

Economic Substance update: Filing requirements and deadlines

This notice is intended to provide guidance to entities undertaking one or more Relevant Activities that are required to submit a Notification (and/or Economic Substance Report) in accordance with **Cabinet Decision No 57 of 2020 concerning Economic Substance Requirements (“Decision 57”)** and **Ministerial Decision No 100 of 2020 (“Ministerial Decision 100”)** .

Requirement to file on the Ministry of Finance Portal

In accordance with Article 6.7 of Ministerial Decision 100 all Notifications and Economic Substance Reports must moving forward only be submitted electronically on the Ministry of Finance Portal. Licensees and/or Exempted Licensees can commence filing on the Ministry of Finance portal once it goes live, which is scheduled for the first week of December 2020. The Ministry of Finance will continue to provide additional information concerning the Ministry of Finance portal.

Article 4.4 of Ministerial Decision 100 establishes that all Notifications must be submitted within six months from the end of the Financial Year. In addition to the above, Article 4.4 also confirms that Licensees that already submitted a Notification directly to their Regulatory Authorities are required to re-submit this Notification on the Ministry of Finance Portal once available.

Article 8.5 of Decision 57 confirms that all ESR Reports must be submitted within twelve months from the end of the Financial Year.

Clarifications concerning filing deadlines

Notifications due before the Ministry of Finance Portal goes live

The filing deadline for Notifications that are due before the Ministry of Finance Portal is available will be extended for a period not exceeding 15 days from the date the Ministry of Finance Portal goes live. For example, in respect of a Licensee with a 31 March 2020 financial year end, which under Article 4.4 of Ministerial Decision 100 would be required to file by 30 September (i.e. before the Ministry of Finance Portal goes live), this Licensee would be required to file within 15 days from the date the Ministry of Finance Portal goes live.

Licensees and/or Exempted Licensees that fail to submit their Notification along with the required supporting documents within 15 days from the Ministry of Finance Portal going live will be issued a penalty of AED 20,000 under Article 13 of Decision 57 for failure to provide a Notification.

Notifications previously filed with Regulatory Authorities and that are required to be resubmitted on the Ministry of Finance Portal under Article 4.4 of Ministerial Decision 100

Licensees and/or Exempted Licensees that have submitted a Notification to a Regulatory Authority before the Ministry of Finance Portal goes live (e.g. by the 30 June 2020 deadline) are required to resubmit their Notification along with the required supporting documents on the Ministry of Finance Portal once available.

Licensees and/or Exempted Licensees that are required to resubmit their Notification will have a period of up to 15 days to do so from the date the Ministry of Finance Portal goes live.

Licensees and/or Exempted Licensees that fail to resubmit their Notification within 15 days from the Ministry of Finance Portal going live will be issued a penalty of AED 20,000 under Article 13 of Decision 57 for failure to provide a Notification.

Economic Substance Reports due before the Ministry of Finance Portal goes live

The filing deadline for Economic Substance Reports that are due before the Ministry of Finance Portal is available will be extended for a period not exceeding 15 days from the date the Ministry of Finance Portal goes live. For example, in respect of a Licensee with a short financial period commencing on 1 April 2019 and ending on 31 October 2019, which under Article 8.4 of Decision 57 would be required to file by 31 October 2020.

Licensees and/or Exempted Licensees that fail to submit their Notification within 15 days from the Ministry of Finance Portal going live will be subject to a penalty of AED 50,000 under Article 14.1(a) of Decision 57 for failure to provide a ESR Report, and a penalty of AED 50,000 under Article 14.1(b) of Decision 57 for failure to meet the Economic Substance Test.