DECISION NOTICE

To: Adenium Energy Capital Advisors Limited (In Liquidation) (**AECAL**)

Address: [redacted]

Date: 16 March 2022

ACTION

1. For the reasons set out in this Notice, and pursuant to Article 90(2)(a) of the Regulatory Law 2004, the Dubai Financial Services Authority (**DFSA**) has decided to impose on AECAL a fine of USD96,484 (the **Fine**).
2. AECAL agreed to settle this matter. The DFSA has therefore decided to reduce the fine by a settlement discount of 30%. Were it not for the settlement discount, the DFSA would have imposed a fine of USD137,835 on AECAL.
3. This Notice is addressed to AECAL alone. Nothing in this Notice constitutes a determination that any person other than AECAL and its parent company, Adenium Energy Capital Ltd (**Adenium Cayman**), has breached any legal or regulatory rule, and the opinions expressed in this 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 Notice or in the DFSA Rulebook, Glossary Module (**GLO**). Some of the defined terms are also set out in

Annex B. Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

EXECUTIVE SUMMARY

5. The DFSA finds that Adenium Cayman contravened Article 41(1) of the Regulatory Law 2004 – the Financial Services Prohibition.

6. By reason of its involvement in the relevant facts and matters as set out in this Notice describing the contravention by Adenium Cayman, the DFSA finds that AECAL was knowingly concerned in the contravention by Adenium Cayman referred to in paragraph 5 above. Therefore, under Article 86(1) of the Regulatory Law 2004, AECAL also committed this contravention.

7. The DFSA finds that AECAL also contravened the following DFSA administered Rules:
   (1) AML Rule 6.1.1 – Customer Risk Assessment;
   (2) AML Rules 7.1.1(1), 7.2.1(1), 7.3.1(1)(d) and 7.6.1(1) – Customer Due Diligence;
   (3) COB Rule 2.3.1 – Client Classification;
   (4) Article 44(2) of the Regulatory Law 2004 – Prohibition relating to Endorsements - and GEN Rule 2.2.8 – Permitted Financial Services Activities for Authorised Firms;
   (5) PIB Rule 3.5.3(1) – Capital Requirements for Categories 3B, 3C, 3D and 4; and
   (6) PIB Rule 3.2.5(3) – Systems and Controls - and GEN Rule 4.2.10 – Principle 10 - Relations with regulators.

FACTS AND MATTERS RELIED UPON

The Adenium Group

8. The Adenium Group (the **Adenium Group**) of companies includes but is not limited to the following companies:
   (1) Adenium Energy Capital Ltd (**Adenium BVI**);
   (2) Adenium Capital Ltd (**Adenium DIFC**);
   (3) Adenium Cayman; and
   (4) AECAL.

Adenium BVI

9. Adenium BVI was incorporated in the British Virgin Islands (the **BVI**) on or about 21 April 2010. It had no physical presence in the BVI.

10. Adenium BVI was established to secure, develop, invest in and manage solar energy projects in a number of countries (the **Projects**), and it also acted as the holding company for a number of Adenium Group entities. It was not authorised by the DFSA to carry on Financial Services in or from the Dubai International Financial Centre (**DIFC**).

Adenium DIFC

11. On 15 December 2011, Adenium DIFC was incorporated in the DIFC as a wholly-owned subsidiary of Adenium BVI.

12. Adenium DIFC was established for the stated purpose of managing shareholders' proprietary investments in the Projects. In 2015, it signed an agreement to provide a number of services to Adenium Cayman as described in paragraph 25 below. Adenium DIFC was not authorised by the DFSA to carry on Financial Services in or from the DIFC.

13. Adenium DIFC was the lessee of the Adenium Group offices on the 6[h] Floor of the South Tower of Emirates Financial Towers in the DIFC[1] and the employer of all Adenium Group staff who were based in the DIFC offices. As at the end of 2018, Adenium DIFC had 21 staff operating from its DIFC offices.

14. Adenium DIFC's registration with the DIFC Authority and its DIFC Commercial Licence expired on 14 December 2019.

Adenium Cayman

15. On 18 June 2014, Adenium Cayman was incorporated as an exempt company in the Cayman Islands. In or around December 2015, Adenium Cayman replaced Adenium BVI as the developer of the Projects and as the holding company for Adenium DIFC.

16. In relation to the Projects, Adenium Cayman:

    (1) established special purpose investment vehicles (**SPVs**) in the Cayman Islands or the BVI for each such Project;

    (2) prepared and distributed Marketing Materials to prospective investors;

    (3) made proprietary investments and raised third-party capital for the Projects;

    (4) entered into subscription agreements with investors relating to the Projects;

    (5) was the appointed manager for each of the Projects. The management agreements between Adenium Cayman and the SPVs stated that Adenium Cayman:

[1] Prior to the offices at Emirates Financial Towers, Adenium DIFC was registered at Office 918, Liberty House Tower.

(1) "*manages or will manage*" the SPVs (called "Investment Vehicles" in the management agreement); and

(2) was appointed to assist the SPVs in the sourcing, financing, acquisition, purchasing, managing and disposing of the Projects;

(6) received a sourcing fee and a management fee from the investors in the Projects; and

(7) held and managed the bank account to which investors paid the investment funds.

17. Adenium Cayman had no physical presence in the Cayman Islands. It operated from the Adenium Group's offices in the DIFC (see paragraph 13 above) and had no staff based in the Cayman Islands.

18. Adenium Cayman was not authorised by the DFSA to carry on Financial Services in or from the DIFC.

19. On 27 July 2020, Adenium Cayman was placed into liquidation in the Cayman Islands.

AECAL

20. On 1 November 2016, AECAL was incorporated in the DIFC. Adenium Cayman was at the time of incorporation, and continues to be, the holding company for AECAL.

21. On 26 April 2017, the DFSA authorised AECAL as a Category 4 firm to carry on the following activities:

(1) Advising on Financial Products;

(2) Arranging Credit and Advising on Credit; and

(3) Arranging Deals in Investments.

22. AECAL is the only entity in the Adenium Group that has been authorised by the DFSA to provide Financial Services in or from the DIFC. It had between seven and nine staff in its offices at the DIFC, which were shared with Adenium DIFC.

23. In February 2020, the DFSA suspended AECAL's Licence for a period of 12 months due to concerns including (but not limited to) its fitness and propriety and its failure to:

(1) classify and on-board investors in the Projects;

(2) comply with applicable AML legislation;

(3) conduct appropriate client suitability assessments and ensure that appropriate client agreements are in place;

(4) act with due skill, care and diligence;

(5) deal with the DFSA in an open and co-operative manner;

(6) ensure that it has an appropriate corporate governance framework;

(7) ensure that its affairs are managed effectively and responsibly by its senior management and that it has adequate systems and controls to comply with applicable DIFC legislation; and

(8) pay due regard to the interests of its clients and communicate with them in a clear, fair and not misleading way.

24. On 22 March 2021, AECAL was placed into voluntary liquidation.

Intra-Group Agreements

25. On 1 January 2015, Adenium Cayman and Adenium DIFC signed an agreement under which Adenium DIFC agreed to provide a number of services to Adenium Cayman including:

(1) finance and treasury services;

(2) health, safety, environment and quality services for all entities in the group; and

(3) human resource services.

26. Under the agreement, Adenium Cayman paid Adenium DIFC fees for the costs incurred by Adenium DIFC including staff's benefits, equipment, office rental, insurance, consultancy, legal and audit services, marketing, travel and training.

27. On 26 April 2017, Adenium Cayman and AECAL signed a services agreement under which AECAL agreed to provide Financial Services to Adenium Cayman, and also to source investors for the Projects.

28. Under the agreement, Adenium Cayman paid AECAL fees for the Financial Services provided, and AECAL paid Adenium Cayman fees for the costs of staff's benefits, office rental and other office expenses.

Mr Wassef El Sawaf (**Mr El Sawaf**)

29. Mr El Sawaf was a member of one of the three families that established and owned Adenium BVI, and he was also a director of Adenium BVI.

30. In November 2012, Mr El Sawaf was appointed as the Chief Executive Officer (**CEO**) of Adenium BVI and became a director of Adenium DIFC. He moved to Dubai in October 2012 and obtained a UAE residence visa through Adenium DIFC.

31. In 2014, when Adenium Cayman was incorporated, Mr El Sawaf became a director of Adenium Cayman. As one of the six directors of Adenium Cayman, Mr El Sawaf was part of the Board which was responsible for the strategy and the overall business plan for the company.

32. When Adenium Cayman replaced Adenium BVI in or around December 2015, Mr El Sawaf also became the CEO of Adenium Cayman. As the CEO of Adenium Cayman (and previously Adenium BVI), Mr El Sawaf was responsible for:

(1) raising equity for the firm;

(2) growing the Projects;

(3) developing new markets for entry;

(4) managing the day-to-day requirements of the company and its staff; and

(5) dealing with all stakeholders.

33. On 26 April 2017, the DFSA authorised Mr El Sawaf as an Authorised Individual to perform the SEO and Licensed Director functions for AECAL. Mr El Sawaf remained the SEO and a Licensed Director of AECAL until 7 June 2021.

The Projects

34. Adenium Cayman (and previously Adenium BVI) secured and developed solar energy Projects in a number of countries, including Jordan, Japan, Egypt and Italy. This Notice focuses on the following Projects that Adenium Cayman developed in Japan and Jordan:

(1) Kawasaki, Beppu, Hirono, Yamada and Kawazu in Japan; and

(2) Zahrat Al Salam, Al Ward Al Joury, Al Zanbaq and Jordan Solar One (collectively known as "Jordan Round One") in Jordan.

35. Each Project generally consisted of two phases:

(1) the development phase, which included securing land and financing for the Project and obtaining permits from the authorities. This phase ended once Adenium Cayman had obtained the required permits and secured the debt for the Project; and

(2) the construction and operational phase, which included building, commissioning, and operating the solar plant.

36. For each Project, Adenium Cayman:

(1) established a local company in the jurisdiction where the Project was being developed to hold the assets of the Project and to manage its construction and operations (the **Operational Companies**); and

(2) set up SPVs (called Investment Vehicles in the management agreements referred to in paragraph 16(5)(1) above) in jurisdictions such as the Cayman Islands and BVI, through which investors, including Adenium Cayman, invested in the Project (the **Investment Companies**). Adenium Cayman set up separate Investment Companies for each of the two phases of a Project described in paragraph 35 above.

37. In return for the investment, each investor received a number of shares in the Investment Company related to the specific phase of the Project in which the investor had invested.

38. The relevant Investment Companies, and the number of investors, for each of the Projects are set out in the Table below.

Project	**Investment Companies[2]**	**Number of Investors**
Jordan Round I Projects	Adenium Solar Jordan Limited Yasmeen Solar Jordan Limited	7
Kawasaki	Adenium Solar Japan Limited Sedoka 2 Holdings Limited Akiko Capital LP	8
Beppu	Vinami Capital Limited Sedoka 3 Holdings Limited	14
Hirono	Tsubaki Solar Limited Sedoka 4 Holdings Limited	33
Yamada	Misaki Capital Limited Sedoka 5 Holdings Limited	35
Kawazu	Zeini Capital Limited Sedoka 6 Holdings Limited	13

39. Adenium Cayman funded the Projects from both debt and equity. In relation to equity funding, Adenium Cayman funded each of the Projects itself, and by raising capital from investors.

40. The Adenium Group had a number of staff based in the countries where the Projects were being developed, primarily in operational and technical roles. However, all of the Adenium Group's non-operational staff were staff of Adenium DIFC and were based in Adenium DIFC's offices from which they managed the Projects.

41. As at the date of this Notice, Adenium Cayman has sold many of its Projects referred to in the Table at paragraph 38 above. The active Projects are the Kawasaki and the Jordan Round One Projects.

The Marketing Materials used for the Projects

42. As part of sourcing investors for the Projects, Adenium Cayman prepared and (until the date AECAL was Licensed by the DFSA) distributed Marketing Materials to prospective investors, which included:

(1) investor presentations for the relevant Project(s) being marketed;

(2) investment summaries for each Project;

[2] Some of the Investment Companies used for each Project changed over time. The table lists the SPVs used for each Project at a specific point in time.

(3) Project summaries; and

(4) corporate brochures and corporate presentations.

43. The Marketing Materials included details of the relevant Project(s) including, but not limited to:

(1) the location of the Project(s);

(2) technical specifications;

(3) the status of the progress of the Project(s);

(4) financial information, such as estimations of costs, revenue and fees;

(5) the financing for the Project;

(6) the corporate structure i.e. the Investment Companies and other SPVs, and the Operational Companies; and

(7) information about Adenium Cayman and its management team.

44. The corporate brochures included the Adenium Group office details as follows:

(1) the address of the offices in the DIFC as the headquarters of the Adenium Group;

(2) a registered office in the Cayman Islands; and

(3) the addresses of the different Adenium offices in other countries such as Japan and Jordan.

The Investors

45. Investors in the Projects included institutional investors, such as banks, corporate entities and individual investors. Individual investors were usually high net-worth individuals with a personal or professional connection to Mr El Sawaf. Investors also included staff or individuals working for the Adenium Group, and shareholders of the Adenium Group as direct investors.

46. In most cases, Mr El Sawaf sourced individual investors from family and friends. On some occasions, Mr El Sawaf was approached by potential investor(s) with an interest in investing in the Projects.

47. The reason for incorporating AECAL, and obtaining a DFSA Financial Services Licence for that company, was so that investors for the Projects could be sourced from individuals other than Mr El Sawaf's family, friends and other personal connections. Shortly after AECAL obtained its DFSA Licence in April 2017, an individual was hired as a "Director of Equity Investments" to "help the CEO source investors" to invest in the Projects. Though the individual's UAE residence visa was with Adenium DIFC, his business card and e-mail signature block stated that he held a position with AECAL.

48. Mr El Sawaf was the main contact person for investors (and potential investors) in the Projects. He regularly called potential investors and met with them, both within and outside the DIFC, to discuss the types of investments offered by Adenium Cayman.

49. Adenium Cayman offered two types of investments, depending on the phase of a Project in which they invested (see paragraph 35 above). The duration of the investment, the risk borne by the investor and the return offered to, and fees paid by the investor varied greatly between investing in one phase or the other as follows:

(1) investors in the development phase of a Project received returns on investment which were allocated according to a "waterfall" structure, namely:

a. investors would get their capital back, together with a fixed return;

b. Adenium Cayman would then receive a fixed return; and

c. the rest of the profit, if any, was divided equally between the investor and Adenium Cayman; and

(2) investors in the construction phase of a Project received an annual payment until they exited the investment, usually on the sale of the completed Project. Their investment amount was also returned when they exited the Project. Any excess profit for the Project was distributed among investors up to a fixed rate of return, and then split between the investors and Adenium Cayman.

50. All investors paid a one-time sourcing fee to Adenium Cayman, calculated as a percentage of the investment amount and paid on top of the investment amount. Investors in the construction phase of a Project also paid a management fee to Adenium Cayman every year, calculated as a percentage of their investment amount and set off against the annual distribution.

Investor Agreement

51. After, or at the same time, as the investor received the Marketing Materials, either Mr El Sawaf or another staff member contacted the investor to provide them with a subscription agreement (the **Investor Agreement**)[3] between:

(1) the investor;

(2) Adenium Cayman (and previously Adenium BVI); and

(3) the Investment Company for the relevant Project.

52. The Investor Agreement appointed Adenium Cayman as the manager for each Project. The Investor Agreement also stated that "*the Investment [Company] has been established and is being managed by the Manager*" and that "*[t]he Manager shall act in good faith and in a manner reasonably believed to be in the best interests of the Investment [Company]*".

[3] Investor Agreements were subscription agreements or equity participation agreements.

53. Adenium Cayman (and previously Adenium BVI) also signed or drafted management agreements with some (but not all) of the Investment Companies. Under these agreements, Adenium Cayman (and previously Adenium BVI):

(1) represented that it has "*extensive experience in the renewable energy industry and in asset management services by providing day-to-day management services, professional expertise, negotiation and transaction skills on the sourcing, purchase, sale, lease, trade, finance and refinance of the Solar Projects*";

(2) was appointed as the exclusive manager of the relevant Investment Company;

(3) as the manager of the relevant Investment Company (see paragraph 16(5)(1) above), would carry out the activities specified in paragraph 16(5)(2) above, in return for a management fee, which was charged to the investors; and

(4) was "*free to provide any other administration, portfolio management, investment management or investment advisory services to other parties*".

54. The address of the Investment Company in the management agreement was the address of the Adenium Group in the DIFC specified in paragraph 13 above.

55. The Investor Agreement included the following information:

(1) the investment amount;

(2) if known, the number and type of shares in the Investment Company that the investor would receive in return for the investment;

(3) the fees to be paid by the investor to Adenium Cayman as the manager;

(4) bank account details for the transfer of the investment amount, which were those of the account(s) of Adenium Cayman;

(5) a reference to the Marketing Materials provided to the investor;

(6) in some agreements, a reference to a management agreement between the Investment Company and Adenium Cayman; and

(7) a reference to the investment being conditional on the receipt of KYC information to the satisfaction of Adenium Cayman.

56. On signing the Investor Agreement and transferring the investment amount, investors received a proportionate number of shares in the applicable Investment Company which they held for the duration of the investment.

57. There was generally no mechanism for an investor to exit the investment earlier than the duration of the respective phase of the Project. The early exit of an investor was left to the discretion of Mr El Sawaf and would generally be done by way of Adenium Cayman buying back the shares in the Investment Company held by the investor.

The Bank Accounts

58. Adenium Cayman did not have a segregated account(s) for investors' funds.

59. Adenium Cayman operated operational bank accounts in various denominations with two banks in the UAE.

60. Adenium DIFC also operated operational bank accounts in various denominations with two banks in the UAE.

61. On or around 18 September 2017, AECAL opened a bank account in Dubai which was also an operational account.

Investors' Money

62. As stated in paragraph 55(4) above, the Investor Agreement included details of the bank account of Adenium Cayman to which investment funds were to be paid. Adenium Cayman subsequently transferred an amount equivalent to the investment funds to the bank account of the Operational Company of the Project. The transfer to the bank account of the Operational Company of the Project was not immediate, sometimes taking up to several weeks.

63. The bank accounts of Adenium Cayman were used to pay for company expenses. The funds paid by investors could be used to pay for Adenium Cayman's operational expenses until transferred to the bank account of the Operational Company.

64. Similarly, redemptions of investors' investments, and the profits/income from those investments, were paid from Adenium Cayman's bank account to the investors.

The Website

65. The website of Adenium (www.adeniumcapital.com) referred to "Adenium Energy Capital", which corresponds to the name of Adenium Cayman (and previously Adenium BVI) without the word "Ltd", or simply to "Adenium".

66. The website stated that:

    (1) "Adenium Energy Capital" is based in the DIFC and regulated by the DFSA; and

    (2) "*Adenium's team*" performs the day-to-day investment and administrative operations needed to manage the assets.

67. The website also included several press releases issued by Adenium Cayman which stated that Adenium Cayman is "based in Dubai".

68. In or around May 2017, a disclaimer in respect of AECAL was added at the bottom of each page of Adenium website stating, amongst other things, that AECAL was "regulated by the DFSA for the provision of advisory and arranging services".

69. In relation to signature blocks in e-mails, there was no differentiation between the various entities in the Adenium Group. Until 2017, the e-mail signature included the position of the staff member, a reference to Adenium Cayman and the address of the Adenium Group offices in the DIFC. In 2017 the signature block was changed for AECAL staff so that the signature block referred to AECAL, and a disclaimer was added in respect of AECAL.

Main operations carried on in or from the DIFC

70. Adenium Cayman's registered office was in Cricket Square, Hutchins Drive, Grand Cayman. However, it had no physical presence in the Cayman Islands with its main operations taking place at the DIFC offices leased by Adenium DIFC – see paragraph 13 above. After it was incorporated in November 2016, and then Licensed by the DFSA in April 2017, AECAL also shared these same premises. These premises were therefore the main operational offices of the Adenium Group.

71. All Adenium Group staff based in the DIFC offices, including those working for Adenium Cayman (and, once incorporated and Licensed by the DFSA, for AECAL), were employed by Adenium DIFC and had Adenium DIFC residence visas.

72. The effect of these arrangements was that the business activities of Adenium Cayman and Adenium DIFC (and, once incorporated and Licensed by the DFSA, AECAL) were carried on by Adenium DIFC staff, who also carried out due diligence on investors on behalf of Adenium Cayman. Therefore, in managing the Projects, marketing the Projects to the investors, carrying out due diligence on the investors and also communicating with the investors, the relevant staff were acting for Adenium Cayman, and therefore Adenium Cayman operated from the DIFC.

73. The activities of Adenium Cayman in relation to marketing, arranging for investments by the investors in the Investment Companies (including the issue of shares) and some aspects of the management of the Projects were therefore mainly carried on in and from the DIFC.

Collective Investment Funds

74. For the reasons set out below, the arrangements relating to each of the Projects constituted a Collective Investment Fund (a **Fund**) within the meaning of Article 11 of the Collective Investment Law 2010 (the **CIL**).

75. The relevant arrangements, as contained in and evidenced by documents such as the Investor Agreements and the Marketing Materials, were made with respect to the underlying assets for each of the Projects i.e. the property which was expected to generate profits or income.

76. The arrangements that constituted a Fund were the entirety of the arrangements for each Project through which the profits or income were expected to be generated. The arrangements were, therefore, not limited to either the Operational Companies or the Investment Companies or both.

77. The purpose or effect of the arrangements was to enable the investors, by acquiring shares in the Investment Companies, to participate in, or receive profits or income from, the acquisition, holding, management or disposal of the property relating to each Project, or sums paid out of such profits or income.

78. The investors did not have day-to-day control over the management of the property of the Operational Companies. As such, under Article 11(1) of the CIL, the investors who participated in the arrangements are the Unitholders.

79. The contributions of the investors were pooled in the accounts of Adenium Cayman and then in the accounts of the relevant Operational Company. The profits or income out of which payments were to be made to investors were generally pooled in the accounts of the Operational Company, and then in the account of Adenium Cayman.

80. The property of the Operational Companies and the Investment Companies were managed as a whole by Adenium Cayman. There was only one management and decision-making structure for each of the Projects, for which Adenium Cayman was responsible. Adenium Cayman was also responsible for the business plan and the strategy for each of the Projects and received a management fee from the investors for managing the Projects.

81. Under the terms of the Investor Agreements (see paragraphs 51 to 57 above), Adenium Cayman was legally accountable to the investors for the management of the Projects, including the property held with respect to each of the Projects. Adenium Cayman also established, managed or otherwise operated or wound up the Projects. On that basis, Adenium Cayman was, pursuant to Article 20(2) of the CIL, the person managing each Fund.

82. Each of the funds was a Foreign Fund as defined in Article 13 of the CIL as the Investment Companies were not established or domiciled in the DIFC, and the funds were not External Funds as defined in Article 14(1) of the CIL because they were not managed by an Authorised Firm.

83. As defined in Schedule 1 of the CIL, the rights or interests of the investors participating in the arrangements set out at paragraphs 75 to 81 above were Units. The Investor Agreements set out the contractual basis for the prospective investor's investment.

Adenium Cayman

84. As set out in paragraphs 70 to 83 above:

(1) the arrangements relating to each of the Projects constituted a Fund; and

(2) Adenium Cayman managed the Funds in or from the DIFC.

85. As Adenium Cayman was legally accountable to the Unitholders in each Fund for the management of the property held for or within the Fund and established, managed or otherwise operated or wound up each Fund, it carried on the Financial Service of Managing Collective Investment Funds. At no stage was Adenium Cayman authorised by the DFSA to carry on Financial Services in or from the DIFC.

AECAL

86. As stated in paragraph 47 above, AECAL was established and obtained DFSA authorisation in order that the Projects could be marketed to investors other than Mr El Sawaf's friends, family and other personal connections.

87. From the date that it was Licensed by the DFSA in April 2017, AECAL:

(1) promoted the Projects to potential investors. Mr El Sawaf sent the Marketing Materials referred to in paragraph 42 above and the Investor Agreements by email to potential investors using his signature block that included a reference to AECAL;

(2) had a person in the position of "Director of Equity Investments" to "help the CEO source investors" to invest in the Projects –see paragraph 47 above; and

(3) arranged for approximately 31 investors to invest in the Projects.

This activity constituted the Financial Service of Arranging Deals in Investments and meant that those 31 investors referred to in paragraph 87(3) above were Clients of AECAL.

Failure to Meet Requirements in relation to Customers and Clients

Client on-boarding

88. From 26 April 2017 (i.e. the date AECAL was Licensed by the DFSA) until on or about 16 September 2019, the Adenium Group operated as follows in respect of investors:

(1) AECAL considered that it had only one Client; namely, Adenium Cayman;

(2) AECAL on-boarded and conducted Customer Due Diligence (**CDD**) only on Adenium Cayman;

(3) AECAL referred potential investors to Adenium Cayman but did not on-board the investors itself as it incorrectly considered that it was not carrying on a Financial Service with or for the investors and, therefore, they were not Clients of AECAL;

(4) investors entered into agreements with Adenium Cayman to invest in the Projects, and particularly the Investment Companies; and

(5) Adenium DIFC on-boarded and conducted due diligence on investors on behalf of Adenium Cayman.

89. On or around May 2017, the Adenium Group developed a six-step on-boarding process (**Investor On-Boarding Process**) for internal purposes. According to the Investor On-Boarding Process, the Adenium Group had to do the following before accepting and on-boarding investors:

(1) an initial screening involving completion of a one-page form with basic details of the potential investor;

(2) have the investor complete an "Investor Information" form. The form included details such as information on the business activity, the legal structure and the directors, for corporate investors, and general details such as address, contact information and information related to politically exposed persons (**PEP**), for individual investors. The form also included details of the source of funds of both individual and corporate investors;

(3) obtain documents from investors to prove their net assets and source of wealth;

(4) obtain identity documents, which mainly consisted of passport copies and utility bills for individual investors; and

(5) obtain corporate documents, such as the memoranda and articles of association and certificates of incorporation for corporate investors.

90. The Adenium Group did not fully and consistently implement the Investor On-Boarding Process. In addition, in many instances the information and documents obtained from potential investors or investors did not include proof of source of funds and wealth. In some cases, investors did not even provide passport copies before being accepted and on-boarded.

91. Investors were not classified as either Professional or Retail.

92. The Investor On-Boarding Process also included a "risk classification" of the investor. The risk classification was a form that was used to classify investors according to risk, and included questions to assess the investor's exposure to various risk factors such as geographical risk, business risk, and whether the investor was a PEP.

93. Following the risk classification, an investor could be subject to more detailed background checks and, if unsatisfactory, the investor could be rejected. In practice, however, no investor was rejected. In addition, the risk score allocated to an investor was also often not considered when determining whether or not enhanced due diligence was required. On at least one occasion, an investor was flagged as a PEP but Adenium Cayman did not perform more detailed due diligence on that investor.

94. In May and June 2018, a review of AECAL's business model was undertaken, which resulted in a memo dated 26 June 2018 to Mr El Sawaf and others. The memo:

(1) set out AECAL's practice of referring investors to Adenium Cayman, without on-boarding them as Clients on the basis that AECAL did not consider it had provided any regulated activity, such as Advising and Arranging;

(2) stated, however, that AECAL "*is further advised that going forward, it should review the nature of business with the new investor relations in line with the DFSA definition of arranging deals in investments and advising of financial products and complete onboarding of clients*"; and

(3) noted that, based on a sample of four investors, the due diligence carried out did not meet the requirements of DFSA administered legislation in relation to establishing the investors' source of funds and wealth; and Client Classification.

95. AECAL met with the DFSA's Supervision Department on or about 24 September 2018, where the issues set out in the memo referred to in paragraph 94 above were discussed with the DFSA. Several further meetings were held in 2019, including but not limited to meetings on 14 January 2019 and 7 February 2019.

96. Following these meetings, the DFSA Supervision Department issued a number of document requests to AECAL, which AECAL promptly complied with. The DFSA Supervision Department also recommended that AECAL obtain independent legal advice on its compliance with DFSA regulatory requirements. This advice was obtained in April 2019 and shared with the DFSA's Supervision Department.

97. On 29 May 2019, the Supervision Department also carried out an onsite visit. Following the onsite visit, the Supervision Department referred the matter to the DFSA's Enforcement Department on 23 July 2019.

98. On 16 September 2019, the DFSA's Supervision Department issued a Supervisory Concerns Letter to AECAL. From this date, AECAL started on-boarding the investors as its Clients and conducting CDD and Client Classification in accordance with DFSA administered legislation as part of a remediation exercise required by the DFSA in the Supervisory Concerns Letter (the **Remediation Exercise**).

Carrying on Financial Services

99. As stated in paragraph 87 above, from the date that it was Licensed by the DFSA in April 2017, AECAL promoted the Projects to potential investors and sourced investors for the Projects. AECAL carried on the Financial Services of Arranging Deals in Investments and/or Advising on Financial Products for investors because:

(1) Adenium DIFC employed the "Director of Equity Investments" as an individual who represented AECAL and whose specific purpose was sourcing investors for the Projects (see paragraph 47 above);

(2) the services agreement between Adenium Cayman and AECAL described in paragraph 27 above stated that AECAL agreed to source investors for the Projects;

(3) Adenium's website and the Marketing Materials provided to potential investors contained representations that AECAL was engaging in advising and arranging activities;

(4) AECAL's updated Regulatory Business Plan provides that AECAL is established "*to provide* […] *advisory services and fund raising services for investors*"; and

(5) as stated in paragraph 87 above, Mr El Sawaf, as the SEO of AECAL, was the main person who promoted the Projects to potential investors and who procured investors for the Projects. Mr El Sawaf sent emails to potential investors using his signature block that included a reference to AECAL.

Customer Due Diligence

100. AECAL was required to conduct CDD in accordance with AML[4] Rules 7.1.1.(1) and 7.2.1(1) on its Clients - namely, the investors - with or for whom it carried on Financial Services.

101. The CDD conducted on the investors that were sourced in or from the DIFC was not in accordance with the DFSA AML Rules in AML Chapter 7 in that:

(1) it involved obtaining copies of the investors' passports and utility bills to verify identity. However, the CDD obtained often did not contain sufficient verifiable information about the investors' legal domicile and current residential address;

(2) there was insufficient evidence/documents in respect of the net assets of the investors and the investors' source of wealth and source of funds;

(3) there was insufficient information and documents in relation to the identities of the ultimate beneficial owners of the corporate investors;

(4) it was not conducted in a consistent manner and sometimes it was conducted after establishing a business relationship with the investor and receiving the investment amount; and

[4] References to the AML Module of the DFSA Rulebook are to version AML/VER13/02-17, which was in force during the relevant period (in force from 1 February 2017 until mid-October 2018).

(5) on-going customer CDD of the investors was not undertaken. Once the documents referred to in (1) above were obtained, there was no process to update or review these documents.

102. In addition, though the Investor On-Boarding Process included a risk assessment of the investors as specified in paragraphs 92 and 93 above, these risk assessments did not meet the requirements of AML Rule 6.1.1 in that:

(1) they were not completed in respect of every investor;

(2) they were not completed prior to conducting CDD on investors;

(3) they did not include identification of beneficial owners of corporate investors; and

(4) little or no documentation was obtained to support the risk ratings given to the investors.

No Customer Classification by AECAL

103. AECAL was required under COB Rule 2.3.1, before carrying on a Financial Service with or for a Person, to classify that Person as a Retail Client, Professional Client or Market Counterparty. As stated in paragraph 98 above, during the period 26 April 2017 to 16 September 2019 AECAL did not classify investors as Retail Clients, Professional Clients or Market Counterparties.

Carrying on retail business without a Retail Client endorsement

104. AECAL did not have a Retail Client Licence Endorsement as set out in GEN Rule 2.2.8 and it was, therefore, only permitted to provide Financial Services to Professional Clients or Market Counterparties.

105. During the Remediation Exercise (see paragraph 98 above), it was discovered that at least four investors did not meet the criteria set out in COB Rule 2.3.3 to be classified as Professional Clients.

EBCM requirement

106. AECAL was at all material times an Authorised Firm in Category 4 for the purposes of the prudential requirements in PIB.

107. Pursuant to PIB Rule 3.5.3(1), AECAL was required to maintain, at all times, an amount in excess of its Expenditure Based Capital Minimum (**EBCM**) in the form of liquid assets. AECAL's required EBCM was calculated in accordance with PIB section 3.7 and set at USD136,000.

108. The only liquid assets held by AECAL were the funds held in its operational bank account – see paragraph 61 above.

109. From the day that the account was opened on or about 18 September 2017, until 18 January 2018, AECAL failed to maintain a bank account balance in excess of its EBCM.

110. From 18 January 2018 until 31 December 2019, the balance of AECAL's bank account fell below its EBCM on eight occasions as follows:

(1) from 9 April 2018 until 4 May 2018, during which time it reached a minimum of USD132,293;

(2) from 9 May 2018 until 12 June 2018, during which time it reached a minimum of USD134,953;

(3) from 3 July 2018 until 9 July 2018, during which time it reached a minimum of USD135,862;

(4) from 11 September 2018 until 25 September 2018, during which time it reached a minimum of USD1,488;

(5) from 2 October 2018 until 10 October 2018, during which time it reached a minimum of USD12,517;

(6) from 28 October until 11 December 2018, during which time it reached a minimum of USD2,486;

(7) from 5 March 2019 until 17 March 2019, during which time it reached a minimum of USD2,531; and

(8) from 30 November 2019 until 31 December 2019, when the balance of the account was USD135,546.

111. Under PIB Rule 3.2.5(3), AECAL was required to notify the DFSA immediately and confirm in writing any breach, or expected breach, of any provisions of PIB Chapter 3. In addition, under GEN Rule 4.2.10 (Principle 10 – Relations with regulators) AECAL was required to keep the DFSA promptly informed of significant events of which the DFSA would reasonably be expected to be notified.

112. AECAL only notified the DFSA of the contravention of PIB Rule 3.5.3(1) listed in paragraph 110(8) above. In all the other instances described in paragraphs 109 and 110(1) to 110(7) above, AECAL did not notify the DFSA of the contraventions of PIB Rule 3.5.3(1) at the time they occurred, as it was required to do by PIB Rule 3.2.5(3).

CONTRAVENTIONS

113. Having regard to the facts and matters set out in this Notice, the DFSA finds that AECAL committed the contraventions set out below.

Adenium Cayman carrying on unauthorised Financial Services

114. Article 41(1) of the Regulatory Law 2004 prohibits a person from carrying on a Financial Service in or from the DIFC, unless under Article 42(3) the person is an Authorised

Firm whose Licence authorises it to carry on the relevant Financial Services, an External Fund Manager managing a Domestic Fund, or an Authorised Market Institution whose Licence authorises it to carry on the relevant Financial Service.

115. By reason of the facts set out in paragraphs 84 and 85 above, Adenium Cayman contravened Article 41(1) of the Regulatory Law 2004, by carrying on the Financial Service of Managing Collective Investment Funds when it was not an Authorised Firm with a Licence authorising it to do so.

AECAL's knowing involvement in Adenium Cayman's contravention

116. Article 86(1) of the Regulatory Law 2004 provides that if a person is knowingly concerned in a contravention of the Law or Rules or other legislation administered by the DFSA committed by another, the aforementioned person commits a contravention and is liable to be proceeded against and dealt with accordingly.

117. Article 86(7) of the Regulatory Law 2004 provides that a person is 'knowingly concerned' in a contravention if, and only if, the person:

(1) has aided, abetted, counselled or procured the contravention;

(2) has induced, whether by threats or promises or otherwise, the contravention,

(3) has in any way, by act or omission, directly or indirectly, been knowingly involved in or been party to the contravention; or

(4) has conspired with another or others to effect the contravention.

118. Mr El Sawaf, as the CEO and a director of Adenium Cayman, had knowledge of Adenium Cayman's contravention referred to in paragraph 115 above. As the SEO and a Licensed Director of AECAL, Mr El Sawaf's knowledge is to be attributed also to AECAL.

119. AECAL was, by act or omission, directly or indirectly, knowingly involved in or party to, the activities carried on by Adenium Cayman in or from the DIFC. AECAL's involvement in Adenium Cayman's activities included:

(1) AECAL and Adenium Cayman shared, and operated from, the Adenium Group offices at the DIFC;

(2) all except one of the Adenium Group staff holding a position with AECAL also held a position with Adenium DIFC and worked for Adenium Cayman, enabling Adenium Cayman to carry on its business activities in or from the DIFC;

(3) AECAL and Adenium Cayman shared common senior management, by virtue of two of the directors of AECAL being also directors of Adenium Cayman;

(4) AECAL signed an agreement with Adenium Cayman under which AECAL agreed to provide Financial Services to Adenium Cayman and to source investors for the Projects; and

(5) AECAL promoted the Projects to potential investors and arranged for approximately 31 investors to invest in the Funds that were managed by Adenium Cayman in or from the DIFC.

120. Further, AECAL had knowledge of Adenium Cayman's unauthorised activities, but it failed to prevent the serious contravention of the Financial Services Prohibition by Adenium Cayman.

121. By reason of AECAL's involvement (as set out in paragraphs 118 to 120 above) in the contravention by Adenium Cayman from 26 April 2017, AECAL was knowingly concerned in that contravention and under Article 86(1) of the Regulatory Law 2004 is liable accordingly.

AECAL's contravention of AML customer risk requirements

122. AML Rule 6.1.1 requires a Relevant Person to undertake a risk-based assessment of every customer and assign the customer a risk rating proportionate to the customer's money laundering risks. It requires the customer risk assessment to be completed prior to undertaking Customer Due Diligence for new customers, and whenever it is appropriate for existing customers. When undertaking a risk-based assessment of a customer, a Relevant Person is required to take certain steps including identifying the customer and any Beneficial Owner and obtaining specified information.

123. By reason of the facts set out in paragraphs 92, 93 and 102 above, AECAL (a Relevant Person as defined in AML Rule 1.1.2) contravened AML Rule 6.1.1 by failing to undertake a risk-based assessment of every customer and assign a customer risk rating proportionate to the customer's money laundering risks, in accordance with the requirements in that Rule.

AECAL's contravention of AML customer due diligence requirements

124. AML Rule 7.1.1 requires a Relevant Person to undertake Customer Due Diligence under AML section 7.3 for each of its customers and, in addition, to undertake Enhanced Customer Due Diligence under Rule 7.4.1 in respect of any customer it has assigned as high risk. AML section 7.2 sets out the requirements for timing of the Customer Due Diligence and AML sections 7.3 to 7.6 set out the requirements for how the Customer Due Diligence is to be undertaken.

125. By reason of the facts set out in paragraphs 89, 90 and 101 above, AECAL (a Relevant Person as defined in AML Rule 1.1.2) contravened:

(1) AML Rule 7.1.1 by failing to undertake the appropriate standard of Customer Due Diligence of each customer in accordance with AML sections 7.3 and 7.4;

(2) AML Rule 7.2.1 by failing to undertake the appropriate standard of Customer Due Diligence in respect of each customer when it established a business relationship with the customer; and

(3) AML Rule 7.3.1(1)(d) and 7.6.1 by failing to carry out ongoing Customer Due Diligence in respect of each customer.

AECAL's failure to classify clients

126. COB Rule 2.3.1 requires an Authorised Firm, before carrying on a Financial Service with or for a Person, to classify that Person as a Retail Client, Professional Client or Market Counterparty

127. By reason of the facts set out in paragraphs 91, 98 and 103 above, during the period 26 April 2017 to 16 September 2019, AECAL contravened COB Rule 2.3.1 by failing to classify Persons as required by that Rule before carrying on Financial Services with or for the Persons.

AECAL carrying on retail business without a Retail Client endorsement

128. Article 44(2) of the Regulatory Law 2004 prohibits a person from carrying on an activity prescribed under Article 44(1) unless the person has an appropriate Licence Endorsement authorising it to carry on that activity. GEN Rule 2.2.8(1) provides that a Financial Service may be carried on with or for a Retail Client only by an Authorised Firm which is permitted to do so by an endorsement on its Licence.

129. By reason of the facts set out in paragraphs 104 and 105 above, AECAL contravened Article 44(2) of the Regulatory Law 2004 and GEN Rule 2.2.8(1) by carrying on a Financial Service with or for Retail Clients when it was not permitted to do so by an endorsement on its Licence.

AECAL's failure to maintain Expenditure Based Capital Minimum

130. PIB Rule 3.5.3(1) provides that an Authorised Firm must maintain, at all times, an amount in excess of its EBCM in the form of liquid assets.

131. By reason of the facts set out in paragraphs 109 and 110 above, AECAL contravened PIB Rule 3.5.3(1) by failing to maintain at all times liquid assets in excess of its EBCM.

AECAL's failure to notify DFSA of breach of its EBCM requirement

132. PIB Rule 3.2.5(3) requires an Authorised Firm to notify the DFSA immediately and confirm in writing any breach, or expected breach, of any of the provisions of PIB Chapter 3 by the Authorised Firm. In addition, GEN Rule 4.2.10 requires an Authorised Firm to keep the DFSA promptly informed of significant events or anything else related to the Authorised Firm of which the DFSA would reasonably be expected to be notified.

133. By reason of the facts set out in paragraphs 111 and 112 above, AECAL contravened PIB Rule 3.2.5(3) and GEN Rule 4.2.10 by failing to notify the DFSA that it had breached PIB Rule 3.5.3(1) by not maintaining liquid assets in excess of its EBCM.

SANCTIONS

134. In deciding whether to take the action set out in this 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**).

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

(1) the DFSA's objectives, in particular 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 (Article 8(3)(d) of the Regulatory Law 2004);

(2) the deterrent effect of the action and the importance of deterring other persons from committing further or similar contraventions; and

(3) the seriousness of the contraventions, including the impact on the reputation of the DIFC.

136. The DFSA has considered the sanctions and other options available to it and has concluded that imposing a fine on AECAL is appropriate given the circumstances of this matter.

Determination of Fine

137. 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 6-6 of the RPP as follows.

Step 1 - Disgorgement

138. There is no evidence to suggest that AECAL made a profit or avoided a loss, as a direct result of the contraventions. Accordingly, this step was not considered relevant.

Step 2 – The Seriousness of the Contraventions

139. The DFSA finds AECAL's contraventions to be particularly serious because:

(1) the contraventions occurred over a significant period of time and, in the case of the contraventions specified in paragraphs 131 and 133 above, were repeated on a number of occasions;

(2) the contraventions involved unlicensed Financial Services carried out in or from the DIFC;

(3) the failure to carry out adequate CDD, and to comply with other requirements of the DFSA's AML Module created serious risks;

(4) the failure to meet the DFSA's PIB requirements was intentional, in that Mr El Sawaf was aware that permitting the balance of AECAL's bank account to fall below its EBCM requirement was a contravention of DFSA administered Rules; and

(5) as a result of Adenium Cayman's unlicensed activity, investors did not have the protection that Authorised Firms are required to provide in relation to segregation of funds, which created an increased and unacceptable risk of loss to the investors.

140. With the exception of the contraventions specified in paragraph 139(4) above, the DFSA does not consider that there is anything which would suggest AECAL's contraventions were intentional or that AECAL acted in a deliberate manner.

141. The DFSA has also taken into consideration that the Funds were promoted mainly amongst the family and friends of Mr El Sawaf.

142. Taking the above factors into account, the DFSA considers that a financial penalty of USD153,150 appropriately reflects the seriousness of the contraventions. This figure is equivalent to 10% of USD1,531,500, which is representative of AECAL's relevant revenue during the Relevant Period.

Step 3 – Mitigating and aggravating factors

143. In considering the appropriate level of financial penalty, the DFSA had regard to the factors set out in RPP 6-6-8. The DFSA has taken into consideration the following mitigating factors in determining the appropriate level of the Fine:

(1) AECAL brought to the DFSA's attention the failings when they were identified in the memo dated 26 June 2018; and

(2) AECAL agreed with the DFSA that it should carry out the Remediation Exercise.

144. As a result of these factors, the DFSA considers that, overall, these factors mitigate the seriousness of the contraventions by AECAL. The DFSA has therefore decided to decrease the figure after Step 2 by 10%.

145. Accordingly, the figure after Step 3 is USD137,835.

Step 4 – Adjustment for deterrence

146. Pursuant to RPP 6-6-9, 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 who committed the contravention, or others, from committing further or similar contraventions, then the

DFSA may increase it. RPP 6-6-9 sets out the circumstances where the DFSA may do this.

147. The DFSA considers that the figure after Step 3 is sufficient for the purposes of deterring AECAL and others from committing further or similar contraventions. The DFSA therefore does not consider it appropriate to adjust the amount of the fine arrived at after Step 3 for the purposes of deterrence.

148. Accordingly, the figure after Step 4 is USD137,835.

Step 5 – Settlement discount

149. Where the DFSA and the person on whom the financial penalty is to be imposed agree on the amount and other terms, RPP 6-6-10 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which agreement is reached.

150. The DFSA and AECAL have reached agreement on the relevant facts and matters relied on and the amount of fine that would be imposed. Having regard to its usual practice and in recognition of the benefit of this agreement to the DFSA, the DFSA has applied a 30% discount to the level of fine which the DFSA would have otherwise imposed.

151. Accordingly, the figure after Step 5 is USD96,484.

The Level of the Fine imposed

152. Given the factors and considerations set out in paragraphs 137 to 151 and the circumstances of this matter, the DFSA has determined that it is proportionate and appropriate to impose on AECAL the Fine of USD96,484.

PROCEDURAL MATTERS

Settlement Decision Maker

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

Manner and time for payment

154. The Fine must be paid by AECAL by no later than 28 days from the date of this Notice.

If the Fine is not paid

155. If any or all of the Fine is outstanding after the due date, the DFSA may seek to recover the outstanding amount as a debt owed by AECAL and due to the DFSA.

Evidence and other material considered

156. Annex A sets out extracts from some statutory and regulatory provisions and guidance relevant to this Notice.

Right of review of the decision by the FMT

157. Pursuant to Article 90(5) of the Regulatory Law 2004, AECAL 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, AECAL has agreed that it will not refer this matter to the FMT.

Publicity

158. Under Article 116(2) of the Regulatory Law 2004, 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 which the DFSA considers relevant to the conduct of affairs in the DIFC.

159. In accordance with Article 116(2) of the Regulatory Law 2004, 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.

160. The DFSA will notify AECAL of the date on which the DFSA intends to publish information about this Decision Notice.

DFSA contacts

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

Signed:

.....

Naweed Lalani

As a Settlement Decision Maker for an on behalf of the DFSA

ANNEX A – RELEVANT STATUTORY AND REGULATORY PROVISIONS

---

1. Relevant Legislation

Regulatory Law - DIFC Law No. 1 of 2004

8. The Powers, Functions and Objectives of the DFSA

(1) The DFSA has such functions and powers as are conferred, or expressed to be conferred, on it:
   (a) by or under the Law; and
   (b) by or under any other law made by the Ruler.

(2) The DFSA has power to do whatever it deems necessary for or in connection with, or reasonably incidental to, performing its functions and exercising its powers conferred in accordance with (1).

(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;

   …

41 The Financial Services Prohibition

(1) Subject to Article 41(9) and Article 42(3), a person shall not carry on a Financial Service in or from the DIFC.

(2) The DFSA shall make Rules prescribing the activities which constitute a Financial Service.

(3) The prohibition in Article 41(1) is referred to in the Law as the "Financial Services Prohibition".

(4) The DFSA may make Rules adding to, removing activities from, or otherwise modifying the list of Financial Services made under Article 41(2).

(5) A person shall, in engaging in activity constituting a Financial Service, or in engaging in any like activity that may constitute a Financial Service except for the form and manner in which the activity is carried out, comply with Federal Law to the extent that such law applies in the DIFC.

(6) DELETED

(7) DELETED

(8) DELETED

(9) A Fund is exempt from the Financial Services Prohibition with respect to any Financial Service which is carried on for the purposes of, or in connection with, the Fund if the Fund has a Fund Manager or External Fund Manager that falls within Article 42(3) (a) or (b). This exemption applies to a Fund even where it does not have legal personality.

44 Prohibition relating to Endorsements

(1) The DFSA may make Rules prescribing activities that may be carried on only by an Authorised Person that has an appropriate Licence Endorsement authorising it to carry on that activity.

(2) A person must not carry on an activity prescribed under Article 44(1) unless the person has an appropriate Licence Endorsement authorising it to carry on that activity.

86 Involvement in contraventions

(1) If a person is knowingly concerned in a contravention of the Law or Rules or other legislation administered by the DFSA committed by another person, the aforementioned person as well as the other person commits a contravention and is liable to be proceeded against and dealt with accordingly.

(2) If an officer of a body corporate is knowingly concerned in a contravention of the Law or Rules or other legislation administered by the DFSA committed by a body corporate, the officer as well as the body corporate commits a contravention and is liable to be proceeded against and dealt with accordingly.

(6) For the purposes of Article 86, "officer" means a director, member of a committee of management, chief executive, manager, secretary or other similar officer of the body corporate or association, or a person purporting to act in such capacity, and an individual who is a controller of the body.

(7) For the purposes of Article 86, a person is 'knowingly concerned' in a contravention if, and only if, the person

(a) has aided, abetted, counselled or procured the contravention;

(b) has induced, whether by threats or promises or otherwise, the contravention;

(c) has in any way, by act or omission, directly or indirectly, been knowingly involved in or been party to, the contravention; or

(d) has conspired with another or others to effect the contravention.

…

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.

(3) Nothing in this Article prevents the DFSA from exercising any other power that it may exercise under this Law or any other legislation administered by the DFSA.

(4) The procedures in Schedule 3 apply to a decision of the DFSA under this Article.

(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

(1) The DFSA shall make available to the public without undue delay after their making or issuing:

(a) Rules made by the DFSA Board of Directors;

(b) Guidance in the form of:

(i) guidance made and issued by the Chief Executive under the Law; and

(ii) a standard or code of practice issued by the DFSA Board of Directors which has not been incorporated into the Rules.

(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.

(3) Publications made under this Article may be provided with or without charge as the DFSA Board of Directors may determine.

Collective Investment Law – DIFC Law No. 2 of 2010

11 Arrangements constituting a Collective Investment Fund

(1) A Collective Investment Fund ("Fund") is, subject to Article 12, any arrangements with respect to property of any description, including money, where:

(a) the purpose or effect of the arrangements is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income;

(b) the arrangements must be such that the persons who are to participate ("Unitholders") in the arrangements do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions; and

(c) the arrangements have either or both of the following characteristics:

(i) the contributions of the Unitholders and the profits or income out of which payments are to be made to them are pooled; or

(ii) the property is managed as a whole by or on behalf of the Fund Manager.

(2) If the arrangements provide for such pooling as is mentioned in Article 11(1)(c)(i) in relation to separate parts of the property, the arrangement is not to be regarded as constituting a single Fund unless the Unitholders are entitled to exchange rights in one part for rights in another.

13 Domestic and Foreign Funds

(1) A Fund is either a Domestic Fund or a Foreign Fund.

(2) A Fund is a Domestic Fund if it is either:

(a) established or domiciled in the DIFC; or

(b) an External Fund as defined in Article 14(1).

(3) A Fund that does not meet the Domestic Fund criteria in Article 13(2) is a Foreign Fund.

14 An External Fund

(1) An External Fund is a Fund which is:

(a) established or domiciled in a jurisdiction other than the DIFC; and

(b) managed by a Fund Manager which is an Authorised Firm.

(2) The requirements relating to Domestic Funds do not apply to an External Fund except to the extent otherwise provided in this Law or the Rules.

...

20 Fund Manager

(1) A person shall not manage a Domestic Fund unless:

(a) that person:

(i) is a body corporate;

(ii) is an Authorised Firm whose Licence authorises it to act as the Fund Manager of the particular type or specialist class of the Fund; and

(iii) meets any additional criteria, requirements or conditions that may be prescribed in the Rules;

or

(b) the person is an External Fund Manager.

(2) For the purposes of this Law, any other DFSA administered law and any rules made for the purposes of those laws, the person who "manages" a Fund, subject to Article 20(3), is the person who:

(a) is legally accountable to the Unitholders in the Fund for the management of the Fund, including the property held for or within the Fund ("Fund Property"); and

(b) establishes, manages or otherwise operates or winds up the Fund.

(3) The DFSA may, by Rules, prescribe when a person who engages in any of the activities specified in Article 20(2) is not managing a Fund.

(4) A person referred to in Article 20(1)(a) or (b) is a "Fund Manager" and a reference to a "Fund Manager" in this Law or in any other DIFC Law or any legislation made for the purposes of such laws includes both persons, unless otherwise provided.

(5) A person is an External Fund Manager if that person:

(a) is a body corporate;

(b) manages a Domestic Fund:

(i) which is not an External Fund; and

(ii) which is excluded from the Financial Services Prohibition under Article 41(9) of the Regulatory Law 2004; and

(c) manages the Fund in (b):

(i) from a place of business in a Recognised Jurisdiction or a jurisdiction otherwise acceptable to the DFSA; and

(ii) in accordance with any additional requirements prescribed by the DFSA for the purposes of this Article.

2. Relevant DFSA Rulebook Provisions

DFSA Rulebook, Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module [VER13/02-17]

6.1 Assessing customer AML risks

6.1.1 (1) A Relevant Person must:

(a) undertake a risk-based assessment of every customer; and

(b) assign the customer a risk rating proportionate to the customer's money laundering risks.

(2)The customer risk assessment in (1) must be completed prior to undertaking Customer Due Diligence for new customers, and whenever it is otherwise appropriate for existing customers.

(3) When undertaking a risk-based assessment of a customer under (1)(a) a Relevant Person must:

(a) identify the customer and any beneficial owner;

(b) obtain information on the purpose and intended nature of the business relationship;

(c) take into consideration the nature of the customer, its ownership and control structure, and its beneficial ownership (if any);

(d) take into consideration the nature of the customer business relationship with the Relevant Person;

(e) take into consideration the customer's country of origin, residence, nationality, place of incorporation or place of business;

(f) take into consideration the relevant product, service or transaction; and

(g) take into consideration the outcomes of business risk assessment under chapter 5.

7.1 Requirement to undertake customer due diligence

7.1.1 (1) A Relevant Person must:

(a) undertake Customer Due Diligence under Rule 7.3.1 for each of its customers; and

(b) in addition to (a), undertake Enhanced Customer Due Diligence under Rule 7.4.1 in respect of any customer it has assigned as high risk.

(2) A Relevant Person may undertake Simplified Customer Due Diligence in accordance with Rule 7.5.1 by modifying Customer Due Diligence under Rule 7.3.1 for any customer it has assigned as low risk.

7.2 Timing of customer due diligence

7.2.1 (1) A Relevant Person must:

(a) undertake the appropriate Customer Due Diligence under Rule 7.3.1(1)(a) to (c) 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.

…

7.3 Customer due diligence requirements

7.3.1 (1) In undertaking Customer Due Diligence required by Rule 7.1.1(1)(a) a Relevant Person must:

(a) verify the identity of the customer and any beneficial owner on the basis of original or properly certified documents, data or information issued by or obtained from a reliable and independent source;

(b) understand the customer's source of funds;

(c) understand the customer's source of wealth; and

(d) undertake on-going due diligence of the customer business relationship under Rule 7.6.1.

(2) In complying with (1)(a) for life insurance or other similar policies, a Relevant Person must:

(a) verify the identity of any named beneficiaries of the insurance policy; and

(b) verify the identity of the persons in any class of beneficiary, or where these are not identifiable, ensure that it obtains sufficient information to be able to verify the

identity of such persons at the time of payout of the insurance policy.

(3) Where a customer, or a beneficial owner of the customer, is a Politically Exposed Person, a Relevant Person must ensure that, in addition to (1) it also:

(a) increases the degree and nature of monitoring of the business relationship, in order to determine whether the customer's transactions or activities appear unusual or suspicious; and

(b) obtains the approval of senior management to commence a business relationship with the customer.

7.4 Enhanced customer due diligence

7.4.1 Where a Relevant Person is required to undertake Enhanced Customer Due Diligence under Rule 7.1.1(1)(b) it must, to the extent applicable to the customer:

(a) obtain and verify additional:

(i) identification information on the customer and any beneficial owner;

(ii) information on the intended nature of the business relationship; and

(iii) information on the reasons for a transaction;

(b) update more regularly the Customer Due Diligence information which it holds on the customer and any beneficial owners;

(c) verify information on:

(i) the customer's source of funds;

(ii) the customer's source of wealth;

(d) increase the degree and nature of monitoring of the business relationship, in order to determine whether the customer's transactions or activities appear unusual or suspicious;

(e) obtain the approval of senior management to commence a business relationship with a customer; and

(f) where applicable, require that any first payment made by a customer in order to open an account with a Relevant Person must be carried out through a bank account in the customer's name with:

(i) a Bank;

(ii) a Regulated Financial Institution whose entire operations are subject to regulation and supervision, including AML regulation and supervision, in a

jurisdiction with AML regulations which are equivalent to the standards set out in the FATF recommendations; or

(iii) a Subsidiary of a Regulated Financial Institution referred to in (ii), if the law that applies to the Parent ensures that the Subsidiary also observes the same AML standards as its Parent.

7.6 Ongoing Customer Due Diligence

7.6.1 When undertaking ongoing Customer Due Diligence under Rule 7.3.1(1)(d), a Relevant Person must, using the risk-based approach:

(a) monitor transactions undertaken during the course of its customer relationship to ensure that the transactions are consistent with the Relevant Person's knowledge of the customer, his business and risk rating;

(b) pay particular attention to any complex or unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or legitimate purpose;

(c) enquire into the background and purpose of the transactions in (b);

(d) periodically review the adequacy of the Customer Due Diligence information it holds on customers and beneficial owners to ensure that the information is kept up to date, particularly for customers with a high risk rating; and

(e) periodically review each customer to ensure that the risk rating assigned to a customer under Rule 6.1.1(1)(b) remains appropriate for the customer in light of the money laundering risks.

DFSA Rulebook, Conduct of Business Module (COB) [VER28/02-17]

2.3 Types of Clients

2.3.1 (1) An Authorised Firm must, before carrying on a Financial Service with or for a Person, classify that Person as a:

(a) Retail Client;

(b) Professional Client; or

(c) Market Counterparty,

in accordance with the requirements in this chapter.

(2) An Authorised Firm may classify a Person as a different type of a Client for different Financial Services or financial products that are to be provided to such a Client.

…

DFSA Rulebook, General Module (GEN) [VER38/02-17]

2.2 Financial Service activities

Permitted Financial Services for Authorised Firms

…

2.2.8 A Financial Service may be carried on with or for a Retail Client only by an Authorised Firm which is permitted to do so by endorsement on its Licence.

4.2 The Principles for Authorised Firms

4.2.10 Principle 10 - Relations with regulators

An Authorised Firm must deal with Regulators in an open and co-operative manner and keep the DFSA promptly informed of significant events or anything else relating to the Authorised Firm of which the DFSA would reasonably expect to be notified.

DFSA Rulebook, Prudential, Investment, Insurance Intermediation and Banking Business Module (PIB) [VER26/02-17]

Systems and controls

…

3.2.5 (1) An Authorised Firm must have systems and controls to enable it to determine and monitor:

(a) its Capital Requirement; and

(b) whether the amount of its Capital Resources is, and is likely to remain, greater than the amount of its Capital Requirement.

(2) Such systems and controls must include an analysis of:

(a) realistic scenarios which are relevant to the circumstances of the Authorised Firm; and

(b) the effects on the Capital Requirement of the Authorised Firm and on its Capital Resources if those scenarios occurred.

(3) An Authorised Firm must notify the DFSA immediately and confirm in writing any breach, or expected breach, of any of the provisions of this chapter by the Authorised Firm.

3.5 Capital Requirements for Categories 3B, 3C and 4

3.5.3 (1) An Authorised Firm to which this section applies must, at all times, maintain an amount which exceeds its Expenditure Based Capital Minimum in the form of liquid assets.

…

3. Other Relevant Regulatory Provisions

The DFSA's policy in relation to its approach to enforcement is set out in Chapter 5 of the DFSA's Regulatory Policy and Process Rulebook (RPP) (February 2020 Edition).

Chapter 6 of RPP sets out the DFSA's approach to imposing a penalty, which includes a financial penalty, and the matters the DFSA will take into account when determining a penalty.

ANNEX B – DEFINITIONS

Adenium or Adenium Group	The Adenium Group of companies including but not limited to: 1. Adenium BVI; 2. Adenium DIFC; 3. Adenium Cayman ; and 4. AECAL.
Adenium BVI	Adenium Energy Capital Ltd, incorporated in the BVI.
Adenium Cayman	Adenium Energy Capital Ltd, incorporated in the Cayman Islands.
Adenium DIFC	Adenium Capital Ltd.
AECAL	Adenium Energy Capital Advisors Limited.
AML	Means either "anti-money laundering" or the Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module of the DFSA's Rulebook, depending on the context.
BVI	British Virgin Islands.
CEO	Chief Executive Officer.
CIL	The Collective Investment Law 2010.
COB	The Conduct of Business Module of the DFSA's Rulebook.
EBCM	Expenditure Based Capital Minimum.
Fund	A Collective Investment Fund as defined in Article 11 of the Collective Investment Law 2010 and which is not excluded under the Rules made under Article 12 set out under CIR section 2.1.
GEN	The General Module of DFSA's Rulebook.
GLO	The Glossary Module of the DFSA Rulebook.
Investment Companies	The SPVs that Adenium Cayman set up in jurisdictions such as the Cayman Islands and BVI to hold the assets of the Projects.
Investor Agreement	A subscription agreement between: 1. the investor; 2. Adenium Cayman; and

	3. the Investment Company for the relevant Project.
Investor On-Boarding Process	A six-step on-boarding process that Adenium Cayman developed for internal purposes.
KYC	Know Your Client
Marketing Materials	The marketing materials that Adenium Cayman produced and distributed to prospective investors, which included: (1) Investor presentations for the relevant Project(s) being marketed; (2) Investment summaries for each Project; (3) Project summaries; and (4) Corporate brochures and corporate presentations.
Operational Companies	The local companies that Adenium Cayman established in the jurisdiction where the Project was being developed.
PEP	Politically Exposed Person.
Projects	The solar energy projects that Adenium Cayman secured, developed, invested in and managed in a number of countries.
Remediation Exercise	A remediation exercise required by the DFSA in the Supervisory Concerns Letter issued to AECAL on 16 September 2019.
SEO	Senior Executive Officer.
SPV	Special Purpose Vehicles.
UAE	United Arab Emirates.