



ECONOMIC SUBSTANCE REQUIREMENTS HOW AMICORP CAN ASSIST YOU

The OECD and the EU have been working with various low/zero tax jurisdictions to introduce Economic Substance Requirements (ESR) in their domestic legislation. In response BVI, Cayman, The Bahamas, the Channel Islands, Mauritius, United Arab Emirates and other low/zero tax jurisdictions have introduced economic substance legislation.

In the past few years, more than 100 jurisdictions have adopted the OECD's Base Erosion Profit Shifting (BEPS) project with regard to anti-abuse measures. The intention is to combat tax avoidance by multinationals who are shifting profits from high-tax jurisdictions to entities in low/zero tax jurisdictions without adequate economic substance.

WHAT DOES ECONOMIC SUBSTANCE LEGISLATION ENTAIL?

Entities set up in these jurisdictions must make a classification as to whether they are a "relevant entity" and whether are engaged in one or more of the so-called "relevant activities".

"When is an entity a relevant entity: Resident entities (companies and limited partnerships with legal personality) which are not tax resident elsewhere or otherwise excluded are considered relevant entities."

These relevant activities are:

- ➔ Banking business
- ➔ Insurance business
- ➔ Fund management business
- ➔ Headquarters business
- ➔ Shipping business
- ➔ Distribution and service center business
- ➔ Finance and leasing business
- ➔ Intellectual property business
- ➔ Holding business

Economic Substance Requirements in short: Relevant activity must be directed and managed locally. Relevant entities must demonstrate adequate level of employees, physical office, and annual expenditure, and relevant entity must locally conduct certain Core Income Generation Activities (CIGA), or outsourced locally and managed.

Note that relevant entities acting as pure equity holding entities are subject to a reduced substance test

REPORTING

Information on whether the entity is in or out of scope of the ESR must be reported to the local tax authorities. Those entities with relevant business activities will be required to meet the applicable substance requirement locally.

Entities engaged in a relevant activity are also required to file an annual report with prescribed information on activities. This information includes turnover, employees, office, expenditures, etc., and must demonstrate that the required substance is adequately met. In order to ensure adequate reporting, it would be beneficial for entities carrying out relevant activities to prepare financial statements even in jurisdictions where the legislation does not explicitly require the preparation of financial statements.

Failure to comply with the economic substance assessment will be sanctioned with financial penalties as well as possible strike-off for persistent non-compliant entities.

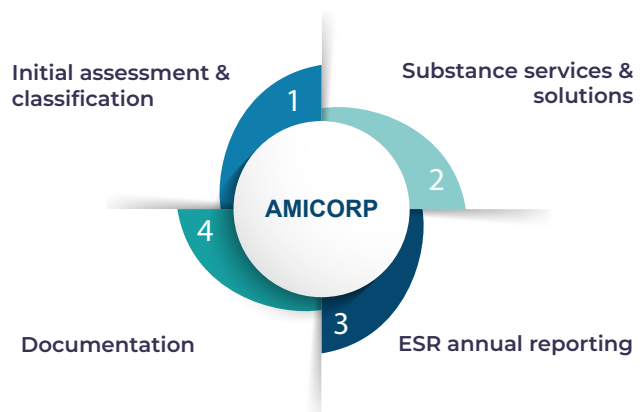
EFFECTIVE DATES AND DEADLINES

For most jurisdictions the ESR legislation has been in effect since January 1, 2019. (For the UAE it was April 1, 2019). For entities incorporated after January 1, 2019, the requirements apply as from the start of the relevant activities.

For entities incorporated before 2019, the initial financial period is deemed to commence June 30, 2019, while the effective dates to meet the economic substance requirements (if applicable) are October 1, 2019 for BVI entities, and July 1, 2019 for entities in other jurisdictions that introduced ESR legislation.

HOW CAN AMICORP ASSIST?

Amicorp has an in-depth knowledge of the ESR legislation and can assist with the substance requirements in the various jurisdictions. We can support our client entities with the following services:



1. INITIAL ASSESSMENT & CLASSIFICATION

- ➔ Assessment of ESR applicability - whether entity is in-scope of ESR or not
- ➔ Classification under one or more of the relevant activities
- ➔ Impact of the ESR requirements per classification

2. SUBSTANCE SERVICES & SOLUTIONS

- ➔ Securing local substance through facilitating and documenting board meetings, access to office space, administration services, employee management
- ➔ Preferential alternative structuring and implementation thereof

3. ESR ANNUAL REPORTING

Where Amicorp acts as registered agent it will provide:

- ➔ Annual notification if entity is in scope of ESR or not
- ➔ Annual reporting of activities and turnover, employees, office, expenditures, etc., to demonstrate that ESR is adequately met

4. DOCUMENTATION

- ➔ Maintenance of adequate documentation relating to ESR Classification and key data on economic substance
- ➔ Reply to notices of the taxation authorities to provide additional information

Our broad service offerings can enhance the governance in these jurisdictions and help you to stay compliant with Economic Substance Requirements. For more information, questions or proposal requests, please contact the local teams in the applicable jurisdictions or our dedicated team of ESR experts esr@amicorp.com

AMICORP GROUP YOUR BUSINESS IS OUR BUSINESS

Amicorp is a boutique service provider with a dedicated network of international experts and specialists. We offer a wide range of customized solutions to help businesses grow and be successful. Our innovative solutions include cross-border structuring, corporate assurance and regulatory compliance support, and multi-facet business support alternatives for companies wanting to invest or expand locally or globally. In addition, we offer fund administration, financial services and global family office solutions, all addressing the distinct needs of our clients. We collaborate with and support clients in over 100 countries worldwide; we offer them solutions that they are looking for in today's ever-changing macro environment.

*International networking
and global experience by a team of 700+ knowledgeable experts*



FOR MORE INFORMATION

Eric Boes

Chief Legal and Tax Officer
e.boes@amicorp.com

Kimbert Solomon

Managing Director – Amicorp Cayman
k.solomon@amicorp.com

Marvin Taylor

Managing Director – Amicorp Bahamas
m.taylor@amicorp.com

Octavia Alexander

Compliance Officer – Amicorp BVI
o.alexander@amicorp.com



www.amicorp.com | To receive all our latest news updates, subscribe to our [newsletter](#)
PUBLISHED BY AMICORP GROUP - ENGLISH 02/22

Disclaimer: This flyer is intended for informational purposes only and does not constitute tax, legal or professional advice. Nothing herein is to be considered as creating a service provider-client relationship between the recipient and Amicorp. Recipients should not act or rely on any information contained in this memorandum without seeking appropriate legal, tax, or other professional advice on the particular facts and circumstances at issue. The information is "AS IS" and Amicorp makes no express or implied representations or warranties or guarantees the completeness, accuracy or timeliness of this information. Your use of this information is at your own risk and responsibility.