MONETARY PENALTY NOTICE
CONCERNING SECTION 19(2) OF THE
BENEFICIAL OWNERSHIP AND CONTROL REGULATIONS 2018

To: Ms. Bljerina Bardic
[redacted]

Email: [redacted]

Date: 23 February 2024

1. ACTION

1.1 This Monetary Penalty Notice ("Notice") is issued in relation to section 19(2) of the Beneficial Ownership and Control Regulations 2018 ("BOCR 2018").

1.2 The Registration Authority ("RA") of Abu Dhabi Global Market ("ADGM") has decided that Bljerina Bardic ("Bardic") has committed a contravention set out in section 18 of the BOCR 2018 for the reasons set out below.

1.3 This Notice issued by the RA requires Bardic to pay a fine of **USD 10,500** pursuant to section 19 of BOCR 2018.

2. EXECUTIVE SUMMARY

2.1 The RA has decided to take the action set out set out in this Notice as it considers that Bardic provided false information to the RA in relation to the shareholding structure of AveNew Ventures Limited ("AveNew") previously known as Blue Oceans Ventures Limited ("Blue Oceans") with ADGM Registration No. 000005121.

2.2 Bardic committed a contravention of section 18 of BOCR 2018 by:

a. Providing false information to the RA stating that she is the sole shareholder of AveNew when she was only holding 33.33% of the shares and the majority shares (66.66%) were held by Bardic as a nominee.

b. Causing to deliver to the RA a number of documents that contained false information about the shareholding structure of AveNew during the incorporation of AveNew.

c. Concealing the identity of the beneficial owner and majority shareholder of AveNew from the RA during AveNew's incorporation.

2.3 Given the nature of the contraventions and the repeated filings of false information about the shareholding structure by Bardic, the RA considers it appropriate in the circumstances to impose of a financial penalty on Bardic.

3. DEFINED TERMS AND RELEVANT REGULATIONS

3.1 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.

3.2 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.

4. FACTS AND MATTERS SUPPORTING THE DECISION

AveNew – Incorporation, Appointments & Filings

4.1 On 13 January 2021, AveNew was incorporated and licensed to conduct the non-financial (Category B) business activity of *7020 Management Consultancy*.

4.2 As per the RA's records, Bardic holds/held the following appointments at AveNew:

a. The sole shareholder since the incorporation of AveNew in ADGM.
b. The sole director of AveNew from its incorporation till 3 February 2022.
c. An authorised signatory since the incorporation of AveNew in ADGM.
d. Data Protection Contact Point since the incorporation of AveNew in ADGM.

4.3 On 14 February 2022, AveNew changed its name from Blue Oceans to AveNew.

4.4 On 22 February 2022, AveNew filed a notice of Appointment or Cessation of Directors in which Bardic resigned as director and FEH ("FEH") was appointed as a director of AveNew. FEH was also an authorised signatory of AveNew since its incorporation.

Incorporation Filings - Ownership and Nominee Arrangement

4.5 On 31 December 2020, as part of the incorporation process, Bardic filed a Confirmation of Nominee Arrangement Form for shareholders dated 31 December 2020 (the "2020 Nominee Confirmation Form"), in which:

a. "No" was the response to the question "*Do any of the shareholders act as a nominee shareholder? (i.e. hold shares as nominee for another person)*";

b. section 3, which requires details of the beneficial owners, if the shares held by the nominee are held for another person, was not completed; and

c. it was signed by Bardic as a Shareholder.

4.6 The 2020 Nominee Confirmation Form included the following declarations:

a. "*Pursuant to the relevant sections of the ADGM Beneficial Ownership and Control Regulations, it is a duty of an ADGM person to obtain records of beneficial owners and their particulars, to submit the records of its beneficial owners to the Registrar and to notify the Registrar of changes in beneficial owners' records. This also includes the shares held by nominees (a share held by a person as a nominee for another is to be treated as held by the other (and not by the nominee))*".

b. "*For the shares that are held by a nominee or by an intermediary on behalf of one or more beneficial owners, section 10 of Schedule 1 of ADGM Beneficial Ownership and Control Regulations requires the nominee to disclose the relevant interest of the underlying shareholder(s)*".

c. "*I declare that the information in this notification and any attachments are true and complete as at the date of signing and all requirements under the Beneficial Ownership and Control Regulations 2018, as amended, have been complied with*".

4.7 The following additional documents were also filed as part of the incorporation process indicating that Bardic is the sole shareholder:

a. Resolution of Incorporating Shareholders dated 31 December 2020 ("2020 Resolution") which stated "*I, BLJERINA BARDIC, do hereby certify that I am the sole incorporating shareholder of BLUE OCEANS*".

b. Articles of Association dated 31 December 2020 ("2020 Articles of Association") and signed by Bardic as the "*incorporating Shareholder*".

Post Incorporation Filings - Ownership

4.8 Following the incorporation of AveNew in ADGM, Bardic filed the following documents indicating that she is the sole shareholder:

a. Resolution of the Sole Director and Sole Shareholder dated 3 February 2022 ("2022 Resolution"). This 2022 Resolution was signed by Bardic as *"Sole Director and Sole Shareholder"* and was filed for the purpose of the appointment of FEH as a director and the resignation of Bardic as a director.

b. Special Resolution dated 3 February 2022 ("2022 Special Resolution"). This 2022 Special Resolution was signed by Bardic as "Sole Shareholder" and was filed for the purpose of changing the name of Blue Oceans to AveNew.

Complaint to the RA

4.9 On 21 June 2022, the RA received a complaint (the "Complaint") in relation to Bardic. Amongst other things, the Complaint alleged that Bardic misled the RA about the ownership of AveNew.

4.10 As part of the Complaint, certain documents were provided to the RA including a nominee declaration dated 30 December 2020 ("Nominee Declaration"). The Nominee Declaration was signed by Bardic and was never disclosed to the RA prior to the Complaint. Amongst other things, the Nominee Declaration demonstrates the following:

a. 66.6666% of the shares of AveNew are held by Bardic as "Nominee" on behalf of [redacted] as the "Beneficial Owner". Specifically, *"the Nominee declares that two thirds of the shares (66.6666%) of Blue Oceans Ventures Limited registered in the Nominee's name (Shares) are held by the Nominee on trust for* [redacted] *(Beneficial Owner) and that the Nominee has no beneficial interest in them"*.

b. *"To facilitate the final registration"* of AveNew at ADGM, all of the issued shares shall be held in Bardic's name as Nominee.

c. As soon as possible, two thirds of those shares shall be transferred to the Beneficial Owner or its nominee.

d. Under section 2 (Nominee's undertakings), among other things it is stated that the Nominee undertakes to *"Register* [redacted] *(at its request) as the Ultimate Beneficial Owner of the Company in the UBO Register maintained by Abu Dhabi Global Market"*.

e. *"This document has been executed and takes effect on the date stated at the beginning of it"*.

[redacted]

4.11 The Nominee Declaration, signed by Bardic, evidences that 66.6% of the shares of Blue Oceans are held by Bardic as a nominee, which contradicts the 2020 Nominee Confirmation filed by Bardic on 31 December 2020.

Commencement of Investigation

4.12 On 24 August 2022, an investigation (the "Investigation") commenced pursuant to section 31 of the Commercial Licensing Regulations 2015 ("CLR 2015") to look into potential contravention set out in section 18(1) of the BOCR 2018.

Summary of Evidence Supporting the Decision

4.13 Below is a chronology of relevant events based on information and documents gathered during the course of the Investigation:

4.13.1 During 2020, the RA offered COVID incentives with a reduction of its incorporation fees. Therefore, [redacted] and Bardic were attempting to utilise the COVID incentives and incorporate AveNew prior to 31 December 2020.

4.13.2 Given that conducting KYC on [redacted] by the Corporate Service Provider of AveNew ("CSP") will take some time, meanwhile KYC on Bardic had already been completed, Bardic and FEH confirmed that it was agreed by Bardic and [redacted] for Bardic to hold [redacted] shares (66.6%) as nominee and register Bardic as the sole shareholder.

4.13.3 On 30 December 2020 at 12:57 PM, the representative of [redacted] (the "[redacted] Representative") sent an email to Bardic attaching the Nominee Declaration and requesting her to return a signed copy. The email further stated *"To speed up the process we are paying ADGM /[the CSP] costs today with you being registered as the sole shareholder holding 100% upon incorporation. As per our arrangement with you, your ownership is only 33.33%, so for now you will be holding the remainder of the shares as a nominee. Hopefully this will only be for a few days until the other partner's paperwork can be completed"*.

4.13.4 On 30 December 2020 at 2:43 PM, Bardic returned the signed copy of the Nominee Declaration to the [redacted] Representative as well as a copy of her passport.

4.13.5 On 30 December 2020 at 3:04 PM, the [redacted] Representative sent an email to the CSP stating *"please can you reissue the engagement in the name of Rina so she can sign and return it today. Rina will hold all shares. On incorporation with Onward Transfer to* [redacted] *to follow"*.

4.13.6 On 30 December 2020 and 31 December 2020, the CSP shared an online KYC questionnaire with Bardic in relation to AveNew's shareholding structure and it was completed by Bardic ("2020 Set Up Form"). The following information was provided by Bardic under the 2020 Set Up Form:

a. Bardic's name was the only name listed under the shareholder's table.

b. Under source of funds, Bardic's "Business Income" was indicated.

4.13.7 On 31 December 2020 at 1:46 PM, the CSP, based on the information received under the 2020 Set Up Form, sent Bardic draft application documents for review and approval including:

a. The 2020 Nominee Confirmation Form in which the nominee arrangement was not disclosed.

b. 2020 Resolution stating that Bardic is the sole incorporating shareholder.

c. 2020 Articles of Association signed by Bardic as the *"incorporating Shareholder"*.

4.13.8 On 31 December 2020 at 2:01 PM, Bardic responded with *"Approved from my end"*.

4.13.9 The CSP sent the same application documents listed under point 4.13.7 to Bardic for electronic signature via DocuSign and the documents were signed by Bardic on 31 December 2020 at 2:07 PM.

4.13.10 Subsequently, the 2020 Nominee Confirmation Form, the 2020 Resolution and the 2020 Articles of Association were filed by the CSP with the RA on behalf of AveNew as part of the incorporation process documentations.

4.13.11 Further, the CSP, based on the information provided under the 2020 Set Up Form, maintained the Register of Beneficial Ownership and Control dated 13 January 2021 ("UBO Register") only listing Bardic as the beneficial owner. The UBO Register was maintained in accordance with the requirement under section 2 of Part 1 of BOCR 2018.

4.14 It is apparent that once FEH and the [redacted] Representative became aware that Bardic failed to disclose the nominee arrangement to the RA and had registered herself as the sole shareholder of AveNew, they sent her a number of correspondences requesting her to rectify the matter. However, Bardic did not send instructions to the CSP to change the ownership structure and/or disclose the nominee arrangement. Below are the key correspondences sent by FEH and [redacted] Representative:

4.14.1 On 11 January 2022, FEH sent a message using the WhatsApp application to Bardic referring to the Nominee Declaration and requesting Bardic to transfer the shares to [redacted] and "*please register* [redacted] *with the Relevant ADGM Authorities*".

4.14.2 On 17 January 2022, the [redacted] Representative sent Bardic an email stating among other things "*I note that in a filing made by you to the ADGM regulatory authority on 31 December 2020 you failed to disclose that two thirds of the shares registered in your name were held by you as a nominee. This despite the fact that you signed the Declaration, establishing the nominee arrangement, on 30 December 2020*".

4.14.3 On 31 January 2022 FEH sent two emails to Bardic at 12:17 PM and 3:10 PM, requesting Bardic to proceed with the change of ownership of AveNew in addition to changes in directorship and AveNew's company name.

4.15 The CSP confirmed that Bardic was the contact person at the time of AveNew incorporation and she completed the online questionnaire with regard to the structure of AveNew. Further, the CSP confirmed that the Nominee Declaration and nominee arrangement was never disclosed by Bardic during the incorporation stage. The CSP only received it on 7 January 2022 from the [redacted] Representative.

4.16 FEH stated the following to the RA:

4.16.1 The shareholding structure of AveNew at all times during its incorporation was 66% owned by [redacted] and 33% by Bardic. 66% of [redacted] shares were held by Bardic as a nominee.

4.16.2 FEH's family covered all associated costs with AveNew. Bardic had "*consultancy background, so she brought in*" in addition to "*some of the business development and the admin work*".

4.16.3 FEH did not have access to ADGM's online registration portal nor direct contact with the CSP. Bardic was "*handling registration of all documents with ADGM*".

4.16.4 FEH only became aware that the AveNew shares of 66.66% were not registered under [redacted] name with ADGM in Q1 of 2022.

4.16.5 Instructions to transfer the shares to [redacted] were sent to Bardic in writing and verbally as she was the only person with access to the ADGM and the CSP portals.

4.16.6 FEH attempted to approach the CSP but stated that "*we were rejected*" as the CSP informed him that the only person they can communicate with is Bardic.

4.16.7 When presented with the 2020 Nominee Confirmation Form, FEH stated that the document contains inaccurate information since Bardic was not the sole shareholder and she was holding [redacted] shares as a nominee.

4.17 Two compulsory interviews were conducted with Bardic pursuant to section 33(1) of CLR 2015 that took place on 3 January 2023 and 10 January 2023 (the "Bardic Interviews"). Bardic during the Bardic Interviews indicated the following in relation to the Nominee Declaration and 2020 Nominee Confirmation Form:

4.17.1 Bardic's role at AveNew was "*mainly bringing partnerships and clients and new projects...*" "*The role of the other shareholders was to provide capital, or sources of capital*".

4.17.2 Bardic's understanding was that the [redacted] Representative will share the Nominee Declaration with ADGM and the CSP.

4.17.3 The process of incorporating a company in ADGM was new to her and she relied on the CSP and the [redacted] Representative for advice.

4.17.4 She approved and signed all application documents including the 2020 Nominee Confirmation Form and the 2020 Set Up Form with the support of the [redacted] Representative. She relied on the [redacted] Representative as she considers the forms "legal documents".

4.17.5 She believed that the information under the 2020 Nominee Confirmation was accurate since the Nominee Declaration was not effective at the time of filling out the 2020 Nominee Confirmation and that it only becomes effective if it is registered with ADGM.

4.17.6 She stated that it was her understanding that she is the sole shareholder of AveNew "*on paper*" but AveNew was a partnership with FEH as her role was to bring in clients and FEH was covering all administrative costs.

4.17.7 When questioned about the reason for accepting payments from FEH to cover all administration costs of AveNew if her understanding is that she is the only shareholder, Bardic stated "*based on the conversations that we had, when you know, when the time was right for [FEH] to come in as a shareholder, he would*".

4.17.8 When questioned if she believes that the 2020 Nominee Confirmation was complete, she stated *"when I look back, I wish I had a legal advisor of my own at the time to, you know, prevent me from making silly mistakes such as this one because it was clearly an oversight from me"*.

4.18 Bardic, during the Bardic Interviews, was presented with the following emails that were obtained by the RA from other sources and Bardic was requested to clarify her claim that her understanding was that the Nominee Declaration was not effective and she is the sole shareholder:

4.18.1 Email dated 9 November 2021 sent by Bardic to FEH stating *"I have expressed my concern with the current shareholder structure on the basis that when that was signed, it was signed with the promise of bring in a third shareholder who would indirectly provide operating structure (visa, health insurance for me and family and salary compensation). Based on those terms I agreed with the current structure which positions you 66% shareholder as mentioned here on the declaration of trust attached"*. Further the email is requesting *"renegotiation and drafting shareholders agreements that positions us as equal shareholder"*. Bardic stated the following in her response:

- *"the Nominee Declaration wasn't effective in the eyes of ADGM when we established the company, because it hasn't been submitted …"*; and
- *"the understanding was always that this was going to be the structure of the company. Whether it came into effect today or in five days or in five months, that for me wasn't really important"*.

4.18.2 Email dated 17 January 2022 and referred under point 4.14.2, the [redacted] Representative sent Bardic an email stating among other things *"I note that in a filing made by you to the ADGM regulatory authority on 31 December 2020 you failed to disclose that two thirds of the shares registered in your name were held by you as a nominee. This despite the fact that you signed the Declaration, establishing the nominee arrangement, on 30 December 2020"*. Bardic in her response to the RA stated *"I didn't think it was a serious matter because we're going through a liquidation anyway. It wasn't something that was of relevance given that the company was going to be liquidated. So what does matter if you own 1 per cent or 100 per cent of nothing"*.

4.19 Bardic was not able to produce any written communications/documents to support her claims under points 4.17.2, 4.17.4 and 4.17.5. No supporting evidence was provided by Bardic to support the claims that the Nominee Declaration was not effective, the [redacted] Representative will share the Nominee Declaration with the CSP or that the [redacted] Representative was consulted prior to the submission of the 2020 Nominee Confirmation Form.

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4.20 In fact, various communications exist, and were submitted to the RA via different sources, indicating that FEH and Bardic were jointly sharing and looking for business opportunities for AveNew. Further, supporting communications exist confirming that FEH was covering all costs associated with AveNew.

4.21 Further, based on written communications Bardic appears to be the contact person with the CSP when providing information about KYC and the structure of AveNew. Therefore, these written communications do not support Bardic's claim that it was her understanding that the [redacted] Representative will share the Nominee Declaration with the CSP.

4.22 Bardic was also the contact point sending the CSP instructions for changes in AveNew. Further, on 18 January 2022 at 5:21 PM, the CSP sent a clear communication to Bardic stating among other things *"As you will note we are currently in correspondence with [FEH] to explain the breakdown of the fees." "However, you continue to remain our main point of contact and we will need to take the final instructions from you"*.

4.23 Bardic, during the Bardic Interviews, stated the following in relation to the filings following the incorporation stage:

4.23.1 When questioned about her understanding of the shareholding structure at the time of signing the 2022 Resolution as the sole shareholder, Bardic stated that "*in principle*" her understanding was that she was holding 66.6% as a nominee. However, she also believes "*technically this was accurate*" since the Nominee Arrangement was "*not registered with the authorities*".

4.23.2 When questioned whether signing the 2022 Special Resolution as the sole shareholder was accurate, Bardic stated that she believed it was accurate. Further Bardic stated "*I didn't give it that much thought and importance*" with reference to her understanding of the Nominee Deceleration and shareholding structure and "*So I didn't go back and think or review any other documents*".

Contravention - section 18 of the BOCR 2018

4.24 Paragraph 1 of Schedule 1 of the BOCR 2018 (as amended by the Beneficial Ownership and Control 2018 (Amendment No. 1) Regulations 2020) includes the following definition of 'beneficial owner':

1. Meaning of beneficial owner: company, LLP or partnership

*(1) In these Regulations, "**beneficial owner**", in relation to a company or LLP, means:*

(a) any person who owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, 25% or more of the shares or voting rights in the company or LLP;

(b) any person who controls the company or LLP, or

(c) any person who holds the position of officer of the company or LLP.

(2) For the purposes of subparagraph (1), a person shall have "control" if:

(a) in relation to a company, such person:

(i) holds, directly or indirectly, 25% or more of the company's shares;

(ii) holds, directly or indirectly, 25% or more of the voting rights in the company; or

(iii) holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company;

(b) in relation to an LLP, the person, holds, directly or indirectly, 25% or more of the voting rights in the conduct and management of the LLP;

4.25 Pursuant to Schedule 1 of BOCR 2018:

10. Shares held by nominees

A share held by a person as nominee for another is to be treated for the purposes of these Regulations as held by the other (and not by the nominee).

4.26 The Financial Action Task Force ("FATF") defines 'beneficial owner' *as the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. Reference to "ultimately owns or controls" and "ultimate effective control" refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control.*

4.27 Based on the evidence listed above, Bardic was not the sole beneficial owner of AveNew as per the definition of FATF or the definition under BOCR 2018:

4.27.1 As per Bardic's statements made during the Bardic Interviews, she was the sole shareholder of AveNew "on paper" only and AveNew was a "partnership" with FEH family.

4.27.2 The "ultimate effective control" was not exercised solely by Bardic as per the written communications between Bardic and FEH in relation to the management of AveNew.

4.27.3 The chain of correspondence between Bardic and FEH indicates that Bardic was referring to FEH to make any decision related to AveNew prior to submitting any change request to the CSP.

4.27.4 The Nominee Declaration signed by Bardic clearly states that she is a nominee and *"This document has been executed and takes effect on the date stated at the beginning of it".*

4.28 Based on the available evidence listed above, Bardic committed the contravention set out in section 18 of the BOCR 2018 by:

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4.28.1 Causing to deliver to the RA false information about the shareholding structure of AveNew by providing false information to the CSP about the list of actual shareholders.

4.28.2 Signing and filing with the RA the 2020 Nominee Confirmation Form with false information about her not holding the shares as a nominee when she was holding 66.66% of the shares on behalf of AveNew.

4.28.3 Concealing the nominee arrangement from the RA.

4.28.4 Failing to rectify her failure to disclose the nominee arrangement to the RA.

4.29 One of the main purposes of BOCR 2018 is to aid in the prevention of money laundering and terrorist financing in ADGM. Bardic, by providing false information about AveNew's shareholding structure, exposed ADGM to risks of money laundering and terrorist financing. In essence, Bardic incorporated a company in ADGM under her name and accepted payments for all costs associated with the company including incorporation fees and lease cost to be covered by other parties:

a. Without any verification as to the source of funds of the money used to cover the administration expenses of AveNew as confirmed by Bardic during the Bardic Interviews.

b. Listed her own "business income" as the only source of funds under 2020 Set Up Form. However, the actual source of fund was FEH's money.

5. MONETARY PENALTY

5.1 Section 19 of Part 4 of the BOCR 2018 states:

....

(2) Where the Registrar considers that a person has contravened–

(a) these Regulations; or

(b) any rules made under these Regulations, the Registrar, by written notice (a "monetary penalty notice") to the person, may impose a fine in respect of the contravention.

(3) A monetary penalty notice is a written notice requiring the person to pay to the Registrar a fine of an amount determined by the Registrar as the Registrar may consider appropriate.

(4) The amount determined by the Registrar must not exceed a level 7 fine (as specified under the Commercial Licensing Regulations 2015 (Fines) Rules 2015), or such other amount as the Registration Authority may prescribe from time to time.

....

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5.2 Bardic can be held liable to a fine not exceeding level 7 on the standard fines scale which equals USD 25,000.

5.3 The Registrar considers the following factors to be of relevance in imposing financial penalties against Bardic:

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.

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

5.5 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

5.6 Filing false information in relation to the actual beneficial ownership of a company is a serious contravention due to the money laundering risk involved.

5.7 The Registrar expects all registered entities to take all steps to ensure that any information submitted to the RA is complete and accurate.

Deliberate or reckless

5.8 The contravention by Bardic appears to be deliberate given that:

- The Nominee Declaration was signed one day prior to the submission of ADGM application forms with false information to the RA.
- FEH and the [redacted] Representative sent Bardic multiple communications requesting her to change the shareholding structure with the RA. However, Bardic failed to send such changes to the RA or the CSP.
- Bardic continued to file documents with the RA as "sole shareholder" despite FEH and the [redacted] Representative's multiple communications in relation to the Nominee Declaration.

- As per written communications between Bardic and FEH, Bardic tried to misuse her status as "the sole shareholder" with ADGM to negotiate an increase in her shareholding percentage or she would "liquidate" AveNew.

Whether the person is an individual

5.9 Bardic is an individual. Therefore, this factor was taken into consideration to reduce the maximum fine amount.

Effect on third parties

5.10 The majority shareholder of AveNew was impacted by Bardic's action of providing false information on shareholders.

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 licensed persons from committing similar contraventions.

5.12 The penalty imposed must deter Bardic and others from submitting or attempting to submit false information in relation to beneficial ownership to the RA.

Financial gain or loss avoided

5.13 This factor was not considered.

Subsequent conduct

5.14 Bardic cooperated with the Investigation in terms of attending the compulsory interviews and responding to the RA's requirement notice. However, there were some delays and incomplete documents provided to the RA in response to the requirement notice issued on 19 September 2022 pursuant to section 33(1)(b) and section 33(2) of Part 3 of CLR 2015.

Disciplinary record and compliance history

5.15 At the time of the contravention and to the knowledge of the RA, Bardic has no disciplinary record nor is the Registrar aware of any other concerns in relation to Bardic.

Maximum Penalty

5.16 As per section 19 of the BOCR 2018, the maximum penalty for the contravention set out in section 18 of the BOCR 2018 is level 7, which is up to USD 25,000.

5.17 The Registrar considers the financial penalty amount of **USD 10,500** would be wholly appropriate in order to reflect the seriousness of the contravention.

5.18 Accordingly, the Registrar has decided to impose the following fine on Bardic:

USD 10,500.

6. PROCEDURAL MATTERS

Representations

6.1 On 14 November 2023, the Registrar issued Bardic with a proposed monetary penalty notice in which it proposed to impose on Bardic financial penalties in the amount of USD 15,000 ("Proposed Monetary Penalty Notice").

6.2 Bardic was provided with an opportunity to make written representations regarding the Registrar's concerns and the actions proposed.

6.3 On 23 January 2024, Bardic submitted oral and written representations in response to the Proposed Monetary Penalty Notice.

6.4 Having taken into account the facts, matters and circumstances of the contravention and the representations, the Registrar has decided to reduce the financial penalties imposed on Bardic from the proposed amount of USD 15,000 to USD 10,500.

Opportunity to have the matter referred to the ADGM Courts

6.5 Section 19(7) of BOCR 2018 states as follows:

> *A person, who receives a monetary penalty notice under this section, may refer the matter to the Court for review of–*
> *(a) the issue of the monetary penalty notice.*
> *(b) the amount of the fine specified in the notice.*

6.6 In the event that a referral is not made to the ADGM Courts for a review of this Notice within one month, then this Notice will be considered a final and conclusive decision by the Registrar and the fine must be paid by Bardic on or before the date stated on the invoice attached with this Notice.

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

Publication

7 The RA may publish details of the matter to which this Notice relates in accordance with section 19(11) of BOCR 2018.

[redacted]

Tarek Kardahji
Associate Director, Office of CEO, Registration Authority
Delegate of the Registrar, Registration Authority

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ANNEXURE A

EXTRACTS OF RELEVANT LEGISLATIVE PROVISIONS

Beneficial Ownership and Control Regulations 2018

PART 1
INFORMATION DUTIES OF ADGM PERSONS

2. Record of beneficial owners

(1) Each ADGM Person must keep a record of the required particulars of its beneficial owners in a record referred to in these Regulations as the "record of beneficial owners".

(2) Where the ADGM Person is existing at the time of the enactment of these Regulations, the ADGM Person must ensure that its record of beneficial owners is established no later than ninety (90) days after the date of enactment of these Regulations.

(3) Where the ADGM Person comes into existence after the date of enactment of these Regulations, the ADGM Person must ensure that a record of beneficial owners is established in accordance with that ADGM Person's rules of formation.

PART 4
OFFENCES, FINES & ENFORCEMENT

18. False or misleading information

(1) It is a contravention of these Regulations for a person knowingly or recklessly:

(a) to deliver or cause to be delivered to the Registrar, for any purpose of these Regulations, any information or document, or

(b) to make to the Registrar, for any such purpose, a statement, that is misleading, false or deceptive in a material particular.

(2) A person who commits the contravention referred to in subsection (1) is liable to a fine as prescribed under section 19.

19. Fines

(1) The Board may make rules in respect of the procedures relating to the imposition and recovery of fines under this Part.

(2) Where the Registrar considers that a person has contravened–

(a) these Regulations; or

(b) any rules made under these Regulations,

the Registrar, by written notice (a "monetary penalty notice") to the person, may impose a fine in respect of the contravention.

(3) A monetary penalty notice is a written notice requiring the person to pay to the Registrar a fine of an amount determined by the Registrar as the Registrar may consider appropriate.

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(4) The amount determined by the Registrar must not exceed a level 7 fine (as specified under the Commercial Licensing Regulations 2015 (Fines) Rules 2015), or such other amount as the Registration Authority may prescribe from time to time.

(5) The fine must be paid to the Registrar within the period specified in the monetary penalty notice.

(6) The monetary penalty notice must contain such information as may be prescribed.

(7) A person, who receives a monetary penalty notice under this section, may refer the matter to the Court for review of–

(a) the issue of the monetary penalty notice;

(b) the amount of the fine specified in the notice.

(8) Court Procedure Rules may make provision for any reference to the Court under subsection (7).

(9) If, within the period specified in the monetary penalty notice–

(a) the person pays the fine specified in the notice to the Registrar–

(i) subject to paragraph (ii) below, no proceeding or actions pursuant to this Part may be commenced, whether in the Court or otherwise, by the Registrar against the ADGM Person in respect of the relevant contravention; and

(ii) without prejudice to paragraph (i) above, neither the imposition nor payment of a fine shall restrict the Registrar from taking any action against a person or refrain from doing any act or thing in relation to any continuing contravention; or

(b) if all or any portion of the fine has not been paid at the end of the period stated in a monetary penalty notice, the obligation of the person to pay the fine is enforceable as a debt payable to the Registrar. The Registrar may apply to the Court for the recovery of the debt.

(10) In this section "prescribed" means prescribed by rules made by the Board pursuant to these Regulations.

(11) Where a fine is imposed on a person under this section, the Registrar may publish, in such manner and for such period as the Registrar may determine, his name and the amount of the fine, and the publication may contain such information in respect of any person named therein, and such ancillary, incidental and supplementary information, as the Registrar may determine.

SCHEDULE 1
MEANING OF BENEFICIAL OWNER

1. Meaning of beneficial owner: company, LLP or partnership

(1) In these Regulations, "**beneficial owner**", in relation to a company or LLP, means:

(d) any person who owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, 25% or more of the shares or voting rights in the company or LLP;

(e) any person who controls the company or LLP, or

(f) any person who holds the position of officer of the company or LLP.

(2) For the purposes of subparagraph (1), a person shall have "control" if:

(c) in relation to a company, such person:

(iv) holds, directly or indirectly, 25% or more of the company's shares;

(v) holds, directly or indirectly, 25% or more of the voting rights in the company; or

(vi) holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company;

(d) in relation to an LLP, the person, holds, directly or indirectly, 25% or more of the voting rights in the conduct and management of the LLP;

10. Shares held by nominees

A share held by a person as nominee for another is to be treated for the purposes of these Regulations as held by the other (and not by the nominee).

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Commercial Licensing Regulations 2015

PART 3: INFORMATION GATHERING AND INVESTIGATIONS

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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

I 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.

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

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 o' 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.