



# Economic Substance Regulations

PRESENTED BY CHARTERED HOUSE

collaborating firm of **ANDERSEN GLOBAL**

# Presentation Outline

## DISCUSSION POINTS

- What is Economic Substance
- Requirement of Economic Substance
- ESR Scope
- Relevant activities and CIGAs
- Outsourcing
- Board Meetings

## What is Economic Substance

Economic Substance is doctrine in the tax law which will ensure that all the business transaction must have :



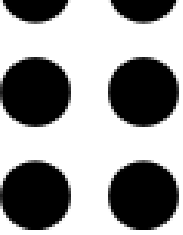
## Substantial Purpose

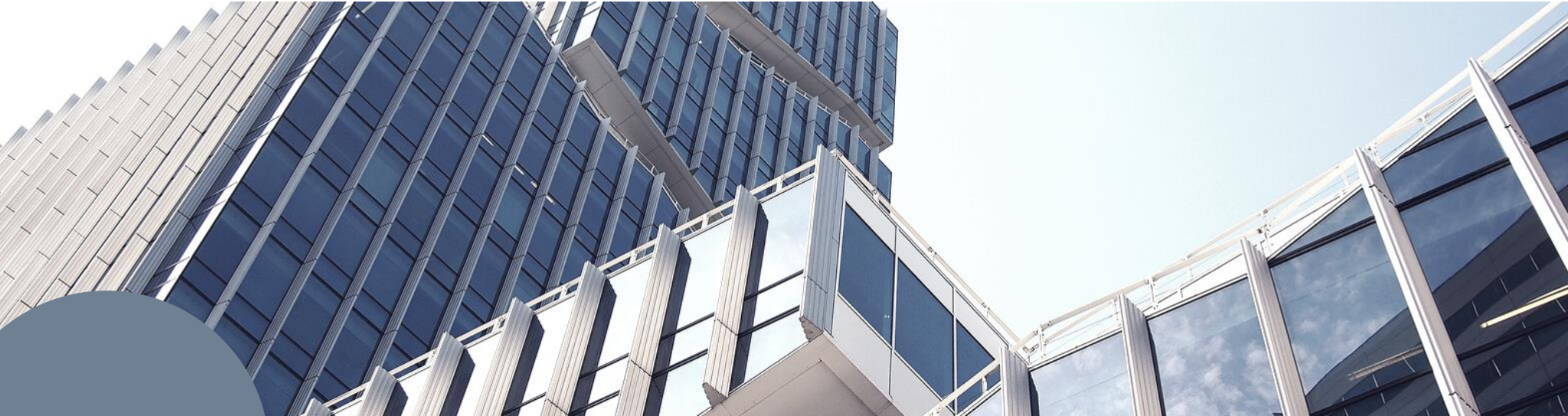
Aside from reduction of tax liability

## Economic Effect

Aside from Tax effect.

Economic Substance will ensure that mobile business income cannot be parked in a zero-tax jurisdiction without the core business functions having been undertaken by the same business entity or in the same geographical location.





# Economic Substance

## REQUIREMENT

1

ESR bring specific requirements for businesses to demonstrate actual economic activity

2

To ensure that profit are taxed where economic activities are generating the profits are performed and where value is created.

3

To Prevent the harmful tax practice of profit shifting from high-tax jurisdiction to low tax regimes.

# ESR IN UAE

## A BRIEF BACKGROUND

As part of the UAE's commitment as a member of the OECD Inclusive Framework, and in response to an assessment of the UAE's tax framework by

the European Union ("EU") Code of Conduct Group on Business Taxation, the UAE introduced a Resolution on the Economic Substance.


Cabinet of Ministers Resolution No.31 of 2019, the "Regulations on 30 April 2019.



# ESR Scope

- The economic substance regulations apply to **all companies** that are established in the UAE\* and which have income from a relevant sector in any accounting period commencing on or after 1 January 2019.
- Income for the purposes of the economic substance requirement is **gross income**

\*except entity in which Minimum 51% direct or indirect investment of Govt. authorities)



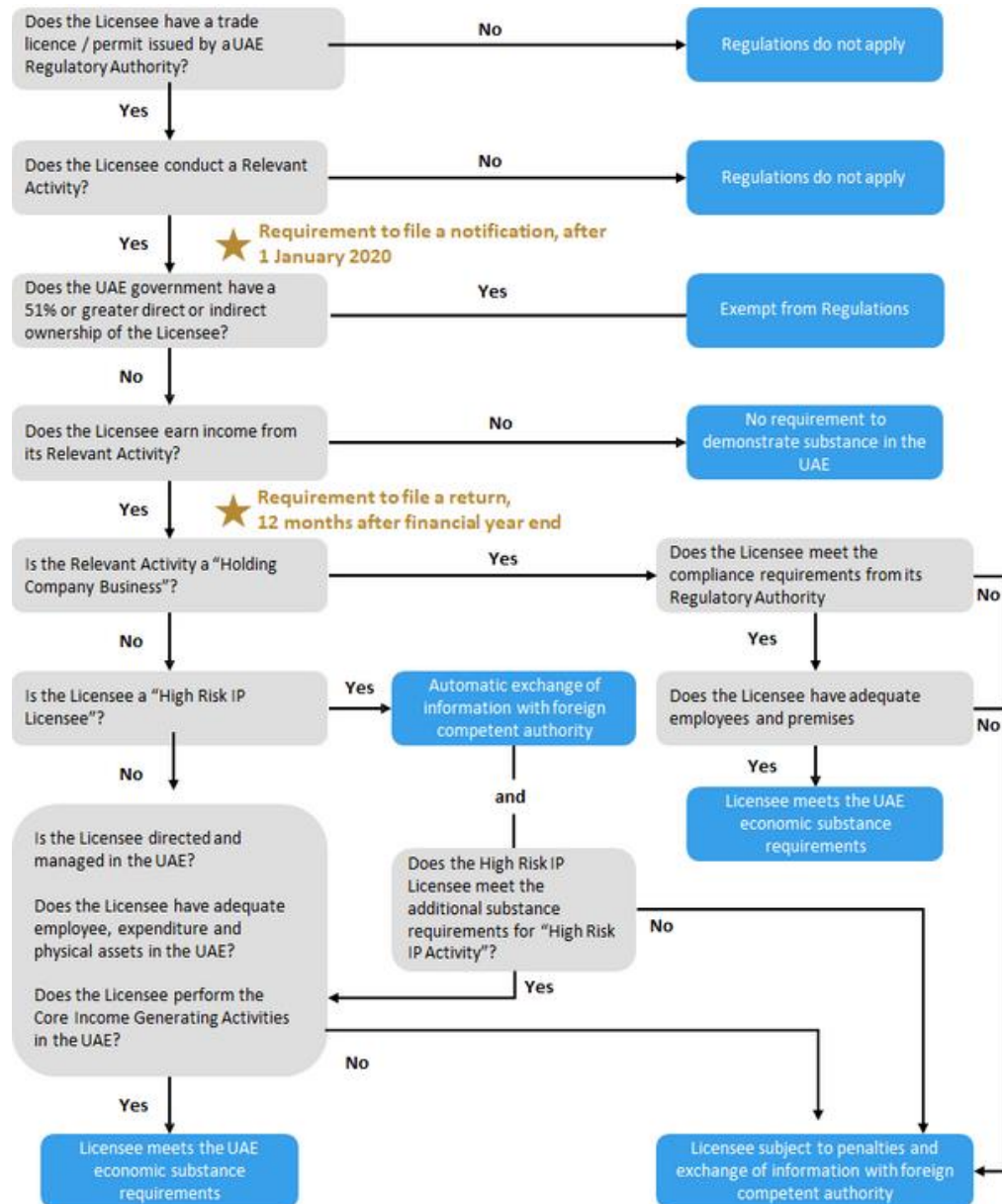
# Adequate Substance

All companies with activities and income in a relevant sector in an accounting period will be required to demonstrate that they have adequate substance in the UAE.

The adequate substance requirements, will generally require that a company:

- is directed and managed in the UAE;
- has an adequate number of (qualified) employees proportionate to the level of activity carried on in the UAE;
- has adequate expenditure proportionate to the level of activity carried on in the UAE;
- has an adequate physical presence in the UAE; and
- conducts core income-generating activity ('CIGAs') in the UAE

# ESR IN NUTSHELL









1

CIGAs are the key essential and valuable activities that generate the income of the company, it must perform the CIGAs that generate the income it has in UAE

2

CIGAs that generate the income must be performed in the UAE.

3

Where the CIGAs involves making relevant decisions, then the majority of those making the decisions must be present in the UAE when the decision is made, otherwise the decision will not be considered to made in the UAE.

4

Activities undertaken outside the UAE must not be core income generating activities.

5

The taking of decisions outside the UAE would generally indicate performance of CIGAs outside the UAE.

6

isolated decisions may be taken outside the UAE if it can be evidenced that the decisions taken and the CIGAs undertaken in the UAE are of a quality and quantity

# What is CIGAs

## BASICS

# CIGAs

## Key Considerations

1

Substance over form approach must be taken i.e. assess all activities carried out during a financial period and not only those stated in the Commercial license.

2

Not necessary that a business should actively engaged in conducting the relevant activities. Passive receipt of income would also be considered as carrying Relevant Activities

3

Business can undertake more than one Relevant Activities during the same financial period, unless it is ancillary to the main Relevant Activity.

4

Ancillary Relevant Activity can be consolidated under the main Relevant Activity to prevent duplication. Consolidated reporting is permitted for Banking, Lease-financing, Headquarter and distribution and Service business.

**DEFINITION:**

It includes providing Discretionary Investment Fund Management services include making investment, divestment and risk related decisions on behalf of a domestic or foreign “Investment Funds”.

**RELEVANT ACTIVITY:**

**Investment  
Fund  
Management  
Business**

The Investment Fund itself is not considered an Investment Fund Management Business, unless it is a self-managed fund (the Investment Manager and the Investment Fund are part of the same entity).

# CIGAs: Investment fund Management Business

## **Taking decisions on the holding and selling of investments**

This involves the independent consideration, deliberation and making of investment and divestment decisions.

## **Calculating risk and reserves**

It includes managing, identifying, measuring, monitoring & controlling risks attributable to the Investment Fund's operations and investments

## **Taking decisions on currency or interest fluctuations and hedging positions.**

This includes hedging arrangements against currency or interest fluctuations and taking relevant decisions.

## **Preparing reports to investors or any government authority**

Preparing reports to investors or any government authority with functions relating to the supervision or regulation of such business



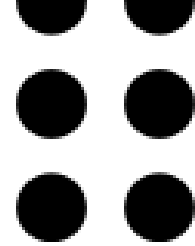
# Business not considered as carrying Investment fund management business



Fund administration and  
custodian

Merely implementing decisions of  
another entity with respect to  
investments or divestment without  
independent evaluation

Investment advisory and  
other investment fund related  
services



## Example Investment Business

XYZ Fund is an Investment Fund registered with the SCA. The fund is structured as a limited partnership with ABC LLC (UAE) as its corporate General Partner. **ABC LLC has appointed Morpheus LLC (UAE) as the investment manager** for the XYZ Fund and has delegated to Morpheus LLC the day-to-day investment and divestment decision making responsibilities. The administration of the Investment Fund is handled by a third-party administrator established in the UAE, Neo LLC.

1. XYZ Fund itself is not considered to undertake an Investment Fund Management Business.
2. ABC LLC has delegated all discretionary investment management to Morpheus LLC so it will not be considered to undertake an Investment Fund Management Business.
3. **Morpheus LLC, as the investment manager of the XYZ Fund, is considered as carrying on an Investment Fund Management Business.**
4. Neo LLC providing administration services so it will not cover under Investment fund Management Business

# Relevant Activity

## Lease Finance Business

### DEFINITION

Any company which offers credit or financing for any kind of consideration, such as loans, hire purchase agreements, long term credit plans, and finance leases in relation to assets other than land. This includes intra-group financing.

Consideration will include interest, origination & processing fees, gains upon conversion of a loan into the share capital of the debtor, and late payment penalties. However, granting of security in favor of the lender would not constitute consideration.

The scope does not extend to cases where credit is offered and there is no expectation of consideration from the credit when providing it.



# CIGAs Lease-Financing Business

1

## Agreeing funding terms

Refers to funding of the lender or lessor itself and includes agreeing the type of funding (e.g. equity/preference shares/debt/bank borrowing etc.), the quantum of funding, the rates of interest payable, the security given (if any), and any covenants. .

2

## Identifying and acquiring assets to be leased

includes agreeing a suitable price or quantity, identifying sources of those assets, and negotiating the acquisition and the terms of supply.

3

## Setting the terms and duration of any financing or leasing

includes the financial terms, the parameters as to acceptable counterparties, the amounts, rates of interest, the legal agreements and the period for which financing, or leasing is to be provided.



## 4

Monitoring and revising any agreements

includes the acquisition of data about a borrower or lessee (or group of them), testing against covenants, extending durations of loans, and feeding back into decision making on writing new terms.

## 5

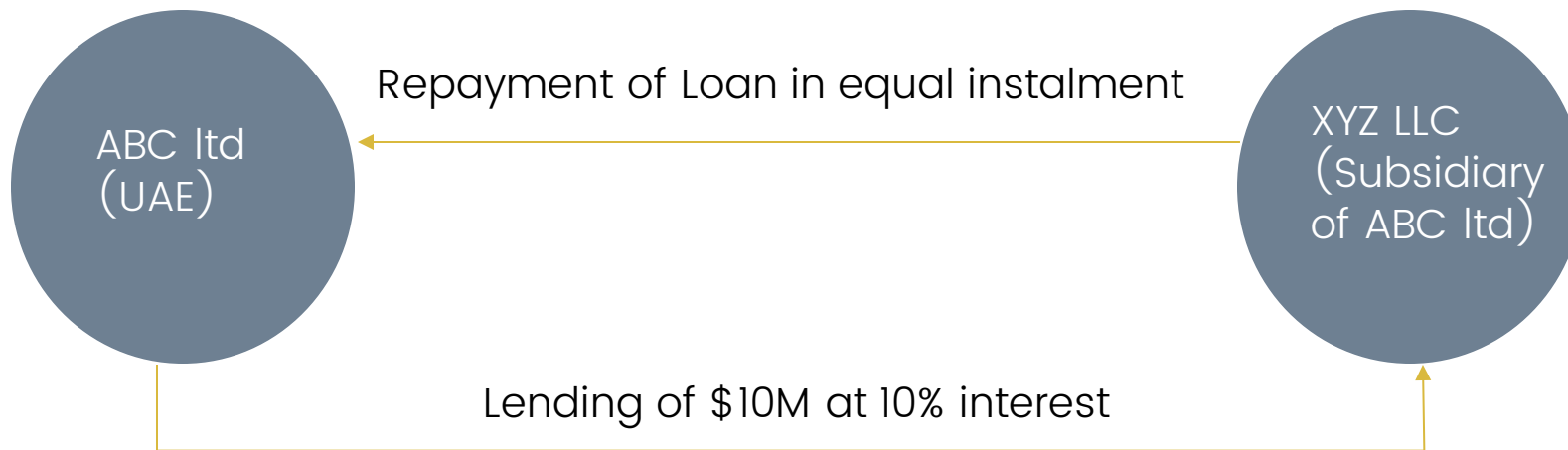
Managing risk

includes instigating debt collection, considering spreading of risk across sectors or consumer groups. In leasing it includes monitoring and maintaining the underlying assets.

# CIGAs Lease-Financing Business

- Example : Lease-Finance Business

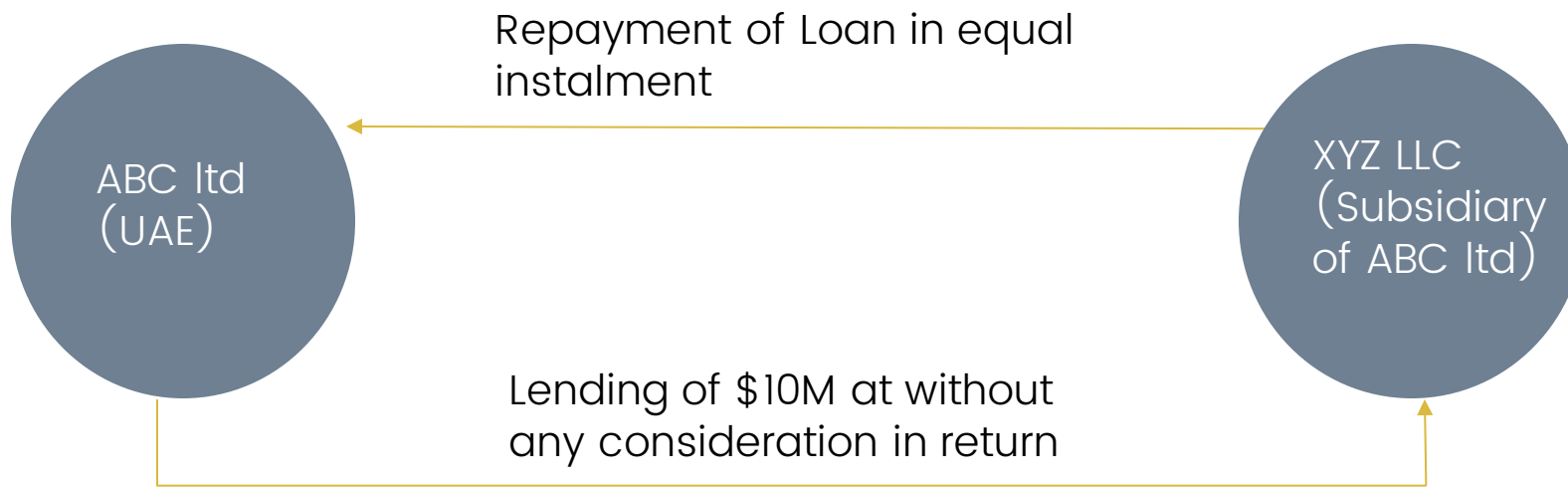
1.



ABC Ltd (UAE) lends \$10M to its subsidiary, XYZ LLC, at a 10% interest rate per annum. In respect of the interest-bearing shareholder loan made by ABC Ltd, it is considered **engaged in a Lease-Finance Business** (specifically, financing).

- Example : Lease-Finance Business

2.



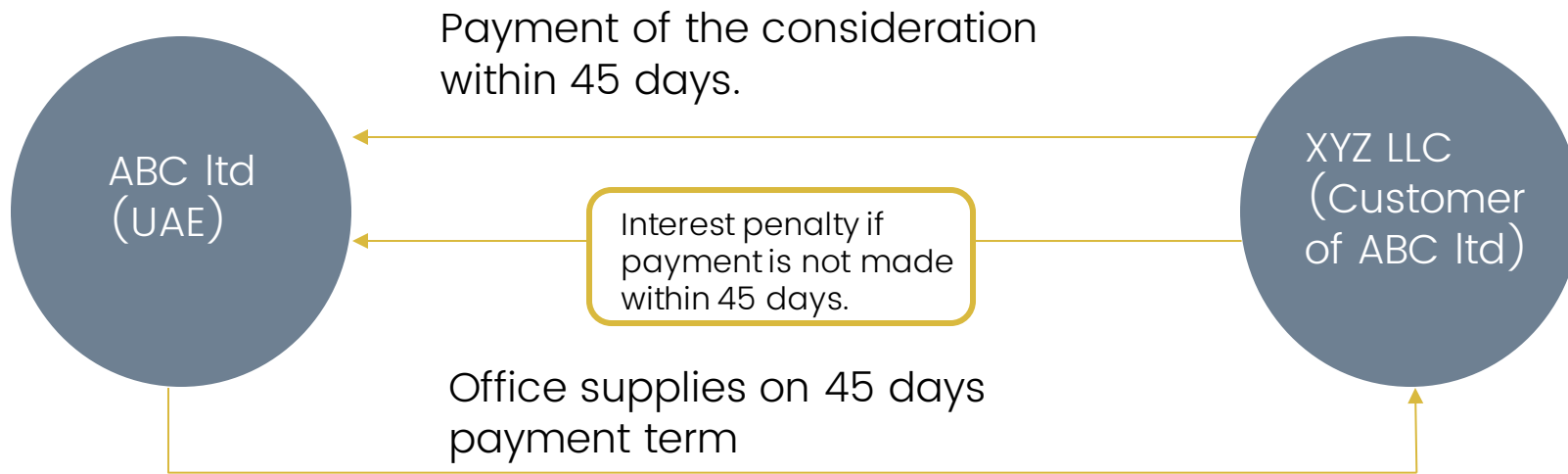
ABC Ltd subsequently assigns the \$ 10M loan to XYZ LLC (UAE), another group company.

After the transfer, XYZ LLC will be considered as carrying on a Lease-Finance Business.

if the \$10M loan was the only loan advanced by ABC Ltd, and ABC Ltd does not obtain an interest-bearing loan receivable from XYZ LLC in exchange for the transfer, ABC Ltd would **cease to carry on a Lease-Finance Business** once the transfer is effected.

- Example : Lease-Finance Business

3.

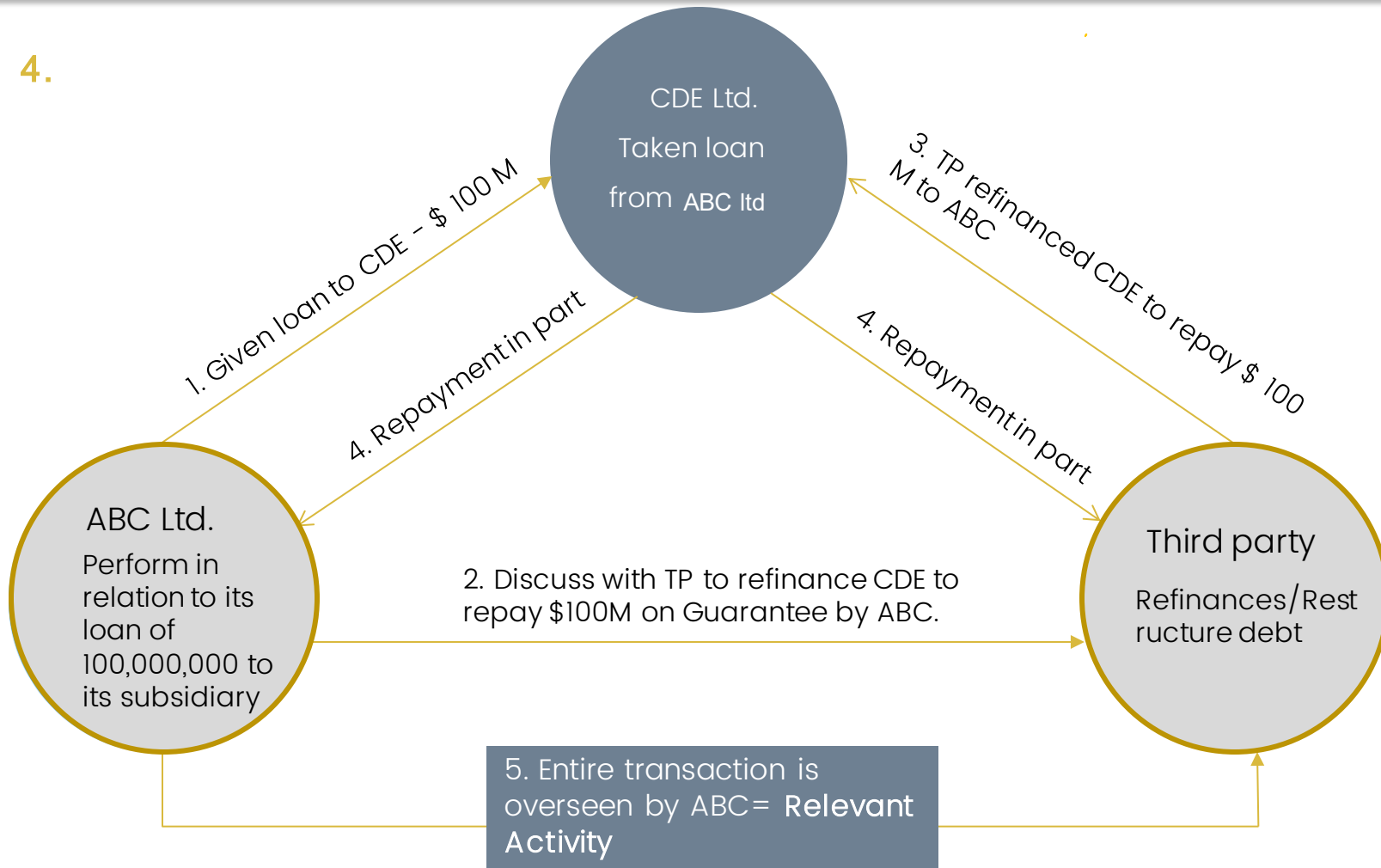


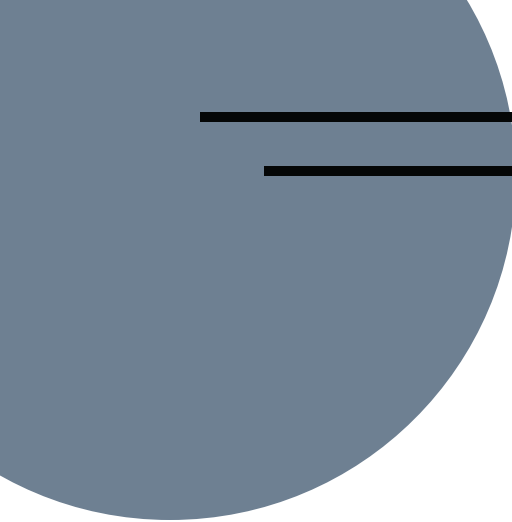
ABC LLC (UAE) sells office supplies and allows XYZ LLC a 45-day payment term on invoices. If XYZ LLC do not pay within 45 days, ABC charges late payment interest.

This trade-credit arrangement is **not a Lease-Finance Business**, as the credit is not offered with the intention of generating interest, but rather to facilitate the trading business of ABC.

# ● Example : Lease-Finance Business

4.





# Relevant Activity


# Headquarter Business

## DEFINITION

A Licensee is regarded as carrying on a Headquarters Business if the Licensee provides services to foreign group companies, and through the provision of such services:

- The Licensee takes on the responsibility for the overall success of the group; or
- The Licensee is responsible for an important aspect of the overall group's performance.

Whether or not an entity is deemed to be a company headquarters will depend on the services it provides to other entities within the group.



For a UAE business to be seen as having “taken on the responsibility for the overall or an important aspect of the overall group’s success or performance”, the services provided by the entity must involve:

- the provision of senior Management
- the assumption or control of material risk for activities carried out by, or assets owned by, any overseas related entity; or communication tools.
- the substantive advice in connection with the assumption or control of such risk.



1.

## Taking relevant management decisions

This refers to taking decision for the substantive function and significant risk for group companies.

For e.g. Sales and marketing strategy, product development etc.

2.

## Incurring operating expenditures on behalf of group entities'

This include engaging specialist advice or procuring technology on behalf of the group as a whole or purchasing significant assets or specific services for or on behalf of group companies.

3.

## Coordinating group activities'

This include coordination of activities such as marketing, HR, IT, finance, tax etc. in a way that produces the best outcome for the group as a whole.

# CIGAs Headquarter Business



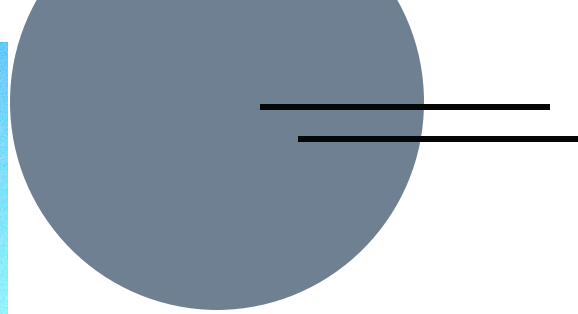


## Examples : Headquarter Business

ABC LLC (UAE) is part of a multinational group with subsidiaries around the world. It regularly spend time at the subsidiaries with the local management teams providing strategic direction and helping manage material risks. In addition, ABC LLC supports the group in managing risk through the procurement of external advice centrally, and the associated costs are shared amongst the group.

ABC LLC's activities are **within the scope of a Headquarter Business**





## Examples : Headquarter Business

ABC LLC (UAE) is part of a multinational group with subsidiaries around the world. It regularly spend time with the local management teams of KSA company. It has certain rights and influence in the KSA company. However, KSA company follow the strategic direction from the Head-quarter in UK.

ABC LLC is not considered to be providing 'headquarters services' because the strategic direction for the group is set by the headquarters in the UK.

## **DEFINITION:**

A business which is licensed in the UAE to hold, exploit or receive income from intellectual property assets. An IP assets has been defined as intellectual property right in intangible assets including, but not limited to, copyright, trademarks, patents, brand and technical know how, are within scope of the Economic Substance Rules.

The Licensee should submit proof of rebut presumption and additional substance requirement is required in case of Licensee carrying High risk IP Business.

## **RELEVANT ACTIVITY:**

**Intellectual  
Property  
Business (“IP”)**





## Important points need to be taken care for IP Business

- Most UAE business will own some form of IP business but not earn separately identifiable income

- ownership of such IP Asset would not be considered as carrying on an IP Business unless income is generated from the same

- Business need to disclose the income from IP business correctly, For e.g. by disguising royalty income as regular sales income will attract penalty as per ESR law`

# Examples

## IP Business

**ABC LLC holds a brand, the rights for which are licensed to others in return for a royalty.**

ABC LLC is within the scope of Intellectual Property Business.

**ABC LLC has a trademarked range of chocolates, which it manufactures and sells to unrelated third parties.**

ABC LLC is not an Intellectual Property Business as its gross income is derived from the sale of finished goods to third parties. Value of finished goods is linked to IP assets and it is not separable.

**ABC LLC developed a unique IT software platform for online marketing business. It allow other business to use their online marketing software and in return other business use to pay license fees.**

ABC LLC is within the scope of Intellectual Property Business.

## High Risk IP Business : Conditions

**Condition A** – Where a Licensee is carrying on an Intellectual Property Business, it will also have to consider if it is a High-Risk IP Licensee. **All** the following conditions need to be met in order to carry High-Risk IP business:

- The Licensee did not create the IP asset which it holds for the purposes of its business;
- Acquired the IP asset either from:
  - A Connected Person; or
  - In consideration for funding research and development by another person situated outside the UAE; and
- Licenses the IP asset to one or more Connected Persons or otherwise generates income from the asset in consequence of activities performed by Foreign Connected Persons

OR

**Condition B**

- Does not carry out research and development, or branding, marketing and distribution as part of its UAE Core Income-Generating Activity.



# What are the increased substance requirement for HIGH IP business

Exercised a high degree of control over developing the IP

Adequate full-time employees with the necessary qualifications that permanently reside and perform their activities in the UAE - relevant employee information (e.g. experience, contracts, qualifications etc.) would need to be provided

A business plan showing the reasons for holding the IP in the UAE

Its decision making takes place in the UAE

ABC LLC, a UAE resident company earns gross income from licensing its patent for a new medicine to its group companies located in Egypt and KSA.

ABC LLC did not create the patent; the rights were acquired from a group company (R&D Co in the UK).

ABC LLC is a High-Risk IP Licensee and would be subject to

- the exchange of information provisions
- required to provide additional information to evidence its economic substance in the UAE.

## Example of High Risk IP Business

**DEFINITION:**

A company will be regarded as a holding company if its sole function is to acquire and hold equities, and the equities in question are controlling stakes in other companies and it does not carry and other commercial activity.

As specified on page 41 of the OECD Action 5 2017 Progress Report, for holding companies that hold a variety of assets and earn different types of income (e.g. interest, rents, and royalties), the core income generating activities would be those activities that are associated with the income that the holding companies earn, as determined by the discussion above.

**If a company carries on any other relevant activity (irrespective of profit), then it would not fall within the definition of a holding company.**

**RELEVANT ACTIVITY:**

**Holding  
Company**



## Reduced Economic Substance Requirement for Holding Business

A Licensee whose activities are limited to being engaged in a Holding Company Business would not require to :

be “directed and managed” in the UAE (but must meet relevant legislation such as Company Law and Regulations, Operating Law, Prescribed Company Regulations etc.); OR

Have adequate expenditure in the UAE



# CIGAs Holding Business

The CIGAs of a Holding Company Business are all activities related to acquiring and holding shares or equitable interests in other companies.



# Example: Holding Business

ABC LLC's only activity is to hold shares in four other subsidiary company, and it has earned income by way of dividend.

ABC LLC undertakes a holding business.

ABC LLC manufacture wood products and hold shares in another subsidiary company.

ABC LLC is not considered a Holding Company Business because its business is food production.



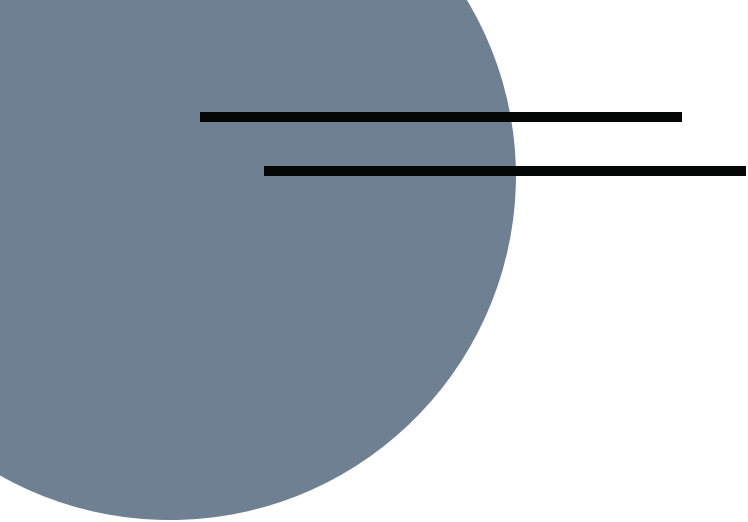
# Example: Holding Business

ABC LLC holds 100% shares in subsidiary company and has provided loan to its subsidiary company.

ABC LLC will be considered as engaged in Lease Finance business.

ABC LLC act as a trustee to several trusts and provide the business of trustee services.

ABC LLC undertakes a holding business.



# Relevant Activity

## Distribution & Service Centre Business

### DEFINITION

A Licensee is considered engaged in a “Distribution Business” if it purchases raw materials or finished products from a foreign group company and distributes those raw materials or finished goods.

A Licensee is considered engaged in a “Service Centre Business” if it provides consulting, administrative or other services to a foreign group company, and those services are in connection with the foreign group company’s business outside the UAE.



Business that purchase goods from or distribute goods to third parties.

Business that engaged in providing the services to third parties.

Transaction not in the ordinary course of its business (e.g. a one-off transaction) and the transaction is recharged to the relevant foreign group company at cost or less.

## Business not considered as Carrying Distribution and Service Centre Business

# CIGAs

## Distribution & Service Centre Business

Transporting and storing goods, components and materials or goods ready for sale

It include the movement and storage of raw materials or finished products and managing the risks associated with this

### Managing inventories

considering minimum acceptable inventory levels, managing frequency of stock take, and ensuring security procedures are in place

### Taking orders

It includes the provision of the order processing element of the entire fulfilment process, whether that is manual or electronic

### Providing consulting and administrative services

It Includes provision of any type of service to the Licensee's foreign group companies.



# Example: Service & Distribution Business

ABC LLC (UAE) buys furniture from a group company based in Lebanon and then re-sells the furniture throughout the Middle East

ABC LLC is considered as carrying on a Distribution and Service Centre Business.

ABC LLC provide HR and administrative support services to a group company based in Kuwait, which are recharged at cost.

Despite not charging a mark-up on the relevant costs, ABC LLC is considered as engaged in a Distribution and Service Centre Business.

ABC LLC provides audit and accountancy services to third party customers, it provided audit serviced to a KSA based company ( third party).

ABC LLC is not in the scope of Distribution and Service centre Business.

# Relevant Activity

## Banking Business

### DEFINITION

Banking Business” means the business of accepting deposits of or after a fixed period, or after notice, by cheque or otherwise, and the use of such deposits, either in whole or in part, in:

- A. the making or giving of loans, advances, overdrafts, guarantees or similar facilities; or
- B. the making of investments, for the account and at the risk of the Licensee.

A Licensee that is part of a banking group and only provides advisory, arranging and other services to clients of the banking group would generally not be considered to conduct a Banking Business

# CIGAs: Banking Business

## **Raising funds, managing risk including credit, currency and interest risk**

It includes deposit from the public, raising fund including raising capital, issuing bonds or going to the money markets.

## **Taking hedging positions**

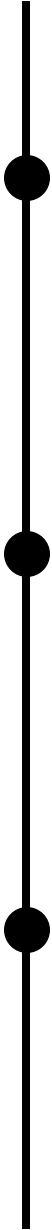
Banks need to ensure that where there is risk, they mitigate it, this is often done by taking opposing and offsetting positions.

## **Providing loans, credit or other financial services to customers**

Banks will utilize the customer deposit and other available funds by lending or investing.

## **Managing capital and preparing reports and returns**

'Managing capital and preparing reports to investors or any government authority with functions relating to the supervision or regulation of such business'



Provides advisory, arranging and other services to clients of the banking group

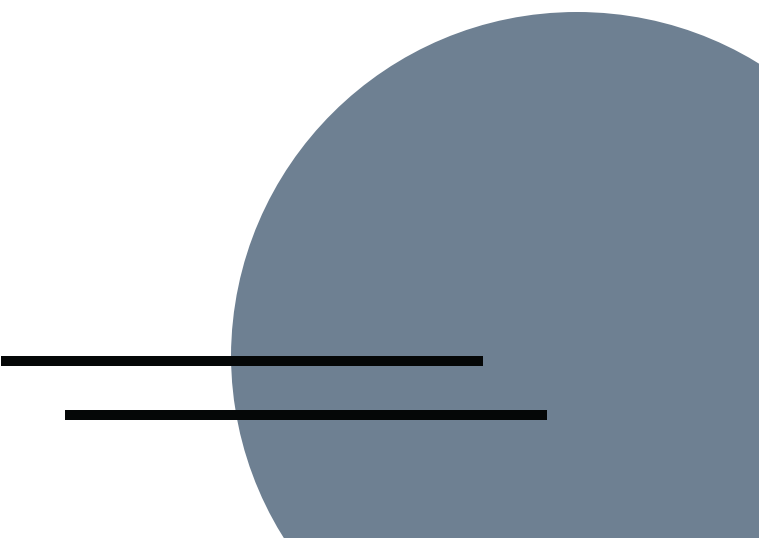
Businesses engaged in exchanging foreign currency and remitting money

Sale and purchase of domestic and foreign stocks and bonds, currencies and commodities and money market transactions



## BUSINESS NOT CONSIDERED AS CARRYING BANKING BUSINESS

Although such Business should consider whether it undertakes another Relevant Activity





# Example: Banking Business

ABC Bank (UK) offers current accounts, savings accounts, loans, credit cards, and other products and services through several branches in the UAE.

ABC Bank clearly undertakes a Banking Business in the UAE and is subject to the Regulations.

PQR Bank was permitted under its UAE investment banking license to accept deposit. PQR offered services for underwriting of new debt and equity securities, facilitating and advising buyers and sellers on mergers and acquisitions, and marketing financial products in the previous Financial year.

Although PQR was permitted to accept deposits but it has carried out activities which do not fall under Relevant Activities for banking business so PQR would not be considered as carrying on a Banking Business.

MNO is the UAE branch of the JKL Banking Group that provides retail and corporate banking services globally. The activities of MNO are limited to providing UAE and regional clients with assistance and advice regarding the JKL Banking Group's products and services.

MNO LLC is not considered to undertake a Banking Business by virtue of being in the same corporate group. assistance in the opening of bank accounts would not be considered as conducting deposit taking activities. MNO may, however, be considered as undertaking a "Distribution and Service Centre Business"

**DEFINITION:**

Insurance Business means the business of accepting risks by effecting or carrying out contracts of insurance, in both the life and non-life sectors, including contracts of reinsurance and captive insurance arrangements.

RELEVANT ACTIVITY:

**INSURANCE  
COMPANY**

Insurance brokers, agents, and other UAE businesses providing insurance related services that do not involve assuming all or some of the insured risk do not fall within the definition of Insurance Business, although they may conduct activities that fall into another Relevant Activity category



# CIGAs: Insurance Business

## 1. PREDICTING & CALCULATING RISK

It include the determination of the quantification and likelihood of the insured event occurring and the likely costs and ensuring that the premiums charged are commensurate with the risks accepted.

## 2. INSURING/REINSURING AGAINST RISK

This includes insuring policyholders against specific risks and providing reinsurance to primary insurers.

## 3. UNDERWRITING INSURANCE & REINSURANCE

This refers to the evaluation and analysis of the risks of an insurance policy and establishing the pricing for accepted insurable risks.

# Example

## INSURANCE RELEVANT ACTIVITY

1

First Life LLC (UAE) regulated as an Insurer by the UAE Insurance Authority provides life, health and car insurance in and from the UAE.

First Life LLC clearly undertakes an Insurance Business and is subject to the substance requirements.

2

ABC LLC (UAE) is an insurance intermediary that assists and represents consumers in the placement and purchase of insurance and provides services to insurance companies to facilitate and complement the insurance placement process.

ABC LLC not undertake an Insurance Business and is not subject to the Regulations .

**DEFINITION:**

Business who operate one or more ships in international traffic, for the transport of either passengers, cargo or both.

**RELEVANT ACTIVITY****Shipping  
Business**

The definition of a “ship” for purposes of the Regulations does not include:

- vessels used for fishing;
- vessels that are “small” (i.e. tonnage does not exceed ten tonnes); and
- leisure vessels (e.g. cruise ships and private yachts).

# CIGAs

## Shipping business



### Managing, hiring, paying and overseeing crew members

Substance over form approach must be taken i.e. It include the sourcing, recruitment, selection, deployment, scheduling, training, and on-going management and associated administration of the crew

### Overhauling and maintaining ships

It include responsibility and making decision in respect of, the lifting of vessels from the water for and the general maintenance of ships.

### Overseeing and tracking shipping

It includes management and oversight of the logistical aspects of the international transportation of cargo and passengers by ship, including ship movements.


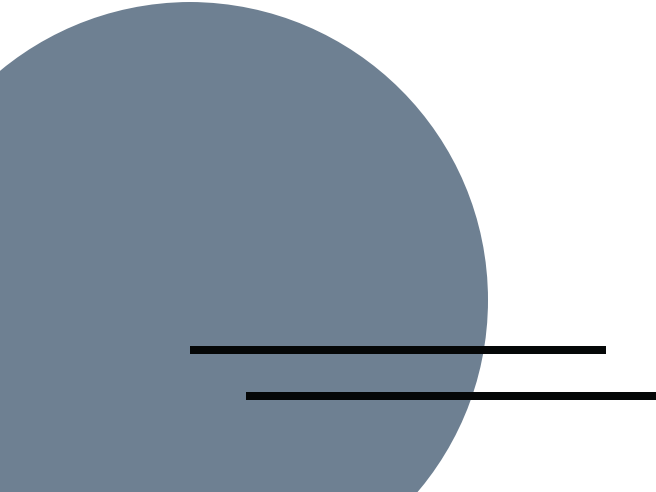
### Taking Decision related to operation of the business

This includes managing the logistical aspects of the operation of ships, organizing and overseeing voyages.



## BUSINESS NOT CONSIDERED AS CARRYING SHIPPING BUSINESS

Although such Business should consider whether it undertakes another Relevant Activity



The chartering of ship on bareboat basis (i.e. the entity chartering the ship without operating the ship)

Selling tickets for international travel by travel agencies and international shipping agencies

Entities engaged in transporting of goods by sea without operating the relevant ships.



## Example : Shipping Business

1

ABC LLC owns and operate the ship in international traffic to carry passengers from the UAE to other Middle East countries.

BC LLC is within the scope of a Shipping Business because it operates a ship in international traffic for the transport of passengers.

2

ABC LLC doesn't operate the ship, but it manages the crew of XYZ LLC's ship as part of its crew management business.

Mere provision of crew and ship management services is not considered as "operating a ship" for purposes of the Regulations. ABC LLC is not considered to carry on shipping business as it does not operate the ship.

3

ABC LLC owns a ship and charters it on a bareboat basis to XYZ LLC that uses and operates the ship to carry cargo from the UAE to other countries.

ABC LLC is not considered to carry on shipping business as it doesn't operate the ship. On the other hand XYZ LLC is considered to carry on shipping business because it operate the ship

# Outsourcing Arrangement

Who can you outsource to –

Third Party Service Providers and related companies

What can be Outsourced

- A Licensee can outsource any or all its CIGAs so long as the outsourced activities are performed in the UAE
- A Licensee can outsource any or all non CIGA's activity outside UAE. For e.g. IT and HR activities



# Outsourcing Arrangement

Licensee must demonstrate when outsourcing-

- Adequate supervision of the outsourced activity
- The outsourced activity must be conducted in the UAE
- The outsourcing provider has adequate substance in the UAE
- No double counting







# Board Meeting

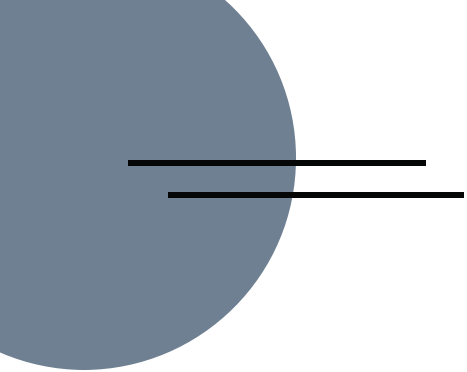




# Board Meeting

Licensees must demonstrate that they are directed and managed in the UAE in relation to the Relevant Activity during the relevant financial year by:

- Holding board meetings in the UAE, at which decisions are made (the actual number of board meetings required will depend on the Relevant Activities undertaken and decision making taken);
- Quorum met with directors physically present in the UAE;
- Directors / board members have necessary knowledge and expertise;
- Meetings are properly minuted, signed by the directors/members present and kept in UAE;
- The manager/member of branches and entities with one (1) board member, must be in the UAE when making key decisions



# Requirement to file ESR notification and return.



# Requirement to file Notification under ESR

- All Licensee need to notify their respective competent authorities that they undertake a Relevant Activity.
- Notifications will be file by the licensee in the way prescribed by respective authorities
- Notifications will be file with the respective authorities , before the deadline communicated by the authorities.

# Requirement to file Return under ESR

- All Licensees that are not exempt and undertake a Relevant Activity which they earn income from during a relevant Financial Year are required to:
- Meet economic substance requirements; and
- File economic substance return with the respective authorities on an annual basis

Return is due within 12 months after the relevant financial year end



## Free Zone's Entities

Regulatory authority of the free zone where the business is carried out.



## Other UAE Business

Ministry of Economy



# Respective Authorities for ESR

# Responsibility of Regulatory Authorities



Determining time and form for the notifications and reports



Requesting additional information if needed



Assessing whether the economic substance test has been met by Licensees



Entering businesses premises and examining business documents when appropriate



Imposing penalties



Issuing a resolution setting out the procedures for an appeal against administrative penalties

# Current Situation of ESR in UAE



# ESR in UAE

A Licensee must submit a notification and a report to the Regulatory Authority. The notification has effect from 1 January 2020; however, the exact time and form is yet to be determined by the respective Regulatory Authorities.

Some of the Free zone authorities has updated the timeline to file the ESR notification:

- DAFZA and RAK Economic Zone – Last date to file notification is 31<sup>st</sup> May 2020.
- DIFC – Last date to file the notification is 12<sup>th</sup> June 2020.
- RAK ICC, Ajman Free zone (AFZ), Sharjah free zone (SAIF), Hamriyah free zone (HFZA), ADGM and DMCC – Last date of notification is 30<sup>th</sup> June 2020.

Further guidance is now expected from the respective Regulatory Authorities regarding the time, form and manner for the notifications and reports.

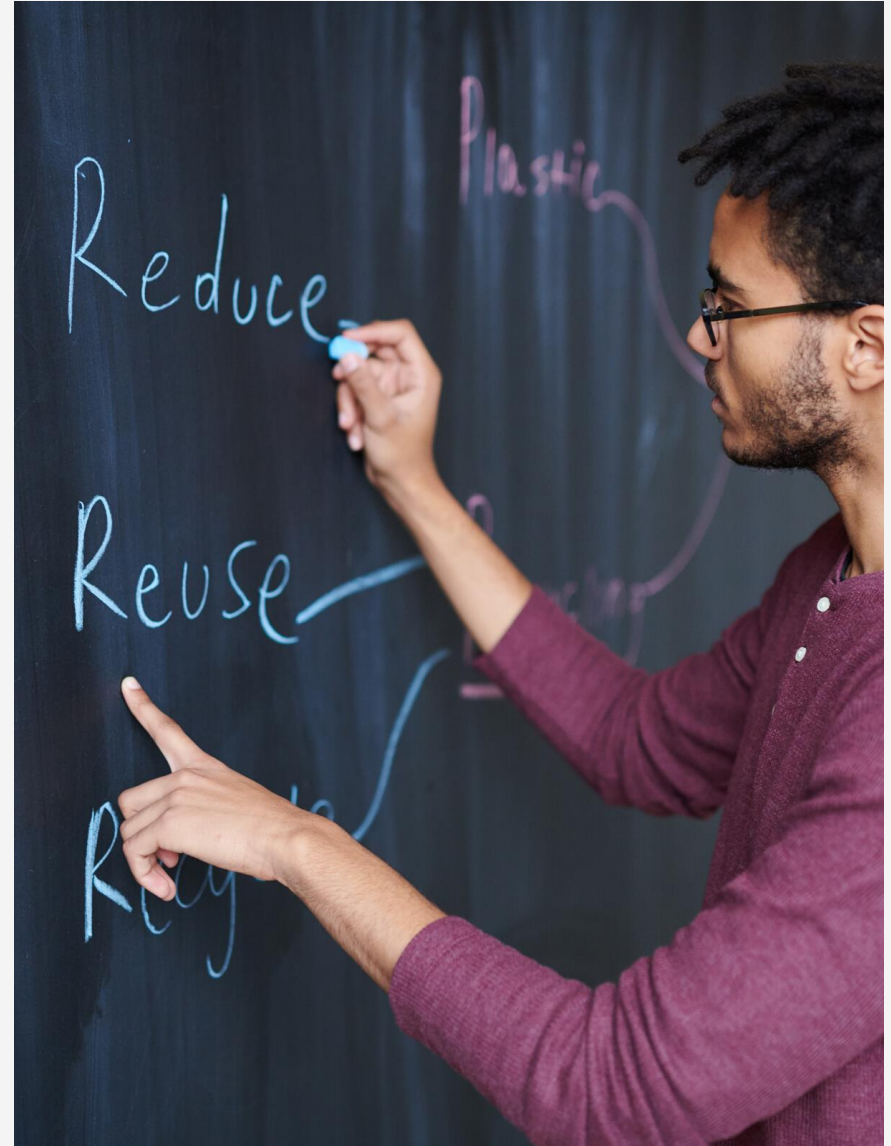


## Non-Compliance

What if a company in a relevant sector does not meet the economic substance requirement in an accounting period?

it will be subject to

**PENAL PROVISIONS.**



# Consequences of non-compliance

## Penalties for failure to:

Notify	Provide accurate or complete information	Demonstrate sufficient economic substance in the UAE for the relevant Financial Year
<ul style="list-style-type: none"> <li>○ Penalty of AED10,000 to AED50,000</li> </ul>	<ul style="list-style-type: none"> <li>○ Penalty of AED10,000 – AED50,000; <b>and</b></li> <li>○ Deemed failure to demonstrate economic substance in the UAE</li> </ul>	<p><b>First year of failure</b></p> <ul style="list-style-type: none"> <li>○ Penalty of AED10,000 – AED50,000; <b>and</b></li> <li>○ Information exchange with foreign competent authority of:               <ul style="list-style-type: none"> <li>• parent company;</li> <li>• ultimate parent company; and</li> <li>• ultimate beneficial owner</li> </ul> </li> </ul>
		<p><b>Second consecutive year of failure</b></p> <ul style="list-style-type: none"> <li>○ Information exchange (see above); <b>and</b></li> <li>○ Penalty of AED100,000 – AED300,000; <b>and</b></li> <li>○ Commercial licence could be: suspended, withdrawn or not renewed</li> </ul>



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# Thank you!

WE LOOK FORWARD TO WORK WITH YOU.