



DECISION NOTICE

To: R.J. O'Brien (MENA) Capital Limited (**RJO MENA**)

DFSA Ref: F004288

Address: Unit L21-02, Level 21
ICD Brookfield Place
Dubai International Financial Centre
PO Box 507280
Dubai
United Arab Emirates

Date: **26 December 2023**

ACTION

1. For the reasons given in this Decision Notice, and pursuant to Article 90(2)(a) of the Regulatory Law 2004 (the **Regulatory Law**), the Dubai Financial Services Authority (the **DFSA**) has decided to impose on RJO MENA a fine of USD1,368,767 (the **Fine**) for contravening between 1 July 2020 and 20 November 2022 (the **Relevant Period**):

- 1.1 Rule 4.2.4 (Principle 4 of the Principles for Authorised Firms – Resources) of the DFSA Rulebook, General Module (**GEN**);
 - 1.2 GEN Rule 5.3.1 (Systems and controls – General requirement)
 - 1.3 GEN Rules 5.3.9 and 5.3.11 (Systems and controls – Compliance);
 - 1.4 Rule 7.2.1 (Timing of CDD) of the DFSA Rulebook, Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module (**AML**); and
 - 1.5 Rule 6.7.1 (Record Keeping – Voice and Electronic Communications) of the DFSA Rulebook, Conduct of Business Module (**COB**).
2. RJO MENA agreed to settle this matter. The DFSA has, therefore, decided to reduce the Fine by a settlement discount of 30% and a mitigation discount of 30%. Were it not for the settlement and mitigation discounts, the DFSA would have imposed a fine of USD2,793,403 on RJO MENA.
 3. This Decision Notice is addressed to RJO MENA alone. Nothing in this Decision Notice constitutes a determination that any person other than RJO MENA breached any legal or regulatory rule, and the findings expressed in this Decision Notice are without prejudice to the position of any third party or of the DFSA in relation to any third party.

DEFINITIONS

4. Defined terms are identified in this Notice by the capitalisation of the initial letter of a word or of each word in a phrase and are defined either in this Decision Notice

or in the DFSA Rulebook, Glossary Module (**GLO**). Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

FACTS

5. RJO MENA was incorporated in the DIFC on 20 August 2017 (Registered Number 2546) before authorisation by the DFSA on 10 January 2018. It is licensed to provide the following Financial Services:

- 5.1 Arranging Custody;
- 5.2 Dealing in Investments as Principal;
- 5.3 Arranging Deals in Investments;
- 5.4 Dealing in Investments as Agent; and
- 5.5 Advising on Financial Products.

6. RJO MENA is a wholly owned subsidiary of JVMC Holding Corp, a group holding company. It is part of a group of futures brokerage companies (the **Group**) which operate in the US, UK, EU, Middle East and Asia. The Group has a futures brokerage and clearing firm, including a full clearing member of the Chicago Mercantile Exchange and all its markets, as well as the markets operated by the Intercontinental Exchange Group in the EU (**ICE EU**) and the US (**ICE US**).

7. In **2020**, RJO MENA commenced a process to acquire LFS, another DFSA Authorised Firm (the **LFS Acquisition**). As a result of receiving legal advice that the LFS Acquisition could be done by way of merger, in January 2020 RJO

- MENA's Legal Advisers made a general legal enquiry with the DFSA regarding whether it could seek a waiver from the need to obtain express consent from LFS Clients for their accounts to be taken over by RJO MENA (**Express Consent**). However, the DFSA confirmed that the scenario as presented to the DFSA would constitute a transfer of business and therefore subject to the Regulatory Law and DFSA Rules.
8. On **10 March 2020**, the DFSA approved a Change in Control application permitting RJO MENA to carry out the LFS Acquisition. The LFS Acquisition was completed in **July 2020** and the transfer of business was completed in **June 2021**. During the LFS Acquisition:
- 8.1 the Senior Executive Officer (**SEO**) and co-founder of LFS was authorised as the SEO of RJO MENA; and
- 8.2 the Compliance Officer (**CO**) of LFS remained in her role until her departure in May 2021.
9. From **July 2020 to June 2021**, RJO MENA's Compliance function consisted of one person; namely, the CO/MLRO. There was also a Client onboarding Senior Analyst who provided support to the CO/MLRO for Client onboarding activities from approximately **mid 2020 until Q3 2021**, when the person was replaced and moved internally.
10. In about **October 2020**, RJO MENA's CO/MLRO informed the Group's EMEA Head of Compliance that the Compliance function did not have capacity to meet its responsibilities from mid July 2020 due to the increase in work caused by the LFS Acquisition.

11. In **Q4 2020**, RJO MENA decided to reduce Compliance monitoring activities for a short period of 3 to 4 months so as to alleviate the Compliance function's workload and focus on integration activities following the LFS Acquisition. This decision was taken by the Group's General Counsel and the EMEA Head of Compliance and supported by the senior management or the Governing Body of RJO MENA. This decision was based on an assumption that the integration activities would be completed in a relatively short period of time and was influenced by the integration of LFS occurring during the Covid environment of the time. RJO MENA senior management were made aware of the resource constraints and did not hire additional Compliance resources.
12. On **3 July 2020**, ICE EU issued RJO MENA with a Notice of Investigation (the **2020 Investigation**).
13. In the **third and fourth quarter of 2020**, based on the legal advice that it received, RJO MENA advocated with the DFSA to reconsider its Express Consent waiver denial decision, but the DFSA confirmed its decision to decline the Express Consent waiver application in writing on **15 December 2020** and again on **28 January 2021**. The DFSA's decision meant that RJO MENA had to obtain Express Consent from approximately 100 LFS Clients. This process commenced in **February 2021**, and was completed in late **May or early June 2021**.
14. In the third quarter of 2020, RJO MENA Compliance reported a risk incident whereby a broker (the **Broker**) had discussed a trade using a messaging application contrary to RJO MENA's Order Records policy. However, as no trade or order receipt or order execution confirmations were sent in this instance, the risk was considered mitigated.

15. In the **fourth quarter of 2020**, RJO MENA Compliance became aware that the Broker had taken trading instructions from a number of RJO MENA Clients by the same means. This was despite the Broker having received training on RJO MENA's Order Records policy in 2018 and annual refresher training.
16. The RJO MENA CO/MLRO reminded the Broker that those communications, such as the ones referred to in paragraphs 14 and 15 above, were not permitted. However:
 - 16.1 the Broker continued such communications with Clients;
 - 16.2 the SEO allowed the Broker to continue to use such communications by creating a mechanism in which the CO/MLRO would be made aware of the communications between the Broker and the Clients; and
 - 16.3 the communications continued until the second quarter 2022 when the Broker was given a recorded device.
17. RJO MENA did not discipline the Broker for these clear breaches of its Order Records policy set out in the Compliance Manual. RJO MENA only took disciplinary action against the Broker in July 2022 after RJO MENA was penalised by ICE US. This disciplinary action was only taken due to the ICE US breaches, not the repeated Order Records policy breaches.
18. On **15 October 2020**, the Broker and another RJO MENA broker (together the **Block Traders**) used the Group's US affiliate's primary account to carry out Block Trades on ICE US for three Energy Futures Contracts.

19. The nature of trading of these Block Trades caused ICE US to commence an investigation into improper pre-hedging, the misreporting of execution times and the late reporting of trades by RJO MENA. ICE US sent information requests to RJO MENA on **18 November 2020, 17 December 2020, 19 February 2021, 20 April 2021, 29 July 2021**, and **28 October 2021**.
20. On **12 January 2021** ICE EU issued RJO MENA with a Warning Letter (the **WL**) in respect of the 2020 Investigation in which it stated that RJO MENA “*had a significant number of late reported (Block Trades) proportionate to its overall volumes*” and that it expected to see an observable improvement in RJO MENA’s reporting of Block Trades. As a result of receiving the WL, RJO MENA verbally reminded traders in the Energy Desk, including the Block Traders, of the ICE EU requirements for Block Trading reporting. In addition, monitoring controls for carrying out Block Trades were put in place.
21. In **March 2021**, ICE US interviewed the Block Traders.
22. In **February 2021**, the CO/MLRO discussed an additional Compliance hire with the EMEA Head of Compliance and the Group General Counsel, following which the hiring process commenced. At the RJO MENA Board meeting on **16 March 2021**, the Chairman raised concerns about the sufficiency of Compliance resources due to the increase in RJO MENA’s business. In May 2021, the CO of LFS left the firm.
23. In **June 2021**, two new staff joined RJO MENA, one person in Compliance and one in Client onboarding.

24. On **27 October 2021**, ICE EU notified RJO MENA that it had commenced an investigation concerning RJO MENA's trading on the exchange. As part of the same investigation ICE EU sent information requests to RJO MENA on **27 October 2021, 24 November 2021, 10 February 2022, 12 April 2022, 19 April 2022, 13 May 2022 and 7 June 2022**. ICE EU's investigation is ongoing.
25. The DFSA was notified of RJO MENA's failure to carry out Ongoing CDD for 113 Clients on **28 October 2021**, and imposed a deadline for the remediation of the breach by 31 March 2022. The remediation was completed by the due date.
26. RJO MENA planned for a temporary Client onboarding resource in Q3 2021 and hired someone to remediate the ongoing CDD breach from mid-January through mid-April 2022. Toward the end of the first quarter of 2022, RJO MENA started discussions about an additional permanent Client onboarding headcount, as well as an additional Compliance team hire. Headcount was approved for one person to join the Client onboarding team in June 2022, and a senior Compliance Officer hire was also approved around that time.
27. In the **first quarter of 2022**, RJO MENA identified 11 instances where it established a business relationship and traded for and on behalf of Clients prior to undertaking CDD. Additional breaches were reported by Compliance during the Relevant Period as follows:
- 27.1 Two instances in Q3 2020;
- 27.2 One instance in Q4 2020;
- 27.3 Three instances in Q1 2021;

- 27.4 Seven breaches in Q3 2021
- 27.5 Two breaches in Q1/2 2022; and
- 27.6 One breach in Q3 2022.
28. The breaches reported in the third quarter of 2021, first and second quarter of 2022 and the third quarter of 2022 were not in compliance with DFSA AML Rule 7.2.2.
29. No breaches identified by Compliance resulted in disciplinary action as there was no formal disciplinary process in place. Therefore, during the Relevant Period, RJO MENA's Brokers continued to breach RJO MENA's internal policies and DFSA Rules without being subjected to appropriate discipline.
30. On **20 July 2022**, as a result of a negotiated settlement, ICE US published three disciplinary notices against RJO MENA and the Block Traders, at which point RJO MENA took disciplinary action against the Brokers. One of the Brokers paid a portion of RJO MENA's ICE US financial penalty in accordance with his commercial terms of employment.
31. On **26 July 2022**, RJO MENA notified the DFSA that ICE US had imposed disciplinary sanctions on RJO MENA and the Block Traders.
32. In the **second quarter 2022**, Compliance reported that inconsistencies had been identified in the record keeping of communications related to trading by the use of a messaging application by brokers. In the **third quarter 2022**, two further record keeping breaches by brokers were reported to the Audit Committee. One of the breaches was identified to have been committed by the Broker, who had breached

- the policy in Q4 2020 despite being issued with an approved device in Q2 2022 and after receiving the disciplinary email from RJO MENA.
33. The Broker was not formally disciplined with respect to the Q3 2022 breach, despite stipulations in the July 2022 disciplinary email requiring compliance with the record keeping policies.
34. In **November 2022** RJO MENA employed a Chief Compliance Officer covering the EMEA region who was to be primarily based in Dubai. At that time, the total headcount in the Compliance team was two people and the Client onboarding team was three people.
35. In **January 2023** RJO MENA's SEO stepped down and an interim SEO was put in place pending the hire of a new SEO.
36. In **February 2023** RJO MENA employed an additional fulltime member of the Compliance function bringing the total to three.
37. In **June 2023** RJO MENA employed a new SEO.

FINDINGS

Compliance Resources

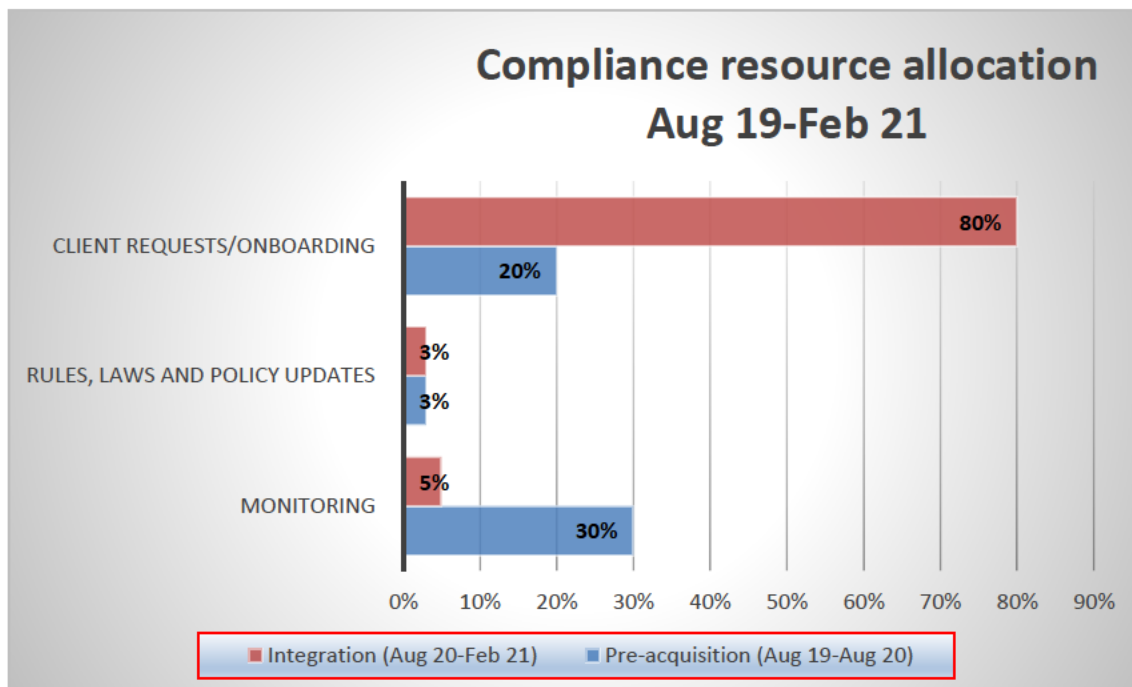
38. The matters set out in paragraphs 7 to 11 above had a significant impact on RJO MENA's Compliance resources during the Relevant Period.
39. The time spent by Compliance from the LF Acquisition to February 2021 on monthly monitoring activities as per RJO MENA's Compliance Monitoring Programme (**CMP**) decreased from 30% to 5%.

40. However, during this period:

- 40.1 the time spent by Compliance on Client requests/onboarding activities increased from 20% to 80%;
- 40.2 new Clients onboarded per month increased from an average of 3.4 per month to 12.7 per month; and
- 40.3 the time spent by Compliance on rules, laws and policy updates remained unchanged from 3%.

This is represented graphically in the following chart.

Chart 1: Compliance Resource allocation August 2019 – February 2021



41. In 2021, RJO MENA's Compliance function:

- 41.1 failed to complete 33 out of 67 Compliance monitoring activities specified in the CMP. Ten were not carried out at all and 23 were commenced but not finalised;
- 41.2 only conducted monthly monitoring one month out of 12 for some activities; and
- 41.3 did not carry out ongoing CDD in 9 out of 12 months and, when it was carried out, it was not completed (see paragraph 25 above).

In addition RJO MENA:

- 41.4 failed to complete 8 monitoring activities between August – December 2020;
- 41.5 failed to complete 12 monitoring activities and 3 were commenced but not finalised in 2022; and
- 41.6 in respect of the 12 RJO MENA trading desks did not:
 - 41.6.1 undertake any trading desk reviews from November 2020 until January 2023; and
 - 41.6.2 carry out ongoing manual monitoring of 10 of the 12 trading desks (including the Energy Desk). As manual monitoring was reduced to between 3-5% from August 2020 to at least January 2022, there was little to no monitoring coverage of these trading desks at RJO MENA during that period.

42. Due to the reduction in Compliance monitoring referred to in paragraph 11 above, monthly monitoring of the timely submission of Block Trades:
- 42.1 for 2020 was only completed in July and August and partially completed from September to December;
 - 42.2 for 2021 was only completed in January and not for the rest of year; and
 - 42.3 for 2022 was not completed in January but resumed in February.
43. RJO MENA's apparent failure to complete the required monthly monitoring occurred despite the fact that RJO MENA had been warned by ICE EU in January 2021 that it expected to see an observable improvement in RJO MENA's reporting of Block Trades, and resulted in RJO MENA:
- 43.1 committing further breaches of ICE EU and US rules with respect to Block Trades (as set out in paragraphs 18 to 20 and 24); and
 - 43.2 breaching the DFSA's rules with respect to client onboarding (as set out in paragraphs 27) and transaction record keeping (as set out in paragraphs 14 to 16 and 33).

Compliance Systems and Controls

44. In light of the facts set out:
- 44.1 in paragraphs 14 to 16 and 32 above with respect to ensuring it maintained proper records of electronic communications relating to transactions;

44.2 in paragraphs 18 to 21 and 24 above with respect to the trading desk's trading not being approved by RJO MENA Compliance, and the Block Trading reporting breaches on ICE EU and ICE US; and

44.3 in paragraph 27 with respect to failing to complete full Client onboarding prior to the Client commencing trading,

RJO MENA failed to:

44.4 establish and maintain systems and controls that ensured that its affairs were managed effectively and responsibly by its senior management; and

44.5 establish and maintain monitoring and reporting processes and procedures to ensure that any compliance breaches were readily identified, reported and promptly acted upon.

45. For the reasons set out in paragraphs 14 to 16 above, RJO MENA failed to take reasonable steps between July 2020 and March 2022 to ensure that it made and retained recordings of its voice and electronic communications when such communications were with a Client in relation to Transactions, including the receiving or passing of related instructions.

CONTRAVENTIONS

46. In summary, the DFSA therefore has found that RJO MENA committed the following contraventions:

46.1 For the reasons set out in paragraphs 9 to 11 and 22 to 23 above, RJO MENA failed to maintain adequate resources to conduct and manage its

affairs in breach of GEN Rule 4.2.4 and failed to ensure that the Compliance Officer had access to sufficient resources, including an adequate number of competent staff, to perform his duties objectively and independently of operational and business functions in breach of GEN Rule 5.3.9;

46.2 For the reasons set out in paragraph 39 to 43 above, RJO MENA contravened GEN Rule 5.3.1 by failing to maintain systems and controls that ensure that its affairs are managed effectively and responsibly by its senior management, and GEN Rule 5.3.11 by failing to maintain monitoring and reporting processes and procedures to ensure that any compliance breaches are readily identified, reported and promptly acted upon;

46.3 For the reasons set out in paragraphs 14 to 16 and 32 above, RJO MENA contravened COB Rule 6.7.1 (Record Keeping – Voice and Electronic Communications); and

46.4 For the reasons set out in paragraph 27 above, RJO MENA contravened AML 7.2.1 by failing to undertake the appropriate and timely full Customer Due Diligence under AML Rule 7.3.1(1)(a) to (c) and AML section 7.3 when establishing a business relationship with a customer.

ACTION

47. In deciding to take the action set out in this Decision Notice, the DFSA has taken into account the factors and considerations set out in sections 6-2 and 6-3 of the DFSA's Regulatory Policy and Process Sourcebook (**RPP**).

48. The DFSA considers the following factors to be of particular relevance in this matter:

48.1 the period over which the contraventions occurred; and

48.2 the deterrent effect of the action on RJO MENA and others from committing similar contraventions.

49. On this basis, the DFSA has considered the sanctions and other options available to it given the circumstances of this matter and concluded that a fine is the most appropriate action to take against.

Determination of the Fine

50. In determining the appropriate level of financial penalty to impose in this matter, the DFSA has taken into account the factors and considerations set out in sections 6-4 and 6-5 of the RPP as follows.

Step 1 – Disgorgement

51. There is no evidence to suggest that RJO MENA made a profit or avoided a loss, as a direct result of the contravention. Accordingly, this step was not considered relevant.

Step 2 – The seriousness of the contraventions

52. The DFSA finds RJO MENA's contraventions to be serious because:

- 52.1 RJO MENA did not undertake sufficient planning and impact analyses on the business to ensure it could maintain all of its ongoing regulatory responsibilities subsequent to acquiring an additional brokerage;
 - 52.2 the contraventions occurred over a period of approximately 2.5 years;
 - 52.3 the contraventions occurred because of weaknesses in the firm's procedures and in the management systems and internal controls relating to the firm's business;
 - 52.4 the firm's senior management were aware of the lack of Compliance resources and failed to adequately address it to ensure the Compliance function was able to fulfil its regulatory obligations; and
 - 52.5 the firm's SEO facilitated the breach of the DFSA's Rules concerning recording communications by permitting a broker to continue using a messaging application for Client communications.
53. The DFSA considers the contraventions to be serious notwithstanding that there is nothing to suggest that RJO MENA's contraventions were intentional or that RJO MENA acted in a deliberate manner to contravene the DFSA administered legislation.
54. Taking the above factors into account, the DFSA considers that a financial penalty equivalent to 5% of RJO MENA's relevant revenue during the Relevant Period (the **Relevant Revenue**) appropriately reflects the seriousness of the contraventions.

55. RJO MENA's Relevant Revenue was USD55,868,068. Accordingly, the figure after Step 2 is USD2,793,403.

Step 3 – Mitigating and aggravating factors

56. In considering the appropriate level of financial penalty, the DFSA had regard to the mitigating and aggravating factors set out in RPP paragraph 6-5-8.

57. The DFSA has taken the following into consideration:

57.1 RJO MENA was cooperative with the DFSA in respect of its investigation;

57.2 The contraventions occurred during the COVID 19 pandemic, which made planning and oversight of the LFS integration more challenging due to travel restrictions preventing travel by Group employees to Dubai;

57.3 RJO MENA and its senior management had commenced taking steps in relation to the contraventions prior to the commencement of the DFSA's investigation. These steps included beginning the hiring process for additional Compliance resources as well as remediating RJO MENA's systems and controls, training programme and disciplinary process;

57.4 The sanctions imposed on RJO MENA by ICE US, and that RJO MENA promptly notified the DFSA of the sanctions after they were imposed;

57.5 RJO MENA prioritised the remedial process of obtaining Express Consent (see paragraphs 7 and 13 above) and completed the process within the timeframe specified by the DFSA; and

57.6 RJO MENA's disciplinary record and general Compliance history.

58. The DFSA has further taken into consideration that RJO MENA has agreed to offer the DFSA an Enforceable Undertaking under Article 89 of the Regulatory Law 2004 in which RJO MENA agrees to:

58.1 remedy the deficiencies in its systems and controls and compliance resources; and

58.2 engage an external compliance expert to assist RJO MENA in complying with its obligations and to verify that any required remediations are complete.

59. As a result of these factors, the DFSA considers that overall these factors mitigate the seriousness of the contraventions by RJO MENA. The DFSA has therefore decided to decrease the figure after Step 2 by 30%.

60. Accordingly, the figure after Step 3 is USD1,955,382.

Step 4 – Adjustment for deterrence

61. Pursuant to RPP paragraph 6-5-9, if the DFSA considers that the level of the financial penalty which it has arrived at after Step 3 is insufficient to deter the firm that committed the contravention, or others, from committing further or similar contraventions, then the DFSA may increase it.

62. The DFSA considers that the figure after Step 3 is sufficient for the purpose of deterring RJO MENA from committing further contraventions and others from committing similar contraventions. Accordingly, the DFSA does not consider it appropriate to adjust the amount of the fine arrived at after Step 3 for the purposes of deterrence.

63. Accordingly, the figure after Step 4 is USD1,9,55,382.

Step 5 – Settlement discount

64. Where the DFSA and the firm on which the financial penalty is to be imposed agree on the amount and other terms, RPP paragraph 6-5-10 provides that the amount of the financial penalty that might otherwise have been payable will be reduced to reflect the fact that an agreement is reached.

65. The DFSA and RJO MENA have reached agreement on the relevant facts and matters relied upon and the amount of fine that would be imposed. Therefore, the DFSA has applied a 30% discount to the level of fine which the DFSA would have otherwise imposed.

66. Accordingly, the figure after Step 5 is USD1,368,767.

The level of the fine imposed

67. Given the factors and considerations set out above and the circumstances of this matter, the DFSA has determined that it is proportionate and appropriate in the circumstances to impose on RJO MENA a financial penalty of USD1,368,767.

PROCEDURAL MATTERS

Settlement Decision Maker

68. The decision which gave rise to the obligation to give this Decision Notice was made by a Settlement Decision Maker on behalf of the DFSA.

69. This Decision Notice is given to RJO MENA under paragraph 3(2) of Schedule 3 of the Regulatory Law.

Evidence and other material considered

70. Annex A sets out extracts from some statutory and regulatory provisions and guidance relevant to this Decision Notice.
71. The DFSA provided RJO MENA with a copy, or access to a copy, of the relevant materials that were considered in making the decision which gave rise to the obligation to give this Decision Notice.

Manner and time for payment of the Fine

72. The Fine must be paid no later than 28 days from the date on which this Decision Notice is given to RJO MENA.
73. If all or any part of the Fine remains outstanding on the date by which it must be paid, the DFSA may recover the outstanding amount as a debt owed by RJO MENA and due to the DFSA.

Referral to the Financial Markets Tribunal (FMT)

74. Pursuant to Article 90(5) of the Regulatory Law, RJO MENA has the right to refer this matter to the FMT for review. However, in deciding to settle this matter and in agreeing to the action set out in this Decision Notice, RJO MENA has agreed that it will not refer this matter to the FMT.

Publicity

75. Under Article 116(2) of the Regulatory Law, the DFSA may publish, in such form and manner as it regards appropriate, information and statements relating to decisions of the DFSA and of the Court, censures, and any other matters that the DFSA considers relevant to the conduct of affairs in the DIFC.
76. In accordance with Article 116(2) of the Regulatory Law, the DFSA intends to publicise the action taken in this Decision Notice and the reasons for that action. This may include publishing this Decision Notice itself, in whole or in part.
77. The DFSA will notify RJO MENA of the date on which the DFSA intends to publish information about this Decision Notice.

DFSA contacts

78. For more information concerning this matter generally, please contact the Administrator to the Decision-Making Committee on +971 4 362 1500 or by email at DMC@dfsa.ae.

Signed:

A solid black rectangular box used to redact the signature of the official.

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For and on behalf of Christian Cameron

As a Settlement Decision Maker on behalf of the DFSA

ANNEX A – RELEVANT STATUTORY AND REGULATORY PROVISIONS

The Regulatory Law 2004

Article 8(3) of the Regulatory Law 2004 sets out the DFSA's objectives.

8. The Powers, Functions and Objectives of the DFSA

(...)

(3) In performing its functions and exercising its powers, the DFSA shall pursue the following objectives:

- (a) to foster and maintain fairness, transparency and efficiency in the financial services industry (namely, the financial services and related activities carried on) in the DIFC;
- (b) to foster and maintain confidence in the financial services industry in the DIFC;
- (c) to foster and maintain the financial stability of the financial services industry in the DIFC, including the reduction of systemic risk;
- (d) to prevent, detect and restrain conduct that causes or may cause damage to the reputation of the DIFC or the financial services industry in the DIFC, through appropriate means including the imposition of sanctions;
- (e) to protect direct and indirect users and prospective users of the financial services industry in the DIFC;

(...)

78. Power of the DFSA to conduct an investigation

(1) The DFSA may conduct such investigation as it considers appropriate and expedient under Chapter 2 of Part 5:

- (a) where it has reason to suspect that a contravention of the Law or of the Rules or of any other legislation administered by the DFSA is being or may have been committed; or

- (b) further to a request made under Article 39.

80. Powers to Obtain Information and Documents for Investigation

- (1) Where the DFSA considers that a person is or may be able to give information or produce a document which is or may be relevant to an investigation, it may:
 - (a) enter the business premises of such person during normal business hours for the purpose of inspecting and copying information or documents stored in any form on such premises;
 - (b) require such person to give, or procure the giving of, specified information in such form as it may reasonably require;
 - (c) require such person to produce, or procure the production of, specified documents;
 - (d) require such person (the interviewee) to attend before an officer, employee or agent of the DFSA (the interviewer) at a specified time and place to answer questions in private (compulsory interview); or
 - (e) require such person to give it any assistance in relation to the investigation which the person is able to give.
- (2) Where the DFSA exercises its power under Article 80(1)(a) to enter business premises, it may:
 - (a) require any appropriate person to make available any relevant information stored at those premises for inspection or copying;
 - (b) require any appropriate person to convert any relevant information into a form capable of being copied; and
 - (c) use the facilities of the occupier of the premises, free of charge, to make copies.
- (3) Where the DFSA exercises its power under Article 80(1)(d) to conduct a compulsory interview, it may give a direction:

- (a) concerning who may be present;
 - (b) preventing any person present during any part of the compulsory interview from disclosing to any other person any information provided to the interviewee or questions asked by the interviewer during the compulsory interview;
 - (c) concerning the conduct of any person present, including as to the manner in which they will participate in the interview;
 - (d) requiring the interviewee to swear an oath or give an affirmation that the answers of the interviewee will be true; and
 - (e) requiring the interviewee to answer any questions relevant to the investigation.
- (4) A requirement made under Article 80 (1) (b),(c), (d), and (e) shall be stated in writing.
- (5) The DFSA may require the relevant person to give such information or produce such documents by the end of a reasonable period and at a place specified in the notice
- (6) The DFSA may exercise its powers under Article 80 (1) in respect of any person within, or outside of, the DIFC provided that, if the person is outside the DIFC and is not a Regulated Person, the DFSA shall either:
 - (a) use any arrangements it has with a regulatory authority in the jurisdiction in which the person is resident or domiciled, or the premises are located, to assist it to exercise the power; or
 - (b) apply to the Court for an order compelling the person to provide the information, produce or procure the production of the documents, or answer questions, or permitting the DFSA to enter the premises of that person.
- (7) In Article 80(6), a Regulated Person means an Authorised Person, DNFBP,

Fund, Auditor, Reporting Entity or any director, officer, employee or agent of such person.

90. Sanctions and directions

- (1) Where the DFSA considers that a person has contravened a provision of any legislation administered by the DFSA, other than in relation to Article 32, the DFSA may exercise one or more of the powers in Article 90(2) in respect of that person.
- (2) For the purposes of Article 90(1) the DFSA may:
 - (a) fine the person such amount as it considers appropriate in respect of the contravention;
 - (b) censure the person in respect of the contravention;
 - (c) make a direction requiring the person to effect restitution or compensate any other person in respect of the contravention within such period and on such terms as the DFSA may direct;
 - (d) make a direction requiring the person to account for, in such form and on such terms as the DFSA may direct, such amounts as the DFSA determines to be profits or unjust enrichment arising from the contravention;
 - (e) make a direction requiring the person to cease and desist from such activity constituting or connected to the contravention as the DFSA may stipulate;
 - (f) make a direction requiring the person to do an act or thing to remedy the contravention or matters arising from the contravention; or
 - (g) make a direction prohibiting the person from holding office in or being an employee of any Authorised Person, DNFBP, Reporting Entity or Domestic Fund.

(...)

- (5) If the DFSA decides to exercise its power under this Article in relation to a person, the person may refer the matter to the FMT for review.

116. Publication by the DFSA

(...)

- (2) The DFSA may publish in such form and manner as it regards appropriate information and statements relating to decisions of the DFSA, the FMT and the Court, sanctions, and any other matters which the DFSA considers relevant to the conduct of affairs in the DIFC.

RELEVANT DFSA RULEBOOK PROVISIONS

DFSA Rulebook, General Module (GEN)

GEN 4 CORE PRINCIPLES

4.2 The Principles for Authorised Firms

(...)

Principle 4 - Resources

- 4.2.4** An Authorised Firm must ensure that its affairs are managed effectively and responsibly by its senior management. An Authorised Firm must have adequate systems and controls to ensure, as far as is reasonably practical, that it complies with legislation applicable in the DIFC.

(...)

GEN 5 MANAGEMENT, SYSTEMS AND CONTROLS

5.3 Systems and Controls

(...)

General Requirement

- 5.3.1** (1) An Authorised Person must establish and maintain systems and controls, including but not limited to financial and risk systems and controls, that ensure that its affairs are managed effectively and responsibly by its senior management.
- (2) An Authorised Person must undertake regular reviews of its systems and controls.
- 5.3.9** An Authorised Person must ensure that the Compliance Officer has access to sufficient resources, including an adequate number of competent staff, to perform his duties objectively and independently of operational and business functions.

Compliance

- 5.3.11** An Authorised Person must establish and maintain monitoring and reporting processes and procedures to ensure that any compliance breaches are readily identified, reported and promptly acted upon.

(...)

DFSA Rulebook, Anti-Money Laundering, Counter Terrorist Financing and Sanctions Module (AML)

AML 7 CUSTOMER DUE DILIGENCE

Timing of customer due diligence

- 7.2.1** (1) AA Relevant Person must, except as otherwise provided in Rule 7.2.2 or in section 7.3:
- (a) undertake the appropriate Customer Due Diligence under Rule 7.3.1(1)(a) to (c) and section 7.3 when it is establishing a business relationship with a customer; and

- (b) undertake the appropriate Customer Due Diligence under Rule 7.3.1(1)(d) after establishing a business relationship with a customer.

DFSA Rulebook, Conduct of Business Module (COB)

COB 6 ADDITIONAL RULES - INVESTMENT BUSINESS AND CRYPTO BUSINESS

6.7 Record keeping – voice and electronic communications

6.7.1 (1) AA Relevant Person must, except as otherwise provided in Rule 7.2.2 or in section 7.3:

- (1) An Authorised Firm must, subject to (2), take reasonable steps to ensure that it makes and retains recordings of its voice and electronic communications when such communications are with a Client or with another Person in relation to a Transaction, including the receiving or passing of related instructions.
- (2) The obligation in (1) does not apply in relation to voice and electronic communications which are not intended to lead to the conclusion of a specific Transaction and are general conversations or communications about market conditions.