

COVID – 19 Industry Advisory Notification: Cabinet of Ministers Resolution No. 31 of 2019 Concerning Economic Substance Regulations (“ESR”)

The UAE Ministry of Finance (“**UAE MoF**”) recognises that businesses around the world and in the UAE may need to adjust their operating procedures to address disruptions caused by COVID-19. In particular, it is recognised that the outbreak of COVID-19 may affect the mobility of individuals, either as a result of travel restrictions or due to individuals being subject to self-isolation or quarantine requirements.

In this regard, the UAE MoF would like to confirm that the UAE will take into consideration the impact of COVID-19 on usual operations of Licensees when making a determination of whether or not a Licensee has demonstrated sufficient economic substance in the UAE. These considerations would only apply with respect to those substance requirements that are directly affected by COVID-19 measures (e.g. travel restrictions, self-isolation situations or quarantine requirements). In particular, consideration will be given to the impact of restrictions on the ability of Licensees to demonstrate their ability to meet the requirements of the directed and managed test (Article 6.2(b), ESR).

Businesses should give consideration to the ability to appoint alternate directors in the UAE who can attend meetings in the UAE and thereby address any short-term practical difficulties arising from COVID-19 related measures.

The UAE MoF further confirms that the notification filing requirements (Article 8.1, ESR) shall be extended to 30 June 2020. For the time being, the deadline for the filing of the economic substance return for the financial year 2019 remains unchanged.

The above shall only apply to periods affected by COVID-19 related measures and restrictions and only to the extent required to mitigate the threats from this outbreak, and Licensees shall retain the requisite records to demonstrate adjustments made to their normal operating procedures in response to COVID-19.

Entities should note that this is only a temporary arrangement and are therefore urged to make every effort to otherwise comply with their obligations under the ESR (including filing deadlines).

The UAE MoF shall continue to monitor developments on the COVID-19 measures and provide further updates, as necessary.