imposing on him of a requirement with respect to such information or document has been specifically authorised by the Registrar.

(8) If a person claims a lien on a document, its production under this Part does not affect the lien.

(9) "Relevant person", in relation to a person who is required to produce a document, means a person who –

(a) has been or is or is proposed to be a director or controller of that person;

(b) has been or is an auditor of that person;

(c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or

(d) has been or is an employee of that person.

(10) "Investigator" means a person appointed under sections 30 or 31.

...

39. Contraventions

(1) If a person other than the investigator ("the defaulter") fails to comply with a requirement imposed on him under this Part the person imposing the requirement may certify that fact in writing to the court.

(2) If the court is satisfied that the defaulter failed without reasonable excuse to comply with the requirement, it may deal with the defaulter (and in the case of a body corporate, any director or other officer) as if he were in contempt.

(3) A person who knows or suspects that an investigation is being or is likely to be conducted under this Part commits a contravention of these Regulations if –

(a) he falsifies, conceals, destroys or otherwise disposes of a document which he knows or suspects is or would be relevant to such an investigation; or

(b) he causes or permits the falsification, concealment, destruction or disposal of such a document, unless he shows that he had no intention of concealing facts disclosed by the documents from the investigator.

(4) A person who, in purported compliance with a requirement imposed on him under this Part - (a) provides information which he knows to be false or misleading in a material particular; or (b) recklessly provides information which is false or misleading in a material particular, commits a contravention of these Regulations.

(5) A person who commits either of the contraventions set out in subsections (3) and (4) shall be liable to a fine not exceeding level 6 on the standard fines scale.

(6) Any person who intentionally obstructs the exercise of any rights conferred by a warrant under section 37 commits a contravention of these Regulations and shall be liable to a fine not exceeding level 5 on the standard fines scale.

PART 4: ENFORCEMENT

40. Meaning of "relevant requirement"

In this Part, "relevant requirement" means a requirement imposed by rules made under these Regulations.

41. Fines

(1) If the Registrar considers that a licensed person has contravened a relevant requirement imposed on the person, it may impose on him a fine, in respect of the contravention, of such amount as it considers appropriate, provided such fine shall not exceed level 5 on the standard fines scale.

(2) If the Registrar considers that a person has committed a contravention of an enactment or subordinate legislation, it may impose on him a fine of an amount not exceeding the maximum specified for such contravention in the relevant enactment or subordinate legislation.

(3) A fine under this section is payable to the Registrar.

44. Decision to take disciplinary measures

(1) If the Registrar decides –

(a) to impose a fine under section 41 (whether or not of the amount proposed); or

(b) to suspend a licence or impose a restriction under section 42 (whether or not in the manner proposed), it must without delay give the person concerned a decision notice.

(2) In the case of a fine, the decision notice must state the amount of the fine.

(3) In the case of a suspension or restriction, the decision notice must state the period for which the suspension or restriction is to have effect.

(4) If a Registrar decides to –

(a) impose a fine on a person under section 41; or

(b) suspend the licence of a licensed person, or impose a restriction in relation to the carrying on of a controlled activity by a licensed person, under section 42,

that person may refer the matter to the court.

48. Decision notices

(1) A decision notice must –

(a) be in writing;

(b) give the reasons of the Registrar for the decision to take the action to which the notice relates;

(c) state whether section 53 applies;

(d) if that section applies, describe its effect and state whether any secondary material exists to which the person concerned must be allowed access under it; and

(e) give an indication of –

(i) any right to have the matter referred to the court which is given by these Regulations; and

(ii) the procedure on such a reference.

(2) If the decision notice was preceded by a warning notice, the action to which the decision notice relates must be action under the same provision as the action proposed in the warning notice.



- (3) The Registrar may, before it takes the action to which a decision notice ("the original notice") relates, give the person concerned a further decision notice which relates to different action in respect of the same matter.
- (4) The Registrar may give a further decision notice as a result of subsection (3) only if the person to whom the original notice was given consents.
- (5) If the person to whom a decision notice is given under subsection (3) had the right to refer the matter to which the original decision notice related to the court, he has that right as respects the decision notice under subsection (3).
- (6) In this Part, "decision notice" means a notice under sections 18(3), 20(2) or 44(1).

49. Notices of Discontinuance

- (1) If the Registrar decides not to take -

- (a) the action proposed in a warning notice given by it; or
- (b) the action to which a decision notice given by it relates,

it must give a notice of discontinuance to the person to whom the warning notice or decision notice was given.

- (2) But subsection (1) does not apply if the discontinuance of the proceedings concerned results in the granting of an application made by the person to whom the warning or decision notice was given.

- (3) A notice of discontinuance must identify the proceedings which are being discontinued.

50. Final notices

- (1) If the Registrar has given a person a decision notice and the matter was not referred to the court within 28 days of that person receiving the notice or such other period as the court may allow, the Registrar must, on taking the action to which the decision notice relates, give the person concerned and any person to whom the decision notice was copied a final notice.

- (2) If the Registrar has given a person a decision notice and the matter was referred to the court, the Registrar must, on taking action in accordance with any directions given by -

- (a) the court, or
 - (b) the Court of Appeal on an appeal against the decision of the court,
- give that person and any person to whom the decision notice was copied the notice required by subsection (3).

- (3) The notice required by this subsection is -

- (a) in a case where the Registrar is acting in accordance with a direction given by the court, or by the Court of Appeal on an appeal from a decision of the court, a further decision notice; and
- (b) in any other case, a final notice.

- (4) A final notice must -

- (a) give details of the action being taken;
- (b) state the date on which the action is to be taken; and
- (c) if it imposes a fine, state the amount of the fine and the manner in which, and the period within which, the fine is to be paid.

- (5) The period stated under subsection (4)(c) may not be less than 30 days beginning with the date on which the final notice is given.

- (6) If all or any of the amount of a fine payable under a final notice is outstanding at the end of the period stated under subsection (4)(c), the Registrar may recover the outstanding amount as a debt due to it.

51. Publication

- (1) In the case of a warning notice, neither the Registrar nor a person to whom it is given or copied may publish the notice or any details concerning it.

(2) A person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the Registrar has published the notice or those details.

(3) A notice of discontinuance must state that, if the person to whom the notice is given consents, the Registrar may publish such information as it considers appropriate about the matter to which the discontinued proceedings related.

(4) A copy of a notice of discontinuance must be accompanied by a statement that, if the person to whom the notice is copied consents, the Registrar may publish such information as it considers appropriate about the matter to which the discontinued proceedings related, so far as relevant to that person.

(5) The Registrar must publish such information about the matter to which a decision notice or final notice relates as it considers appropriate.

(6) When a supervisory notice takes effect, the Registrar must publish such information about the matter to which the notice relates as it considers appropriate.

(7) The Registrar may not publish information under this section if, in its opinion, publication of the information would be –

- (a) unfair to the person with respect to whom the action was taken (or was proposed to be taken);
- (b) detrimental to the interests of participants of the Abu Dhabi Global Market; or
- (c) detrimental to the interests of the Abu Dhabi Global Market.

(8) Information is to be published under this section in such manner as the Registrar considers appropriate.

(9) For the purposes of determining when a supervisory notice takes effect, a matter to which the notice relates is open to review if –

- (a) the period during which any person may refer the matter to the court is still running;
- (b) the matter has been referred to the court but has not been dealt with;
- (c) the matter has been referred to the court and dealt with but the period during which an appeal may be brought against the court's decision is still running; or
- (d) such an appeal has been brought but has not been determined.

(10) "Notice of discontinuance" means a notice given under section 49.

(11) "Supervisory notice" has the same meaning as in section 54.

(12) A person, other than the Registrar, who contravenes subsections (1) or (2) shall be liable to a fine not exceeding level 3 on the standard fines scale.

...

53. Access to material

(1) If the Registrar gives a person ("A") a warning notice or a decision notice, it must –

- (a) allow him access to the material on which it relied in taking the decision which gave rise to the obligation to give the notice;
- (b) allow him access to any secondary material which, in the Registrar's opinion, might undermine that decision.

(2) But the Registrar does not have to allow A access to material under subsection (1) if the material is excluded material or it –

- (a) relates to a case involving a person other than A; and

(b) was taken into account by the Registrar in A's case only for purposes of comparison with other cases.

(3) The Registrar may refuse A access to particular material which it would otherwise have to allow him access to if, in its opinion, allowing him access to the material –

(a) would not be in the public interest; or (b) would not be fair, having regard to –

(i) the likely significance of the material to A in relation to the matter in respect of which he has been given a notice; and

(ii) the potential prejudice to the commercial interests of a person other than A which would be caused by the material's disclosure.

(4) If the Registrar does not allow A access to material because it is excluded material consisting of a protected item, it must give A written notice of –

(a) the existence of the protected item; and

(b) the Registrar's decision not to allow him access to it.

(5) If the Registrar refuses under subsection (3) to allow A access to material, it must give him written notice of -

(a) the refusal; and (b) the reasons for it.

(6) "Secondary material" means material, other than material falling within paragraph (a) of subsection (1) which –

(a) was considered by the Registrar in reaching the decision mentioned in that paragraph; or

(b) was obtained by the Registrar in connection with the matter to which that notice relates but which was not considered by it in reaching that decision.

(7) "Excluded material" means material which is a protected item (as defined in section 56).

(8) This section does not apply to a warning notice under section 18(1) or 18(2) or a decision notice under section 18(3).

PART 7: GENERAL

...

80A. General false statement contravention

(1) A person who, in purported compliance with a requirement imposed on him under these Regulations or any Rules made under these Regulations –

- (a) provides information which he knows to be false, misleading or deceptive in a material particular; or
- (b) recklessly provides information which is false, misleading or deceptive in a material particular, commits a contravention of these Regulations.

(2) A person who commits the contravention referred to in subsection (1) is liable to a fine of up to level 7.



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