

*Economic Substance  
Annual Notification  
User Guide*



## *Important Information*

### **Introduction**

The purpose of this document is to provide guidance to ADGM Licensees on the requirements and process of filing an Economic Substance Annual Notification (“ES Notification”) to the ADGM Registration Authority, as required under Article 8(1) of the UAE Economic Substance Regulations.

### **What is the purpose of the ES Notification?**

The purpose of the ES Notification is to provide the ADGM Registration Authority with certain initial information on the Licensee and its activities in the UAE, and is a prerequisite to filing an Economic Substance return for the Reportable Period (where required).

## *Filing Requirements*

### **Who needs to submit an ES Notification?**

An ES Notification must be filed with the Registration Authority if an ADGM Licensee undertakes any of the following Relevant Activities during the relevant accounting period (see Section C, Question 1):

- Banking Business
- Insurance Business
- Investment Fund Management Businesses
- Lease-Finance Businesses
- Headquarter Businesses
- Shipping Businesses
- Holding Company Businesses
- Intellectual Property Businesses
- Distribution and Service Centre Businesses

Please refer to the [Relevant Activity Guide](#) issued by the Ministry of Finance for further information and explanation on each of the above Relevant Activities.

### **Can a single ES Notification be filed for multiple Licensees?**

No, each Licensee must file an ES Notification on a stand-alone basis, irrespective of whether the Licensee is part of a consolidated group for accounting purposes.

**What is the deadline?**

The ES Notification must be filed by 30 June 2020 for Licensees with a financial year commencing on / or after 1 January 2019 and that have a 31 December 2019 financial year-end (Accounting Reference Date).

**How should the ES Notification be filed?**

The ES Notification must be filed by emailing a copy of the completed and signed form to: [economicsubstance@adgm.com](mailto:economicsubstance@adgm.com)

**What happens if a Licensee does not submit an ES Notification, although it is required to do so?**

Non-compliance with the obligation to file an ES Notification by the deadline is subject to penalties ranging from AED 10,000 to AED 50,000.

**What happens if the information provided in the ES Notification is incorrect?**

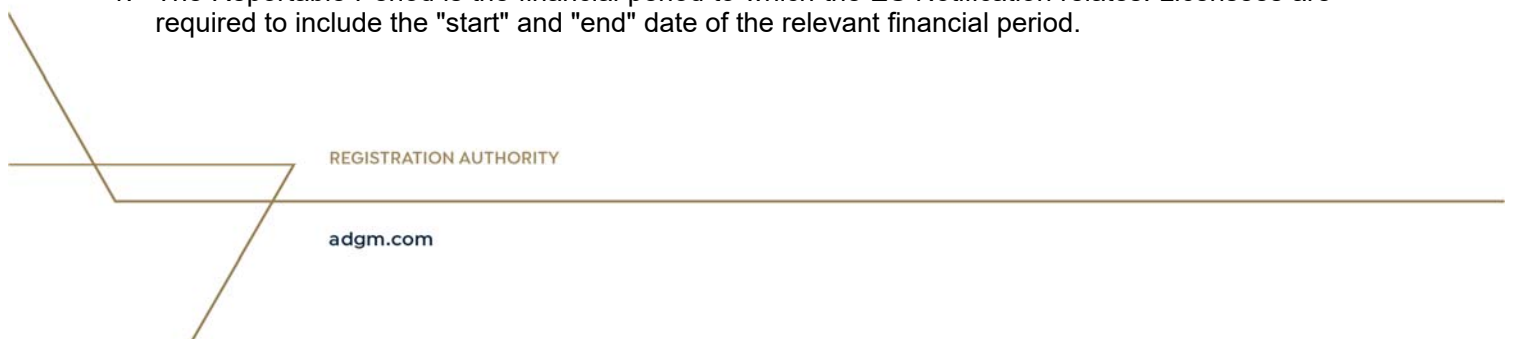
Providing incorrect or false information in the ES Notification is subject to penalties ranging from AED 10,000 to AED 50,000. Knowingly providing incorrect or false information or incorrectly claiming an exemption from the Economic Substance Regulations can result in the Licensee being deemed to have failed the Economic Substance Test for the relevant accounting period.

*Line Instructions***A. Licensee details**

1. This is the name mentioned on the commercial licence.
2. This is the registration number stated on the commercial licence.
3. The financial year end or accounting reference period is the date on which the Licensee's financial year ends (and to which the Licensee's financial accounts are prepared). In the absence of a financial year end / accounting reference period (e.g. where the Licensee is not required to have a financial year end / accounting reference period), the anniversary of the Licensee's incorporation date should be used.

**B. Reportable Period**

1. The Reportable Period is the financial period to which the ES Notification relates. Licensees are required to include the "start" and "end" date of the relevant financial period.



A Licensee whose financial year corresponds to the calendar year would include the following:

Start date: *1 January 2019*

End date: *31 December 2019*

A Licensee incorporated on 1 July 2019 with a 31 March 2020 financial year end, would include the following:

Start date: *1 July 2019*

End date: *31 March 2020*

The Reportable Period is always the financial period preceding the financial period in which the ES Notification is due.

Licensees that are in the process of strike off or liquidation are required to comply with the ES Notification requirement in respect of Reportable Periods ending on or before the completion of the strike off or liquidation process.

Licensees that no longer have a commercial licence before the ES Notification filing deadline for a relevant Reportable Period are not required to file a Notification for the Reporting Period ending on the date of strike off or liquidation.

### **C. Relevant Activities**

1. A 'substance over form' approach must be used to determine whether the Licensee carried on a Relevant Activity. This means looking beyond what is stated on the commercial licence to the activities actually undertaken during the Reportable Period.

2A. Please refer to [Relevant Activity Guide](#) for further information in respect of each Relevant Activity.

2B. Income from a Relevant Activity means all gross income earned from that activity as recorded in the books and records of the Licensee for the Reportable Period prepared under applicable accounting standards, including income that is generated outside of the UAE.

2C. Please indicate whether the gross income from the Relevant Activity (ies) was fully or partially subject to tax in a jurisdiction other than the UAE. For example, income from a Relevant Activity could be subject to tax outside the UAE if the Licensee has a taxable presence / permanent establishment in a foreign country that reports all or part of the income from the Relevant Activity in its tax return.

3. Where a Licensee receives income from an Intellectual Property ("IP") Asset, it will also have to consider if it is a High Risk IP Licensee. A High Risk IP Licensee is a Licensee that carries on an IP Business, and meets all of the following three requirements:

a) The Licensee did not create the IP Asset which it holds for the purpose of its business, and

- b) The Licensee acquired the IP Asset from either –
  - i) A group company, or
  - ii) In consideration for funding research and development by another person situated in foreign jurisdiction, and
- c) The Licensee licenses or has sold the IP Asset to one or more group companies, or otherwise earns separately identifiable income (e.g. royalties, licence fees) from a foreign group company in respect of the use or exploitation of the IP asset.

Please refer to [Relevant Activity Guide](#) for further information in respect of High Risk IP Licensees.

3A. The **Parent Company** of the Licensee is the entity that directly:

- a) holds a majority of voting rights in the Licensee; or
- b) has the right to appoint or remove a majority of the boards of directors of the Licensee; or
- c) controls alone, pursuant to a joint arrangement with other shareholders or members, a majority of the voting rights in the Licensee; or
- d) has the right to exercise, or actually exercises, dominant direct influence or control over the Licensee.

The **Ultimate Parent Company** of the Licensee is an entity of a group that:

- a) owns directly or indirectly a sufficient interest in the Licensee, such that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
- b) there is no other entity of such group that owns directly or indirectly an interest described in subsection (a) above in the first mentioned entity.

The **Ultimate Beneficial Owner** of the Licensee is an individual who owns directly or indirectly twenty five percent (25%) or more of the share capital of a Licensee. A Licensee may have one or more Ultimate Beneficial Owners.

#### D. Additional Information

1. Licensees that are 51% directly or indirectly owned by the UAE Federal Government, the Government of an Emirate, or any governmental authority or body of the UAE Federal or an Emirate government must file an ES Notification in order to claim an exemption from having to file

an Economic Substance Return to demonstrate economic substance in the UAE. Such Licensees may be asked to provide supporting documentation to substantiate their government ownership.

2. A Licensee is regarded as tax resident in a jurisdiction other than the UAE if the entity is subject to corporate income tax on all its income from a Relevant Activity by virtue of its tax residence, domicile or any other criteria of a similar nature in that other jurisdiction.

Where a Licensee notifies that it is tax resident outside the UAE, it will be required to provide the Regulatory Authority with appropriate evidence to support that foreign tax residence. This may include copies of tax returns filed in the foreign jurisdiction, a tax residence certificate from the foreign jurisdiction, or proof of payment of corporate income tax paid in the foreign jurisdiction.

## **E. Declaration**

1. The dedicated contact person can be anyone who has the authority to respond to queries raised by and provide further documents to the Regulatory Authority. Examples of a "Designated Contact Person" include the Licensee's:
  - a) General Manager;
  - b) Director(s);
  - c) Compliance Officer; or
  - d) Authorised Signatory(s).
2. Penalties ranging from AED 10,000 to AED 50,000 if the Licensee knowingly provides inaccurate information in the Notification, and does not correct the information provided. In certain circumstances (e.g. where a Licensee knowingly claims an exemption, even though the Licensee does not meet the requirements and this is not corrected), the Licensee could be deemed to have automatically failed the Economic Substance test.

### *Further Information*

For further information please contact the Registration Authority by email to:  
[economicsubstance@adgm.com](mailto:economicsubstance@adgm.com)

### *Disclaimer*

This Guide provides information on the requirements and process of filing an Economic Substance Annual Notification to the ADGM Registration Authority, as required under Article 8(1) of the UAE Economic Substance Regulations. This is only a guide and should be read together with the relevant legislation, in particular, the UAE Economic Substance Regulations as set out in the Cabinet of Ministers Resolution No. 31 of 2019 concerning Economic Substance Regulations, as amended by Cabinet Resolution No. 7 of 2020 (Regulations), as well as Ministerial Decision No. 215 of 2019 (Guidance) and Cabinet Decision No. 58/2019 on the Determination of Regulatory Competencies, and any other relevant ADGM regulations and enabling rules. The Guide only refers to the procedures that need to be completed in relation to the Registration Authority. Further advice from a specialist professional may be required.