



FREQUENTLY-ASKED QUESTIONS GUIDELINES ON EXTERNAL SERVICE ARRANGEMENTS FOR LABUAN FINANCIAL INSTITUTIONS

A. APPLICABILITY

1. **Currently, all Labuan Financial Institutions (LFIs) are required to obtain Labuan FSA's approval on all outsourcing arrangements. Hence, for LFIs which are not scoped in under the *Guidelines on External Service Arrangements for Labuan Financial Institutions* (the Guidelines), will approvals still be required for their outsourcing?**

With the implementation of the Guidelines, the *Circular on Application for Outsourcing Business Activities by Labuan Licensed Entities* dated 12 August 2016 shall be repealed. In this regard, LFIs which are not scoped in under the Guidelines will no longer be required to obtain approval from Labuan FSA for any external service arrangements (ESAs). However, the Guidelines will serve as best practices in managing the risks arising from ESAs whereby the LFIs are required to:

- (i) maintain a complete register of ESAs in line with the criteria specified under the Guidelines [paragraph 7.5(vi)];
- (ii) submit the statistical reporting on the information of any of its ESA under the Statistical Management System (SMS) [paragraph 15.1];
- (iii) have provisions for supervisory access to documents, independent review and intervention under the ESA agreement [paragraph 9.7(x)]; and
- (iv) have data protection and confidentiality mechanism as well as business continuity planning [paragraph 9.9 to paragraph 9.16].

2. With the implementation of the Guidelines, will the approval requirement for ESAs under other Guidelines would still be applicable?

With the implementation of the Guidelines, the approval requirement for outsourcing under other Guidelines or relevant requirements shall no longer be applicable and this includes:

- (i) *Guidelines on Money Broking Business in Labuan IBFC* dated 24 November 2017 - paragraph 8.10(v) on any outsourcing arrangement;
- (ii) *Guidelines on Minimum Audit Standards for Internal Auditors of Labuan Banks* dated 6 June 2014 - paragraph 6.1.2 on utilisation of group internal audit function;
- (iii) *Guidelines on Compliance Function for Labuan Licensed Entities* dated 6 November 2013 - paragraph 5.1.4 and paragraph 5.1.5 on outsourcing of compliance function;
- (iv) *Guidelines on Valuation Basis for Liabilities of Labuan General Insurance Business* dated 1 September 2015 – paragraph 7.6 on utilisation of group actuarial resources;
- (v) *Guidelines on Valuation Basis for Liabilities of Labuan Life Insurance Business* dated 1 September 2015 – paragraph 7.6 on utilisation of group actuarial resources;
- (vi) *Guidelines on Valuation Basis for Liabilities of Labuan General Takaful Business* dated 1 November 2016 – paragraph 7.6 on utilisation of group actuarial resources; and
- (vii) *Guidelines on Valuation Basis for Liabilities of Labuan Family Takaful Business* dated 1 November 2016– paragraph 7.6 on utilisation of group actuarial resources.

B. EFFECTIVE DATE

3. Are LFI's required to seek Labuan FSA's approval for renewal of their existing external service arrangement (ESA) contract?

Any renewal of material ESA contract from 1 January 2021 onwards would be subject to approval. However, as a transition measure, all existing ESAs are required to comply with the Guidelines upon expiry of the existing contracts or by 1 January 2023, whichever is earlier. For ESAs that have been granted approval on 1 January 2021 onwards, no approval from Labuan FSA is required for the renewal of the contract unless there is a significant modification made to the existing arrangement as required under paragraph 13.1(ii) of the Guidelines.

4. **Once the Guidelines comes into effect, are LFIs required to apply for approval from Labuan FSA for all ESAs involving Group Shared Services (GSS) which are already in place?**

Effective from 1 January 2021, all new and existing material ESAs (other than internal control functions) leveraging on GSS arrangements would require Labuan FSA's prior approval. However, in respect of internal control functions (i.e. risk management, internal audit, compliance and actuarial functions) leveraging on GSS, LFIs would only need to make a prior notification to Labuan FSA within 30 days before the effective date of the arrangement as required under paragraph 12.1 of the Guidelines.

C. DEFINITION

5. **ESAs refer to arrangements in which the service provider performs an activity on behalf of the LFI on a continuing basis. Hence, for an ESA in which a service provider performs an activity on behalf of the LFI on a short period of time, is it subjected to the Guidelines?**

For the avoidance of doubt, an ESA agreement which is time-bound does not preclude the activity from being considered as being performed on a continuing basis as prescribed under footnote 3 of the Guidelines. Hence, such ESAs are still subjected to the Guidelines' requirements.

D. REGULATORY REQUIREMENTS

6. ***The Guidelines states that "Where the ESA is undertaken by the group shared services, the LFI retains effective control of the arrangement." Does this mean control over the entire ESA of the group shared services?***

This only refers to control over the ESA for the portions relevant to the LFI.

7. ***The Guidelines states that "Ensure prompt notification to Labuan FSA of developments concerning ESAs that result in a material impact on the LFI." In what situations would require LFI to pre-notify Labuan FSA?***

LFIs are required to assess the ESA arrangement on on-going basis and take proactive steps to mitigate the risks arising from the arrangement. A change in geographical location of the service provider could be one of the examples that may have material impacts to the LFI and such situation should be notified to Labuan FSA.

E. PROTECTION OF DATA CONFIDENTIALITY

8. Are the existing ESA agreements required to be amended to be consistent with the Guidelines' requirements e.g. confidentiality provisions?

All existing agreements would need to be amended to include additional confidentiality provisions required under the Guidelines latest by 1 January 2023.

F. REGULATORY PROCESS

9. What are the key regulatory process for ESAs which leverage on GSS as compared to third party service providers as specified under paragraphs 12, 13 and 15 of the Guidelines?

The regulatory process for ESAs undertaken by different types of service providers are elaborated in the table below:

Table 1: Regulatory Process for ESA				
	Material ESA			Non-Material ESA
ESA undertaken by	3 rd Party	Group Shared Services (GSS)		3 rd Party / GSS
		Non-Internal Control Functions	Internal Control Functions	
Regulatory Process	Approval (Para. 13)	Approval (Para. 13)	Notification (Para. 12)	Reporting via SMS (Para. 15)
Reporting under SMS	<ul style="list-style-type: none"> All material ESA and non-material ESA are required to be reported under the SMS pursuant to the Reporting Guidelines on Statistical Data Submission for Labuan Entities. For material ESA, reporting for SMS is expected to be done once the approval has been granted from Labuan FSA. 			

10. Is the LFI required to obtain Labuan FSA's approval for all the sub-contractors of GSS?

Approval from Labuan FSA is not required for all sub-contracting arrangement. However, ESA with sub-contracting arrangement is required to comply with the Guidelines.