



On 7 September 2021, Mr Naqvi referred the DFSA's Decision in this Notice to the Financial Markets Tribunal (FMT).

On 12 December 2022, the FMT upheld the DFSA's Decision, making this original Decision Notice final. The FMT's decision is published on the FMT section of the DFSA's website.

DECISION NOTICE

To: Mr. Arif Masood Naqvi

DFSA Reference: I000533

Address: C/O Afridi & Angell Legal Consultants
Level 35
Jumeirah Emirates Towers, Office Tower
Sheikh Zayed Road
P.O. Box 9371, Dubai, UAE

Date: 8 August 2021

GENERAL

1. This Notice is addressed to Mr. Arif Masood Naqvi (**Mr Naqvi**). It sets out the DFSA's findings of fact, conclusions and action.

PROCEDURE

2. The DFSA served on Mr Naqvi its Preliminary Notice dated 18 January 2021, setting out its provisional findings of fact, conclusions and proposed action.
3. Following requests by Mr Naqvi for extensions of time to respond to the Preliminary Notice, on 15 March 2021 Mr Naqvi, by his lawyers, served a Request to Stay Further Proceedings and Without Prejudice Preliminary Written Submissions in response to the Preliminary Notice. In addition to seeking the Stay, he contended:

- (1) that the proceedings brought by the DFSA are time barred, because *“it can be reasonably assumed that the DFSA should have, or ought to have known of the alleged APEF 4 irregularities [referred to in the Preliminary Notice] from February 2016 as a responsible regulator”*.
 - (2) The DFSA is estopped from proceeding to investigate the matters set out in the Preliminary Notice because *“Mr Naqvi was entitled to the legitimate expectation that the DFSA would maintain extensive oversight of the affairs of the Abraaj Group and that it would take or recommend remedial actions before major violations occurred.”*
 - (3) Mr Naqvi was not “knowingly concerned” in Abraaj Investment Management Limited’s unauthorised Financial Services activities and misleading and deceptive conduct.
 - (4) The Preliminary Notice contained a lack of particulars as to the infractions referred to in the Preliminary Notice to justify the very large fine proposed by the DFSA.
4. Significantly, the only substantive denial alleged by Mr Naqvi in relation to his misconduct was that set out in subparagraph (3) of the preceding paragraph.
 5. The Enforcement Division of the DFSA provided to the Decision Maker a response to Mr Naqvi’s contentions. In relation to the alleged time bar, they stated that there is no sensible basis for the suggestion that the action proposed in the Preliminary Notice is somehow time-barred by reason of Article 63 of the Regulatory Law, because:
 - (1) Article 63 does not apply to action such as that then proposed against Mr Naqvi.
 - (2) In any event, as a matter of fact the DFSA did not have sufficient information, from which the act or omission giving rise to the right to exercise a power caught by Article 63 could reasonably be inferred, more than three years prior to the Preliminary Notice being given to Mr Naqvi.
 6. In relation to Mr Naqvi’s alleged legitimate expectation, the response stated that it appears to be a contention *“that Mr Naqvi should not be held accountable for the issues at Abraaj, which he is now accused of, because the DFSA should have intervened earlier to prevent them from occurring. Plainly, such a suggestion is absurd and in no way mitigates or exonerates Mr Naqvi’s very serious misconduct.”*

7. Further, the Preliminary Notice gave more than adequate details of Mr Naqvi's misconduct, and of the contraventions by Abraaj Investment Management Limited, as did the Decision Notice issued to that company.
8. On 19 April 2021 the DFSA rejected Mr Naqvi's request for a stay of proceedings and rejected his application for the dismissal of the proceedings, largely for the reasons given by the Enforcement Division of the DFSA. The DFSA extended his time to respond to the Preliminary Notice substantively to 21 days from the service of that Decision.
9. Mr Naqvi has not submitted any further representations or requested further time to do so.
10. On 16 June 2021 Mr Naqvi applied to the DIFC Courts for permission to apply for judicial review of the decision of the DFSA dated 19 April 2021.
11. On 27 July 2021 the Court of First Instance refused permission. Mr Naqvi did not request a hearing for reconsideration of that decision.
12. The DFSA has taken Mr Naqvi's representations into account in deciding on the Action set out in this Notice. However, Mr Naqvi has not given any good reason for the DFSA to change the facts found or the conclusions it reached as set out in the Preliminary Notice.

ACTION

13. For the reasons given in this Notice, the Dubai Financial Services Authority (the **DFSA**) imposes on Mr Arif Masood Naqvi (**Mr Naqvi**):
 - (1) a fine of USD 135,566,183, pursuant to Article 90(2)(a) of the Regulatory Law 2004 (the **Fine**);
 - (2) a prohibition, pursuant to Article 90(2)(g) of the Regulatory Law 2004, from holding office in or being an employee of any Authorised Person, DNFBP, Reporting Entity or Domestic Fund (the **Prohibition**); and
 - (3) a restriction, pursuant to Article 59(1) of the Regulatory Law 2004, from performing any functions in connection with the provision of Financial Services in or from the Dubai International Financial Centre (the **Restriction**).
14. This Notice is addressed to Mr Naqvi alone. Nothing in this Notice constitutes a determination that any person other than Mr Naqvi, Abraaj Capital Limited (**ACLD**) and

Abraaj Investment Management Limited (**AIML**) breached any legal or regulatory rule and the findings 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

15. Defined terms are identified in this Notice by the capitalisation of the initial letter of a word or of each word in a phrase, and are defined either in Annex A to this Notice or in the DFSA Rulebook, Glossary Module (**GLO**). Unless the context otherwise requires, where capitalisation of the initial letter is not used, an expression has its natural meaning.

EXECUTIVE SUMMARY

16. Mr Naqvi was the founder and the largest shareholder of the Abraaj Group and part of its Senior Management from January 2002 until June 2018.
17. On 29 July 2019, the DFSA took action against ACLD and AIML. The DFSA found that ACLD, a DFSA Authorised Firm at which Mr Naqvi was an Authorised Individual, had deceived the DFSA regarding its required Capital Resources and was knowingly concerned in AIML carrying on Financial Service activities in or from the Dubai International Financial Centre (the **DIFC**) without the required authorisation. The DFSA found that AIML carried out unauthorised Financial Service activities in or from the DIFC and misled investors in order to conceal the misuse of investors' monies.
18. Over the years, the Abraaj Group repeatedly faced liquidity issues caused by a number of factors including the Abraaj Group's investment commitments and operating expenses far exceeding its income. The misuse of Abraaj Funds' monies involved transfers of drawdown monies and sale proceeds from the exit of investments, from the Abraaj Funds to AIML, where such monies were used to satisfy liquidity demands, including replenishing other Abraaj Funds from which money had previously been taken. AIML's misleading and deceptive conduct mainly occurred in two Abraaj Funds: the Abraaj Growth Markets Health Fund (**AGHF**) and the Abraaj Private Equity Fund IV (**APEF IV**).
19. The DFSA considers that the facts and matters set out in this Notice demonstrate that Mr Naqvi was knowingly concerned in the following:
 - (1) AIML's unauthorised Financial Service activities; and
 - (2) AIML's misleading and deceptive conduct.

Ways in which Mr Naqvi was knowingly involved in AIML's unauthorised activities

20. As an Authorised Individual for ACLD and the Abraaj Group CEO, Mr Naqvi knew that ACLD was the only DFSA Authorised Firm in the Abraaj Group and, therefore, that AIML was prohibited from carrying on Financial Service activities in or from the DIFC.
21. Nonetheless, Mr Naqvi knew that AIML, as the manager of the Abraaj Funds, was conducting unauthorised Financial Service activities in or from the ACLD offices in the DIFC. In particular, Mr Naqvi:
 - (1) marketed and promoted the Abraaj Funds by using Abraaj's presence in the DIFC; and
 - (2) controlled the drawdown and disbursement of the Limited Partner (LP) contributions in Abraaj Funds.
22. Further, Mr Naqvi was personally involved in AIML carrying on unauthorised Financial Service activities in or from the DIFC. In particular, Mr Naqvi:
 - (1) had his own physical office space in the DIFC from where he conducted AIML business;
 - (2) participated in AIML Board meetings which were held at ACLD offices in the DIFC;
 - (3) headed the Abraaj Group's Global Investment Committee (GIC), which took investment and divestment decisions for the Abraaj Funds in or from the DIFC; and
 - (4) provided the investment teams located in the DIFC and others in the Abraaj Group with direction and commentary on the proposed asset valuations of Abraaj Funds.

Mr Naqvi's knowing involvement in AIML's misleading and deceptive conduct

23. From August 2014, AIML was engaged in conduct that was misleading or deceptive or likely to mislead or deceive LPs in relation to the Abraaj Funds it managed, contrary to Article 41B of the Regulatory Law.
24. Mr Naqvi played a central and significant role in AIML's contravention of Article 41B as he personally proposed, orchestrated, and executed actions that directly or indirectly misled and deceived LPs. In particular, Mr Naqvi:

- (1) knew that a significant portion of the sale proceeds from APEF IV investments was transferred to the Infrastructure and Growth Capital Fund (**IGCF**) for its December 2015 financial year-end audit. To conceal the misuse of the APEF IV sale proceeds, Mr Naqvi set out a payment schedule which prioritised LPs based on how active they were in following up on their share of the sale proceeds and approved the strategy of withholding General Partner (**GP**) reports from the LPs who had not received their share of the sale proceeds;
- (2) approved false explanations to be provided to APEF IV LPs regarding delays in distributing sale proceeds or the GP reports and communicated such explanations to LPs when, in fact, the reason for the delays was that sale proceeds had been used to cover Abraaj Group's liquidity shortfalls elsewhere in the business;
- (3) arranged to borrow USD 195 million, USD 196 million and USD 140 million from Company X for the purpose of temporarily depositing the cash in an Abraaj Fund's bank accounts for financial year-end audits, or to obtain bank balance confirmations, in order to mislead LPs over the actual balance in the Funds and conceal Abraaj Group's misuse of the Fund monies. Mr Naqvi signed the USD 195 million loan agreement with Company X on behalf of AIML and also signed all three loan agreements with Company X in his personal capacity as a guarantor;
- (4) approved the change of the financial year-end of APEF IV from 30 June to 31 December, so that APEF IV did not have to source approximately USD 201 million to cover the shortfall in the Fund for June 2017 audit purposes;
- (5) instructed other members of Abraaj Senior Management to withhold bank statements requested by the AGHF LPs and to share only an outdated AGHF bank balance confirmation, whereas AGHF's bank statements would have exposed the misuse of the Fund's monies;
- (6) directly responded to LPs, or approved responses provided by other members of Abraaj Senior Management, in the latter half of 2017, which gave the impression that the unused drawdowns were still held in the Funds' bank accounts;
- (7) attempted to quash a line of queries raised by a LP to prevent them potentially exposing the misuse of a Fund's money;
- (8) falsely rejected accusations from anonymous whistleblowing emails sent to a certain LP, which identified concerns about the misuse of LP drawdowns and investment sale proceeds that were in fact true; and

- (9) arranged for a USD 350 million loan from a wealthy individual in order to conceal the shortfall in APEF IV and AGHF in late 2017.
25. Mr Naqvi also personally attended Abraaj Holdings (**AH**) Board meetings and failed to disclose to other AH Board members actions by AIML in misusing Abraaj Funds' monies and actions taken to directly or indirectly mislead and deceive the LPs. By concealing this conduct from the AH Board, Mr Naqvi ensured AIML's misleading and deceptive conduct continued.

Penalty

26. Given the nature and seriousness of Mr Naqvi's contraventions, and the period of time over which they occurred, the DFSA considers it appropriate in the circumstances to impose the Fine, Prohibition and Restriction on Mr Naqvi.

FACTS AND MATTERS RELIED UPON

PART A: Background

27. This section sets out the background to the Abraaj Group and Abraaj Funds, the key entities and persons relevant for this Notice, and the main reasons for the liquidity issues that ultimately led to the collapse of the Abraaj Group in 2018.

Structure of the Abraaj Group

28. 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 funds that were typically structured as limited partnerships. The Abraaj Group had over 300 entities (including Special Purpose Vehicles (**SPVs**)) in its structure and physical offices around the world, in Dubai, the USA, UK, India, Singapore, Turkey, Mauritius and other locations. While a number of Abraaj entities were incorporated in the Cayman Islands, they had no physical premises or staff there. The Abraaj Group leveraged off the Dubai and the DIFC brands to attract and retain investors.
29. The three main entities in the Abraaj Group relevant for this Notice are:
- (1) ACLD;
 - (2) AIML; and
 - (3) AH.

30. ACLD is a subsidiary of AIML and was incorporated in the DIFC on 19 March 2006 and authorised by the DFSA on 20 March 2006. ACLD was the only entity in the Abraaj Group licensed and authorised by the DFSA to carry on Financial Service activities in or from the DIFC. However, the scope of its Licence did not include Managing a Collective Investment Fund.
31. AIML (formerly known as Abraaj Capital (Cayman) Limited) was the primary investment adviser and manager of the private equity funds in the Abraaj Group. AIML is incorporated in the Cayman Islands as a Cayman Islands exempted company. As an exempted company, AIML was not permitted to, and did not, carry on any business from its registered office in the Cayman Islands. Instead, AIML primarily carried on its activities from Dubai and, by 2009, AIML and ACLD were co-located at ACLD's offices in the DIFC. At no time did AIML have a DFSA Licence authorising it to carry on any Financial Services in or from the DIFC.
32. AIML is wholly owned by AH (formerly known as Abraaj Capital Holdings Limited), the ultimate holding company of the Abraaj Group, which is also incorporated in Cayman Islands as a Cayman Islands exempted company.

Appointment of Provisional and Official Liquidators

33. In or around June 2018, AIML and AH voluntarily declared bankruptcy. The Grand Court of the Cayman Islands issued orders appointing Joint Provisional Liquidators (**JPLs**) to AH and AIML on 18 June 2018 and Joint Official Liquidators (**JOLs**) were appointed on 11 September 2019.
34. 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. Therefore, ACLD voluntarily applied to be wound up. The DIFC Courts placed ACLD into provisional liquidation on 15 August 2018 and into official liquidation on 19 November 2019.

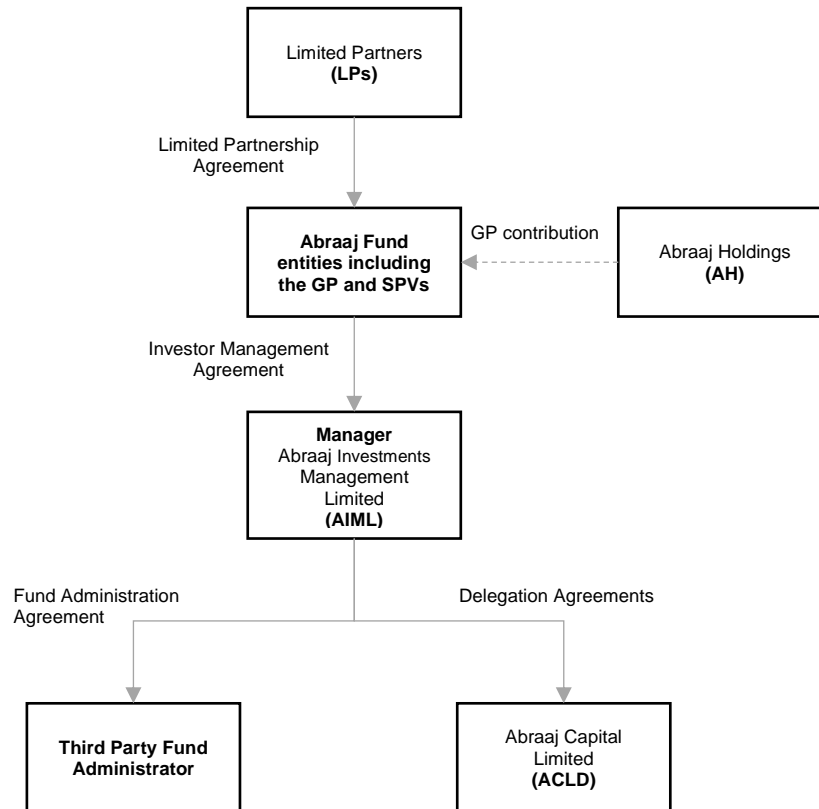
DFSA's Decision Notices

35. On 29 July 2019, the DFSA took action against ACLD and AIML. Published versions of the DFSA's Decision Notices that were given to ACLD and AIML can be found at: <https://www.dfsa.ae/what-we-do/enforcement/regulatory-actions>.
36. The DFSA found that ACLD had deceived the DFSA regarding its required Capital Resources and was knowingly concerned in AIML carrying on Financial Service activities in or from the DIFC without the required authorisation. The DFSA found that

AIML carried out unauthorised Financial Service activities in or from the DIFC and misled investors in order to conceal the misuse of investors' monies.

Abraaj Funds

37. In 2002, the Abraaj Group set up its first private equity fund, the Abraaj Buyout Fund (**ABOF I**) which raised over USD 100 million of investor commitments.
38. By 2010, the Abraaj Group had set up six private equity funds with total commitments of over USD 5 billion, primarily from regional investors and family offices.
39. In or around 2012, the Abraaj Group acquired a foreign private equity firm which enabled the Abraaj Group to expand its geographical presence and gain access to international institutional investors.
40. By 2018, the largest three Abraaj Funds were:
 - (1) IGCF, a USD 2 billion Fund focused on investing in hard infrastructure projects (such as roads, highways and bridges) and soft infrastructure projects (such as financial institutions and education systems). This Fund was set up in 2006 and had instructed five drawdowns in the period from December 2006 to May 2008;
 - (2) APEF IV, a USD 1.6 billion Fund focused on buyout opportunities which involved the acquisition of controlling interests in companies. This Fund was set up in 2008 and had instructed four drawdowns in the period from September 2008 to October 2015 and a fifth drawdown in March 2017; and
 - (3) AGHF, a USD 1 billion Fund focused on investing in the healthcare sector. This Fund was set up in 2015 and had instructed three drawdowns between October 2016 and April 2017.
41. As the primary 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 with a GP, which delegated management of the relevant Abraaj Fund to the manager (in most instances AIML), and LPs who were the investors.
42. The chart below sets out a basic overview of how most Abraaj Funds were structured and managed.



43. Typically, the main participants in an Abraaj Fund were:
- the Fund's LPs, who are the investors who committed to contribute to the Fund on the issuance of the Drawdown Notices;
 - the Fund's GP, which is an entity typically owned by the manager of the Fund and which also commits capital to the Fund; and
 - within the Fund structure, there are typically a number of SPVs set up for various tax, jurisdictional, regulatory or investment purposes.
44. The rights and obligations of the LPs and the GP were governed by the Limited Partnership Agreement (**LPA**) for each Fund.
45. The GP usually appointed AIML as manager of the particular Fund through an Investment Management Agreement (**IMA**) or Management Deed. The manager was responsible for the management and operations of the Fund, including making investments and divestments in underlying companies (**Portfolio Companies**).
46. The manager might delegate some of its duties to another entity, typically referred to as a sub-manager or investment advisor. AIML had delegated some of its Fund

Administrator duties to third party providers under Fund Administration Agreements (**FAA**). AIML had also delegated certain services for up to five of the smaller Funds to ACLD under the **Delegation Agreements**, which were typically executed along with a **Services Agreement** specifying the particular activities and services ACLD would undertake on behalf of AIML.

The investment cycle

47. The investment teams at the Abraaj Group, many of them based in the DIFC, were responsible for identifying the investment opportunities for each of the Abraaj Funds and submitting them to the GIC. The GIC consisted of a floating member and four permanent members, including Mr Naqvi who headed the GIC and was the only member to have absolute negative vetoing power over investment decisions. Although only specifying “Dubai” in the minutes, the majority of the GIC meetings were held at the Abraaj offices in the DIFC. The GIC was responsible for all investment and divestment decisions across Funds, including the amounts and duration of investments, and provided approvals at every critical stage of a transaction.
48. On the approval of the investment by the GIC and the required level of diligence, the manager of the Fund, typically AIML, would issue a Drawdown Notice, signed by an authorised signatory of the GP, to the LPs requesting them to transfer monies to the Fund. Once the monies were received from the LPs into the Fund’s bank account, the investment was made and its performance was monitored by the investment team and reported to the GIC.
49. Similarly, when a divestment opportunity was identified and the GIC approved the divestment decision, the investment was sold and the GP of the Fund issued distribution notices to LPs to inform them of their portion of the sale proceeds before the transfers were remitted to them.
50. The LPs received updates on investments and divestments by the Abraaj Funds through quarterly General Partner reports (**GP Reports**). The GP Reports typically included an update on the Abraaj Group, an overview of the Fund, the total amounts received from the investors of the Fund, the total amounts distributed to investors upon the sale of Fund investments, as well as the valuation of the investments currently held by the Fund.

Abraaj Group liquidity problems

51. Over the years, the Abraaj Group repeatedly faced liquidity issues, which were caused by a number of factors including the Abraaj Group's investment commitments and operating expenses far exceeding its income.
52. These high investment commitments and operating expenses included:
 - (1) AH's commitment to large stakes in the Abraaj Funds to ensure that the Abraaj Funds met their fund size targets;
 - (2) Abraaj Group's working capital costs such as remuneration and interest free loans paid out to employees;
 - (3) Abraaj Group's marketing costs to promote new Funds (e.g. USD 6 billion Abraaj Private Equity Fund VI, **APEF VI**) including new hires, private air travel, sponsorships and conferences; and
 - (4) Abraaj Group's borrowing costs for hundreds of millions of dollars borrowed from banks as well as non-bank entities.
53. The Abraaj Group liquidity problems were frequently discussed in **Cash Update** emails sent by the Abraaj Group finance team (**Finance Team**) to Mr Naqvi and a small number of other members of Abraaj Senior Management.

Abraaj Senior Management

54. Other key members of Abraaj Senior Management relevant for this Notice include:
 - a. Mr Waqar Siddique (**Mr Siddique**), a Managing Partner at the Abraaj Group and Head of Finance and Operations. Mr Siddique is also Mr Naqvi's brother-in-law;
 - b. Mr Ashish Dave (**Mr Dave**), a Chief Financial Officer (**CFO**) at the Abraaj Group;
 - c. Mr Mustafa Abdel-Wadood (**Mr Abdel-Wadood**), a Managing Partner at the Abraaj Group; and
 - d. **Individual D.**

PART B: Relevant facts and matters

Introduction

55. The facts and matters set out in Part B of this Notice are relevant to Mr Naqvi's knowledge and involvement in:

- (1) *AIML's unauthorised activities*: As the manager of the majority of the Abraaj Funds, AIML carried out unauthorised Financial Service activities in or from the DIFC, under the IMAs and Management Deeds; and
- (2) *AIML's misleading and deceptive conduct*: AIML was engaged in conduct that was misleading or deceptive or likely to mislead or deceive LPs over the misuse of Abraaj Funds' monies. The misuse of Abraaj Funds' monies involved transfers of drawdown monies and sale proceeds from the exit of investments, from the Abraaj Funds to AIML, where such monies would be used to satisfy liquidity demands, including replenishing other Abraaj Funds from which money had previously been taken. AIML's misleading and deceptive conduct mainly occurred in AGHF and APEF IV.

Mr Naqvi's role

56. Mr Naqvi was the founder and the largest shareholder of the Abraaj Group, where he held the positions of the Group CEO, Executive Vice Chairman of AH and Director of a number of entities in the Abraaj Group including AH, AIML and ACLD.
57. Mr Naqvi was also a member of several committees within the Abraaj Group such as the Management Executive Committee (**MexCom**), the compensation committee and the GIC.
58. Mr Naqvi was an Authorised Individual in that he was authorised by the DFSA to perform Licensed Functions at ACLD. Specifically, in the period from 20 March 2006 until 3 April 2018, Mr Naqvi was authorised to perform the Licensed Director function at ACLD.
59. Internally, Mr Naqvi was the ultimate decision maker on material or disputed matters within the Abraaj Group.
60. Externally, Mr Naqvi was the 'face' of the Abraaj Group, promoting the Abraaj Group, its Funds and its investments in emerging markets in various publications and conferences. Mr Naqvi also held a number of Board positions at other institutions including a non-

bank entity, referred to later in this Notice, from which the Abraaj Group obtained temporary loans to fund shortfalls at the Abraaj Funds.

AIML's unauthorised activities: GIC

61. As described in paragraph 47, Mr Naqvi headed the GIC as a permanent member of the committee and was the only member to have absolute negative vetoing power over investment decisions. The GIC was the principal investment and divestment decision-making body for the Abraaj Funds. All permanent members of the GIC had Dubai residence status, with family homes in Dubai, and their own physical offices in the DIFC. Although only specifying 'Dubai' in the minutes, the majority of the GIC meetings were held at the Abraaj offices in the DIFC. Through his role at the GIC, Mr Naqvi was involved in the investment and divestment decisions of the Abraaj Funds and provided the investment teams located in the DIFC and others in the Abraaj Group with direction and commentary on the proposed asset valuations of Abraaj Funds.

AIML's unauthorised activities: Marketing the Abraaj Funds

62. Mr Naqvi was involved in marketing the Abraaj Funds. For example, on 4 February 2011, Mr Naqvi sent an email to a potential investor in APEF IV stating "*We are very keen for you to consider a substantial participation in the new fund, ABOF IV [APEF IV]*". In the same email, Mr Naqvi attached the APEF IV Private Placement Memorandum (PPM) and a summary document that stated "*Abraaj Capital is the largest private equity group in the world outside the US and Europe ... The story of Abraaj is a global success story that started in Dubai, where the firm is headquartered – in the DIFC*".

AIML's unauthorised activities: Attending AIML Board meetings in the DIFC

63. As a Director of AIML, from at least June 2011, Mr Naqvi participated in AIML Board meetings in or from the DIFC. The Board meetings discussed a range of matters including the Abraaj Funds, borrowings, and issuance of shares.
64. From June 2011, Mr Naqvi attended over 15 AIML Board meetings in the DIFC, which were described in the meeting minutes as "*HELD AT THE OFFICES OF ABRAAJ CAPITAL IN DUBAI*". In the minutes of six other AIML Board meetings subsequent to June 2011, the location was described as 'Dubai' only, or by phone, or the location was not mentioned.

AIML's misleading and deceptive conduct: Personal loans

65. On 15 July 2014, Mr Naqvi received an email from Individual D informing him that they would be required to transfer funds from APEF IV in order to fund Mr Naqvi's personal investment in shares. Mr Naqvi responded to Individual D stating "Yes [Individual D], *I know*". Following which, on the same day, USD 2 million was transferred from APEF IV to AIML and USD 1 million was transferred from AIML to one of Mr Naqvi's personal companies for this purpose.
66. During his interview with the DFSA on 28 and 29 June 2018 (**DFSA Interview**), Mr Naqvi confirmed that the personal loans he received from the Abraaj Group were interest free.

AIML's unauthorised activities: Review of GP Reports

67. Mr Naqvi was involved in reviewing and approving GP Reports, which included the valuation of Abraaj Funds' assets and proceeds from the sale of Abraaj Funds' assets. For example, on 19 August 2015, Mr Naqvi received an email from a member of Abraaj Senior Management stating "*FYI. The IGCF GP report for June quarter is ready and I propose to issue it tomorrow. Draft attached*", adding that "*The receipt of the [GP] report will likely trigger queries from a wider cross-section of LPs regarding distribution of IDH [IGCF asset] proceeds*". In response, Mr Naqvi stated "*Ok I guess; what choice do we have?*".

AIML's unauthorised activities: Controlling the drawdowns

68. Mr Naqvi was involved in controlling the drawdown of the LP contributions in Abraaj Funds. For example, on 17 September 2015, Mr Naqvi sent an email to Individual D and Mr Abdel-Wadood discussing when to instruct an APEF IV drawdown of LP commitments and the amount of the drawdown, stating "*We need to drawdown...Aim should be to drawdown 300 total...which is what we need to get past December*".

AIML's misleading and deceptive conduct: Sale of Network International and Saham Finances

69. In late 2015, APEF IV sold its stake in Network International (**NI**) for USD 330 million, receiving the sale proceeds in two tranches.
70. The first tranche of USD 135 million was received into an APEF IV account on 30 December 2015. On the same day, the entire USD 135 million was transferred to AIML's bank account. Subsequent transfers out of AIML's account on 30 December 2015 included (i) approximately USD 92 million to IGCF and (ii) USD 7.5 million to Silverline

Holdings Limited (**Silverline**), a company wholly owned by Mr Naqvi, in order to fund Naqvi's personal expenses.

71. Mr Naqvi was notified by Individual D that USD 92 million of the NI sale proceeds would be used to fill a shortfall in IGCF ahead of the December 2015 financial year-end "*so the IGCF audit can be completed without any complications*". Subsequently, Mr Naqvi received a confirmation from Individual D that proceeds from the sale of NI were transferred to fill the shortfall in IGCF, stating they had "*Received US\$135million (partial) NI sale proceeds on 30 December 2015*" and "*were able to pay outstanding IGCF distribution and square off intercompany with AIML*".
72. In relation to the USD 7.5 million transfer to Silverline, Mr Naqvi provided Individual D with his approval to make this transfer and received a response from Individual D stating "*Only thing I will have [to] manage is the date of transfer as NI proceeds are expected on or after 29th Dec*".
73. By mid-February 2016, Individual D was reporting to Mr Naqvi projected cash shortfalls at the Abraaj Group of almost USD 300 million. Following a suggestion by Individual D, Mr Naqvi approved the use of the second tranche from the sale of NI of USD 195 million to fund partly these cash shortfalls.
74. In early 2016, APEF IV sold its stake in Saham Finances (**Saham**) for USD 185 million and received the sale proceeds in March 2016. Over a third of this amount was transferred to AIML to meet various non-APEF IV liabilities, such as margin calls on an IGCF investment.
75. Since a significant portion of the proceeds from the sale of NI and Saham were transferred to AIML to meet cash demands in other parts of the Abraaj Group and Abraaj Funds, APEF IV did not have sufficient cash to make the necessary distributions to LPs under its obligations under the LPA.
76. Therefore, on 1 April 2016, Mr Naqvi sent an email to Individual D, Mr Siddique and Mr Abdel-Wadood proposing a **Payment Schedule** of approximately USD 224.4 million of the NI and Saham sales proceeds to LPs between April and June 2016 that would prioritise "*noise makers and those who will come back, with the latest being legacy investors and passive voices*", stating that this matter should be tightly controlled by a small group of people and "*nobody outside the loop knowing [sic] what is going on; as far as the rest of the Firm is concerned, all payments have been made*".

77. Subsequently, Mr Naqvi was involved in several revisions of the Payment Schedule between April 2016 and June 2016.
78. On 3 May 2016, Mr Naqvi received a Cash Update from Mr Siddique setting out that the projected cash shortfall at APEF IV was estimated at approximately USD 30 million by the end of May 2016 and USD 108.3 million by the end of June 2016. The email explained that these projected cash shortfalls were mainly due to APEF IV not having sufficient cash to make the outstanding NI and Saham distributions to APEF IV LPs, adding that “*perhaps [Individual D], Mustafa, you and I should meet*”.

AIML’s misleading and deceptive conduct: APEF IV June 2016 financial year-end

79. On 5 June 2016, Mr Naqvi received an email from Individual D alerting him that, after making the necessary adjustments, they would still need to find USD 195 million on or before 30 June 2016, for the purpose of the APEF IV financial year-end audit, to cover the cash shortfall in APEF IV. Individual D’s email offered a number of solutions including borrowing from certain banks or non-bank entities such as Company X, a third party unrelated to the Abraaj Group (but of which Mr Naqvi was then a director).
80. The following day, Mr Naqvi sent an email to Individual D regarding the cash shortfall, titled “*If we got 200 M from [Company X] for one month from June 15 to July 15*”. Individual D responded to Mr Naqvi stating “*We can show the balance available at 30 June*” for APEF IV, referring to being able to report a cash balance in the financial statements of APEF IV which the auditors and LPs would have expected to see on that particular date.
81. Individual D’s response to Mr Naqvi also suggested the required flow of funds from Company X to Menasa Capital Management Holdings Limited (**MCMHL**) to AIML to APEF IV. MCMHL was an entity partly owned by Mr Naqvi, which was unaudited and did not form part of the Abraaj Group for accounting consolidation purposes. Therefore, the suggested flow of funds and the associated accounting entries ensured that the USD 195 million payable to Company X would not appear in AIML’s or APEF IV’s financial statements.
82. On 9 June 2016 (i.e. only four days after Mr Naqvi received Individual D’s suggestion to borrow from Company X), Mr Naqvi attended an AH Board meeting but did not disclose

the USD 195 million cash shortfall or the suggestion to borrow from certain banks or non-bank entities such as Company X to fill this shortfall.

83. On or around 14 June 2016, Mr Siddique and Individual D discussed with Mr Naqvi the terms of the loan agreement with Company X, including the principal and interest amounts of the loan. Mr Naqvi responded that he had already agreed with senior management at Company X that the principal and interest amounts on the loan were USD 195 million and USD 5 million respectively and Mr Naqvi requested Mr Siddique and Individual D to finalise the loan documentation.
84. On 15 June 2016, Company X, MCMHL, AIML, Abraaj General Partner VIII Limited (i.e. the APEF IV GP) and Mr Naqvi entered into an agreement for a USD 195 million short-term loan to be repaid on or before 15 July 2016, in return for a flat fee of USD 4.9 million (equating to an annual interest rate of approximately 71%). Mr Naqvi was a signatory to the loan agreement, signing on behalf of AIML, and in his personal capacity as a guarantor to repay the loan and ensure that the terms of the agreement were 'strictly' adhered to. The terms of the loan agreement included the 'mechanism' dictating the cash flows for the USD 195 million loan, namely from Company X to MCMHL to AIML to APEF IV GP, in line with Individual D's suggestion to Mr Naqvi (as described in paragraph 81).
85. On 22 June 2016, Company X transferred USD 195 million, which was ultimately deposited into an APEF IV GP bank account. This enabled APEF IV to report the cash balance of USD 195.7 million expected by the LPs in its financial statements and produce a bank balance confirmation as at 30 June 2016 for APEF IV audit purposes.
86. Pursuant to the loan agreement signed by Mr Naqvi, on 5 July 2016, the principal amount of USD 195 million was repaid from the APEF IV GP bank account to Company X (i.e. 13 days after taking the loan and only five days after the APEF IV financial year-end). On 20 July 2016, the interest of USD 4.9 million was paid by AIML to Company X.

AIML's misleading and deceptive conduct: Delays in GP Reports and LP distributions

87. By mid-2016, APEF IV had not fully distributed the proceeds from the sale of NI and Saham (as set out in paragraphs 75 to 77) and had not shared the GP Reports with all APEF IV LPs.
88. In particular, the Payment Schedule reflected that at least USD 122,267,634 of the APEF IV LP distributions remained unpaid by 20 June 2016. On 21 June 2016, Mr Naqvi

approved a strategy to only “*release the [GP] reports to all the LP who have been paid NI and Saham Distribution*”.

89. This delay in distributing NI and Saham sale proceeds and sharing the GP Reports with only a selection of LPs continued beyond mid-2016, with some LPs only receiving their portion of sale proceeds in November 2016. During that period, the Abraaj Senior Management faced increasing pressure from a number of LPs to explain these delays. Possible responses were debated amongst Mr Naqvi and other members of the Abraaj Senior Management.
90. For example, on 7 November 2016, Mr Naqvi received a follow-up request from one of the LPs for the Q1 and Q2 2016 APEF IV GP Reports. On the same day, Mr Naqvi drafted a response which he shared internally with Mr Abdel-Wadood and other members of Abraaj Senior Management asking for their comments. Mr Naqvi’s draft response stated that the reason for the delay in providing the GP Reports was due to “*major issues with the server migration as a result of our [IT platform] implementation*”.
91. Following comments received from the team, including a comment from Mr Abdel-Wadood not “*to mention a specific tech platform or software. Make it more generic*”, the draft response was finalised and sent out the following day by a member of Abraaj Senior Management to the LP, stating that the reason for the delay was due to major issues in “*conducting a series of updates and IT migrations which resulted in reports and other deliverables not being made available to a number of investors for certain funds*”.

AIML’s misleading and deceptive conduct: AGHF investor monies and personal loans

92. In December 2016, AIML issued the second Drawdown Notice for AGHF for a total of approximately USD 414 million (the first drawdown took place in October 2016 for USD 16 million to cover management fees and Fund expenses). From the monies received from the LPs in response to the second Drawdown Notice, a total of USD 140 million was transferred from AGHF to AIML (which received USD 40 million on 21 December 2016) and AH (which received USD 100 million on 22 December 2016). Of the USD 140 million, USD 11.5 million was due from AGHF to AH. The remaining amount of USD 128.5 million was used to cover shortfalls in other parts of the Abraaj Group, including its GP commitment.
93. On 3 January 2017, Mr Naqvi was informed by Individual D of the transfer of AGHF drawdowns to AIML and AH. This was re-iterated to Mr Naqvi in a Cash Update email he received from Individual D on 7 March 2017, which was only 10 days before Mr Naqvi

attended an AH Board meeting (on 17 March 2017), at which he did not disclose that USD 128.5 million had been taken from AGHF drawdown monies to cover liquidity issues in the Abraaj Group.

94. On 30 March 2017, Mr Naqvi received a Cash Update from Individual D, copying in Mr Siddique, including that *“AH will be short by \$50m. This would require AH to borrow funds from AGHF”*.
95. On 20 May 2017, Mr Naqvi received a Cash Update from Individual D stating that they would not be able to fund *“critical payments”* such as a USD 8 million AGHF investment due to the projected cash shortfalls, adding *“Need your intervention and guidance to stay afloat”*. Later that day, Mr Naqvi received another Cash Update from Individual D informing him that *“we will have no funds available to pay for June salaries of the Group and any other critical payment such as payment for AGHF”*.
96. However, on 24 May 2017 (i.e. only four days after receiving Individual D’s email which highlighted major liquidity problems), USD 21 million was transferred from AIML to fund a private equity firm fully owned by Mr Naqvi’s family.
97. This cash situation at AGHF was re-iterated to Mr Naqvi in an email from Individual D on 31 May 2017, stating *“As you are aware, I am under tremendous pressure re Abraaj cash..how we will fund AGHF deals, don’t know if we will be able to fund”* to which Mr Naqvi responded *“I will sort it out”*.

AIML’s misleading and deceptive conduct: AGHF and APEF IV June 2017 financial year-end

98. On 3 June 2017, Mr Naqvi received an email from Individual D setting out *“a summary of potential audit issues for year ended 30 June 2017”*, including shortfalls that needed to be filled in AGHF of USD 225 million and in APEF IV of USD 201 million (where the shortfall in APEF IV increased from USD 195 million in June 2016, see paragraph 79).
99. In response, Mr Naqvi posed a number of questions to Individual D including *“Is this the first year end for AGHF? I am serious about changing the accounting date; what would we need to do?”*. Individual D’s response to Mr Naqvi stated that it would not be possible to change the financial year-end for AGHF due to accounting period rules but they could change the APEF IV financial year-end from June 2017 to December 2017 and so *“would not require \$200m to settle APEF IV payable”*, leaving only the USD 225 million shortfall in AGHF to be addressed.

100. On 12 June 2017, Mr Naqvi approved the change to the APEF IV financial year-end to December and agreed with Individual D that the justification of aligning the APEF IV financial year-end with the other Abraaj Funds would be “*sellable [sic] and compelling*” to LPs. Consequently, the APEF IV financial year-end was changed from 30 June 2017 to 31 December 2017.
101. On 19 June 2017 (i.e. only 16 days after Mr Naqvi was informed about the potential audit issues and only seven days after Mr Naqvi approved the change to the APEF IV financial year-end), Mr Naqvi attended an AH Board meeting but did not disclose the shortfalls at AGHF and APEF IV or the change in APEF IV’s financial year-end to hide the shortfall in the Fund.
102. If AGHF had conducted itself in accordance with its representations to investors, then the unused drawdowns of USD 225.9 million at 30 June would have been held as a cash balance and accounted for accordingly. However, the AGHF cash balance was only USD 29.9 million, leaving a shortfall of USD 196 million. Therefore, Mr Naqvi suggested borrowing again from Company X (as they did with APEF IV in June 2016) and subsequently requested Individual D to arrange for the loan on the basis that Mr Naqvi would speak to the senior management at Company X to agree specific loan arrangements.
103. On or around 21 June 2017, Company X, the Abraaj Growth Markets Health Fund General Partner Limited (i.e. AGHF GP) and Mr Naqvi entered into an agreement, whereby Company X agreed to lend AGHF GP USD 196 million on a short-term basis to be repaid on or before 19 July 2017, in return for a flat fee of USD 7 million (equating to an annual interest rate of approximately 52%). Mr Naqvi was a signatory on the loan agreement in his personal capacity as the guarantor for the loan, as occurred with the USD 195 million borrowing a year earlier in June 2016 (see paragraph 84).
104. On 24 June 2017, Company X transferred USD 196 million to an AGHF bank account as confirmed to Mr Naqvi in a WhatsApp message he received from Individual D. The associated accounting treatment recorded the USD 196 million payable to Company X in MCMHL’s financial records in order to ensure that the USD 196 million payable to Company X would not appear on AIML’s or AGHF’s financial statements.
105. Combined with the cash balance in its accounts, the total cash balance at AGHF was USD 225.9 million, of which USD 224.4 million was held at Abraaj Healthcare Group

Limited. The available AGHF financial statements stated in respect of their cash balance at Abraaj Healthcare Group Limited that:

“This balance represents cash held in the bank account of Abraaj Healthcare Group Limited. The cash balance constitutes capital drawn down from limited partners of the Partnership, based on investment deployment schedule, net of amounts deployed in investment in financial assets”.

106. This USD 196 million transfer from Company X also enabled AGHF to obtain a bank balance confirmation as at 30 June 2017 for USD 225.9 million. This bank balance confirmation was used for AGHF’s external audit purposes and also used in an attempt to satisfy LP queries raised later in 2017 over how AGHF monies had been used (see paragraphs 109 to 119).
107. On 18 July 2017, Mr Naqvi approved the repayment of the principal amount of USD 196 million to Company X, which was transferred to Company X the following day. On 20 July 2017, the interest of USD 7 million was paid by AH to Company X.

AIML’s unauthorised activities: Fund valuations

108. Mr Naqvi was involved in the valuations of investments in the Abraaj Funds. In certain situations where the investment teams indicated that investments should be written down, Mr Naqvi either instructed them to take these write downs at a later stage or over-ruled the suggestions for write-downs altogether. For example, in August 2017, Mr Naqvi refused to write-down an APEF IV asset in Q2 2017 stating in an email to Mr Dave, copying in Individual D, Mr Siddique and Mr Abdel-Wadood that *“Even little things like writing down [APEF IV Investment] should be a no no, and we should reflect our aspirations in the others. I need a minimum of 20-25 mm profit at AH in order to keep this effing business afloat and show strength to the banks”.*

AIML’s misleading and deceptive conduct: Responses to investor queries

109. In the latter half of 2017, Mr Naqvi was involved in numerous discussions on how to deal with LP queries over the use of their drawdown money and whistleblowing emails sent to LPs.
110. On 20 September 2017, Mr Naqvi received an email from Mr Dave setting out the concerns raised by an AGHF LP and proposed a solution on how to deal with those queries. Mr Dave’s email stated *“Arif, there is a gentleman called [REDACTED] who has been querying what has happened to the cash that should be sitting with us given*

that we have drawn down funds but haven't been able to deploy. In the past we have explained to him that the money sits in a bank account and we don't invest it in any products given that the money is meant to be invested in deals and projects", which Mr Naqvi knew was untrue given his knowledge of the cash shortfall at AGHF and the transfers from AGHF's bank accounts to meet cash shortfalls in other parts of the Abraaj Group (see paragraphs 92 to 97).

111. In the same email to Mr Naqvi, Mr Dave added that *"Apparently, he has been asking for some proof for quite some time. Further ██████ mentioned that its best we try and isolate him otherwise he could ask the question at the October LPAC [Limited Partners Advisory Committee] in Kenya and then other LP's start asking the question. I have reflected on this and my suggestion is that we share the attached bank confirmation that [third party bank] sent [the auditors] as part of their audit procedures, it shows a balance of \$225.9m as at 30 June 2017. I will get [a member of Abraaj Senior Management] to share it with ██████ and also express our unhappiness of being questioned in this way and that us sharing this with him is not to create a precedent. I think that this will resolve the matter both internally and externally".*
112. In response, Mr Naqvi approved the strategy to share with this particular LP the USD 225.9 million bank balance confirmation as at 30 June 2017 that was obtained for AGHF audit purposes as described in paragraph 106.
113. Therefore, on 21 September 2017, an Abraaj staff member emailed the LP a copy of the bank balance confirmation of USD 225.9 million dated 30 June 2017, stating *"please find attached the bank confirmation that our bank, ██████, sends directly to our auditors, [the auditors], as part of our annual audit process".* The actual balance on the AGHF account on 21 September 2017 was only USD 8.86 million and had been below USD 15 million since 24 July 2017 (after the repayment of USD 196 million to Company X, a USD 14 million transfer to AIML and a USD 1m transfer for AGHF investment purposes).
114. On 27 September 2017, Mr Naqvi received an email from Mr Dave stating that *"Arif, for your information the question of cash at AGHF from ██████ has been addressed. They were satisfied with the bank confirmation we sent them".* Subsequently, Mr Naqvi forwarded to Mr Dave, Mr Siddique, Mr Abdel-Wadood and three others an email he had sent to a more senior member of staff at the same LP stating: *"FYI; don't distribute, but you need to know what I have said. Also make sure that any dialogue with the LPAC is through this group only, and no more [two other*

members of Abraaj Senior Management] *discussions please*". The email to the more senior member of staff at the LP stated:

"We were asked once by [a director at the LP] a month or two ago for proof of funds in that we had the funds unused in a bank account; despite being embarrassed at the request (one that we had not experienced before), we provided a bank audit certificate, as part of our audit procedures. To ask for it again one or two months later when there has been no change is frankly demeaning, especially after an LPAC meeting in which we transparently explained the reasons for delays etc".

115. Also, in late September 2017, Mr Naqvi received an email from another LP setting out the LP's questions in relation to whistleblowing emails they had received, including questions about the use of undeployed cash in the Fund. Mr Naqvi forwarded the email from the LP to certain members of Abraaj Senior Management who collated a response to the LP's questions, which was ultimately sent out by Mr Naqvi to the LP on 27 September 2017. Despite his knowledge that the accusations regarding the misuse of undeployed cash were true (as set out in paragraphs 69 to 77 and 92 to 97), Mr Naqvi's response to the LP stated *"let me categorically reject every single assertion ... Every single one. Full stop. [...] Abraaj is profitable and would never have to, nor consider relying on, any need for funding beyond our management fees, management company capital and financing lines (which are often under-utilized) from global financial institutions [...] I would not be a trusted counterparty [...] unless my reputation was and is, without question, one of honesty and highest character [...] it is bizarre and frankly unintelligible for anyone to insinuate that the group would be using LP money for working capital"*.
116. On 2 October 2017 (i.e. only five days after Mr Naqvi responded to the LP with comments on issues raised within the whistleblowing emails), Mr Naqvi attended an AH Board meeting but did not discuss the issues raised within the whistleblowing emails or the responses to LPs.
117. Following an AGHF LPAC meeting on 12 October 2017 in Kenya, Mr Naqvi received an email from Mr Dave informing him that the AGHF LPAC were not happy with the drawdown monies not being invested and requested that AGHF returns any unused drawdowns by 31 December 2017 to the LPs. In the same email to Mr Naqvi, Mr Dave added that they would need to pull together *"the confirmation"* required by the LPAC.

118. On 15 October 2017, Mr Naqvi was forwarded an email by Mr Dave that was sent to the AGHF LPAC stating *“This leaves an available cash balance of USD 225.9 M which is held with the [third party bank] under the entity Abraaj Healthcare Limited - refer to the attached bank statement for the audited cash balance as of June 30th 2017”*. The USD 225.9 million bank confirmation referred to in Mr Dave’s email was the same bank confirmation used for the audit of the AGHF financial statements for the year ended June 2017 (see paragraph 106). Around this time, certain members of Abraaj Senior Management, including Mr Dave, were told by Mr Naqvi not to share the bank statements with the LPs.
119. In response to further questions raised by a particular LP, on 21 October 2017, Mr Naqvi received an email from Mr Dave setting out his observations including the statement *“I have also shown amounts spent to date versus 30 Sep 17, in the event that we are asked to provide a bank statement we can go with a date that suits us”*.

AIML’s misleading and deceptive conduct: AGHF December 2017 bank balance confirmation

120. By the end of November 2017, the LPs remained unsatisfied with the responses to their queries around cashflows in the Funds, including receiving out-dated bank balance confirmations (see paragraphs 113 and 118).
121. On 30 November 2017, an AGHF LP sent an email (on behalf of a group of AGHF LPs) asking in very clear terms for *“the actual bank statements from all banks in which all of the contributed funds have been held from November 24, 2016 to November 30, 2017, showing all transactions (including documentation of all deposits and withdrawals) of all of the contributed funds and the current balance”*.
122. On 1 December 2017, despite the explicit request for bank statements, Mr Naqvi decided that a more up-to-date balance confirmation may help address the LP’s questions and so he forwarded the email received from the AGHF LP to Individual D, Mr Dave and Mr Siddique, asking *“How much cash would we need to show on Tuesday?”*.
123. On the same day, Mr Dave replied to Mr Naqvi stating *“Arif, the number would be approximately, \$185m. We had shown them \$196m and since then we have funded \$10.8m for project [REDACTED]”*.
124. On 3 December 2017, Mr Naqvi wrote to Mr Dave stating *“[Company X] is easy to give us 100 [USD 100 million] on Monday into a designated account for a week to enable a*

certificate to be sent; with the balance from the 50 [USD 50 million], Can we make it work? le show more as spent? Can you call me around 10 am London time”.

125. After Mr Naqvi’s call with Mr Dave, Mr Naqvi received an email from Mr Dave stating *“Arif, when we spoke you mentioned that ██████ would be potentially gathering any additional amounts that he could add to the \$100m. Subject to your views on [Individual D]’s email below, should I be speaking to ██████ to agree on the amount and the “fees” that [Company X] will charge us?”.*
126. Subsequently, Individual D emailed Mr Naqvi stating that, after factoring in any adjustments they could make, they could *“justify”* a cash balance of USD 169.9 million.
127. The balance on the AGHF account was only USD 29.9 million, leaving a shortfall of USD 140 million. As a result, the final loan amount agreed with Company X was USD 140 million.
128. The loan agreement with Company X stated that Company X would lend USD 140 million, in return for a flat fee of USD 5.6 million (equating to an annual interest rate of approximately 183%), and that both the principal and the interest amounts were to be repaid on or before 12 December 2017. Mr Naqvi was a signatory on the loan agreement in his personal capacity as the guarantor for the loan, as occurred with the loan agreements of USD 195 million in June 2016 and USD 196 million in June 2017 respectively (as discussed in paragraphs 84 and 103).
129. On 5 December 2017, Company X transferred USD 140 million to an AGHF bank account.
130. On 13 December 2017, Mr Naqvi gave his approval to Mr Dave’s request to transfer USD 140 million to repay the principal amount but instructed Mr Dave not to pay the interest amount as yet.
131. On 15 December 2017, Mr Naqvi received a draft email from a member of Abraaj Senior Management addressing the questions from certain AGHF LPs regarding undeployed cash, to which Mr Naqvi responded *“Lets talk...”*, copying in Mr Dave and others. Attached to the email was an AGHF bank balance confirmation dated 7 December 2017 for USD 169.9 million, in line with what the LPs would have expected to see (see paragraph 126), to be used in an attempt to show the LPs that undeployed cash was held in an AGHF bank account. On the same day, a member of the AGHF team sent the cover email and the AGHF bank balance confirmation dated 7 December 2017

received from Mr Naqvi, to certain LPs. As a result of transfers out of the AGHF bank account, including the repayment of the principal amount of USD 140 million to Company X, the actual balance on the AGHF bank account on 15 December 2017 was only USD 9,975,894.66. On 8 January 2018, the interest of USD 5.6 million was paid from AIML to Company X, as confirmed in an email from Mr Dave to Mr Naqvi on that day.

AIML's misleading and deceptive conduct: Funding the shortfall

132. By December 2017, the Abraaj Group was facing major cash shortfalls where the cash situation was described by Mr Abdel-Wadood as *"one big scam now"* and by Mr Naqvi as a *"deep, deep crisis; no cash. Nobody apart from my family and [Individual D]/Ash [Mr Dave] know this"*.
133. Further, during his DFSA Interview, Mr Naqvi summarised the situation at the time by saying *"Here are the problems of Abraaj, we are having liquidity issues. We took money from the health fund [AGHF]. We placed it with ourselves. We've spent it. We need to make good on it and I need to get cash into the system"*.
134. On or around 15 December 2017, Mr Dave met with a local bank to arrange a loan to cover the shortfalls, largely in APEF IV and AGHF.
135. On 17 December 2017, the local bank raised additional queries including what had happened to the undeployed drawdowns.
136. On 25 December 2017, Mr Naqvi received an email from Mr Dave expressing his shock at the onerous terms requested by the local bank for the loan, including a request for collateral of three times the value of the loan, personal guarantees, possession of Mr Naqvi's passport, plus 10% in interest and fee charges.
137. As a result of the onerous terms offered by the local bank, Mr Naqvi turned to a **Wealthy Individual** to obtain short-term loans totalling USD 350 million to resolve the shortfall in the Funds and cover Abraaj Group expenses. Mr Naqvi received from Individual D the bank account details into which the loans were to be deposited and informed the Wealthy Individual when making the transfers to *"mention 'investment' in purpose of remittance, this is important"*.
138. The monies were received in three payments of USD 100 million and one payment of USD 50 million. On the same days that the transfers were made to AIML and AH, Mr Naqvi received copies of the SWIFT messages from the general manager at the sending bank, confirming the transfers. The money from the Wealthy Individual was largely used

to fund the shortfalls in APEF IV for its December 2017 financial year-end audit and return undeployed drawdown monies to AGHF LPs at the end of December 2017 (see paragraph 117).

Liquidation of AIML, AH and ACLD

139. In May 2018, one of the Abraaj Group creditors filed a petition in the Grand Court of Cayman Islands seeking to force the Abraaj Group into bankruptcy proceedings for failing to repay a loan which was overdue for repayment.
140. Therefore, in or around June 2018, AIML and AH voluntarily declared bankruptcy. Subsequently, the Grand Court of the Cayman Islands issued orders appointing JPLs to AH and AIML on 18 June 2018.
141. 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.
142. On 11 September 2019, the Grand Court of Cayman Islands placed AIML and AH into official liquidation. Similarly, on 19 November 2019, the DIFC Courts placed ACLD into official liquidation.

CONTRAVENTIONS

143. 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.
144. Article 86(7) of the Regulatory Law provides that a person is 'knowingly concerned' in a contravention if, and only if, the person:
- (1) has aided, abetted, counselled or procured the contravention;
 - (2) has induced, whether by threats or promises or otherwise, the contravention;
 - (3) has in any way, by act or omission, directly or indirectly, been knowingly involved in or been party to the contravention; or
 - (4) has conspired with another or others to effect the contravention.

145. The DFSA considers that the facts and matters set out in this Notice demonstrate that Mr Naqvi was knowingly concerned in the following:

- (1) AIML's unauthorised Financial Service activities; and
- (2) AIML's misleading and deceptive conduct.

Mr Naqvi's knowing involvement in AIML's unauthorised activities

146. This section sets out: AIML's unlicensed Financial Service activities of Managing a Collective Investment Fund or Managing Assets in or from the DIFC; and Mr Naqvi's knowledge and involvement in those activities.

AIML's unauthorised Financial Service activities

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

148. The only entity in the Abraaj Group that held a Licence to carry out certain Financial Services was ACLD. ACLD was incorporated in the DIFC on 19 March 2006 and authorised by the DFSA on 20 March 2006.

149. 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.

150. However, as the DFSA found in its Decision Notice dated 29 July 2019 that was given to AIML, AIML had been carrying on unlicensed Financial Services in or from the DIFC from 2007. Specifically, it carried on the Financial Services of Managing a Collective Investment Fund or Managing Assets when it was not an Authorised Firm with a Licence authorising it to carry on such activities.

Managing a Collective Investment Fund or Managing Assets

151. 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 Fund.”

152. 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 Rule 2.2.2(g) and section 2.10), ‘Providing Fund Administration’ (GEN Rule 2.2.2(u) and section 2.24), ‘Dealing in Investments as Agent’ (GEN Rule 2.2.2(e) and section 2.8), ‘Dealing in Investments as Principal’ (GEN Rule 2.2.2(d) and section 2.7), ‘Arranging Deals in Investments’ (GEN Rule 2.2.2(f) and section 2.9) or ‘Providing Custody’ (GEN Rule 2.2.2(j) and section 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.
153. 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**).
154. The relevant arrangements, as contained in the LPAs, PPMs and General Partner agreements, were made with respect to property that varied from Abraaj Fund to Abraaj Fund, and were constrained by investment restrictions, usually attached as the first schedule to each LPA, which typically included shares, loans, debentures and convertible loans.
155. 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 an AIML-staffed GIC which served as the principal investment decision-making body for the Abraaj Funds, would direct those payments towards capital investments in, or loans to, Portfolio Companies within the Abraaj Funds; and
 - d. for each Abraaj Fund, the GIC 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 investments.

156. 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 IMAs or Management Deeds through which the GP of the Funds appointed AIML to act as the manager of the Fund and AIML agreed to so act.
157. 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 directed the drawdowns from the LPs to bank accounts in the name of the individual Abraaj Funds where the drawdowns were used towards the purchase of property. The same bank accounts were used by AIML senior management to pool the proceeds of the sale of property within Abraaj Funds before they were distributed to the bank accounts of LPs.
158. AIML was legally accountable to the LPs under the terms of the IMAs and Management Deeds entered into by AIML and the respective GP for each Abraaj Fund.
159. The arrangements did not fall within any of the relevant exclusions from Article 11 of CIL set out in Chapter 2 of the Collective Investment Rules (**CIR**) module of the DFSA Rulebook so as not to constitute a Fund.
160. The purpose or effect of the arrangements referred to at paragraphs 153 to 159 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.
161. 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, as they were not managed by a Fund Manager that was an Authorised Firm.
162. Between 30 June 2012 and 30 June 2018, AIML delegated to ACLD the activities of four Abraaj Funds under Delegation Agreements. This is consistent with the revenue streams and costs disclosed to the DFSA over the same period in the audited financial statements for ACLD.
163. The services delegated to ACLD included identifying investments, managing the execution of investments, asset valuation and performance monitoring and processing investor commitments, subscriptions and distributions. However, AIML retained responsibility for making investment and divestment decisions, in light of the fact that such responsibilities could not have been delegated to ACLD given the scope of ACLD's

Licence (as discussed in paragraph 30). Therefore, where activities were delegated to ACLD, the DFSA does not consider that this amounted to ACLD acting as the Manager of those Funds.

164. The following table contains a list of Abraaj Funds for which AIML was appointed to act as manager, including the four Abraaj Funds noted as being delegated to ACLD in the financial statements of ACLD for the years ending June 2012 to June 2017:

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 (IGCF)	Aureos Latin America Fund II
Abraaj Africa Fund III	Abraaj Private Equity Fund VI (APEF 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	

165. For each of the Abraaj Funds listed in the table at paragraph 164, AIML carried on the following activities under the IMAs and Management Deeds:

- a. entering into agreements to act as manager of Funds;
- b. making decisions about the management of property in the Abraaj Funds, including investment decisions;
- c. marketing the Abraaj Funds through making and distributing PPM and other marketing materials;

- d. directing the drawdown and disbursement of the LP contributions; and
 - e. making decisions about the valuation of assets within Abraaj Funds.
166. For each of the Funds listed in the table at paragraph 164, the GP of the 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.
167. Notwithstanding these paragraphs in the IMAs, AIML, by the activities set out in this Notice, did in fact “Manage” at least thirteen Funds. The activities include those set out in the LPAs.
168. 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 the Abraaj Fund’s monies in cash deposits pending the completion of an Investment or the making of distributions.
169. For the reasons set out above, from April 2007 to January 2018, AIML was carrying on Financial Service activities of Managing a Collective Investment Fund or Managing Assets in or from the DIFC, when it was not an Authorised Firm with a Licence to carry on that Financial Service. In so doing, AIML contravened Article 41(1) of the Regulatory Law.

Ways in which Mr Naqvi was knowingly involved in AIML’s unauthorised activities

170. This sub-section sets out Mr Naqvi’s knowledge and involvement in AIML’s unauthorised Financial Service activities.

171. As an Authorised Individual for ACLD and Group CEO, Mr Naqvi knew that ACLD was the only DFSA Authorised Firm in the Abraaj Group and that AIML was prohibited from carrying on Financial Service activities in or from the DIFC. Nonetheless, Mr Naqvi knew that AIML, as the Manager of the Abraaj Funds, was conducting unauthorised Financial Service activities in or from the ACLD offices in the DIFC. In particular, Mr Naqvi:

- (1) marketed and promoted the Abraaj Funds by using Abraaj's presence in the DIFC (see paragraph 62); and
- (2) controlled the drawdown and disbursement of the LP contributions in Abraaj Funds (see paragraphs 68 and 76 to 77).

172. Further, Mr Naqvi was personally involved in AIML conducting unauthorised Financial Service activities in or from the DIFC. In particular, Mr Naqvi:

- (1) had his own physical office space in the DIFC from where he conducted AIML business (see paragraph 61);
- (2) participated in AIML Board meetings which were held at ACLD offices in the DIFC (see paragraphs 63 to 64);
- (3) headed the GIC which took investment and divestment decisions for the Abraaj Funds in or from the DIFC (see paragraph 61); and
- (4) provided the investment teams located in the DIFC and others in the Abraaj Group with direction and commentary on the proposed asset valuations of Abraaj Funds (see paragraph 108).

173. Given his knowledge and involvement in AIML's unauthorised Financial Service activities which were carried out in or from the DIFC, Mr Naqvi was knowingly concerned in AIML's contravention of Article 41 of the Regulatory Law from April 2007 to January 2018. Therefore, Mr Naqvi committed a contravention and is liable accordingly by reason of Article 86(1) of the Regulatory Law.

Mr Naqvi's knowing involvement in AIML's misleading and deceptive conduct

174. Article 41B (General prohibition against misconduct) of the Regulatory Law came into force on 21 August 2014.

175. Article 41B reads “*A person must not, in or from the DIFC, engage in conduct in connection with a Financial Product or a Financial Service that is misleading or deceptive or likely to mislead or deceive*”.
176. For the purposes of Article 41B, a Financial Service includes the activities listed in GEN Rule 2.2.2., which include ‘Managing Assets’ and ‘Managing a Collective Investment Fund’.
177. At all material times since 21 August 2014, AIML carried on the Financial Service of Managing Assets, or Managing a Collective Investment Fund or both in relation to those Abraaj Funds for which it was appointed as Manager (see paragraphs 146 to 169).
178. From 21 August 2014 to the appointment of the JPLs to AIML on 18 June 2018, AIML was engaged in conduct that was misleading or deceptive or likely to mislead or deceive LPs in relation to the Abraaj Funds it managed, contrary to Article 41B.
179. Mr Naqvi played a central and significant role in AIML’s contravention of Article 41B as he personally proposed, orchestrated, and executed actions that directly or indirectly misled and deceived LPs. In particular, Mr Naqvi:
- (1) knew that sale proceeds from APEF IV investments were used to fill shortfalls in the Abraaj Group and Abraaj Funds including USD 92 million transferred to IGCF for its December 2015 financial year-end audit, which allowed for a clean audit opinion on the IGCF financial statements and deceived the IGCF LPs to believe that monies not invested by IGCF remained in IGCF’s bank accounts (see paragraph 71). To conceal the misuse of the APEF IV sale proceeds, Mr Naqvi set out the Payment Schedule spread across several months for distributing sale proceeds owed to APEF IV LPs in anticipation of future cashflows. The Payment Schedule prioritised LPs based on how active they were in following up on their share of the sale proceeds with ‘passive’ investors left to the end (see paragraph 76). Mr Naqvi subsequently approved the strategy of withholding GP Reports, which disclosed the sale proceeds, from the LPs who had not received their share of the sale proceeds (see paragraph 88);
 - (2) approved false explanations to be provided to APEF IV LPs regarding delays in distributing sale proceeds or the GP Reports, and communicated such explanations to LPs (see paragraphs 90 to 91), when, in fact, the reason for the delays was that sale proceeds had been used to cover Abraaj Group’s cash shortfalls elsewhere in the business;

- (3) arranged to borrow loans of USD 195 million, USD 196 million and USD 140 million from Company X for the purpose of temporarily depositing the cash in an Abraaj Fund's bank accounts for financial year-end audits or to obtain bank balance confirmations in order to mislead LPs over the actual balance in the Funds and conceal Abraaj Group's misuse of the Fund's monies. Mr Naqvi signed the USD 195 million loan agreement with Company X on behalf of AIML and also signed all three loan agreements with Company X in his personal capacity as a guarantor (see paragraphs 79 to 86, 98 to 107 and 120 to 131);
- (4) approved the change of the financial year-end of APEF IV from 30 June to 31 December, so that APEF IV did not have to source approximately USD 201 million to cover the shortfall for June 2017 audit purposes (see paragraphs 98 to 100);
- (5) instructed other members of Abraaj Senior Management to withhold bank statements requested by the AGHF LPs and to share only an outdated AGHF bank balance confirmation, whereas AGHF's bank statements would have exposed the misuse of the Fund's monies (see paragraphs 118 and 120 to 122);
- (6) directly responded to LPs, or approved responses provided by other members of Abraaj Senior Management, in the latter half of 2017, which gave the impression that the unused drawdowns were still held in the Fund's bank accounts and attempted to quash a line of queries raised by an LP to prevent potentially exposing the misuse of Fund's money (see paragraphs 109 to 114);
- (7) falsely rejected accusations from anonymous whistleblowing emails sent to a certain LP, which identified concerns about the misuse of LP drawdowns and investment sale proceeds that were in fact true (see paragraph 115); and
- (8) arranged for the USD 350 million loan from the Wealthy Individual in order to conceal the shortfall in APEF IV and AGHF in late 2017 (see paragraphs 132 to 138).

180. Mr Naqvi was also directly and knowingly involved in AIML's contravention of Article 41B by personally attending AH Board meetings and failing to disclose to other AH Board members actions by AIML in misusing Abraaj Funds' monies and actions taken to directly or indirectly mislead and deceive the LPs (see paragraphs 82, 93, 101 and 116). By concealing this conduct from the AH Board, Mr Naqvi ensured that AIML's misleading and deceptive conduct continued.

181. By his conduct described above, Mr Naqvi was directly and knowingly involved in AIML's contravention of Article 41B of misleading and deceptive conduct in connection with Financial Services in or from the DIFC. Therefore, Mr Naqvi was knowingly concerned in AIML's contraventions for the purposes of Article 86(1) of the Regulatory Law and is liable accordingly.

ACTION

182. In deciding to take the action stated 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**).

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

- (1) the DFSA's objectives, in particular to prevent, detect and restrain conduct that causes or may cause damage to the reputation of the DIFC or the Financial Services industry in the DIFC;
- (2) the nature, seriousness and impact on investors of the contraventions, in particular that:
 - i. investors were misled as to their investments in Abraaj Funds; and
 - ii. the three main entities in the Abraaj Group are all in official liquidation. This is likely to have an adverse effect on investors' ability to recover any losses they may have suffered as a result of Mr Naqvi's misconduct;
- (3) the positions and responsibilities of Mr Naqvi at the Abraaj Group. As the CEO, founder and largest shareholder of the Abraaj Group and as a Licensed Director of ACLD, Mr Naqvi held the most senior position at the Abraaj Group and was the ultimate decision maker on material or disputed matters within the Abraaj Group;
- (4) the degree of involvement and specific role of Mr Naqvi in the committed contraventions which also involved other key members of Abraaj Senior Management such as Individual D, Mr Dave, Mr Siddique and Mr Abdel-Wadood;
- (5) the way in which the contraventions were committed by Mr Naqvi to avoid or reduce the risk that the contraventions would be discovered by the investors; and
- (6) the reputational benefit gained by Mr Naqvi over the years, as the face of the largest private equity firm in the Middle East.

184. Further, the DFSA has considered the action(s) which international law enforcement authorities propose to take in respect of the contraventions discussed in this Notice. However, the DFSA considers that the action(s) proposed to be taken by other law enforcement authorities would not be adequate to address the DFSA's concerns concerning the misconduct by Mr Naqvi within the jurisdiction of the DFSA and, therefore, that the DFSA needs to take its own actions against Mr Naqvi.
185. On this basis, the DFSA has considered the sanctions and other options available to it given the circumstances of this matter and concluded that a significant fine, rather than a public censure, is the most appropriate action to take against Mr Naqvi.

Determination of the Fine

186. In determining the appropriate level of financial penalty in this matter, the DFSA has taken into account the factors and considerations set out in sections 6-4 and 6-6 of the RPP as follows. Further, the nature, scale and seriousness of Mr Naqvi's misconduct is unprecedented in the history of the DIFC.

Step 1 – Disgorgement

187. The DFSA has decided not to impose a disgorgement element to the Fine (or a restitution direction) on Mr Naqvi. Any amounts owed by Mr Naqvi to the Abraaj Group are being quantified and pursued by the JOLs.
188. In particular, AH and AIML JOLs were appointed by the Grand Court of the Cayman Islands, and ACLD JOLs were appointed by the DIFC Courts. Under their respective appointments, the courts have afforded them the "*Power to prove, rank and claim in the bankruptcy, insolvency or sequestration*" of any person liable to the company "*for any balance against his estate*". This includes bringing claims against Mr Naqvi, who is liable to ACLD, AIML or AH, for the purpose of recovering assets.

Step 2 – The seriousness of the contraventions

189. The DFSA found Mr Naqvi's contraventions to be particularly serious for the reasons set out below.

Impact

190. In addition to being the most senior executive at the Abraaj Group, Mr Naqvi was also the 'face' of Abraaj and of private equity investment in the Middle East. Mr Naqvi's

association with the DIFC has resulted in his misconduct undermining the confidence of investors in the DIFC and damaged the reputation and integrity of the DIFC.

191. Mr Naqvi's misconduct contributed to the collapse of the largest private equity firm in the region resulting in significant job losses, placing employees' end of service benefits at risk, and is likely to have an adverse effect on the investors' and creditors' ability to recover their monies.
192. Mr Naqvi gained reputation by concealing his misconduct from key stakeholders over time. For example, Mr Naqvi became a prominent speaker at international conferences based on his purported expertise in private equity investments in the emerging markets.

Nature

193. Mr Naqvi's knowing and direct involvement in AIML's unauthorised Financial Services occurred over a prolonged period of almost 11 years.
194. Mr Naqvi's misleading and deceptive conduct occurred over many years culminating in June 2016, June 2017 and December 2017 during which hundreds of millions of dollars were borrowed from a non-bank entity to fill cash shortfalls at the Abraaj Funds in order to give the investors the impression that their monies remained within the Funds.
195. The misuse of investors' monies was systematic at the Abraaj Group with cash needs being met from wherever cash was available at that time, with little or no consideration given to the source of the cash or the duties owed to investors.
196. Mr Naqvi was in a position of trust and influence as the CEO, founder and largest shareholder of the Abraaj Group. Mr Naqvi abused his position and took advantage of his seniority by fostering a culture of obedience and instilling a culture of fear around him to direct other Abraaj employees also to engage in deceptive and misleading conduct.
197. Mr Naqvi was an experienced industry professional with over 20 years in the investment industry. Mr Naqvi himself recognised the critical importance of transparency stating in a newspaper article that: *"It's all about transparency, you've got to be able to shine a light and even if it shows something in a bad light, you've got to repeat it again and again"*. As set out above, Mr Naqvi engaged in a prolonged and widespread pattern of misleading and deceptive conduct that was the antithesis of transparency.

Intentional and deliberate

198. Mr Naqvi's misleading and deceptive conduct, as described above, involved active and deliberate attempts to conceal the misuse of investors' monies for many years.
199. The DFSA also considers Mr Naqvi's behaviour to have been reckless. Mr Naqvi was an Authorised Individual of ACLD and the most senior executive in the Abraaj Group. Therefore, Mr Naqvi could reasonably have foreseen that failing to inform the DFSA that ACLD resources were being used by AIML to conduct unauthorised activity in or from the DIFC and to obtain the relevant Licences, would have resulted in contraventions described in this Notice.
200. Taking the above factors into account, the DFSA considers it reasonable to base the financial penalty on Mr Naqvi's remuneration from the Abraaj Group since that was commensurate with his responsibilities and seniority at the Abraaj Group. Further, the DFSA considers it appropriate to base the financial penalty on his remuneration as this will ensure it is commensurate with the duration in which he was knowingly concerned in AIML's contraventions from 1 April 2007 to 18 June 2018 (i.e. knowingly concerned in AIML's contravention of Article 41 of the Regulatory Law between 1 April 2007 to 31 January 2018 and of Article 41B of the Regulatory Law from 21 August 2014 to 18 June 2018, as set out in paragraphs 173 and 181, respectively).
201. Over the period from 1 April 2007 to 18 June 2018, Mr Naqvi's relevant remuneration was USD 169,457,728. Given the DFSA's finding that Mr Naqvi's contraventions are particularly serious as described above, the DFSA considers that a financial penalty equivalent to 40% of his relevant remuneration appropriately reflects the seriousness of the contraventions. This figure is equivalent to USD 67,783,091.
202. Accordingly, the figure after Step 2 is USD 67,783,091.

Step 3 – Mitigating and aggravating factors

203. In considering the appropriate level of financial penalty, the DFSA had regard to the mitigating and aggravating factors set out in RPP 6-6-8.
204. However, the DFSA does not consider it appropriate to adjust the amount of the fine arrived at after Step 2 for the factors set out in RPP 6-6-8, as it does not consider any of these factors to be relevant for the purposes of this Notice.
205. Accordingly, the figure after Step 3 is USD 67,783,091.

Step 4 – Adjustment for deterrence

206. Pursuant to RPP 6-6-9, if the DFSA considers that the level of the financial penalty which it has arrived at after Step 3 is insufficient to deter the individual who committed the contravention, or others, from committing further or similar contraventions, then the DFSA may increase it. RPP 6-6-9 sets out the circumstances where the DFSA may do this.
207. As the founder and CEO of the Abraaj Group, Mr Naqvi was the ultimate decision maker and the driving force behind the activities of the Abraaj Group, in which AIML and ACLD were key components, and was therefore ultimately responsible for the majority of the events that caused the contraventions committed at the Abraaj Group.
208. Mr Naqvi was a dominant CEO who created a culture of obedience and conformity to his views, thus risking the integrity and regulatory compliance of the entire organisation. Accordingly, Mr Naqvi was able to instruct and influence those working for him to originate and execute acts of misleading investors.
209. Mr Naqvi was in a position to remedy the contraventions committed at the Abraaj Group at an early stage and seek alternative solutions to deal with the issues of AIML's unauthorised activities and the liquidity problems of the Abraaj Group. Had he done so, Mr Naqvi may have avoided the collapse of the largest private equity firm in the region. Instead, Mr Naqvi continued to personally engage in such misconduct over a prolonged period of time, increasing in the extent to which he had to go to cover his previous misleading positions.
210. Further, in the period of Mr Naqvi's contraventions (i.e. 1 April 2007 to 18 June 2018), the Abraaj Group made over USD 2 billion in revenue. The greatest beneficiary in terms of salaries and bonuses was Mr Naqvi, with his remuneration over the same period at approximately 20 times that of the highest paid directors in the Group. This excludes any amounts Mr Naqvi owes to the Abraaj Group (see paragraph 187), in excess of his remuneration.
211. Based on the above, the DFSA considers that a fine of USD 67,783,091 is not sufficient to deter Mr Naqvi or other Founders or CEOs of similar sized businesses, who could remunerate themselves hundreds of millions of dollars, from committing similar contraventions.

212. Accordingly, the DFSA considers it appropriate to adjust the figure arrived at in Step 3 by 100% for the purposes of deterrence.

213. Accordingly, the figure after Step 4 is USD 135,566,183.

Step 5 – Settlement discount

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

215. There has been no agreement with the Mr Naqvi in this matter, therefore the DFSA has not applied any settlement discount at Step 5.

216. Accordingly, the figure after Step 5 is USD 135,566,183.

The level of the Fine

217. Given the factors and considerations set out in paragraphs 186 to 216 and the circumstances of this matter, the DFSA has determined that it is proportionate and appropriate in the circumstances to impose on Mr Naqvi a financial penalty of USD 135,566,183.

The Restriction

218. The DFSA also considers that it is necessary and appropriate in the circumstances to restrict Mr Naqvi from performing any function in connection with the provision of Financial Services in or from the DIFC.

219. The DFSA's policy in relation to its exercise of the restriction power under Article 59(1) of the Regulatory Law is set out in section 4-10 of RPP.

220. In determining whether to exercise its power under Article 59(1) of the Regulatory Law, the DFSA may have regard to all relevant matters including, but not limited to, the criteria for assessing the fitness and propriety of Authorised Individuals as set out in GEN Chapter 7 and section 2-3 of RPP (RPP 4-10-3).

221. In deciding to impose the Restriction on Mr Naqvi, the DFSA has considered:

- a. the nature of the function Mr Naqvi was performing. Mr Naqvi was the CEO of the Abraaj Group and, therefore, held the most senior executive position in the firm.

Mr Naqvi was responsible for managing the affairs of the Abraaj Group, and the investors relied on him to ensure that the Abraaj Group's affairs were managed effectively and responsibly, which he failed to do; and

- b. the level of risk Mr Naqvi's currently poses, and may pose in the future, to regulated entities, customers and the integrity of the DIFC through his profile, his influence, and his connections.

222. The DFSA has also considered the materiality of the issues giving rise to concerns about Mr Naqvi's fitness and propriety and whether those concerns are such as to affect all possible functions in connection with the provision of Financial Services in or from the DIFC.

223. In particular, Mr Naqvi was in a position of trust as the most senior executive at the Abraaj Group. Therefore, by engaging in misleading and deceptive conduct, which involved deliberate attempts to conceal the misuse of investors' monies for many years and ultimately contributed to the collapse of the Abraaj Group, the DFSA considers that Mr Naqvi abused his position of trust and demonstrated a fundamental lack of integrity and honesty. This is further amplified by the fact that Mr Naqvi personally contributed to the liquidity problems at the Abraaj Group by taking interest free personal loans from the Abraaj Group at a time when he knew that the Abraaj Group was incurring significant interest costs on borrowings in order to meet its major liquidity problems, and that his personal loans included monies taken from the Abraaj Funds at a time when the Funds did not have sufficient cash to make critical payments (see paragraphs 65, 72 and 96).

224. Due to his fundamental lack of integrity and honesty, the DFSA considers that Mr Naqvi demonstrated lack of fitness and propriety to perform any function in connection with Financial Services in or from the DIFC. Therefore, the DFSA considers the Restriction necessary and appropriate to protect direct and indirect users and prospective users of the Financial Services industry in the DIFC and uphold the reputation of the DIFC.

The Prohibition

225. The DFSA has also decided to prohibit Mr Naqvi from holding office in or being an employee of any Authorised Person, DNFBP, Reporting Entity or Domestic Fund in the DIFC.

226. Article 90(2)(g) of the Regulatory Law provides that the DFSA may impose such a prohibition when a person has contravened legislation administered by the DFSA.

227. When considering the imposition of the Prohibition, the DFSA has taken into consideration the other powers it has available to penalise Mr Naqvi for his misconduct as well as the other powers to protect direct and indirect users and prospective users of the Financial Services industry in the DIFC. Noting the Restriction on Mr Naqvi and the potential overlap with the Prohibition, the DFSA considers that there is a risk that Mr Naqvi may attempt to circumvent the Restriction so as to continue to be involved in activities in the DIFC. The DFSA considers that further protection is required to address the serious risk Mr Naqvi presents to the Financial Services industry in the DIFC.
228. Accordingly, given the seriousness and scale of Mr Naqvi's misconduct, and his selfish lack of regard for the interests of others including investors in Abraaj Funds, makes it necessary and appropriate in the circumstances to impose the Prohibition on Mr Naqvi to protect users of the DIFC Financial Services industry.

PROCEDURAL MATTERS

Decision Making Committee

229. The decision to which this Decision Notice relates has been made under RPP 7-5 by the Right Honourable Sir Stanley Burnton acting as the Decision Making Committee of the DFSA.
230. This Notice is given to Mr Naqvi (hereafter **you** or **your**) under Paragraph 5 of Schedule 3 to the Regulatory Law.

Evidence and other material considered

231. In accordance with paragraphs 5(2) and 5(3) of Schedule 3 to the Regulatory Law, the DFSA has taken the following into account:
- (1) The Preliminary Notice and the relevant materials provided therewith;
 - (2) Your Response dated 15 March 2021;
 - (3) The Reply of the DFSA's Enforcement Division (Enforcement) dated 8 April 2021;
and
 - (4) The documents referred to in the above documents and submissions.
232. Annex B sets out extracts from some statutory and regulatory provisions and guidance relevant to this Notice.

Manner and time for payment of the Fine

233. You must pay the Fine no later than 40 days from the date of receipt of this Decision Notice.

If the Fine is not paid

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

Effective Date

235. The Prohibition and Restriction take effect from the date of this Decision Notice.

Referral to Financial Markets Tribunal (FMT)

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

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

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

239. The FMT Rules of Procedure, as well as the template of Form FMT 1 which includes the Registrar's contact details can be found on the DFSA's website at <https://www.dfsa.ae/en/About-Us/Our-Structure#Financial-Market-Tribunal>

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

Publicity

241. 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.

242. Under the requirement of Article 29 of the Regulatory Law, the DFSA will publish appropriate information about a decision which has been referred to the FMT unless publication would, in the DFSA's opinion, be prejudicial to the interests of the DIFC or the FMT has made an order that such information should not be published.
243. RPP 5-17-9 to 5-17-11 are relevant to when information about the matters to which this Decision Notice relates will be published, including if the matter is referred to the FMT.
244. As the DFSA has decided to give you a Decision Notice, your representations may ultimately be made public in the event that this Decision Notice is published.

DFSA contacts

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

Signed:

The Right Honourable Sir Stanley Burnton
The Decision Maker

8 August 2021

ANNEX A – DEFINITIONS

Term	Definition
Abraaj Buyout Fund (ABOF I)	First private equity Fund which was set up by the Abraaj Group.
Abraaj Capital Limited (ACLD)	A company established in the DIFC, regulated by the DFSA and part of the Abraaj Group.
Abraaj General Partner VIII Limited	The GP for APEF IV.
Abraaj Group	Large group of related entities consisting of private equity Funds, their GPs, investment advisers and other entities, which includes AH, AIML and ACLD.
Abraaj Group Fund OR Abraaj Fund	One of the private equity or other Funds managed by the Abraaj Group, including: Abraaj BMA Pakistan Buyout Fund Abraaj Buyout Fund Abraaj Buyout Fund II Abraaj Growth Markets Health Fund (AGHF) 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 The Infrastructure and Growth Fund (IGCF) MENASA Opportunity Fund I.
Abraaj Growth Markets Health Fund (AGHF)	USD 1 billion private equity Fund managed by the Abraaj Group.
Abraaj Healthcare Group Limited	A company within the Abraaj Group and an account holder for AGHF bank accounts.
AH (Abraaj Holdings)	A Cayman Islands exempted company and part of the Abraaj Group.
AIML (Abraaj Investment Management Limited) (In Liquidation)	A Cayman Islands exempted company and part of the Abraaj Group.

Term	Definition
Abraaj Private Equity Fund IV (APEF IV)	USD 1.6 billion private equity Fund managed by the Abraaj Group.
Abraaj Private Equity Fund VI (APEF VI)	USD 6 billion private equity Fund managed by the Abraaj Group.
Arranging Deals in Investments	<p>The Financial Service defined in GLO and GEN Rules 2.2.2(f) and section 2.9.</p> <p>(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 2.2.2(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).</p>
Authorised Firm	Has the same meaning provided in GLO, namely, a Person, other than an Authorised Market Institution, who holds a Licence.
Authorised Individual	Has the same meaning provided in GLO, namely, an individual who has been authorised by the DFSA to perform one or more Licensed Functions for an Authorised Firm.
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 (Operating an Exchange) and 2.18.1 (Operating a Clearing House).
Cash Update	Emails sent by the Finance Team to Mr Naqvi and a small number of other members of Abraaj Senior Management, discussing the Abraaj Group liquidity problems, amongst other things.
Chief Financial Officer (CFO)	Officer of a company that has primary responsibility for managing the company's finances.
CIL	<p>Means:</p> <ol style="list-style-type: none"> 1. the Collective Investment Law 2010 (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.

Term	Definition
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.
Collective Investment Fund (CIF)	Has the same meaning provided in GLO, namely, an arrangement which amounts to a Fund under Article 11 of CIL and which is not excluded under the Rules made under Article 12 set out under CIR section 2.1.
Company X	A third party company unrelated to the Abraaj Group, from which AIML decided to obtain short-term funding.
Dealing in Investments as Agent	The Financial Service defined in GLO and GEN Rule 2.2.2(e) and section 2.8.
Dealing in Investments as Principal	The Financial Service defined in GLO and GEN Rule 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.
Delegation Agreements	Agreements which, along with the Services Agreement, were entered into between AIML and ACLD with respect to an Abraaj Fund, setting out the contractual obligations between the two firms, including delegating a Fund's investment management and fund administration functions to ACLD.
DFSA	Dubai Financial Services Authority.
DFSA Interview	Mr Naqvi's interview with the DFSA on 28 and 29 June 2018.
DIFC	Dubai International Financial Centre.
DIFC Court OR Court	Has the same meaning in GLO, namely, the DIFC Court.
DMC	The DFSA's Decision Making Committee in this matter.
Domestic Fund	Has the same meaning in GLO, namely, a Fund established or domiciled in the DIFC.
Drawdown Notice	The notice issued to an Abraaj Fund's investors by the Manager of the Fund and signed by an authorised signatory of the GP for the Fund, providing instructions for capital to be drawn down prior to approved investments being made on behalf of the Fund.

Term	Definition
External Fund Manager	<p>Has the same meaning in GLO and Article 20(5) of the CIL, namely a person that:</p> <p>(a) is a body corporate;</p> <p>(b) manages a Domestic Fund:</p> <p style="padding-left: 40px;">(i) which is not an External Fund; and</p> <p style="padding-left: 40px;">(ii) which is excluded from the Financial Services Prohibition under Article 41(9) of the Regulatory Law 2004; and</p> <p>(c) manages the Fund in (b):</p> <p style="padding-left: 40px;">(i) from a place of business in a Recognised Jurisdiction or a jurisdiction otherwise acceptable to the DFSA; and</p> <p style="padding-left: 40px;">(ii) in accordance with any additional requirements prescribed by the DFSA for the purposes of this Article.</p> <p>(Prior to July 2010 and under the predecessor law, the Collective Investment Law 2006 (DIFC Law No. 1 of 2006) (as amended), and 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).</p>
Finance Team	Abraaj Group finance team.
Financial Markets Tribunal (FMT)	Has the same 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 imposed on Mr Naqvi by the DFSA, as set out in this Notice.
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
Fund Administration Agreements (FAA)	The agreements under which AIML delegated some of its Fund Administrator duties to third party providers.

Term	Definition
Fund Administrator	Has the same meaning provided in GLO, namely, an Authorised Firm which is authorised under its Licence to Provide Fund Administration or a Person who is authorised or licensed by a Financial Service Regulator to provide such administration.
Fund Manager	Has the same meaning provided in GLO, namely, the Person, described under Article 20(4) of the Collective Investment Law 2010, who is responsible for the management of the property held for or within a Fund and who otherwise operates the Fund and, in relation to a Domestic Fund, is authorised under a Licence granted by the DFSA to operate the Fund.
GEN	The General Module of the DFSA Rulebook, versions 13 to 40 inclusive, as in force from time to time during the Relevant Period.
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).
GLO	The Glossary Module of the DFSA Rulebook, versions 13 to 38 inclusive, as in force from time to time during the relevant period.
Global Investment Committee (GIC)	The principal investment decision making body for the Abraaj Group.
GP Reports	Quarterly reports from the GP (generally AIML) to the LPs regarding Abraaj Funds.
Individual D	A member of Abraaj Senior Management who is relevant to this Notice.
Infrastructure and Growth Capital Fund (IGCF)	USD 2 billion private equity Fund managed by the Abraaj Group.
Investment	Has the same meaning provided in GLO and GEN section A2.1, namely, a Security or a Derivative. (Prior to January 2009, the definition of Investment in GEN included each relevant product type (including an Option and a Future) but it did not first divide them into either a Security or a Derivative).
Investment Committee	The committee, staffed by AIML, through which each Abraaj Fund made decisions to invest or make loans.
Investment Management Agreements (IMAs) or Management Deeds	Agreements between GPs and AIML delegating management of Funds to AIML.

Term	Definition
Joint Official Liquidators (JOLs)	The Joint Provisional Liquidators for AIML and ACLD, Mr Stuart Keith Sybersma (Deloitte & Touche, Grand Cayman) and Mr David Soden (Deloitte LLP, UK).
Joint Provisional Liquidators (JPLs)	The Joint Provisional Liquidators for AIML and ACLD, Mr Stuart Keith Sybersma (Deloitte & Touche, Grand Cayman) and Mr David Soden (Deloitte LLP, UK).
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.
Licensed Function	Has the same meaning provided in GLO and GEN section 7.4.
Limited Liability Partnership	Has the meaning provided in GLO, namely, a partnership incorporated under the Limited Liability Partnership Law 2004 or under the law of a country or territory outside the DIFC.
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.
Limited Partners Advisory Committee (LPAC)	The committee which included LPs in Abraaj Funds.
Limited Partnership	A limited partnership that included Abraaj Funds' GP and LPs established outside the DIFC under a Limited Partnership Agreement.
Limited Partnership Agreement (LPA)	The agreement between Abraaj Funds' LPs and GPs setting up the Funds.
Management Executive Committee (MexCom)	Committee responsible for running the business including the operational integrity of the business, policies and procedures, implementation of the business plan, and compliance with Investment Committee approvals.
Manager	The entity responsible for the management and operations of the Abraaj Funds, including making investments and divestments, which the GP usually appointed as AIML.
Managing a Collective Investment Fund	The Financial Service defined in GLO and GEN section 2.12. (Prior to January 2009, the definition of Investment in GEN included each relevant product type (including an Option and a Future) but it did not first divide them into either a Security or a Derivative.)

Term	Definition
Managing Assets	The Financial Service defined in GLO and GEN section 2.10
Menasa Capital Management Holdings (MCMHL)	An entity owned and controlled by members of AIML senior management but which did not form part of the Abraaj Group for accounting consolidation purposes.
Mr Ashish Bhругu Dave (Mr Dave)	Chief Financial Officer at the Abraaj Group.
Mr Mustafa Abdel-Wadood (Mr Abdel-Wadood)	Managing Partner at the Abraaj Group.
Mr Waqar Siddique (Mr Siddique)	A Managing Partner at the Abraaj Group and Head of Finance and Operations and Mr Naqvi's brother-in-law
NI	Network International.
Notice/Decision Notice	This notice.
Partnership	Has the same meaning provided in GLO, namely any partnership, including a partnership constituted under the law of a country or territory outside the DIFC, but not including a Limited Liability Partnership.
Payment Schedule	Schedule proposed by Mr Naqvi on 1 April 2016 for the distribution of NI and Saham sales proceeds to LPs between April and June 2016, which prioritised LPs based on how active they were in following up on their share of the sale proceeds.
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.
Portfolio Companies	Underlying companies in which Abraaj Funds make their investments
Preliminary Notice	Has the same meaning provided in GLO, namely, a written notice given by the DFSA to a Person pursuant to paragraph 4(1) of Schedule 3 to the Regulatory Law 2004.
Private Placement Memoranda (PPM)	The private placement memoranda, regarding Abraaj Funds, made and distributed by AIML.
Prohibition	A prohibition, pursuant to Article 90(2)(g) of the Regulatory Law 2004, from holding office in or being an employee of any Authorised Person, DNFBP, Reporting Entity or Domestic Fund
Providing Custody	The Financial Service defined in GLO and GEN Rule 2.2.2(j) and section 2.13.

Term	Definition
Providing Fund Administration	The Financial Service defined in GLO and GEN Rule 2.2.2(u) and section 2.24.
Regulatory Law	Regulatory Law 2004 (DIFC Law No. 1 of 2004), as amended.
Restriction	A restriction, pursuant to Article 59(1) of the Regulatory Law 2004, from performing any functions in connection with the provision of Financial Services in or from the DIFC.
RPP	The Regulatory Policy and Process module of the DFSA Sourcebook.
Saham	Saham Finances.
Security	<p>Has the same meaning provided in GLO and GEN Rule A2.1.2, namely, a Share, a Debenture, a Warrant, a Certificate, a Unit or a Structured Product, each of which are defined in GEN section A2.2.</p> <p>(Prior to January 2009, GLO did not define a Security as having the meaning given in GEN Rule A2.1.2. Instead, it defined a Security as:</p> <p>“(1) Shares, Debentures, Warrants, Certificates, Units or any right to or interest in any such Investment but not a right to or interest in a Derivative;</p> <p>(2) Designated Investments; and</p> <p>(3) For the purposes of PIB, Security also includes Derivatives and Rights and Interests.”)</p>
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.
Silverline	Silverline Holdings Limited, a company wholly owned by Mr Naqvi.
Special Purpose Vehicle (SPV)	<p>Has the same meaning provided in GLO, namely:</p> <p>(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</p> <p>(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:</p> <p>(a) issuing Investments;</p>

Term	Definition
	<p>(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</p> <p>(c) entering into transactions or terminating transactions involving Investments in connection with the issue, redemption, termination or re-purchase of Investments;</p> <p>and has been explicitly established for the purpose of:</p> <p>(d) securitising assets; or.</p> <p>(e) investing in Real Property</p> <p>and, in the case of (d), has been assessed by a rating agency.</p>
Unauthorised Activity	The unauthorised activity of AIML.
Unit	<p>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.</p> <p>(Prior to January 2009, the definition of a Unit was in GEN Rule A2.1.1(f), in near identical terms.)</p>
Unitholder	<p>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.</p> <p>(Prior to July 2008, the definition of a Unitholder differed slightly, in that it included the words "otherwise known as a 'participant'" to describe the Unitholder.)</p>
Wealthy Individual	A wealthy individual to whom a member of the AIML senior management team turned to in December 2017 to obtain short-term loans to cover cash shortfalls.

ANNEX B – RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT LEGISLATION

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

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.*

41B. General prohibition against misconduct

- (1) *A person must not, in or from the DIFC, engage in conduct in connection with a Financial Product or a Financial Service that is:*
 - (a) *misleading or deceptive or likely to mislead or deceive;*
 - (b) *fraudulent; or*
 - (c) *dishonest.*

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.

59. Restricting persons from performing functions in the DIFC

- (1) If the DFSA believes on reasonable grounds that a person is not a fit and proper person to perform any functions in connection with the provision of Financial Services in or from the DIFC, it may restrict the person from performing all or any such functions.*
- (2) A restriction under this Article may relate to a function whether or not it is a Licensed Function.*
- (3) The DFSA may vary or withdraw a restriction imposed under this Article.*
- (4) A person who performs a function in breach of a restriction under this Article commits a contravention.*
- (5) The procedures in Schedule 3 apply to a decision of the DFSA under Article 59(1).*
- (6) If the DFSA decides to exercise its power under Article 59(1), the person may refer the matter to the FMT for review.*

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 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.*

116. Publication by the DFSA

(...)

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

Collective Investment Law, DIFC Law No. 2 of 2010 (Collective Investment Law 2010)

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

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:*

(...)

(g) Managing Assets;

(...)

(i) Managing a Collective Investment Fund;

(...)

Guidance

Note that the ambit of these activities in Rule 2.2.2 may be restricted under COB, AMI or REP and may be fettered by the continuing operation of the Federal Law.

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.*

Exclusions

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.

Guidance

1. *A Person does not become a Fund Manager of a Fund merely by being appointed by a Fund Manager of a Fund to provide the Financial Service of Managing Assets to the Fund. This is because the Fund Manager remains legally accountable to the Unitholders of the Fund for the proper management of the Fund in accordance with its Constitution and Prospectus.*
2. *If an Authorised Firm has a discretionary portfolio mandate from a Client to manage assets on behalf of the Client, the firm controls those Client Assets as it can execute transactions relating to those assets, within the parameters set in the mandate (see also COB Rule 6.11.4(d)).*

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.

3. OTHER RELEVANT REGULATORY PROVISIONS

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

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