



CLARIFICATION NOTE FOR GUIDELINES ON EXTERNAL AUDITOR OF LABUAN FINANCIAL INSTITUTIONS

1.0 Preamble

- (i) This Clarification Note is issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 to clarify on several requirements pertaining to the Guidelines on External Auditor of Labuan Financial Institutions (Guidelines) issued on 21 November 2017.

2.0 Applicability

Excerpt of Guidelines:

Paragraph 2.1

“The Guidelines is applicable to:

- (a) Labuan banks and Labuan investment banks....;*
- (b) Labuan Islamic banks and Labuan Islamic investment banks....;*
- (c) Labuan insurers and reinsurers....;*
- (d) Labuan takaful and retakaful operators....;*
- (e) Labuan insurance broker....;*
- (f) Labuan trust companies....;*
- (g) Labuan money-broking business....;*
- (h) Labuan fund manager....;*
- (i) Labuan public funds....;*
- (j) Labuan charitable foundations....; and*
- (k) Labuan Islamic charitable foundations....”*

- (i) For avoidance of doubt, for the time being, the Guidelines is only applicable to the following Labuan Financial Institutions (LFIs):
 - (a) Labuan banks and Labuan investment banks;
 - (b) Labuan Islamic banks and Labuan Islamic investment banks;
 - (c) Labuan insurers and reinsurers; and
 - (d) Labuan takaful and retakaful operators.
- (ii) Save for the said LFIs in paragraph 2(i) above, the applicability of the Guidelines for other LFIs will be reviewed by Labuan FSA in due course. The industry will be informed once the review exercise has been completed.

3.0 Implementation Date

Excerpts of Guidelines:

Paragraph 4.1

“Save for paragraph 5.4, all requirements of the Guidelines shall come into effect from financial year beginning on and after 1 January 2018”

Paragraph 4.2

“The physical presence and staffing requirement of external auditor under paragraph 5.4 shall come into effect on 1 January 2019 to provide sufficient transition period for compliance”

Paragraph 8.1

“A Relevant LFI is required to submit an application to Labuan FSA for approval prior to appointing an external auditor for each financial year no later than two months before the annual general meeting at which the resolution to appoint the external auditor will be tabled”

- (i) The effective date of the Guidelines as stated under its paragraphs 4.1 and 4.2 for the abovementioned scoped-in LFIs would remain unchanged.
- (ii) Notwithstanding this, the requirement to submit the application for Labuan FSA’s prior approval on the appointment of their external auditors under paragraph 8.1 of the Guidelines will come into effect on 1 January 2019.

4.0 Criteria for the Appointment of an External Auditor

Excerpts of Guidelines:

Paragraph 5.3

“The qualification criteria of an external auditor are....”

Paragraph 5.4

“An external auditor shall establish and maintain an operational office in Labuan. The office shall have a dedicated entrance from offices of other entities/companies with minimum of two qualified auditors stationed at its Labuan office. The said operational office would be used for the conduct of audit-related works and other permissible non-audit services”

- (i) The qualification criteria as reflected under paragraph 5.3 of the Guidelines is applicable for the engagement partner.

- (ii) The establishment of an operational office in Labuan as required under paragraph 5.4 of the Guidelines only applies to the Labuan approved auditors engaged by the relevant LFIs as specified under the Guidelines.
- (iii) The term “qualified auditors” under paragraph 5.4 refers to the staff of the audit firm who are qualified to carry out the auditing works, who holds any relevant degree or professional certification in accountancy and/or member(s) of the Malaysian Institute of Accountants.

5.0 Engagement with Labuan Financial Services Authority (Labuan FSA)

Excerpt of Guidelines:

Paragraph 7.4

“Notwithstanding paragraph 7.2, by virtue of section 174(5) of LFSSA and section 135(4) of LIFSSA, the external auditors shall promptly communicate matters arising from the audit that may be of material significance such as contravention of the provision of LFSSA and/or LIFSSA or any irregularities that are or can be detrimental to the interest of the Relevant LFIs’ stakeholders, including deviation from licensing business activities approved by Labuan FSA....”

- (i) The term “material significance” under paragraph 7.4 of the Guidelines relates to section 174(5) of Labuan Financial Services and Securities Act (LFSSA) and section 135(4) of Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA) and would be confined to instances of:
 - (a) outright non-compliance to any of the provisions under the LFSSA or LIFSSA; and
 - (b) any irregularities that are or can be detrimental to the interests of the LFIs’ stakeholders, including deviation from licensing business activities approved by Labuan FSA.

6.0 Appointment Procedures

Excerpt of Guidelines:

Paragraph 8.1

“A Relevant LFI is required to submit an application to Labuan FSA for approval prior to appointing an external auditor for each financial year no later than two months before the annual general meeting at which the resolution to appoint the external auditor will be tabled”

- (i) In addition to the above paragraph 8.1, Labuan FSA reserves the right to exercise its discretion to approve the external auditor’s appointment beyond the one (1) year engagement, depending on Labuan FSA’s satisfactory supervisory

assessment against the relevant LFIs, on a case-to-case basis. Notwithstanding this, the said appointment would also be subjected to a yearly review if there is no change to the already approved external auditor.

- (ii) In relation to an LFI operating as a branch, the appointment of an external auditor shall be submitted for Labuan FSA's approval no later than two (2) months before the Annual General Meeting or within thirty (30) calendar days upon receipt of its Board of Directors' approval (at Head Office level) on the said appointment, whichever is deemed reasonably practicable.
- (iii) The term "Annual General Meeting" under paragraph 8.1 of the Guidelines includes members' meeting as defined under the Labuan Companies Act 1990.

7.0 Application for Appointment of External Auditor (Appendix I)

Excerpts of Guidelines:

Part IV(a) Appendix I

"Detailed assessment by the board or board audit committee, as the case may be"

Part IV(b) Appendix I

"Extract of board minutes endorsing the proposed appointment/reappointment of the engagement partner, concurring partner and audit firm"

- (i) The following submissions are not required to be submitted to Labuan FSA:
 - (a) The submission of detailed assessment by the LFI's Board or Audit Committee as stated in Part IV(a) of Appendix I of the Guidelines; and
 - (b) The submission of extract of board minutes endorsing the proposed appointment/reappointment of the engagement partner, concurring partner and audit firm in Part IV(b) of Appendix I of the Guidelines.
- (ii) Notwithstanding this, the above documents shall be furnished to Labuan FSA as and when required by the Authority in the course of its supervision of the LFI concerned.

Labuan Financial Services Authority

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