



**ABU DHABI  
GLOBAL MARKET**

# **Decision Procedures, Disqualification and Enforcement Manual**

**Registration Authority**  
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## CHAPTER 1 – INTRODUCTION

### Introduction

- 1.1 This Decision Procedures, Disqualification and Enforcement Manual (the **Manual**) provides information on the policies, processes and procedures of the Abu Dhabi Global Market (**ADGM**) Registration Authority in relation to the exercise of its disqualification and enforcement powers and related decision making.
- 1.2 The Manual contains various policies and procedures and is intended to be both a reference for staff of the Registration Authority as well as to provide guidance to persons operating, or intending to operate, as licensed persons in the ADGM. However, the information in this Manual is general and non-binding. Decisions about particular matters or investigations are made based on the specific facts of the case.
- 1.3 The Manual is not an exhaustive source of the Registration Authority's policy and procedures on the exercise of its disqualification, enforcement and disciplinary powers and related decision making (refer to the 'Application' section below for further detail on the scope of this Manual).
- 1.4 This Manual should be read in conjunction with ADGM's commercial legislation, in particular, the Commercial Licensing Regulations 2015 (**CLR 2015**) and Companies Regulations 2020 (**CR 2020**). A link to ADGM's commercial legislation is available [here](#).
- 1.5 The disqualification powers of the Registrar are set out in Chapters 9 and 10 of Part 10 of CR 2020.

### Legal Basis

- 1.6 This Manual is published in accordance with:
  - a. section 45 and subsection 54(5) of CLR 2015; and
  - b. sections 249 and 258 of CR 2020.

### Application

- 1.7 This Manual is relevant to licensed persons in ADGM and other persons including potential applicants, advisors, directors, receivers and promoters of companies, insolvency practitioners and interested parties. The Manual sets out:
  - a. the Registration Authority's decision making procedure for giving warning notices, decision notices and supervisory notices pursuant to CR 2020 and CLR 2015 (collectively referred to as "statutory notices");
  - b. the Registration Authority's policy with respect to exercising own initiative action to vary (narrow) the scope of a commercial licence;
  - c. the Registration Authority's policy with respect to the imposition of financial penalties under CLR 2015;
  - d. the Registration Authority's policy with respect to suspending, limiting or restricting a commercial licence; and
  - e. the Registration Authority's policy with respect to cancellation of a commercial licence.

## Purpose

- 1.8 The purpose of this Manual is to provide readers an understanding of how the Registration Authority operates in relation to the exercise of its disqualification and enforcement powers and related decision making, as well as its expectations of licensed persons and directors.
- 1.9 Additionally, this Manual is intended to satisfy the requirements of section 45 and subsection 54(5) of CLR 2015, as well as sections 249 and 258 of CR 2020, where the Registration Authority must publish statements of policy and procedure regarding the matters set out in the 'Application' section, above.
- 1.10 The Manual is publically available at [www.adgm.com](http://www.adgm.com)

## Updating the Manual

- 1.11 This Manual will be subject to periodic review and updated as appropriate in the light of any amendments to relevant regulations and changes in policy.
- 1.12 In accordance with the relevant provisions of CR 2020 and CLR 2015, the Registration Authority will publish a draft of any proposed alterations or revisions for public consultation, prior to issuing updates to the Manual.

## Defined Terms

- 1.13 The terms used in this Manual, have the same meaning in CLR 2015 and CR 2020 (as applicable), unless stated otherwise.

## Statutory Notices

- 1.14 The types of statutory notices and related notices, and the principal references to them in CLR 2015 and CR 2020 are set out in Table 1, below.

*Table 1: Summary of statutory and related notices*

Notice	Description	Regulation reference
Warning Notice	Gives the recipient details about action that the RA proposes to take and about the right to make representations.	Section 47, CLR 2015 Section 251, CR 2020
Decision Notice	Gives the recipient details about action that the RA has decided to take. The RA may also give a further decision notice if the recipient of the original decision notice consents.	Section 48, CLR 2015 Section 252, CR 2020
Notice of Discontinuance	Identifies proceedings set out in a warning notice or decision notice and which are not being taken or are being discontinued.	Section 49, CLR 2015 Section 253, CR 2020

Final Notice	Sets out the terms of the action that the RA is taking.	Section 50, CLR 2015 Section 255, CR 2020
Supervisory Notice	Gives the recipient details about action that the RA has taken or proposes to take, for example, to vary a condition.	Sections 19(4), 19(7), 19(8)(b) and 54(13), CLR 2015

- 1.15 In the Manual the supervisory notice about a matter first given to the recipient is referred to as the “first supervisory notice” and the supervisory notice given after consideration of any representations is referred to as the “second supervisory notice”.
- 1.16 The requirement in subsection 54(5) of CLR 2015 and in section 258 of CR 2020 to publish a statement of procedure for the giving of notices does not extend to the giving of a notice of discontinuance or a final notice. Neither of these notices is a statutory notice for the purposes of the Manual; nor is the decision to give such a notice a statutory notice associated decision.
- 1.17 For a list of actions that require the issuance of a warning or decision notice, please refer to **Annex 1**.
- 1.18 For a list of actions that require the issuance of a supervisory notice, please refer to **Annex 2**.

## CHAPTER 2 – APPROACH TO ENFORCEMENT

### Introduction

- 2.1 The purpose of this Chapter is to set out how the Registration Authority commences and conducts investigations as well as its approach to the exercise of its enforcement powers and the considerations that apply to the exercise of those powers.

### Enforcement Principles

- 2.2 The Registration Authority's approach to enforcement is based on the following principles:
- a. *Risk Based Approach*: the Registration Authority follows a risk-based approach to the monitoring and enforcement of ADGM's commercial legislation. The risk based approach ensures that the Registration Authority's resources are focused on those areas that it perceives as posing the greatest risk to the achievement of its objectives.
  - b. *Acting Decisively*: the Registration Authority acts decisively and swiftly to stop conduct which may cause reputational damage to, or threatens the integrity of, the ADGM, to minimise its effects, and prevent such conduct re-occurring.
  - c. *Procedural Fairness and Proportionality*: the Registration Authority takes enforcement action in accordance with its policies and procedures. In the exercise of its enforcement powers the Registration Authority acts fairly, transparently and proportionally.
  - d. *Transparency*: the Registration Authority ordinarily publicises outcomes arising from an enforcement action taken, in order to maintain the integrity of the ADGM and deter contraventions. The commencement and progress on investigations will not generally be publicised.
  - e. *Cooperation*: the Registration Authority works closely with relevant U.A.E. Government Authorities to ensure the comprehensive, effective and efficient oversight of all non-financial business sectors in ADGM.

### Enforcement process

- 2.3 When taking enforcement action, the Registration Authority will generally adopt the enforcement process described in this Manual. The enforcement process consists of the following elements:
- *Receipt of allegation;*
  - *Assessment of allegation;*
  - *Investigation;*
  - *Decision making;*
  - *Warning Notice;*
  - *Representations;*
  - *Decision Notice; and*
  - *Final Notice or ADGM Courts (if appealed).*
- 2.4 A diagram of the Registration Authority's Enforcement Process is set out at **Annex 3**.

## Receipt of allegation

- 2.5 The Registration Authority becomes aware of complaints, allegations of misconduct, suspected contraventions of ADGM's commercial legislation or matters that warrant investigation or enforcement action in a number of ways, including:
- a. reports of misconduct or complaints from members of the public or other ADGM firms;
  - b. the Registration Authority's monitoring operations;
  - c. referrals from the FSRA and other regulatory or law enforcement authorities; and
  - d. reports submitted by licensed persons as required under ADGM's commercial legislation.

## Complaints

- 2.6 The scope of this Manual covers complaints received by the Registration Authority regarding licensed persons, that are made by third parties in relation to ADGM's commercial legislation, as follows:
- a. any conduct by or dissatisfaction with a licensed person<sup>1</sup>;
  - b. any alleged contravention of ADGM's commercial legislation; or
  - c. any conduct that causes, or may cause, damage to the reputation of the ADGM.
- 2.7 A person wishing to lodge a complaint with the Registration Authority should do so in writing. Complaints can be lodged:
- a. By emailing the complaint to: [monitoring@adgm.com](mailto:monitoring@adgm.com);
  - b. By posting the complaint to:  
  
Registration Authority,  
Abu Dhabi Global Market  
PO BOX 111999,  
Abu Dhabi, U.A.E.; or
  - c. By delivering the complaint to: The Registration Authority, Level 3, ADGM Authorities Building, Al Maryah Island, Abu Dhabi.
- 2.8 When a complaint is received, the Registration Authority will send a written acknowledgement to the complainant which will include the contact details of the relevant team responsible for managing the complaint.
- 2.9 All complaints lodged with the Registration Authority are held in confidence and in accordance with ADGM's commercial legislation, including the Data Protection Regulations 2015.
- 2.10 However, to assess a complaint properly, the Registration Authority may need to contact third parties including the person who is the subject of the complaint. Where the

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<sup>1</sup> Except in relation to obligations pursuant to the ADGM Employment Regulations 2019, which are not within the scope of this Decision Procedures, Disqualification & Enforcement Manual.



Registration Authority contacts third persons it will not disclose the identity of the complainant without the prior written consent of the complainant.

## Referrals

2.11 Referrals or allegations of misconduct arise both from other divisions within the Registration Authority, or from the FSRA and other government or regulatory authorities.

## Assessment of allegation

2.12 The assessment of allegations of suspected misconduct or contraventions of the ADGM's commercial legislation is a core aspect of the Registration Authority's monitoring and control function. Every allegation, regardless of the source, is assessed to determine whether an investigation should take place.

2.13 The Registration Authority's Monitoring & Enforcement Division is responsible for assessing complaints and allegations of misconduct, and the Division Head decides whether a matter should be investigated.

2.14 The Registration Authority may request further information from the complainant or source of an allegation to help it assess the allegation. The licensed person that is the subject of an allegation may also be contacted to obtain further information.

2.15 At the assessment stage the Registration Authority generally obtains information voluntarily. However, as per section 29 of CLR 2015, the Registration Authority does have non-investigative information gathering powers, which may be used at the allegation assessment phase if necessary.

2.16 To ensure consistency and transparency in determining whether to commence an investigation, the Registration Authority considers allegations against certain criteria. The application of the criteria depends on the particular circumstances of a matter and include:

- a. whether the Registration Authority has jurisdiction in relation to the alleged misconduct;
- b. the seriousness of the alleged misconduct, its duration and whether it is ongoing;
- c. the nature of the alleged misconduct including whether it was deliberate, reckless, routine or minor;
- d. the effect of the misconduct, including whether it resulted in a benefit to a person, or detriment or loss to others;
- e. the compliance history of the licensed person, and likelihood of cooperation;
- f. the likelihood of the alleged misconduct being proven, and if so, the remedies available;
- g. the person's conduct after the alleged misconduct, including whether they brought it to the Registration Authority's attention;
- h. whether another authority has sought the Registration Authority's cooperation, or is able to take its own action against the alleged misconduct;

- i. whether the alleged misconduct is by nature a commercial dispute and if so, whether the complainant is able to take their own action (and has the resources) to seek relief; and
  - j. whether the alleged misconduct undermines or damages the integrity, transparency, confidence in, or reputation of, the ADGM.
- 2.17 Not every allegation of misconduct received by the Registration Authority will result in an investigation. This may occur where, for example, the facts and contraventions are not in dispute and the licensed person has confirmed at an early stage that it is willing to resolve an issue by way of settlement; or where the matter can be investigated sufficiently without the need to exercise formal powers beyond the Registration Authority's information gathering powers.
- 2.18 Based on the assessment of the alleged misconduct against the criteria set out at paragraph 2.16 (above), the Head of the Registration Authority's Monitoring & Enforcement Division will determine what action will be taken or recommended to the relevant decision maker.
- 2.19 The range of actions that may follow the assessment of an allegation of misconduct vary depending on the facts and circumstances and may include:
- a. taking no further action;
  - b. referring the alleged misconduct to another authority;
  - c. commencing an investigation;
  - d. taking immediate enforcement action; or
  - e. taking other action such as a private warning.

### Investigation

- 2.20 Following the assessment of an allegation, the Registration Authority may decide to commence an investigation.
- 2.21 Where the Registration Authority decides to commence an investigation it will not generally disclose to any party that an investigation has commenced or is ongoing, except for the Person who is the subject of an investigation, unless the disclosure is likely to prejudice or frustrate the investigation.
- 2.22 Following a decision to commence an investigation, the Registration Authority will decide whether it is appropriate to appoint investigators under sections 30 and 31 of CLR 2015.
- 2.23 Where the Registration Authority's Monitoring & Enforcement Division decides to investigate a matter it may exercise the Registration Authority's power to require information.

### Information Gathering Powers

- 2.24 Under section 29 of CLR 2015, the Registrar may, by written notice given to a licensed person, require him to:
- a. provide specified information or information of a specified description; or

- b. produce specified documents or documents of a specified description.
- 2.25 The Registration Authority will provide a reasonable period for compliance with the requirement to give information. The period of time will depend on the circumstances of a particular case. Where the giving of prior notice may prejudice a case, the Registration Authority may require the giving of information immediately.
- 2.26 Section 29 also provides the Registrar with powers to require any information provided to be verified and any document to be authenticated in such manner as it requires.
- 2.27 This information gathering power applies to licensed persons (including a person who was at any time a licensed person but who has ceased to be a licensed person). However, the Registration Authority may also impose requirements on a person who is connected with a licensed person.
- 2.28 A connected person is connected to a licensed person if he is or has at any relevant time been a member of the licensed person's group, or is a controller of the licensed person, or is a member of a partnership of which the licensed person is a member.

### **Appointment of Investigators - general**

- 2.29 The Registrar may decide to appoint investigators if it appears that there is good reason for doing so. In determining whether there is "good reason" in a particular case, the Registration Authority takes into consideration the same assessment criteria that it applies when considering allegations of misconduct (see '*Assessment of allegations*' section, above).
- 2.30 Section 30 of CLR 2015 specifies that an investigator may conduct an investigation into the following:
- a. the nature, conduct or state of the business of the licensed person;
  - b. a particular aspect of that business; or
  - c. the ownership or control of a licensed person.
- 2.31 In addition, the investigator appointed may, by written notice given to a person, extend the scope of the investigation to include the affairs of related businesses of the person.
- 2.32 Furthermore, the power conferred under section 30 of CLR 2015 also includes that an investigation may look into the business carried on by a former licensed person or the ownership or control of a former licensed person.
- 2.33 Following the appointment of an investigator, the Registrar may by direction given to the investigator, extend the investigation to additional matters.

### **Appointment of investigators – particular cases**

- 2.34 Section 31 of CLR 2015 allows the Registration Authority to appoint investigators where it appears to it that there are circumstances suggesting that a person may have committed a contravention of any enactment or subordinate legislation where such contravention is punishable by a fine.

## Notice of appointment of investigators

- 2.35 Section 32(2) of CLR 2015 requires the Registration Authority to give written notice of the appointment of an investigator (under section 30 or 31) to the person who is the subject of an investigation. This written notice must specify the provisions under which the investigator is appointed and the reason for his appointment.
- 2.36 However, where the Registration Authority believes that the notification of an investigation would be likely to result in the investigation being frustrated, the Registration Authority may decide not to give it.
- 2.37 Section 32(7) of CLR 2015 enables the Registrar to control the scope and conduct of the investigation by issuing directions to the investigator.
- 2.38 Where there is a subsequent material change in the scope or conduct of an investigation and it is likely to significantly prejudice the person(s) subject to the investigation if not made aware of the change, the Registration Authority must give the person(s) written notice of the change.
- 2.39 Where the Registration Authority decides to discontinue an investigation without taking any action, the Registration Authority is not required to notify the person(s) subject to the investigation that it is being discontinued. However, in cases where person(s) have been notified that they are subject to an investigation and the Registration Authority has decided to discontinue the investigation, it generally will confirm this to the person(s) concerned when considered appropriate to do so.

## Investigation powers

- 2.40 An investigator appointed under sections 30 and 31 of CLR 2015 has additional powers over and above the information gathering powers described in paragraphs 2.24 to 2.28 above. Investigators' powers are set out at sections 33 and 34 of CLR 2015.
- 2.41 In support of an investigation, an investigator may require the person who is the subject of an investigation (or any connected person) to:
- a. attend before the investigator at a specified time and place and answer questions; or
  - b. otherwise to provide such information as the investigator may require.
- 2.42 Further, an investigator may also require any person to produce any specified documents or documents of a specified description.

## Enforcement of information gathering and investigative powers

- 2.43 The Registration Authority will enforce compliance with its information gathering and investigative powers where required by seeking orders in the ADGM Courts.
- 2.44 Section 37 of CLR 2015 allows the Registration Authority to apply to the Court for the issuance of a search warrant in order to enforce compliance with information requirements. An application to the Court will be made in circumstances where there are reasonable grounds for believing that either:
- a. a person on whom an information requirement has been imposed has failed to comply with it; and

- b. the required information or documents are located on the premises specified in the warrant;
- or
- c. the premises specified on the warrant is the premises of a licensed person;
- d. the premises contains information or documents on which an information requirement could be imposed; and
- e. if such a requirement were to be imposed it would not be complied with, or the documents or information would be removed, tampered with or destroyed.

2.45 A warrant under section 37 of CLR 2015 authorizes the person executing it to enter the premises specified in the warrant, to search the premises and take possession of any documents or information appearing to be of a kind in respect of which the warrant was issued, to require any person on the premises to provide an explanation of any document or information appearing to be relevant, and to use such force as may reasonably be necessary.

### **Retention and return of documents**

2.46 Any document of which possession is taken under section 37 may be retained so long as it is necessary to retain it.

### **Obstruction of the Registration Authority**

2.47 The Registration Authority expects that licensed persons and individuals that are subject to investigation to cooperate fully with the Registration Authority.

2.48 However, as per section 39 of CLR 2015, if a person fails to comply with a requirement imposed under the Registration Authority's information gathering and investigation powers, the person imposing the requirement may certify that fact in writing to the ADGM Courts. If the Court is satisfied that the person has failed to comply, it may treat the person as if he were in contempt.

2.49 Furthermore, conduct intended to obstruct the Registration Authority in exercising its investigative powers includes:

- a. falsifying, concealing, destroying or otherwise disposing of documents;
- b. causing or permitting the falsification, concealment, destruction or disposal of documents;
- c. providing false or misleading information; or
- d. recklessly providing information which is false or misleading.

2.50 Any person who carries out the conduct set out in paragraph 2.49 commits a contravention under sections 39(3) and 39(4) of CLR 2015 and shall be liable to a fine. Where such contraventions are committed the Registration Authority will, take action accordingly, which may include additional action in respect of licensed persons.

- 2.51 Any person who intentionally obstructs the exercise of any rights conferred by a warrant, commits a contravention under section 39(6) of CLR 2015 and the Registration Authority will, where appropriate, take action accordingly.

### **Conclusion of an investigation**

- 2.52 The Registration Authority will conclude an investigation when it determines to take no further action in response to an allegation or suspected contravention of the commercial legislation subject of the investigation, or all remedies imposed as a result of an investigation are concluded and fulfilled.

## CHAPTER 3 – DECISION MAKING

### Introduction

- 3.1 The purpose of this Chapter is to set out the Registration Authority's approach and procedure for making decisions which give rise to an obligation to give a statutory notice – i.e. a warning notice, decision notice, final notice, supervisory notice or notice of discontinuance.
- 3.2 The types of decisions which give rise to an obligation to issue a warning notice, decision notice and final notice are explained in Chapter 4 (Enforcement) and Chapter 7 (Disqualification) and are listed in Annex 1 to this Manual. They include, for example, decisions made by the Registration Authority to make a disqualification order, impose a fine and to exercise its own-initiative action to cancel or suspend a licence.
- 3.3 The types of decisions which give rise to an obligation to issue a supervisory notice are explained in Chapter 6 (Own-Initiative Action) and are listed in **Annex 2** to this Manual. They include decisions made by the Registration Authority to vary or impose a requirement on a licence.
- 3.4 The Registration Authority's exercise of certain powers may affect the rights, interests and liabilities of a person or persons on whom those powers are being exercised. As a result, decisions made by the Registration Authority to exercise those powers require the Registration Authority to give an affected person notice of the proposed action and offer them the right to make representations before a final decision is made. The procedures for these types of decisions is covered in this Chapter.
- 3.5 The person subject to a decision notice or supervisory notice may have the right to refer the matter to the ADGM Courts.

### The Decision Maker

- 3.6 The principal decision maker at the Registration Authority is the Registrar. The Registrar may delegate his decision-making power to a member of senior management of the Registration Authority. For the purposes of this Chapter, a reference to the Registrar is also a reference to a delegated decision maker, if any.
- 3.7 In accordance with section 54(2) of CLR 2015, the Registrar will ensure that a decision to issue a supervisory notice, warning notice or decision notice will be made by (i) a person who was not directly involved in establishing the evidence on which such decision will be based, or (ii) two or more persons, of which one person was not directly involved in establishing such evidence.
- 3.8 However, the Registrar may permit a person who established evidence to also issue a supervisory notice, if the Registrar deems it necessary in order to advance one or more of the RA's objectives and such person is an Executive Director of the Registration Authority.
- 3.9 The Registrar makes a decision as to whether to give a statutory notice.

### General procedures

- 3.10 The Registrar follows the procedure described in this Chapter to enable him to determine matters under consideration fairly and efficiently.

- 3.11 In each case the Registrar makes decisions based on all relevant information available to him by applying the relevant statutory tests, having regard to the context and nature of the matter, that is, the relevant facts, law and the Registration Authority's priorities and policies.
- 3.12 The Registration Authority will make and retain appropriate records of those decisions, including records of meetings and the representations (if any) and materials considered by the Registrar.

### **Warning notices and first supervisory notices**

- 3.13 A warning notice is issued in relation to proposed disciplinary action such as making a disqualification order, imposing a fine, suspending a licence or imposing a restriction on the carrying on of a controlled activity by a licensed person. Please refer to Annex 1 to this Manual for further information.
- 3.14 Supervisory notices are issued in relation to supervisory actions, namely varying a licence or imposing or varying a requirement. Please refer to Annex 2 to this Manual for further information.
- 3.15 If Registration Authority staff consider that action is appropriate, they will make a recommendation to the Registrar that a warning notice or a supervisory notice should be given.
- 3.16 If the Registrar considers it relevant to his consideration, he may ask Registration Authority staff to explain or provide the following:
- a. additional information about the matter (which Registration Authority staff may seek by further investigation); or
  - b. further explanation of any aspect of the Registration Authority staff recommendation or supporting documents.
- 3.17 The Registrar will consider whether the circumstances warrant a warning notice or supervisory notice being issued, having regard to the following considerations:
- a. whether the material on which the recommendation is based is adequate to support it – the Registrar may seek additional information about or clarification of the recommendation from Registration Authority staff; and
  - b. whether the recommendation is appropriate in the circumstances.
- 3.18 If the Registrar decides that he should give a warning notice setting out details of the action he proposes to take, then he will:
- a. ensure that the notice complies with the relevant provisions of CLR 2015 or CR 2020 (as applicable);
  - b. determine:
    - i. the period for making representations (which may not be less than 14 business days);
    - ii. whether to give a copy of the notice to any third party and, if so, the period for the third party to make representations; and



- iii. whether to refuse access to Registration Authority material, relevant to the notice, under section 53 of CLR 2015 or section 257 of CR 2020.
  - c. ensure that the relevant Registration Authority staff make appropriate arrangements for the notice to be given.
- 3.19 If the Registrar decides that he should give a first supervisory notice, then he will:
- a. ensure that the notice complies with the relevant provisions of CLR 2015;
  - b. determine the period for making any representations; and
  - c. ensure that the relevant Registration Authority staff make appropriate arrangements for the notice to be given.

## Representations

- 3.20 A warning notice or first supervisory notice will specify the time allowed for the recipient to respond in writing to the Registrar.
- 3.21 The recipient of a warning notice or a first supervisory notice may request an extension of the time allowed for making representations. The request should be made within seven business days of the notice being given.
- 3.22 If a request for an extension of time is made, the Registrar will decide whether to allow the extension, and if so, how much additional time is to be allowed for making representations. In reaching his decision the Registrar will take into account all relevant factors including any factors outside the control of the recipient of the notice that would impact on their ability to respond within the period set out in the warning notice or first supervisory notice, as well as any comments from the relevant Registration Authority staff.
- 3.23 If the recipient of a warning notice or a first supervisory notice indicates that he wishes to make oral representations, the Registrar will fix a date or dates for a meeting at which the Registrar will receive those representations. The Registrar will ensure that the meeting is conducted so as to enable:
- a. the recipient of the notice to make representations;
  - b. the relevant Registration Authority staff to respond to those representations;
  - c. the Registrar to raise with those present any points or questions about the matter; and
  - d. the recipient of the notice to respond to any points made by Registration Authority staff or the Registrar.
- 3.24 The Registrar may ask the recipient of the notice or Registration Authority staff to limit their representations or response in length or to particular issues arising from the warning notice or first supervisory notice.
- 3.25 The recipient of the warning notice or supervisory notice may elect to be legally represented at the meeting, but this is not a requirement.
- 3.26 Where the Registrar deems appropriate, he may ask those present at the meeting to provide additional information in writing after the meeting. If the Registrar does so, he will specify the timeframe within which that information is to be provided.

- 3.27 Registration Authority staff responsible for making a recommendation to the Registrar will continue to assess its appropriateness in the light of any new information or representations they receive and any material change in the facts or circumstances relating to a particular matter.

### **Decision notices and second supervisory notices**

- 3.28 If the Registrar receives no response or representations within the period specified in a warning notice, the Registrar may regard as undisputed the matters in the notice and a decision notice will be given accordingly.
- 3.29 If the Registrar receives no response or representations within the period specified in a first supervisory notice, the Registrar will not give a second supervisory notice. If the action under the first supervisory notice:
- a. took effect immediately, or on a specified date which has already passed, it continues to have effect (subject to any proceedings on a referral to the ADGM Courts);
  - b. was to take effect on a specified date which is still in the future, it takes effect on that date (subject to any proceedings on a referral to the ADGM Courts); and
  - c. was to take effect when the matter was no longer open for review, it takes effect when the period to make representations (or for referral to the ADGM Courts, if longer) expires, unless the matter has been referred to the Court.
- 3.30 In any case in which representations are made, the Registrar will consider whether it is right in the circumstances to give the decision notice or a second supervisory notice (as appropriate). In doing so, the Registrar will:
- a. consider all material before him;
  - b. consider all representations made (whether written, oral or both) and any comments by Registration Authority staff or others in respect of those representations; and
  - c. decide whether to give the notice and the terms of any notice given.
- 3.31 If the Registrar decides to give a decision notice or a second supervisory notice, the Registrar will ensure that:
- a. the notice complies with the relevant provisions of CLR 2015 or CR 2020 (as applicable);
  - b. the notice includes a summary of the key representations made and how they have been taken into account; and
  - c. the Registration Authority staff make appropriate arrangements for the notice to be given.
- 3.32 If applicable, the Registrar will determine whether the Registration Authority is required to give a copy of the notice to a third party and, if so, facilitate the giving of the notice.

### **Notice of Discontinuance**

- 3.33 If the Registrar decides not to take the action proposed in a warning notice, or to which a decision notice given by it relates, the Registrar will issue a notice of discontinuance to the person to whom the warning notice or decision notice was given.

### **Final Notices**

- 3.34 If the Registrar has given a person a decision notice and the period for referral to the ADGM Courts lapses, the Registrar will issue a final notice in accordance with the relevant provisions of CLR 2015 or CR 2020 (as applicable).

### **Right to refer matters to the Court**

- 3.35 A decision to give a decision notice or supervisory notice may lead to a referral to the Court under CLR 2015 or CR 2020 (as applicable).

## CHAPTER 4 – ENFORCEMENT

### Introduction

- 4.1 The purpose of this Chapter is to set out the Registration Authority's approach to the exercise of its enforcement powers and the considerations that it applies.
- 4.2 The Registration Authority has several remedies available to it, in order to achieve its objectives. This includes, the imposition of fines, the imposition of limits or restrictions on a licence, and suspending a licence to carry on controlled activities.
- 4.3 The Registration Authority will follow the policy and procedures set out in this Manual in relation to the use of enforcement powers. The Registration Authority does not have criminal jurisdiction, hence, should criminal conduct be identified, it will be referred to the relevant law enforcement agency.

### Fines

- 4.4 This section sets out the Registration Authority's approach in relation to the imposition of fines under section 41 of CLR 2015.
- 4.5 Under section 41(1) of CLR 2015, if the Registration Authority considers that a licensed person has contravened a relevant requirement imposed on the person, it may impose on him a fine in respect of the contravention.
- 4.6 Under section 41(2) of CLR 2015, if the Registration Authority considers that a person has committed a contravention of an enactment or subordinate legislation, it may impose on him a fine of an amount not exceeding the maximum specified for such contravention in the relevant enactment or subordinate legislation.

### Purpose of fines

- 4.7 The purpose of imposing fines on persons is to promote compliance with the Regulations and achieve the Registration Authority's objectives by:
  - a. penalising persons who have committed contraventions;
  - b. deterring persons that have committed or may commit similar contraventions; and
  - c. depriving persons of any benefit they may have gained as a result of their contraventions.

### Determining the appropriate amount of a fine

- 4.8 Under section 45(2) of CLR 2015, to determine the amount of a fine to be imposed under section 41, the Registration Authority must have regard to the following factors:
  - a. the seriousness of the contravention in question in relation to the nature of the relevant requirement or provision of the Regulations contravened;
  - b. the extent to which the contravention was deliberate or reckless; and
  - c. whether the licensed person against whom action is to be taken is an individual.
- 4.9 In addition to having regard to the factors in paragraph 4.8 above, where the Registration Authority decides that a fine is appropriate, further considerations may also be relevant to

determining the amount of that fine. The following paragraphs set out a non-exhaustive list of factors and considerations that the Registration Authority will consider to determine the amount of fines.

### **Seriousness**

4.10 The Registration Authority has regard to the seriousness of the contravention in relation to the nature of the requirement contravened. In considering the seriousness of the contravention, the following list of factors may be relevant:

- a. the duration and frequency of, and the period that has elapsed since, the contravention;
- b. if the person is (or was) a licensed person – whether the contravention happened because:
  - i. of weak corporate governance arrangements;
  - ii. of absent or weak policies and procedures regarding relevant licence conditions and/or requirements; or
  - iii. inadequate resources (including staffing);
- c. if the person is (or was) a licensed person and the firm's shareholders, officers or senior management were aware of the contravention – whether they took any steps to stop or prevent the contravention, the adequacy of any steps and when the steps were taken;
- d. the effect or potential effect of the contravention on the following:
  - i. the integrity, transparency and efficiency of the ADGM;
  - ii. confidence in the ADGM by participants and potential participants of the ADGM; and
  - iii. the reputation of the ADGM;
- e. any loss or risk of loss caused to clients, customers and other affected people;
- f. whether the contravention had an effect on particularly vulnerable people, whether intentionally or otherwise;
- g. the scope for any potential financial crime to be caused or facilitated by the contravention; and
- h. whether publically available guidance or published materials raised concerns about the conduct constituting the contravention.

### **Deliberate or reckless**

4.11 The Registration Authority has regard to the extent to which the contravention was deliberate or reckless. If the contravention was deliberate or reckless, the Registration Authority is likely to impose a larger fine on the person than would otherwise be the case.

4.12 In this regard, the Registration Authority considers the following:

- a. whether the breach was intentional, in that the person concerned intended or foresaw that their actions would or might result in a contravention;
- b. whether the person concerned knew that their actions were not in accordance with internal procedures;
- c. whether any steps were taken in an attempt to conceal the misconduct;
- d. whether the contravention was committed in such a way as to avoid or reduce the risk that the contravention would be discovered;
- e. whether the decision to commit the contravention was influenced by a belief that it would be difficult to detect;
- f. whether the contravention occurred more than once, and if so, how often; and
- g. whether reasonable professional advice was obtained before or during the contravention and was not followed or responded to appropriately. Obtaining professional advice does not remove a person's responsibility for compliance with relevant requirements.

4.13 Factors tending to show that a contravention was reckless include:

- a. the person knowing that there was a risk that their actions or inaction could result in a contravention but failing to mitigate that risk adequately; and
- b. the person knowing that there was a risk that their actions or inaction could result in a contravention but failing to check if they were acting in accordance with relevant internal procedures.

### **Whether the person is an individual**

4.14 The Registration Authority has regard to whether the person on whom the fine is to be imposed is an individual. In determining the amount of a fine to be imposed on an individual, the Registration Authority takes the following into account:

- a. that individuals may not have the resources of a firm;
- b. that enforcement action may have a greater effect on an individual than on a firm; and
- c. that it may be possible to achieve effective deterrence by imposing a smaller penalty on an individual than on a firm.

4.15 The Registration Authority also considers whether the person's position or responsibilities are such as to make a contravention committed by the person more serious and whether a larger fine should therefore be imposed.

### **Effect on third parties**

4.16 The Registration Authority has regard to the effect of the contravention on clients, customers or third parties.

- 4.17 The Registration Authority considers a contravention to be more serious where it results in a loss, or the risk of loss, to clients, customers or third parties or if it had an effect on particularly vulnerable people, whether intentionally or otherwise.

### **Deterrence**

- 4.18 The Registration Authority's policy is that deterrence is one of the main purposes of taking enforcement action. That is, deterring persons who have committed contraventions from committing further contraventions, and deterring others from committing similar contraventions.
- 4.19 The Registration Authority has regard to the need to ensure that any fine imposed has the appropriate deterrent effect. In this regard, the Registration Authority considers the extent to which it is necessary to impose a fine of an appropriate amount in order to ensure that the deterrent effect of the action is not diminished.

### **Financial gain or loss avoided**

- 4.20 To the extent possible, the Registration Authority will seek to deprive a person who commits a contravention of the amount of any benefit gained or loss avoided by that person as a result of their contravention.
- 4.21 Accordingly, if the person has made a profit or avoided a loss, the Registration Authority will impose a fine consistent with the principle that a person who commits a contravention should not benefit from the contravention, subject to the prescribed maximum penalty under CLR 2015.
- 4.22 Further, in taking into consideration the amount of any financial advantage gained by a person who committed a contravention, the Registration Authority has regard to the need to ensure that the amount of the fine acts as a deterrent to the person (and to others).

### **Subsequent conduct**

- 4.23 The Registration Authority takes into consideration the conduct of the person after the contravention in determining the amount of the fine, including, for example, the following:
- a. the conduct of the person in bringing (or failing to bring) the contravention quickly, effectively and completely to the attention of the Registration Authority;
  - b. the degree of cooperation the person showed during the investigation of the contravention;
  - c. any remedial steps the person has taken in relation to the contravention, including whether they were taken on the person's own initiative or that of the Registration Authority. Remedial steps might include, for example:
    - i. correcting any misleading statement or impression;
    - ii. recruiting new staff to enhance or increase resources;
    - iii. ascertaining whether clients or customers suffered loss and compensating them if they have;
    - iv. if appropriate, taking disciplinary action against, or providing additional training for, staff involved in the contravention; and

- v. introducing or improving policies, procedures or systems and controls to reduce the likelihood of the contravention arising in future; and
  - d. whether the person has complied with any requirements or decisions of the Registration Authority in relation to the contravention.
- 4.24 That the person has fully cooperated in the investigation of the contravention by the Registration Authority is a consideration tending to reduce the amount of the fine.
- 4.25 Generally, a licensed person is given recognition for being open and cooperative with the Registration Authority. The assessment of the level of cooperation offered by a person depends on the particular circumstances of the matter. A licensed person can demonstrate cooperation in many ways including, promptly reporting a contravention, taking responsibility for the matter and being open and communicative with the Registration Authority, taking steps to limit damage and being proactive in bringing the matter to an early conclusion.

### **Disciplinary record and compliance history**

- 4.26 The Registration Authority takes into consideration a person's disciplinary record and compliance history in determining the amount of the fine, including, for example:
- a. the person's general compliance history;
  - b. whether the Registration Authority has previously taken any disciplinary action resulting in adverse findings against the person;
  - c. whether the Registration Authority has previously taken action against the person under sections 13 or 14 of CLR 2015 (own initiative action); and
  - d. whether the Registration Authority has previously given the person a notice under section 43 (fines, suspensions and restrictions).
- 4.27 The disciplinary record of a person could lead to the Registration Authority imposing a larger fine than otherwise might be appropriate: for example, the fine might be increased if the person has committed similar contraventions in the past or been warned about similar misconduct. In assessing the relevance of the person's disciplinary record and compliance history, generally the older the contravention is, the less significant it is regarded as being.

### **Maximum penalty**

- 4.28 The CLR 2015 prescribes the maximum level of financial penalty for contraventions of relevant requirements under the Regulations. The prescribed levels refer to the standard fines scale set out in the Commercial Licensing Regulations 2015 (Fines) Rules 2020. In determining the appropriate amount of a fine, notwithstanding all other considerations, the Registration Authority shall not exceed the prescribed maximum penalty per contravention.

### **Settlement discount**

- 4.29 In the event that the Registration Authority and the person concerned agree on the action to be taken in a particular case, it is possible that any fine imposed on the person will be reduced to take account of the settlement that has been reached.



- 4.30 However, any settlement discount applied relates only to the punitive element of the fine and not to an amount included to deprive the person concerned of any profit made, or loss avoided, as a result of their contravention or to any restitution or compensation payable under the terms of the settlement.

### **Serious financial hardship**

- 4.31 Where a person claims that payment of a fine proposed by the Registration Authority will cause them serious financial hardship, the Registration Authority will consider whether to reduce the proposed fine based on the following considerations:
- a. the person provides verifiable evidence that payment of the proposed fine would cause them to suffer serious financial hardship; and
  - b. the person provides full and timely disclosure of the verifiable evidence and cooperates fully with any enquiries the Registration Authority may make about their financial position.
- 4.32 It is the responsibility of the person concerned to satisfy the Registration Authority that payment of the proposed fine would cause them to suffer serious financial hardship. It is not the Registration Authority's responsibility to establish that the person has the means to pay the proposed fine.
- 4.33 However, in some cases, even where a person has demonstrated that a proposed fine would cause serious financial hardship, the Registration Authority may consider the contravention to be so serious that it is not appropriate to reduce the proposed fine.
- 4.34 Such circumstances include, providing false or misleading information to the Registration Authority, deliberate and repeated breaches of licensing requirements or where previous action by the Registration Authority has not been successful in bringing about a change in behavior by the person involved.

### **Suspend, Limit or Restrict Licence**

- 4.35 This section sets out the Registration Authority's policy in relation to it suspending a licence to carry on a controlled activity or imposing limitations or restrictions in relation to the carrying on of a controlled activity by the person, under section 42 of CLR 2015.
- 4.36 Under section 42(1) of CLR 2015, if the Registration Authority considers that a licensed person has contravened a relevant requirement imposed on the person, it may:
- a. suspend, for such period as it considers appropriate, any licence which the person has to carry on a controlled activity; or
  - b. impose, for such period as it considers appropriate, such limitations or other restrictions in relation to the carrying on of a controlled activity by the person as it considers appropriate.
- 4.37 Section 42(2) of CLR 2015 states that the period for which a suspension or restriction is to have effect may not exceed 12 months.

### **Scope of suspension or restriction**

- 4.38 Under section 42(3), a suspension may relate only to the carrying on of an activity in specified circumstances.

- 4.39 Under section 42(4), a restriction may, in particular, be imposed so as to require the person concerned to take or refrain from taking, specified action.
- 4.40 Having regard to the circumstances of the case, the Registration Authority may suspend or restrict a licensed person from carrying on a controlled activity. The Registration Authority considers that suspending a licence to carry on controlled activities is more restrictive and therefore more serious than imposing a restriction or limitation in relation to the carrying on of a controlled activity.
- 4.41 Whether the Registration Authority imposes a suspension or restriction will depend on the facts of the matter, such as risk of harm to clients or customers, the need to protect the integrity of the ADGM and to ensure the confidence of its participants.

### **Determining the period for a suspension or restriction**

- 4.42 Under section 45(2) of CLR 2015, to determine the period for which a suspension or restriction is to have effect, the Registration Authority must have regard to the following factors:
- a. the seriousness of the contravention in question in relation to the nature of the relevant requirement or provision of the Regulations contravened;
  - b. the extent to which the contravention was deliberate or reckless; and
  - c. whether the licensed person against whom action is to be taken is an individual.
- 4.43 In this regard, the considerations that the Registration Authority will consider are set out in paragraphs 4.10 to 4.27 (above).

### **Suspensions, restrictions and other action**

- 4.44 In appropriate cases, the Registration Authority may take other action against a person such as imposing a fine, in addition to imposing a suspension or restriction in relation to the same contravention.

## CHAPTER 5 – SETTLEMENT

### Introduction

- 5.1 This Chapter sets out the Registration Authority's policy regarding settlement of enforcement actions.
- 5.2 Settlement of an enforcement action has many advantages for both the Registration Authority and the person who is the subject of the action. Settlement avoids the need for further disciplinary proceedings and is thus time and resource effective for both the Registration Authority and persons who are the subjects of enforcement actions.
- 5.3 Settlement discussions may be initiated by either the Registration Authority or the person concerned. Generally, the Registration Authority publicises the details of the settlement of an enforcement or disciplinary action.

### Approach to settlement

- 5.4 Under a settlement, a person against whom enforcement action is being or may be taken agrees to the imposition of a financial penalty or other enforcement outcome and to waive any rights to contest the financial penalty or other enforcement outcome. A settlement requires the agreement of both the Registration Authority and the person. A settlement is intended to bring the matters subject to the settlement to conclusion.
- 5.5 Before engaging in settlement discussions, the Registration Authority satisfies itself that taking enforcement action is in the public interest and appropriate in the circumstances of the matter.
- 5.6 The terms of the settlement of an enforcement action vary depending on the circumstances of the matter. The Registration Authority settles only if the agreed terms of the settlement result in an acceptable policy and regulatory outcomes.

### Timing

- 5.7 Settlement discussions can be held at any stage of the enforcement process, including at an early stage, provided the Registration Authority is satisfied that it understands the full nature and extent of the misconduct or issue. Therefore, settlement discussions may be more likely to occur following the issuance of a warning notice. This is to enable the person to understand the Registration Authority's concerns and what it considers to be the appropriate action.
- 5.8 However, the Registration Authority is unlikely to settle a matter through negotiation after a decision notice has been given to the person.
- 5.9 Where the Registration Authority decides to exercise a disciplinary power, it must give the person a decision notice. Accordingly, the Registration Authority must give the person a decision notice where the terms of a settlement include disciplinary action. A person who receives a decision notice has the right to refer the matter to the ADGM Courts. However, if settlement has been reached, the Registration Authority expects the person concerned to waive their referral rights.
- 5.10 Settlement discussions should also take place in a timely and diligent manner. The Registration Authority will set appropriate timetables for settlement discussions to ensure that the discussions do not delay or shift focus away from the formal enforcement process. Settlement discussions are held on a "without prejudice" basis, unless the parties agree otherwise. "Without prejudice" means that a communication between negotiating parties

will not be admissible in the ADGM Courts and cannot be adduced in evidence against the interest of the party that made it, if the without prejudice privilege is attached to such communication.

### **Decisions regarding proposed settlements**

- 5.11 If settlement discussions between Registration Authority staff and the person concerned result in a proposed settlement, the Registration Authority's staff will document the proposed settlement and refer the matter to the Registration Authority decision maker.
- 5.12 Only a formal decision by the Registration Authority decision maker binds the Registration Authority to a settlement.
- 5.13 Once the decision maker receives a recommendation from Registration Authority staff the decision maker decides whether to (a) settle the matter, (b) recommend other terms, or (c) decline to settle the matter.

### **Terms of settlements**

- 5.14 The Registration Authority only accepts settlements where the person subject to the enforcement action accepts that it contravened relevant requirements and admits relevant facts regarding those contraventions in the settlement. When it agrees to the terms of a settlement the Registration Authority ensures that those terms are consistent with the Registration Authority's objectives.

### **Fines and early settlement**

- 5.15 Where the Registration Authority considers that a person has been open and cooperative and has demonstrated a commitment to settling an enforcement matter as early as possible, the person should be given appropriate recognition.
- 5.16 Where a fine is imposed on a person as a result of an early settlement, the amount of the fine payable by the person should generally be less than if the fine had been imposed on the person at a later stage in the enforcement process. Accordingly, the Registration Authority may reduce the fine payable by a person to reflect the stage of the enforcement process at which settlement was reached.
- 5.17 Where a fine includes an element to deprive a person of any profits they made or losses they avoided as a result of their contravention, there is no reduction in respect of that part of the fine. Similarly, no reduction will be applied to any restitution or compensation payable to clients or customers under the settlement agreement.
- 5.18 Where the Registration Authority is prepared to agree to a discounted fine through settlement, the settlement agreement will contain a statement as to the appropriate penalty and any discount agreed. In any public statements regarding the settlement, the Registration Authority will disclose the appropriate fine and the amount that is actually payable as a result of the settlement.

### **Publicity**

- 5.19 The Registration Authority generally publicises the outcome of a settlement, including the names of the persons who were subjects of the enforcement action and the key terms of the settlement. Such a public statement ensures transparency and accountability in the settlement of enforcement actions.

- 5.20 However, the Registration Authority is mindful of the sensitivity of confidential information that may be provided as part of settlement negotiations and takes this into consideration when deciding on the information to be published.

### **Third party rights**

- 5.21 Where a decision notice has been given to a person following the settlement of an enforcement action with that person, the Registration Authority is required under section 52 of CLR 2015 to consider the effect of the decision on third party rights.
- 5.22 Generally, if a decision notice identifies a third party a copy of the notice must be given to the third party unless it is impractical to do so. Third parties have the right to make representations and ultimately can refer the matter to the ADGM Courts.
- 5.23 It is therefore important that any settlement reached with the Registration Authority takes account of the position of any third party.

## CHAPTER 6 – OWN-INITIATIVE ACTION

### Introduction

- 6.1 The purpose of this Chapter is to set out the Registration Authority's policy on the exercise of its powers to take action on its own-initiative.
- 6.2 The CLR 2015 enables the Registration Authority to take the following actions on its own-initiative:
  - a. vary a license to carry on controlled activities;
  - b. cancel a license to carry on controlled activities; or
  - c. impose requirements on a licence to carry on controlled activities.
- 6.3 Circumstances may arise as part of the Registration Authority's supervision of a licensed person, or issues may arise during an enforcement investigation, which prompt the Registration Authority to consider taking own-initiative action.
- 6.4 Additionally, where a licensed person applies for a variation of a licence, the Registrar may impose on that person such requirements, taking effect on the variation of the licence, as the Registration Authority considers appropriate.
- 6.5 The Registration Authority exercises its power to take own-initiative action when it considers it appropriate to do so in pursuit of one or more of its statutory objectives. The decision whether to take own-initiative action is based on the information available to the Registration Authority at the time the decision is made on a case by case basis.

### Variation or cancellation of licence

- 6.6 Section 13 of CLR 2015 details the power of the Registrar to vary or cancel a licence to conduct controlled activities on its own-initiative, which is collectively referred to as own-initiative variation power.
- 6.7 The Registration Authority's power under this section is the power to:
  - a. vary the licence by:
    - i. adding a controlled activity to those to which the licence relates;
    - ii. removing a controlled activity from those to which the licence relates; or
    - iii. varying the description of a controlled activity to which the licence relates; or
  - b. to cancel the licence.

### Grounds for taking own-initiative variation power

- 6.8 Section 13(1) of CLR 2015 sets out the grounds for the Registration Authority to exercise own-initiative variation power. The grounds are as follows:
  - a. the person is failing, or is likely to fail, to satisfy the conditions of licence applicable to him;

- b. that person has failed, during a period of at least 12 months, to carry on a controlled activity to which the licence relates; or
  - c. it is desirable to exercise the power in the interests of the ADGM.
- 6.9 The Registration Authority may exercise own-initiative variation power if it is satisfied that the grounds in section 13(1) apply.
- 6.10 In circumstances where a licensed person has ceased carrying on controlled activities for a significant period of time (at least 12 months) and in particular, where the person is non-responsive, it may be a relatively routine matter for the Registration Authority to cancel that person's licence, along with own-initiative de-registration considerations.
- 6.11 In other cases, where a licensed person is carrying on controlled activities, then to vary, impose restrictions or cancel a licence may have serious consequences for that person. In such cases, the Registration Authority takes own-initiative action, particularly in respect of cancelling a licence, only where it has serious concerns regarding a licensed person.
- 6.12 Having regard to the grounds specified under CLR 2015, examples of circumstances where the Registration Authority might consider it appropriate to cancel a licensed person's licence include:
  - a. if it is found that a licensed person provided false or misleading information to the Registration Authority during the licensing process;
  - b. if a licensed person appears to be failing, or is likely to fail to satisfy, relevant licensing criteria under ADGM's commercial legislation;
  - c. if a licensed person carrying on a controlled activity repeatedly fails to lodge filings with the Registration Authority as and when it is required to do so;
  - d. if a licensed person knowingly provides misleading or false information in any filings lodged with the Registration Authority; or
  - e. if a licensed person fails to pay fees to the Registration Authority as required, or renew its licence on or before its expiry.
- 6.13 Depending on the circumstances, the Registration Authority may initially vary a licensed persons' scope of licence or impose requirements. However, where that action does not resolve the Registration Authority's concerns, the Registration Authority may then decide to cancel the licence.

## Requirements

- 6.14 Section 14 of CLR 2015 details the power of the Registrar to impose requirements on a licensed person on its own-initiative, which is referred to as own-initiative requirement power.
- 6.15 The Registration Authority's power under this section is the power to impose on a licensed person such requirements as the Registration Authority considers appropriate, where a person has applied for a variation of a licence. The own-initiative requirement power is a power to:
  - a. impose a new requirement;
  - b. vary a requirement imposed by the Registration Authority; or

c. cancel a requirement.

6.16 A requirement may be imposed so as to require the person concerned to take specified action or so as to require the person concerned to refrain from taking specified action. A requirement may also extend to activities which are not controlled activities.

6.17 Under section 15(5) of CLR 2015, a requirement may be expressed to expire at the end of such period as the Registration Authority may specify, but the imposition of a requirement that expires at the end of the specified period does not effect the Registration Authority's power to impose a new requirement.

### **Grounds for taking own-initiative requirement power**

6.18 Section 14(2) sets out the grounds for the Registration Authority to exercise own-initiative requirement power. The grounds are as follows:

- a. the person is failing, or is likely to fail, to satisfy the conditions of licence applicable to him;
- b. that person has failed, during a period of at least 12 months, to carry on a controlled activity to which the licence relates; or
- c. it is desirable to exercise the power in the interests of the ADGM.

6.19 The Registration Authority may exercise own-initiative requirement power if it is satisfied that the grounds in section 14(2) apply.

6.20 When deciding whether to take own-initiative requirement power on a licensed person, the Registration Authority takes into account the effect of the powers exercised and seeks to ensure that any requirement imposed is proportionate to the objective the Registration Authority is seeking to achieve by taking action.

6.21 In the course of monitoring of licensed persons or during the enforcement process, the Registration Authority might consider it appropriate to agree formally or informally with a licensed person on certain steps required to resolve the Registration Authority's concerns.

6.22 However, in some cases the Registration Authority forms the view that it is appropriate to take own initiative action to ensure that its concerns are satisfied. Such action is likely to be necessary where the Registration Authority:

- a. has serious concerns about a licensed person or about the way its business is being conducted;
- b. is concerned that there will be serious consequences if the licensed person fails to take the steps required by the Registration Authority; or
- c. considers that the action will demonstrate the importance that the Registration Authority attaches to the need for the firm to satisfy the Registration Authority's concerns.

### **Own-initiative power procedure**

6.23 Where the Registration Authority decides to take own initiative action, it informs the licensed person of that action by written notice. That written notice is called a first supervisory notice.



- 6.24 The Registration Authority will also generally give a licensed person an opportunity to make representations before the action is taken.
- 6.25 The Registration Authority may extend the period allowed under the notice for making representations. After having considered any representations made by a licensed person, regardless of whether the Registration Authority decides to proceed or not proceed with the exercise of own-initiative power, it must give the licensed person a written notice. That written notice is called a second supervisory notice.
- 6.26 Details on the Registration Authority's decision making process is set out in Chapter 3 of this Manual.
- 6.27 In some circumstances, a variation of a licence or the imposition or variation of a requirement, may be expressed to take effect immediately if the Registration Authority reasonably considers that it is necessary to do so. In these circumstances, the licensed person will not have the opportunity to make representations.
- 6.28 A decision to exercise own-initiative action on an immediate basis depends on the circumstances of the matter. However, examples of the circumstances where the Registration Authority may consider such action include:
- a. where there is information to suggest that clients or customers of a licensed person have been harmed or are at significant risk of harm;
  - b. where there are serious problems regarding the licensed person and/or its controllers, which raise concerns about the licensed person's ability to continue its operations or meet its conditions of licence; or
  - c. where a licensed person has provided false or misleading information to the Registration Authority in a material way.
- 6.29 Where the Registration Authority decides to take immediate own-initiative action, it provides an opportunity for the licensed person to make representations promptly after the power has been exercised.

## CHAPTER 7 - DISQUALIFICATION

### Introduction to disqualification orders

- 7.1 A disqualification order is an order made by the Registrar disqualifying a person from:
- a. being a director of a company;
  - b. acting as a receiver of a company;
  - c. taking part in the promotion, formation or management of a company; or
  - d. acting as an insolvency practitioner.
- 7.2 A disqualification order may be issued to:
- a. a person convicted of a criminal offence in the UAE in connection with the promotion, formation, management, liquidation or striking off of a company, with the receivership of a company's property, or with their being an administrative receiver of a company;
  - b. a person who has been persistently in default of any regulation in the ADGM requiring any return, account or other document to be given to the Registrar;
  - c. a person who is guilty of fraudulent trading, or other fraud in relation to the company; or
  - d. a person who is, or has been, a director or shadow director of a company, where the Registrar is satisfied that the person's conduct in relation to the company makes them unfit to be concerned in the management of a company and it is in the public interest to make the order.
- 7.3 Unless the Registrar otherwise orders, the period of disqualification begins 21 days after the order is made.
- 7.4 If a disqualification order is made against a person who is already subject to a disqualification order or a disqualification undertaking, then the periods of disqualification run concurrently.
- 7.5 The minimum period to be specified in a disqualification order is two years, while the maximum period of a disqualification order is 15 years.

### Disqualification orders against directors

- 7.6 Chapter 2 of Part 10 of CR 2020 sets out the general duties of a director of a company. These are:
- a. the duty to act within powers of the company's constitution;
  - b. the duty to promote the success of the company;
  - c. the duty to exercise independent judgement;
  - d. the duty to exercise reasonable care, skill and diligence;
  - e. the duty to avoid conflicts of interest;

- f. the duty not to accept benefits from third parties; and
  - g. the duty to declare an interest in a proposed transaction or arrangement.
- 7.7 A breach of any of these duties may lead to the director receiving a disqualification order and ultimately being disqualified from acting as a director.
- 7.8 A disqualification order must be issued to a person who is or has been a director of a company which has at any time become insolvent (whether while the person was a director or subsequently), and their conduct as a director of that company (and any other company) makes them unfit to be concerned in the management of a company.
- 7.9 A disqualification order may not be made for participation in wrongful trading more than two years after the company of which the person is or has been a director became insolvent.

### Matters for determining unfitness of directors

- 7.10 Where the Registrar determines whether a person's conduct as a director makes them unfit to be concerned in the management of a company, the Registrar must have regard to the matters mentioned in Part I of Schedule 2 of CR 2020. These include:
- a. any misfeasance or breach of any fiduciary or other duty by the director in relation to the company, including any breach of the general duties of directors owed to the company (misfeasance examples are provided in Table 2, below);<sup>2</sup>

*Table 2 – examples of misfeasance*

*By way of example, misfeasance includes, but is not limited to:*

- *the misapplication of funds or company property – such as:*
  - *Preferential payments*
  - *Transactions at an undervalue*
  - *Concealing or removing company assets with a view to putting them out of reach of creditors, so their returns from the liquidation are diminished*
  - *Taking an excessive salary when the company is in difficulty and cannot support it, the improper payment of dividends, or unauthorised loans to directors*
- *continuing to trade to the detriment of creditors when a company is insolvent*
- *fraudulent behavior*
- *the failure to cooperate with an insolvency practitioner*
- *turning a “blind eye” to the misconduct of others under the supervision or control of the director*

<sup>2</sup> Further guidance on directors' duties will be available on the Registration Authority's website from time to time ([www.adgm.com](http://www.adgm.com))

- b. any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company;
- c. the extent of the director's responsibility for any failure by the company to comply with any of the following sections of CR 2020:
  - i. 118 (register of members);
  - ii. 119 (register to be kept available for inspection);
  - iii. 153 (register of directors);
  - iv. 156 (register of directors' residential addresses);
  - v. 157 (duty to notify Registrar of changes: directors);
  - vi. 292 (duty to keep register of secretaries);
  - vii. 293 (duty to notify Registrar of changes: secretaries);
  - viii. 375 (duty to keep accounting records);
  - ix. 377 (where and for how long accounting records to be kept);
  - x. 770 (treatment of development costs);
  - xi. 798 (instruments creating charges to be available for inspection); and
- d. the extent of the director's responsibility for any failure by the directors of the company to comply with sections 383 or 389 (duty to prepare annual accounts), 399 or 404 (approval and signature of accounts) and 409 (name of signatory to be stated in published copy of accounts).

7.11 Where the company has become insolvent, the Registrar must have regard to the matters mentioned in Part II of Schedule 2 of CR 2020. These include:

- a. the extent of the director's responsibility for the causes of the company becoming insolvent;
- b. the extent of the director's responsibility for any failure by the company to supply any goods or services;
- c. the extent of the director's responsibility for the company entering into any transaction or giving any preference falling within under Part 4 (protection of assets in liquidation and administration) of the Insolvency Regulations 2015;
- d. the extent of the director's responsibility for any failure by the directors of the company to comply with section 186(1)(a) (meetings of members and creditors) of the Insolvency Regulations 2015; and
- e. any failure by the director to comply with any obligation imposed under any of those sections of the Insolvency Regulations 2015 that relate to:
  - i. the statement of company's affairs (sections 51, 165 and 231);

- ii. meetings of members and creditors (section 186(2));
- iii. getting in of the company's property (section 254); or
- iv. the duty to co-operate with an office-holder (section 255).

### **Disqualification undertakings**

7.12 A disqualification undertaking is an undertaking given by a person to the Registrar in which the person undertakes that they will not:

- a. be a director;
- b. act as receiver of a company's property;
- c. take part in the promotion, formation or management of a company; or
- d. act as an insolvency practitioner.

7.13 The minimum period of a disqualification undertaking is two years. The maximum period is 15 years.

7.14 If a disqualification undertaking is made by a person who is already subject to a disqualification order or undertaking, then the periods specified in those orders and undertakings run concurrently.

7.15 The Registrar may accept a disqualification undertaking if it appears to the Registrar that it is expedient in the public interest that the Registrar should do so.

### **Process of making a disqualification order**

7.16 The Registration Authority's Monitoring and Enforcement Division may become aware of actual or suspected contraventions while conducting supervisory activities such as investigations, on-site assessments, ad-hoc inspections and management meetings with ADGM registered entities, as well as through referrals and complaints from third parties.

7.17 M&E conducts an assessment of the facts of the matter and provides a recommendation to the Registrar (or delegate). The Registrar will decide whether to make a disqualification order preventing the person from acting as a director, receiver or promoter of a company or insolvency practitioner as the case may be.

### **In what circumstances might the Registrar disqualify a person?**

7.18 The administrative action of disqualifying a person from acting as a director, receiver or promoter of a company, or acting as an insolvency practitioner, indicates to ADGM registered entities and their stakeholders that the particular conduct is unacceptable. This in turn promotes the objects of ADGM's regulatory regime and may deter industry participants from engaging in misconduct.

7.19 Whether the Registrar will make a disqualification order will depend on the facts of each matter. Factors underlying the decision about whether to take this type of administrative action may include:

- a. whether taking the action will promote the objects of ADGM's regulatory regime;
- b. whether taking the action will deter misconduct;

- c. the strategic significance of taking action;
- d. the need to protect investors and consumers;
- e. other benefits of pursuing misconduct;
- f. whether taking the proposed action is preferable to taking another type of administrative action, in terms of cost and timeliness;
- g. in the case of directors, whether there has been a breach of the director's duties to the company; or
- h. any other issues specific to the case.

7.20 If there are aggravating factors, the Registrar may be more likely to impose a disqualification order. Aggravating factors include, but are not limited to:

- a. the seriousness of the conduct;
- b. whether the conduct involved dishonesty ;
- c. whether the conduct was intentional, reckless or negligent;
- d. the amount of any financial losses to investors and consumers;
- e. whether the conduct is continuing, or likely to recur; or
- f. whether there has been previous misconduct.

7.21 However, the Registrar will also take into account mitigating factors. These include, but are not limited to:

- a. the extent to which there may be personal hardship if a disqualification order is made;
- b. the level of co-operation with the investigation;
- c. whether the misconduct is an isolated case;
- d. whether there has been attempts at remedial steps;
- e. whether the person has been co-operative in compensating any losses;
- f. whether the misconduct was inadvertent; or
- g. whether the misconduct was self-reported.

7.22 The key factors the Registrar considers in deciding whether to make a disqualification order are set out in Table 3, below.

Table 3: Key factors

Key Factors	Relevant Considerations
<b>Nature and seriousness of the person's conduct</b>	<ul style="list-style-type: none"> <li>whether the conduct involved dishonesty, or was intentional, reckless or negligent</li> <li>the amount of any benefit gained or detriment suffered as a result of the misconduct</li> <li>the amount of any financial losses to investors and consumers</li> <li>the impact of the misconduct on ADGM</li> <li>whether the conduct is continuing, or likely to recur</li> <li>whether there has been previous misconduct</li> <li>whether there has been a failure to manage a material conflict of interest</li> </ul>
<b>Conduct after the alleged misconduct occurs</b>	<ul style="list-style-type: none"> <li>the level of co-operation with the Registrar's investigation</li> </ul>
<b>The expected level of public benefit</b>	<ul style="list-style-type: none"> <li>the protective effect for investors and consumers</li> <li>the reinforcement of the integrity of the ADGM's regulatory regime</li> <li>whether a disqualification order is likely to help directors, receivers, administrators and insolvency practitioners in understanding their obligations and thereby promote compliance.</li> </ul>
<b>Whether the person's behavior will change in response to the particular action</b>	<ul style="list-style-type: none"> <li>assessment of submissions or representations made by the person about their future compliance</li> </ul>
<b>The deterrence effect on others</b>	<ul style="list-style-type: none"> <li>whether the behavior of other directors, receivers, administrators and insolvency practitioners is likely to change if a disqualification order is made</li> </ul>

**Warning notice**

7.23 If the Registrar proposes to make a disqualification order, the Registrar will first issue a warning notice.

7.24 The warning notice must:

- a. state the action which the Registrar proposes to take;

- b. be in writing;
- c. give reasons for the proposed action; and
- d. state whether section 257 (access to material) applies and, if it does, describe its effect and state whether any secondary material exists to which the person receiving the notice must be allowed access under it.

7.25 The warning notice must specify a reasonable time (which may not be less than 14 days) within which the person concerned may make representations to the Registrar.

7.26 The recipient of a warning notice may request an extension of the time allowed for making representations. The request should be made within seven business days of the notice being given.

7.27 If the person concerned provides representations to the Registrar and the Registrar is decides not to take the action proposed in the warning notice, the Registrar must issue a notice of discontinuance to the person concerned.

7.28 If no representations are made in response to the warning notice within 14 days, the Registrar will regard the allegations or matters set out in the notice as undisputed and proceed accordingly.

7.29 Note: refer to Chapter 3 (Decision Making) for further detail on the processes and procedures regarding decision making on and issuing warning notices.

### **Decision notice**

7.30 If the Registrar decides to issue a decision notice, the decision notice must:

- a. be in writing;
- b. give the reasons of the Registrar for the decision to take the action to which the notice relates;
- c. state whether section 257 (access to material) applies and, if it does, describe its effect and state whether any secondary material exists to which the person receiving the notice must be allowed access under it; and
- d. give an indication of any right to have the matter referred to the ADGM Courts the procedure on such a reference.

7.31 A person may appeal to the ADGM Courts from a decision of the Registrar to issue a decision notice.

### **Final notice**

7.32 If the appeal is dismissed by the ADGM Courts, the Registrar will issue a final notice. If the appeal is upheld, the Registrar must issue a discontinuation notice.

7.33 If the decision notice is not referred to ADGM Courts within 28 days, the Registrar will issue a final notice.

### **Register of disqualification orders**

7.34 The Registrar maintains a register of:



- a. disqualification orders;
- b. disqualification undertakings; and
- c. cases in which permission is granted by the Registrar for a person subject to a disqualification order or undertaking to do anything which otherwise the order or undertaking prohibits them from doing.

7.35 The register is open for inspection, upon payment of a fee.

### **Penalties for breaching disqualification orders and undertakings**

#### **Breach by an individual**

7.36 If a person acts in contravention of a disqualification order or disqualification undertaking, that person is liable to a fine of up to level 5 on the ADGM standard fines scale.

#### **Breach by a body corporate**

7.37 Where a body corporate acts in contravention of a disqualification order or disqualification undertaking, officers of the body corporate including any director, manager, secretary or other similar officers also commit a contravention.

### **Personal liability for company's debts**

7.38 A person is personally responsible for all the relevant debts of a company if:

- a. at any time they are involved in the management of the company in contravention of a disqualification order or undertaking; or
- b. they are involved in the management of a company and act on instructions given (without the permission of the Registrar) by a person they know to be the subject of a disqualification order or undertaking accepted under the CR 2020 or is an undischarged bankrupt.

7.39 A person is involved in the management of a company if he is a director of the company or if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

## CHAPTER 8 – PUBLICITY

### Introduction

- 8.1 This Chapter sets out the Registration Authority's policy on publicity in relation to statutory decision making and the exercise of its investigation and enforcement powers. Specifically, the policy covers the following:
- a. general policy on publicity of enforcement actions;
  - b. ongoing investigations or enforcement matters;
  - c. publication of warning notices;
  - d. publication of decision notices and supervisory notices;
  - e. proceedings in the ADGM Courts;
  - f. publication of settlements; and
  - g. actions taken by the Registration Authority on its own-initiative.

### General policy on publicity of enforcement and disciplinary actions

- 8.2 Publicity about enforcement action improves the understanding of registration and licensing standards among licensed persons and potential users of the ADGM, it deters other persons from engaging in similar misconduct, and demonstrates how the Registration Authority uses its disciplinary and enforcement powers to meet its statutory objectives.
- 8.3 The Registration Authority's general policy is to publicise enforcement and disciplinary actions, providing information, statements and/or notices in the form and manner it regards as appropriate and most effective.
- 8.4 However, the Registration Authority retains discretion regarding the approach to publication and in particular, the timing of publications of enforcement or disciplinary action, depending on the circumstances of a particular matter and in order to best advance ADGM's interests.

### Publicity about ongoing matters

- 8.5 The Registration Authority's general policy is not to publicise the fact that it is or is not investigating, or considering enforcement action about a matter.
- 8.6 However, in certain circumstances the Registration Authority will make exceptions to this policy and make a public announcement about an ongoing investigation or enforcement action. For example, the Registrar may make a public announcement about an ongoing investigation which he believes may lead to a party providing a disqualification undertaking. The Registration Authority will consider a public announcement if it will:
- a. assist in maintaining the integrity of and confidence in ADGM or the Registration Authority;
  - b. protect the public, for example by announcing unlicensed conduct by a person who is under investigation by the Registration Authority;

- c. prevent and restrain conduct which may cause damage to the reputation of the ADGM, for example to alert licensed persons that certain conduct is under investigation to stop and deter others from engaging in similar conduct; or
- d. assist the investigation itself, for example by encouraging witnesses to come forward.

8.7 The Registration Authority may also make a public announcement about a matter under investigation if it has become the subject of public speculation or rumour, if it is considered that doing so will contain or prevent further speculation.

### **Publication of warning notices**

8.8 Under section 51(1) of CLR, neither the Registration Authority nor a person to whom a warning notice.

### **Publication of decision notices, final notices and supervisory notices**

8.9 Generally, the Registrar's policy is:

- a. not to publish decision notices;
- b. publish final notices if the matter has not been referred to the ADGM Courts within one month; and
- c. publish such information about a supervisory notice as the Registrar considers appropriate.

8.10 The Registrar may publish a decision notice if doing so will protect the public. If the Registrar publishes a decision notice, the Registrar will indicate that the person who is the subject of the decision notice has a right to appeal to the ADGM Courts.

8.11 Under section 51(2) of CLR 2015, a person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the Registrar has published the notice or those details.

8.12 Such a disclosure is a contravention under section 51(12) of CLR 2015 and the Registration Authority will, where appropriate, take action accordingly.

8.13 The Registrar may not publish a decision notice, final notice or supervisory notice if publication would be:

- a. unfair to the person subject to the decision notice;
- b. detrimental to the interests of participants of the ADGM registered entities and their stakeholders; or
- c. detrimental to the interests of the ADGM.

8.14 Under section 51(2) of CLR 2015, a person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the Registrar has published the notice or those details.

8.15 Such a disclosure is a contravention under section 51(12) of CLR 2015 and the Registration Authority will, where appropriate, take action accordingly.

## Publication of Discontinuation Notices

- 8.16 Pursuant to section 51(3) of CLR 2015, if the person to whom a discontinuation notice is given consents, the Registration Authority may publish such information as it considers appropriate about the matter to which the discontinued proceedings related.

## Publication about proceedings

- 8.17 Section 98 of the ADGM Courts, Civil Evidence, Judgements, Enforcement and Judicial Appointments Regulations 2015, provide that matters will be heard in public unless otherwise directed by the ADGM Courts. As publicity about proceedings is subject to such directions, the Registration Authority generally does not make any public statement about the commencement of proceedings until the ADGM Courts has given directions about publicity.
- 8.18 The Registration Authority's general policy is to make public statements about the outcome of enforcement proceedings in the ADGM Courts, unless the ADGM Courts directs otherwise. However, the Registration Authority retains discretion to not publicise the outcome of proceedings, or to not do so immediately, where it considers appropriate, such as where publication would not be in the public interest or be prejudicial to the interests of clients and customers.

## Publication of settlements

- 8.19 The Registration Authority's approach to publicity in respect of settlements is set out in Chapter 5 of this Manual.

## Publication of own-initiative action

- 8.20 The Registration Authority may take action on its own-initiative against licensed persons under sections 13 and 14 of CLR 2015. Further details about the Registration Authority's policy and procedure on own-initiative action is set out in Chapter 6 of this Manual.
- 8.21 Where the Registration Authority exercises its power to take action on its own-initiative it must give a statutory notice under sections 19 and 20. Therefore the Registration Authority's approach to publicising own-initiative action follows the policy set out in paragraphs 8.9 to 8.15 (see '*Publication of decision notices, final notices and supervisory notices*' section, above).
- 8.22 Where the Registration Authority exercises its power to take action on its own-initiative, the licensed person to which that action relates has the right to refer the matter to the ADGM Courts. Where a referral is made to the Court, the Registration Authority follows its policy in relation to publication of matters subject to proceedings, as set out in paragraphs 8.17 and 8.18 (see '*Publication about proceedings*' section, above).

## Disclaimer

This Manual provides information on the Registration Authority's policy and processes on decision making and enforcement in relation to the requirements of ADGM's commercial legislation. The Manual also provides information on the disqualification of directors, receivers and promoters of companies, and insolvency practitioners.

This is only a guide and should be read together with the relevant legislation, in particular, ADGM Commercial Licensing Regulations 2015, ADGM Companies Regulations 2020 and any other relevant regulations and enabling rules (which may change over time without notification). Further advice from a specialist professional may be required.

The Registration Authority makes no representations as to the accuracy, completeness, correctness or suitability of any information and will not be liable for any error or omission.

Information in this statement of policy and procedure is not to be deemed, considered or relied upon as legal advice and should not be treated as a substitute for specific advice concerning any individual situation. Any action taken based on the information provided in this statement is strictly at your own risk and the Registration Authority will not be liable for any loss and damages in connection with the use of or reliance on information provided in this statement of policy and procedure.

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## Annex 1 – Warning Notices and Decision Notices

CLR 2015	Description
18(1)(a)	When the Registrar is proposing to grant a licence but to exercise its power under section 10(5)(a) or (b)
18(1)(b)	When the Registrar is proposing to grant a licence but to exercise its power under section 14(1) in connection with the application for a licence
18(1)(c)	When the Registrar is proposing to vary a licence on the application of a licensed person but to exercise its power under section 10(5)(a) or (b)
18(1)(d)	When the Registrar is proposing to vary a licence but to exercise its power under section 14(1) in connection with the application for variation
18(3)(a)	When the Registrar is deciding to grant a licence but to exercise its power under section 10(5)(a) or (b)
18(3)(b)	When the Registrar is deciding to grant a licence but to exercise its power under section 14(1) in connection with the grant of the licence
18(3)(c)	When the Registrar is deciding to vary a licence on the application of a licensed person but to exercise its power under section 10(5)(a) or (b)
18(3)(d)	When the Registrar is deciding to vary a licence on the application of a licensed person but to exercise its power under section 14(1) in connection with the variation
18(3)(e)	When the Registrar is deciding to refuse an application made under this Part
20(1)	When the Registrar is proposing to cancel a licensed person's licence otherwise than at the person's request
20(2)	When the Registrar is deciding to cancel a licensed person's licence otherwise than at the person's request
43(1)(a)	When the Registrar is proposing to impose a fine on a person (under section 41)
43(1)(b)	When the Registrar is proposing to suspend the licence of a licensed person or impose a restriction in relation to the carrying on of a controlled activity by a licensed person (under section 42)
44(1)(a)	When the Registrar is deciding to impose a fine on a person under section 41 (whether or not of the amount proposed)
44(1)(b)	When the Registrar is deciding to suspend a licence or impose a restriction under section 42 (whether or not in the manner proposed)
CR 2020	Description
247	When the Registrar proposes to make a disqualification order against a person.
248	When the Registrar decides to make a disqualification order against a person.

## Annex 2 – Supervisory Notices

CLR 2015	Description
19(4)	When the Registrar is proposing to vary a licence or to impose or vary a requirement, or varies a licence or imposes or varies a requirement, with immediate effect
19(7)(a)	Having considered any representations made by a licensed person, when the Registrar is deciding to vary the licence, or impose or vary the requirement, in the way proposed
19(7)(b)	Having considered any representations made by a licensed person, when the Registrar is deciding if the licence has been varied or the requirement imposed or varied, not to rescind the variation of the licence or the imposition or variation of the requirement
19(8)(b)	Having considered any representations made by a licensed person, when the Registrar is deciding to vary the licence or requirement in a different way, or impose a different requirement

## Annex 3 – Registration Authority Enforcement Process Flow Diagram

