



In July 2021, Mr Navalkar referred the DFSA's original Decision Notice to the Financial Markets Tribunal. In October 2022, following a settlement with the DFSA, Mr Navalkar withdrew that reference and certain amendments were made to the original Decision Notice, making this amended Decision Notice final.

AMENDED DECISION NOTICE

To: Mr Milind Ajit Navalkar (**Mr Navalkar**)

DFSA Reference No: I005792

Address: C/O Charles Russell Speechlys LLP
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DIFC
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Date: **2 November 2022**

1. ACTION

- 1.1. For the reasons given in this Notice, the Dubai Financial Services Authority (the **DFSA**) has decided to impose on Mr Navalkar a fine of USD 500,000 (the **Fine**), pursuant to Article 90(2)(a) of the Regulatory Law 2004 (the **Regulatory Law**).
- 1.2. This Notice is addressed to Mr Navalkar alone. Nothing in this Notice constitutes a determination that any person other than Mr Navalkar 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.

2. DEFINITIONS

- 2.1. 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 in Annex B or the DFSA Rulebook, Glossary Module. Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

3. SUMMARY OF REASONS

3.1. The DFSA has decided to take this action as it found that, in the period from 1 January 2013 to 30 October 2017 (the **Relevant Period**), as the **Audit Principal** responsible for the audit of Abraaj Capital Limited (**ACLD**), Mr Navalkar was knowingly concerned in breaches by KPMG LLP (**KPMG**) of DFSA administered rules and laws. In particular, Mr Navalkar:

- (1) signed off audit reports without ensuring adequate audit procedures had been performed to enable an opinion to be formed on whether an **Authorised Firm's** financial statements had been prepared in accordance with applicable International Financial Reporting Standards (**IFRS**) and represented a true and fair view of the condition and the state of affairs of an Authorised Firm, contrary to Article 101 of the Regulatory Law (see PART A below);
- (2) failed to ensure the audit of an Authorised Firm's financial statements was conducted in accordance with International Standards on Auditing (**ISA**), contrary to Rule 8.9.1(b) of the General Module of the DFSA Rulebook (**GEN**) (until 20 August 2014) and Rule 6.2.1 of the Auditor Module of the DFSA Rulebook (**AUD**) (from 21 August 2014 until 30 October 2017) (see PART B below); and
- (3) failed to ensure the review of an Authorised Firm's Prudential Investment, Insurance Intermediation and Banking Returns (**PIB Return**) was conducted in accordance with International Standards on Assurance Engagements (**ISAE**), contrary to GEN Rule 8.9.1(b) (until 20 August 2014) and AUD Rule 6.2.1 (from 21 August 2014 until 30 October 2017) (see PART C below).

3.2. Further, as an Audit Principal, Mr Navalkar was from 20 October 2014 required to comply with the DFSA's Principles for Audit Principals in AUD Section 2.6. The conduct giving rise to the contraventions set out in paragraph 3.1 also demonstrates that Mr Navalkar failed to act with professional competence and due care, contrary to Principle 3 of the Principles for Audit Principals in AUD Rule 2.6.4. In particular, the DFSA found that, in the Relevant Period, Mr Navalkar failed to act diligently and in accordance with applicable technical and professional standards, specifically by failing to ensure that audits and reviews of an Authorised Firm's financial statements and PIB Returns, for which Mr Navalkar was appointed by KPMG as the responsible Audit Principal, were conducted in accordance with ISA and ISAE.

- 3.3. During the Relevant Period, KPMG was the **Registered Auditor** for ACLD; an entity incorporated in the Dubai International Financial Centre (**DIFC**) and a DFSA Authorised Firm. The DFSA found that the procedures used by KPMG as part of its audit of ACLD's financial statements and PIB Returns were inadequate, failing to identify material misstatements which KPMG would have reasonably been expected to identify if carrying out its appointed function in compliance with the Regulatory Law and Rules, as further particularised in this Notice. As such, KPMG's procedures were not sufficient to enable KPMG to form an opinion on ACLD's financial statements and PIB Returns. KPMG's audit and review of ACLD's financial statements and PIB Returns were conducted under the oversight of Mr Navalkar who was solely responsible, in his capacity as Audit Principal, for signing off the reports on behalf of KPMG.
- 3.4. The procedures employed by KPMG under the oversight and direction of Mr Navalkar failed to identify that, for a number of years:
- (1) ACLD's financial statements had not been prepared in accordance with IFRS and did not present a true and fair representation of ACLD's financial position, failing to reflect correctly the level of ongoing financial dependency that ACLD had on its parent and omitting significant expenses and liabilities from its financial statements (see paragraphs 4.19 to 4.27 below);
 - (2) ACLD was employing a practice known as **Window Dressing** (see paragraphs 4.37 to 4.40 below), which resulted in ACLD's financial statements and PIB Returns giving the impression ACLD was maintaining significantly higher liquid assets than it actually was;
 - (3) there was sufficient doubt as to the appropriateness of preparing ACLD's financial statements on a going concern basis (see paragraphs 4.64 to 4.69 below); and
 - (4) ACLD was repeatedly in breach of its DFSA **Capital Requirements** for all but a few days either side of ACLD's PIB Return reporting dates (see paragraphs 4.81 to 4.90 below).
- 3.5. Given the nature and seriousness of Mr Navalkar's contraventions and the prolonged period of time over which they occurred, the DFSA considers it appropriate to impose the Fine on Mr Navalkar.

4. FACTS AND MATTERS RELIED ON

- 4.1. Mr Navalkar was a partner at the DIFC Registered Auditor KPMG. He was the audit partner responsible for the audit of ACLD between December 2012 and October 2017 and was a DFSA registered Audit Principal from 20 October 2014 until 16 October 2019. He qualified as a chartered accountant in 1996 before joining a KPMG member firm in 1997.
- 4.2. KPMG was incorporated in the DIFC on 17 September 2006 and, since 19 April 2009, KPMG has been registered with the DFSA as a Registered Auditor. KPMG is part of the global network of independent member firms operating under the KPMG trading name, offering various audit, tax and advisory services.
- 4.3. KPMG was appointed as the Registered Auditor for ACLD since ACLD's inception in 2006. In addition to auditing ACLD's financial statements, as part of this appointment, KPMG was responsible for providing independent assurance of ACLD's PIB Returns.

Abraaj Capital Limited

- 4.4. ACLD was incorporated as a DIFC limited liability company on 19 March 2006 and licensed by the DFSA on 20 March 2006. ACLD was authorised by the DFSA to carry on certain **Financial Services** in or from the DIFC.
- 4.5. ACLD is part of the **Abraaj Group** which was founded in 2002 and, by 2018, was the largest private equity firm in the Middle East with an estimated USD 14 billion assets under management. ACLD is a wholly owned subsidiary of Abraaj Investment Management Limited (**AIML**), a company incorporated in the Cayman Islands, which acted as the primary investment adviser and manager of the private equity Funds in the Abraaj Group (**Abraaj Funds**). Abraaj Holdings (**AH**) is the 100% owner of AIML and AIML is the 100% owner of ACLD, so AH is ACLD's ultimate parent.
- 4.6. KPMG considered the Abraaj Group to be one of its most valued clients, classifying it as a "*Global Priority*" client and referring to it as "*one of our crown jewel clients*" when discussing the Abraaj Group with other KPMG member firms.

DFSA Investigation

- 4.7. In January 2018, the DFSA received an anonymous complaint alleging that the Abraaj Group was misusing investor funds to finance working capital and balance sheet leverage/commitments. Following an initial assessment of the complaint, on 29 March 2018

the DFSA commenced an investigation pursuant to Article 78 of the Regulatory Law into suspected contraventions by ACLD and AIML of rules and laws administered by the DFSA.

- 4.8. In addition, on 29 March 2018 the DFSA required ACLD to provide the DFSA with a report prepared by its external auditor (KPMG) on ACLD's financial affairs, including its bank accounts, to establish whether ACLD had any solvency issues (the **Independent Report**). KPMG and Mr Navalkar were appointed by ACLD to produce the Independent Report.
- 4.9. While compiling documentation for the Independent Report, Abraaj Group Compliance obtained copies of recent ACLD bank statements with a view to confirming that ACLD was maintaining adequate **Capital Resources**. However, upon reviewing the bank statements, Abraaj Group Compliance identified that ACLD's Capital Resources had been below the level required under applicable DFSA **PIB Rules** for the majority of the preceding nine months. Abraaj Group Compliance notified the DFSA of these breaches of Capital Requirements on 18 April 2018.
- 4.10. Further investigation by Abraaj Group Compliance and the DFSA identified that ACLD had employed a long-standing practice of systematically moving funds in and out of ACLD's bank accounts around the relevant reporting dates for ACLD's financial statements and PIB Returns (see paragraphs 4.37 to 4.40).

Role of the Audit Principal

- 4.11. As the Audit Principal assigned to ACLD during the Relevant Period, Mr Navalkar had overall responsibility for the conduct of the audits and reviews of ACLD performed by KPMG. Under GEN Rule 8.9.2 (until 20 August 2014) and Article 97(c) of the Regulatory Law (since 21 August 2014), as the Audit Principal, Mr Navalkar was responsible for:
- (1) managing the conduct of audit work undertaken by KPMG; and
 - (2) signing off the Auditor's Report and Regulatory Returns Auditor's Report on behalf of KPMG.

PART A: ACLD'S FINANCIAL STATEMENTS

International Financial Reporting Standards

- 4.12. Under GEN Rule 8.2.2, Authorised Firms must prepare and maintain all financial statements in accordance with IFRS. The IFRS are set by the International Accounting Standards

Board (**IASB**) and they set out recognition, measurement, presentation and disclosure requirements for financial statements. International Accounting Standards (**IAS**) set by the IASB's predecessor have the same status as IFRS.

- 4.13. The IASB Conceptual Framework for Financial Reporting (the **Framework**) sets out the concepts that form the basis of IFRS, including that the objective of financial reporting is to provide financial information about a reporting entity that is useful to existing and potential investors, lenders and other creditors in making decisions about providing resources to the entity.
- 4.14. The Framework sets out the principle of “*faithful representation*”, which refers to the financial statements being “*complete, neutral and free from error*”. To be deemed “*complete*” financial statements must disclose all information necessary for a user to understand the financial condition and state of affairs of the entity, including all necessary descriptions and explanations.

Delegation Agreements

- 4.15. Under delegation agreements entered into between AIML and ACLD since March 2007 (the **Delegation Agreements**), AIML delegated to ACLD the performance of investment management and fund administration functions to seven Abraaj Funds (**Delegated Funds**). At any given time between March 2007 and June 2017, ACLD performed these functions for between three and five Delegated Funds (see table below).

Funds Delegated to ACLD by AIML between:			
March 2007 to November 2007	December 2007 to May 2009	June 2009 to June 2010	July 2010 to June 2017
Abraaj Buyout Fund	Abraaj Buyout Fund	Abraaj Buyout Fund	Abraaj Buyout Fund
Abraaj Buyout Fund II	Abraaj Buyout Fund II	Abraaj Buyout Fund II	Abraaj Buyout Fund II
Abraaj Real Estate Fund	Abraaj Real Estate Fund	Abraaj Real Estate Fund	Abraaj Real Estate Fund
Abraaj Special Opportunities Fund II		ASAS Fund	ASAS Fund
Abraaj BMA Pakistan Buyout Fund		MENASA Opportunity Fund I	

- 4.16. Under the Delegation Agreements, ACLD agreed with AIML “*that all costs of establishing and running the Abraaj office in Dubai together with the cost of running other offices in the*

region required to perform the Services [investment management and fund administration functions to the Delegated Funds] *shall be met by ACLD...*". The Delegation Agreements also stipulated that any costs or operating expenses paid by AIML must be recharged monthly to ACLD.

4.17. As part of the Delegation Agreements, AIML agreed to minimise the commercial risk that ACLD was exposed to by capping ACLD's operating expenses at 72.5% of the total management fees ACLD received under the Delegation Agreements (**Expenses Cap**). Under this agreement, ACLD was still liable to pay the costs of establishing and maintaining the Dubai office, but could raise an invoice each quarter for AIML to reimburse it for operating expenses incurred that exceeded the 72.5% threshold. However, no such invoices were raised by ACLD during the Relevant Period.

4.18. The Delegation Agreements were superseded in October 2011 by an Investment Advisory Service Level Agreement (**IASLA**). However, ACLD's financial statements continued to refer to the Delegation Agreements and the Expenses Cap (see paragraphs 4.19 to 4.26 below). The IASLA allowed ACLD to be appointed as investment advisor to all funds managed by the Abraaj Group. The IASLA was supplemented by a Deed of Adherence between AIML and ACLD, appointing ACLD as investment advisor to the Funds delegated to ACLD immediately prior to the IASLA being entered into. The IASLA did not include an Expenses Cap provision.

Presentation of ACLD's Financial Statements

4.19. The notes to ACLD's financial statements, issued during the Relevant Period, disclosed that under the Delegation Agreements "*any operating costs incurred by AIML in providing management services to the funds are recharged to the Company [ACLD] up to maximum of 72.5% of the total management fees earned by the Company.*" On this basis, ACLD's income statement did not record operating expenses incurred by ACLD. Instead, the income statement only disclosed a recharge for operating expenses from AIML, which consistently represented 72.5% of the disclosed management fees income. In addition, despite ACLD being the contracting entity legally liable for liabilities such as lease payments and employee's end-of-service benefits, ACLD's balance sheet did not record any of these liabilities.

4.20. However, the description of the Expenses Cap in ACLD's financial statements was not accurate and was not consistent with the terms of the Delegation Agreements (see paragraph 4.17 above). Under the Delegation Agreement, ACLD (not AIML) was liable to cover all operating expenses related to the running of the Dubai office, including any expenses incurred by AIML. In the event that ACLD's operating expenses exceeded 72.5% of the management fees it received, ACLD was required to issue an invoice to AIML for the amount above the Expenses Cap.

4.21. ACLD's misrepresentation in its financial statements of the Expenses Cap, and consequently the preparation of ACLD's income statement and balance sheet in line with this misrepresentation, meant that ACLD's financial statements did not present a true and fair representation of ACLD's financial position as they:

- (1) significantly understated the expenses incurred by ACLD;
- (2) omitted the significant expenses subsidy ACLD received from AIML;
- (3) significantly understated the true extent of ACLD's legal liabilities;
- (4) omitted financial commitments to which ACLD was contractually bound; and
- (5) gave only a brief and incorrect explanation of the expenses recharge arrangement.

4.22. Consequently, ACLD's financial statements as presented did not comply with the Framework as they did not:

- (1) Depict a "*faithful representation*" of the performance and financial position of ACLD, because the actual expenses incurred, the expenses subsidy and ACLD's contractual liabilities and commitments were omitted; or
- (2) Present a "*complete*" representation of ACLD's financial position because they omitted the expenses subsidy, ACLD's contractual liabilities and commitments, and contained an inaccurate explanation of the **Related Party** arrangements in the notes to the accounts.

4.23. In addition, because the Related Party subsidy and expense payment arrangements were not properly disclosed, there was no indication as to what the total amounts of those expenses and liabilities might have been.

- 4.24. These deficiencies significantly impaired the usefulness of ACLD's financial statements to investors and creditors. The significant understatement of liabilities and commitments was particularly misleading for creditors. When ACLD and AIML went into provisional liquidation, ACLD became liable for significant liabilities that were not previously recorded in its financial statements, which it was unable to meet, such as lease payments for Abraaj's DIFC offices and employees' end-of-service benefits.
- 4.25. The understatement of ACLD's operating expenses also had a significant impact on the calculation of ACLD's Capital Requirements (see paragraph 4.72 below) as ACLD's Capital Requirements were based on the expenses disclosed in ACLD's financial statements.
- 4.26. As per paragraph 4.18, the IASLA superseded the Delegation Agreements in October 2011. Despite the Delegation Agreements not being effective from October 2011 onwards, ACLD's financial statements continued to reference them and did not disclose the existence of the IASLA. Although the IASLA contained similar provisions to the services provided by ACLD, it did not contain a clause equivalent to the Expenses Cap in the Delegation Agreements, capping ACLD's operating expenses to 72.5% of management fees received. As such, ACLD's financial statements issued post October 2011 should have reflected that the Delegation Agreements and Expenses Cap were no longer in effect and should have meant there was no doubt that ACLD's actual operating expenses should have been disclosed in its financial statements.
- 4.27. During the Relevant Period, Mr Navalkar signed off the audit reports for ACLD's financial statements which gave the opinion that ACLD's financial statements "*present fairly, in all material respects, the financial position of the Company... in accordance with International Financial Reporting Standards...*" or "*give a true and fair view of the financial position of the Company... and of its financial performance and its cash flows ... in accordance with International Financial Reporting Standards.*" However, as set out in paragraphs 4.17 to 4.26, ACLD's financial statements issued during the Relevant Period did not present fairly ACLD's financial position, nor did they conform to IFRS.

PART B: AUDIT OF ACLD'S FINANCIAL STATEMENTS

International Standards on Auditing

- 4.28. As a DFSA Registered Auditor, KPMG was required to comply with the Auditor module of the DFSA Rulebook, which came into force on 21 August 2014. Prior to that, relevant

requirements for Auditors were set out in GEN. KPMG was also required to comply with certain requirements in the Regulatory Law.

4.29. Under AUD 6.2, as ACLD's independent auditor, KPMG was required to conduct its audits and prepare audit reports expressing an opinion on ACLD's financial statements in accordance with ISA. In order to express an opinion, KPMG was required, under Article 101(2) of the Regulatory Law, to carry out such investigations to enable it to form an opinion as to:

- (1) whether proper accounting records had been kept by ACLD;
- (2) whether ACLD's financial statements were in agreement with accounting records and regulatory returns;
- (3) whether ACLD's financial statements had been prepared in compliance with the applicable financial reporting standards (IFRS); and
- (4) whether ACLD's financial statements represented a true and fair view of the financial condition and the state of affairs of ACLD.

4.30. As the Audit Principal appointed by KPMG to be the partner responsible for the ACLD audit, Mr Navalkar was responsible for managing the conduct of all audit work undertaken by KPMG and signing off the Auditor's Report for ACLD's financial statements on KPMG's behalf.

KPMG's Audit Reports

4.31. ISAs are set by the IASB and set out auditors' responsibilities when conducting an audit of financial statements. Specifically, they set out the overall objectives of the independent auditor, and explain the nature and scope of an audit designed to enable the independent auditor to meet those objectives. They also include requirements establishing the general responsibilities of the independent auditor applicable in all audits, including the obligation to comply with the ISAs.

4.32. Under ISA 700, KPMG was required to evaluate whether ACLD's financial statements: (i) provided adequate disclosures so that users could understand the effect of material transactions and events; and (ii) whether the financial statements achieved fair presentation, including the overall presentation, structure, content, and whether underlying

transactions and events were presented fairly. In addition, under ISA 705, KPMG was required to issue a 'modified opinion' where ACLD's financial statements were not free from material misstatements.

- 4.33. KPMG's audit reports issued during the Relevant Period for ACLD's financial statements confirmed that KPMG had evaluated the overall presentation of ACLD's financial statements and did not raise any instances of non-compliance with the Framework or material misstatements. However, as per paragraphs 4.19 to 4.26, ACLD's financial statements contained a number of deficiencies that meant they did not comply with the Framework.
- 4.34. As the Audit Principal assigned to the ACLD audit, Mr Navalkar was responsible for ensuring KPMG performed sufficient audit procedures in order to give an opinion on ACLD's financial statements. However, as ACLD's financial statements contained material misstatements and did not comply with the Framework, KPMG failed to comply with ISA 700 and 705 as it had not sufficiently evaluated whether ACLD's financial statements complied with the Framework and had not issued a modified opinion.
- 4.35. Mr Navalkar had personally reviewed the Delegation Agreements. As such, he should have been aware that ACLD's financial statements did not reflect the terms of the agreements and as such were not complete and did not depict a faithful representation of ACLD's performance or financial position.
- 4.36. Furthermore, Mr Navalkar knew (and ought to have known), that throughout the vast majority of the Relevant Period, ACLD was the only entity in the Abraaj Group that was registered in the DIFC. In particular, he knew that AIML was not so registered. It followed that ACLD was the only Abraaj company that could lawfully rent office premises or employ the numerous staff KPMG knew were working in those offices. The DFSA considers that this should have led Mr Navalkar to ensure that KPMG sought copies of the leases and evidence as to the employment of the staff. In turn, this should and would have led Mr Navalkar and KPMG to appreciate that the financial statements of ACLD did not fairly represent its liabilities..

ACLD's Window Dressing

- 4.37. The DFSA's review of ACLD banking records showed that ACLD had employed a long-standing practice of systematically moving funds in and out of its bank accounts either side of its financial statement and PIB Return reporting dates. This practice, which is a type of

Window Dressing, was designed to give the impression that ACLD was maintaining significant liquid assets in its bank accounts when, in reality, ACLD was predominantly retaining a negligible balance and was in breach of its Capital Requirements.

4.38. The amount of funds transferred into ACLD's account was in line with the amount paid out of ACLD's account at the start of the quarter, adjusted to account for any amounts due from or owed to AIML. This ensured that ACLD's year-end bank balances, recorded at the start and end of the reporting period, reconciled to the statement of cash flows in ACLD's financial statements.

4.39. ACLD's banking records for 2013 to 2017 show a clear and consistent pattern of deposits and withdrawals (from either AIML or AH). This is illustrated in the following table:

		ACLD Bank Account Balance (USD)			Capital Requirement
		Prior to Transfer In	On PIB Reporting Date	After Transfer Out	
2012	Q4	22,867	7,578,792	147,738	2,682,000
2013	Q1	182,216	8,079,848	179,948	
	Q2	164,410	8,582,187	142,187	
	Q3	No Transfer	2,119	No Transfer	
	Q4	2,065	7,460,118	160,118	
2014	Q1	No Transfer	9,965	No Transfer	
	Q2	10,273	8,533,648	33,648	
	Q3	32,951	9,055,111	32,945	
	Q4	3,424	9,777,510	277,510	
2015	Q1	252,190	7,285,672	252,190	
	Q2	253,454	7,623,814	253,454	
	Q3	253,210	7,753,210	253,210	
	Q4	184,852	8,184,852	184,852	
2016	Q1	168,704	6,168,704	168,704	
	Q2	168,704	6,286,549	0	
	Q3	0	6,437,934	37,934	
	Q4	25,438	6,483,959	3,959	
2017	Q1	9,167	5,647,988	7,488	1,243,000
	Q2	Not Available	5,840,737	40,737	
	Q3	40,669	7,886,380	6,380	
	Q4	6,338	9,904,791	394,269	

4.40. Although the transfers of funds back to AIML or AH occurred after ACLD's financial statement or PIB Return reporting dates, these transfers had generally been instructed or approved prior to the relevant reporting date. In a number of instances identified by the DFSA, the instructions to transfer money to and from ACLD was contained within the same

transfer request. For example, one request stated “*Please transfer \$6.255m as per intercompany account to settle intercompany from AIML to ACLD value June 28th and transfer \$6.25 [sic] from ACLD to AIML value 2 July, 2012.*”

- 4.41. This practice was intentional and prolonged, having started when ACLD submitted its first PIB Return in 2007. Internal ACLD communications seen by the DFSA establish that this practice was intentionally designed to give the appearance that the Capital Requirements were being met when, in fact, this was not the case. This practice continued past 9 December 2012 when changes to PIB required firms to hold Capital Resources in the form of liquid assets.
- 4.42. By ensuring that ACLD temporarily had sufficient funds in its bank accounts on reporting dates, ACLD was able to provide **Bank Confirmations** accepted by KPMG as evidence that ACLD was in compliance with its Capital Requirement at the financial year end. Once the reporting date had past, the funds were transferred by ACLD back to AIML or AH.

Audit Evidence

- 4.43. In accordance with ISA 500, KPMG was required to obtain sufficient audit evidence, from appropriately designed audit procedures, to support its audit opinion. The ACLD audit conducted by KPMG was a fully substantive audit with no reliance placed on controls testing. As such, it was imperative that KPMG performed appropriate substantive audit procedures that produced sufficient evidence to verify that ACLD’s financial statements presented a true and fair view of ACLD’s financial standing.
- 4.44. However, KPMG’s audit files show that, during the Relevant Period, KPMG did not perform any audit procedures in relation to ACLD’s accounting records (general ledger), did not perform a bank reconciliation and, with the exception of 2017 (see paragraphs 4.49 to 4.51 below), did not perform unrecorded liabilities testing.
- 4.45. During the Relevant Period, KPMG did obtain Bank Confirmations to confirm the balance on ACLD’s bank accounts on the financial statement reporting dates. However, because these only confirmed ACLD’s bank balance on a single date, they did not provide sufficient evidence as to the transactions undertaken by ACLD during the reporting periods.
- 4.46. Mr Navalkar’s failure to ensure that KPMG performed any audit procedures to obtain evidence of transactions undertaken by ACLD during the Relevant Period meant that ACLD was able to conceal from KPMG its long running practice of Window Dressing (see

paragraphs 4.37 to 4.40). Had Mr Navalkar ensured that KPMG performed any of the basic audit procedures, which would have required reviewing ACLD's accounting records or obtaining bank statements, KPMG would have been in a position to identify ACLD's Window Dressing.

Professional Scepticism

4.47. During the Relevant Period, KPMG understood ACLD to be a 'simple business' requiring a 'simple audit'. Under Mr Navalkar's direction, KPMG took a substantive approach to its audit of ACLD, conducting little to no testing of ACLD's control framework.

4.48. Regardless of KPMG's perception that ACLD was a simple audit, under ISA 200 KPMG was required to plan and perform its audit of ACLD with professional scepticism, recognising that circumstances may exist that cause the financial statements to be materially misstated. As well as maintaining professional scepticism in its planning of the ACLD audit, ISA 240 required KPMG to maintain professional scepticism throughout the audit, considering the potential for ACLD's management to override controls and recognise the possibility that a material misstatement in ACLD's financial statements could exist due to fraud.

4.49. During the 2017 audit of ACLD's financial statements, KPMG encountered significant resistance from ACLD when requesting copies of bank statements required to perform unrecorded liability testing. Such resistance should have prompted KPMG to question ACLD's resistance and warranted closer scrutiny of any material provided. However, after repeatedly requesting copies of ACLD's July 2017 bank statement, and being told that ACLD was not ready to share/show bank statements, KPMG settled for being shown online statements and noting on its audit file "*We have sat with the client and checked the online bank statements for both AED and USD accounts with [ACLD's Bank]. There were no transactions during the period 01 July 2017 and 31 July 2017.*" Copies of ACLD's July bank statements were not retained by KPMG and no explanation was received from ACLD regarding ACLD's delay providing access to the bank statements.

4.50. Despite KPMG recording on its audit file that "*There are no transactions in the m/o July*", the DFSA found that ACLD's July 2017 bank statements showed a withdrawal of USD 5.8m from ACLD's bank account on 2 July 2017, two days after the 2017 financial statement reporting date. This transaction left a balance of only USD 40.7k in ACLD's accounts with no indication as to the reason USD 5.8m was transferred from ACLD to AIML. Due to KPMG failing to retain sufficient evidence to support the 2017 unrecorded liability audit procedure

findings, the DFSA was unable to confirm whether KPMG was misled by ACLD or failed to recognise the significance of the USD 5.8m withdrawal. This is referred to further below.

- 4.51. ACLD's resistance and delay in providing KPMG access to its bank statements in 2017 should have raised concerns and warranted further investigation by KPMG of ACLD's reluctance to share or show bank statements. By not pressing ACLD for an explanation and not investigating the reason for ACLD's reluctance to share bank statements, KPMG had failed to exercise professional scepticism. This failure also contributed to KPMG's failure to identify ACLD's long running practice of Window Dressing.
- 4.52. The DFSA does not suggest that Mr Navalkar knew of these exchanges with ACLD or the review of this bank statement. He was however Audit Principal at this time, and responsible for managing the conduct of the audit work undertaken by KPMG.

Subsequent Events

- 4.53. Financial statements can be materially affected by events that occur after their reporting date. For example, significant payments which could represent unrecorded liabilities or changes in circumstances that may indicate that an entity is no longer a going concern.
- 4.54. As such, under ISA 560, KPMG was required to perform audit procedures designed to obtain sufficient evidence that events which occurred between ACLD's financial statements reporting dates and the date of the auditor's reports, requiring adjustment or disclosure in ACLD's financial statements, had been identified. ISA 560 requires that these audit procedures include reviewing ACLD's latest interim subsequent financial statements and, where these are not available, inspecting ACLD's books and records including bank statements.
- 4.55. However, during the Relevant Period Mr Navalkar as Audit Principal failed to ensure that KPMG performed audit procedures in line with the requirements of ISA 560. Specifically, there was no evidence that KPMG had reviewed copies of ACLD's interim financial statements or, alternatively, reviewed ACLD's books and records or bank statements.
- 4.56. Had KPMG reviewed interim financial statements (if they were available) or reviewed ACLD's books and records (such as its accounts ledger) or bank statements, as part of any of the audits of ACLD's financial statements carried out during the Relevant Period, KPMG

would have identified that the vast majority of the funds held in ACLD's bank accounts, as recorded in the financial statements, had been transferred out of ACLD's bank accounts. Such payments constituted material subsequent events requiring further enquiries with ACLD's management and may have required adjustment to, or disclosure in, ACLD's financial statements.

4.57. KPMG's failure to perform adequate subsequent event testing meant that significant transactions occurring shortly after each reporting date, which may have required disclosure in ACLD's financial statements, were not identified nor disclosed. During the Relevant Period, these transactions totalled USD 28 million. As a result, ACLD's financial statements did not present a true and fair view of ACLD's financial position.

Related Party Transactions

4.58. IAS 24 requires relationships, transactions, outstanding balances and commitments with a Related Party to be disclosed in a company's financial statements. Related Parties include entities within the same group of companies, such as a parent, subsidiary or a fellow subsidiary. As such, ACLD's financial statements should have disclosed all transactions or commitments with AIML, AH and any other Abraaj Group entity.

4.59. In line with ISA 550, as ACLD's Auditor, KPMG would be required to perform audit procedures to identify, assess and respond to the risks of material misstatement arising from ACLD's failure to appropriately account for or disclose Related Party transactions. Specifically, ISA 550 required KPMG to:

- (1) consider the susceptibility of the financial statements to material misstatement due to fraud or error that could result from Related Party relationships and transactions;
- (2) enquire about the identity of Related Parties, changes therein, nature of relationships, and whether the entity entered into any transactions and the type and purpose of those transactions;
- (3) enquire about controls around Related Party transactions; and
- (4) remain alert for indications of previously undisclosed Related Party relationships or transactions, and enquire with management about any significant transactions outside the entity's normal course of business.

4.60. KPMG's audit files show that KPMG had identified Related Party transactions as an area requiring particular focus. For example, planning for the audit of ACLD's 2016 financial statements proposed work around Related Party controls, specifically to gain an understanding of the controls ACLD had in place to:

- (1) identify, account for, and disclose Related Party relationships and transactions; and
- (2) authorise and approve significant transactions and arrangements with Related Parties.

4.61. Despite recognising Related Party transactions as an area requiring particular focus, there was no evidence in KPMG's 2016 audit working papers, or any of the other working papers reviewed by the DFSA, that Mr Navalkar had directed the KPMG ACLD audit team to perform an assessment of ACLD's controls for Related Party transactions or substantive testing to confirm that all Related Party transactions had been identified and disclosed in ACLD's financial statements.

4.62. ACLD's financial statements produced during the Relevant Period, for which Mr Navalkar signed off the audit report, disclosed that AIML and AH were Related Parties, that ACLD had received management fees from AIML and made payments to AIML towards operating expenses. However, these financial statements did not disclose transactions that formed part of ACLD's Window Dressing as outlined in paragraphs 4.37 to 4.42. For example, ACLD's financial statements for the period January 2013 to June 2017 reported Related Party transactions (including dividends) totalling USD 47.9 million. However, Related Party transactions between ACLD and its parents during this period actually totalled USD 218.2 million. As such, ACLD's financial statements for the reporting period January 2013 to June 2017 failed to disclose USD 170.3 million in Related Party transactions.

4.63. By not performing adequate audit procedures, KPMG failed to identify more than USD 170.3 million in undisclosed Related Party transactions. As a result, material transactions, which had an actual or potential effect on ACLD's financial statements, were not disclosed in ACLD's financial statements.

Going Concern

4.64. During the Relevant Period, ACLD's financial statements were prepared on a going concern basis. Under IAS 1, financial statements should only be prepared on a going concern basis

when it has been assessed that an entity will continue its operations for the foreseeable future.

- 4.65. Under ISA 570, as part of its audit of ACLD's financial statements, KPMG was required to obtain appropriate audit evidence and conclude on the appropriateness of the decision by ACLD's management to prepare financial statements on a going concern basis. This included considering whether there were events or conditions that may cast significant doubt on the entity's ability to continue as a going concern.
- 4.66. ACLD was the contracting entity for the vast majority of expenses incurred in the running of Abraaj's DIFC offices, such as the offices' leases and employee costs. As the contracting entity, ACLD was legally liable for all commitments and liabilities related to the expenses in respect of which it had contracted. These commitments were many times ACLD's annual revenue or value of assets held. As such, were it not for the arrangement with AIML, which capped ACLD's operating expenses to 72.5% of its management fees (see paragraphs 4.15 to 4.18), ACLD would be unable to meet its contractual liabilities as and when they fell due and would not be deemed a going concern. Given this reliance on AIML to pay the majority of ACLD's operating expenses, ACLD had a significant continuing dependency on the financial viability of AIML.
- 4.67. Due to ACLD's continuing financial dependence on AIML, in order to conclude on the appropriateness of preparing ACLD's financial statements on a going concern basis, KPMG would need to consider the ability of AIML to continue to cover the majority of the expenses incurred by ACLD in running the Abraaj DIFC offices. However, the DFSA found that KPMG's audit files and working papers contained little or no consideration of AIML's ability to continue to meet these expenses.
- 4.68. The DFSA noted that, although KPMG did not audit AIML or any other entities in the Abraaj Group, [REDACTED], another KPMG member firm at which Mr Navalkar was also a partner did, with members of the ACLD audit team, including Mr Navalkar, working on the audit of other Abraaj Group entities. However, KPMG have confirmed to the DFSA that *"KPMG LLP did not rely on work performed by [another KPMG member firm] on the audit of other Abraaj entities. Some of the personnel who worked on the KPMG LLP audit of ACLD, the DIFC entity, also performed audit work for other Abraaj group companies (on behalf of [another KPMG member firm]). That work, however, is distinct and separate from work performed on behalf of KPMG LLP and is documented separately, in the relevant audit file."*

- 4.69. The DFSA found that, as well as failing to give consideration to the financial viability of AIML, which was paying the majority of ACLD's operating expenses, KPMG relied heavily, if not solely, on management representations that ACLD was a going concern. Although management representations provide necessary audit evidence, as per ISA 580, they do not provide sufficient appropriate audit evidence on their own.
- 4.70. Mr Navalkar's failure to ensure that KPMG obtained adequate evidence or gave sufficient consideration to whether it was appropriate to prepare ACLD's financial statements on a going concern basis, meant KPMG failed to identify or take into account indications of liquidity issues being experienced by ACLD and the wider Abraaj Group. This led to ACLD and the Abraaj Group continuing to operate for a number of years despite major liquidity concerns, which would call into question its going concern status and whether ACLD's financial statements represented a true and fair view of its financial position.

PART C: REVIEW OF ACLD'S PIB RETURNS

DFSA Capital Requirement

- 4.71. The DFSA imposes detailed capital and other prudential requirements on Authorised Firms carrying on business in the DIFC. These requirements are based on international best practices and standards. The DFSA's PIB Rules set out capital requirements for investment, insurance intermediation and banking firms, including how capital requirements are calculated and the nature of Capital Resources that must be held to meet those requirements.
- 4.72. Under the PIB Rules, Authorised Firms are divided into categories according to the nature of the Financial Services they are authorised under their licence to carry on. For the purposes of the PIB Rules, ACLD was categorised as a Category 3C Authorised Firm. The Capital Requirement for a Category 3C Authorised Firm is specified as the higher of the applicable Base Capital Requirement, as defined for each Category in the PIB Rules, or a calculated Expenditure Based Capital Minimum (**EBCM**). For a Category 3C Authorised Firm, EBCM is specified as 13/52 (25%) of Annual Audited Expenditure (less exceptional items as outlined in the PIB Rules).
- 4.73. To facilitate the DFSA's monitoring of compliance with capital and prudential requirements, Authorised Firms are required under PIB section 2.3 to submit to the DFSA on a quarterly basis completed PIB Returns. PIB Returns submitted to the DFSA include the information

required to calculate an Authorised Firm's Capital Requirements and report how an Authorised Firm's assets are held in order to demonstrate it has sufficient Capital Resources.

International Standards on Assurance Engagements

4.74. Since 21 August 2014, under AUD 6.2, KPMG was required, as ACLD's independent auditor, to conduct an annual review of ACLD's PIB Returns and produce a Regulatory Returns Auditor's Report providing independent assurance in accordance with ISAE, specifically ISAE 3000. Similarly, prior to 21 August 2014, KPMG was required to produce an Auditor's Annual Report in accordance with GEN Rule 8.6.1(c). In so doing, under GEN Rule 8.9.1(b), KPMG was required to comply with applicable International Standards of Auditing, Quality Control and Codes of Ethics for Professional Ethics. The review of ACLD's PIB Returns by KPMG was required to give reasonable assurance and enable KPMG to express a positive form of conclusion.

4.75. In accordance with AUD Rule APP1, in producing a Regulatory Returns Auditor's Report for ACLD's PIB Returns, KPMG was required to make a number of specific statements including whether:

- (1) ACLD maintained Capital Resources in excess of the Capital Requirements in accordance with the applicable Rules in PIB;
- (2) ACLD had kept proper Accounting Records in accordance with the applicable Rules in PIB;
- (3) ACLD's EBCM had been calculated in accordance with the applicable Rules in PIB; and
- (4) The Capital Resources maintained by ACLD exceeded its EBCM and had been maintained in the form of liquid assets in accordance with the applicable Rules in PIB.

4.76. As the Audit Principal appointed by KPMG to the ACLD audits, Mr Navalkar was responsible for managing the conduct of all audit work undertaken by KPMG and signing off the Regulatory Returns Auditor's Report for ACLD's PIB Returns on KPMG's behalf.

Proper Accounting Records

4.77. As per paragraph 4.75, under AUD Rule APP1, KPMG was required to state in its Regulatory Returns Auditor's Report whether ACLD had kept proper accounting records. As per KPMG's Regulatory Returns Auditor's Report, GEN Rule 8.3 required ACLD to maintain accounting records sufficient to show and explain transactions undertaken by ACLD to allow it to:

- (1) disclose its financial position on an ongoing basis; and
- (2) record its financial position as at its financial year end.

4.78. KPMG's records for the 2016 and 2017 review of ACLD's PIB Returns record that, in order to confirm that ACLD had maintained proper accounting records in accordance with GEN Rule 8.3, KPMG obtained:

- (1) ACLD's audited financial statements;
- (2) ACLD's record retention policy; and
- (3) Accounting records are prepared for a period of 12 months.

4.79. However, these procedures would not be sufficient to allow KPMG to conclude whether ACLD's accounting records were sufficient to show or explain transactions undertaken by ACLD, or allow ACLD to disclose its financial position on an ongoing basis.

4.80. KPMG's records of its review of ACLD's PIB Returns undertaken during the Relevant Period did not contain evidence of any other procedures being performed in relation to ACLD's accounting records. In addition, as per paragraph 4.44, KPMG did not perform any audit procedures in relation to ACLD's accounting records as part of its audit of ACLD's financial statements undertaken during the Relevant Period.

Capital Resources

4.81. As per paragraph 4.75, under AUD Rule APP1, KPMG was required to state in its Regulatory Returns Auditor's Report whether ACLD had maintained Capital Resources exceeding its Capital Requirements and that this had been maintained in the form of liquid assets in accordance with the PIB Rules. All annual assurance reports on ACLD's PIB Returns issued by KPMG during the Relevant Period stated either that ACLD's financial resources were sufficient to meet the relevant prudential requirements or financial resource

requirement or that ACLD had maintained adequate Capital Resources in the required form at all times. This statement by KPMG was demonstrably untrue.

- 4.82. As per ISAE 3000, KPMG should have obtained sufficient appropriate evidence on which to make this statement. As per paragraph 4.45, KPMG validated ACLD's bank account balance at reporting dates through Bank Confirmations. However, as these only validated ACLD's bank balance on a single day, they were not sufficient alone to validate that ACLD had been maintaining Capital Resources exceeding its Capital Requirements at all times.
- 4.83. Had KPMG performed adequate procedures to confirm that ACLD was maintaining adequate Capital Resources at all times, it would have identified that ACLD had employed a long running practice of Window Dressing, whereby funds were systematically moved in and out of ACLD's bank accounts around the time of PIB Returns reporting dates, including quarterly returns. This practice gave the impression to the DFSA that ACLD was maintaining significant liquid assets in its bank accounts when, in reality, ACLD was predominantly retaining a negligible balance and was in breach of its Capital Requirements (see paragraphs 4.37 to 4.42).
- 4.84. For example, on 30 December 2015 ACLD held a total of USD 184,852 in its bank accounts. This amount was significantly below its Capital Requirements of approximately USD 2.7m. On 31 December 2015, ACLD's PIB reporting date, USD 8m was deposited into ACLD's account from its Parent, AIML, thus bringing ACLD into compliance with its Capital Requirements. However, on 3 January 2016, the USD 8m was transferred back to AIML, putting ACLD back into breach of its Capital Requirements. ACLD remained in breach of its Capital Requirements until a transfer of USD 6m was made prior to the next quarter end (31 March 2016).
- 4.85. By restricting its substantive testing to obtaining bank balance confirmations for ACLD's financial statement reporting date, KPMG failed to identify ACLD's long running practice of Window Dressing and long running systematic breaching of Capital Requirements.
- 4.86. In order to gain sufficient comfort that ACLD was maintaining adequate Capital Resources throughout the year, KPMG should have obtained independent confirmation at random intervals, not just at reporting dates. For example, KPMG could have obtained bank statements for a random sample of months throughout the year to check that ACLD was maintaining Capital Resources in excess of its Capital Requirements.

4.87. Mr Navalkar's failure to ensure that KPMG performed adequate testing to confirm that ACLD was maintaining sufficient Capital Resources throughout the year meant that KPMG failed to identify ACLD's practice of Window Dressing. This allowed ACLD to conceal its Capital Requirements breaches and for its practice of Window Dressing to go unidentified for many years.

DFSA Onsite Assessment

4.88. As part of the DFSA's ongoing supervision of Registered Auditors, the DFSA conducted an onsite assessment of KPMG in 2016. The assessment included reviewing working papers for a sample of KPMG's audit clients, the sample included ACLD. Following the onsite assessment, the DFSA raised the concern that KPMG had not documented in its working papers that it had tested whether ACLD had maintained adequate Capital Resources throughout the year. These concerns were communicated to Mr Navalkar.

4.89. In response, KPMG indicated that although not documented it had checked ACLD's quarterly PIB Returns and obtained representation letters from ACLD's management confirming compliance with DFSA administered rules and laws.

4.90. However, the DFSA found that although KPMG reviewed ACLD's quarterly PIB Returns, it did not retain evidence to show it had validated ACLD's bank balance on those dates. Had it done so it would have identified that, in at least two PIB Returns submitted by ACLD to the DFSA between Q2 2013 and Q2 2017 (the period covered by the Regulatory Returns Auditor's Report signed off by Mr Navalkar), ACLD reported that it held liquid assets in excess of its Capital Requirements when, in reality, it did not because the quarter end transfer from AIML or AH had not been performed. In its Q3 2013 and Q1 2014 PIB Returns, ACLD reported holding USD 6.85m and USD 8m in liquid assets respectively. However, ACLD's bank statements showed that it held only USD 2,119 and USD 9,965 respectively at these reporting dates.

4.91. In a subsequent DFSA onsite visit in 2018, the DFSA reviewed two of KPMG's PIB Return review files which revealed the same issue found on the ACLD file in 2016, in that neither file contained evidence of testing to ensure that ACLD had maintained Capital Resources at all times in accordance with PIB Rules.

4.92. It should be noted that the DFSA's onsite visits, which are performed as part of the DFSA's

overall responsibility for supervising Registered Auditors, do not constitute an audit and, as such, are not carried out in accordance with auditing standards. Ensuring compliance with applicable rules and laws is the responsibility of the Registered Auditor's management. The DFSA's onsite visits focus on specific key areas and rely solely on the information provided by the Registered Auditor. They are not intended to, nor should they be considered to, provide assurance as to the overall adequacy of a Registered Auditor's audit procedures or compliance with applicable auditing standards. The DFSA would, however, expect Registered Auditors to take appropriate steps to remedy any findings raised by the DFSA as a result of its onsite visits.

5. RESPONSE TO REPRESENTATIONS

5.1. In his representations Mr Navalkar relied on those submitted by KPMG. It is therefore appropriate to set out in this Decision Notice the DFSA's response to KPMG's representations.

Preliminary Points

5.2. The DFSA is well aware that auditors do not warrant the accuracy of the financial statements of the audited entity (more accurately, that the statements present a true and fair view or present fairly, in all material respects, the results and financial position of the entity). Similarly, accountants providing an assurance to a regulator in relation to the financial affairs or position of an entity do not warrant the accuracy of the statement of its affairs or financial position. Viewed at the most general level, the obligation of the auditor or accountant is one of reasonable skill and care.

5.3. The Auditors' Report on the 2017 financial statements of ACLD correctly stated that the Management were responsible for the company's financial statements and correctly set out the Auditor's responsibility:

"Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement...."

We believe that the audit evidence we have obtained is sufficient and appropriate to provide

a basis for our audit opinion.”

5.4. KPMG’s Audit Opinion was expressed as follows:

“In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as at [the year end], and its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards.”

5.5. The Audit Opinions on the 2012 and 2014 financial statements were for the purposes of this Decision Notice not significantly different:

“We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

In our opinion, the financial statements give a true and fair view of the financial position of the Company as at 31 December 2012, and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards.”

5.6. The 2015 and 2016 Audit Reports and Opinions were in the same terms as the 2017 Audit Opinion.

Key Issues

5.7. The Recommendation to the Decision Maker dated 25 October 2020 identified six “key issues” for consideration by the Decision Maker. KPMG addressed those key issues in paragraph 37 and following of its Representations dated 19 January 2021. The key issues were:

- (1) The burden and standard of proof.
- (2) Whether the misleading and deceptive conduct by ACLD, as set out in the ACLD Decision Notice, gives KPMG a defence to or mitigates any of the alleged contraventions.
- (3) Whether the results of DFSA’s online assessments mitigate any of the alleged contraventions.
- (4) The extent to which KPMG was aware of ACLD’s misconduct.

(5) Whether KPMG could have reasonably been expected to have identified ACLD's misconduct.

(6) Whether the alleged weaknesses in KPMG's audit procedures present an ongoing risk to the reputation of the DFSA by KPMG continuing to audit Relevant Persons.

5.8. The DFSA address these issues below and does not accept that they are all pertinent.

The burden and standard of proof

5.9. It is not in issue that the burden of proof of the deficiencies in KPMG's work is on the DFSA, and that the standard of proof is the balance of probabilities.

5.10. The DFSA also bears in mind that the more serious an allegation, the more cogent the evidence is required to prove it. However, this has relatively little application where, as here, it is not suggested that KPMG or Mr Navalkar committed any deliberate misconduct.

5.11. Normally, a decision on a sanction for proved misconduct or deficiency is not a matter of proof, and the burden of proof is irrelevant. The decision as to a sanction is normally a matter of judgment, applied to the proven facts. In the present case, however, specific statutory provisions are in play, namely AUD Rule 2.3.1, which requires a Registered Auditor to comply with specified requirements on a continuing basis. If there is reason to doubt whether a Registered Auditor has complied with these requirements, the DFSA considers that there is no reason why it should not be required to show that it is able to do so and is doing so.

5.12. In any event, however, the imposition of a requirement to show a qualification or competence is not a sanction in the sense of a punishment. It is a regulatory action taken in the public interest. It is sufficient for the regulator to show that there is good reason for the requirement.

Whether the misleading and deceptive conduct by ACLD, as set out in the ACLD Decision Notice, gives KPMG a defence to or mitigates any of the alleged contraventions

5.13. As KPMG rightly stated, the obligations undertaken by auditors are obligations of conduct, not of result or consequence. The conduct of ACLD does not give KPMG a defence to otherwise well-founded allegations. It may, however, be relevant to the appropriate sanction.

5.14. For present purposes, it is sufficient to refer to paragraph 5(c) of the ACLD Decision Notice:

“ACLD knowingly provided to its Auditor information relating to its Capital Resources that was materially false, misleading or deceptive, and knowingly failed or omitted to provide to its Auditor information relating to transactions with its parent, Abraaj Investment Management Limited (Parent or AIML) and AIML’s parent Abraaj Holdings (AH) that its Auditor was entitled to require, where the omission of such information was likely to mislead or deceive its Auditor, contrary to Article 103(3) and (before 21 August 2014) 103(1)(b) of the Regulatory Law.”

5.15. The DFSA refers also to paragraphs 39, 43 and 51 of the ACLD Decision Notice. Paragraph 43 was as follows:

“By engaging in the practice of Window Dressing and providing PIB Returns to its Auditor that gave a false impression about its compliance with Capital Requirements, ACLD knowingly or recklessly provided information to its Auditor that was materially false, misleading or deceptive, contrary to Article 103(1) of the Regulatory Law (before 21 August 2014) and (after 21 August 2014) 103(3) of the Regulatory Law.”

5.16. It is clear that the affairs of the Abraaj Group as a whole were conducted dishonestly. This dishonest mismanagement extended to ACLD, and the DFSA accepts that ACLD deliberately misled KPMG, and by extension Mr Navalkar.

5.17. However, it is a recurrent theme of KPMG’s Representations that it was the victim of sophisticated fraud on the part of management of ACLD. The DFSA does not consider that the undoubted fraud in the Abraaj group was sophisticated. Most obviously, the Window Dressing carried out in relation to ACLD was straightforward and should have been apparent on even a cursory review of its bank statements around a date in question. The DFSA has seen no evidence of the forgery of bank statements or other documents, save possibly in respect of the bank statement that included the ACLD’s bank account at 31 July 2017.

5.18. That bank statement was referred to in the email chain. On 29 October 2017, an Associate at KPMG (**KPMG Associate**) emailed a director at KPMG (**KPMG Director**) responsible for its work for ACLD, stating:

“[Employee of ACLD] has showed me the bank statement online there are no transactions in the m/o July.”

5.19. The KPMG Director replied:

“Perfect! Please just document this on our file.”

5.20. Whether the “this” was the KPMG Associate’s having seen the statement, or the statement itself, is not clear. There was no copy of the bank statement on KPMG’s file.

5.21. What is clear is that a cursory examination of the relevant bank statement for July 2017 would have shown a transfer to AIML of \$5.8 million on 2 July, leaving a balance of only \$35,529.83, a fraction of what was required to meet the PIB requirement.

5.22. There are therefore two possibilities: either the KPMG Associate was shown a forgery or her statement that there were no transactions cannot be taken at face value.

5.23. The KPMG Director was asked about this in her interview. She was shown the bank statement. The following exchange then took place.

“ENFORCEMENT INTERVIEWER: So if we refer back to that email, where it says there were no transactions in July 2017, is that what you expect?”

KPMG DIRECTOR: Yes, because you see it's part of unrecorded liabilities - we obtained July bank statements, post year-end bank statements, only from an expense perspective, to make sure that there are no unrecorded liabilities, liabilities in the sense that no unrecorded liabilities or expenses, etc. There was no expense that was being paid to AIML. Going back to the whole conversation around unrecorded liabilities, the reason unrecorded liability was not a heightened or a significant risk for this audit, because of the nature of the way the business was set up, ACLD was not incurring any expenses.

They would earn management fee and they would charge the 72.5 per cent to themselves and everything else was incurred by AIML. So from a basic audit risk perspective and because our audits are risk driven audit, this was not heightened. Unrecorded liability was never heightened there was significant risk for ACLD.

ENFORCEMENT INTERVIEWER: Sure.

KPMG DIRECTOR: So when I look at this, and I'm not going to subsequent to the year-end or subsequently in Feb/ March. There's been a lot of things in the news but not referring to any of that. If at that point in time I look at this bank statement I see this transaction, this is not going to be causing me to think anything in terms of unrecorded liability because the transfers in and out of AIML is part of their business. If you remember,

the agreement says that there is an invoice to AIML and AIML pays them back for whatever that cap is, 72.5 per cent, etc. But this is not a third-party expense so it wouldn't form part of my unrecorded liability anyways."

- 5.24. It follows from the KPMG Director's evidence that the KPMG Associate may have been shown the genuine bank statement, and would nonetheless have made the statement in her email of 29 October 2017.
- 5.25. The DFSA therefore concludes that it has not been shown that KPMG was ever shown forged bank statements.
- 5.26. The DFSA notes that it is the duty of an auditor to be aware of the possibility of fraud, and to exercise professional scepticism.
- 5.27. Another recurrent theme of KPMG's Representations is that the exercise of greater diligence as alleged by the DFSA would not have led to a different result. The consequence of a breach of duty on the part of KPMG, if such there was, is relevant to the sanction for the breach, but a lack of consequence does not excuse the breach of duty itself. However, it is far from clear that if KPMG had insisted on seeing ACLD's bank statements, the Window Dressing would or could have continued as it did.

Whether the results of DFSA's online assessments mitigate any of the alleged contraventions

- 5.28. The results of DFSA's online assessments do not excuse KPMG's contraventions. They may mitigate them, particularly if they may have caused KPMG to be complacent as to its compliance with its obligations.
- 5.29. However, the assessments were not unqualified. The Regulatory Returns Auditors Report dated 27 September 2016 for the year ended 31 June 2015 included the following DFSA Comments on Capital Resources:

"Have you tested adequacy of capital resources throughout the year?"

- 5.30. KPMG's response was:

"We have checked the Abraaj Capital Limited ("ACL") for B60 for each quarterly returns and have noted that the capital resources are in excess of the capital requirement.

We have performed management inquiries on compliance of DFSA laws and regulation. Management has confirmed that there are no regulatory breaches during the year.

We have reviewed the Going concern assumption during our audit work and have ensured that there are no indicators of concern in ACL.

ACL has achieved good returns from its management activities, and ACL is going to receive these management fees for next 12 months period, based on the underlying funds to which it provides management services.”

5.31. In fact, KPMG had not tested adequacy of capital resources throughout the year. KPMG’s response should have been:

“We have only checked capital resources on quarterly return dates.”

The other actions KPMG referred to, and in particular the management inquiries, could not make up for the failure to test for capital adequacy “throughout the year”.

5.32. DFSA visited KPMG between 25 and 29 September 2016. DFSA’s Onsite Assessment Report following that visit identified the following matters:

“Regulatory Returns Auditors Report

The work on Regulatory Returns Audit Reports was of good standard except for the following minor matters which we noted on file (b):

i) The quarterly returns were not appropriately reconciled with the annual return; and

ii) There was no documentation regarding verification of the capital resources.

...”

5.33. The documentation regarding verification of the capital returns should have included copies of bank statements. At the very least, KPMG should have been able to document that they had inspected the bank statements at a number of dates, preferably selected at random. The absence of such documentation should have alerted KPMG. In fact, KPMG responded as follows:

“Although we are satisfied on all files reviewed with the level of work performed and conclusions reached, including performing alternative testing which covers the points highlighted, we agree with the reviewers’ comments that the extent of the documentation could be improved to ensure it is clear how we arrived at our final conclusions.

We will incorporate these points in our annual audit update training where it will be

communicated to all audit professionals in the firm working on DFSA regulated clients.”

The extent to which KPMG was aware of ACLD’s misconduct

5.34. It is not suggested that KPMG or Mr Navalkar were aware of ACLD’s misconduct.

Whether KPMG could have reasonably been expected to have identified ACLD’s misconduct

5.35. This question is not relevant to the issue as to whether KPMG’s work was deficient. Whether KPMG’s compliance with its obligations would have led to the discovery of ACLD’s misconduct may go to sanction, but that is largely in the realm of speculation. It is not improbable that regular inspection by KPMG of ACLD’s bank statements would have led sooner or later to the discovery of the Window Dressing.

Whether the alleged weaknesses in KPMG’s audit procedures present an ongoing risk to the reputation of the DFSA by KPMG continuing to audit Relevant Persons

5.36. This issue is relevant to the question of sanction and is therefore considered below.

THE ESSENTIAL DEFICIENCIES IN KPMG’S WORK

5.37. The DFSA has concluded that there were two egregious deficiencies in KPMG’s work.

ACLD’s bank statements

5.38. The first was the failure to inspect ACLD’s bank statements. Instead, apart from the statement for July 2017, KPMG was satisfied with bank confirmations of bank balances as at the reporting dates.

5.39. PIB 3.2.2 provides:

“An Authorised Firm that is a Domestic Firm must:

(a) have and maintain, at all times, Capital Resources of the kinds and amounts specified in, and calculated in accordance with, the Rules in PIB;

and

(b) ensure that it maintains capital and liquid assets in addition to the requirement in (a), which are adequate in relation to the nature, size and complexity of its business to ensure that there is no significant risk that liabilities cannot be met as they fall due.”

5.40. This requirement applied to ACLD. This case is primarily concerned with requirement (a). It

is obvious that it could not be satisfied by having the required Capital Resources only at Reporting Dates.

5.41. AUD A1.1.1 provides, so far as relevant:

“In producing a Regulatory Returns Auditor’s Report for a Domestic Firm, an Auditor must state whether:

(f) (in the case of an Authorised Firm other than an Insurer) the Capital Resources maintained exceed the Capital Requirement in accordance with the applicable Rules in PIB.”

5.42. The important word in the present context is “*maintained*”. The Capital Requirement is not maintained if it exists only at a reporting date or at reporting dates. Yet until 2017 the only bank confirmations obtained by KPMG were that ACLD’s bank account included the Capital Requirement at those dates. Moreover, quite apart from the express and clear provisions of these Rules, the obvious point of a Capital Resource is to ensure that the Authorised Firm can meet any possible liabilities. The presence of assets on a particular date does not meet that purpose.

5.43. These requirements were reflected in the text of the Prudential Report Submissions reviewed by KPMG. Form B100 included a Declaration by the Authorised Firm that “...during the period, the Authorised Firm has been in compliance at all times with Articles 67(1)-(3) of the Regulatory Law 2004.”

5.44. KPMG’s Independent Assurance Report on the Prudential-Investment, Insurance Intermediation and Banking Module (“PIB”) Forms of Abraaj Capital Limited for the year ended 30 June 2017 stated, among other things:

“Based on our work described in this report, we conclude

...

Capital Resources maintained exceeds its Expenditure Based Capital Minimum and has been maintained in the form of liquid assets in accordance with Chapter 3 Part 3.”

5.45. KPMG could not properly, and should not, have so concluded without sight of the bank statements in which ACLD’s Capital Resources were thought to be “maintained”.

5.46. KPMG’s report on ACLD’s PIB returns for the year ended 30 June 2016 and its report on

the PIB returns for the year ended 30 June 2015 were in similar terms. KPMG's report on ACLD's PIB returns for the period of 18 months ended 30 June 2014 did not have this express statement, but KPMG would not have given the opinion in that report if it had seen ACLD's bank statements and appreciated what they revealed.

- 5.47. DFSA reported on KPMG's Regulatory Returns Auditors' Report for the year ended 30 June 2015. Against item 3, the DFSA asked:

"Have you tested adequacy of capital resources throughout the year?"

- 5.48. The answer should have been simply "No". Adequacy of capital resources had been tested only at reporting dates. Instead, KPMG responded:

"We have checked the Abraaj Capital Limited ("ACL") form B60 for each quarterly returns and have noted that the capital resources are in excess of the capital requirement.

We have performed management inquiries on compliance of DFSA laws and regulation. Management has confirmed that there are no regulatory breaches during the year.

We have reviewed the Going concern assumption during our audit work and have ensured that there are no indicators of concern in ACL. ACL has achieved good returns from its management activities, and ACL is going to receive these management fees for next 12 months period, based on the underlying funds to which its [sic] provides management services."

- 5.49. No reason has been given for KPMG requiring sight of ACLD's bank statement in 2017 when it had previously thought it unnecessary to do so.

- 5.50. The DFSA has focused above on KPMG's reports on ACLD's PIB returns because the need to consider its bank statements for the account in which the capital requirement was thought to be maintained was so obvious. It should not be assumed that there was no similar requirement in relation to the audits of ACLD's financial statements. To the contrary, for the reasons given by the DFSA's expert, the DFSA considers that there was such a requirement.

Accounting for and reporting on ACLD's financial statements

- 5.51. As KPMG knew, ACLD was the lessee of the offices occupied by it and by AIML. As such,

it was liable for the rent and to perform the other obligations in the leases. Yet these obligations, and any asset created by the leases, were not accounted for in the audited financial statements.

5.52. Similarly, as KPMG knew, ACLD was the employer under the contracts of employment of the staff working for it and for AIML. Yet ACLD's liabilities resulting from those contracts were not reflected in the annual accounts.

5.53. ACLD's financial statements and its accounting records should have reflected these liabilities and the obligations to it of AIML under the Delegation Agreements and the Services Agreement between them. (The IASLA was not disclosed to KPMG, and no criticism is made for not taking it into account.) If ACLD's financial statements had done so, it would have been obvious that its financial viability depended on that of AIML. KPMG could not have properly reported that ACLD was a going concern without adequate evidence as to AIML's financial position. KPMG had no such evidence.

5.54. KPMG has given two justifications for its acceptance of ACLD's financial statements.

5.55. A constant theme of interview of the Audit Principal responsible for KPMG's audit of ACLD is that the financial statements recognised substance over form. Similarly, KPMG's Written Submissions dated 19 January 2021 asserted:

*"150. Even within the Framework the concept of substance over form "is not considered a separate component of faithful representation because it would be redundant. Faithful representation means that financial information represents the substance of an economic phenomenon rather than merely representing its legal form. **Representing a legal form that differs from the economic substance** of the underlying economic phenomenon **could not result in a faithful representation** [emphasis in original]"*.

151. ACLD's accounting of the Expense Threshold reflected the substance of the arrangement between it and AIML, pursuant to the Services Agreement. ACLD's income statement appropriately recorded ACLD's operating expenses up to only the Expense Threshold, reflecting the fact that its expenses were, in all circumstances, to be capped at 72.5 percent of its management fee income. Those were the only expenses to be incurred by ACLD. AIML paid all other costs of running the DIFC office, including employee salaries, and recorded the associated expenses in its financial statements. Consistent with the Services Agreement, ACLD was exposed to "minimum commercial

risk", and ACLD's total expenses were "not more than 72.5% of the total management fees".

5.56. The substance versus form assertion is manifestly unfounded, as was discovered when AIML failed. ACLD had no defence to claims to enforce its liabilities under its lease or to its employees.

5.57. The second justification put forward by KPMG is that it was acceptable to offset its liabilities to staff and to its lessor against its receipts from AIML:

"152. International Accounting Standard 1 ("IAS 1"), the international accounting standard that addresses management's presentation of its financial statements, provides that offsetting income and expenses may be permissible where, as was the case here, such "offsetting reflects the substance of the transaction or other event". Therefore, it was appropriate for ACLD to net the expense subsidy it received from AIML and not reflect it within its financial statements. The total expenses to be paid by ACLD remained unaffected."

5.58. This reflects a misconception of what is substance and what is form. In fact, ACLD had liabilities for rent and employee rights. These liabilities should have been recognised in the financial statements, even if there were claims over against AIML. Clearly, the solvency of ACLD depended on the solvency of AIML. When AIML failed, ACLD could not meet its undisputed liabilities, and it too failed.

5.59. In relation to ACLD's liabilities to its employees, KPMG asserts:

"154. ... ACLD's balance sheet appropriately did not record any liabilities related to employee wages/salaries or end-of-service benefits. ACLD's accounting treatment of such wages/salaries and benefits was consistent with International Accounting Standard 19 ("IAS 19"), the international accounting standard that addresses ACLD's recognition of such employee benefits.

155. Notably, IAS 19 does not define "employee". Rather, the term "employee" is to be interpreted broadly, judged in light of all the facts and circumstances.

156. The substantial majority of ACLD's "employees" were not engaged in activities regulated by the DFSA. In fact, only a small percentage of ACLD employees were engaged in regulated activities, with the majority of ACLD's employees providing their

services to AIML. The portfolio of AIML's funds under management represented the vast majority of ACLD employees' activities, and it is likely the case that the portion of services attributable to the operations of ACLD, which was not significant, cannot be measured reliably. Given ACLD's business model, it would be unreasonable to expect that ACLD would bear the financial obligation for all employee-related liabilities.

157. AIML had the resources to discharge the associated wages/salaries and end-of-service benefit liabilities, and AIML did, in fact, provide for wages/salaries and employee end-of-service benefits to ACLD employees.”

- 5.60. It is correct that if a question arises as to whether a person is an employee or self-employed it is to be determined “in the light of all the facts and circumstances”. The publication referred to at footnote 118 of KPMG’s Representations addresses this question, not the accounting for the benefits of someone who is indubitably an employee. When a person is indubitably an employee, and has a written contract of employment, the employer identified in the contract is liable to him or her for their employee benefits. Those liabilities must be properly accounted for by the employer, and should have been by ACLD. The fact that another company pays the employee, or indemnifies the employer against the employment costs, does not relieve the contractual employer from its contractual liabilities, or from their correct accounting.
- 5.61. The second justification put forward by KPMG is that ACLD was entitled to set off its receipts from AIML against its liabilities for rent, salaries and other operating expenses and to report only on the balance:

“161. ... even if ACLD were to recognise on its balance sheet a liability for either its office space or employee costs, doing so would generate an offsetting receivable from AIML due to the undertaking by AIML to settle that obligation. International Accounting Standard 32(1AS 32) the international accounting standard that outlines the accounting requirements for management's presentation of financial instruments, provides that an asset and a liability shall be off set and the net amount presented in the balance sheet when an entity (1) currently has a legally enforceable right to set off the recognised amounts; and (2) intends either to settle on a net basis, or to realise the asset and settle the liability simultaneously. The Services Agreement established a duty and responsibility for AIML to discharge any of ACLD's liabilities in excess of 72 .5 percent of ACLD 's relatively modest revenue from managing certain Abraaj funds. Thus, ACLD's treatment of the liabilities associated with either the office space

or employee costs as a receivable from AIML on a net basis and the mirror liability on AIML's balance sheet would still reflect and faithfully represent the substance of the ACLD-AIML arrangement.”

- 5.62. This assertion demonstrates a basic misunderstanding. If A owes B a debt, and B owes A a debt, it may well be acceptable to net off the debts and to account only for the balance. This is because one debt may normally be set off against the other, and in any enforcement proceedings only the balance will be payable. But that was not the situation in relation to ACLD. In the case of ACLD, its liabilities were due to its lessor and employees, whereas its rights for partial reimbursement were against AIML. In such circumstances, set off is unavailable. It is important fully to account for both the gross liabilities and the right of partial reimbursement, since otherwise the financial statements give a misleading view of the financial position of the entity in question.
- 5.63. KPMG has not identified any working papers in which the justifications now put forward for the accounting of ACLD's liabilities and rights were discussed. They would therefore appear to be retrospective attempted justifications rather than matters identified and discussed contemporaneously.

Professional Scepticism

- 5.64. The Abraaj Group appeared to be an important client of KPMG. An email dated 15 January 2013 from Mr Navalkar to a director at KPMG in London described Abraaj as “one of our crown jewel clients”. In an email dated 3 May 2015 from an employee of KPMG to the Group CEO of Abraaj and others, he stated:

“It is my great pleasure to present to you our 2014 Annual Report to the Abraaj Group. Given the history and strength of our relationship and because Abraaj is one of our most valued global clients, we have produced this annual report to illustrate and celebrate the strength and long standing nature of the relationship between our two firms.

As you know, Abraaj is a Global Priority client of KPMG and, as such, has priority access to our Audit, Tax and Advisory practice specialists. In line with Abraaj's growth and global standing, we are presented in this report your KPMG global client team with Senior Partners and professionals in each of your target markets and geographies.”

- 5.65. These emails are not suggestive of the exercise of professional scepticism. They give the

impression that KPMG was too ready to accept management representations without appropriate investigation. KPMG regarded the audit of ACLD as a simple matter, which it was, but this was no reason for not following proper audit and accounting procedures.

Conclusion

5.66. The above deficiencies in KPMG's work led to the deficiencies set out in this Decision Notice.

6. CONTRAVENTIONS

Knowingly concerned in KPMG's breaches

6.1. As the Audit Principal assigned to ACLD during the Relevant Period, Mr Navalkar had overall responsibility for the conduct of the audits and reviews of ACLD performed by KPMG.

6.2. Prior to becoming an Audit Principal, Mr Navalkar had been part of the ACLD audit team since 2007. As such, Mr Navalkar had a good understanding of the operations and accounting practices of ACLD as well as the audit procedures being performed on the ACLD audit. He was also the audit partner responsible for the audits of a number of other Abraaj entities performed by *[another KPMG member firm]*, including AIML, AH and Abraaj Funds.

6.3. Mr Navalkar is an experienced audit professional with more than 20 years audit experience and has been qualified as a chartered accountant since 1996. As such, Mr Navalkar knew, or should have known, the relevant standards that applied to the audit and review of ACLD's financial statements and PIB Returns for which he was responsible. Further, given his personal and direct involvement in ACLD's audits over the Relevant Period, Mr Navalkar knew, or should have known, they were not conducted to the standard required.

6.4. During the Relevant Period, Mr Navalkar had oversight over the KPMG audit team performing the ACLD audits and was responsible for ensuring that the audits were performed in accordance with ISA and ISAE. He was also responsible for ensuring that the procedures performed and evidence obtained were sufficient to give an opinion on whether ACLD's financial statements conformed to IFRS standards and presented a true and fair view of ACLD's financial position, and whether ACLD's PIB Returns had been prepared in accordance with the DFSA's PIB Rules.

6.5. However, as described in paragraphs 4.43 to 4.70 and 4.77 and 4.90, the audit procedures

performed and the evidence obtained by KPMG fell significantly short of the relevant standards, were not adequate and failed to meet ISA or ISAE. Consequently, Mr Navalkar, on behalf of KPMG, failed to identify that he was signing off Auditor's Reports and Regulatory Returns Auditor's Reports that failed to meet IFRS or the DFSA's PIB Rules and did not represent a true and fair view of ACLD's financial position.

6.6. As such, through his acts or omissions, Mr Navalkar was directly involved in the contraventions by KPMG over the Relevant Period. As a result, by reason of Article 86(1) of the Regulatory Law, Mr Navalkar also committed contraventions and is liable accordingly.

6.7. As set out above, during the Relevant Period KPMG breached:

- (1) Article 101 of the Regulatory Law – Auditors' duties – in that KPMG failed to carry out such investigations as to enable it to form an opinion as to whether the financial statements of ACLD represented a true and fair view of the financial condition and the state of affairs of ACLD;
- (2) GEN Rule 8.9.1(b) in that KPMG failed to comply with the applicable International Standards of Auditing, Quality Control and Codes of Ethics; and
- (3) AUD Rule 6.2.1 – Conduct of audits and audit reports – in that KPMG failed to conduct audits and assurance reviews in accordance with the relevant ISA and ISAE.

6.8. Article 86(1) of the Regulatory Law 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 person, the aforementioned person commits a contravention and is liable to be proceeded against and dealt with accordingly.

6.9. Article 86(7) of the Regulatory Law 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.

6.10. As set out in paragraphs 4.30 and 4.76, Mr Navalkar was responsible for managing the

conduct of KPMG's audit of ACLD and knew or should have known the standard expected of a person acting in his appointed capacity. By his actions or omissions in relation to the audit and review of ACLD's financial statements and PIB Returns, Mr Navalkar was directly or indirectly party to, and thus knowingly concerned, in the contraventions by KPMG. In being so knowingly concerned, by reason of Article 86(1) of the Regulatory Law, Mr Navalkar also committed a contravention and is liable accordingly.

Breach of Principles for Audit Principals

- 6.11. As a DFSA Registered Audit Principal, Mr Navalkar was required to comply with the DFSA's Principles for Audit Principals set out in AUD Section 2.6. These came into effect on 21 August 2014 and Mr Navalkar became a DFSA Registered Audit Principal on 20 October 2014. In addition to Principles for Audit Principals, as a qualified account Mr Navalkar was required to comply with identical requirements under the Code of Ethics for Professional Accountants.
- 6.12. Principle 3 (Professional competence and due care) requires that an Audit Principal must maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and must act diligently and in accordance with applicable technical and professional standards.
- 6.13. The DFSA also considers that the conduct described in section 4 above demonstrates that, as the Audit Principal responsible for the audits of ACLD during the Relevant Period, Mr Navalkar failed to demonstrate professional competence and due care to the standard reasonably expected of someone in his position. Accordingly, Mr Navalkar also breached Principle 3 of the DFSA's Principles for Audit Principals (Professional competence and due care) in AUD Rule 2.6.4.

7. SANCTION

- 7.1. 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**).
- 7.2. 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));
- (2) the deterrent effect of the action and the importance of deterring Mr Navalkar and others from committing further or similar contraventions; and
- (3) the seriousness of the contraventions, including in particular the impact on the reputation of the audit profession and the DIFC.

7.3. The DFSA has considered the sanctions and other options available to it and has concluded that imposing a fine on Mr Navalkar is appropriate given the circumstances of this matter. The DFSA has also taken into consideration the fact that Mr Navalkar ceased to be a DFSA Registered Audit Principal on 16 October 2019.

Determination of the Fine

7.4. 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.

7.5. The DFSA has also had regard to action taken by other regulators for similar contraventions when considering the appropriateness of the level of penalty imposed.

Step 1 – Disgorgement

7.6. There was no evidence to suggest that Mr Navalkar 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

7.7. The DFSA considers Mr Navalkar's contraventions to be particularly serious because:

- (1) The contraventions occurred over a significant period of time. Mr Navalkar had been part of the ACLD audit team since 2007. Since December 2012, he was the audit partner responsible for ACLD's audits and since October 2014 Mr Navalkar was a DFSA registered Audit Principal.
- (2) The role of an Audit Principal of ensuring Authorised Firms' financial statements

comply with IFRS and give a true and fair view is integral to enhancing investor confidence and is paramount as the last line of defence. As such, Mr Navalkar's failings were damaging to investor confidence, the reputation of the DIFC, the reputation of auditors in the DIFC and contributed to a loss of confidence in the DIFC markets, most notably private equity.

- (3) By not ensuring adequate audit procedures were performed, Mr Navalkar failed to identify discrepancies in ACLD's financial statements and PIB Returns requiring further investigation. As such, Mr Navalkar was unable to challenge ACLD on these discrepancies, contributing to the misleading information continuing to be reported by ACLD for many years.
- (4) As an experienced audit professional of senior standing, Mr Navalkar should have been aware that his failure to perform basic standard audit procedures substantially increased the risk of misleading information being included in reports in which he provided an audit or assurance opinion. Despite being presented with good reason to make further investigation and inquiry, notably as stated in paragraph 4.48 to and including paragraph 4.52, Mr Navalkar failed to exercise professional scepticism which enabled ACLD to continue its long running practice of Window Dressing. This was a very significant failing on the part of Mr Navalkar.

7.8. Taking the above factors into account, the DFSA considers that a financial penalty of USD 430,420 appropriately reflects the seriousness of the contraventions. This figure is 25% of USD 1,721,681, which is representative of Mr Navalkar relevant income during the Relevant Period.

Step 3 - Mitigating and aggravating factors

7.9. 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 aggravating factors in determining the appropriate level of Fine:

- (1) The contraventions only came to light following an anonymous complaint regarding the Abraaj Group's activities and only after the DFSA commenced a formal investigation into ACLD;
- (2) Mr Navalkar failed to act, or act sufficiently, after being told of the DFSA's concerns

about the ACLD audit raised during an onsite assessment in 2016; and

- (3) Mr Navalkar failed to take into account guidance issued by the DFSA as part of its audit outreach.

7.10. In deciding to take the action in this Notice, the DFSA has also taken into account the fact that ACLD engaged in a prolonged systematic practice designed to conceal information from KPMG and Mr Navalkar. Whilst this does not mitigate Mr Navalkar's contraventions, the DFSA has taken this into consideration in deciding to take the action in this Notice.

7.11. As a result of these factors, the DFSA considers that overall these factors aggravate the seriousness of the contraventions by Mr Navalkar. Accordingly, the DFSA decided to increase the figure after Step 2 by approximately 15%.

7.12. Accordingly, the figure after Step 3 is USD 500,000.

Step 4 – Adjustment for deterrence

7.13. 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.

7.14. The DFSA considers that the figure after Step 3 is sufficient for the purposes of deterring Mr Navalkar and others from committing further or 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.

7.15. Accordingly, the figure after Step 4 is USD 500,000.

Step 5 - Settlement discount

7.16. 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.

7.17. There has been no agreement with Mr Navalkar in this matter. Accordingly, the DFSA has not applied any settlement discount at Step 5.

The level of the fine imposed

7.18. Given the factors and considerations set out in paragraphs 7.1 to 7.17 and the circumstances of this matter, the DFSA has determined that it is proportionate and appropriate to impose on Mr Navalkar the Fine of USD 500,000.

8. PROCEDURAL MATTERS

Decision Making Committee

8.1. The decision which gave rise to the obligation to give this Notice was made under RPP 7-5 by The Right Honourable Sir Stanley Burnton (the **Decision Maker**). By an Instrument of Delegation dated 21 October 2020 there were delegated to the Decision Maker the powers and functions of the Chief Executive of the DFSA to decide what, if any, action should be taken under legislation administered by the DFSA against KPMG.

8.2. This Notice is given to Mr Navalkar (hereafter **you** or **your**) under Paragraph 5 of Schedule 3 to the Regulatory Law.

Evidence and other material considered

8.3. In accordance with paragraph 5(2) and 5(3) of Schedule 3 to the Regulatory Law, the DFSA has considered the following materials in making its decision:

- (1) Enforcement's Recommendation to the Decision Maker dated 25 October 2020.
- (2) The Preliminary Notice addressed to Mr Navalkar dated 12 November 2020.
- (3) Mr Navalkar's Representations dated 15 February 2021.
- (4) Enforcement's Response dated 1 March 2021.
- (5) The letter dated 17 March 2021 from Mr Navalkar's solicitors to the Administrator to the Decision Making Committee.
- (6) Mr Navalkar's Reply dated 23 May 2021.
- (7) The Preliminary Notice addressed to KPMG dated 12 November 2020.
- (8) KPMG's Representations dated 19 January 2021.
- (9) Enforcement's Response dated 1 March 2021.
- (10) KPMG's Further Representations dated 23 May 2021.

(11) Enforcement's Response dated 1 June 2021.

(12) KPMG's Representations dated 8 June 2021.

In each case, along with the relevant materials provided therewith.

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

8.5. In accordance with paragraph 4(2)(c) of Schedule 3 to the Regulatory Law, the DFSA is required to provide a copy of the relevant materials that were considered in making the decision which gave rise to the obligation to give this Notice. However, with reference to paragraph 4(3) of Schedule 3 to the Regulatory Law, the DFSA may refer to materials (instead of providing a copy) if they are already held by Mr Navalkar or are publicly available.

Manner and time for payment of the Fine

8.6. You must pay the Fine no later than 28 days from the date of receipt of this Decision Notice.

If the Fine is not paid

8.7. 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 you and due to the DFSA.

Referral to Financial Markets Tribunal (FMT)

8.8. Under Articles 29 and 90(5) of the Regulatory Law, you have the right to refer the matter to the FMT for review. The FMT is operationally independent of the DFSA and has the power to conduct a full merits review of the matter.

8.9. Should you wish to have this matter reviewed by the FMT, you must exercise that right within 30 days of the date of this Decision Notice.

8.10. Proceedings before the FMT are commenced by submitting a Notice of Appeal (Form FMT 1) to the registrar of the FMT. The fee specified in section 4.2 of the Fees Module of the DFSA Rulebook must also be paid to the DFSA at the same time as the Notice of Appeal is filed with the registrar of the FMT.

8.11. The FMT Rules of Procedure, as well as the template of Form FMT 1 which includes the Registrar's contact details can be found on the DFSA's website at

<https://www.dfsa.ae/en/About-Us/Our-Structure#Financial-Market-Tribunal>.

8.12. Please note that under Paragraph 26 of the FMT Rules of Procedure, you must send a copy of Form FMT 1 to the DFSA on the same date it is filed with the Registrar of the FMT.

Publicity

8.13. 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 which the DFSA considers relevant to the conduct of affairs in the DIFC.

8.14. Under the requirement of Article 29 of the Regulatory Law, the DFSA will publish appropriate information about a decision which has been referred to the FMT unless publication would, in the DFSA's opinion, be prejudicial to the interests of the DIFC or the FMT has made an order that such information should not be published.

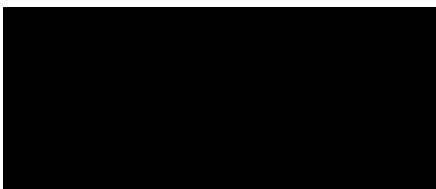
8.15. RPP 5-17-9 to 5-17-11 are relevant to when information about the matters to which this Decision Notice relates will be published, including if the matter is referred to the FMT. .

8.16. As the DFSA has decided to give you a Decision Notice, your representations may ultimately be made public in the event that this Decision Notice is published.

DFSA contacts

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

Signed



Ian Johnston

Chief Executive of the DFSA

Dated: 2 November 2022

ANNEX A – RELEVANT LEGISLATION, REGULATORY PROVISIONS & ACCOUNTING AND AUDITING STANDARDS

1. RELEVANT LEGISLATION

DIFC Law No. 1 of 2004 – The Regulatory Law

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:*

(...)

(b) *to foster and maintain confidence in the financial services industry in the DIFC;*

(...)

(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;*

(...)

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.*
- (...)
- (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.*

97. Definitions

In this Part, unless expressed otherwise:

(...)

(c) an Audit Principal means an individual appointed by a Registered Auditor who is responsible for:

*(i) managing the conduct of audit work undertaken by the Registered Auditor;
or*

(ii) signing audit reports, or any other reports as may be required under the Rules, on behalf of the Registered Auditor; and

(...)

101. Auditors' duties

(1) In this Article, a Relevant Person means an Authorised Person, Public Listed Company or Domestic Fund.

(2) An Auditor shall, in preparing the report in relation to a Relevant Person carry out such investigations as will enable the Auditor to form an opinion as to the following matters:

(a) whether proper accounting records have been kept by the Relevant Person and proper returns adequate for the audit have been received from branches not visited by the Auditor;

(b) whether the financial statements of the Relevant Person are in agreement with the accounting records and regulatory returns;

(c) whether the financial statements of the Relevant Person have been prepared in compliance with the applicable financial reporting standards; and

(d) whether the financial statements of the Relevant Person represent a true and fair view of the financial condition and the state of affairs of the Relevant Person.

(3) If the Auditor is of the opinion that proper accounting records have not been kept, or that proper returns adequate for the audit have not been received from branches not visited by the Auditor, or that the financial statements are not in agreement with the accounting records and regulatory returns, or that the financial statements do not comply with accounting standards or they do not represent a true and fair view, the Auditor shall state that fact in the report.

(4) If the Auditor fails to obtain all the information and explanations which, to the best of the Auditor's knowledge and belief are necessary for the purposes of the audit, the Auditor shall state that fact in the report.

(5) An Auditor of a Domestic Fund shall disclose to the Trustee of the Domestic Fund, if appointed, and to the person providing the oversight function of a Domestic Fund which is a Public Fund, any information relevant to that person's role.

2. RELEVANT REGULATORY PROVISIONS

General Module (GEN)

8.2 Financial statements and financial reporting standards

8.2.1 *An Authorised Person must prepare financial statements for each financial year of the Authorised Person.*

8.2.2 *An Authorised Person must, except as provided under Rule 8.2.3, prepare and maintain all financial statements in accordance with the International Financial Reporting Standards (IFRS).*

(...)

8.3 Accounting records and regulatory returns

8.3.1 *Every Authorised Person must keep Accounting Records which are sufficient to show and explain transactions and are such as to:*

(a) *be capable of disclosing the financial position of the Authorised Person on an ongoing basis; and*

(b) *record the financial position of the Authorised Person as at its financial year end.*

(...)

(VER 28/11-11 until 20 August 2014)

8.6 Function of the auditor

8.6.1 *An Authorised Firm or Authorised Market Institution, as applicable, must in writing require its auditor to:*

(...)

(c) *produce an Auditor's Annual Report which states whether:*

(...)

(iv) *(in the case of an Authorised Firm) in the auditor's opinion, the regulatory returns specified by the applicable Rules in PIN or PIB have been properly prepared by the Authorised Firm and provide a true and fair representation of the financial position of the Authorised Firm, as at the date of the Authorised Firm's financial year end;*

(v) *in the auditor's opinion, the Authorised Person's regulatory returns to the DFSA have been properly reconciled with the appropriate audited accounts;*

- (vi) *in the case of an Authorised Firm, in the auditor's opinion, that an Authorised Firm which is subject to an expenditure based requirement has calculated the expenditure based requirement in accordance with the Rules;*
- (vii) *in the auditor's opinion, the Authorised Person's financial resources as at its financial year end have been properly calculated in accordance with the Rules and are sufficient to meet the relevant prudential requirements or minimum financial resources requirement; and*
- (viii) *in the case of an Authorised Firm, in the auditor's opinion, the Authorised Firm has kept proper accounting records, in compliance with the applicable Rules in PIN or PIB;*

8.7 Registration of Auditors

(...)

Consideration of the application

(...)

8.7.3(1) *An applicant for registration must be able to demonstrate to the DFSA's satisfaction that:*

(...)

- (c) *it has adequate systems, procedures and controls to ensure due compliance with:*
 - (i) *the International Standards on Auditing;*
 - (ii) *the International Standards on Quality Control; and*
 - (iii) *the Code of Ethics for Professional Accountants;*
- (d) *where applicable, it has adequate systems, procedures and controls to ensure due compliance with:*
 - (i) *the Islamic Accounting and Auditing Standards; and*
 - (ii) *the Code of Ethics for Accountants and Audit Firms of Islamic Financial Institutions;*

8.9 Obligations of Auditors and Audit Principals

8.9.1 *An Auditor must:*

- (a) *continue to comply with all its obligations including those in Chapter 8;*
- (b) *comply with the applicable International Standards of Auditing, Quality Control and Codes of Ethics referred to in Rule 8.7.3(c) and (d);*
- (c) *Appoint an Audit Principal in accordance with the International Standards on Quality Control; and*
- (d) *ensure that each Audit Principal is fit and proper to conduct audit work on behalf of the Auditor.*

8.9.2 *An Audit Principal must:*

- (a) *manage the conduct of audit work undertaken by the Auditor;*
- (b) *sign audit reports on behalf of the Auditor; and*
- (c) *sign any other report as may be required by the DFSA from time to time.*

Auditor Module (AUD)

2.6 Principles for Audit Principals

2.6.1 *The five Principles set out in this section apply to every Audit Principal.*

Guidance

1. *These Principles are derived from the fundamental principles published in the Code of Ethics for Professional Accountants.*

(...)

Principle 3 – Professional competence and due care

2.6.4 *An Audit Principal must maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques and must act diligently and in accordance with applicable technical and professional standards.*

(...)

4.4 Working Papers

4.4.1 A Registered Auditor must, subject to Rule 4.4.2, maintain sufficient Working Papers to:

- (a) facilitate the proper performance of its functions and duties under these Rules; and
- (b) be able to demonstrate to the DFSA that it properly performed its functions and duties under these Rules.

6.2 Conduct of audits and contents of audit reports

6.2.1 An Auditor must conduct an audit, and prepare the contents of any relevant audit report, referred to in Rules in accordance with the standards in the following table:

Type of Report	Relevant Standards	Report Contents
<i>Financial Statements Auditor's Report</i>	<i>International Standards on Auditing</i>	<i>ISA 700</i>
<i>Regulatory Return Auditor's Report for a Domestic Firm</i>	<i>International Standards on Assurance Engagement (ISAE) or International Standards on Related Services (ISRS)</i>	<i>A1.1.1</i>
<i>(...)</i>	<i>(...)</i>	<i>(...)</i>

APP1 REGULATORY RETURNS AUDITORS REPORT

A1.1.1 In producing a Regulatory Returns Auditor's Report for a Domestic Firm, an Auditor must state whether:

- (a) it has received all the necessary information and explanations for the purposes of preparing the report to the DFSA;
- (b) the Authorised Person's regulatory returns, specified in PIB, PIN or AMI, to the DFSA have been properly reconciled with the appropriate audited financial statements;
- (c) the Authorised Person's regulatory returns, specified in PIB, PIN or AMI, submitted to the DFSA on a quarterly basis have been properly reconciled with the appropriate annual returns;
- (d) the Authorised Person's financial resources as at its financial year end have been properly calculated in accordance with the applicable Rules in PIB, PIN or AMI (as the case may be) and are sufficient to meet the relevant requirements;
- (e) (in the case of an Authorised Firm other than an Insurer) the Capital Resources have been calculated in accordance with the applicable Rules in PIB;
- (f) (in the case of an Authorised Firm other than an Insurer) the Capital Resources maintained exceed the Capital Requirements in accordance with the applicable Rules in PIB;

- (g) *(in the case of an Authorised Firm) the regulatory returns specified in PIB or PIN have been properly prepared by the Authorised Firm in accordance with the applicable rules in PIB or PIN;*
- (h) *(in the case of an Authorised Firm) the Authorised Firm has kept proper Accounting Records in accordance with the applicable Rules in PIB or PIN;*
- (i) *(in the case of an Authorised Firm which is subject to Expenditure Based Capital Minimum) the Expenditure Based Capital Minimum has been calculated in accordance with the applicable Rules in PIB; and*
- (j) *(in the case of an Authorised Firm in Category 3B, 3C or 4, and which is subject to Expenditure Based Capital Minimum) the Capital Requirements maintained exceeds its Expenditure Based Capital Minimum and has been maintained in the form of liquid assets in accordance with the applicable Rules in PIB.*

Prudential – Investment, Insurance Intermediation and Banking Module (PIB)

2.3 Reporting to the DFSA

2.3.1

- (1) *An Authorised Firm must comply with the accounting and prudential reporting requirements set out in this chapter and PRU which apply to it.*
- (2) *The DFSA may impose additional reporting requirements on an Authorised Firm.*

2.3.2 *An Authorised Firm must, subject to Rule 2.3.3:*

- (c) *prepare its returns in accordance with the Rules in this chapter, the instructional guidelines in PRU, and the requirements of the DFSA’s electronic prudential reporting system; and*
- (d) *submit the returns to the DFSA using the electronic prudential reporting system.*

3.2 Requirements

Maintaining Capital Resources

3.2.2 *An Authorised Firm that is a Domestic Firm must:*

- (a) *have and maintain, at all times, Capital Resources of the kinds and amounts specified in, and calculated in accordance with, the Rules in PIB; and*
- (b) *ensure that it maintains capital and liquid assets in addition to the requirement in (a) which are adequate in relation to the nature, size and complexity of its business to ensure that there is no significant risk that liabilities cannot be met as they fall due.*

3.2.3 *An Authorised Firm must have, at all times, Capital Resources which exceed the amount of its Capital Requirement.*

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

3.5.1 *This section applies to an Authorised Firm in Category 3B, 3C or 4.*

3.5.2 *The Capital Requirement for such an Authorised Firm is calculated as the higher of: (a) the applicable Base Capital Requirement as set out in section 3.6; or (b) the Expenditure Based Capital Minimum as set out in section 3.7.*

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.*
- (2) *For the purpose of this Rule, and subject to (3), liquid assets comprise any of the following:*
 - (a) *cash in hand;*
 - (b) *money deposited with a regulated bank or deposit-taker which has a short-term credit rating of A1 or P1 (or equivalent) and above from an ECAI;*
 - (c) *demand deposits with a tenor of 1 year or less with a bank or deposit-taker in (b);*
 - (d) *time deposits with a tenor of 1 year or less which have an option to redeem the deposit at any time. In such cases, the deposit amount eligible to be included as liquid assets must be calculated as net of any costs associated with such early redemption;*
 - (e) *cash receivable from a regulated clearing house and cash deposits with such clearing houses, other than any fees or contributions to guarantee or reserve funds of such clearing houses; or*
 - (f) *any other asset which may be approved by the DFSA as comprising a liquid asset for the purpose of this Rule.*
- (3) *For the purpose of this Rule, liquid assets do not include:*
 - (a) *any investment, asset or deposit which has been pledged as security or Collateral for any obligations or liabilities assumed by it or by any other third party; or*
 - (b) *cash held in Client Money or Insurance Money accounts.*

3.6 Base Capital Requirement

3.6.2 The table below sets out the Base Capital Requirement for each Category of an Authorised Firm.

Category	Base Capital Requirement
(...)	(...)
Category 3C	US \$500,000 Except if the only Financial Service referred to in Rule 1.3.5(a) that the Authorised Firm is authorised to carry on is Managing a Collective Investment Fund in which case its Base Capital Requirement is: (a) US \$140,000 if it manages any Public Fund; or (b) US \$70,000 otherwise.
(...)	(...)

3.7 Expenditure Based Capital Minimum

3.7.1 This section applies to an Authorised Firm in Category 2, 3A, 3B, 3C or 4.

3.7.2 An Authorised Firm must calculate its Expenditure Based Capital Minimum as:

(...)

(c) in the case of an Authorised Firm in Category 2, 3A, 3B or 3C which does not hold Client Assets or Insurance Monies, 13/52; or

(...)

of the Annual Audited Expenditure, calculated in accordance with Rule 3.7.3.

3. ACCOUNTING AND AUDITING STANDARDS

Conceptual Framework for Financial Reporting (September 2010)

Objective, usefulness and limitations of general purpose financial reporting

- 1.2 *The objective of general purpose financial reporting is to provide financial information about the reporting entity that is useful to existing and potential investors, lenders and other creditors in making decisions relating to providing resources to the entity. Those decisions involve decisions about:*
- (a) *buying, selling or holding equity and debt instruments;*
 - (b) *providing or settling loans and other forms of credit; or*
 - (c) *exercising rights to vote on, or otherwise influence, management's actions that affect the use of the entity's economic resources.*

Faithful representation

- 2.12 *Financial reports represent economic phenomena in words and numbers. To be useful, financial information must not only represent relevant phenomena, but it must also faithfully represent the substance of the phenomena that it purports to represent. In many circumstances, the substance of an economic phenomenon and its legal form are the same. If they are not the same, providing information only about the legal form would not faithfully represent the economic phenomenon (see paragraphs 4.59–4.62).*
- 2.13 *To be a perfectly faithful representation, a depiction would have three characteristics. It would be complete, neutral and free from error. Of course, perfection is seldom, if ever, achievable. The Board's objective is to maximise those qualities to the extent possible.*
- 2.14 *A complete depiction includes all information necessary for a user to understand the phenomenon being depicted, including all necessary descriptions and explanations. For example, a complete depiction of a group of assets would include, at a minimum, a description of the nature of the assets in the group, a numerical depiction of all of the assets in the group, and a description of what the numerical depiction represents (for example, historical cost or fair value). For some items, a complete depiction may also entail explanations of significant facts about the quality and nature of the*

International Accounting Standard 1 – Presentation of Financial Statements

Going concern

25. *When preparing financial statements, management shall make an assessment of an entity's ability to continue as a going concern. An entity shall prepare financial statements on a going concern basis unless management either intends to liquidate the entity or to cease trading, or has no realistic alternative but to do so. When management is aware, in making its assessment, of material uncertainties related to events or conditions that may cast significant doubt upon the entity's ability to continue as a going concern, the entity shall disclose those uncertainties. When an entity does not prepare financial statements on a going concern basis, it shall disclose that fact, together with the basis on which it*

prepared the financial statements and the reason why the entity is not regarded as a going concern.

26. *In assessing whether the going concern assumption is appropriate, management takes into account all available information about the future, which is at least, but is not limited to, twelve months from the end of the reporting period. The degree of consideration depends on the facts in each case. When an entity has a history of profitable operations and ready access to financial resources, the entity may reach a conclusion that the going concern basis of accounting is appropriate without detailed analysis. In other cases, management may need to consider a wide range of factors relating to current and expected profitability, debt repayment schedules and potential sources of replacement financing before it can satisfy itself that the going concern basis is appropriate.*

International Accounting Standard 24 – Related Party Disclosures

Definitions

9. *The following terms are used in this Standard with the meanings specified:*

A related party is a person or entity that is related to the entity that is preparing its financial statements (in this Standard referred to as the 'reporting entity').

- (a) *A person or a close member of that person's family is related to a reporting entity if that person:*

(...)

- (b) *An entity is related to a reporting entity if any of the following conditions applies:*

(i) *The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).*

(ii) *One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).*

(iii) *Both entities are joint ventures of the same third party.*

(iv) *One entity is a joint venture of a third entity and the other entity is an associate of the third entity.*

Disclosures

(...)

18. *If an entity has had related party transactions during the periods covered by the financial statements, it shall disclose the nature of the related party relationship as well as information about those transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial*

International Standard on Auditing 200 – Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing

Professional Skepticism

15. *The auditor shall plan and perform an audit with professional skepticism recognizing that circumstances may exist that cause the financial statements to be materially misstated. (Ref: Para. A18–A22)*

International Standard on Auditing 240 – The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements

Responsibilities of the Auditor

(...)

8. *When obtaining reasonable assurance, the auditor is responsible for maintaining professional skepticism throughout the audit, considering the potential for management override of controls and recognizing the fact that audit procedures that are effective for detecting error may not be effective in detecting fraud. The requirements in this ISA are designed to assist the auditor in identifying and assessing the risks of material misstatement due to fraud and in designing procedures to detect such misstatement.*

(...)

International Standard on Auditing 320 – Materiality in planning and Performing an Audit

Determining Materiality and Performance Materiality When Planning the Audit

10. *When establishing the overall audit strategy, the auditor shall determine materiality for the financial statements as a whole. If, in the specific circumstances of the entity, there is one or more particular classes of transactions, account balances or disclosures for which misstatements of lesser amounts than materiality for the financial statements as a whole could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements, the auditor shall also determine the materiality level or levels to be applied to those particular classes of transactions, account balances or disclosures. (Ref: Para. A2– A11)*
11. *The auditor shall determine performance materiality for purposes of assessing the risks of material misstatement and determining the nature, timing and extent of further audit procedures. (Ref: Para. A12)*

International Standard on Auditing 450 – Evaluation of Misstatements Identified During the Audit

Communication and Correction of Misstatements

8. *The auditor shall communicate on a timely basis all misstatements accumulated during the audit with the appropriate level of management, unless prohibited by law or regulation. The auditor shall request management to correct those misstatements. (Ref: Para. A7–A9)*

9. *If management refuses to correct some or all of the misstatements communicated by the auditor, the auditor shall obtain an understanding of management's reasons for not making the corrections and shall take that understanding into account when evaluating whether the financial statements as a whole are free from material misstatement. (Ref: Para. A10)*

International Standard on Auditing 500 – Audit Evidence

Sufficient Appropriate Audit Evidence

6. *The auditor shall design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence. (Ref: Para. A1–A25)*

International Standard on Auditing 550 – Related Parties

Nature of Related Party Relationships and Transactions

2. *Many related party transactions are in the normal course of business. In such circumstances, they may carry no higher risk of material misstatement of the financial statements than similar transactions with unrelated parties. However, the nature of related party relationships and transactions may, in some circumstances, give rise to higher risks of material misstatement of the financial statements than transactions with unrelated parties. For example:*
- *Related parties may operate through an extensive and complex range of relationships and structures, with a corresponding increase in the complexity of related party transactions.*
 - *Information systems may be ineffective at identifying or summarizing transactions and outstanding balances between an entity and its related parties.*
 - *Related party transactions may not be conducted under normal market terms and conditions; for example, some related party transactions may be conducted with no exchange of consideration.*

Responsibilities of the Auditor

3. *Because related parties are not independent of each other, many financial reporting frameworks establish specific accounting and disclosure requirements for related party relationships, transactions and balances to enable users of the financial statements to understand their nature and actual or potential effects on the financial statements. Where the applicable financial reporting framework establishes such requirements, the auditor has a responsibility to perform audit procedures to identify, assess and respond to the risks of material misstatement arising from the entity's failure to appropriately account for or disclose related party relationships, transactions or balances in accordance with the requirements of the framework.*
4. *Even if the applicable financial reporting framework establishes minimal or no related party requirements, the auditor nevertheless needs to obtain an understanding of the entity's related party relationships and transactions sufficient to be able to conclude whether the financial statements, insofar as they are affected by those relationships and transactions: (Ref: Para. A1)*
 - (a) *Achieve fair presentation (for fair presentation frameworks); or (Ref: Para. A2)*
 - (b) *Are not misleading (for compliance frameworks). (Ref: Para. A3)*
 - (...)

Requirements

Risk Assessment Procedures and Related Activities

11. *As part of the risk assessment procedures and related activities that ISA 315 and ISA 240 require the auditor to perform during the audit, the auditor shall perform the audit procedures and related activities set out in paragraphs 12–17 to obtain information relevant to identifying the risks of material misstatement associated with related party relationships and transactions. (Ref: Para. A8)*

Understanding the Entity's Related Party Relationships and Transactions

12. *The engagement team discussion that ISA 315 and ISA 240 require shall include specific consideration of the susceptibility of the financial statements to material misstatement due to fraud or error that could result from the entity's related party relationships and transactions. (Ref: Para. A9–A10)*
13. *The auditor shall inquire of management regarding:*
 - (a) *The identity of the entity's related parties, including changes from the prior period; (Ref: Para. A11–A14)*
 - (b) *The nature of the relationships between the entity and these related parties; and*
 - (c) *Whether the entity entered into any transactions with these related parties during the period and, if so, the type and purpose of the transactions.*

14. *The auditor shall inquire of management and others within the entity, and perform other risk assessment procedures considered appropriate, to obtain an understanding of the controls, if any, that management has established to: (Ref: Para. A15–A20)*
 - (a) *Identify, account for, and disclose related party relationships and transactions in accordance with the applicable financial reporting framework;*
 - (b) *Authorize and approve significant transactions and arrangements with related parties; and (Ref: Para. A21)*
 - (c) *Authorize and approve significant transactions and arrangements outside the normal course of business.*

Maintaining Alertness for Related Party Information When Reviewing Records or Documents

15. *During the audit, the auditor shall remain alert, when inspecting records or documents, for arrangements or other information that may indicate the existence of related party relationships or transactions that management has not previously identified or disclosed to the auditor. (Ref: Para. A22–A23)*

In particular, the auditor shall inspect the following for indications of the existence of related party relationships or transactions that management has not previously identified or disclosed to the auditor:

- (a) *Bank and legal confirmations obtained as part of the auditor’s procedures;*
 - (b) *Minutes of meetings of shareholders and of those charged with governance; and*
 - (c) *Such other records or documents as the auditor considers necessary in the circumstances of the entity.*
16. *If the auditor identifies significant transactions outside the entity’s normal course of business when performing the audit procedures required by paragraph 15 or through other audit procedures, the auditor shall inquire of management about: (Ref: Para. A24–A25)*
 - (a) *The nature of these transactions; and (Ref: Para. A26)*
 - (b) *Whether related parties could be involved. (Ref: Para. A27)*

International Standard on Auditing 560 – Subsequent Events

Subsequent Events

2. *Financial statements may be affected by certain events that occur after the date of the financial statements. Many financial reporting frameworks specifically refer to such events. Such financial reporting frameworks ordinarily identify two types of events:*
 - (a) *Those that provide evidence of conditions that existed at the date of the financial statements; and*

- (b) *Those that provide evidence of conditions that arose after the date of the financial statements.*

(...)

Requirements

Events Occurring between the Date of the Financial Statements and the Date of the Auditor's Report

- 6. *The auditor shall perform audit procedures designed to obtain sufficient appropriate audit evidence that all events occurring between the date of the financial statements and the date of the auditor's report that require adjustment of, or disclosure in, the financial statements have been identified. The auditor is not, however, expected to perform additional audit procedures on matters to which previously applied audit procedures have provided satisfactory conclusions. (Ref: Para. A6)*
- 7. *The auditor shall perform the procedures required by paragraph 6 so that they cover the period from the date of the financial statements to the date of the auditor's report, or as near as practicable thereto. The auditor shall take into account the auditor's risk assessment in determining the nature and extent of such audit procedures, which shall include the following: (Ref: Para. A7–A8)*
 - (a) *Obtaining an understanding of any procedures management has established to ensure that subsequent events are identified.*
 - (b) *Inquiring of management and, where appropriate, those charged with governance as to whether any subsequent events have occurred which might affect the financial statements. (Ref: Para. A9)*

(...)

- A7. *Paragraph 7 stipulates certain audit procedures in this context that the auditor is required to perform pursuant to paragraph 6. The subsequent events procedures that the auditor performs may, however, depend on the information that is available and, in particular, the extent to which the accounting records have been prepared since the date of the financial statements. Where the accounting records are not up-to-date, and accordingly no interim financial statements (whether for internal or external purposes) have been prepared, or minutes of meetings of management or those charged with governance have not been prepared, relevant audit procedures may take the form of inspection of available books and records, including bank statements. Paragraph A8 gives examples of some of the additional matters that the auditor may consider in the course of these inquiries.*

International Standard on Auditing 570 (Revised) – Going Concern

Going Concern Basis of Accounting

2. *Under the going concern basis of accounting, the financial statements are prepared on the assumption that the entity is a going concern and will continue its operations for the foreseeable future. General purpose financial statements are prepared using the going concern basis of accounting, unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so. Special purpose financial statements may or may not be prepared in accordance with a financial reporting framework for which the going concern basis of accounting is relevant (e.g., the going concern basis of accounting is not relevant for some financial statements prepared on a tax basis in particular jurisdictions). When the use of the going concern basis of accounting is appropriate, assets and liabilities are recorded on the basis that the entity will be able to realize its assets and discharge its liabilities in the normal course of business. (Ref: Para. A2)*

(...)

Responsibilities of the Auditor

6. *The auditor's responsibilities are to obtain sufficient appropriate audit evidence regarding, and conclude on, the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements, and to conclude, based on the audit evidence obtained, whether a material uncertainty exists about the entity's ability to continue as a going concern. These responsibilities exist even if the financial reporting framework used in the preparation of the financial statements does not include an explicit requirement for management to make a specific assessment of the entity's ability to continue as a going concern.*
7. *However, as described in ISA 200, the potential effects of inherent limitations on the auditor's ability to detect material misstatements are greater for future events or conditions that may cause an entity to cease to continue as a going concern. The auditor cannot predict such future events or conditions. Accordingly, the absence of any reference to a material uncertainty about the entity's ability to continue as a going concern in an auditor's report cannot be viewed as a guarantee as to the entity's ability to continue as a going concern.*

(...)

Requirements

Risk Assessment Procedures and Related Activities

10. *When performing risk assessment procedures as required by ISA 315 (Revised), the auditor shall consider whether events or conditions exist that may cast significant doubt on the entity's ability to continue as a going concern. In so doing, the auditor shall determine whether management has already performed a preliminary assessment of the entity's ability to continue as a going concern, and: (Ref: Para. A3–A6)*

- (a) *If such an assessment has been performed, the auditor shall discuss the assessment with management and determine whether management has identified events or conditions that, individually or collectively, may cast significant doubt on the entity's ability to continue as a going concern and, if so, management's plans to address them; or*
 - (b) *If such an assessment has not yet been performed, the auditor shall discuss with management the basis for the intended use of the going concern basis of accounting, and inquire of management whether events or conditions exist that, individually or collectively, may cast significant doubt on the entity's ability to continue as a going concern.*
11. *The auditor shall remain alert throughout the audit for audit evidence of events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. (Ref: Para. A7)*

Evaluating Management's Assessment

12. *The auditor shall evaluate management's assessment of the entity's ability to continue as a going concern. (Ref: Para. A8–A10, A12–A13)*
13. *In evaluating management's assessment of the entity's ability to continue as a going concern, the auditor shall cover the same period as that used by management to make its assessment as required by the applicable financial reporting framework, or by law or regulation if it specifies a longer period. If management's assessment of the entity's ability to continue as a going concern covers less than twelve months from the date of the financial statements as defined in ISA 560, the auditor shall request management to extend its assessment period to at least twelve months from that date. (Ref: Para. A11–A13)*
14. *In evaluating management's assessment, the auditor shall consider whether management's assessment includes all relevant information of which the auditor is aware as a result of the audit.*

International Standard on Auditing 580 – Written Representations

Written Representations as Audit Evidence

3. *Audit evidence is the information used by the auditor in arriving at the conclusions on which the auditor's opinion is based. Written representations are necessary information that the auditor requires in connection with the audit of the entity's financial statements. Accordingly, similar to responses to inquiries, written representations are audit evidence. (Ref: Para. A1)*
4. *Although written representations provide necessary audit evidence, they do not provide sufficient appropriate audit evidence on their own about any of the matters with which they deal. Furthermore, the fact that management has provided reliable written representations does not affect the nature or extent of other audit evidence that the auditor obtains about the fulfillment of management's responsibilities, or about specific assertions.*

International Standard on Auditing 700 - Forming an Opinion and Reporting on Financial Statements

Forming an Opinion on the Financial Statements

(...)

12. *The auditor shall evaluate whether the financial statements are prepared, in all material respects, in accordance with the requirements of the applicable financial reporting framework. This evaluation shall include consideration of the qualitative aspects of the entity's accounting practices, including indicators of possible bias in management's judgments. (Ref: Para. A1–A3)*
13. *In particular, the auditor shall evaluate whether, in view of the requirements of the applicable financial reporting framework:*
 - (a) *The financial statements adequately disclose the significant accounting policies selected and applied;*
 - (b) *The accounting policies selected and applied are consistent with the applicable financial reporting framework and are appropriate;*
 - (c) *The accounting estimates made by management are reasonable;*
 - (d) *The information presented in the financial statements is relevant, reliable, comparable, and understandable;*
 - (e) *The financial statements provide adequate disclosures to enable the intended users to understand the effect of material transactions and events on the information conveyed in the financial statements; and (Ref: Para. A4)*
 - (f) *The terminology used in the financial statements, including the title of each financial statement, is appropriate.*
14. *When the financial statements are prepared in accordance with a fair presentation framework, the evaluation required by paragraphs 12–13 shall also include whether the financial statements achieve fair presentation. The auditor's evaluation as to whether the financial statements achieve fair presentation shall include consideration of:*
 - (a) *The overall presentation, structure and content of the financial statements; and*
 - (b) *Whether the financial statements, including the related notes, represent the underlying transactions and events in a manner that achieves fair presentation.*

(...)

International Standard on Auditing 705 – Modifications to the Opinion in the Independent Auditor’s Report

Circumstances When a Modification to the Auditor’s Opinion Is Required

6. The auditor shall modify the opinion in the auditor’s report when:
- (a) The auditor concludes that, based on the audit evidence obtained, the financial statements as a whole are not free from material misstatement; or (Ref: Para. A2–A7)
 - (b) The auditor is unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement. (Ref: Para. A8–A12)

International Standard on Assurance Engagements 3000 - Assurance Engagements Other than Audits or Reviews of Historical Financial Information

Definitions

12. For purposes of this ISAE and other ISAEs, unless indicated to the contrary, the following terms have the meanings attributed below. (Ref: Para. A27)
- (a) Assurance engagement—An engagement in which a practitioner aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria). Each assurance engagement is classified on two dimensions: (Ref: Para. A3)
 - (i) Either a reasonable assurance engagement or a limited assurance engagement:
 - a. Reasonable assurance engagement—An assurance engagement in which the practitioner reduces engagement risk to an acceptably low level in the circumstances of the engagement as the basis for the practitioner’s conclusion. The practitioner’s conclusion is expressed in a form that conveys the practitioner’s opinion on the outcome of the measurement or evaluation of the underlying subject matter against criteria.
- (...)
- (i) Evidence—Information used by the practitioner in arriving at the practitioner’s conclusion. Evidence includes both information contained in relevant information systems, if any, and other information. For purposes of the ISAEs: (Ref: Para. A146–A152)
 - (i) Sufficiency of evidence is the measure of the quantity of evidence.
 - (ii) Appropriateness of evidence is the measure of the quality of evidence.

(Version effective for assurance engagements dated before 15 December 2015)

Obtaining Evidence

33. *The practitioner should obtain sufficient appropriate evidence on which to base the conclusion. Sufficiency is the measure of the quantity of evidence. Appropriateness is the measure of the quality of evidence; that is, its relevance and its reliability(...)*

(...)

36. *“Reasonable assurance” is less than absolute assurance. Reducing assurance engagement risk to zero is very rarely attainable or cost beneficial as a result of factors such as the following:*

- The use of selective testing.*
- The inherent limitations of internal control.*
- The fact that much of the evidence available to the practitioner is persuasive rather than conclusive.*
- The use of judgment in gathering and evaluating evidence and forming conclusions based on that evidence.*
- In some cases, the characteristics of the subject matter.*

ANNEX B – DEFINITIONS

Abraaj Funds	Private equity and other Funds managed by the Abraaj Group.
Abraaj Group	Large group of related entities consisting of private equity Funds, their GPs, investment advisers and other entities that includes AH, AIML and ACLD.
ACLD	Abraaj Capital Limited, a company established in the DIFC, regulated by the DFSA and part of the Abraaj Group.
AH (Abraaj Holdings)	A Cayman Islands exempted company and part of the Abraaj Group.
AIML (Abraaj Investment Management Limited)	A Cayman Islands exempted company and part of the Abraaj Group.
AUD	The Auditor Module of the DFSA Rulebook, versions 1 to 3 inclusive, as in force from time to time during the Relevant Period.
Audit Principal	Has the same meaning provided in and Article 97 of the Regulatory Law, namely, a person registered by the DFSA under Article 98 of the Regulatory Law.
Authorised Firm	Has the same meaning provided in GLO, namely, a Person, other than an Authorised Market Institution, who holds a Licence.
Bank Confirmations	Bank balance confirmations that KPMG obtained from ACLD's bank.
Body Corporate	Has the same meaning provided in GLO, namely, any body corporate, including limited liability partnership and a body corporate constituted under the law of a country or territory outside of the DIFC.
Capital Requirements	Capital Requirements Has the same meaning provided in GLO, namely, the amount of capital an Authorised Firm must hold, calculated in accordance with PIB sections 3.3, 3.4 or 3.5, as applicable. (Prior to December 2012, the relevant requirements were set out in PIB section 2.3.)
Capital Resources	Has the same meaning provided in GLO, namely, the total capital resources of an Authorised Firm calculated in accordance with PIB section 3.11.
Decision Notice	Has the same meaning provided in GLO, namely, a written notice given by the DFSA to a Person pursuant to paragraph 5 of Schedule 3 to the Regulatory Law 2004.
Delegated Funds	Funds delegated to ACLD by AIML under a Delegation Agreement to provide investment management and fund administration functions.

Delegation Agreements	Agreements which, along with Service Agreements, were entered between AIML and ACLD with respect to Abraaj Funds, setting out the contractual obligations between the two firms including delegating a Fund's investment management and fund administration functions to ACLD.
DMC	The DFSA's Decision Making Committee in this matter.
Expenses Cap	A term in the Delegation Agreements between ACLD and AIML capping ACLD's expenses at 72.5% of the total management fees ACLD received under the Delegation Agreements.
Financial Markets Tribunal (FMT)	Has the meaning provided in GLO, namely, the tribunal referred to in Article 26 of the Regulatory Law.
Financial Service	Has the same meaning provided in GLO and GEN Rule 2.2.1, namely, an activity that is specified in GEN Rule 2.2.2 and is carried on by way of business in the manner described in GEN section 2.3.
Fine	The fine of USD 500,000 to be imposed on Mr Navalkar by the DFSA.
Framework	The IASB Conceptual Framework for Financial Reporting which sets out the concepts that form the basis of IFRS.
Funds	Has the same meaning provided in GLO, namely, a Collective Investment Fund.
GEN	The General Module of the DFSA Rulebook, versions 13 to 40 inclusive, as in force from time to time during the Relevant Period.
GLO	The Glossary Module of the DFSA Rulebook, versions 13 to 38 inclusive, as in force from time to time during the Relevant Period.
IAS	International Accounting Standard.
IASB	International Accounting Standard Board.
IASLA	Agreement entered between AH and ACLD in October 2011 allowing ACLD to be appointed as investment advisor to all Abraaj Funds.
Independent Report	Report the DFSA required on 29 March 2018 ACLD to produce to establish if ACLD had any solvency issues.
ISA	International Standard on Auditing.
ISAE	International Standards on Assurance Engagements - A document setting out international standards for the conduct of assurance engagements by audit or accounting professionals.
IFRS	International Financial Reporting Standards.
KPMG	KPMG Limited Liability Partnership, a company established in the DIFC, regulated by the DFSA as a Registered Auditor and part of the global network.

Licence	Has the same meaning provided in GLO, namely, a licence granted by the DFSA under Chapter 2 of Part 3 of the Regulatory Law, authorising a person to carry on one or more Financial Services in or from the DIFC.
Person	Has the same meaning provided in GLO, namely, including any natural person, Body Corporate or body unincorporated, including a legal person, company, Partnership, unincorporated association, government or state.
PIB Return	Reports submitted to the DFSA by Authorised Firms quarterly in accordance with PIB.
PIB Rules	The Prudential – Investment, Insurance Intermediation and Banking Business module of the DFSA Rulebook, versions 7 to 30 inclusive, as in force from time to time during the Relevant Period.
Registered Auditor	Has the same meaning provided in GLO and Article 97 of the Regulatory Law, namely, a person registered by the DFSA under Article 98 of the Regulatory Law.
Related Party	An entity within the same group of companies, such as a parent, subsidiary or a fellow subsidiary.
Relevant Period	1 January 2013 to 30 October 2017.
RPP	The Regulatory Policy and Process module of the DFSA Sourcebook.
Window Dressing	Deliberate steps taken or not taken prior to submitting financial statements or PIB Returns in order to improve their appearance.