



# The UAE Economic Substance Regulations Guidance on Notification

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

The purpose of the Notification is to provide the Regulatory Authorities with certain initial information in respect of Licensees and their activities in the UAE for the relevant Reportable Period. The information provided as part of the Notification is a prerequisite to filing an Economic Substance Report for the same period (if required).

### **Who needs to submit a Notification?**

A Notification must be filed if you are a corporate entity (e.g. Limited Liability Company, Public Joint Stock Company, Private Joint Stock Company, etc.) or a partnership (Limited Liability Partnership, General Partnership etc.) that undertakes any of the following Relevant Activities in the UAE during the relevant Financial Year (see Section C, Question 1):

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

A UAE business that undertakes one or more of the above activities during the relevant Financial Year is referred to as a Licensee. Where a business carries out one or more of the above activities but is exempt from certain requirements under the Economic Substance Regulations, the entity is referred to as an Exempted Licensee.

For the sake of clarity, a Licensee and an Exempted Licensee is required to submit a Notification.

Please refer to the Relevant Activities Guide in Schedule 1 of Ministerial Decision 100 of 2020 issued by the Ministry of Finance for further information and an explanation of each of the above Relevant Activities.

### **What if the business only carried out a Relevant Activity for part of the year, is it still required to file a Notification?**

Yes, the business must report all Relevant Activities undertaken during the Financial Year, irrespective of whether the Relevant Activity was conducted throughout the entire Financial Year.

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

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

### **Does a branch file a separate Notification from its head office?**

No, the UAE head office / parent company must file a single consolidated Notification that includes details of all its UAE branches that carry out a Relevant Activity, irrespective of whether the head office itself undertakes a Relevant Activity.

**What is the deadline for filing a Notification?**

The Notification must be filled within six months from the Licensee's financial year end.

For example:

<b>Financial Year End</b>	<b>Deadline</b>
31 Mar	30 Sept
30 Jun	31 Dec
30 Sept	31 Mar
31 Dec	30 June

**How should the Notification be filed?**

The Notification must be submitted electronically on the Ministry of Finance ESR portal.

**What if the Licensee is in the process of being liquidated?**

If the Licensee undertakes a Relevant Activity in the year of liquidation, the entity or its liquidators must ensure that all obligations under the Economic Substance Regulations are satisfied for the period up to liquidation, including the filing of a Notification and Economic Substance Report (where applicable).

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

Non-compliance with the obligation to file a Notification before the deadline is subject to a penalty of AED 20,000.

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

Providing incorrect or false information in the Notification is subject to a penalty of 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 Reportable Period.

**Completing the Notification**

All fields in the Notification are mandatory unless specifically designated as “optional”.

The Notification will automatically show the next question (and section) based on your responses. Therefore, the ordering of questions (and sections) may, in some cases, not be sequential.

## A. Licensee Details

### Have you filed previously or been issued a penalty for failure to file?

- 1) Licensees that have previously filed a Notification (e.g. for a prior Reportable Period) are required to select “yes”.
- 2) Licensees that have received a penalty for the non-filing of a Notification are required to select “yes”.
- 3) Licensees that have never filed a Notification (1) and did not receive a penalty for the non-filing of a Notification (2) are required to select “no” and continue with the normal Notification (refer to section “Details as per your current submission” below).

### Details as per your previous submission (only applicable if the answer to the question above is yes (1 or 2))

Licensees that selected yes to the question above, must provide the following information (see below).

- Licensee name
- Did you have a dual license (please refer to page 4 below for more information)?
- Commercial License / Trade License / Permit No.
- Licensing Authority
- Primary / Main Regulatory Authority (please refer to page 4 below for more information)

Once this information is included in the Notification the Licensee is required to press “search” to perform a validation of the data included. The Licensee will receive confirmation of whether a “Match” or “No Match” has been found. In the case “No Match” is found, please follow the on-screen instructions and revalidate the data included.

- 1) The information required above must be provided as per the Notification submitted for the prior Reportable Period (e.g. when filing a Notification for the 2021 Reportable Period, the Licensee should include information from the Notification submitted for the 2020 Reportable Period).

The information provided must be identical to the information included in the prior Notification (including any spaces or special characters), taking into account any amendments made in any resubmission of such prior Notification.

Licensees can find a copy of previous submissions by clicking on the Notification case on the Licensee Dashboard.

- 2) Licensees that received a penalty, must include the details as per their commercial license. The details of the Primary / Main Regulatory Authority can be found in the email in which the non-filing penalty was issued.

### Details as per your current submission

#### 1. Licensee name

This is the name mentioned on the commercial licence, trade licence or permit of the Licensee.

**2. Does the Licensee have a dual license?**

Only Licensees that have been issued more than one commercial licence, trade licence or permit by different licensing authorities should select "yes".

**2.1. Commercial License / Trade License / Permit No.**

This is the registration number stated on the commercial licence, trade licence or permit of the Licensee.

**2.2. Licensing Authority**

This is the authority that has issued the commercial licence, trade licence or permit of the Licensee.

**3. Primary / Main Regulatory Authority**

Where a Licensee has multiple Regulatory Authorities, the Primary Regulatory Authority is the Regulatory Authority that issued the Licensee's primary trade/commercial license when it was first incorporated or registered and in which the premises, employees and expenditures of the Licensee are located.

**4. Place of establishment**

This is a confirmation of whether the Licensee has its main / primary place of establishment (being the place of registration) in a Free Zone (including Financial Free Zone) or in mainland UAE.

**5. Registered Office address**

This is the address stated on the commercial licence, trade licence or permit of the Licensee.

**6. Legal form**

This is the legal form of the Licensee as specified in its constitutional documents or as otherwise specified pursuant to the laws and regulations of the jurisdiction of incorporation / registration.

**7. Is the Licensee registered for VAT in the UAE / UAE VAT registration number?**

This is the unique 15-digit number obtained after registering for VAT in the UAE. The VAT registration number can be found on the VAT certificate, VAT return. Where the Licensee is part of a UAE VAT group, please include the VAT registration number of the representative member for VAT purposes.

**B. Branch Details**

**1. Are you reporting the Relevant Activity of a branch?**

Licensees with UAE branches that carry out Relevant Activities must report the Relevant Activities of their branches in a single, consolidated Notification to be filed by the Head Office with the Regulatory Authority in which such Head Office is registered.

**2.1. Commercial License / Trade License / Permit No.**

This is the registration number stated on the commercial licence, trade licence or permit of the branch.

## 2.2. Licensing Authority

This is the authority that issued the commercial licence, trade licence or permit of the branch.

### C. Reportable Period

A Licensee's Reportable Period is the accounting period commencing on or after 1 January 2019 for which the Notification is filed. The end of the Reportable Period should correspond to the end of the period that financial statements (if any) are prepared to.

Licensees are required to include the ""start"" and ""end"" date of their Reportable Period as illustrated below.

A Licensee has a financial year that corresponds to the Gregorian calendar year:

Start date: 1 January 2019

End date: 31 December 2019

A Licensee is incorporated on 1 October 2019 and has a 31 March 2020 financial year end (short period of account):

Start date: 1 October 2019

End date: 31 March 2020

A Licensee is incorporated on 1 January 2019 and has a 31 March 2020 financial year end (long period of account):

Start date: 1 January 2019

End date: 31 March 2020

Following the first long period of account, the Licensee's subsequent Notification would cover the following Reportable Period:

Start date: 1 April 2020

End date: 31 March 2021

A Licensee incorporated on 1 July 2018 with a 30 June 2019 financial year end would not be required to submit a Notification for this period, as the Regulations apply to financial years commencing on / or after 1 January 2019. The first reportable period for such Licensee would be:

Start date: 1 July 2019

End date: 30 June 2020

The Reportable Period is always the financial period preceding the financial period in which the Notification is required to be submitted.

### D. Relevant Activities

#### 1. Did the Licensee carry on a Relevant Activity during the Reportable Period?

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

**2.A. Please indicate which Relevant Activity(ies) the Licensee carried on during the Reportable Period**

Please refer to Relevant Activities Guide in Schedule 1 of Ministerial Decision 100 of 2020 for further information in respect of each Relevant Activity.

**2.B. Did the Licensee earn income form the Relevant Activity during the Reportable Period?**

This is the gross income earned from the Relevant Activity as recorded in the books and records for the Reportable Period prepared under applicable accounting standards, including income earned from sources outside of the UAE, and without deducting any type of costs or expenditure.

In the context of income from sales or services, gross income means gross revenues from sales or services without deducting the cost of goods sold or the cost of services.

**2.C. Is the income earned from the Relevant Activity?**

Income is considered subject to tax when it is taken into account when calculating the taxable income of a foreign company or other relevant group entity reporting the UAE income for corporate income tax purposes, irrespective of whether the UAE income can benefit from an exemption or other form of corporate tax relief in the foreign jurisdiction under domestic tax law or a double tax agreement.

**2.D. Regulatory Authority**

This is the authority designated under the Economic Substance Regulations as being responsible for reviewing and verifying the information of the Licensee with respect to a Relevant Activity.

**2.E. I confirm that I did not earn any income form a Relevant Activity(ies) during the Reportable Period**

Licensees that carried on a Relevant Activity but did not earn income from that activity during the Reportable Period are not required to file an Economic Substance Report and demonstrate substance in the UAE for that Reportable Period.

**3. If you selected "Intellectual property business" in Question 2A, please confirm if the Licensee is a High Risk IP Licensee?**

Where a Licensee receives income from an Intellectual Property ('IP') Asset, it will also have to determine whether 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:

1. The Licensee did not create the IP Asset which it holds for the purpose of its business, and
2. The Licensee acquired the IP Asset from either:
  - a. a group company, or
  - b. in consideration for funding research and development by another person situated in foreign jurisdiction, and
3. 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 the Relevant Activities Guide in Schedule 1 of Ministerial Decision 100 of 2020 for further information in respect of High Risk IP Licensees.

## **E. Exemptions**

### **1. Please confirm if the Licensee meets the definition of an "Exempted Licensee"**

Where a Licensee claims to be an 'Exempted Licensee' it must indicate the basis for the exemption under Question 1A-1E, and provide the necessary documentation to evidence its exempt status.

An Exempted Licensee is not required to submit an Economic Substance Report and demonstrate Economic Substance in the UAE for Reportable Periods in which it meets the requirements of being an Exempted Licensee.

#### **1.A. I confirm that the Licensee is (i) wholly owned by UAE national or UAE resident individuals that reside in the UAE, (ii) is not part of a multinational group, and (iii) only operates in the UAE**

Licensees wholly-owned by UAE nationals or UAE resident individuals that are not part of a multinational group and that carried out business in the UAE only (including activities that are not Relevant Activities) are required to provide relevant supporting documents to substantiate their exempt status, including:

- Shareholder register
- Structure chart
- Proof of nationality and/or residency of shareholder(s) - e.g. copies of UAE passport / UAE residency visa
- Copy of financial statements for the relevant period (or management accounts if financial statements are not available)

A Licensee is part of a multinational group if it has a foreign parent company or a foreign subsidiary or sister company, or if the Licensee or any other UAE entity that is under common ownership or control is subject to tax with respect to activities carried out through a branch or permanent establishment in another jurisdiction.

#### **1.B. I confirm that the Licensee is an Investment Fund as defined in the Regulations**

Investment Funds that are not self-managed Investment Funds (as self-managed Investment Funds may be considered an 'Investment Fund Management Business'), are required to provide adequate documentary evidence to substantiate their exempt status, such as:

- Copy of the statutory documents
- Copy of the PPM / Information Memorandum
- Copy of Investment Fund license / registration (for an Investment Fund established in a jurisdiction outside the UAE)

An 'Investment Fund' means an entity whose principal business is the issuing of investment interests to raise funds or pool investor funds with the aim of enabling a holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments and does not include an entity through which an Investment Fund directly or indirectly invests (refer to question 1C).



**1.C. I confirm that the Licensee is a special purpose vehicle or investment holding company of an Investment Fund as defined in the Regulations**

Licensees through which the Investment Fund invests or operates (but not including the entity or entities in which the Investment Fund ultimately invests) are required to provide relevant supporting documents to substantiate their exempt status, such as:

- Structure chart of the Investment Fund and its subsidiary investment holding entities / SPVs
- Evidence of the 'Investment Fund' status of the Investment Fund that has incorporated the UAE entities (refer to 1B).

For the avoidance of doubt, the words “through which an investment fund directly or indirectly invests or operates” refers to any UAE entity whose sole function is to facilitate investments made by the Investment Fund.

**1.D. I confirm that the Licensee is resident for tax purposes in a jurisdiction other than the UAE**

Licensees that are tax resident in a jurisdiction other than the UAE and whose income from a Relevant Activity is subject to corporate income tax in the foreign jurisdiction of tax residence are required to provide the following supporting information to substantiate their exempt status:

- i. Details of the country in which the entity claims to be tax resident;
- ii. Tax identification number issued by the country of claimed tax residence; and
- iii. Any of the following supporting documents to substantiate the foreign tax residence:
  - A letter or certificate from, or issued by, the competent authority for the jurisdiction in question stating that the entity is considered to be resident for corporate income tax purposes in that jurisdiction, or
  - Copy of an assessment to corporate income tax, a corporate income tax demand, evidence of payment of corporate income tax, or any other document, issued by the competent authority for the jurisdiction in question.

**1.E. I confirm that the Licensee is a UAE branch of a foreign company and all income of the UAE branch is subject to tax in the jurisdiction of the foreign company**

Licensees that are a UAE branch of a foreign company can be Exempted Licensees if all their income from a Relevant Activity is subject to corporate income tax in the jurisdiction of the foreign parent / head office, subject to providing the following supporting information:

- i. Details of the country in which the parent company / head office is resident for tax purposes;
- ii. Tax identification number of the head office / parent company issued by the relevant foreign tax authority; and
- iii. Any of the following supporting documents:
  - Copy of the tax return or associated forms and schedules submitted evidencing that the Relevant Income of the branch has been reported in the tax return of the foreign head office
  - Copy of any assessment to corporate income tax / demand for corporate income tax in the foreign jurisdiction for the relevant period by the head office (if available)

## **F. Ownership information**

### **1. Parent Company**

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.

#### **1.1. Name**

This is the name of the Parent Company.

#### **1.2. Tax identification number**

This is the identification number issued for corporate income tax purposes by the tax administration in the jurisdiction in which the Parent Company is tax resident.

#### **1.3. Address**

This is the address of the Parent Company.

#### **1.4. Country of tax residence**

This is the country in which the Parent Company claims to be tax resident.

### **2. Ultimate Parent Company**

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 or the Exempted Licensee such that it is required to prepare consolidated financial statements under applicable accounting standards 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 in the group that owns directly or indirectly a sufficient interest in such entity such that it is required to prepare consolidated financial statements under applicable accounting standards, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence.

#### **2.1. Name**

This is the name of the Ultimate Parent Company.

#### **2.2. Tax identification number**

This is the identification number issued for corporate income tax purposes by the tax administration in the jurisdiction in which Ultimate Parent Company is tax resident.

### **2.3. Address**

This is the address of the Ultimate Parent Company.

### **2.4. Country of tax residence**

This is the country in which the Ultimate Parent Company claims to be tax resident.

## **3. Ultimate Beneficial Owner**

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 or ownership interests in the Licensee. A Licensee may have one or more Ultimate Beneficial Owners.

If the Licensee is a UAE branch of a foreign company, then the Ultimate Beneficial Owner is the individual who owns directly or indirectly twenty five percent (25%) or more of the share capital of the foreign company.

### **3.2. UBO type**

This indicates the relationship between the Ultimate Beneficial Owner and the Licensee.

### **3.3. Name**

This is the name of the Ultimate Beneficial Owner.

### **3.4. Tax identification number**

This is the identification number issued for corporate or personal income tax purposes by the tax administration in the jurisdiction in which the Ultimate Beneficial Owner is tax resident.

### **3.5. Address**

This is the address of the Ultimate Beneficial Owner.

### **3.6. Country of tax residence**

This is the country in which the Ultimate Beneficial Owner claims to be tax resident.

## **G. Declaration**

### **1. Designated contact person**

The dedicated contact person can be anyone who is duly authorized to respond to queries raised by, and provide further documents and other information to, the Regulatory Authority or the National Assessing Authority.

Examples of a ""Designated Contact Person"" include:

The Licensee's General Manager;  
The Licensee's Director; or  
The Licensee's Compliance Officer.