

inBrief



Economic Substance Notification – Deadlines

By Greg Mayew and Kanan Kasuya | 18 June 2020

The UAE has introduced Cabinet Resolution 31 of 2019 (as amended) (the **Economic Substance Regulations**) which apply to UAE onshore and free zone entities that undertake, and earn an income from, any of the Relevant Activities (listed below):

- Banking Business
- Insurance Business
- Investment Fund Management Business
- Shipping Business
- Holding Company Business
- Lease-Finance Business
- Distribution & Service Centre Business
- Headquarters Business
- Intellectual Property Business

The Regulatory Authorities (as determined by Cabinet Resolution 58 of 2019) are now requesting the submission of Economic Substance Notifications in accordance with Article 8(1) of the Economic Substance Regulations on the part of entities that are required to do so under the Economic Substance Regulations.

The filing requirements and deadlines that are released by some of the Regulatory Authorities are listed in the table on the next page.

Penalties

Entities that:

- (a) fail to submit the Notification by the deadline set out above
or
- (b) knowingly provide inaccurate information to the Regulatory Authority

shall be subject to an administrative penalty ranging between AED 10,000 to AED 50,000 in accordance with Article 11 of the Economic Substance Regulations. Furthermore, the entities shall be deemed to have not met the requirements under the Economic Substance Regulations.

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With respect to DIFC entities, failure to submit the ESR notification shall also result in an additional penalty of USD 25,000 in accordance with Article 31 and Schedule 2 of the DIFC Operating Law 7 of 2018.

It is therefore prudent that UAE entities take a “substance over form” approach to carefully assess their businesses and see if they undertake, and earn any income, from any Relevant Activity. The fact that the commercial license of a UAE entity does not state a Relevant Activity does not automatically mean that the UAE entity is not undertaking any Relevant Activity.

Filing Requirements and Deadlines

Who?	How? The form must be submitted via:	Deadline
Onshore Entities UAE onshore entity undertaking any Relevant Activity(ies)	The Ministry of Economy’s website: https://www.economy.gov.ae/English/economic-substance/pages/regulations.aspx	30 June 2020
Dubai Multi Commodities Centre (DMCC) All DMCC entities	The DMCC entity’s DMCC Portal.	30 June 2020
Dubai Development Authority (DDA) DDA entities undertaking any Relevant Activity(ies)	The DDA entity’s AXS Portal.	25 June 2020
Dubai International Financial Centre (DIFC) All DIFC entities	The DIFC entity’s DIFC Portal.	30 June 2020
Abu Dhabi Global Market (ADGM) All ADGM entities with a financial year ending 31 December 2019	Email to economicsubstance@adgm.com	30 June 2020
Jebel Ali Free Zone Authority (JAFZA) JAFZA entities undertaking any Relevant Activity(ies)	Email to jafza.lease-license@jafza.ae	30 June 2020
Sharjah International Airport Free Zone (SAIF) All SAIF entities	The SAIF Zone website: https://portal.saif-zone.com/AppRecordMP.aspx?bo=1165&EditMode=New&templateID=16	30 June 2020

Afridi & Angell is able to assist with the business assessments and the filing of Economic Substance Notification forms. ■

Afridi & Angell

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