



GUIDELINES ON THE ESTABLISHMENT OF LABUAN SECURITIES LICENSEE INCLUDING ISLAMIC SECURITIES LICENSEE

1.0 Introduction

- 1.1 The purpose of the Guidelines is to clarify the application procedure, operational and regulatory requirements for Labuan securities licensee¹ in Labuan International Business and Financial Centre (IBFC).
- 1.2 Labuan securities licensee refers to a person who provides investment advice or administrative services in respect of securities for the purpose of investment and dealing in securities. For a Labuan Islamic securities licensee, its operation shall comply with Shariah principles.
- 1.3 The Labuan fund manager is differentiated with Labuan securities licensee, through the provision of management services, which is its principal activity. In addition, Labuan securities licensee is not allowed to hold clients' monies or assets.

2.0 Applicability

- 2.1 The Guidelines is applicable to any person approved and licensed by Labuan Financial Services Authority (Labuan FSA), including new application for the license of Labuan securities licensee, pursuant to section 55 of Labuan Financial Services and Securities Act 2010 (LFSSA) or section 56 of Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

3.0 Legal Provision

- 3.1 The Guidelines is issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to provide clarification to the provision under Part IV of LFSSA and Part V of LIFSSA.
- 3.2 Any person who fails to comply with the Guidelines may be punishable under section 36B and section 36G of LFSAA.

4.0 Effective Date

- 4.1 The Guidelines shall come into effect on 1 January 2014 and would remain effective and applicable unless amended or revoked.

¹ Including Islamic Securities Licensee

- 4.2 All approvals granted by Labuan FSA relating to Labuan securities licensee prior to this Guidelines shall remain valid unless revoked.

5.0 Eligibility

- 5.1 The eligible applicant to carry on business as a Labuan securities licensee in Labuan IBFC include:
- 5.1.1 An individual who holds a relevant degree or professional qualification to carry on activities of a securities licensee. Labuan FSA may also consider an applicant with at least minimum qualification of diploma holder and 3 years' relevant experience in capital market or direct experience in the permitted activities of a securities licensee as specified under paragraph 6.0 of the Guidelines; or
 - 5.1.2 A licensed/approved individual who undertakes such services as specified under paragraph 6.0 of the Guidelines, from relevant regulatory and supervisory Authority or a jurisdiction who is a member of the International Organization of Securities Commission (IOSCO).
 - 5.1.3 A person who does not fulfill paragraph 5.1.1 and 5.1.2 may also be considered, provided that the securities licensee business is run and managed by suitably qualified and experienced individuals.
- 5.2 Upon receiving approval from Labuan FSA, the applicant is required to establish a Labuan company incorporated or registered under Labuan Companies Act 1990 (LCA).
- 5.3 An application for Islamic securities licensee is required to undertake full-fledged Islamic securities licensee business. For a securities licensee licensed under subsections 55(1) and (2) of LFSSA, Islamic securities licensee business can be undertaken with prior approval of Labuan FSA.
- 5.4 In addition, Labuan FSA would also consider other factors in assessing the application for Labuan securities licensee as per Appendix A.

6.0 Permitted Activities

- 6.1 The permitted activities of a licensed Labuan securities licensee may include:
- 6.1.1. Investment advices
 - (a) Providing advice concerning securities including the issuance or promulgation of research report and analysis.

- (b) Providing consultancy and advisory services relating to corporate finance and financial planning matters for corporate clients.
- (c) Conducting analysis and making recommendations relating to investment based on client's investment objectives and financial situation.

6.1.2. Administrative services

- (a) Making submissions on behalf of clients to Labuan FSA in respect of securities including any other reporting requirements.
- (b) Issuing any documents which are deemed to be a prospectus under the LFSSA/LIFSSA and the LCA.

6.1.3. Dealing in securities

- (a) Quoting two-way prices and dealing in securities.
- (b) Arranging for the sale or purchase of securities including that are not listed on a stock market or a stock exchange, issued by, belonging to or on behalf of clients.
- (c) Other activity permitted under section 2 of LFSSA or LIFSSA.

6.1.4. Any other activity which may be permitted by Labuan FSA from time to time.

7.0 Licensing Requirements

- 7.1 Submit a duly completed application form (Form LSCM) and all the relevant supporting documents as stipulated in the Form LSCM, which is downloadable from Labuan FSA's website (www.labuanfsa.gov.my).
- 7.2 Provide a business plan covering the business intentions, types of services to be provided, target market, revenue projections, expected profit and loss, and manpower, including the equity structure of company in regard to the percentage of shareholding.
- 7.3 Demonstrate the existence of both adequate financial resources and insurance coverage as specified under paragraphs 8.1 and 8.2 of this Guidelines.
- 7.4 Subject to the merit of each application, the applicant may be required to provide additional information to Labuan FSA for the purpose of processing the application.

8.0 Operational Requirements

- 8.1 Maintain a minimum paid-up capital unimpaired by losses of RM150,000 equivalent in any foreign currency throughout its operation. In addition, based on the securities licensee's risk management assessment, additional capital may need to be injected to commensurate its risk profile as well as the nature and complexity of its business.
- 8.2 Maintain a professional indemnity insurance policy with coverage of not less than RM1,000,000 or its equivalent in any foreign currency throughout its operations.
- 8.3 Maintain a registered office in Labuan and ensure that the business must be carried on in, from or through Labuan. For Labuan securities licensee that plans to establish a marketing office at Kuala Lumpur and/or Iskandar Malaysia, the Guidelines for Establishment of Marketing Office in Kuala Lumpur and Johor Bahru issued by Labuan FSA should be observed.
- 8.4 Ensure that the applicant for the Labuan securities licensee, the director(s) and principal officer including any other relevant person; meet the requirement of the Guidelines on Fit and Proper Person issued by Labuan FSA.
- 8.5 Establish an adequate internal policies and procedures for its operations, compliances, internal controls, corporate governance and risk management including the business continuity plan. These have to be regularly reviewed to ensure that they remain appropriate, relevant and prudent.
- 8.6 Conduct its business in any foreign currency other than Ringgit Malaysia unless permitted under Section 7(4) of LCA.
- 8.7 Conduct its business with due diligence and sound principles, maintain adequate and proper records and books of accounts in Labuan in line with the Directive on Accounts and Record-keeping Requirement for Labuan Entities issued by Labuan FSA and indicate clearly its name and license or registration number on its letterhead, stationery and other documents.
- 8.8 Appoint an approved auditor to carry out an annual audit of its accounts in respect of the business operations pursuant to section 174 of LFSSA and section 135 of LIFSSA.
- 8.9 Appointment of qualified person² to its internal Shariah advisory board for Islamic Securities Licensee is required to ensure that its management and operation are in compliance with Shariah principles. In this regard, the Directive on Islamic financial business in Labuan IBFC shall also be observed.

² Includes a corporation having in its employment at least one individual that possesses the necessary qualifications and expertise in Islamic commercial law and Islamic jurisprudence in line with section 2 of LIFSSA

- 8.10 Obtain prior approval from Labuan FSA for any appointment of director(s) and shareholder(s).
- 8.11 Notify Labuan FSA in writing for the following:
- 8.11.1 Any amendment or alteration to any of its constituent documents within thirty (30) days of the changes being affected including its business plan.
- 8.11.2 For Islamic securities licensee, notification is required within thirty (30) days from the appointment of its internal Shariah advisory board.
- 8.12 Comply with relevant laws and regulations of the jurisdiction where it intends to operate in including obtaining the necessary approval.
- 8.13 Comply with the relevant guidelines, directive, prudential and reporting requirements issued by Labuan FSA from time to time.

9.0 Market Conduct and Practices

- 9.1 The Labuan securities licensee shall adhere with the following requirements to promote market integrity and investors' confidence.
- 9.1.1. Integrity and fair dealing
- (a) Conduct its business with integrity and fair dealing to avoid misleading and deceptive acts or representation.
 - (b) Conduct its business in a manner that promotes a fair and orderly market.
 - (c) Avoid any conflict of interest arising or, where a conflict arises, should ensure just treatment to all their clients by disclosure, internal rules on confidentiality or other accepted practices as deem fit.
- 9.1.2. Skills, care and diligence
- (a) Conduct its business with due care, skill and diligence.
 - (b) Act competently and diligently in regard to all transactions between themselves and their clients.
 - (c) Demonstrate that the advice provided, or exercise of discretion, are appropriate for the clients.

9.1.3. Acting in client's interest

- (a) Act in the best interest of its clients and must not jeopardise or prejudice clients' interests.
- (b) Provide relevant information to its clients in a manner that is fair, accurate and timely.

9.1.4. Complaints Management

- (a) Have procedures in place, to deal with clients' complaints effectively and fairly through a simple and equitable process. These procedures should be well disclosed and easily accessible.
- (b) Details of the complaints, responses and any action taken must be recorded and maintained by Labuan securities licensee

9.1.5. Compliance

- (a) Establish proper compliance function pursuant to the Guidelines on Compliance Function for Labuan Licensed Entities dated 6 November 2013 to ensure its business complies with the relevant directive, guidelines and reporting requirements issued by Labuan FSA from time to time.
- (b) Ensure compliance with the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 and Guidelines on Anti-Money Laundering and Counter Financing of Terrorism which is relevant to Labuan IBFC dated 4 January 2007.
- (c) Ensure proper policies and procedures are in place to ensure a sound compliance framework which safeguards clients' interests.
- (d) Take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management and supervisory system.

10.0 Reporting requirement

10.1 The Labuan securities licensee is required to submit to Labuan FSA the following:

- 10.1.1. A copy of its audited financial statements to the Supervision and Enforcement Department (sed@labuanfsa.gov.my) within six (6) months after the closure of each financial year, either in hardcopy or digital format; and

10.1.2. Other statistics and information as Labuan FSA may require from time to time.

11.0 Annual Fees

11.1 The annual fee payable is RM5,000 upon the grant of license.

11.2 The subsequent payment of annual fee is payable not later than 15 January of each year.

12.0 Submission for Application and Enquiries

12.1 Any submission of application or enquiries on the Labuan securities licensee may be forwarded to the following contact details:-

Business Management Department
Labuan Financial Services Authority (Labuan FSA)
17th Floor, Main Office Tower
Financial Park Complex
Jalan Merdeka
87000 Federal Territory of Labuan

Telephone no. : 087 591200
Fax no. : 087 453442/413328
Email : business_operations@labuanfsa.gov.my

Labuan Financial Services Authority
11 December 2013

Additional Factors in Assessing the Application for Labuan Securities Licensee

- 1.0 The character and integrity of the applicant or, if the applicant is a body corporate, its reputation for being operated in a manner that is consistent with the standards of good governance and integrity.
- 2.0 The soundness and feasibility of the business plans of the applicant for the future conduct and development of the business.
- 3.0 The business will be operated responsibly by adequate human resources with the competence and experience suitable to undertake such services as stipulated under the paragraph 6.0 of the Guidelines.
- 4.0 The nature and sufficiency of the financial resources of the applicant as a source of continuing financial support for the business.
- 5.0 For Islamic securities licensee, the aims and operation of the business which is desired to be carried on will not involve any element which is contrary to Shariah principles.