

## UAE identifies Regulatory Authorities for Economic Substance Regulations

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### Executive summary

The United Arab Emirates (UAE) issued Cabinet Resolution No. 58 of 2019 on 4 September 2019 listing the Regulatory Authorities that are responsible for evaluating whether businesses meet the requirements of the Economic Substance Regulations (ESR) that were enacted in April. The time and form for the specific ESR compliance requirements are yet to be determined. In the interim, businesses should assess whether the ESR impacts their current and envisaged UAE operations.

### Detailed discussion

#### Background

On 30 April 2019, the UAE enacted the ESR through Cabinet Decision No. 31, which established the economic substance requirements for businesses carrying on relevant activities in the UAE (Licensees).<sup>1</sup> The Ministry of Finance subsequently issued Ministerial Decision No. 215 of 2019 on 11 September 2019 to provide further guidance on how the economic substance requirements may be met.<sup>2</sup>

## Regulatory Authorities for ESR purposes

The Ministry of Finance released on 4 September Cabinet Resolution No. 58, containing a list of the Regulatory Authorities that will oversee each of the activities affected by the economic substance requirements. The resolution determines that:

- ▶ For Licensees established in a free zone, the Regulatory Authority is the competent authority of the free zone where the business is carried out.
- ▶ For banking and lease finance businesses regulated by the UAE Central Bank in the mainland, the Regulatory Authority is the UAE Central Bank.
- ▶ For headquarters, shipping, holding, intellectual property, distribution and service center businesses in the mainland, the Regulatory Authority is the Ministry of Economy.
- ▶ For insurance businesses in the mainland, the Regulatory Authority is the Insurance Authority.
- ▶ For investment fund management businesses in the mainland, the Regulatory Authority is the Securities and Commodities Authority.

## Next steps

A Licensee must submit a notification and a report to the Regulatory Authority that is responsible for determining whether the ESR are met for that activity. The notification

has effect from 1 January 2020, however, the exact time and form is yet to be determined by the respective Regulatory Authorities. The report should be submitted no later than 12 months after the last day of the end of the financial year and applies in respect to financial years commencing on or after 1 January 2019, in the form approved by the Regulatory Authorities (also yet to be specified).

The Regulatory Authorities are responsible for: (i) determining time and form for the notifications and reports; (ii) receiving the information from Licensees; (iii) requesting additional information if needed; (iv) assessing whether the economic substance test has been met by Licensees; (v) entering businesses premises and examining business documents when appropriate; (vi) imposing penalties; and (vii) issuing a resolution setting out the procedures for an appeal against administrative penalties.

## Further guidance expected

Further guidance is now expected from the respective Regulatory Authorities regarding the time, form and manner for the notifications and reports. However, corporate businesses, wealth management groups and family offices with any relevant activities should already assess whether the economic substance laws impact their current and envisaged UAE operations.

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## Endnotes

1. See EY Global Tax Alert, [UAE enacts economic substance rules](#), dated 24 June 2019, for more information.
2. See EY Global Tax Alert, [UAE issues guidance on economic substance rules](#), dated 18 September 2019, for more information.

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