



UAE economic substance

Are you ready?

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Overview

The UAE has issued economic substance regulations introducing a requirement for UAE entities to maintain an adequate 'economic presence' in the UAE, relative to the activities they undertake.

The UAE economic substance regulations apply to all UAE onshore and free zone companies, branches, representative offices and other business forms established or licensed in the UAE that undertake one or more of the 'Relevant Activities' and earn income from the Relevant Activities listed below for financial years commencing on or after 1 January 2019:

- Banking
- Insurance
- Fund management
- Financing or leasing
- Headquarters
- Shipping
- Holding shares or equitable interest in companies
- Intellectual property ('IP') holding or exploitation
- Distribution of goods purchased from foreign connected persons
- Provision of services to foreign connected persons

What requirements do UAE entities need to meet?

UAE entities undertaking and earning income from a Relevant Activity must perform the related 'Core Income Generating Activities' in the UAE by demonstrating that:

1. The entity and Relevant Activity are being 'directed and managed' from the UAE (through holding and minuting board meetings in the UAE, or the general manager making decisions in the UAE); and
2. The entity has an adequate number of qualified employees, premises (e.g. office space), and annual operating expenditures in the UAE relative to the activity undertaken.

It is possible for an entity to carry on more than one Relevant Activity at a time, in which case the economic substance requirements will need to be satisfied for each Relevant Activity.

Different economic substance requirements apply depending on the Relevant Activity carried on. For example, holding companies are subject to less stringent economic substance requirements, but additional economic substance requirements apply to 'high risk' IP related activities.

What do UAE entities have to do, and when?

Every UAE entity, including those that do not undertake a Relevant Activity, will need to submit a notification to their Regulatory Authority (the onshore or free zone authority that issued their business licence) indicating whether they carried out a Relevant Activity in the preceding financial year and whether any income from the Relevant Activity has been subject to tax outside the UAE.

UAE entities that undertake a Relevant Activity and earn income from the Relevant Activity will also need to file an annual economic substance return, self-assessing whether they met the economic substance requirements, supported by information about the Relevant Activity income earned, the number and qualifications of the staff involved, and information about the premises and other assets used in conducting the Relevant Activity.

The annual reporting deadlines are set out below.

Existing entities (an entity with an existing licence in the UAE)	Must comply with the regulations from the beginning of their financial year end commencing on or after 1 January 2019, with the first return due in 12 months after their financial year-end in 2020. For example, for entities with a calendar financial year ending 31 December, the first notification and economic substance return need to be submitted by 31 December 2020.
New entities	Must comply with the regulations from the commencement of their financial year, with the first notification and return due by 12 months after their financial year end (could be in 2020 or later depending on when the entity would be first established).

What are the consequences of non-compliance?

Late or non-reporting, as well as failing to meet the economic substance requirements, could result in penalties, spontaneous exchange of information with foreign authorities, and potentially a suspension, withdrawal or non-renewal of the entity's business licence.

All UAE entities will need to assess whether and which of their activities fall within the scope of the economic substance regulations, and how to ensure they meet the economic substance requirements in respect of each Relevant Activity. This is both a qualitative and quantitative assessment that would involve consideration of operational, financial, tax/transfer pricing, legal and governance matters.

As a leading provider of assurance, tax, legal and business consulting services in the UAE, PwC is ideally placed to help you in determining whether the UAE substance regulations apply to your business/entities, and how to ensure you can demonstrate the required economic substance in the UAE. PwC is the only Big Four accounting firm in the UAE that has its own, fully integrated law firm, with specialists in corporate governance, corporate law and corporate secretarial compliance matters.

How we can help you:

1

Impact assessment

Assessing which entities and activities are within the scope of the economic substance rules. This is a critical first step for all UAE businesses to determine what to notify to the Regulatory Authorities, and what economic substance requirements need to be met.

2

Gap analysis and action plan

- Undertake a gap analysis that maps the current (operational) substance and corporate governance infrastructure against what is required under the regulations
- Where any 'gaps' are identified, advise you on appropriate remedial actions and other measures to ensure compliance, such as:
 - The use of outsourcing arrangements;
 - Changes to the operating/business model or transfer pricing policy; and
 - Designing appropriate corporate governance policies, processes and controls
- Advising you on how to document that Relevant Activities are being 'directed and managed' from the UAE through board meeting minutes and other record keeping
- Advising you on the appropriate level of 'economic substance' (relative to the activities undertaken) in the form of management and operational activities.

3

Reporting

Assisting you in the preparation and submission of your annual notifications and economic substance declarations to the Regulatory Authorities.