

Presentation on Economic Substance Regulations (ESR) What Next?



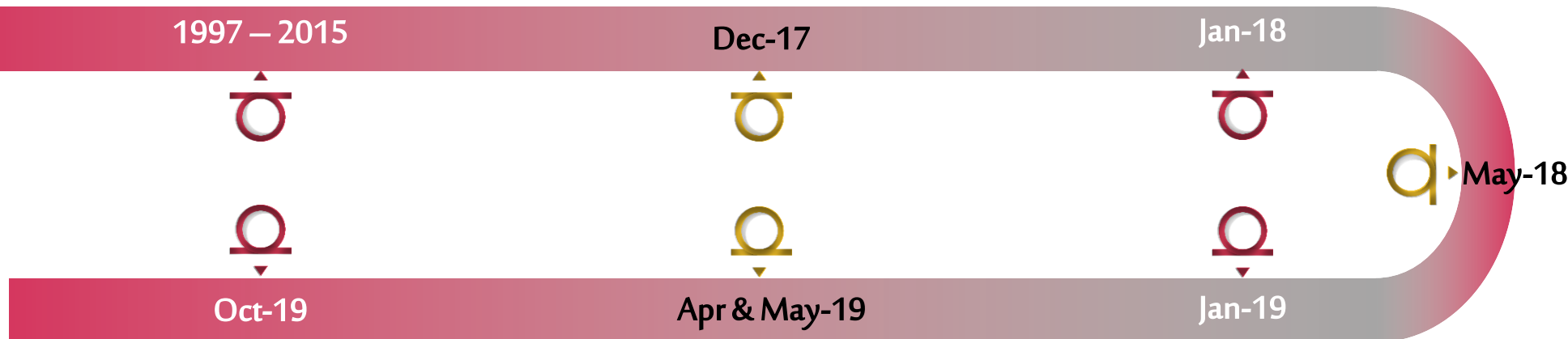
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ESR Implementation in UAE – CONTEXT

- EU Adopted **Code of Conduct** to curb harmful tax competition
- OECD's **Report on Harmful Tax Competition**
- OECD's **BEPS Action Report** with 15 Action Points ([Annexure 1](#))

- EU released **1st List of Blacklisted Countries**, along with 3 listing criteria ([Annexure 2](#))
- **UAE was added to the EU's Black List** of No tax Jurisdiction Countries

- UAE was moved to **Grey List** based on commitments towards tax reforms



- UAE **joined** OECD BEPS Inclusive Framework
- **Committed** to implement Minimum Actions (5, 6, 13 & 14)
- UAE will be subject to (and assist with) peer reviews focusing on monitoring the implementation of the BEPS Action Points

- UAE was removed from EU's Black List

- UAE **implemented** ESR (Action 5)
- UAE **ratified** Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (Action 6)
- UAE **Implemented** CbCR (Action 13)
- Mutual Agreement Procedure (Action 14)

- UAE **missed the deadline** of Dec-18 for applying BEPS minimum actions
- UAE **added back** to the EU's Black List

What is ESR?

- Economic Substance is a “tax principle” stating that a transaction must have a **substantial purpose** and an **economic effect**, other than reduction of tax liability and tax effect, in order to be considered valid
- Regulations requiring companies to **demonstrate actual economic activities** to achieve the economic interest, is **ESR**

High Tax Jurisdictions

- R & D
- Manufacturing
- Shared Support Services

Tax Deductible High Cost /
expense

Low Margins

Tax on Low Margins

Royalty, Interest, Dividend,
Dist. Profits, Services Fees &
Management Fees etc.

Payments

Low Tax Jurisdictions

- IPs
- Investment / Finance
- Sales & Distribution
- Management Services

Low Costs

High Margins

Tax @ 0%

Key Concepts

Substance over Form

[\(Annexure 3\)](#)

**Adequate and
Appropriate** [\(Annexure 4\)](#)

CIGA

**Economic Substance
Tests** [\(Annexure 5\)](#)

BEPS

**Self-Assessment &
Self Reporting**

Passive Activities

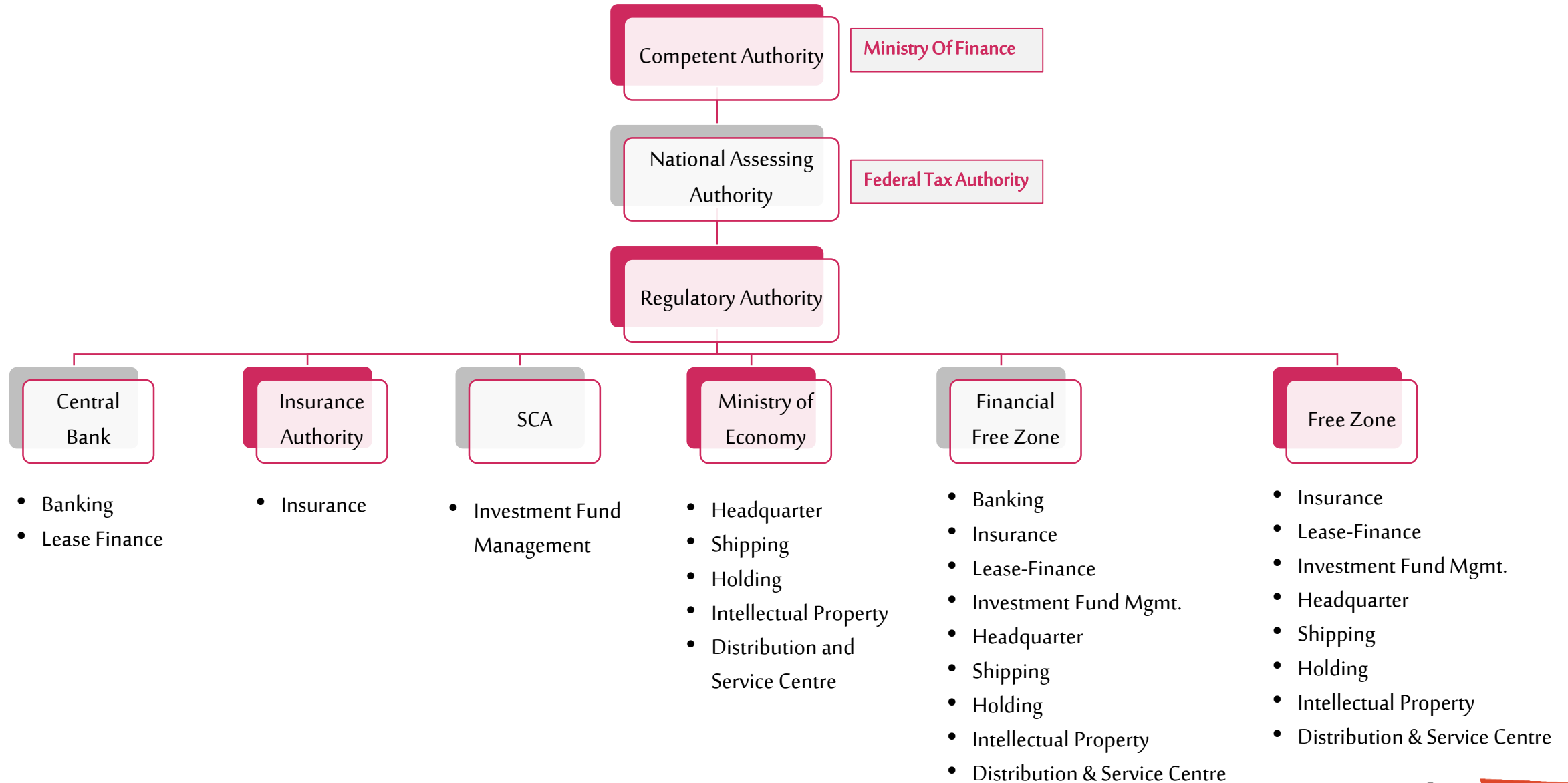
Connected Persons
[\(Annexure 6\)](#)

Outsourcing Activities
[\(Annexure 7\)](#)

Note:

1. Some of the above concepts have been revised in the New Regulations / Amendments approved by Ministry of Finance on 10th Aug'20, [\(click here for the summary of Key Amendments\)](#).

Reporting Authorities



Roles and Responsibilities of the Authorities

Regulatory Authority

- Collection ES Notification and Report from the Licensee
- Collection of other documents and information
- Review of Notification and report for completeness and correctness
- Assess the evidence submitted by Exempted Licensee
- Carry out other functions as may be required
- Share the information to NAA

National Assessing Authority

- **Assessments** to determine if licensee or exempted licensee met ES Test
- **Impose penalties** and issue notices
- Hear on appeals filed by the licensee
- Share the information to the Competent Authority
- Carry and exercise any other power or function as may be required

Competent Authority

- Exchange the information with the Foreign Competent Authority as may be required
- Direct National Assessing Authority and Regulatory Authority to carry on the functions as may be required
- **ES Notification and other documents filed electronically on MOF portal will be shared with Respective Regulatory Authority**

Quick Snapshot of ESR Law (Article 1 – 22)

6 Steps Compliance Approach

for Licensee

Test Applicability

Article 1 – Licensee or Exempted Licensee doing Relevant Activity

Assess Relevant Activity

Article 1 & 3 – Assessment of Applicable Relevant Activity for FY

File Notification

Article 8 – Required information to be submitted (6 months from end of FY) on MOF Portal

Identify CIGA

Article 3 – Central Importance Activity to generate Relevant Income

Perform ES Test

Article 6 – CIGA + Managed & Directed+ Adequacy Test

Submit ES Report

Article 8 – Required information to be submitted, file within 12 months from end of FY

Assessment

Article 7 – By National Assessing Authority on receipt of Report

Exchange of Information

Article 9, 10, 11 & 12 – RA to NAA to CA to Foreign Competent Authority

Offenses and Penalties

Article 13, 14, 15 & 16 – On Assessment by NAA (AED 20,000 to 400,000, suspension etc.)

Appeals & Proceedings

Article 17, 18 & 19 – Can appeal to NAA against the Administrative Penalty

Authorities

Quick Snapshot of ESR Law (Article 1 – 22)

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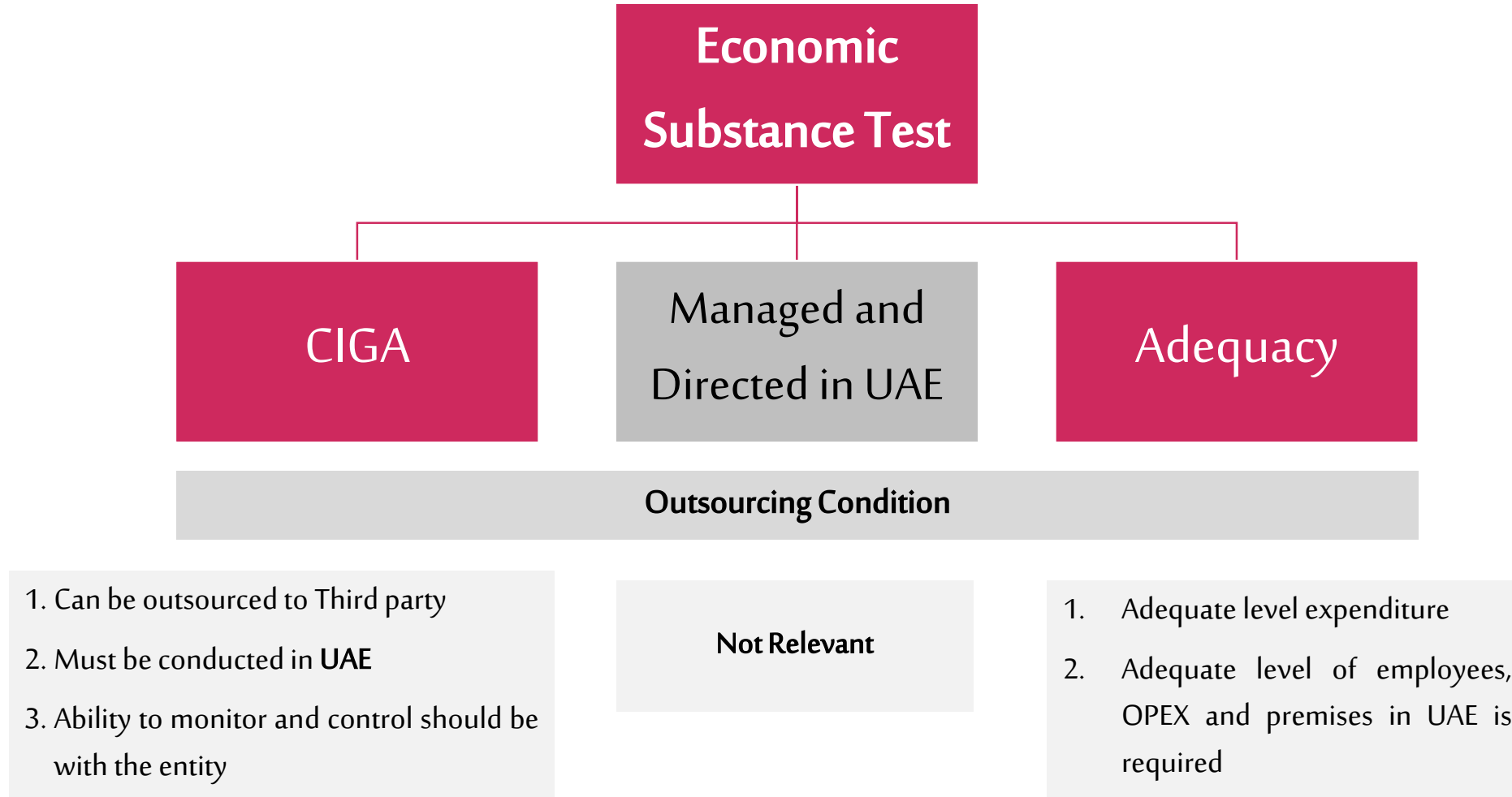
Article 8 – Content of ESR Report

The Licensee is suppose provide the Regulatory Authority the relevant information annually within the time determined by the Authority, the information required is as follows:

The following information needs to be provided in ES Report

- | | |
|--|--|
| <ul style="list-style-type: none">i. Type of Relevant Activityii. the amount and type of relevant income in respect of the Relevant Activity.iii. the amount and type of OPEX and assets in respect of Relevant Activityiv. Location of the business and physical Assets used to conduct the Relevant Activityv. the number of full-time employees , their qualifications and the number of personnel who are responsible for carrying on the Relevant Activity. | <ul style="list-style-type: none">vi. the Core Income-Generating Activity in respect of the Relevant Activity that has been conductedvii. Financial Statementsviii. a declaration as to whether or not the Licensee satisfies the Economic Substance Testix. in the case of a Relevant Activity being an Intellectual Property Business, a declaration as to whether or not it is a high risk intellectual property business. If it is High Risk IP, additional information needs to be givenx. If the Relevant Activity is Outsourced, licensee needs to demonstrate that there is adequate control and supervision over it. |
|--|--|

Article 6 – Economic Substance Test



CIGA Test

Test

Conditions

Core Income Generating Activities (CIGA)

- CIGA must be the activities of central importance to generate Relevant Income
- CIGA Must be performed in UAE.
- Activities that are not CIGA can undertaken outside UAE
- CIGA vary depending on the RA, however guidance and examples are provided ([Annexure 8-13](#)) in the Law, but are not an exhaustive list of all CIGAs
- Can be outsourced

Bahrain ES Report

Does the entity conduct its Core Income Generating Activities (CIGAs) in Bahrain?

Please specify the activities.

Suggested CIGA's

Relevant Activity	Suggested CIGA's- Non Exhaustive List
Banking Business	<ul style="list-style-type: none"> • Raising funds, managing risk including credit, currency and interest risk • Taking hedging positions • Providing loans, credit or other financial services to customers • Managing capital and preparing reports to investors or any government authority
Insurance Business	<ul style="list-style-type: none"> • Predicting and calculating risk • Insuring or re-insuring against risk and providing Insurance Business services to clients • Underwriting insurance and reinsurance
Investment Fund Management Business	<ul style="list-style-type: none"> • Taking decisions on the holding and selling of investments • Calculating risk and reserves • Taking decisions on currency or interest fluctuations and hedging positions • Preparing reports to investors or any government authority
Lease-Finance Business	<ul style="list-style-type: none"> • Agreeing funding terms • Identifying and acquiring assets to be leased (in the case of leasing) • Setting the terms and duration of any financing or leasing • Monitoring and revising any agreements • Managing any risks
Headquarter Business	<ul style="list-style-type: none"> • Taking relevant management decisions • Incurring operating expenditures on behalf of group entities • Coordinating group activities

Suggested CIGA's

Relevant Activity	Suggested CIGA's- Non Exhaustive List
Shipping Business	<ul style="list-style-type: none"> Managing crew (including hiring, paying and overseeing crew members) Overhauling and maintaining ships Overseeing and tracking shipping Determining what goods to order and when to deliver them, organizing and overseeing voyages
Holding Company Business	<ul style="list-style-type: none"> Activities related to Holding Company Business
Intellectual Property Business	<ul style="list-style-type: none"> Research and development Branding, marketing and distribution taking strategic decisions and managing (as well as bearing) the principal risks related to development and subsequent exploitation of the Intellectual Property Asset taking the strategic decisions and managing (as well as bearing) the principal risks relating to acquisition by third parties and subsequent exploitation and protection of the Intellectual Property Asset carrying on the ancillary trading activities through which the Intellectual Property Assets are exploited leading to the generation of revenue from third parties
Distribution and Service Centre Business	<ul style="list-style-type: none"> Transporting and storing goods, components and materials or goods ready for sale Managing inventories Taking orders Providing consulting or other administrative services

Directed and managed Test

Test	Condition
UAE Directed and Managed test	<ul style="list-style-type: none"> • Meetings at Adequate frequency • Quorum of directors physically present in UAE • Meetings to be recorded in written minutes and signed by directors • minutes of such board meetings should record the making of strategic decisions • Directors have necessary knowledge and expertise • Minutes to be kept in UAE
Bahrain ES Report	
Is the entity directed and managed in Bahrain?	If the response is no, please justify.
Are there any meetings of Board of Directors, managers or partners held in Bahrain?	Please specify the number of meetings. If the response is no, please justify.
Are the meetings held in adequate frequencies given the level of decision making required?	Please provide meeting agendas. If the response is no, please justify.
Is there quorum in Board of Directors, managers or partners meetings physically present in Bahrain?	If the response is no, please justify.
Are there any minutes of meeting which reflect the strategic decisions of the trader, which must be set out at the Board of Directors, managers or partners meetings?	Please provide minutes. If the response is no, please justify.
Are all records of the trader (including minutes of meetings) readily available in Bahrain?	

Adequacy test

Test	Condition
Adequacy test in relation to RA	<ul style="list-style-type: none"> • Adequate Qualified Employees • Adequate OPEX in UAE • Adequate physical assets in UAE

Bahrain ES Report

Does the entity have an adequate level of qualified full-time employees resident in Bahrain, or adequate level of expenditure on outsourcing to third party service providers whose activities, employees, expenditure and premises are in Bahrain? If yes, are they proportionate to the activities?	<p>Please specify the number of qualified full-time employees and provide details on the qualifications of the employees. Furthermore, if the entity is conducting more than one relevant activity, please submit a breakdown of employees (and operating expenditures) per activity.</p> <p>In case of outsourcing, please name the third party and specify the amount of expenditure. If the response is no, please justify</p>
Does the entity have an adequate level of annual operating expenditure in Bahrain?	<p>If yes, please specify the amount of operating expenses and provide more details on the type of expenses, amounts, and why do you think the level of expenditure is adequate. If the response is no, please justify</p>
Does the entity have adequate physical offices and/or premises in Bahrain, or adequate level of expenditure on outsourcing to third party service providers in Bahrain?	<p>Please provide more details about the number of offices in Bahrain or amount of expenditure in case of outsourcing. If the response is no, please justify</p>

Adequacy test

Test	Condition
Adequacy test in relation to RA	<ul style="list-style-type: none"> • Adequate Qualified Employees • Adequate OPEX in UAE • Adequate physical assets in UAE

Bahrain ES Report

Does the entity establishes an adequate set of internal policies and controls for its operation, compliance, corporate governance and risk management? If yes, are those policies regularly reviewed to ensure that they remain appropriate, relevant and prudent?	If the response is no, please justify
Does the entity maintain adequate and proper records and books of accounts in Bahrain?	If no, please justify
Do these records and books of accounts contain type of business?	If no, please justify
Do these records and books of accounts contain amount and type of gross income?	If no, please justify
Do these records and books of accounts contain amount and type of expenses and assets?	If no, please justify

Outsourcing

Test	Condition
Outsourcing	<p>Licenses can outsource paragraph (c),(d) & (e) of Clause 2 of Article 6 subject to following conditions:</p> <ul style="list-style-type: none"> • the Licensee is able to demonstrate adequate supervision of the outsourced activity • The activities are conducted in UAE • The Service provider must have adequate employees, OPEX and premises all the time • Ensure no Double counting

Bahrain ES Report

Does the entity outsource any of its relevant activities to third party service providers?	If yes, please provide more details about the activity being outsourced, e.g. (type of outsourced activity, service provider name and address, and amount of expenditure)
Is the outsourced activity conducted in Bahrain?	If no, please justify
Does your service provider dedicate enough resources exclusively to the outsourced activity?	If no, please justify
Do you ensure that those exclusive resources are not double counted toward services provided to other entities?	If no, please justify
Are you able to demonstrate adequate supervision of the outsourced activity?	If yes, please provide more details. If no, please justify.

Important Factors

Due to upcoming compliance requirements, UAE Business should consider following:

Separate Books of
Accounts

Policies & Procedures

Corporate Governance,
Operational Controls &
Risk Management

Proper Documentation for
BOD Meetings

Agreements, Financial
Records Supporting's the
Assets

Outsourcing Agreements
with set Defined
Responsibilities

Personal and Official Data
Processed

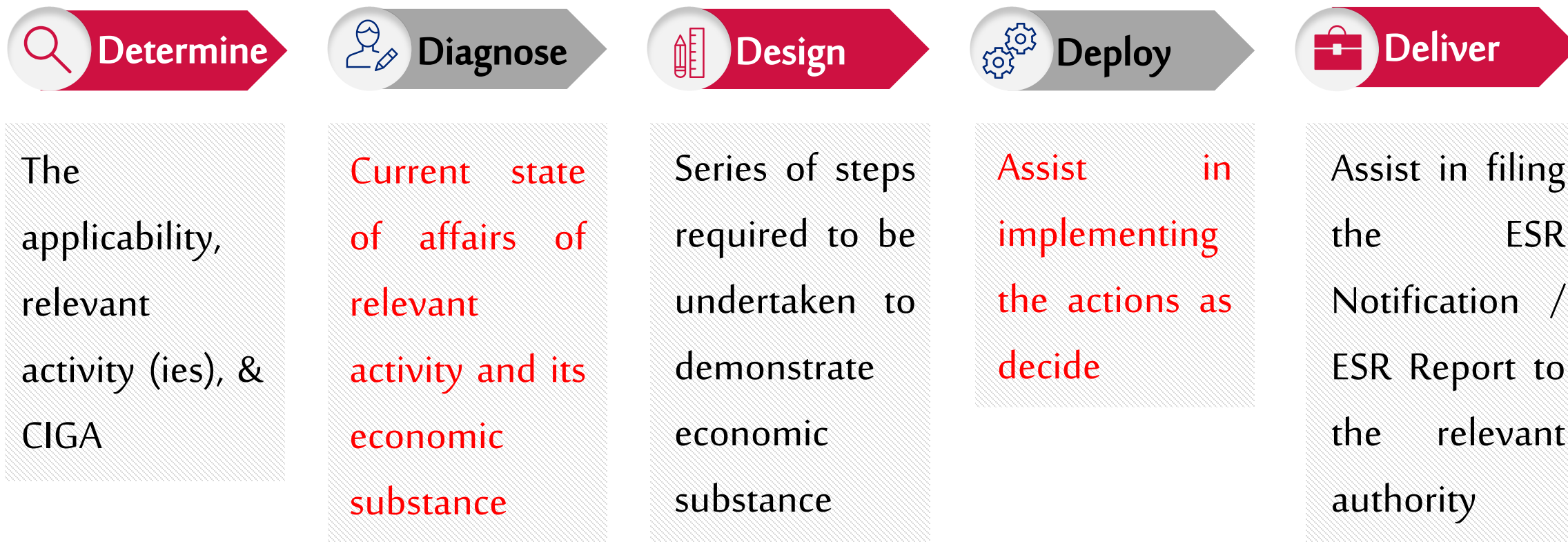
Tax Laws

Way Forward for UAE Entities

In order to meet ES Test, the suggested strategy for implementation is as follows:

1. **Identify** CIGA for each relevant activity
2. **Determine** Economic Substance Tests applicable for each RA
3. **Perform Gap Analysis** in order to assess whether the Business meets the Compliance test
4. **Identify** Required Actions to bridge the gaps identified
5. **Implement** the Actions
6. **Perform** economic substance tests and gather proof / evidences in relation to the tests 2019 & 2020
7. **Take corrective actions** to ensure economic substance in UAE 2020
8. **Submit** Economic Substance Report as per due date

Nimai-RAMA has framed a 5D's approach for assisting its clients to comply ESR in UAE



IF Licensee Fails To Meet the ES test?

1. The National Assessing Authority (NAA) will serve the Notice to the Licensee mentioning the reason and Penalties
2. Offenses and Penalties of AED 20,000 to 400,000 may be imposed
3. The Competent Authority (MOF) will share the information to Foreign Competent Authority of the Country where the Parent Company, Ultimate Parent Company and UBO resides.
4. Licensee has right to appeal

Why Nimai-RAMA?

✓ **Dedicated research team** to comprehend the law and related announcements

✓ **Proven track record** to prepare companies **for new compliances** across geographies (**GST & VAT**)

✓ **Hands on experience of ESR and similar laws** implemented internationally

✓ **Expertise in developing, enhancing & demonstrating the** governance process

✓ **Exposed to multiple jurisdictions, business strategies, structures, dynamics & transactions**

✓ **Partner with Management** to ensure on-ground delivery





INTRODUCTION

- Team Nimai - RAMA has wide experience in the field of **Risk Management & Business Advisory, Indirect Taxes, ERP Implementations, Management Assurance and Corporate Finance** across varied industries for reputed corporates within India and Overseas.
 - NIMAI was started in **early 2009**, with the Vision “**To be the Financial Consultant of choice by virtue of its superior service quality**”.
 - NIMAI is headquartered at Dubai-UAE with branch offices across UAE and Bangladesh, India and Africa.
-
- RAMA has an edge of a blended resource pool of CA, MBA, ERP consultants & Subject Matter Experts, which enables to provide comprehensive services beyond the traditional way of auditing & consulting.
 - Expertise in Business Advisory, Indirect Taxes and ERP empowers RAMA to contribute in successful transition to new Business, Tax, and Economic regimes like GST in India and VAT in UAE.
 - **RAMA's IT arm** is a Microsoft Certified partner for implementing and managing Microsoft Dynamics products like AX, Navision, D365 and CRM.
 - Also, partners with Eresource ERP, SAB Infotech, Kockpit BI (Business Intelligence) Tool, Dynamics Mobile and IRIS for GST filings.

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Our Presence: GCC | Bangladesh | India | Qatar | Australia | Sri Lanka | Kenya | Ghana | Tanzania | Nigeria

Our Reach: GCC | New York | Singapore | London | Hong Kong | Europe

Annexure-1

List of the BEPS Action Plans

Action Plan	UAE
Action Plan 1	Addressing the tax challenges of the digital economy
Action Plan 2	Neutralize the effects of Hybrid Mismatch arrangements
Action Plan 3	Strengthen Controlled Foreign Company (CFC) Rules
Action Plan 4	Limit base erosion through interest deductions and other financial payments
Action Plan 5	Counter harmful tax practices-
Action Plan 6	Preventive treaty abuse
Action Plan 7	Prevent the artificial avoidance of Permanent Establishment (PE) status
Action Plans 8-10	Transfer Pricing Outcomes in line with Value Creation/ Intangibles/ Risk and Capital and other high-risk transactions
Action Plan 11	Measuring and monitoring BEPS
Action Plan 12	Disclosure of aggressive tax planning arrangements
Action Plan 13	Re-examine transfer pricing documentation
Action Plan 14	Making dispute resolution more effective
Action Plan 15	Developing a multilateral instrument

Annexure-2

Transparency

The law shall enable and ensure absolute transparency along with promoting increased certainty and predictability.

Action Plans 11, 12, 13 & 14 are towards this direction

Coherence

Domestic tax laws are coherent as tax deductible of person constitutes income of the recipient. However, international coherence in corporate income tax is lacking. Action plan with a new set of standards designed to avoid double non-taxation.

Action plans 2, 3, 4 & 5 are towards this direction

Substance

"Substance" warrants reporting and full disclosures of the effects and benefits of international standards.

Action plans 6, 7, 8, 9 & 10 are towards this direction

Industry specification - Action Plan I address the tax challenges of digital economy;

Execution - Action Plan 15 addresses development of multilateral instrument for amending bilateral treaties.

Substance Over Form

1. The sentence “Substance Over Form” is commonly used in the regulation
2. UAE businesses are expected to use a ‘substance over form’ approach to determine whether or not they undertake a Relevant Activity and, as a result, are within the scope of the Regulations. This determination would require the UAE business to not only consider the activities stated under their commercial licence or registration certificate but also to assess the activities carried out during a financial period.
3. Thus it is important to assess the actual activity of the Licensee.
4. E.g.: A Entity has Trading Activity mentioned in the Trade license issued by the relevant Authority, but if the Entity has given a Loan with consideration to any of the Entity in UAE or Outside UAE, he will be classified as doing Lease-Finance Business even though he is in Trading Activity as per Document.
5. Thus assessment of the relevant activity should be done considering the overall and holistic approach as the law being newly implemented across geographies.

Adequate and Appropriate

1. Adequate and Appropriate depends on the Nature of the Business, its size, Relevant Activity carried, regulatory environment, etc.
2. It would be different for each entities. Law is not intended to impose more requirement on businesses to engage more employees, expenses, premises than actually needed.
3. Licensee has to ensure it maintains sufficient records to demonstrate the adequacy and appropriateness of the resources utilized and expenditures incurred.
4. The requirement of the adequate employees is aimed to ensure the employees carrying out a Relevant Activity are suitably qualified to carry out such work.
5. The requirement of the adequate premises is intended to ensure that a Licensee has procured appropriate premises to carry out such Relevant Activity. Premises can include office space, warehouse, factory, etc depending on the nature of the activities conducted. It can be owned or leased provided documents are available to prove it.

Adequate and Appropriate

Thus, meeting the adequacy test would be a challenge and may not be “adequate”. Amongst others, below are indicative areas that a Company may use to demonstrate economic substance in the UAE:

- Historical trends around revenues, number of employees, assets, operating expenses, etc.
- Documents/information submitted to other Regulatory Authorities.
- Company gross profit margins relating to industry trends in normal circumstances.
- Comparison of similar business operations outside the UAE.
- Dealings are at arm's length, which demonstrates allocation of risks proportionate to the control.

FAQ no 17 on MOF website explains Adequate and Appropriate as Below

“The UAE acknowledges that businesses vary in size and nature, and what is adequate and appropriate will depend on the nature and level of activities carried out, and the level of income earned by the Licensee. The regulations and Guidance therefore do not provide a “minimum” standard for what is considered “adequate” or “appropriate”. The FTA is expected to take a pragmatic approach when assessing whether a Licensee has met the Economic Substance Test, recognizing that the type and level of activity of a Licensee may fluctuate during the course of a financial period and from year to year.”

Annexure-5

Economic Substance Test

Applicable when Relevant Activities are performed

Appropriately directed and managed in the UAE

- At least 1 quorate board meeting per year
- Minutes signed and kept in UAE
- Directors in UAE have necessary knowledge and expertise
- Key (strategic) decisions taken in UAE

CIGA are conducted in the UAE

- List included in the Regulations
- Principle is that the activities should show genuine activity in the UAE

Employees in UAE

- Adequate number of qualified employees who are physically present in the UAE (or adequate expenditure on outsourcing)

OPEX in UAE

- Adequate operating expenditure in the UAE (or adequate expenditure on outsourcing)

Physical assets in UAE

- Adequate physical assets in the UAE (or adequate expenditure on outsourcing)

Control and monitoring of outsourcing

- Third party service providers permitted, providing that the entity has sufficient control over the third party

Reduced test for Holding activities

Additional requirements for "High Risk IP" related activities

Annexure-6

Connected Person

The amended ES Regulations define a Connected Person as an entity **that is a part of the same Group as the Licensee or the Exempted Licensee**

A **Group** is defined as “two or more entities related through ownership or control such that they are required to prepare consolidated financial statements for financial reporting purposes under the accounting standards applicable thereto”.

IFRS 10 on Consolidated Financial Statements establishes principles for the presentations and preparation of consolidated financial statements when an entity controls one or more other entities

To meet this objective, the standard:

- Requires an entity (the parent) that controls one or more other entities (subsidiaries) to present consolidated financial statements;
- Defines the principle of “control”, and establishes control as the basis for consolidation;
- Sets out how to apply the principle of control to identify whether an investor controls an investee and therefore must consolidate the investee;
- Sets out the accounting requirements for the preparation of consolidated financial statements; and
- Defines an investment entity and sets out the exception to consolidating particular subsidiaries of an investment entity..

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

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

Investment Fund Management

- 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”.

CIGA for Investment Fund Management

- taking decisions on the holding and selling of investments:** Independent consideration, deliberation and making investment and divestment decisions. Mere implementing decision of another entity without independent evaluation is not considered as CIGA
- calculating risk and reserves:** identifying, measuring, monitoring and controlling risks attributable to the Investment Fund's operations and investments.
- taking decisions on currency or interest fluctuations and hedging positions.:** Conducting activities required to determine if the Investment Fund is exposed to, or if it is in the best interests of the Investment Fund to enter into, hedging arrangements against currency or interest fluctuations,
- preparing reports to investors or any government authority with functions relating to the supervision or regulation of such business**

Lease Finance Business

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

CIGA For Lease Finance Business

- agreeing funding terms:** Agreeing to Funding terms (Equity, preference, debts, etc), quantum ,currency, interest rates, etc.
- identifying and acquiring assets to be leased (in the case of leasing):** Activity of identifying and verifying suitable assets to purchase and then rent to a hirer or lessee for an agreed period, including negotiating the acquisition and the terms of the supply of the assets to be leased or hired.
- setting the terms and duration of any financing or leasing:** Expected to have the authority (within certain parameters, where applicable) and undertake the negotiation of the amount of financing or leasing to be provided, the financial and other terms and conditions, and the relevant legal agreements to be entered into
- monitoring and revising any agreements & managing any risks:** obtaining data about a borrower or lessee (or the group to which they belong), testing compliance against covenants, extending the duration

Headquarter Business

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.

CIGA for Headquarter Business

- taking relevant management decisions:** making decisions on the substantive functions and significant risks for group companies
- incurring operating expenditures on behalf of group entities:** This CIGA could include engaging specialist advice or procuring technology on behalf of the group as a whole
- coordinating group activities:** activities such as marketing, HR, IT, finance, tax etc. are coordinated and organized in a way that produces the best outcome for the group as a whole

Intellectual Property

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.

CIGA for IP Business

The Regulations set out certain CIGAs for an Intellectual Property Business. The CIGA required to be undertaken in the UAE will depend on the nature of the asset being exploited and how that asset is being used to generate gross income for the Licensee

- **Patents and similar assets 'Research and development':** This CIGA includes **planning and documentation** of new products, processes or services, prototyping, demonstrating, piloting, testing and validation of new or improved technologies, addressing known scientific or technological obstacles, applying research findings or other knowledge for producing or introducing new or improved materials, devices, products, processes, systems, technologies or services, etc.
- **Marketing intangibles: Branding, marketing and distribution:** Marketing and branding includes advertising, seeking endorsements, artistic design, developing consumer awareness and developing customer loyalty

Holding Company

A company will be regarded as a holding company if its sole function is to acquire and hold equities, and only earns dividends and capital gains from its equitable interest.

Equity interest include shares in a company and interest in an incorporated partnership, as well as any other instruments which gives the licensee a beneficial ownership interest in a company .

Reduced Compliance for Pure Holding Company

- a) Complies with the requirement to submit any documents, records or information to the relevant Regulatory Authority in accordance with the law applicable to the Licensee in the State.
- b) Has adequate employees and premises for holding and managing the Holding Company Business

**The requirement to be Holding Company in accordance with the Law is removed as per Amendment to old regulation by Cabinet Resolution 57 of 2020*

Distribution & Service Center

- 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,

CIGA for Distribution & Service Centre

- transporting and storing component parts, materials or goods ready for sale:** This CIGA refers to the movement and storage of raw materials or finished products and managing the risks associated with this.
- managing inventories:** This CIGA could include considering minimum acceptable inventory levels, managing frequency of stock take, whether using storage space effectively, etc
- taking orders:** This CIGA refers to the provision of the order processing element of the entire fulfilment process, whether that is manual or electronic
- providing consulting or other administrative services:** This CIGA covers the provision of any type of service to the Licensee’s foreign group companies