

New economic substance regulations for UAE companies

The economic substance regulations released by the UAE Cabinet in April 2019 have been issued in line with the European Commission's concerns, which resulted in the UAE being added to the European Union list of non-cooperative tax jurisdictions.

1) When do the economic substance regulations apply from?

The regulations apply from the date of issuance of the Resolution dated 30th April 2019

- **What are the Relevant Activities?**

The following are considered as "Relevant Activities" under the Regulations:

- ? Banking
- ? Insurance
- ? Fund management
- ? Lease-finance
- ? Headquarters
- ? Shipping
- ? Holding company
- ? Intellectual property (IP)
- ? Distribution and service centre

- **What are the economic substance requirements?**

The economic substance requirements in relation to a Relevant Activity, a Relevant Entity that is an entity holding a trade license in the UAE onshore or in a free zone, must:

- Conduct the relevant "core income generating activities" in the UAE;
- Be "directed and managed" in the UAE; and
- With reference to the level of activities performed in the UAE:
 - Have a sufficient number of skilled full-time employees in the UAE
 - Incur an adequate amount of operating expenses in the UAE
 - Have adequate physical assets within the UAE.

A Relevant Entity that only operates a Holding Company Business will be subject to less rigid economic substance requirements. Additional requirements apply if a Relevant Entity carries out "high risk IP related activities". If a Relevant Entity carries out more than one Relevant Activity, then the economic substance requirements must be met for each of the Relevant Activities.

- **What are the reporting requirements?**

A Relevant Entity will be required to report certain information on its Relevant Activities on an annual basis to the relevant regulatory authority (being the authority that issued the trade licence to the Relevant Entity).¹

Existing entities ² Must comply with the Regulations from 30th April 2019, with the first return due in 2020.

New entities ³ Must comply with the Regulations upon receiving its trade licence, with the first return due in 2020 (or later).

¹ Failure to comply would result in administrative penalties (not less than AED 10,000 but not exceeding AED 50,000 in the first year, increased to an amount not less than AED 50,000 but not exceeding AED 300,000 in the subsequent year), subject to a six-year limitation period. Additional penalties such as suspending, revoking or not renewing the UAE Relevant Entity's trade licence could also apply.

² Refers to an entity with an existing trade licence in the UAE on the effective date of the Regulations, being 30 April 2019.

³ Refers to an entity that receives a trade licence on or after the effective date of the Regulations, being 30 April 2019.

- **Next Steps**

It is important for your UAE businesses to

- understand the economic substance requirements and the obligation to annually prepare the Report and file it with the Relevant Authority; and
- assess the existing level of economic substance in the UAE for the concerned activities.