

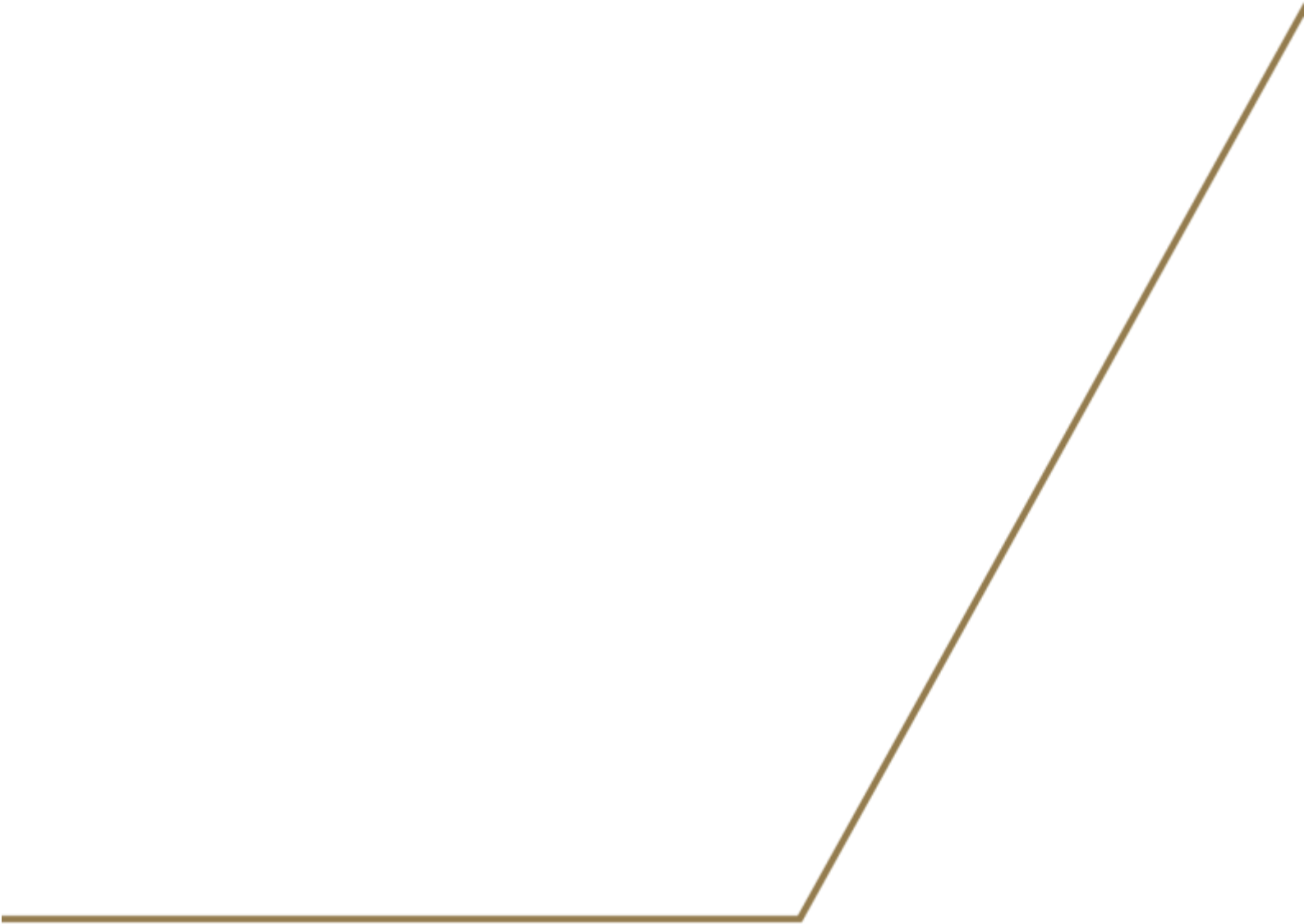


ABU DHABI
GLOBAL MARKET

Guidance on Exemptions from the Requirement to Appoint a Company Service Provider

Registration Authority

April 2021



1. INTRODUCTION

Introduction to Abu Dhabi Global Market

- 1.1. Abu Dhabi Global Market (**ADGM**) is an international financial centre established pursuant to Abu Dhabi Law No. 4 of 2013 in the Emirate of Abu Dhabi. With its own civil and commercial laws based on English common law, ADGM offers the local, regional and international business community a world-class legal system and regulatory regime.
- 1.2. The ADGM Registration Authority (**RA**) is the commercial regulator of the ADGM. It is responsible for the licensing, registration and incorporation of entities seeking to establish a presence in the ADGM as well as monitoring and enforcing the ADGM's commercial legislation and facilitating government services.

Guidance overview and application

- 1.3. This Guidance is issued under section 936(2) of the Companies Regulations 2020 (**Regulations**) to elaborate on the exemptions from the requirement to appoint a Company Service Provider (**CSP**).

2. EXEMPTIONS FROM THE REQUIREMENT TO APPOINT A COMPANY SERVICE PROVIDER

A. Exemptions under the Companies Regulations 2020

- 2.1. In accordance with subsection 296A(3) of the Regulations, as amended by the Companies Regulations (Amendment No. 1) 2021, a body corporate that is a subsidiaryⁱ undertakingⁱⁱ of any of the following need not have a company service provider–
 - (a) persons exempt under the Commercial Licensing Regulations 2015 (Exemptions) Order 2020;
 - (b) an authorised person within the meaning of the Financial Services and Markets Regulations 2015;
 - (c) persons licensed or regulated by the Central Bank of the United Arab Emirates;
 - (d) a company whose shares are admitted to trading on a regulated market in the United Arab Emirates, including in ADGM; or
 - (e) a company that has demonstrated to the satisfaction of the Registrar to have adequate presence in the United Arab Emirates.
- 2.2. For the purposes of assessing whether a company has demonstrated adequate presence in the United Arab Emirates under section 296A(3)(e), the Registrar -
 - (a) shall have regard to, among other things:-
 - (i) the company's assets, turnover and employees in the United Arab Emiratesⁱⁱⁱ,
 - (ii) the company's governance policies and procedures,
 - (iii) any rules made by the Board or guidance issued by the Registrar in this regard; and
 - (b) may require such further information and supporting documentation as it considers appropriate.

Examples of each of these are set out in Table A, below.

Note: for applications seeking exempt status under paragraph 2.1(e) above, please include the supporting documents demonstrating the items listed in 2.2(a)(i) and (ii) above with this application. The Registrar reserves the right to request additional information to assess whether or not the applicant should be exempt from appointing a company service provider.

Table A – Examples

Description	Explanation who falls into this category
(a) persons exempt under the ADGM Commercial Licensing Regulations 2015 (Exemptions) Order 2020	<p>A body corporate established pursuant to (i) any law or decree issued by His Highness the Ruler of the Emirate of Abu Dhabi (including the ADGM Founding Law), or (ii) any Federal Law (other than Federal Law No. 8 of 1984 concerning Commercial Companies, as the same may be amended or re-enacted from time to time).</p> <p>A body corporate that is a subsidiary undertaking of a body corporate specified in paragraph above. The International Bank for Reconstruction and Development and the International Development Association, commonly known as the “World Bank”.</p>
(b) an authorised person within the meaning of the ADGM Financial Services and Markets Regulations 2015	A legal entity currently registered in ADGM holding a current Financial Services Permit issued by ADGM Financial Services Regulatory Authority
(c) persons licensed or regulated by the Central Bank of the United Arab Emirates	Legal entities holding a valid license or authorisation, as applicable, issued by UAE Central Bank. For the current list of the financial institutions currently licensed by the UAE Central Bank, please refer here: https://www.centralbank.ae/en/financial-institutions
(d) a company whose shares are admitted to trading on a regulated market in the United Arab Emirates, including in Abu Dhabi Global Market	<p>Legal entities whose shares are admitted to the following regulated markets in the UAE:</p> <p>https://www.adx.ae/English/Pages/default.aspx</p> <p>https://www.dfm.ae/</p> <p>https://www.nasdaqdubai.com/</p> <p>Other UAE regulated markets</p>
(e) a company that has demonstrated to the satisfaction of the Registrar to have adequate presence in the United Arab Emirates	Please refer to the next section

Demonstrating adequate presence in the United Arab Emirates

2.3 There is also an exemption for a company that has demonstrated to the satisfaction of the Registrar to have adequate presence in the United Arab Emirates, having regard to, among other things,

- (i) the company's assets, turnover and employees in the United Arab Emirates*,
- (ii) the company's governance, policies and procedures**, and
- (iii) any rules made by the Board or guidance issued by the Registrar in this regard.

***In order to demonstrate to the Registrar that the company has sufficient assets, turnover and employees, please see below a non-exhaustive list of documents or information required by the Registrar:**

- Copies of the current valid commercial licenses (or similar document) issued by the local relevant regulatory authorities of operational legal entities currently operating in the UAE.
- Copies of the latest audited accounts of the operational entities in the UAE or elsewhere.
- List of the company's assets– physical assets, buildings, machinery, factories.
- Information on the number of employees employed by the company and annual turnover per company per financial year.
- Copies of the current 'establishment card' (also known as 'immigration card') of each operating legal entity along with the list of the UAE residency visas issued for each legal entity/commercial license holder.
- The organization structure for each operating legal entity clearly demonstrating governance structure and number of full time employees in each operating entity within the group chart.
- Links to the company's website where information on the board of directors and board committee can be found. Alternatively, please provide information indicating board of directors' composition and board committees' structure, including members of the committees, governance of the decisions and reporting lines within the structure.
- A detailed description of the resources available in the compliance and/or in-house legal department or company secretarial division indicating the number of full time employees, along with their professional qualifications and roles held.
- Any other information which may demonstrate that the company holds substantial assets.

****In order to demonstrate to the Registrar the company's governance, policies and procedures, please see below non-exhaustive list of documents or information required by the Registrar:**

- Business ethics policy;
- Corporate Governance policy or statement/structure;
- Compliance policy;
- Bribery and corruption policy;
- Economic substance policy;

- Risk management policy;
- Anti Money Laundering Policy;
- Others (please specify).

as well as evidence of monitoring and compliance with such policies and procedures.

B. Exemptions under the Foundations Regulations 2017

2.4 In accordance with section 18(2) of the Foundations Regulations, a Foundation that has demonstrated to the satisfaction of the Registrar to have–

- (a) substantial resources, experience and personnel in the United Arab Emirates, and
- (b) adequate governance policies and procedures, in each case as may be specified by rules made by the Board or guidance issued by the Registrar,

need not have a Company Service Provider.

3. SUBSTANTIAL RESOURCES, EXPERIENCE AND PERSONNEL

3.1 Applications seeking exempt status under paragraph 2.4 above are required to include supporting documents demonstrating substantial resources, experience and personnel of the legal entities directly or indirectly owned and/or controlled by the founder of the ADGM foundation. A non-exhaustive list of documents or information required by the Registrar:

- Copies of the current commercial licenses (or similar document) issued by the local relevant regulatory authorities of operational legal entities currently operating in the UAE.
- List of the assets – physical assets, buildings, machinery, factories.
- Information on the number of personnel employed by the operating legal entities and annual turnover.
- Copies of the current ‘establishment card’ (also known as ‘immigration card’) of each operating legal entity along with the list of the UAE residency visas issued for each legal entity/commercial license holder.
- Organization structure for each operating legal entity clearly demonstrating governance structure and number of full time employees in each operating entity within the group chart.
- Links to the company’s website where information on the board of directors and board committee can be found. Alternatively, please provide information indicating board of directors’ composition and board committees’ structure, including members of the committees, governance of the decisions and reporting lines within the structure.
- Detailed description of the resources available in the compliance and/or in-house legal department or company secretarial division showing number of full time employees, along with their professional qualifications and roles held.
- Other information which may demonstrate that the applicant holds substantial assets.

4. ADEQUATE GOVERNANCE POLICIES AND PROCEDURES

4.1 Please see below non-exhaustive list of documents or information required by the Registrar:

- Business ethics policy;
- Corporate Governance policy or statement/structure;
- Compliance policy;
- Bribery and corruption policy;
- Economic substance policy;
- Risk management policy;
- Anti-Money Laundering Policy;
- Others (please specify).

as well as evidence of monitoring and compliance with such policies and procedures.

5. REGISTRAR'S DISCRETION

The Registrar reserves the right to request additional information to assess whether or not the applicant should be exempt from appointing a CSP.

ⁱ Pursuant to section 1015(1) of Regulations, meaning of 'subsidiary' is as follows: (1) A company is a "subsidiary" of another company, its "holding company", if that other company— (a) holds a majority of the voting rights in it, or (b) is a member of it and has the right to appoint or remove a majority of its board of directors, or (c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it, or if it is a subsidiary of a company that is itself a subsidiary of that other company.

ⁱⁱ Pursuant to section 1017(1) of Regulations, meaning of 'undertaking' is as follows: (1) In these Regulations "undertaking" means—(a) a body corporate or partnership, or (b) an unincorporated association carrying on a trade or business, with or without a view to profit. See also section 1018 of Regulations.

ⁱⁱⁱ Please lodge copies of the current commercial licenses issued in the UAE, latest audited accounts, information about number of visas issued under each commercial license, any other information that can demonstrate assets, turnover and employees in the UAE.

For more information, you may contact the Registrar:

Telephone: + 971 2 3338777

Email: ra@adgm.com

Address: 3rd floor, ADGM Building, Abu Dhabi Global Market Square, Al Maryah Island, Abu Dhabi, United Arab Emirates.

Disclaimer

This guidance is a non-binding indicative guidance and should be read together with the relevant legislation, in particular the ADGM's Companies Regulations 2020 and any other relevant regulations and enabling rules, which may change over time without notice. Information in this guidance is not to be deemed, considered or relied upon as legal advice and should not be treated as a substitute for a specific advice concerning any individual situation. Any action taken upon the information provided in this guidance is strictly at your own risk and the Registration Authority will not be liable for any losses and damages in connection with the use of or reliance on information provided in this guidance. The Registration Authority makes no representations as to the accuracy, completeness, correctness or suitability of any information provided in this guidance.