
DECISION NOTICE

To: Abraaj Capital Limited (In Provisional Liquidation) (**ACLD**)

DFSA Ref: F000204

Address: C/- Mr Phil Bowers and Mr David Soden
Deloitte LLP
Al Fattan Currency House
DIFC
Building 1
Dubai
PO Box 112865

(together the **JPLs**)

Date: 16 July 2019

ACTION

1. For the reasons given in this Notice and pursuant to Article 90(2)(a) of the Regulatory Law 2004 (the **Regulatory Law**), the Dubai Financial Services Authority (the **DFSA**) has decided to impose on ACLD a fine of USD 15,275,925 (the **Fine**).
2. ACLD agreed to settle this matter. The DFSA has therefore decided to reduce the fine by a settlement discount of 30%. Were it not for the settlement discount the DFSA would have imposed a fine of USD 21,822,750 on ACLD.
3. The DFSA has reached the conclusions expressed in this Notice as a result of a settlement agreed by ACLD. The notice is addressed to ACLD alone. Nothing in this notice constitutes a determination that any person other than ACLD breached any legal or regulatory rule, and the opinions expressed in this notice are without prejudice to the position of any third party, or of the DFSA in relation to any third party.

DEFINITIONS

4. Defined terms are identified in this Notice by the capitalisation of the initial letter of a word or of each word in a phrase and are defined in Annex B. Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

SUMMARY OF REASONS

5. The DFSA has decided to take the action set out in this Notice as it considers that between April 2007 and January 2018 (the **Relevant Period**), ACLD contravened legislation administered by the DFSA. Those contraventions include:
 - a. since 9 December 2012, ACLD failed to maintain adequate **Capital Resources**, at all times, contrary to PIB Rule 3.2.2 and PIB sections 3.5 and 3.6;¹
 - b. ACLD provided information to the DFSA relating to its Capital Resources and the activities of its employees in quarterly and annual **PIB Returns** which was false, misleading or deceptive, or concealed information relating to its Capital Resources when the concealment of that information was likely to mislead or deceive the DFSA, contrary to Article 66 of the Regulatory Law;
 - c. 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;
 - d. ACLD prepared financial statements that contained information about the financial position of ACLD which failed to present a true and fair representation of ACLD's

¹ Prior to December 2012, equivalent requirements to those in PIB Rule 3.2.2 and PIB sections 3.5 and 3.6 were set out in PIB Rule 2.2.1 and PIB sections 2.3 and 2.4, respectively.

financial position, as required by International Financial Reporting Standards (**IFRS**), contrary to GEN Rule 8.2.2;² and

- e. ACLD was knowingly concerned in the activities of its Parent, AIML, in carrying on Financial Services in or from the Dubai International Financial Centre (**DIFC**), specifically Managing a Collective Investment Fund³ and/or Managing Assets, when AIML was not an Authorised Firm with a licence authorising it to carry on those activities, contrary to Article 41(1) of the Regulatory Law.
6. Further, as an Authorised Firm, ACLD was at all times required to comply with the DFSA's Principles for Authorised Firms in GEN Section 4.2. The conduct giving rise to the contraventions set out in paragraph 5 also demonstrate that ACLD:
- a. failed to observe high standards of integrity and fair dealing, contrary to Authorised Firm Principle 1 (Integrity) in GEN Rule 4.2.1, by intentionally implementing measures designed to mislead the DFSA and anyone reviewing its activities as to the financial standing and operations of its business. ACLD deliberately provided false and misleading information to, or concealed relevant information from, the DFSA relating to its Capital Resources and the activities of its employees in circumstances where ACLD knew that the provision or concealment of that relevant information was likely to mislead or deceive the DFSA;
 - b. failed to ensure that its affairs were managed effectively and responsibly by its senior management, contrary to Authorised Firm Principle 3 (Management, systems and controls) in GEN Rule 4.2.3, by allowing ACLD's resources and infrastructure to be used by AIML for the purposes of carrying on activities from the DIFC in breach of the Regulatory Law; and
 - c. failed to deal with the DFSA in an open and cooperative manner, contrary to Authorised Firm Principle 10 (Relations with regulators) in GEN Rule 4.2.10, by failing to disclose to the DFSA that AIML was carrying out Financial Services from the DIFC

² Prior to June 2014, the relevant requirement was contained in GEN Rule 8.2.1.

³ Prior to July 2010 the relevant Financial Service, as defined in GEN Rule 2.12.1, was called "Operating a Collective Investment Fund".

and the full extent of the activities being conducted by the Abraaj Group in or from the DIFC.

7. Given the nature and seriousness of ACLD's contraventions, and the significant period of time over which they occurred, the DFSA considers it appropriate in the circumstances to impose the Fine on ACLD.

FACTS AND MATTERS RELIED UPON

Structure of the Abraaj Group

8. The **Abraaj Group** is the informal name for a large group of related entities consisting of private equity Funds, their general partners, investment advisers and other entities. The Abraaj Group 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 in numerous private equity and other Funds (**Abraaj Funds**) that were typically structured as limited partnerships. The Abraaj Group has over 300 entities (including Special Purpose Vehicles (SPVs)) in its structure and physical offices around the world, including Dubai, the USA, the UK, India, Singapore Turkey, Mauritius and other locations, and mere paper offices in the Cayman Islands. However, only one entity in the Abraaj Group, ACLD, was licensed and authorised by the DFSA to carry on Financial Service activities in or from the DIFC.
9. The principal investment decision-making body for the Abraaj Group was a committee called the Global Investment Committee (**GIC**). The GIC comprised a number of AIML's senior management.
10. 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 Financial Services in or from the DIFC, including:
 - a. Advising on Financial Products;⁴
 - b. Arranging Deals in Investments;

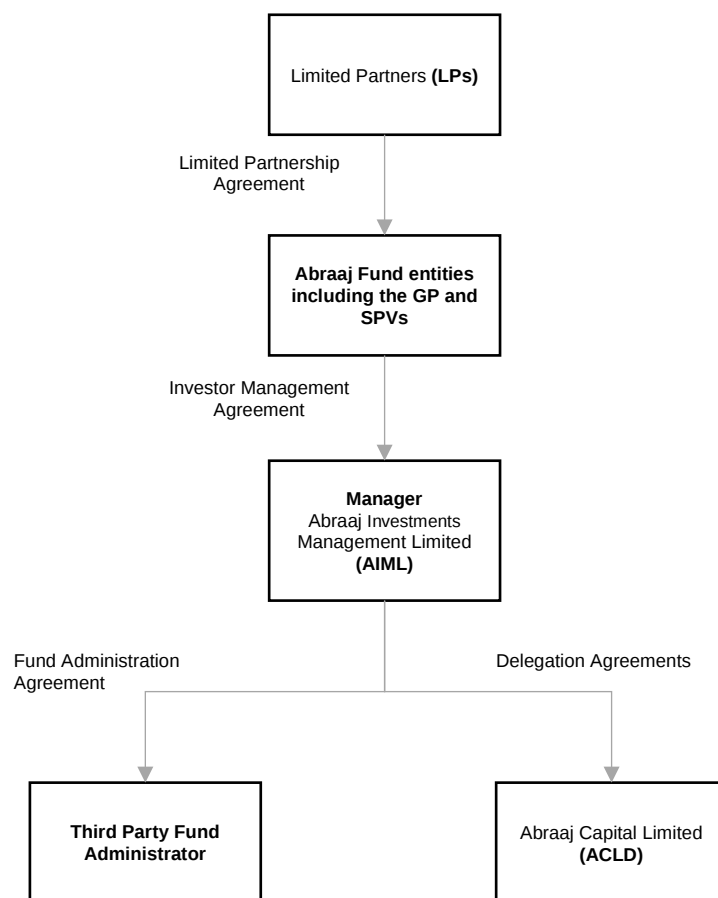
⁴ Prior to February 2017, the Financial Service addressed in GEN Rule 2.2.2(f) and GEN section 2.9 was called "Arranging Credit or Deals in Investments". Further, at that time, the Financial Service addressed in GEN Rule 2.2(h) and 2.11 was called "Advising on Financial Products or Credit". From February 2017 and Version 38 of GEN, these two Financial Services were repealed and replaced with three Financial Services: Arranging Deals in Investments, Advising on Financial Products, and Arranging Credit and Advising on Credit.

- c. Arranging and Advising on Credit;
 - d. Managing Assets; and
 - e. Providing Fund Administration.
11. While ACLD was authorised by the DFSA and licensed to carry on certain Financial Services, the scope of its licence did not include Managing a Collective Investment Fund (as defined in GEN Rule 2.12.1).⁵
12. The primary investment adviser and manager of the private equity Funds in the Abraaj Group is AIML. AIML is a Cayman Islands exempted company and, until January 2008, AIML's name was Abraaj Capital (Cayman) Limited. However, AIML did not have any physical offices or staff in the Cayman Islands and carried on its activities from **Abraaj Group Offices** in the DIFC, despite not being licensed or authorised by the DFSA to do so. AH is incorporated in the Cayman Islands and is the ultimate holding company of the Abraaj Group. AH is the 100% owner of AIML and AIML is the 100% owner of ACLD, therefore making AH ACLD's ultimate parent.
13. AIML had a "Branch of Foreign Company" licence issued by the Dubai Department of Economic Development (**DED Licence**) to carry out feasibility studies and management consultancy services. Notably, it did not include the provision of private equity Fund management services. The DED Licence expired on 28 September 2018. At no time did AIML have a DFSA licence authorising it to carry on Financial Services in or from the DIFC.
14. AH, AIML and ACLD shared common senior management, with all of AIML's Directors sitting on the Board of AH and ACLD. AIML's senior management all held the most senior positions at ACLD and, with one exception, were all employed by ACLD. All of AIML's senior management were based at Abraaj Group Offices in the DIFC.
15. As the primary investment adviser and manager in the Abraaj Group, AIML was responsible for managing the majority of the Abraaj Group's private equity Funds. Those Funds were typically set up as Limited Partnerships (**LPS**), generally through a Limited Partnership Agreement (**LPA**) or Deed, with a General Partner (**GP**), which delegated management of

⁵ Prior to July 2010 the relevant Financial Service, as defined in GEN Rule 2.12.1, was called "Operating a Collective Investment Fund".

the relevant Abraaj Fund to the manager (in most instances, AIML), generally through an Investment Management Agreement (**IMA**). In turn, since March 2007, AIML delegated certain of its functions in relation to some Abraaj Funds to ACLD.

16. The structure of the Abraaj Group and Abraaj Funds was complex. The chart below sets out a simplified overview of the how most Abraaj Funds were typically structured and managed.



17. Specifically, under delegation agreements and a Services Agreement entered into between AIML and ACLD since March 2007 (together, 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 December 2007	January 2008 to May 2009	June 2009 to June 2010	June 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	

18. An Investment Advisory and Service Level Agreement (**IASLA**) between Abraaj Holdings and ACLD, which purported to supersede these Delegation Agreements, was entered into in October 2011. The IASLA allowed ACLD to be appointed as investment advisor to all Abraaj Funds. The IASLA was supplemented by a Deed of Adherence between AIML and ACLD (**Deed of Adherence**), appointing ACLD as investment advisor to the Funds delegated to ACLD immediately prior to the IASLA being entered into. However, the IASLA and the Deed of Adherence were not referenced in any of ACLD's financial statements, which continued to reference the Delegation Agreements, and did not indicate any changes to the services provided by ACLD, or the revenues and costs to ACLD in relation to these services.
19. Under the Delegation Agreements between AIML and ACLD, ACLD agreed to meet all costs associated with establishing and running the Abraaj Group Offices in Dubai, together with the cost of running other offices in the region required to perform the services under the Delegation Agreements. Under the agreement, any costs or expenses paid by AIML would be "recharged" to ACLD. The agreement stipulated that ACLD's total expenses would be capped at 72.5% of the management fees received by ACLD; any expenses incurred in excess of this would be reimbursed to ACLD by AIML, thereby exposing ACLD to minimum commercial risk, with commercial risk residing with AIML.
20. During the Relevant Period, AIML received management fees from the Abraaj Funds it managed. AIML paid ACLD a proportion of the management fees received from the Delegated Funds. As such, during the Relevant Period, ACLD received USD 87.2m in management fees for the investment management and fund administration services it provided to the Delegated Funds.

DFSA Investigation

21. 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 of laws and Rules administered by the DFSA.
22. In addition, on 29 March 2018 the DFSA required ACLD to provide the DFSA with a report prepared by an independent third party on ACLD's financial affairs, including its bank accounts, to establish whether ACLD had any solvency issues (the **Independent Report**).
23. 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 of capital required under applicable DFSA PIB Rules (the **Capital Requirement**) for the majority of the preceding nine months. Abraaj Group Compliance notified the DFSA of these breaches of Capital Requirements on 18 April 2018.
24. Further investigation by Abraaj Group Compliance and the DFSA identified that ACLD had employed a long-standing practice, where funds were systematically moved in and out of ACLD's bank accounts around the relevant reporting dates for ACLD's financial statements and PIB Returns (see paragraph 34 and 46).
25. On 3 May 2018, the DFSA took action under Articles 75 and 76 of the Regulatory Law to restrict ACLD from:
 - a. dealing with any new clients; and
 - b. engaging in the following dealings with any members of the Abraaj Group or their respective shareholders or office holders or former office holders:
 - i. transferring money or other relevant property; and
 - ii. providing any form of financial support or security.

Appointment of Provisional Liquidators

26. In or around June 2018, AIML and AH voluntarily declared bankruptcy and on 18 June 2018, the Grand Court of the Cayman Islands issued orders appointing Joint Provisional Liquidators to AH and AIML since the entities could not meet their liabilities as they became due.
27. As ACLD was reliant on AH and AIML for funding, and with both of them being in liquidation, ACLD became unable to meet its debts as they fell due and voluntarily applied to be wound up. On 15 August 2018, ACLD was placed into provisional liquidation by the DIFC Courts.

Co-operation with Auditors

28. As set out in sections 8.4 and 8.6 of GEN, ACLD was required to appoint an Auditor to produce a Financial Statement Auditor's Report on its financial statements and a Regulatory Returns Auditor's Report on its annual PIB Returns. Under GEN Rule 8.5.1, ACLD was required to co-operate with its Auditor and take reasonable steps to ensure that the firm and its employees provide any information to its Auditor that the Auditor reasonably required, or is entitled to receive as Auditor. In addition, ACLD was required to bring to its Auditor's attention any matter which significantly affected its financial position.

Capital Requirement

29. 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 these requirements.
30. 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.⁶ The Capital Requirement for a Category 3C Authorised Firm is specified as the higher of; the applicable Base Capital Requirement (**BCR**), as defined for each Category in the PIB

⁶ Prior to December 2012, some Categories of firms under PIB differed from those that existed from this point onwards (for example, Category 3C did not exist at this time). However, for the purposes of this Notice, these differences had no effect, because ACLD's Capital Requirement was, at all times, its EBCM, because this was higher than its prescribed Base Capital Requirement (see following section).

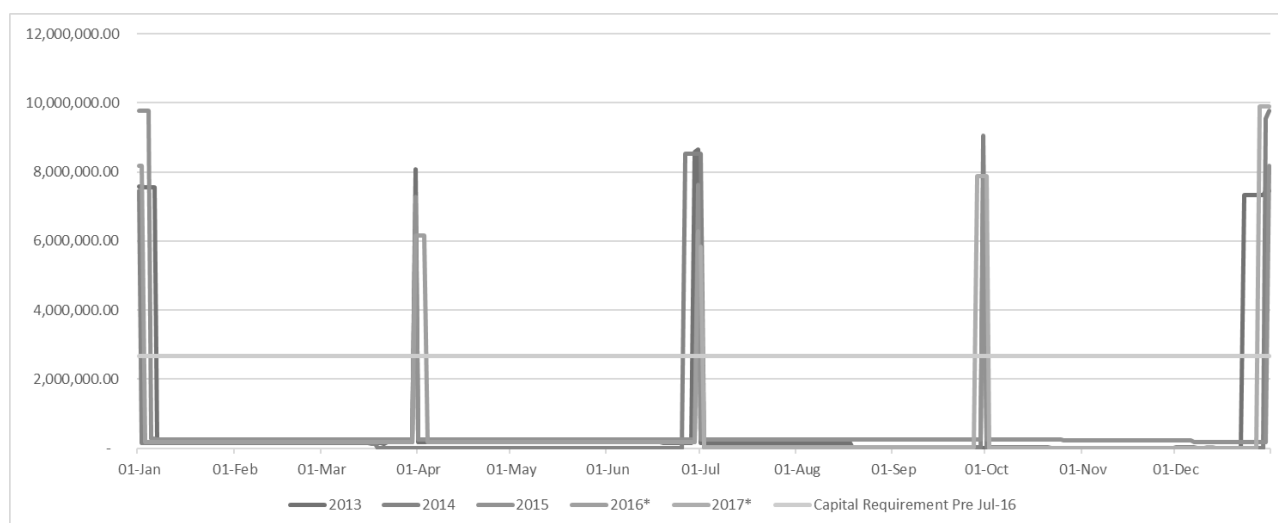
Rules); or a calculated Expenditure Based Capital Minimum (**EBCM**). For a Category 3C Authorised Firm, EBCM is specified as 13/52 (25%) of Annual Audited Expenditure (less exceptional items as outlined in the PIB Rules). The BCR was specified as USD 500,000.

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

Failing to Maintain Sufficient Capital Resources

32. As set out above, ACLD was required to maintain, at all times, Capital Resources that met the Capital Requirement calculated in accordance with the PIB Rules. Since December 2012, as a Category 3C Authorised Firm, ACLD was required to hold these Capital Resources in the form of liquid assets, such as cash in hand or money deposited with a regulated bank with a suitable credit rating.
33. As a Category 3C Authorised Firm, ACLD had a BCR of USD 500,000. However, based on EBCM calculations, from March 2007 ACLD had a Capital Requirement of approximately USD 5.2m, later reduced to approximately USD 2.7m in October 2008 and reduced again, in July 2016, to approximately USD 1.2m. All PIB Returns submitted by ACLD to the DFSA after 2012 reported liquid assets in excess of these Capital Requirements.
34. However, as set out in paragraph 24, ACLD had employed a long-standing practice of systematically moving funds in and out of its bank accounts either side of its PIB Return reporting dates. This practice, which is a type of **Window Dressing**, began in March 2007, ahead of the first PIB Return that ACLD submitted to the DFSA, and continued until 13 January 2018. 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.

35. For example, on 29 December 2015 ACLD held a total of USD 184,852 in its bank accounts. This amount was significantly below its Capital Requirement of USD 2.7m. On 30 December 2015, the day before 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 Requirement. However, on 3 January 2016, the USD 8m was transferred back to AIML, putting ACLD back into breach of its Capital Requirement. ACLD remained in breach of its Capital Requirement until a similar transfer was made prior to the next quarter end (31 March 2016).
36. ACLD's banking records for 2013 to 2017 show a clear and consistent pattern of deposits and withdrawals (from either its Parent or AH), in line with the example detailed above. This is illustrated in the following diagram and supporting table:



* Based on 6 months of available Data
 * 29 Feb 2016 removed for data analysis purposes

		ACLD Bank Account Balance (USD)			Capital Requirement
		Prior to Transfer In	On PIB Reporting Date	After Transfer Out	
2012	Q4	Not Available	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	Not Available	
	Q3	Not Available			
	Q4	Not Available			
2017	Q1	Not Available			
	Q2	Not Available	5,840,737	40,737	
	Q3	40,669	7,886,380	6,380	
	Q4	6,338	9,904,791	394,269	

37. This practice gave the impression to the DFSA that, since December 2012, 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 Requirement.
38. 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. This practice continued past 9 December 2012 when changes to PIB required firms to hold Capital Resources in the form of liquid assets.
39. As set out in paragraph 28, ACLD was required to appoint an Auditor to report on its annual PIB Returns. In order for its Auditor to produce such reports in accordance with International Standards on Assurance Engagements, its Auditor would be required to make sufficient enquiries to confirm the information in ACLD's PIB Returns was accurate. By ensuring that ACLD temporarily had sufficient funds in its bank accounts on PIB reporting dates, ACLD was able to provide bank confirmations accepted by the Auditors 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.

40. In at least two PIB Returns submitted by ACLD to the DFSA between Q4 2012 and Q4 2017, ACLD reported that it held liquid assets in excess of its Capital Requirement 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 6.9m 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.
41. By failing to maintain at all times Capital Resources that met its Capital Requirement, ACLD repeatedly contravened PIB Rules 3.2.2 and 3.5.3 since December 2012.⁷
42. By engaging in the practice of Window Dressing and submitting returns that gave a false impression about its compliance with its Capital Requirement, ACLD knowingly and intentionally provided information to the DFSA which was false, misleading and deceptive, contrary to Article 66 of the Regulatory Law.
43. 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.

Misleading Financial Statements

44. GEN Rule 8.2.1 required ACLD to prepare financial statements for each year of operation of the Authorised Firm. Further, GEN Rule 8.2.2 required ACLD to prepare and maintain its financial statements in accordance with IFRS.⁸
45. Audited financial statements form the basis of the financial information reported in PIB Returns. Any omissions, or erroneous information, would likely feed through into an

⁷ Prior to December 2012, the equivalent requirement to that in PIB Rule 3.2.2 was set out in PIB Rule 2.2.1. At that time, the specific requirement in PIB Rule 3.5.3 did not exist (although a similar requirement, to maintain financial resources in addition to the capital requirements which are adequate in relation to the nature, size and complexity of its business to ensure there is no significant risk that liabilities cannot be met as they fall due, was set out in PIB Rule 1.2.1).

⁸ Prior to June 2014, the relevant requirement was contained in GEN Rule 8.2.1.

Authorised Firm's PIB Returns. As such, it was important that the information recorded in ACLD's financial statements was accurate, true and fairly reflected ACLD's financial position.

46. ACLD's long-standing practice of Window Dressing, as outlined in paragraphs 32 to 43, also impacted ACLD's financial statements. Although ACLD's financial statements correctly recorded that it held a significant cash balance on the financial statement reporting dates, they did not fairly reflect the true position that this was temporary.
47. For example, ACLD's statement of financial position as at 30 June 2015 recorded that ACLD had USD 7,740,000 total assets, of which USD 7,624,000 was held in cash and cash equivalents. However, ACLD's 2015 financial statements did not reflect, or set out in the notes to its 2015 financial statements, that it had received USD 7,370,360 from its Parent, AIML, on 30 June 2015 and that this amount had been transferred back to AIML the next day (1 July 2015).
48. Although the transfers of funds back to AIML or AH occurred after ACLD's financial statement 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."*
49. As a result, ACLD's financial statements, produced between 2013 and 2017 (at least), gave the misleading impression that ACLD had significant liquidity and a strong balance sheet. However, in reality, except for a small number of days each year, ACLD had a relatively small amount of liquid assets, with the majority of ACLD's funds being held by AIML. By holding the money in AIML's accounts rather than ACLD's, AIML was able to utilise the funds to cover the Abraaj Group's running expenses and latterly to assist in resolving liquidity issues being experienced by the Abraaj Group.
50. As set out in paragraph 39, ACLD's Window Dressing misled the DFSA and those relying on ACLD's financial statements and PIB Returns, as to the level of liquidity ACLD had and that ACLD had been maintaining Capital Resources in the form of liquid assets in excess of its Capital Requirement. By temporarily transferring funds from AIML to ACLD at the end

of each reporting period it created the false impression, through bank confirmations, that significant funds were being held in ACLD's bank accounts for the whole year. This allowed ACLD and the Abraaj Group to avoid further scrutiny as the financial statements did not highlight any issues suggesting that ACLD or the Abraaj Group had liquidity issues or that ACLD was in breach of its Capital Requirement.

51. By preparing financial statements that gave a false impression about its financial position, and providing those statements to the DFSA and its Auditor, ACLD provided information to the DFSA which was false, misleading or deceptive, contrary to Article 66 of the Regulatory Law and knowingly or recklessly provided information to its Auditor that was materially false, misleading or deceptive, contrary to Article 103 of the Regulatory Law.

The Financial Services Prohibition

52. Article 41 of the Regulatory Law prohibits a person from carrying on a Financial Service in or from the DIFC unless, under Article 42(3), the person is an Authorised Firm whose licence authorises it to carry on the relevant Financial Service, an External Fund Manager⁹ managing a Domestic Fund, or an Authorised Market Institution whose licence authorises it to carry on the relevant Financial Service.
53. ACLD's parent, AIML, has never been a DFSA Authorised Firm nor did it satisfy the other criteria that would have permitted it to carry on a Financial Service in or from the DIFC.
54. Under GEN Rule 2.2.1 an activity constitutes a Financial Service if it is an activity specified in GEN Rule 2.2.2 and the activity is carried on by way of business in the manner described in GEN section 2.3. Under GEN Rule 2.2.2, the activities specified include 'Managing Assets' and 'Managing a Collective Investment Fund'.¹⁰
55. The DFSA considers that AIML carried on a Financial Service in and from the DIFC from at least 2007. Specifically, it carried on the Financial Service of Managing a Collective Investment Fund as defined in GEN Rule 2.12.1. Alternatively, AIML carried on the Financial Service of Managing Assets as defined in GEN Rule 2.10.1.

⁹ Prior to July 2010 and under the predecessor law, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended), and under the Regulatory Law as it was then in force, the DFSA regime did not contain the concepts of an External Fund or an External Fund Manager.

¹⁰ Prior to July 2010 the relevant Financial Service, as defined in GEN Rule 2.12.1, was called "Operating a Collective Investment Fund".

Managing a Collective Investment Fund

56. The Financial Service 'Managing a Collective Investment Fund' is defined in GEN Rule 2.12.1 as:

"(a) being legally accountable to the Unitholders in the Fund for the management of the property held for or within the Fund under the Fund's Constitution; and

(b) establishing, managing or otherwise operating or winding up a Collective Investment Fund."

57. To the extent that any activity carried on by AIML in the course of Managing a Collective Investment Fund constituted the Financial Services of 'Managing Assets' (GEN Rules 2.2.2(g) and 2.10), 'Providing Fund Administration' (GEN Rules 2.2.2(u) and 2.24), 'Dealing in Investments as Agent' (GEN Rule 2.2.2(e) and 2.8), 'Dealing in Investments as Principal' (GEN Rules 2.2.2 (d) and 2.7), 'Arranging Deals in Investments' (GEN Rules 2.2.2 (f) and 2.9)¹¹ or 'Providing Custody' (GEN Rules 2.2.2(j) and 2.13), such a Financial Service is taken to be incorporated within Managing a Collective Investment Fund. Therefore, even if AIML was not Managing a Collective Investment Fund, its activities were such that it was carrying on other Financial Services.

58. Each of the Partnerships (General and Limited Partners) referred to in this Notice constituted a Fund as defined in Article 11 of the Collective Investment Law 2010 (CIL). Article 11 of CIL provides:¹²

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

¹¹ Prior to February 2017, the Financial Service addressed in GEN Rule 2.2.2(f) and GEN section 2.9 was called "Arranging Credit or Deals in Investments". Further, at that time, the Financial Service addressed in GEN Rule 2.2(h) and 2.11 was called "Advising on Financial Products or Credit". From February 2017 and Version 38 of GEN, these two Financial Services were repealed and replaced with three Financial Services: Arranging Deals in Investments, Advising on Financial Products, and Arranging Credit and Advising on Credit.

¹² The predecessor law, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended), did not contain the concept of a Fund Manager. Instead, that law referred to the "Operator" of the Fund, which was defined as the person, described under Article 17(3) of the law, who was responsible for the management of the property held for or within a Fund and otherwise, operating the Fund and, in relation to a Domestic Fund, was authorised under a Licence granted by the DFSA to operate the Fund. For the purposes of that law, AIML was the "Operator" of the relevant Fund.

- (a) *the purpose or effect of the arrangements is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income;*
 - (b) *the arrangements must be such that the persons who are to participate ("Unitholders") in the arrangements do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions; and*
 - (c) *the arrangements have either or both of the following characteristics:*
 - (i) *the contributions of the Unitholders and the profits or income out of which payments are to be made to them are pooled; or*
 - (ii) *the property is managed as a whole by or on behalf of the Fund Manager.*
- (2) *If the arrangements provide for such pooling as is mentioned in Article 11(1)(c)(i) in relation to separate parts of the property, the arrangement is not to be regarded as constituting a single Fund unless the Unitholders are entitled to exchange rights in one part for rights in another."*

59. The relevant arrangements, as contained in the LPAs, Private Placement Memoranda (**PPM**) and General Partner Agreements, were made with respect to property that varied from Abraaj Fund to Abraaj Fund, and was constrained by investment restrictions, usually attached as the first schedule to each LPA.
60. The relevant arrangements set out in the LPAs allowed the Abraaj Funds to invest in property including shares, loans, debentures and convertible loans. The actual investments made by AIML, on behalf of the Abraaj Funds, were in line with the permissible types of investments in the LPAs. For example, AIML made investments from the DIFC on behalf of Abraaj Funds in shares, convertible loans, secured loans, and investments in a combination of debt and equity, of private and public companies.

61. The purpose or effect of such arrangements with respect to property was to enable the LPs to receive profits from the acquisition, holding, management and disposal of property within the Abraaj Fund. In particular:
- a. LPs committed to an agreed level of investment through the life of the Abraaj Fund;
 - b. the GP, via AIML, would direct the LPs to make payments, from time to time, up to the agreed level of commitment;
 - c. the Abraaj Fund, through AIML-staffed Investment Committees, would direct those payments towards capital investments in, or loans to portfolio companies within the Abraaj Funds; and
 - d. the Investment Committee for each Abraaj Fund would, from the DIFC, monitor the performance of those investments, receive and consider recommendations from 'investment teams' located in the DIFC and the country in which the portfolio company was based, and make decisions on further investment.
62. The LPs did not have day-to-day control over the management of the property of the Abraaj Funds referred to above. Rather, the relevant property was controlled and managed by AIML as set out in the Investment Management Agreements and/or Management Deeds.
63. The contributions of the LPs and the profits or income out of which payments were to be made to them were pooled. Specifically AIML senior management members were involved in the following:
- a. as members of both the GIC and the Investment Committee of specific Abraaj Funds, they made decisions on when to instruct drawdowns of LP commitments and the amount of those drawdowns;
 - b. either directly or via a third party fund administrator, they directed LPs to make payments to a bank account in the name of the individual Abraaj Funds of which AIML was the manager;
 - c. as members of both the GIC and the Investment Committee of specific Abraaj Funds, they approved the payment of monies from the Abraaj Fund bank account towards the purchase of property (see paragraph 60 for the classes of property);

- d. they were signatories/controllers on the bank accounts into which the proceeds of the sale of property within Abraaj Funds were pooled;
 - e. they took the decisions on distributions of the pooled profits; and
 - f. they authorised the transfer of monies from the Abraaj Fund bank accounts to the bank accounts of LPs.
64. AIML was legally accountable to the LPs under the terms of the IMAs and Deeds of Management entered into by AIML and the respective GP for each Abraaj Fund.
65. The arrangements did not fall within any of the relevant exclusions from Article 11 set out in chapter 2 of the Collective Investment Rules (**CIR**) module of the DFSA Rulebook so as not to constitute a Fund.¹³
66. The purpose or effect of the arrangements referred to at paragraphs 58 to 64 appears to the DFSA, on reasonable grounds, to have been investment management, in the exercise of discretion for a collective purpose, of investments, for the benefit of the LPs.
67. The term 'Investment' is defined in GEN Rule A2.1.1 as being either a 'Security' (which, for example, includes Shares) or a 'Derivative' and includes the types of property described in paragraph 60.¹⁴
68. Each of the Abraaj Funds managed by AIML was a Foreign Fund as defined in Article 13 of CIL, as the Limited Partnerships were not established or domiciled in the DIFC, and they were not External Funds as defined in Article 14 of CIL,¹⁵ as they were not managed by a Fund Manager that was an Authorised Firm.
69. Between 30 June 2012 and 30 June 2018, ACLD disclosed to the DFSA that it had provided Financial Services to four Abraaj Funds. This is consistent with the revenue streams and costs disclosed to the DFSA over the same period in the audited financial statements for ACLD discussed in more detail below.

¹³ Prior to November 2008, the relevant exclusions were set out in Chapter 4 of CIR.

¹⁴ Prior to January 2009, the definition of Investment in GEN included each relevant product type, but did not first divide them into either a Security or a Derivative.

¹⁵ The predecessor law, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended), did not contain an equivalent provision, or the concept of an External Fund.

70. The following table contains a list of Abraaj Funds for which AIML was appointed to act as Manager. Including the four Abraaj Funds noted in the financial statements of ACLD as being delegated to ACLD:

Abraaj Funds Managed by AIML	
Abraaj Growth Markets Health Fund (AGHF)	Abraaj Pakistan Fund I
Abraaj Private Equity Fund IV (APEF IV)	Abraaj Turkey Fund I
The Infrastructure and Growth Capital Fund	Aureos Latin America Fund II
Abraaj Africa Fund III	Abraaj Private Equity Fund VI
Abraaj Global Growth Markets Aggregator Fund	The Abraaj Buyout Fund (Delegated to ACLD)
Abraaj Global Growth Markets Fund	The Abraaj Buyout Fund II (Delegated to ACLD)
Abraaj Global Growth Markets Fund (B)	The Abraaj Real Estate Fund (Delegated to ACLD)
Abraaj Global Growth Markets Strategic Fund	The ASAS Fund (Delegated to ACLD)
Abraaj Latin America Fund II	

For the avoidance of doubt, where activities were delegated to ACLD, the DFSA does not consider that this amounted to ACLD acting as the manager of those Funds.

71. For each of the Abraaj Funds listed in the table at paragraph 70, AIML carried on the following activities under the Investment Management Agreements:
- entering into agreements to act as Manager of Funds;
 - making decisions about the management of property in the Abraaj Funds, including investment decisions;
 - marketing the Abraaj Funds through making and distributing PPM and other marketing materials;
 - directing the drawdown and disbursement of the LP contributions; and
 - making decisions about the valuation of assets within Abraaj Funds.

Agreements to act as Manager of Funds

72. For each of the Abraaj Funds listed in the table at paragraph 70, the GP of the Abraaj Fund entered into IMAs or Management Deeds, with AIML, in which it appointed AIML to act as the Manager of the Fund and AIML agreed to so act. However, many, if not all, of the IMAs contained a paragraph attempting to exclude AIML from being a “Manager” within the terms of CIL.¹⁶
73. Notwithstanding these paragraphs, AIML, by the activities set out in this Notice, did in fact “Manage” at least thirteen Abraaj Funds. Those activities include those set out in the LPAs.
74. The LPAs set out the authority and power granted to AIML as manager of the particular Abraaj Fund. This included, but was not limited to:
- a. formulating the investment policy of the partnership;
 - b. locating, evaluating and negotiating investment and divestment opportunities;
 - c. monitoring the performance of Portfolio Companies and other entities in which the partnership had invested;
 - d. borrowing money, including on a joint and several basis with other Abraaj Fund vehicles;
 - e. holding the partnership assets as trustee on trust for the partnership; and
 - f. investing Abraaj Fund monies in cash deposits pending the completion of an Investment or the making of distributions.

AIML carried out its fund management and asset management activities in the DIFC

75. The registered office addresses of both AH and AIML were in the Cayman Islands. These were mere paper offices: neither firm had physical premises or staff in the Cayman Islands.

¹⁶ The predecessor law, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended), did not contain the concept of a Manager. Instead, that law referred to the “Operator” of the Fund, which was defined as the person, described under Article 17(3) of the law, who was responsible for the management of the property held for or within a Fund and otherwise, operating the Fund and, in relation to a Domestic Fund, was authorised under a Licence granted by the DFSA to operate the Fund. For the purposes of that law, AIML was the “Operator” of the relevant Fund.

In contrast, from at least 2002, AIML leased office space in various buildings outside the DIFC, including in Emirates Towers, immediately adjacent to the DIFC.

76. On 19 March 2006, ACLD was incorporated in the DIFC. On 10 August 2007, ACLD entered into an agreement for a five year lease of two floors of the premises within the DIFC. The lease was renewed and the offices remained occupied until the appointment of the JPLs for ACLD in August 2018.
77. Between 2009 and 2011, AIML reduced its leased office space outside the DIFC from approximately 14,000 square feet to approximately 2,000 square feet. In March 2009, 'Abraaj Capital' announced to its clients and its banks that it had outgrown its space and was moving its Dubai office to the DIFC, which it described as the region's premier financial services centre. From 2009, AIML and ACLD operations were headquartered in various offices inside the DIFC. The majority of both firms' staff and their core IT and telecommunication infrastructure were located in those offices.
78. From at least September 2009, the date of the first on-site risk assessment of ACLD by the DFSA, until the appointment of provisional liquidators, both AIML and ACLD were co-located in premises inside the DIFC.
79. From June 2011, over 140 employees on ACLD-sponsored visas occupied the ACLD-leased office space in the DIFC. The staff interviewed by the DFSA identified themselves as employees of 'Abraaj' with no distinction made between ACLD or AIML.
80. In 2015, the DFSA introduced a new requirement that all Authorised Firms report the numbers of staff they employ, together with the broad categories of work and grades that those staff performed at the firm. ACLD submitted this information for each quarter from Q1 2015 to Q2 2018. That information is summarised in the table below:

Year ACLD Reported Staff Numbers	2015				2016				2017				2018	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Asset Management	0	0	0	0	10	10	0	0	0	0	15	15	12	9
Fund Management	13	13	13	13	3	3	15	17	16	16	0	0	0	0
Fund Administration	3	3	3	3	3	3	3	3	3	3	3	3	3	2
Other	118	113	114	127	115	115	141	158	155	154	144	172	165	107
Total	134	129	130	143	131	131	159	178	174	173	162	190	180	118

81. From the above data, for at least the period Q1 2015 to Q2 2018, ACLD reported to the DFSA that only 8% to 12% of its staff were engaged in regulated activities.

Division of work between AIML and ACLD

82. As set out above, the GPs of 17 Abraaj Funds appointed AIML as the manager of their Funds under a variety of 'IMAs and 'Management Deeds'.
83. As set out in paragraphs 17 to 20, AIML delegated to ACLD the performance of investment management and fund administration functions for seven Abraaj Funds, under the Delegation Agreements and Deed of Adherence. Despite these agreements, AIML retained for itself the decision-making powers in relation to investment and divestment for the Delegated Funds.
84. In PIB returns to the DFSA, ACLD stated its revenue was based on fees earned from providing financial services for the Abraaj Funds as set out in ACLD's financial statements. Based on those financial statements ACLD claimed to undertake activities only for the Delegated Funds listed in table at paragraph 17.
85. The activities of AIML (whether delegated to AIML as set out in the respective service agreements or otherwise) were mainly carried on in or from the DIFC, where AIML senior management and other employees were based.
86. In the financial statements, provided to the DFSA by ACLD, the firm's income and expenses (in USD) for the financial periods 2014-2018 was as follows:

Financial Period	Total ACLD Revenue	ACLD Revenue from AIML Management Fees	Costs recharged by AIML	Total Profit (Loss) ACLD	Dividend paid by ACLD to AIML
2014 (18 Months)	11,525,000	11,525,000	7,996,000	3,400,000	3,000,000
2015	7,035,000	7,035,000	4,900,000	2,065,000	2,000,000
2016	2,478,000	2,478,000	1,796,000	591,000	1,000,000
2017	2,256,000	2,256,000	1,635,000	542,000	500,000

87. The associated revenue and costs (salaries and End of Service Benefits, etc.) were recorded in AIML accounts. The table below sets out the revenue, expenses, and assets under management as reported respectively in the ACLD, consolidated AIML, and consolidated AH audited financial statements for the financial years ending 30 June 2015 to 30 June 2017 (the latter being the last set of audited financial statements prepared for these companies).

Comparison of revenue, expenses and AUM in 2015-2017

USD m	Revenue			Expenses			Assets under management		
	ACLD	AIML	AH	ACLD	AIML	AH	ACLD	AIML	AH
Jun-15	7	80	119	5	134	225	442	8,000	9,000
Jun-16	2	160	211	2	130	186	433	9,000	10,250
Jun-17	2	78	156	2	123	154	368	9,330	10,760

88. The distribution of revenue and costs between ACLD and AIML is consistent with the majority of the fee-earning work in relation to Abraaj Funds, namely the provision of Financial Services, being carried on in the DIFC by AIML and not by ACLD.
89. Based on the audited financial statements, the majority of the employees who occupied the ACLD-leased DIFC office space were in fact undertaking tasks for AIML and AH and not ACLD.
90. For these reasons, since 2007 at the latest, AIML carried on all of its activities in or from the DIFC.

Investment and divestment decisions made in the DIFC

91. As the appointed Manager of the Fund, AIML was authorised by the GP to take all necessary or desirable actions in connection with the operation of the Abraaj Funds, the management of the Abraaj Funds' investment portfolios or otherwise in the furtherance of the Abraaj Funds' businesses.
92. The principal investment decision-making body for the Abraaj Group was the GIC, made up of four permanent members of AIML senior management and an additional floating member.

93. The majority of GIC meetings were held in the Abraaj Group Offices in the DIFC. Members of the GIC when travelling would join the meetings by conference call, or video call. The host, and the majority of the attendees at those calls and video conferences were usually situated within the Abraaj Group Offices in the DIFC.
94. The minutes of the GIC meetings were headed 'Abraaj Investment Management Limited', as the 'Manager' of the respective Abraaj Fund, and record the GIC's consideration of recommendations from the relevant investment teams within Abraaj. The minutes also document the GIC decisions to approve particular investments, or instructions to the investment teams on next steps in the investment process. In the majority of cases, the minutes record that those meetings were held in Dubai.
95. All permanent members of the GIC had Dubai residence status, with family homes in Dubai, and their own physical offices in the ACLD-leased office space in the DIFC.
96. In an internal memo dated 10 November 2016, a member of Abraaj Group Compliance stated that the GIC's activities within the DIFC had not been disclosed to the DFSA. Further, the memo recorded that (i) Abraaj Group staff are involved in "Managing Assets" in the DIFC, (ii) "for all intents and purposes" the meetings occurred within the DIFC and (iii) that it would be difficult to argue that the investment decisions were taken in the Cayman Islands.
97. For these reasons, AIML, through its GIC, was the primary decision-maker for investment and divestment decisions of all the Abraaj Funds in relation to which AIML had been appointed as the Manager of the Fund and carried out that decision-making function in the DIFC.

Directing Drawdowns from LPs

98. Prior to approved investments being made on behalf of Abraaj Funds, instructions would be issued to Abraaj Funds' investors via a drawdown notice. The drawdown notices were issued by the Manager of the Fund, as defined in the LPA agreements, that is, AIML and signed by an 'authorised signatory' of the GP for the respective Abraaj Fund.
99. Drawdown notices would be drafted by Abraaj Group employees and sent to investors by each Fund's administrator. For some Funds, drawdown notices were sent directly to investors by Abraaj Group employees based in the DIFC.

100. Drafting and issuing drawdown notices form part of AIML's activities that constitute the Financial Service of Managing a Collective Investment Fund, which requires DFSA authorisation if it is performed in or from the DIFC.

Managing Assets

101. The Financial Service 'Managing Assets' is defined in GEN Rule 2.10.1 as:

"managing on a discretionary basis assets belonging to another if the assets include any Investment or rights under a contract of Long-Term Insurance, not being a contract of reinsurance."

102. The GPs of Abraaj Funds appointed AIML as the Manager of their Funds. These appointments were made under a variety of IMAs and Management Deeds (see paragraph 72).
103. Under the agreements, the respective GP appointed AIML to act as Manager of the Fund, including managing investments consistently with the investment restrictions of the particular partnership; and taking investment decisions on behalf of the partnership as a discretionary manager.
104. As set out in paragraphs 91 to 97, AIML made all investment and divestment decisions in relation to Abraaj Funds in the DIFC. As a result, the DFSA considers that AIML carried on the Financial Service of Managing Assets in the DIFC. As set out in paragraph 96, Abraaj Group Compliance identified this in November 2016 but no steps were taken by ACLD, AIML or any other Abraaj entity to address AIML's unauthorised activity.
105. For the reasons given in paragraphs 52 to 104, the DFSA considers that, in the period from April 2007 to January 2018, AIML carried on a Financial Service activity, that is Managing a Collective Investment Fund or Managing Assets, in or from the DIFC when it was not an Authorised Firm with a licence authorising it to carry on such an activity. In so doing, AIML contravened Article 41 of the Regulatory Law.

ACLD's knowing involvement in AIML's activities

106. As set out in paragraph 17, AIML delegated to ACLD the performance of some fund management functions in relation to the Delegated Funds. These delegated functions included:
- a. performing all administration and accounting duties, including those relating to banking, cash management, treasury and foreign exchange;
 - b. communicating with other participants, including the regulators and any other parties in relation to the administration of the CIFs;
 - c. processing investor commitments, subscriptions, carrying out due diligence checks and handle anti money laundering requirements, managing drawdowns; and
 - d. processing distributions to investors and winding up collective investment funds.
107. However, AIML retained responsibility for performing most activities for other Funds for which it was appointed as manager. AIML also retained responsibility for making investment decisions, a key fund management activity, for all Funds, including the Delegated Funds.
108. Despite ACLD knowing that AIML was prohibited from carrying on Financial Service activities in or from the DIFC, ACLD was knowingly and directly involved in the activities carried on by AIML in or from the DIFC. ACLD's involvement in AIML's activities included:
- a. providing resources and infrastructure to AIML, such as the use of its DIFC office space and ACLD's DIFC-based employees, that enabled AIML to carry on its activities from the DIFC;
 - b. sharing common senior management with AIML, by virtue of all of AIML's Board of Directors also being Directors of ACLD; and
 - c. ACLD's senior management, while also being senior management of AIML, directing the activities, structure and operations of AIML that were substantially carried on in or from the DIFC.

109. ACLD's senior management was aware that AIML had very few employees and was reliant on ACLD's employees based in the DIFC to perform its fund management activities, as set out in paragraphs 79 and 89. Further, ACLD's senior management was aware of concerns that had been raised internally by Abraaj Group Compliance regarding the activities of AIML in the DIFC, set out below.
110. During the Relevant Period, Abraaj Group's Compliance repeatedly raised concerns with ACLD's senior management regarding the extent of the activities of AIML in the DIFC and the extent of the Abraaj Group's activities, as disclosed to the DFSA, in or from the DIFC. These concerns were not communicated to the DFSA.
111. In May 2009, Abraaj Group Compliance shared a report with members of ACLD's senior management highlighting concerns about the scale of the Abraaj Group's activities in the DIFC and, in particular, whether AIML could be perceived as operating in or from the DIFC. As a result, ACLD's Operations were tasked with preparing a note to obtain legal advice on the issues raised.
112. However, the note submitted to ACLD's legal advisors was narrower than the initial issues raised by Abraaj Group Compliance. Instead of seeking advice on whether AIML could be deemed to be operating from the DIFC through its use of DIFC-based ACLD employees to perform its activities, the note instead focused on whether AIML was operating within its DED Licence (which allowed it to operate in Dubai but not the DIFC) and whether the activities delegated to ACLD under the Delegation Agreements were covered by ACLD's DFSA authorisation. As a result, ACLD's legal advisors were not asked to consider the issues initially raised by Abraaj Group Compliance.
113. In June 2010, Abraaj Group Compliance submitted a note to ACLD's senior management, again raising concerns about whether the Abraaj Group was engaged in unauthorised activities in the DIFC. In response ACLD's senior management rejected Abraaj Group Compliance's concerns and stated that the issue was settled and the matter closed. Abraaj Group Compliance did not pursue its concerns further at this time.
114. In a 2016/2017 report to ACLD's senior management, Abraaj Group Compliance highlighted that AIML's GIC meetings, which usually took place in ACLD's office space in the DIFC, involved making investment decisions on behalf of the Abraaj Funds and as such could constitute a Financial Service. In the report, Abraaj Group Compliance also flagged that

the extent of the activities being performed by Abraaj Group employees in or from the DIFC were not being disclosed to the DFSA. As a result, advice was sought from ACLD's legal advisors which concluded that the Abraaj Group's current business model created regulatory risk, highlighting that AIML could be deemed to be in breach of Article 41 of the Regulatory Law. As a result, ACLD's legal advisors recommended a number of options to mitigate the identified risks.

115. In Q1 2018, ACLD engaged advisors to assist with preparations for the implementation of one of the options recommended by ACLD's legal advisors. However, at the time ACLD went into provisional liquidation, these changes had not been implemented.
116. ACLD failed to notify the DFSA or take any steps to prevent AIML carrying on the activities which gave rise to the contravention. This was despite ACLD being aware of AIML's activities from its DIFC office space since the outset, and of the concerns raised by Abraaj Group Compliance, initially in May 2009, that AIML was carrying on Financial Services in or from the DIFC.
117. By reason of the facts set out in paragraphs 52 to 105, AIML was carrying on a Financial Service in or from the DIFC when it was not an Authorised Firm with a licence to carry on that Financial Service. In particular, the DFSA considers that AIML's activities constitute the Financial Services of Managing a Collective Investment Fund or Managing Assets. In so doing, AIML contravened Article 41(1) of the Regulatory Law.
118. 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, the aforementioned person commits a contravention and is liable to be proceeded against and dealt with accordingly.
119. Article 86(7) of the Regulatory Law provides that 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.
120. ACLD aided or abetted, or was directly or indirectly knowingly involved in, that contravention, or a party to the contraventions by AIML and, under Article 86(1) of the Regulatory Law, is liable accordingly. The relevant knowledge was in the possession of employees and/or officers of ACLD whose knowledge is to be attributed for this purpose to ACLD.
121. The DFSA also considers that the involvement of ACLD in AIML's unauthorised activities demonstrates that ACLD failed to ensure that its affairs were managed effectively and responsibly so as to prevent the unauthorised activity and serious contraventions of the Regulatory Law by AIML, contrary to Principle 3 of the DFSA's Principles for Authorised Firms in GEN Rule 4.2.3.
122. Further, ACLD failed to deal with the DFSA in an open and cooperative manner by failing to disclose to the DFSA that AIML was carrying out Financial Services in or from the DIFC and the full extent of the activities being conducted by the Abraaj Group in or from the DIFC, contrary to Authorised Firm Principle 10 (Relations with regulators) in GEN Rule 4.2.10.

Misleading statements about activities in the DIFC

123. In the PIB Returns submitted by ACLD between Q1 2015 and Q2 2018, ACLD reported an average of 152 employees. On average, it reported that 17 (at most 20) of these were involved in either asset management, fund management or fund administration and the rest engaged in "Other" activities. The PIB Returns also recorded that the majority of its employees (between 77% and 87%) were engaged in support roles such as Finance, HR, IT and other Back Office functions. However, in reality, many of these employees were carrying on fund management activities on behalf of AIML. As a result, the returns created a misleading impression about the scale and nature of Financial Services activities that were being carried on in or from the DIFC and by whom.
124. As set out in paragraphs 110 to 114, throughout the Relevant Period, Abraaj Group Compliance raised the issue of AIML carrying out Financial Services from the DIFC and the full extent of the activities being conducted by ACLD employees not being disclosed to the DFSA. However, despite these issues being escalated internally on a number of occasions

during the Relevant Period, ACLD failed to make the DFSA aware of these issues when disclosing in its returns the activities it was performing in or from the DIFC.

125. As a result, the DFSA considers that ACLD provided information to the DFSA in its quarterly and annual PIB Returns relating to the activities of its employees which was false, misleading or deceptive, or concealed information when the concealment of that information was likely to mislead or deceive the DFSA, contrary to Article 66 of the Regulatory Law.

SUMMARY OF CONTRAVENTIONS

126. Having regard to the facts and matters set out above, the DFSA considers that, during the Relevant Period, ACLD contravened the following DFSA administered laws and Rules:

- a. Since 9 December 2012, PIB Rule 3.2.2 and PIB sections 3.5 and 3.6 – in that ACLD failed to maintain adequate Capital Resources;¹⁷
- b. Article 66 of the Regulatory Law – in that ACLD provided information relating to its Capital Resources and the activities of its employees in the DIFC which was false, misleading or deceptive to the DFSA or concealed relevant information where the concealment of such information was likely to mislead or deceive the DFSA;
- c. Article 103 of the Regulatory Law – in that ACLD:
 - i. knowingly provided information to its Auditor relating to its Capital Resources and transactions with AH and AIML; and
 - ii. prepared and provided to its Auditor financial statements that contained information about its financial position,that was materially false, misleading or deceptive, or omitted to provide information to its Auditor where the omission of such information was likely to mislead or deceive its Auditor;
- d. Article 41 of the Regulatory Law – in that ACLD was knowingly concerned in AIML's activities which constitute providing a Financial Service, specifically Managing a Collective Investment Fund or Managing Assets, in or from the DIFC when AIML was

¹⁷ Prior to December 2012, equivalent requirements to those in PIB Rule 3.2.2 and PIB sections 3.5 and 3.6 were set out in PIB Rule 2.2.1 and PIB sections 2.3 and 2.4, respectively.

not an Authorised Firm with a licence to carry on that Financial Service. Given the awareness and involvement of ACLD's senior management in AIML's activities in the DIFC, as well as the concerns that had been raised internally by Abraaj Group Compliance, which ACLD's senior management failed to act upon, ACLD aided or abetted, or was knowingly involved in, or a party to, AIML's contravention of Article 41 of the Regulatory Law. In being so knowingly concerned, by reason of Article 86(1) of the Regulatory Law, ACLD also committed a contravention and is liable accordingly;

- e. GEN Rule 8.2.2¹⁸ – in that ACLD failed to prepare financial statements that presented a true and fair representation of its financial position, as required by IFRS;
- f. GEN Rule 4.2.1 (Authorised Firm Principle 1 – Integrity) – in that ACLD intentionally implemented measures designed to mislead the DFSA and anyone reviewing its activities as to the financial standing and operations of its business;
- g. GEN Rule 4.2.3 (Authorised Firm Principle 3 – Management, systems and controls) – in that ACLD failed to ensure that its affairs were managed effectively and responsibly by its senior management; and
- h. GEN Rule 4.2.10 (Authorised Firm Principle 10 – Relations with regulators) – in that ACLD failed to deal with the DFSA in an open and cooperative way and keep the DFSA promptly informed of significant events or matters relating to ACLD of which the DFSA would reasonably expect to be notified.

ACTION

127. In deciding 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**).

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

- a. 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

¹⁸ Prior to June 2014, the relevant requirement was contained in GEN Rule 8.2.1.

industry in the DIFC, through appropriate means including the imposition of sanctions (Article 8(3)(d));

- b. the nature and seriousness of the contraventions, as set out in paragraph 133; the deterrent effect of the action and the importance of deterring ACLD and others from committing further or similar contraventions; and
- c. the difficulty in detecting and investigating the contraventions that are the subject of the penalty.

129. The DFSA has considered the sanctions and other options available to it and has concluded that a fine is the most appropriate action given the circumstances of this matter.

Determination of the Fine

130. In determining the appropriate level of financial penalty to impose in this matter, the DFSA has taken into account the factors and considerations set out in Sections 6-4 and 6-5 of the RPP as follows. Further, the nature and seriousness of ACLD's misconduct is unprecedented in the DIFC.

131. Accordingly, the DFSA considers it appropriate to take into consideration the management fees earned by ACLD in relation to the services it provided to other parts of the Abraaj Group over the Relevant Period (see paragraph 20) when determining the seriousness of the contraventions.

Step 1 – Disgorgement

132. There was no evidence to suggest that ACLD made a profit or avoided a loss as a result of the contraventions. Accordingly, this step was not considered to be relevant. However, as indicated above, the DFSA has taken into consideration the management fees received by ACLD when determining a figure which appropriately reflects the seriousness of the contraventions under Step 2.

Step 2 – The seriousness of the contraventions

133. The DFSA considers ACLD's contraventions to be particularly serious because they:

- a. involved the systematic manipulation and misrepresentation of ACLD's activities and financial position;
- b. demonstrate a deliberate course of conduct in which ACLD knowingly provided false and misleading information to the DFSA, and its Auditors, with the intention of misleading them;
- c. demonstrated a fundamental failure by ACLD to conduct its business with integrity;
- d. were committed in such a way as to avoid regulatory scrutiny and the risk that the contraventions would be discovered;
- e. were known to members of ACLD's senior management, who were directly involved in the breaches (and those of AIML) and concealing the true position regarding ACLD's activities and financial position from the DFSA and third parties;
- f. given the association of the "Abraaj Group" with Dubai, had a significant and detrimental impact on confidence in, and the reputation of, the Financial Services industry in the DIFC; and
- g. occurred over a prolonged period of almost 11 years.

134. Taking the above factors into account, and the amount ACLD received in management fees in the Relevant Period, the DFSA considers that a financial penalty of USD 17,458,200 appropriately reflects the seriousness of the contravention. This figure is equivalent to 20% of USD 87,291,000 which ACLD received in management fees from 2007 to 2017.

Step 3 – Mitigating and aggravating factors

135. In considering the appropriate level of the financial penalty, the DFSA had regard to the circumstances of this matter and the factors set out in RPP 6-5-8. The DFSA has taken into consideration the following aggravating factors in determining the appropriate level of Fine:

- a. the contraventions only came to light following an anonymous complaint and after the DFSA commenced a formal Investigation;

- b. ACLD's senior management were directly involved in the conduct giving rise to the contraventions and failed to take remedial action to stop the contraventions. Rather, they were actively engaged in the conduct causing it to continue;
- c. on various occasions between 2009 and 2017, Abraaj Group Compliance raised concerns about AIML's activities and whether AIML was providing financial services in or from the DIFC. Those concerns were largely ignored until August 2017 when independent external legal advice was obtained, confirming Abraaj Group Compliance's concerns and recommending changes to the Abraaj Group regulatory and governance model; and
- d. by ignoring the concerns of Abraaj Group Compliance (as outlined in paragraph 136c) ACLD's senior management did not bring these issues to the DFSA's attention, which the DFSA would have expected it to do as an Authorised Firm. This resulted in the misconduct persisting for a longer period.

136. In deciding to take the action in this Notice, the DFSA has also taken into account the fact that the senior management of ACLD has been replaced by the JPLs and ACLD has been in provisional liquidation since August 2018. The JPLs have been open and cooperative with the DFSA and have taken proactive steps to assist the DFSA with its investigation. While this does not mitigate ACLD's contraventions, the DFSA has taken this into consideration in deciding to take the action in this Notice.

137. As a result of these factors, the DFSA considers that overall these factors aggravate the seriousness of the contraventions by ACLD. Accordingly, the DFSA decided to increase the figure after Step 2 by 25%.

138. Accordingly, the figure after Step 3 is USD 21,822,750.

Step 4 – Adjustment for deterrence

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

140. The DFSA considers that the figure after Step 3 is sufficient for the purposes of deterring ACLD 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.

141. Accordingly, the figure after Step 4 is USD 21,822,750.

Step 5 – Settlement discount

142. Where the DFSA and the person on whom the financial penalty is to be imposed agree on the amount and other terms, RPP 6-5-10 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.

143. ACLD has agreed with the DFSA not to contest the DFSA's findings on the relevant facts and matters relied on and the amount of fine that would be imposed. Having regard to the stage at which this agreement has been reached and in recognition of the benefit of this agreement to the DFSA, the DFSA has applied a 30% discount to the level of fine which the DFSA would have otherwise imposed.

The level of the Fine imposed

144. Given the factors and considerations set out in paragraphs 130 to 143 and the circumstances of this matter, the DFSA has determined that it is proportionate and appropriate to impose on ACLD a financial penalty of USD 15,275,925.

145. In deciding the amount of the Fine, the DFSA has taken into consideration its policy on serious financial hardship in RPP Section 6-7.

146. Although ACLD is in provisional liquidation and the imposition of the Fine will cause further financial detriment to ACLD, the DFSA considers ACLD's contraventions to be so serious that it is not appropriate to reduce the financial penalty. Further, the DFSA considers it appropriate to impose the Fine in order to deter others from committing further or similar contraventions to those committed by ACLD.

PROCEDURAL MATTERS

Decision Making Committee

147. The decision which gave rise to the obligation to give this Notice was made by Decision Making Committee of the DFSA.

148. This Notice is given to ACLD under Schedule 3 to the Regulatory Law.

Manner and time for payment

149. The Fine must be paid no later than 28 days from the date on which this Notice is given to ACLD.

150. If all or any part of the Fine remains outstanding on the date by which it must be paid, the DFSA may recover the outstanding amount as a debt owed by ACLD and due to the DFSA. Before taking any action to recover any outstanding amount, the DFSA will consider ACLD's circumstances at that time and the corresponding implications of enforcing the Fine for ACLD's creditors.

Evidence and other material considered

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

152. ACLD is entitled to a copy, or access to a copy, of the relevant materials that were considered in making the decision which gave rise to the obligation to give this Notice.

Right of review of by the Financial Markets Tribunal (FMT)

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

Publicity

154. 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.
155. In accordance with Article 116(2), the DFSA will publicise the action taken in this Notice and the reasons for that action. This may include publishing the Notice itself, in whole or in part.
156. ACLD will be notified of the date on which the DFSA intends to publish information about this decision.

DFSA contacts

157. For more information concerning this matter generally, please contact the Administrator to the DMC on +971 4362 1500 or by email at DMC@dfsa.ae.

Signed:

.....
Peter Smith
On behalf of the Decision Making Committee of the DFSA

ANNEX A – RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT LEGISLATION

Regulatory Law No. 1 of 2004 (Regulatory Law 2004)

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;*

(...)

41. *The Financial Services Prohibition*

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

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

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

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

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

- (6) *DELETED*

(7) *DELETED*

(8) *DELETED*

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

42. *Authorised Firms, Authorised Market Institutions and Financial Services*

(...)

(3) *A person may carry on one or more Financial Services in or from the DIFC if such person is:*

(a) *an Authorised Firm whose Licence authorises it to carry on the relevant Financial Services;*

(b) *an External Fund Manager as defined in Article 20(5) of the Collective Investment Law 2010, in so far as its activities relate to a particular Domestic Fund that falls within Article 41(9); or*

(c) *an Authorised Market Institution whose Licence authorises it to carry on the relevant Financial Services.*

66. *False or Misleading Information*

A person shall not:

(a) *provide information which is false, misleading or deceptive to the DFSA; or*

(b) *conceal information where the concealment of such information is likely to mislead or deceive the DFSA.*

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.*

103. Co-operation with auditors (April 2005 to 20 August 2014)

- (1) *An Authorised Firm or an Authorised Market Institution, and any director, officer or employee of an Authorised Firm or an Authorised Market Institution, shall not knowingly or recklessly make to the Authorised Firm or an Authorised Market Institution's auditor a statement (whether written or oral) which:*
- (a) *conveys or purports to convey any information or explanation which the auditor requires, or is entitled to require, as auditor of the Authorised Firm or the Authorised Market Institution; and*
 - (b) *is either or both:*
 - (i) *false, misleading or deceptive in a material particular; or*
 - (ii) *is such that it omits information where the omission of such information is likely to mislead or deceive the auditor.*

103. Co-operation with auditors (since 21 August 2014)

(...)

- (2) *A Relevant Person shall co-operate with its Auditor and, without limiting the generality of that obligation, shall comply with such measures relating to cooperation with its Auditor as may be prescribed in the Rules.*
- (3) *A Relevant Person shall not knowingly or recklessly:*
- (a) *provide information to its Auditor that is materially false, misleading or deceptive; or*
 - (b) *omit to provide information to its Auditor, that its Auditor reasonably requires, or is entitled to require, where the omission of such information is likely to mislead or deceive its Auditor.*
- (4) *A Relevant Person or any person acting under the direction or authority of such Relevant Person shall not without reasonable excuse engage in any of the following conduct:*
- (a) *destruction or concealment of documents;*
 - (b) *coercion, manipulation, misleading, or influencing of the Auditor;*
 - (c) *failure to provide access to information or documents specified by the Auditor; or*
 - (d) *failure to give any information or explanation which the person is able to give.*

PART 2: DEFINITIONS

Chapter 1: Collective Investment Funds

11. Arrangements constituting a Collective Investment Fund

- (1) *A Collective Investment Fund ("Fund") is, subject to Article 12, any arrangements with respect to property of any description, including money, where:*
- (a) *the purpose or effect of the arrangements is to enable persons taking part in the arrangements (whether by becoming owners of the property or any part of it or otherwise) to participate in or receive profits or income arising from the acquisition, holding, management or disposal of the property or sums paid out of such profits or income;*
 - (b) *the arrangements must be such that the persons who are to participate ("Unitholders") in the arrangements do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions; and*
 - (c) *the arrangements have either or both of the following characteristics:*
 - (i) *the contributions of the Unitholders and the profits or income out of which payments are to be made to them are pooled; or*
 - (ii) *the property is managed as a whole by or on behalf of the Fund Manager.*
- (2) *If the arrangements provide for such pooling as is mentioned in Article 11(1)(c)(i) in relation to separate parts of the property, the arrangement is not to be regarded as constituting a single Fund unless the Unitholders are entitled to exchange rights in one part for rights in another.*

12. Arrangements not constituting a Collective Investment Fund

The DFSA may, by Rules, specify when arrangements or types of arrangements that meet the definition of a Fund in Article 11(1) do not constitute a Fund.

Chapter 2: Types of Funds and relevant criteria

13. Domestic and Foreign Funds

- (1) *A Fund is either a Domestic Fund or a Foreign Fund.*
- (2) *A Fund is a Domestic Fund if it is either:*
- (a) *established or domiciled in the DIFC; or*

- (b) *an External Fund as defined in Article 14(1).*
- (3) *A Fund that does not meet the Domestic Fund criteria in Article 13(2) is a Foreign Fund.*

14. An External Fund

- (1) *An External Fund is a Fund which is:*
 - (a) *established or domiciled in a jurisdiction other than the DIFC; and*
 - (b) *managed by a Fund Manager which is an Authorised Firm.*
- (2) *The requirements relating to Domestic Funds do not apply to an External Fund except to the extent otherwise provided in this Law or the Rules.*

PART 3: ROLES AND FUNCTIONS OF THE FUND MANAGER AND TRUSTEE

Chapter 1: General prohibitions

20. Fund Manager

- (1) *A person shall not manage a Domestic Fund unless:*
 - (a) *that person:*
 - (i) *is a body corporate;*
 - (ii) *is an Authorised Firm whose Licence authorises it to act as the Fund Manager of the particular type or specialist class of the Fund; and*
 - (iii) *meets any additional criteria, requirements or conditions that may be prescribed in the Rules;*
 - or*
 - (b) *the person is an External Fund Manager.*
- (2) *For the purposes of this Law, any other DFSA administered law and any rules made for the purposes of those laws, the person who “manages” a Fund, subject to Article 20(3), is the person who:*
 - (a) *is legally accountable to the Unitholders in the Fund for the management of the Fund, including the property held for or within the Fund (“Fund Property”); and*
 - (b) *establishes, manages or otherwise operates or winds up the Fund.*
- (3) *The DFSA may, by Rules, prescribe when a person who engages in any of the activities specified in Article 20(2) is not managing a Fund.*

- (4) *A person referred to in Article 20(1)(a) or (b) is a “Fund Manager” and a reference to a “Fund Manager” in this Law or in any other DIFC Law or any legislation made for the purposes of such laws includes both persons, unless otherwise provided.*
- (5) *A person is an External Fund Manager if that person:*
- (a) is a body corporate;*
 - (b) manages a Domestic Fund:*
 - (i) which is not an External Fund; and*
 - (ii) which is excluded from the Financial Services Prohibition under Article 41(9) of the Regulatory Law 2004; and*
 - (c) manages the Fund in (b):*
 - (i) from a place of business in a Recognised Jurisdiction or a jurisdiction otherwise acceptable to the DFSA; and*
 - (ii) in accordance with any additional requirements prescribed by the DFSA for the purposes of this Article.*

2. RELEVANT DFSA RULEBOOK PROVISIONS

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:*

(a) *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*

(b) *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.

General Module (GEN)

2.2 Financial Service Activities

2.2.1 *An activity constitutes a Financial Service under the Regulatory Law and these Rules where:*

(a) it is an activity specified in Rule 2.2.2; and

(b) such activity is carried on by way of business in the manner described in section 2.3.

2.2.2 *The following activities are specified for the purposes of Rule 2.2.1:*

(a) Accepting Deposits;

(b) Providing Credit;

(c) Providing Money Services;

(d) Dealing in Investments as Principal;

(e) Dealing in Investments as Agent;

(f) Arranging Deals in Investments;

(g) Managing Assets;

(h) Advising on Financial Products;

(i) Managing a Collective Investment Fund;

(j) Providing Custody;

(k) Arranging Custody;

(l) Effecting Contracts of Insurance;

(m) Carrying Out Contracts of Insurance;

- (n) *Operating an Exchange;*
- (o) *Operating a Clearing House;*
- (p) *Insurance Intermediation;*
- (q) *Insurance Management;*
- (r) *Managing a Profit Sharing Investment Account;*
- (s) *Operating an Alternative Trading System;*
- (t) *Providing Trust Services;*
- (u) *Providing Fund Administration;*
- (v) *Acting as the Trustee of a Fund;*
- (w) *Operating a Representative Office;*
- (x) *Operating a Credit Rating Agency;*
- (y) *Arranging Credit and Advising on Credit; and*
- (z) *Operating a Crowdfunding Platform.*

2.2.3 *Each activity specified in Rule 2.2.2:*

- (a) *is to be construed in the manner provided under these Rules; and*
- (b) *is subject to exclusions under these Rules which may apply to such an activity.*

2.3 ***By way of business***

2.3.1 *Subject to Rules 2.3.2 and 2.3.3, for the purpose of these Rules a Person carries on an activity by way of business if the Person:*

- (a) *engages in the activity in a manner which in itself constitutes the carrying on of a business;*
- (b) *holds himself out as willing and able to engage in that activity; or*
- (c) *regularly solicits other Persons to engage with him in transactions constituting that activity.*

2.7 ***Dealing in investments as principal***

2.7.1 *In Rule 2.2.2, Dealing in Investments as Principal means buying, selling, subscribing for or underwriting any Investment as principal.*

- 2.7.2** *A Person does not Deal in Investments as Principal merely by accepting an instrument, creating or acknowledging indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation which that person has made or provided.*
- 2.7.3** *A Person does not Deal in Investments as Principal by issuing or redeeming Securities issued by that person.*
- 2.7.4** (1) *A Person who is not an Authorised Firm or an Authorised Market Institution does not Deal in Investments as Principal in relation to an Investment by entering into a transaction with or through an Authorised Firm or a Regulated Financial Institution.*
- (2) *The exclusion in (1) does not apply if the Person holds itself out as:*
- (a) *willing to enter into transactions in Investments of the kind to which the transaction relates; or*
- (b) *engaging in the business of buying, selling, subscribing for or underwriting Investments.*
- 2.7.5** *A Person who is an Authorised Firm does not Deal in Investments as Principal if in the course of managing the assets of a Private Equity Fund:*
- (a) *the Person makes an initial subscription for Units of that Fund; and*
- (b) *the Units are held by that Person for a period of more than 12 months.*

2.8 Dealing in investments as agent

- 2.8.1** *In Rule 2.2.2, Dealing in Investments as Agent means buying, selling, subscribing for or underwriting any Investment as agent.*

Exclusions

- 2.8.2** *A Person does not Deal in Investments as Agent if the activity:*
- (a) *is carried on in the course of providing legal or accountancy services which do not otherwise consist of the carrying on of Financial Services;*
- (b) *may reasonably be regarded as a necessary part of any other services provided in the course of providing legal or accountancy services; and*
- (c) *is not remunerated separately from the other services.*
- 2.8.3** *A Person does not Deal in Investments as Agent if that Person:*
- (a) *is merely receiving and transmitting a Client order in respect of an Investment; and*
- (b) *does not execute the Client order for and on behalf of the Client or otherwise commit the Client to the transaction relating to the relevant Investment.*
- 2.8.4** *An Exchange does not Deal in Investments as Agent merely by taking action in*

accordance with its Default Rules.

2.9 Arranging deals in investments

- 2.9.1** (1) *In Rule 2.2.2, Arranging Deals in Investments means making arrangements with a view to another Person buying, selling, subscribing for or underwriting an Investment (whether that other Person is acting as principal or agent).*
- (2) *The arrangements in (1) include:*
- (a) *arrangements which do not bring about the transaction; and*
 - (b) *arrangements comprising or involving the receipt and transmission of Client orders in relation to Investments.*
- (3) *The arrangements in (1) do not include arrangements which amount to Operating an Alternative Trading System.*
- (4) *In this Rule and in Rules 2.9.2 to 2.9.7, an "Investment" includes rights under a contract of Long-Term Insurance, that is not a contract of reinsurance.*

Exclusions

- 2.9.2** *A Person does not carry on the activity of Arranging Deals in Investments under Rule 2.9.1(1) in relation to a transaction if the Person becomes, or proposes to become, a party to the transaction (regardless of whether the transaction is effected). This exclusion does not apply in the case of a branch which makes arrangements for its head office, or any other branch of the same legal entity as itself, to enter into a transaction as provided under Rule 2.9.1(1).*
- 2.9.3** *A Person does not Arrange Deals in Investments merely by providing means by which one party to a transaction is able to communicate with other such parties.*
- 2.9.4** *A Person does not Arrange Deals in Investments by making arrangements under which another Person accepts or is to accept an instrument creating or acknowledging indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation which he or his principal has made or provided.*
- 2.9.5** *A Person does not Arrange Deals in Investments merely by making arrangements having as their sole purpose the provision of finance to enable a Person to buy, sell, subscribe for or underwrite Investments.*
- 2.9.6** *A Person does not Arrange Deals in Investments by making arrangements for the issue or redemption of Securities issued by it.*
- 2.9.7** *A Person does not Arrange Deals in Investments if the activity:*
- (a) *is carried on in the course of providing legal or accountancy services, which do not otherwise consist of the carrying on of Financial Services;*
 - (b) *may reasonably be regarded as a necessary part of any other services provided in the course of providing legal or accountancy services;*

- (c) *is not remunerated separately from the other services; and*
- (d) *in the case of a contract of Long-Term Insurance, does not assist in the conclusion or performance of the contract.*

2.9.8 *An Exchange does not make arrangements referred to in Rule 2.9.1(1), merely by making arrangements for, or taking steps that facilitate, another Person to act as Central Counterparty to transactions entered into on a facility operated by the Exchange.*

2.9.9 *A Crowdfunding Operator does not Arrange Deals in Investments to the extent that it Operates an Investment Crowdfunding Platform.*

2.10 Managing assets

2.10.1 *In Rule 2.2.2, Managing Assets means managing on a discretionary basis assets belonging to another Person if the assets include any Investment or rights under a contract of Long-Term Insurance, not being a contract of reinsurance.*

Exclusions

2.10.2 *A Person who is not an Authorised Firm or an Authorised Market Institution does not Manage Assets if:*

- (a) *he is a Person formally appointed in writing by the owner of the assets to manage the assets in question; and*
- (b) *all day-to-day decisions relating to the Investments which are included in those assets are taken by an Authorised Firm or a Regulated Financial Institution.*

2.12 Managing a collective investment fund

2.12.1 (1) *In Rule 2.2.2, Managing a Collective Investment Fund means:*

- (a) *being legally accountable to the Unitholders in the Fund for the management of the property held for or within a Fund under the Fund's Constitution; and*
 - (b) *establishing, managing or otherwise operating or winding up a Collective Investment Fund; and*
- (2) *To the extent that any activity under (1) constitutes Managing Assets, Providing Fund Administration, Dealing as Agent, Dealing as Principal, Arranging Deals in Investments, or Providing Custody, such a Financial Service is taken to be incorporated within Managing a Collective Investment Fund.*
- (3) *The Person referred to in (1) is a Fund Manager.*
- (...)

2.13 Providing custody

2.13.1 (1) *In Rule 2.2.2, Providing Custody means one or more of the following activities:*

- (a) safeguarding and administering Investments belonging to another Person;*
- (b) in the case of a Fund, safeguarding and administering Fund Property; or*
- (c) acting as a Central Securities Depository.*

(2) *In (1) (a) and (b), the following activities do not constitute administering Investments or Fund Property:*

- (a) providing information as to the number and value of any Investments or Fund Property safeguarded;*
- (b) converting currency; or*
- (c) receiving documents relating to an Investment or Fund Property for the purpose of onward transmission to, from or at the direction of the Person to whom the Investment or Fund Property belongs.*

(3) *In (1)(c), “acting as a Central Securities Depository” means holding securities in uncertificated (dematerialised) form to enable book entry transfer of such securities for the purposes of clearing or settlement of transactions executed on a facility operated by an Authorised Market Institution or an Alternative Trading System or a similar facility regulated and supervised by a Financial Services Regulator.*

2.24 Providing fund administration

2.24.1 *In Rule 2.2.2, Providing Fund Administration means providing one or more of the following services in relation to a Fund:*

- (a) processing dealing instructions including subscriptions, redemptions, stock transfers and arranging settlements;*
- (b) valuing of assets and performing net asset value calculations;*
- (c) maintaining the share register and Unitholder registration details;*
- (d) performing anti money laundering requirements;*
- (e) undertaking transaction monitoring and reconciliation functions;*
- (f) performing administrative activities in relation to banking, cash management, treasury and foreign exchange;*
- (g) producing financial statements, other than as the Fund’s registered auditor; or*
- (h) communicating with participants, the Fund, the Fund Manager, and investment managers, the prime brokers, the Regulators and any other parties in relation to*

the administration of the Fund.

Chapter 4 – Core Principles

(...)

4.2 The Principles for Authorised Firms

Principle 1 - Integrity

4.2.1 *An Authorised Firm must observe high standards of integrity and fair dealing.*

(...)

Principle 3 - Management, systems and controls

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

(...)

Principle 10 - Relations with regulators

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

Chapter 8 – Accounting and Auditing

(...)

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

(...)

8.3.4 *All regulatory returns prepared by the Authorised Firm must be prepared and submitted*

in accordance with the requirements set out in PIB or PIN as applicable.

8.4 Appointment and termination of Auditors

(...)

8.4.3 *An Authorised Person must appoint an Auditor to fill any vacancy in the office of Auditor and ensure that the replacement Auditor can take up office at the time the vacancy arises or as soon as reasonably practicable.*

8.5 Co-operation with Auditors

8.5.1 *An Authorised Person must take reasonable steps to ensure that it and its Employees:*

- (a) provide any information to its Auditor that its Auditor reasonably requires, or is entitled to receive as Auditor;*
- (b) give the Auditor right of access at all reasonable times to relevant records and information within its possession;*
- (c) allow the Auditor to make copies of any records or information referred to in (b);*
- (d) do not interfere with the Auditor's ability to discharge its duties;*
- (e) report to the Auditor any matter which may significantly affect the financial position of the Authorised Person; and*
- (f) provide such other assistance as the Auditor may reasonably request it to provide.*

8.6 Audit reports

8.6.1 *An Authorised Person must, in writing, require its Auditor to:*

- (a) conduct an audit of and produce a Financial Statement Auditor's Report on the Authorised Person's financial statements in accordance with the International Standards on Auditing;*
- (b) produce a Regulatory Returns Auditor's Report in accordance with the Rules in AUD App1 as relevant;*
- (c) produce, if the Authorised Firm is permitted to control or hold Client Money, a Client Money Auditor's Report in accordance with the Rules in AUD App2;*
- (d) produce, if the Authorised Firm is permitted to control or hold Insurance Monies, an Insurance Monies Auditor's Report in accordance with the Rules in AUD App3; and*
- (e) produce, if the Authorised Firm is permitted to hold or control Client Investments or Provide Custody in or from the DIFC, a Safe Custody Auditor's Report in respect of such business as applicable, in accordance with the Rules in AUD App4.*

APP1 DEPOSITS

A1.1 Definition of a deposit

A1.1.1 (1) *A Deposit means a sum of money paid on terms:*

- (a) under which it will be repaid, with or without interest or a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the Person making the payment and the Person receiving it; and*
 - (b) which is not referable to the provision of property (other than currency) or services or the giving of security.*
- (2) *In (1) money is paid on terms which are referable to the provision of property or services or the giving of security if:*
- (a) it is paid by way of advance or part payment under a contract for the sale, hire or other provision of property or services, and is repayable only in the event that the property or services are not in fact sold, hired or otherwise provided;*
 - (b) it is paid by way of security for the performance of a contract or by way of security in respect of loss which may result from the non-performance of a contract; or*
 - (c) without prejudice to (b), it is paid by way of security for the delivery up of property, whether in a particular state of repair or otherwise.*

3. OTHER RELEVANT REGULATORY PROVISIONS

The DFSA's policy in relation to its approach to enforcement is set out in Chapter 5 of the DFSA's Regulatory Policy and Process Rulebook (RPP) (February 2017 Edition)

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

ANNEX B – DEFINITIONS

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.
Abraaj Fund	One the private equity or other Funds managed by the Abraaj Group, including: Abraaj Africa Fund III Abraaj BMA Pakistan Buyout Fund Abraaj Buyout Fund Abraaj Buyout Fund II Abraaj Global Growth Markets Fund Abraaj Global Growth Markets Fund (B) Abraaj Global Growth Markets Aggregator Fund Abraaj Global Growth Markets Strategic Fund Abraaj Growth Markets Health Fund (AGHF) Abraaj Latin America Fund II Abraaj Private Equity Fund IV (APEF IV) (previously called the Abraaj Buyout Fund IV (ABOF IV)) Abraaj Private Equity Fund VI (APEF VI) Abraaj Real Estate Fund Abraaj Special Opportunities Fund II ASAS Fund Aureos Latin America Fund II Infrastructure and Growth Fund (IGCF) MENASA Opportunity Fund I
Abraaj Group Offices	Offices in the DIFC leased by ACLD and utilised by ACLD and other Abraaj Group entities.
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 (In Provisional Liquidation))	A Cayman Islands exempted company and part of the Abraaj Group.

Arranging Deals in Investments	The Financial Service defined in GLO and GEN Rules 2.2.2(f) and section 2.9. (Prior to February 2017, the Financial Service addressed in GEN Rule 2.2.2(f) and GEN section 2.9 was called “Arranging Credit or Deals in Investments”. Further, at that time, the Financial Service addressed in GEN Rule 2.2(h) and GEN section 2.11 was called “Advising on Financial Products or Credit”. From February 2017 and Version 38 of GEN, these two Financial Services were repealed and replaced with three Financial Services: Arranging Deals in Investments, Advising on Financial Products, and Arranging Credit and Advising on Credit).
Auditor	Has the same meaning provided in GLO and Article 97 of the Regulatory Law, namely: (1) in relation to a Domestic Firm, Public Listed Company or Domestic Fund, a Registered Auditor; or (2) in relation to an Authorised Person which is not a Domestic Firm, an auditor of that Authorised Person. (Prior to June 2014, the definition of Auditor in GLO differed, in that it did not refer to the definition in Article 97 of the Regulatory Law. However, for the purposes of this Notice, the earlier definitions have the same effect).
Authorised Firm	Has the same meaning provided in GLO, namely, a Person, other than an Authorised Market Institution, who holds a Licence.
Authorised Person	Has the same meaning provided in GLO, namely, an Authorised Firm or an Authorised Market Institution.
Authorised Market Institution	Has the same meaning provided in GLO, namely, a Person who is Licensed by the DFSA in relation to the carrying on either or both of the Financial Services prescribed in GEN Rule 2.17.1 (Operated and Exchange) and 2.18.1 (Operating a Clearing House).
Base Capital Requirement	Has the same meaning provided in GLO and PIB section 3.6. (Prior to December 2012, the definition in GLO referred to the definition in PIB section 2.4 instead of 3.6, and some Categories of firms under PIB differed from those that existed from this point onwards (for example, Category 3C did not exist at this time). However, for the purposes of this Notice, these differences had no effect, because ACLD’s Capital Requirement was, at all times, its EBCM, because this was higher than its prescribed Base Capital Requirement)
Board	Has the same meaning provided in GLO, namely, in reference to a corporation, the Board of Directors of the corporation.
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 Requirement	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.

Collective Investment Fund (CIF)	Has the same meaning provided in GLO, namely, an arrangement which amounts to a Fund under Article 11 of the CIL and which is not excluded under the Rules made under Article 12 set out under CIR section 2.1.
CIL	Means: 1. the Collective Investment Law (DIFC Law No. 2 of 2010), as amended; or 2. for matters occurring or arising before that 2010 law was in force, the equivalent part of its predecessor, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended) which, unless otherwise indicated, was identical in all material respects.
CIR	The Collective Investment Rules module of the DFSA Rulebook, versions 4 to 22 inclusive, as in force from time to time during the relevant period.
Dealing in Investments as Agent	The Financial Service defined in GLO and GEN Rules 2.2.2(e) and section 2.8
Dealing in Investments as Principal	The Financial Service defined in GLO and GEN Rules 2.2.2(d) and section 2.7
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
DED Licence	Licence issued to AIML by the Dubai Department of Economic Development.
Deed of Adherence	A deed, provided for in the IASLA, between ACLD and AIML by which ACLD could provide services to other Abraaj Funds.
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 the Services Agreement, were entered between AIML and ACLD with respect to certain Abraaj Funds, setting out the contractual obligations between the two firms including delegating a Fund's investment management and fund administration functions to ACLD.
Director	Has the same meaning provided in GLO, namely: (1) In relation to an undertaking established under the DIFC Companies Law, a Person who appears on the Register of Directors maintained by the DIFC Registrar of Companies; and (2) In relation to all other undertakings, a Person who has been admitted to a register which has a corresponding meaning to the Register of Directors or performs the function of acting in the capacity of a Director, by whatever name called.
DMC	The DFSA's Decision Making Committee in this matter.
Domestic Firm	Has the same meaning in GLO, namely an Authorised Person or DNFBP which: (a) has its registered and head office in the DIFC; or (b) if it is a subsidiary of an Undertaking whose principal place of business and head office is in a jurisdiction other than the DIFC, has its registered office in the DIFC.
Domestic Fund	Has the same meaning in GLO, namely, a Fund established or domiciled in the DIFC.

Expenditure Based Capital Minimum (EBCM)	Has the same meaning provided for in GLO, namely, a capital requirement calculated in accordance with PIB section 3.7.
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.
Financial Services Prohibition	The prohibition in Article 41(1) of the Regulatory Law that, subject to Article 41(9) and Article 42(3), a person shall not carry on a Financial Service in or from the DIFC.
Fine	The fine of USD 15,275,925 imposed on ACLD by the DFSA.
Foreign Fund	Has the same meaning provided in GLO, namely, a Fund established or domiciled in a jurisdiction other than the DIFC.
Fund	Has the same meaning provided in GLO, namely, a Collective Investment Fund.
Global Investment Committee (GIC)	The principal investment decision-making body for the Abraaj Group.
General Partner (GP)	In relation to an Abraaj Group private equity Fund set up as a Limited Partnership, the entity under a Limited Partnership Agreement which delegated management of the relevant Fund to the Manager (in most cases, AIML).
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.
International Standards on Assurance Engagements (ISAE)	A document setting out international standards for the conduct of assurance engagements by audit or accounting professionals.
Investment Advisory Service Level Agreement (IASLA)	The agreement between AH and ACLD in October 2011 purported to supersede the Delegation Agreements, appointing ACLD as Investment Advisor to all Abraaj Funds.
IFRS	International Financial Reporting Standards.
Independent Report	Report the DFSA required on 29 March 2018 ACLD to produce to establish if ACLD had any solvency issues.
Investigation	DFSA's investigation into ACLD which commenced on 29 March 2018.
Investment Management Agreements	Agreements between GPs and AIML delegating management of Funds to AIML.
Joint Provisional Liquidators (JPLs)	The Joint Provisional Liquidators for ACLD, Mr Phil Bowers (Deloitte LLP) and Mr David Soden (Deloitte LLP).
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.
Limited Partnership Agreement (LPA)	The agreement between Abraaj Funds' LPs and GPs setting up the Funds.

Limited Partnership	A limited partnership that included Abraaj Funds' GP and LPs established outside the DIFC under a Limited Partnership Agreement.
Limited Partner (LP)	In relation to an Abraaj Group private equity Fund set up as a Limited Partnership, the entity under a Limited Partnership Agreement which was to invest in the Fund.
Long-Term Insurance	Has the same meaning provided in GLO
Managing Assets	The Financial Service defined in GLO and GEN section 2.10.
Managing a Collective Investment Fund	The Financial Service defined in GLO and GEN section 2.12. (Prior to July 2010 the relevant Financial Service, as defined in GEN Rule 2.12.1, was called "Operating a Collective Investment Fund").
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	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.
PIB Returns	Reports submitted to the DFSA by Authorised Firms Quarterly in accordance with PIB.
Private Placement Memoranda (PPM)	The private placement memoranda, regarding Abraaj Funds, made and distributed by AIML.
Providing Custody	The Financial Service defined in GLO and GEN Rules 2.2.2(j) and section 2.13.
Providing Fund Administration	The Financial Service defined in GLO and GEN Rules 2.2.2(u) and section 2.24.
Public Listed Company	Has the same meaning provided in GLO and Schedule 1 to the Regulatory Law, namely, a person incorporated or formed in the DIFC and who is admitted to an official list of securities in the DIFC or an equivalent list of securities in another jurisdiction.
Relevant Period	April 2007 to January 2018.
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.
RPP	The Regulatory Policy and Process module of the DFSA Sourcebook.
Services Agreement	The agreement which, along with a Delegation Agreement, was entered into between AIML and ACLD with respect to an Abraaj Fund, which specified the particular activities and services ACLD would undertake on behalf of AIML.

Special Purpose Vehicle (SPV)	Has the same meaning in GLO, namely: (1) In FER 1.2.7(3) and MKT App 5, a legal entity the object and purpose of which is primarily to issue Securities; and (2) In any other case, a Body Corporate whose sole purpose, either generally or when acting in a particular capacity, is to carry out one or more of the following functions: (a) issuing Investments; (b) redeeming or terminating or repurchasing, whether with a view to re-issue or to cancellation, an issue, in whole or part, of Investments; or (c) entering into transactions or terminating transactions involving Investments in connection with the issue, redemption, termination or re-purchase of Investments; and has been explicitly established for the purpose of: (d) securitising assets; or. (e) investing in Real Property and, in the case of (d), has been assessed by a rating agency.
Unit	Has the same meaning provided in GLO and GEN Rule A2.2.1(e), namely, a unit in or a share representing the rights or interests of a Unitholder in a Fund. (Prior to January 2009, the definition of a Unit was in GEN Rule A2.1.1(f), in near identical terms.)
Unitholder	Has the same meaning provided in GLO, namely, in relation to a Fund, any holder of a Unit in the Fund or of any right or interest in such a Unit, and whose name is entered on the Fund's register in relation to that Unit.
Window Dressing	Deliberate steps taken or not taken prior to submitting financial statements or PIB Returns in order to improve their appearance.