

GUIDELINES FOR THE ESTABLISHMENT OF LABUAN TRUST COMPANIES

1.0 Preamble

- 1.1. The Guidelines are issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 to facilitate an application to carry out Labuan trust company business under Part V of the Labuan Financial Services and Securities Act 2010 (LFSSA) as Labuan trust company.
- 1.2. The Guidelines serve to clarify the licensing requirements and expectation of Labuan Financial Services Authority (Labuan FSA) on a Labuan trust company licensed pursuant to section 62 of LFSSA.

2.0 Who Qualifies?

- 2.1. A Labuan company incorporated or registered under the Labuan Companies Act 1990 (LCA); or
- 2.2. A Labuan company licensed as a Labuan managed trust company¹.

3.0 Trust Company Business

The Labuan trust company business includes:

- 3.1. Incorporating or registering entities under LCA, Labuan Limited Partnerships and Limited Liability Partnerships Act 2010, Labuan Foundations Act 2010 and Labuan Trust Act 1996;
- 3.2. Providing management and accounting services or acting as directors, secretaries, agents, officers of Labuan foundations and registered offices for Labuan entities incorporated or registered under relevant Labuan laws;
- 3.3. Performing the secretarial duties of the Labuan entities, such as lodgement of any documents and reports as required under relevant Labuan laws;
- 3.4. Carrying out activities such as being trustees, agents, executors or administrators pursuant to the objectives of the trust company including related Shariah compliant activities;

¹ A Labuan managed trust company is a trust company licensed under the Labuan Financial Services and Securities Act 2010 to carry on the trust company business but managed by a fully operational trust company in Labuan.

- 3.5. Acting as a manager to a Labuan managed trust company;
- 3.6. Acting as an agent to a Labuan private trust company; and
- 3.7. Providing other services as may be permitted under relevant Labuan laws or as approved by Labuan FSA from time to time.

4.0 Application Requirements

- 4.1. The applicant for a Labuan trust company licence shall:
 - 4.1.1 Submit a duly completed Form LTC - Application for Licence to Carry On Labuan Trust Company Business as required under Section 61(1) of LFSSA;
 - 4.1.2 Provide a business plan that includes but not limited to the following:
 - a) Types of product and services to be offered;
 - b) Target market, specifying the clients, geographical spread and industry focus;
 - c) Management team;
 - d) Manpower planning/organisation chart; and
 - e) Three (3) years financial projections (properly drawn up income statements and balance sheet quoted in foreign currency);
 - 4.1.3 Have a capital or working fund of at least RM150,000 or its equivalent in any foreign currency;
 - 4.1.4 Obtain a professional indemnity insurance policy with a coverage of not less than RM1 million or its equivalent in any foreign currency and remains indemnified throughout its operations;
 - 4.1.5 Provide a letter of guarantee or undertaking to Labuan FSA for the liability of the Labuan trust company;
 - 4.1.6 Provide full disclosure of shareholdings of the company including the ultimate beneficiaries including submission of corporate profile (e.g. name and type of legal entity, principal business/activity, Board of Directors) for corporate shareholder and detailed background (e.g. copy of passport or ID and comprehensive resume) for individual shareholder; and
 - 4.1.7 Ensure that the directors and officers responsible for the management of the proposed Labuan trust company in Labuan

IBFC are fit and proper persons pursuant to section 4 of LFSSA and the Guidelines on Fit and Proper Person issued by Labuan FSA.

- 4.2. Labuan FSA may request for additional information as deemed necessary.

5.0 Operational Requirements

- 5.1. A licensed Labuan trust company shall:
- 5.1.1. Establish a fully operational office in Labuan;
 - 5.1.2. Maintain separate telephone and facsimile lines and have its own letterhead and stationeries;
 - 5.1.3. Appoint at least two trust officers approved by Labuan FSA, one of whom must be based in Labuan;
 - 5.1.4. Have proper arrangements in place to account for and keep all assets and other valuables that it has received in its capacity as trustee duly separated from its own assets and liabilities;
 - 5.1.5. Maintain capital or working funds of at least RM150,000 or its equivalent in any foreign currency at all times;
 - 5.1.6. Obtain the written consent from Labuan FSA prior to making any change to its shareholding and directorship including any establishment of any subsidiary or office other than its principal place of business in Labuan;
 - 5.1.7. Ensure compliance with the Guidelines on Anti-Money Laundering and Counter Financing of Terrorism;
 - 5.1.8. Ensure all its book and records including records of its clients are kept and made available for inspection in Labuan;
 - 5.1.9. Comply with guidelines, directive and reporting requirements issued by Labuan FSA; and
 - 5.1.10. Notify Labuan FSA of any change to its place of business in Labuan through lodgement of Form 4 of the LFSSA and Form 5 of LFSSA for any change to its trust officers within seven days from the effective date of the change specified.
- 5.2. Labuan trust company acting as trustee of a Labuan Islamic trust under the Labuan Islamic Financial Services and Securities Act 2010 shall appoint a qualified person as a Shariah adviser, or consult a qualified person to advise the operations and ensure Shariah compliance.

6.0 Annual and Licence Fee

- 6.1. The licence fee amounting to RM 15,000 is payable to Labuan FSA upon the grant of licence.
- 6.2. The subsequent payment of annual fee is payable not later than 15 January of each year.

7.0 How to Apply?

The application for a trust company licence must be forwarded 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.: 087 591 200
Facsimile no.: 087 453 442 / 413 328
E-mail: business_management@labuanfsa.gov.my

8.0 Implementation Date

The Guidelines shall take effect from 1 September 2011 and remain effective unless otherwise amended or revoked.

Labuan Financial Services Authority
1 September 2011
18 December 2015 (Updated)