

FREQUENTLY-ASKED QUESTIONS GUIDELINES ON LABUAN SECURITIES TOKEN OFFERING

A. APPLICABILITY OF THE GUIDELINES

- 1. Can the issuance of Securities Token Offering (STO) be made in Labuan without the issuer be incorporated in Labuan?**

The issuer may be from “any corporation formed or incorporated outside Malaysia”. This STO framework is only applicable to primary issuances of securities token in Labuan IBFC. The minimum requirements for the issuer are only applicable for issuer who incorporated in Labuan and issued STO in or from within Labuan.

- 2. Does the Labuan Securities Token Offering Framework (STO Framework) applicable to secondary listing and trading of securities that are already issued outside of Labuan IBFC?**

For secondary listing and trading of securities which are approved outside Labuan, it is not subjected to this Guidelines. For secondary listing and trading of securities token in any of approved securities exchanges in Labuan IBFC, the exchange needs to have in place the conditions and requirements under which the securities may be listed and traded in such exchange and be specified in their rules of exchanges. The Labuan securities exchanges would also need to notify Labuan FSA on the secondary listing and trading of securities token in its exchange.

Some illustrations are provided in **Appendix**, for better clarity and understanding of the possible scenarios. Please note that the illustrations are provided as examples only and do not reflect all possible structures or scenarios.

- 3. For STO that has been issued and distributed to the public outside of Labuan IBFC, and are simply being wrapped for secondary listing and trading in Labuan securities exchange without the involvement of the original issuer, does it require prior approval of Labuan FSA?**

The Labuan securities exchange are only required to notify Labuan FSA of any secondary listing and trading of securities token that takes place on its exchange.

4. **Does the prospectus/whitepaper requirement under paragraph 9.2 of the Guidelines applicable to both public and private STOs?**

Yes.

B. DEFINITION OF SECURITIES TOKEN

5. **Does the Real-Estate-Investment Trust (REITs) is part of securities definition in Labuan Financial Services and Securities Act 2010 (LFSSA) and Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).**

Yes. REIT may be included as part of “unit” under the definition of securities in LFSSA and LIFSSA.

6. **Is the “securities token” represents the underlying security or financial instrument?**

The securities token are the “securities” as defined under section 2 of LFSSA and LIFSSA. This Guidelines is meant only for securities token that falls under the definition of “securities” in LFSSA and LIFSSA. Non-securities token such as utility token would falls under non-securities token which may be issued under “credit token” where the requirements would be included under different Guidelines.

7. **Does the Non-fungible token (NFT), being a digital format would likely fall under the definition of security tokens?**

NFT does not falls under the definition of “securities”.

C. INVESTORS

8. **What is the definition of “sophisticated” or “professional” investors as specified under paragraph 5.1(i)(a) of the Guidelines?**

a) For individual, the total net worth is more than USD 1 million to proven by submission of net worth statement and the gross personal annual income is more than USD 200,000.

b) For corporates or entities, the total net assets is more than USD 5 million.

D. OTHER REQUIREMENTS

9. Who can submit the application for approval and notification requirement to Labuan FSA?

For approval for public securities token offering under Section 8(1) of LFSSA or Section 13(1) of the LIFSSA, it shall be made through the appointed Labuan trust company or Labuan bank as agent to the issuer as pursuant to Section 16 of LFSSA and Section 21 of LIFSSA.

For notification requirement, it can be submitted by its appointed agent, trustee, custodian, fund manager, fund administrator or any other service providers.

10. It is understood that use of smart contracts in security tokens is a risky proposition. What are the examples of control measures that the STO's issuer may consider in managing potential implications and risks arising from the use of smart contracts in STO?

The STO Framework requires the issuer to have a Cyber-Security Framework to safeguard the STO against any potential cyber threats and risks. With regard to smart contracts, the following are some guidance that may be practiced by the issuer and/or relevant intermediaries in ensuring cyber security in using the smart contracts:

- a) Issuers need to be cognisant of dependencies on third party “oracles” and disclose to investors. This is because some of these “oracles” may be subject to manipulation or are malicious themselves, resulting in unexpected or fraudulent outcomes.
- b) The smart contract including oracles should pass security audit or source code review by a reputable security experts or firms.
- c) The issuer’s wallet address should be made available for public transparency and accountability.

Nevertheless, the issuer and/or relevant intermediaries may impose any other policies and controls to ensure any potential cyber risks are properly managed.

11. What are the control measures for securities token used for lending and borrowing in capital market?

The Guidelines spelt out minimum requirements on prospectus/whitepaper, intermediaries, market conduct, etc. For securities that falls under the definition of debentures/sukuk, it must comply with the requirements under Part III Division 3 of LFSSA and Part III Chapter 2 of LIFSSA. Nevertheless, the securities token issuer may adapt any other international standards and best practices to ensure fairness and soundness of issuance, listing, and trading of the securities token.

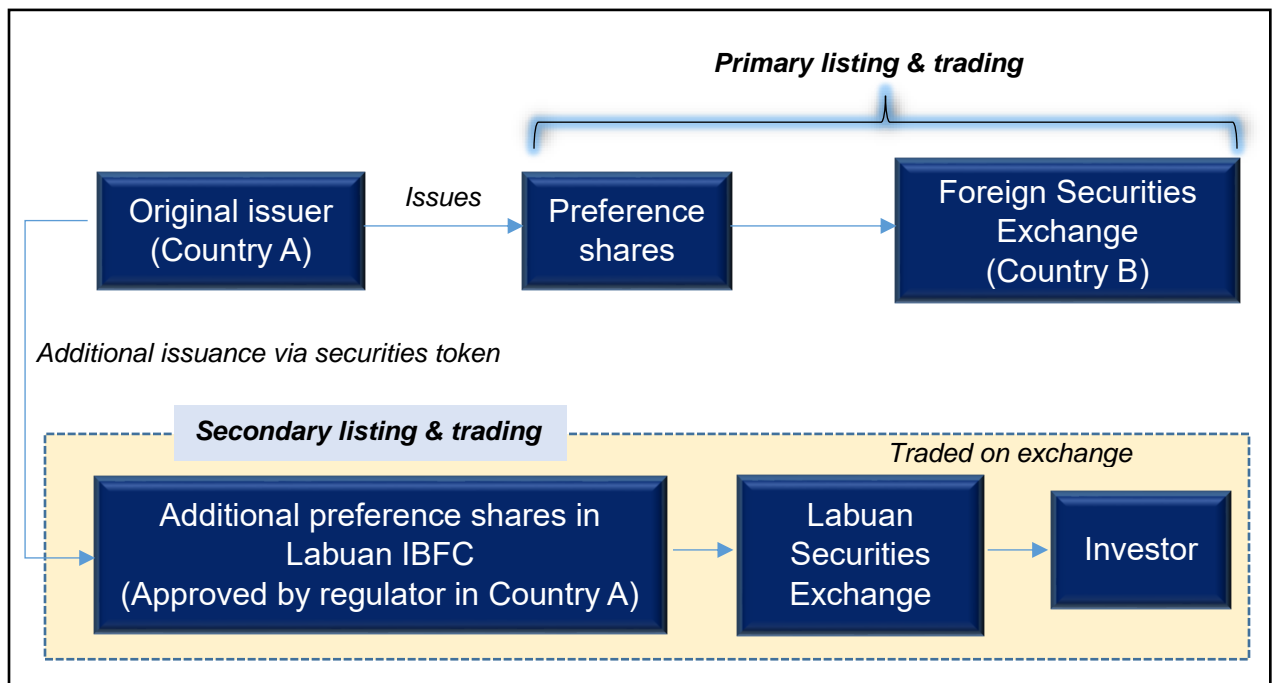
12. Can Shariah-compliant STO be used for lending and borrowing in capital market sector?

For issuance of a shariah-compliant STO or RAMZ, the appointed shariah advisor(s) of the respective issuer(s) shall approved and endorsed the STO structures and all its relevant documentation.

EXAMPLES OF SECONDARY LISTING AND TRADING OF SECURITIES THAT IS NOT SUBJECT TO THE STO GUIDELINES

- (i) **Illustration 1: Additional issuances of foreign approved securities issuance**
- The issuer issued preference shares to public which has been approved by regulator in Country A.
 - The shares are listed and traded in primary exchange in Country B. The issuances in Country B has fully subscribed.
 - The issuer intends to issue additional preference shares but tokenised it in blockchain and further to be listed and traded in Labuan Securities Exchange.
 - The issuer is not subjected to the Guidelines on Labuan Securities Token Offering. However, the Labuan securities exchange is required to notify Labuan FSA on the securities token issuance.

Illustration 1



(ii) **Illustration 2: Wrapping of foreign sukuk**

- Sukuk A is issued by a foreign company and distributed by Primary Dealers in accordance with existing Sukuk distribution frameworks outside Labuan IBFC.
- Labuan securities exchange will take deposit and wrap the Sukuk A as depositary receipts and tokenise it in blockchain.
- The Sukuk A which has been tokenised will be listed and traded in Labuan securities exchange.
- The issuer is not subjected to the Guidelines on Labuan Securities Token Offering. However, the Labuan securities exchange needs to notify Labuan FSA on the securities token issuance.

Illustration 2

