



Economic Substance Regulations Appeal user-guide

August 2021





Contents

1. About appeal user-guide	3
2. The Objective of appeal	3
2.1 What is appeal?	3
2.2 How to apply for appeal	4
3. Providing supporting documents when requested by National Assessing Authority.....	7
3.1 The National Assessing Authority may request for more information / documentation from the licensee.....	7
3.2 How to submit the requested documents	7
4. ESR Support Channel	9
4.1 Technical Issue	9
4.2 Duplicate Submissions	9
4.3 Amendments of ES Notification and ES Report	9
4.4 Economic Substance Report Consultation	9
5. Table of Penalties and Appeal timeframe.....	10
5.1 Economic Substance Regulation Penalties.....	10
5.2 Durations and functions of Appeal related to Economic Substance Regulations	12



1. About appeal user-guide

This user-guide has been prepared to assist Licensees in submitting an appeal request to the Federal Tax Authority (National Assessment Authority) related to Administrative Penalties levied concerning Economic Substance Regulations. This guide will also assist the Licensees in following:

- How to submit an appeal case
- How to provide supporting documents
- Common Mistakes When Submitting an Appeal
- List of penalties based on Cabinet Resolution No 57 of 2020
- Appeal timeframe

This user-guide designed for the use of all persons who would like to submit an application to the National Assessment Authority to appeal against decisions of Economic Substance Regulations administrative penalties issued to the licensee or the exempted licensee.

If you have any further inquiries about Economic Substance Regulations, please contact us at FTAESR@tax.gov.ae

Please note that the National Assessment Authority does not provide advice on Economic Substance Regulations. For any questions related to the scope and application of regulations for relevant activities, you should review the information on the Ministry of Finance page, or obtain professional advice.

<https://www.mof.gov.ae/en/strategicpartnerships/pages/esr.aspx>

2. The Objective of appeal

2.1 What is appeal?

The appeal request is one of the services provided based on Article (17) of the Cabinet of Ministers Resolution No 57 of 2020 concerning Economic Substance Requirements. Whereas, the licensee or the exempted licensee may appeal to the National Assessment Authority on its decision to impose an administrative penalty on him for any of the following grounds:

- It did not commit the violation attributed to it;
- The administrative penalty imposed is not proportionate to the violation;
- The administrative penalty imposed exceeds the limited prescribed hereunder.




2.2 How to apply for appeal

Step 1: The licensee or the exempted licensee must submit appeal request through the Ministry of Finance Portal

<https://www.mof.gov.ae/en/strategicpartnerships/pages/esr.aspx>.

The Economic Substance Regulations system is only available in English. Please note that the FTA will not accept any other form of submission of appeals related to Economic Substance Regulations.



Enter ESR Portal

You need to have a registered MoF Corporate account, or create a new account to access the Economic Substance Filing Portal

Please read our Terms and Conditions, which include our Privacy Policy, [here](#). By clicking "Create new user / Login" you acknowledge that you have read, understood and accept our Terms and Conditions, including our Privacy Policy

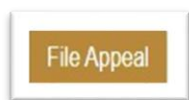
Create a new user

Login to ESR Portal

Step 2: After logging in, you will be forwarded to licensee's dashboard – Home

Step 3: An appeal must be submitted for each administrative penalty separately.

To submit an appeal request Click on "File Appeal"



Licensee Dashboard - Main Page

Submittals
History
Notification

Licensee	Case Type	Progress Code	Financial period	Respond	Deadline	
Licensee XYZ	ES Report	ES test not met	2019	Request for amendment	31/12/2020	View Summary
Licensee XYZ	Penalty	Penalty due	2019	Pay Penalty	30/05/2021	View Summary
Licensee XYZ	Appeal	No appeal submitted	2019	File Appeal	30/05/2021	View Summary
Licensee XYZ	Notification	Form submitted	2019	Request for amendment		View Summary

The system shows the deadline for submitting appeal request and payment of the penalty

The deadline for submitting an appeal is (40) forty working days from the date on which such administrative penalty is levied

The final deadline for paying the penalty is (40) forty working days from the date on which such administrative penalty is levied, the calculation of the final deadline for paying the penalty is stopped upon submitting the appeal request, and it will be resumed if the appeal request is rejected or withdrawn.



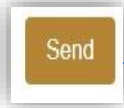
Step 4: On the Appeal request page, the applicant must add a simplified explanation of the reason for submitting the appeal request and Attach the supporting documents to the appeal request,

Applicant can submit (10) Ten supporting documents,
Must not be more than (40) Forty (MB) in total size

After filling out the simplified explanation
and attaching the supporting documents,
You can press "Next"



Step 5:
Send the request after reviewing the explanation
and the attached documents by pressing "Send"



Step 6:
After sending the request, you will receive the following
Message that your submission has been received
The status of appeal will change from
"No Appeal Submitted" to "Appeal Submitted"

The National Assessing Authority makes a decision
Within (40) Forty working days from the date of
meeting all requirement and inform applicant with
the decision within (5) working days from the date of
issuance of the decision

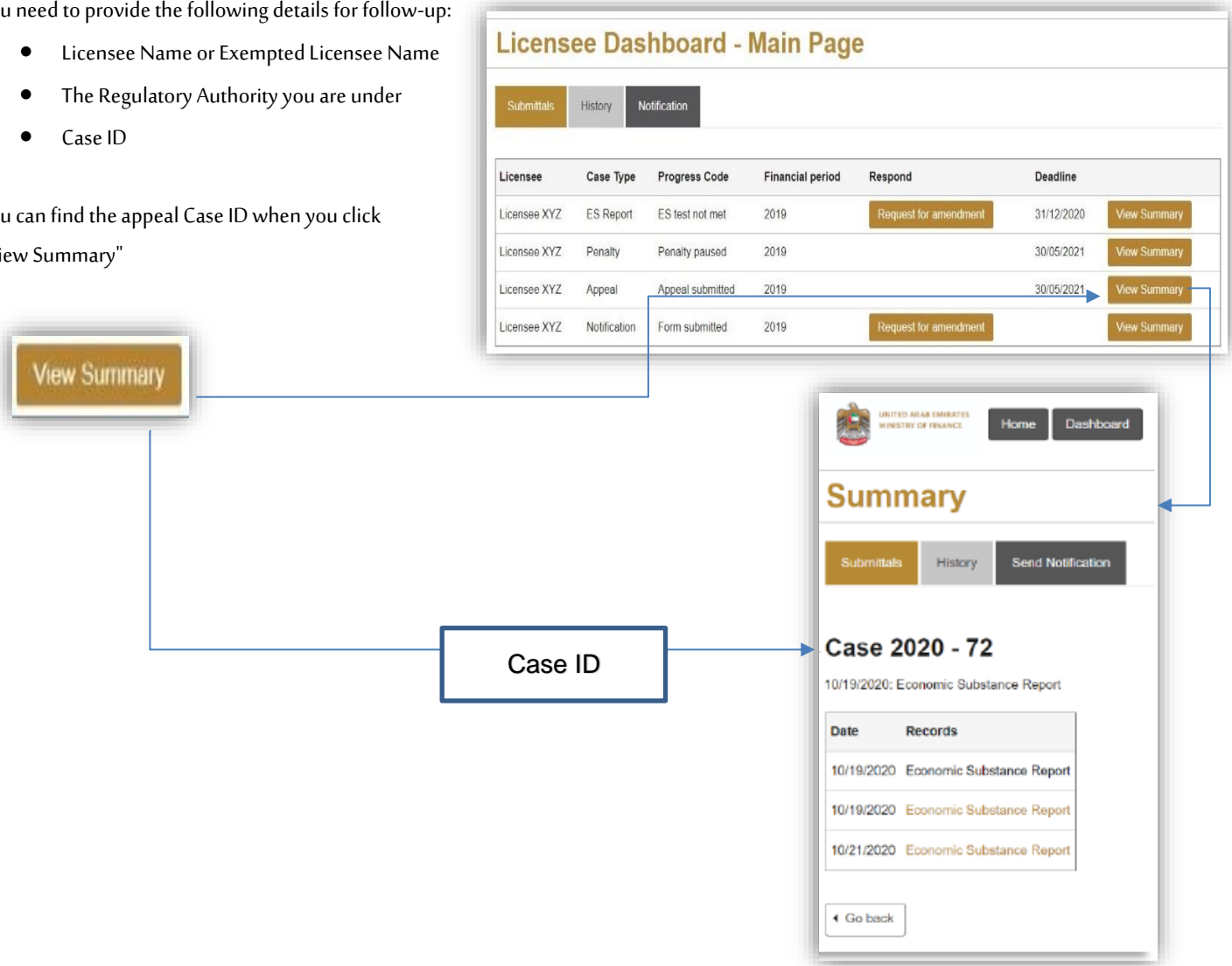


If you want to follow-up on the appeal request, you can contact us by e-mail: FTAESR@tax.gov.ae

You need to provide the following details for follow-up:

- Licensee Name or Exempted Licensee Name
- The Regulatory Authority you are under
- Case ID

You can find the appeal Case ID when you click "View Summary"





3. Providing supporting documents when requested by National Assessing Authority

3.1 The National Assessing Authority may request for more information / documentation from the licensee

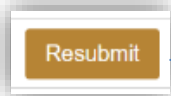
The National Assessing Authority may request for more information / documentation from Licensee and the applicant must provide the required information / documentation within (5) five working days from the date of such request. The national assessing Authority has the right to reject appeals in case the information / documentations are not provided

When providing the new supporting documents that were requested, the National Assessing Authority will review the appeal request and issue a decision within (40) forty working days from the date of receiving the required documents and the applicant will be notified within (5) five working days from the issuance of the decision.

3.2 How to submit the requested documents

When the National Assessing Authority requests documents, the status of the application changes from “Appeal Submitted” to “Resubmit”.

Step 1: To provide the required documents, the applicant must press “Resubmit”



Licensee	Case Type	Progress Code	Financial period	Respond	Deadline
Licensee	ES Report	Deadline exceeded	2019	File ESR report	31/12/2020
Licensee	Appeal	Action required	2019	Resubmit	13/07/2021
Licensee	Penalty	Penalty paused	2019		20/08/2021
Licensee	Notification	Form submitted	2019	Request for amendment	

Step 2: After entering the documents submission page, you can read the reason for requesting the documents and the type of documents required by reading the mentioned text

Please provide more information on the following:

Please file your ES Report first. Then resubmit your appeal with evidence that ES Report is submitted. Best regards, The FTA

Explanation

Supporting evidence (optional field)

You can upload 40 MB in total for the entire Report.

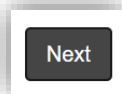
You can select 10 files.



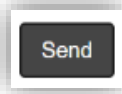
Step 3: After providing the requirements, you can add a simplified explanation of what was provided and add the required documents

Applicant can submit (10) Ten supporting documents, Must not be more than (40) Forty (MB) in total size

After filling out the simplified explanation and attaching the supporting documents, You can press "Next"



Step 4: Send the request after reviewing the explanation and the attached documents by clicking on "Send"



Once such additional information / documentation is received, the National Assessing Authority will review the appeal request and issue a decision within (40) forty working days from the date of receipt of such additional information / documentation and the applicant will be notified within (5) five working days from the issuance of the decision.



4. ESR Support Channel

Some applicants submit appeal request to request a correction in the notification that was submitted or requests to return the applications to them for correction. Therefore, this section has been added to direct you to the right place to solve technical problems or regarding amendment requests for the Economic Substance Notification or report.

4.1 Technical Issue

The Ministry of Finance call center can answer questions related to the company's registration on the Ministry of Finance website or any problems the company faces by logging into its account on the Ministry of finance website or on the Economic Substance Regulations portal.

If the licensee encounters any technical issues related to the Economic Substance Regulations Portal (for example, notification not appearing in the licensee dashboard, problems with submitting requests, etc.), please write to technical support at

ESRsupport@cbrain.com

4.2 Duplicate Submissions

In the event that you find that more than one duplicate request has been submitted with the same details for the notification or report on Economic Substance Regulations Portal, you can contact the regulatory authorities you are under to cancel the duplicate requests, and please note that with regard to duplicate requests, only the regulatory authorities can close duplicate requests.

4.3 Amendments of ES Notification and ES Report

In the event that you wish to amend the submitted notification or report, you can contact your regulatory authority. The regulatory authorities are responsible for approving the amendment requests for the submitted notification and report, knowing that if the appeal is submitted after the notification or report has been amended. You must ensure that the regulatory authority has reviewed and made a decision on the application.

You can look at the contact points of the regulatory authorities by reviewing the "M. Contact Points for Inquiries of Real Economic Activities" section on the Economic Substance Regulations page on the Ministry of Finance website

<https://www.mof.gov.ae/en/strategicpartnerships/pages/esr.aspx>

4.4 Economic Substance Report Consultation

For questions regarding the scope and application of the Economic Substance Regulations, please review the information on the Ministry of Finance Economic Substance Regulations page, or obtain professional advice.

<https://www.mof.gov.ae/en/strategicpartnerships/pages/esr.aspx>



5. Table of Penalties and Appeal timeframe

5.1 Economic Substance Regulation Penalties

Table of Penalties related to Economic Substance Regulations

Listed on Cabinet Resolution No 57 of 2020 concerning Economic Substance Requirements

Ref	Article	Penalty	Penalty Amount	Time frame to apply the penalty
1	Article (13)	The failure of the licensee or the exempted licensee to submit the notification (and any relevant information or documents) within (6) six months from the end of the financial year unless the competent authority decides to extend the date.	(20,000) Twenty thousand Dirham	(6) Six years from the date of committing the violation, unless it resulted from fraud that resulted in the National Assessing Authority being unable to impose the fine.
2	Article (14)	The licensee or the exempted licensee committed one of the following two violations: a. Failure to submit the Economic Substance report (and any relevant information or documents) within (12) twelve months from the end of the Financial year, unless the competent authority decides to extend the date, b. Submit a report within the legal period that does not meet the requirements of Economic Substance Regulation in the United Arab Emirates.	(50,000) Fifty thousand Dirham Exchange information with foreign competent authority of: 1) parent company, 2) ultimate parent company, and 3) ultimate beneficial owner	(6) Six years from the date of committing the violation, unless it resulted from fraud that resulted in the National Assessing Authority being unable to impose the fine.
3	Article (14)	The licensee or exempted licensee repeatedly committed one of the two violations mentioned in clause (2) of this schedule during the following Financial year immediately	(400,000) four hundred thousand dirhams, and any other administrative measure that the National Assessing Authority may take, including suspension, withdrawal or non-renewal of the trade license, Exchange information with foreign competent authority of: 1) parent company, 2) ultimate parent company, and 3) ultimate beneficial owner	(6) Six years from the date of committing the violation, unless it resulted from fraud that resulted in the National Assessing Authority being unable to impose the fine.



4	Article (15)	Providing inaccurate information about Economic Substance Regulation when he was aware of its inaccuracy when submitted, or did not notify the regulatory authority or the National Assessing Authority when he discovered its inaccuracy after submitting it.	(50,000) Fifty thousand Dirham Exchange information with foreign competent authority of: 1) parent company, 2) ultimate parent company, and 3) ultimate beneficial owner	(12) Twelve months from the date on which the National Assessing Authority became aware of the violation, unless it was caused by fraud that resulted in the National Assessing Authority not being able to assign him to pay it within the said period.
---	--------------	--	---	--



5.2 Durations and functions of Appeal related to Economic Substance Regulations

Timetable of appeal related to Economic Substance Regulations

Ref	classification/request status	Timeframe
1	Submit for Appeal	(40) forty working days from the imposed date of the fine
2	Issue a Decision of the appeal	(40) forty working days from the date of meeting all requirement
3	Inform Licensee of the decision	(5) working days from the date of issuance of the decision
4	Document Request by National Assessing Authority	(5) working days from the date of requesting documents (1)
5	Final period to pay the fine	(40) Forty working days from date administrative penalty is levied

(1) In the event that documents requires more than (5) five working days, the National Assessing Authority must be notified by submitting the appeal request, stating the reason for the delay and the time required to provide the requirements. The National Assessing Authority has the right to reject the appeal request if the required documents are not provided within the given timeline.