



LABUAN OFFSHORE FINANCIAL SERVICES AUTHORITY

GUIDELINES ON THE ESTABLISHMENT OF FUND MANAGEMENT COMPANIES IN LABUAN

I. What is Fund Management?

Fund management company or manager is defined as a person who :-

- a) for valuable consideration provides management services alone, or with investment advice or administrative services in respect of securities for the purposes of investment, including dealing in securities, or such other activity as may be prescribed by the Authority; or
- b) is entitled to provide such services or advice under the laws of any recognised country or jurisdiction.

II. Who Qualifies?

- A licensed fund management company from a recognised jurisdiction; or
- An offshore company set-up by individual fund managers who are licensed by the relevant home supervisory authority.

III. How to Apply?

Applicant is required to submit an application for approval to:

Director-General
Labuan Offshore Financial Services Authority (LOFSA)
Level 17, Main Office Tower
Financial Park Labuan
Jalan Merdeka
87000 W.P. Labuan

Telephone : 087 – 591200 / 591300
Fax : 087 – 413328 / 453442

- Submission to LOFSA by completing Form 3/FM on 'Application for a Fund Manager's Licence/Registration' (Form 3/FM). The application may be made by a company incorporated or registered under the Offshore Companies Act 1990;
- Written permission sought pursuant to Section 12(2) of LOSIA to conduct fund management business shall be made to LOFSA by completing Form 3/FM. Permission shall be given in writing by the Authority to a fund management company licensed or qualified in a recognised country or jurisdiction as detailed in List J and at such time the approved manager's details shall be entered into the register detailed under section 4.

IV. Requirement for Licensing

- The parent company or holding company, as may be applicable, of the applicant must have a sound track record in the fund management activities.
- An applicant company should submit, where applicable, audited annual accounts for the 3 years immediately preceding the application;
- The applicant must show proven performance record with consistent returns on equity, returns on assets. It is required to show profit within three years of operations after obtaining licence;
- The directors/CEO of the applicant company must be "fit and proper" persons. Prior written approval from LOFSA must be obtained for the appointments;
- It must have a favourable business plan in promoting Labuan as an IOFC. The applicant company to submit a business plan for the first two consecutive years of operations in Labuan IOFC;
- The directors of the applicant company must provide a signed declaration on confidentiality and secrecy;

- The applicant must have or have available to him sufficient knowledge, expertise, resources and facilities for the proper management or administration of a fund. It must be managed by sufficient number of staff;
- The applicant is required to submit fund manager's business code of conduct; and
- There must be no adverse report from any reliable sources such as the relevant home authority on the applicant, directors and senior management of the company.

VI. Conditions for Establishment and Operation

The applicant company:-

- requires a one-time approval by LOFSA if it intends to invest in Malaysia. Subsequent sales and purchases of the investments do not require further approval;
- which manages several funds as a group may not have subscription of more than 15 per cent in the total issued and outstanding shares of each fund;
- or its affiliates or directors and subscribers who own more than 10 per cent of the issued and outstanding shares of a fund company may not buy or sell the securities of the investment fund or grant or receive loans to or from it; and
- may carry out its activities from an office in Labuan, or from outside Labuan subject to approval from LOFSA. For fund managers from recognised jurisdictions to operate in Labuan, it must also register under OCA;

VII. Capital Structure and Fees Payable

- The paid-up capital of the applicant shall be at least an amount equivalent to RM300,000 in any other currency. The annual licence fee payable to LOFSA is as follows: -
 - For companies which operate from outside Labuan, the fee is RM10,000; and
 - For companies which operate from within Labuan, the fee is RM5,000.

VIII. Operations

- Physical presence: the applicant company must maintain a registered office in Labuan. All dealings must be done through the registered office in, from or through Labuan;
- Approved activities: the applicant company could only transact business in foreign currency and not deal in ringgit except solely for the purpose of defraying administrative and statutory expenses;
- Restriction of business: the applicant company shall provide services to non-residents only;
- Auditor: the applicant company shall appoint an approved auditor;
- Information: the applicant company must notify LOFSA of any amendment or alteration to any of its constituent documents; and
- Business Performance: the applicant company must be active in its operations to be judged from the performance and number of funds managed in each year.

VIII. Business Ethics

- All fund managers must conduct its business with due diligence and sound principles, maintain adequate and proper records and books of accounts and indicate clearly its names and license or registration number on its letterhead, stationery and other documents; and
- It must obtain approval of LOFSA for any change of business plan.

IX. Reporting Requirement

- The applicant company may be required by LOFSA to provide financial data, statistics and other information.

Labuan Offshore Financial Services Authority

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List of Recognised Countries/Jurisdictions

- (i) OECD countries, including European countries applying the Undertaking for Collective Investment in Transferable Securities (UCITS);

- (ii) Asian countries comprising: -
 - Singapore
 - Hong Kong
 - Malaysia
 - Philippines
 - Brunei
 - Thailand
 - Indonesia
 - Taiwan
 - Bahrain

- (iii) Established Offshore Centres:
 - Jersey
 - Guernsey
 - Isle of Man
 - Bermuda
 - Cayman Islands