
LABUAN FINANCIAL SERVICES AND SECURITIES
ACT 2010

LABUAN FINANCIAL SERVICES AND SECURITIES REGULATIONS 2010

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LABUAN FINANCIAL SERVICES AND SECURITIES ACT 2010**LABUAN FINANCIAL SERVICES AND SECURITIES REGULATIONS 2010**

IN exercise of the powers conferred by section 196 of the Labuan Financial Services and Securities Act 2010 [Act 704], the Minister, with the recommendation of the Authority, makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the **Labuan Financial Services and Securities Regulations 2010**.

(2) These Regulations come into operation on 15 December 2010.

General requirements for documents lodged or filed with the Authority

2. (1) Subject to subregulation (2), a document to be lodged or filed with the Authority pursuant to the Act or these Regulations shall be lodged or filed in the office of the Authority in Labuan and shall comply with the following requirements:

- (a) the document shall be on paper of medium weight, good quality and of international standard A4 size;
- (b) the document shall be clearly printed or typewritten or otherwise produced in a manner that is permanent and possible to be reproduced by photographic means; and
- (c) except with the consent of the Authority, the document shall not be a facsimile, carbon or photo copy.

(2) A person may lodge or file the documents required by the Authority under these Regulations through electronic means as may be provided by the Authority.

Verification of documents

3. (1) For the purposes of the Act or these Regulations, a copy of any document which requires verification shall be verified by statutory declaration by a person authorized to lodge or file the form with the Authority declaring that he has compared the copy with the original document and that it is a true copy of the document of which it purports to be a copy.

(2) For the purposes of the Act or these Regulations, a copy of any document lodged or filed electronically and requires verification shall be verified by the trust officer of a Labuan trust company authorized to make such lodgement or filing by declaring that he has compared the copy of the document with the original document executed by the proper signatory.

Affidavit and statutory declaration

4. (1) Except as otherwise provided in the Act or these Regulations, an affidavit or a statutory declaration sworn or declared for the purposes of the Act or these Regulations shall—

- (a) on behalf of a corporation established in Labuan, be made by a director of the corporation; and
- (b) on behalf of a foreign corporation registered in Labuan, be made by a director of the foreign corporation or a trust officer of the Labuan trust company being the authorized agent of the foreign corporation.

(2) Where an affidavit or a statutory declaration made pursuant to the Act or these Regulations purports to be sworn or declared at a place outside Malaysia, the affidavit or statutory declaration shall be sufficient for the purposes of the Act and these Regulations if it purports to be sworn or declared in accordance with the requirements of the law of that place.

Signature of documents lodged or filed with the Authority

5. Except as otherwise provided in the Act or these Regulations, a document to be lodged or filed with the Authority shall—

- (a) in relation to a corporation established in Labuan, be signed or authenticated by a director or resident secretary of the corporation; and
- (b) in relation to a foreign corporation registered in Labuan, be signed or authenticated by a director or secretary of the foreign corporation, or an officer of the Labuan trust company which is appointed as agent of the foreign corporation.

Time for lodgement or filing of documents

6. Where a document is required by the Act to be lodged or filed with the Authority, and no time period within which the document is to be lodged or filed is prescribed, the document shall be lodged or filed within thirty days or within such further period as the Authority in special circumstances may allow after the happening of the event to which the document relates.

Particulars to be provided in the forms

7. (1) Subject to these Regulations, the forms as referred to in the third column of the First Schedule and set out in the Second Schedule shall be the forms to be used for the purposes described in the First Schedule.

(2) A form shall be completed in accordance with the instructions stated in the form.

(3) Where there is no form prescribed under these Regulations in respect of any application provided under the Act, the application shall be made in such manner as may be provided by the Authority from time to time.

(4) Where a form requires completion by the insertion, or the attachment to the form, of a document containing particulars or other matters referred to in the form, those particulars or other matters are prescribed as the particulars or other matters required under the provisions of the Act or these Regulations for the purposes for which the form is prescribed.

(5) Where a form requires the insertion of—

- (a) a name of a person, the name of that person shall be the name, in respect of a Malaysian citizen, that appears on his the identity card and, in respect of a non-citizen, that appears on his passport;
- (b) the particulars of the identification card number in respect of Malaysian citizen, as appears on his identification card; or
- (c) the particulars of the passport number in respect of a non-citizen, as appears on his passport.

Payment of fees

8. The fees to be paid to the Authority pursuant to section 189 of the Act shall be as prescribed in the Third Schedule.

Prospectus to be lodged and signed

9. Where a copy of a prospectus lodged with the Authority under subsection 11(1) of the Act is signed by or on behalf of the corporation or operator in the case of an Islamic public fund, the authority to sign as provided under subparagraph 11(3)(b)(i) of the Act or a verified copy of the authority shall be annexed to the copy of the prospectus.

Application for a licence as a Labuan trust company

10. (1) For the purpose of section 61 of the Act, an application for a licence as a Labuan trust company shall be made in accordance with the guidelines issued by the Authority under section 4A of the Labuan Financial Services Authority Act 1996 [Act 545].

(2) The Authority shall not issue a licence to a company as a Labuan trust company under the Act unless—

- (a) it complies with the requirements of section 61 of the Act;
- (b) its objects as contained in the memorandum of association or constituent document of the company are expressly limited to acting as a Labuan trust company under the Act and to matters ancillary or incidental thereto;

- (c) its name include the word "Trust" or "Trustee" or such other word or words as approved by the Authority;
- (d) its directors, secretaries or authorized agents are persons who fall into any one of the following categories:
- (i) an advocate and solicitor or a person who possesses a degree in law;
 - (ii) a member of the Malaysian Institute of Accountants, established under the Accountants Act 1967 [Act 94] or of any other association of accountants approved by the Authority for the purposes of the Act;
 - (iii) an associate or fellow of any association of bankers, insurers or company secretaries or similar body recognized by the Authority for the purposes of the Act;
 - (iv) a person who has served for an uninterrupted period of not less than ten years in any public service or a statutory body or in both, or a person who holds a position of trust, equivalent to the person aforesaid; or
 - (v) a person recognized by the Authority as a person comparable to any of the persons mentioned above.

(3) Where the Authority is satisfied that the requirements of the Act or these Regulations have been fully complied with and the appropriate fees have been paid, the Authority may issue an approval for the application of licence according to subsection 62(1) of the Act.

Annual statement

11. Every Labuan trust company shall furnish the Authority with an annual statement as in Form 3 of the Second Schedule, together with the annual return required to be lodged by the company under the Labuan Companies Act 1990 [Act 441].

Notice of change of place of business or trust officer

12. For the purposes of subsection 62(2) of the Act, the notice to be lodged with the Authority by a Labuan trust company to which subsection 61(3) of the Act applies shall be made in Form 4 or 5 of the Second Schedule.

Repeal, savings and transitional

13. (1) The Labuan Trust Companies Regulations 1990 [P.U. (A) 315/1990], the Offshore Banking (Annual Licence Fees) Regulations 1990 [P.U. (A) 320/1990], the Offshore Insurance (Annual Licence Fees) Regulations 2001 [P.U. (A) 262/2001] and the Labuan Offshore Securities Industry Regulations 1999 [P.U. (A) 55/1999] are repealed (referred to in these Regulations as the "Repealed Regulations").

(2) Notwithstanding subregulation (1)—

- (a) all fees paid or received under the repealed Regulations shall be deemed to have been paid or received under these Regulations;
- (b) any application made under the repealed Regulations for a license or registration to contravene the acceptable conditions, renewal, transfer or changes of such licence or registration which are pending immediately before the date of the coming into operation of these Regulations shall, after the date of the coming into operation of these Regulations, be dealt with under the repealed Regulations and for such purposes it shall be treated as if these Regulations have not been made;
- (c) all licences, registration or approval issued or granted under the repealed Regulations shall, after the date of the coming into operation of these Regulations, continue to remain in full force and effect until the licence, registration or approval expires, amended, suspended or cancelled under the repealed Regulations and for such purposes it shall be treated as if these Regulations has not been made; and
- (d) all transactions or dealings lawfully executed or entered into, and all business lawfully done; under or in accordance with the repealed Regulations by a person who is approved or registered under the repealed Regulations, with any other person, shall be deemed to have been lawfully and validly executed, entered into, or done, under and in accordance with these Regulations, and accordingly, any right or liability under such transactions or dealings, immediately before the coming into operation of these Regulations, shall be deemed to continue to be lawful and valid under these Regulations.

FIRST SCHEDULE

(Regulation 7)

FORMS

(1) <i>Section/Regulation No.</i>	(2) <i>Description of Form</i>	(3) <i>Form No.</i>
section 38	Certificate of compliance of a registered public fund	1
subsection 32(3)	Notice of change of information	2
regulation 11	Annual statement by a Labuan trust company	3
paragraph 62(2)(a)	Notice of change of office in Labuan	4
paragraph 62(2)(b)	Notice of change of authorized agent(s)	5

SECOND SCHEDULE

FORM 1

Labuan Financial Services and Securities Act 2010

(Section 38)

CERTIFICATE OF COMPLIANCE OF A REGISTERED PUBLIC FUND

To
 Director General
 Labuan Financial Services Authority
 Labuan, Malaysia

I, the officer responsible for the supervision and control of the above mentioned application in (country), certify that, to the best of my knowledge, there is no adverse report, comment or complaint made against (state the name of public fund).

Dated this day of in the year of

.....
Authorized Signatory

NOTE: The certificate shall be in the letter head of the authority and issued by the competent authority.

FORM 2

Labuan Financial Services and Securities Act 2010

(Subsection 32(3))

NOTICE OF CHANGE OF INFORMATION

..... (NAME OF PUBLIC FUND)

To
 Director General
 Labuan Financial Services Authority
 Labuan, Malaysia

I, (name) (designation) of (name of Public Fund) hereby give notice that the following change(s) of information have occurred in respect of the following:

<i>Nature of Change</i>	<i>Effective Date of Change</i>

Dated this day of in the year of

.....
Director/Secretary

FORM 3

Labuan Financial Services and Securities Act 2010
(Regulation 14)

Company No.:

[Empty box for Company No.]

ANNUAL STATEMENT BY A LABUAN TRUST COMPANY

I of affirm and says as follows:

- (a) I am the *Director/Secretary/Agent in Labuan of (Name of Labuan trust company), a Labuan company licensed under the Labuan Financial Services and Securities Act 2010 and having its principal place of business in Labuan at
- (b) The liabilities of the company to the public in its fiduciary capacity as at day of year being a date not earlier than fourteen days before the date of the lodgment were:

Investments and holdings (securities, shares and properties) of the company on trust account.	USD
Deposits and cash on trust account with financial institutions	USD
Total	USD.....

Dated this day of in the year of

.....
* Director/Secretary/Agent

* Delete whichever is not applicable

FORM 4

Labuan Financial Services and Securities Act 2010
(Paragraph 62(2)(a))

Company No.:

[Empty box for Company No.]

NOTICE OF CHANGE OF PLACE OF BUSINESS IN LABUAN

..... (NAME OF LABUAN TRUST COMPANY)

To
Director General
Labuan Financial Services Authority
Labuan, Malaysia

The above-named Labuan trust company give notice that with effect from the day of, in the year of the address of its address of its office in Labuan has changed from #..... to #.....

Dated this day of in the year of

.....
* Director/Secretary

Insert full address including telephone and fax numbers
* Delete whichever is not applicable

FORM 5

Labuan Financial Services and Securities Act 2010
(Paragraph 62(2)(b))

Company No.:

NOTICE OF CHANGE OF AUTHORIZED AGENT(S)

..... (NAME OF LABUAN TRUST COMPANY)

To
Director General
Labuan Financial Services Authority
Labuan, Malaysia

The above-named Labuan trust company gives notice of the following change of its authorized agent(s) in Labuan:

<i>Full Name</i>	<i>Residential Address</i>	<i>NRIC. No./ Passport No.</i>	<i>Nature of Appointment, Change/Cessation And Effective Date</i>

Dated this day of in the year of

.....
* Director/Secretary

* Delete whichever is not applicable

NOTE: Particulars of existing authorized agent(s) need not be notified except where there is a change in his particular.

