

**GUIDELINES ON CAPTIVE INSURANCE BUSINESS IN
LABUAN INTERNATIONAL BUSINESS AND FINANCIAL CENTRE
(LABUAN IBFC)**

1.0 Preamble

- 1.1 This Guideline is issued pursuant to section 4A of Labuan Financial Services Authority Act 1996 (LFSAA) to facilitate an application to obtain a captive insurance licence in Labuan under the Labuan Financial Services and Securities Act 2010 (LFSSA).
- 1.2 With immediate effect, this Guideline supersedes the earlier Guidelines that were issued on 10 December 2001 (amended 22 January 2002).

2.0 Who qualifies?

- 2.1 The following applicant (but not limited to) may apply to undertake a captive insurance business under this Guideline-
- a) Labuan company incorporated or registered under the Labuan Companies Act 1990 including Protected Cell Company (PCC); and
 - b) Special Purpose Vehicle (SPV) set up to undertake captive insurance business in Labuan IBFC.

3.0 Permitted business activities

- 3.1 A Labuan Captive Insurer may underwrite direct insurance / reinsurance (general or life) business risks-
- a) of their own Group; or
 - b) third party risks subject to Labuan FSA's approval.
- 3.2 A Labuan Captive Insurer may obtain reinsurance coverage from any insurance company in or outside Labuan irrespective of whether it is licensed under the LFSSA.

- 3.3 A Labuan Captive Insurer may deal with direct Malaysian risks for activities as prescribed by law.
- 3.4 A captive insurance business includes but not limited to the following-
- a) Pure/single captives may include single parent company writing only the risks of their owner or affiliates.
 - b) Group captives/association captives may include multi-owned insurance companies writing only the risks of their owners and/or affiliates, usually within a specific trade or activity or a captive formed or owned by members of a common industry or trade association to share risks of that industry among its members.
 - c) Master rent-a-captive acts as a master captive, which provides captive facilities and services to subsidiary rent-a-captive.
 - d) Subsidiary rent-a-captive is an entity with separate licenses, assets and accounts but at the same time using the working capital of master captive.
 - e) Cell captives may include protected cell captive, where legislation protects each individual cell or account from the liabilities of other cells within the captive.
 - f) Multi owner captive is owned by two or more unrelated persons or organisations and writing the risks of its owner and/or affiliates and is designed to insure the risks of these different entities.

4.0 Operational requirements

- 4.1 Every Labuan Captive Insurer must-
- a) Have an operational management office in Labuan managed by a management team that has an adequate knowledge and expertise in insurance business including captive; or
 - b) Appoint a licensed Labuan underwriting manager.
- 4.2 Appointment of any person in control, director, or Principal Officer (PO) of a Labuan Captive Insurer must obtain prior approval from Labuan FSA.
- 4.3 The person in control, director and PO of a Labuan Captive Insurer must be of fit and proper persons and shall not be subject of any adverse report from any reliable sources.

4.4 Paid-up Capital/Working Funds

Types of Captives	Labuan Company	Foreign Labuan Company
<ul style="list-style-type: none"> • Pure/Single owner captive • Group, Association & Multi-owner captives 	A paid-up capital unimpaired by losses of RM300,000 or its equivalent in any foreign currency.	A surplus of asset over liabilities of at least RM300,000 or its equivalent in any foreign currency, to be maintained in the book of its office in Labuan.
<ul style="list-style-type: none"> • Rent-a-captive • Master-rent-a-captive • Cell captive • Other similar vehicles 	A paid-up capital unimpaired by losses of RM500,000 or its equivalent in any foreign currency.	A surplus of asset over liabilities of at least RM500,000 or its equivalent in any foreign currency, to be maintained in the book of its office in Labuan.

4.5 Margin of Solvency Requirement

- a) A Labuan Captive Insurer is required to maintain at all times a surplus of assets over liabilities, which is equivalent to, or more than the amount of its working fund; or
 - b) 20% of the net premium income for the preceding year in respect of the general insurance business, or 3% of the actuarial valuation of the liabilities for life insurance business as at the last valuation date in respect of the life insurance business,
- whichever is greater.

4.6 Reporting Requirement

To submit to Labuan FSA-

- a) Within 6 months after the close of each financial year, 4 copies of its audited financial statements, as approved in accordance with its constituent documents;
- b) The latest audited financial statements in respect of its entire operations both in and outside Labuan within 3 months after being filed with the home regulatory authorities (only applicable to branch); and

- c) Statistics and information as may be required in relation to prudential regulation and business operation to be submitted from time to time.

5.0 Annual Fee

5.1 Once licence is granted by Labuan FSA, the Labuan Captive Insurer must pay an annual fee as follow-

- a) Single/Pure, Group, Association or Multiple Owner captive – RM10,000
- b) Master rent-a-captive – RM13,000
- c) Subsidiary rent-a-captive – RM3,000
- d) Captive using PCC structure-
 - Core – RM30,000
 - Each cell – RM10,000

5.2 The subsequent payment of annual fee is payable not later than 15 January of each year during which the licence is valid.

6.0 How to apply?

6.1 The applicant is required to submit an application under this Guideline in a prescribed form. The submission should include but not limited to the following-

- a) An authenticated copy of the proposed Memorandum and Article of Association of the applicant company.
- b) Approvals of the authorities concern, board resolutions and minutes of general meeting as appropriate in respect of carrying on business as a Labuan Captive Insurer in Labuan.
- c) A business plan for the first three years of operations. The business plan should include but not limited to the following:
 - (i) A description of the nature of the risks that are to be written;
 - (ii) An explanation of the strategy for managing risks, particularly in relation to reinsurers;
 - (iii) Details of previous loss history, stating the source of the information and past actuarial studies, if appropriate;
 - (iv) Confirmation that the financial projections and should be consistent with loss history and actuarial studies;

- (v) The rationale for setting up the company in Labuan;
 - (vi) An outline of the exposure to be written and reinsurance to be obtained;
 - (vii) A summary of the programme, including reinsurers, and security ratings;
 - (viii) If applying for a cell of a Protected Cell Company and the cell is reliant on the core for solvency, a solvency projection showing the allocation of core capital to all of the individual cells;
 - (ix) A summary of the fronting arrangements, including fronting company, security rating and commission structures;
 - (x) A summary of how the loss reserves are to be calculated; and
 - (xi) Details of any other forms of business to be undertaken.
- d) Audited annual accounts for the three years immediately preceding of the proposed immediate parent of the Captive. Labuan FSA may require further financial information of other group companies, wherever applicable.

6.2 The application can be submitted to-

Director-General
 Labuan Financial Services Authority (Labuan FSA)
 17th Floor, Main Office Tower
 Financial Park Complex
 Jalan Merdeka
 87000 Federal Territory of Labuan
 Malaysia

Telephone no. : 087-591200/591300
 Facsimile no. : 087-453442/413328
 Email : business_management@labuanfsa.gov.my

10 Dec 2001
 22 January 2002 (amended)
 28 October 2010 (amended)