



GUIDELINES ON CAPTIVE INSURANCE BUSINESS IN LABUAN INTERNATIONAL BUSINESS AND FINANCIAL CENTRE

1.0 Introduction

- 1.1 Captive insurance company is an insurance entity that acts as a risk management vehicle to insure its owner's or its related parties' risks. The captive insurance company may be owned, either directly or indirectly, by one or more industrial, commercial or financial entities.
- 1.2 Labuan International Business and Financial Centre (Labuan IBFC) offers a wide range of captive structures well suited to cater for the various needs and strategies of the business owners in managing their risks according to their risk appetite.
- 1.3 This Guidelines outlines the application procedures and operational requirements for setting up a Labuan captive insurer which carries out Labuan captive insurance business¹.

2.0 Legal provision

- 2.1 An applicant is required to be licensed by Labuan FSA pursuant to section 102(1) of Labuan Financial Services and Securities Act 2010 (LFSSA) and/or section 77(1) of Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).
- 2.2 The Guidelines is issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to clarify the provisions of Part VII of LFSSA and Part VII of LIFSSA.
- 2.3 Any person who fails to comply with the Guidelines may be subject to an administrative penalty and/or other enforcement actions under section 36B and section 36G of the LFSAA.

¹ Includes Labuan captive takaful business. For Labuan captive takaful business, applicants would also need to comply with other relevant guidelines or policy document on takaful and Shariah matters issued by Labuan FSA.

3.0 Effective date

- 3.1 The Guidelines shall come into effect on 1 January 2024 and would remain effective and applicable unless amended or revoked. This Guidelines would supersede the:
- (i) *Guidelines on Captive Insurance Business in Labuan IBFC* dated 28 October 2010.
 - (ii) *Clarification Note for Guidelines on Captive Insurance Business in Labuan International Business and Financial Centre* dated 17 December 2018.
- 3.2 All approvals granted by Labuan FSA relating to Labuan captive insurance business before the effective date of this Guidelines shall remain valid unless revoked and are subjected to the new requirements of this Guidelines upon its effective date.

4.0 Eligibility

- 4.1 The applicant for licence to carry out Labuan captive insurance business shall have the following:
- (i) adequate financial resources to meet and maintain the minimum paid-up capital requirement;
 - (ii) credible and viable business plan that sets out the approach to implement the proposed strategic business objectives or operations; and
 - (iii) a set of proper internal policies and controls that commensurate with the business profile or risks.
- 4.2 Master Rent-a-Captive (MRAC) that is managing Subsidiary Rent-a-Captive (SRAC) and External Rent-a-Captive (XRAC) as well as Protected Cell Company (PCC) that is managing the cell captives, are required to have the relevant and sufficient resources including expertise in the insurance business. Definitions of MRAC, SRAC, XRAC and PCC are provided in Appendix II.

5.0 Types of captives

5.1 Section 101 of LFSSA defines Labuan captive insurance business as Labuan insurance business where the insured is:

- (i) a related corporation;
- (ii) an associate corporation; or
- (iii) any other person in respect of whom the Labuan captive insurer is authorised by the Authority to provide insurance or reinsurance.

5.2 For clarity, the insured specified under paragraph 5.1 is further explained as follows:

- (i) **a related corporation** refers to related companies as defined under section 4 of Labuan Companies Act 1990.
- (ii) **an associate corporation** refers to “associate” definition under the International Financial Reporting Standards (IFRS)² issued by the International Accounting Standards Board (IASB).

The structures for paragraphs 5.1(i) and 5.2(ii) are as listed in **Appendix I**.

- (iii) **any other person of whom the Labuan captive insurer is authorised by the Authority** means any other person as approved by Labuan FSA as listed in the **Appendix II**. The list provided in **Appendix II** are not exhaustive and may be amended from time to time.

6.0 Permissible activities

6.1 A Labuan captive insurer may underwrite direct insurance or reinsurance (general or life) business.

6.2 For PCC captive, the cell of a PCC may conduct either general or life insurance business in a separate cell under the same PCC. Additional conditions will be imposed to the PCC captive and dedicated cell to ensure there is no co-mingling of funds between the life and general business under the PCC.

6.3 A Labuan captive insurer underwrites insurable risks of the (re)insured which comprises its own group or related parties that can be defined as follows:

- (i) entity(ies) to which the Labuan captives belongs to;

² Refer to “associate” as defined under the International Accounting Standard

- (ii) entity(ies) associated to the entity(ies) to which the Labuan captives belongs to;
- (iii) members of association(s) to which the Labuan captives belongs to; or
- (iv) any other person in respect of whom the Labuan captive is authorized by Labuan FSA to provide (re)insurance.

6.4 In addition to paragraph 6.3, Labuan captive insurer may also underwrite indirect insurable interest risks.

6.5 In relation to rental captives formed either as MRAC or PCC, the insurable risks to be (re)insured by the rental captives should also be in accordance with the definition under paragraph 6.3.

6.6 A Labuan captive insurer may deal with direct Malaysian risks subject to necessary approval from the domestic authority on the writing of direct domestic risk.

7.0 Operational requirements

7.1 Maintain a minimum paid-up capital/working funds as follows:

Types of Labuan Captives	Subsidiary	Branch
Labuan captive insurer under paragraphs 5.1(i) & 5.1(ii)	A paid-up capital unimpaired by losses of RM300,000 or its equivalent in any foreign currency.	A surplus of asset over liabilities of at least RM300,000 or its equivalent in any foreign currency, to be maintained in the book of its office in Labuan.
Labuan captive insurer under paragraph 5.1(iii)	A paid-up capital unimpaired by losses of RM500,000 or its equivalent in any foreign currency.	A surplus of asset over liabilities of at least RM500,000 or its equivalent in any foreign currency, to be maintained in the book of its office in Labuan.

Labuan FSA may require additional capital depending on the nature, complexity and diversity of the business operations of the Labuan captive insurer.

7.2 Comply with the solvency requirement as specified in the *Guidelines on Capital Adequacy Requirements for Labuan Captive Insurance and Takaful Business* issued by Labuan FSA.

- 7.3 For a Labuan captive insurer that underwrites digital-related risks e.g. cyber risks, it shall ensure that the insured has a proper digital risk management strategy in place in line with evolving digital technologies and developments.
- 7.4 A Labuan captive insurer is encouraged to optimise the local market capacity by obtaining reinsurance coverage from any Labuan (re)insurer licensed under LFSSA before sourcing similar cover from outside Malaysia.
- 7.5 The SRAC may appoint its director or any other person including Principal Officer (PO) of MRAC as its PO. Nevertheless, XRAC is required to appoint its own PO.
- 7.6 Ensure that the person in control, director, PO and officer meet the Fit and Proper Person Requirements as specified in the *Guidelines on Fit and Proper Person Requirements* issued by Labuan FSA.
- 7.7 All Labuan captive insurers are required to be members of Labuan International Insurance Association (LIIA). However, the SRAC may need not be a member of LIIA and its membership may be represented by its MRAC.
- 7.8 Establish an operational management office in Labuan that is managed by a management team that has an adequate knowledge and expertise in insurance business including understanding of the captive's group business or appoint a licensed Labuan underwriting manager.
- 7.9 Labuan captive insurer/takaful operator that undertakes Labuan captive takaful business, is required to establish an internal Shariah advisory board to ensure that its management and operation are in compliance with the Shariah principles. In this regard, the *Directive on Islamic Financial Business in Labuan IBFC* shall also be observed.
- 7.10 Adhere to the requirements of the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001* and the *Guidelines on Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Labuan Key Reporting Institutions* issued by Labuan FSA.
- 7.11 Comply with reporting requirement including but not limited to the following:
- (i) submit audited financial statements within six (6) months after the closure of each financial year; and
 - (ii) statistics and other information as Labuan FSA may require from time to time.

- 7.12 Obtain prior approval from Labuan FSA on the following matters:
- (i) change of business plan;
 - (ii) change of ten per centum or more of the shareholding³;
 - (iii) appointment of its board of directors³ and principal officer;
 - (iv) change of place of business or establishment of office outside Labuan. This includes acquisition of subsidiary and establishment of a marketing office or co-located office;
 - (v) reduction⁴ of capital;
 - (vi) outsourcing arrangement; and
 - (vii) change of name.
- 7.13 Notify Labuan FSA within seven (7) days pertaining to the following matters:
- (i) resignation of directors and PO;
 - (ii) any change of information with regard to the place of business or office in Labuan; and
 - (iii) any change to its constituent documents.
- 7.14 Observe any applicable laws, rules and regulations relevant to the captive insurance business, including any other relevant guidelines issued by Labuan FSA from time to time including those listed in **Appendix III**.
- 7.15 The risk owner is expected to comply with any applicable regulatory requirements of the relevant authorities in the home market where the risk originated.

8.0 Roles and responsibilities of Master Rent-A-Captive and Protected Cell Company

- 8.1 The Board and the Senior Management of MRAC and PCC is required to:
- (i) provide and maintain the minimum paid up capital/working fund for MRAC and PCC;

³ For branch set-ups, the captive need only to notify Labuan FSA on the change of shareholding structure and appointment of its board of directors.

⁴ Shall not be lower than the prescribed minimum paid-up capital requirement.

- (ii) ensure SRAC, XRAC or cell of the PCC comply with solvency requirement and any other applicable requirements;
- (iii) ensure SRAC, XRAC or cell of the PCC underwrites its own group or related parties' insurable risks; and
- (iv) undertake appropriate assessment with regard to the change of cell owner and ensure the risks underwritten under the cell are still within its own group or related parties' insurable risks.

8.2 To establish a cell, a PCC must:

- (i) notify Labuan FSA for establishment of a cell by submitting a duly completed notification form with the relevant supporting documents as stipulated in the form of *Notification for Establishment of Cell by the Protected Cell Company Undertaking Labuan Captive Insurance/ Captive Takaful Business* which is downloadable at www.labuanfsa.gov.my. The notification form shall be submitted within seven (7) days before commencement of the cell together with a payment of the cell's annual fee;
- (ii) have a set of proper internal policies and procedures with regard to criteria and processes for on boarding of a cell which include but not limited to requirements under paragraph 4.1 above;
- (iii) conduct due diligence on the cell's applicant;
- (iv) ensure the cell underwrites its own group or related parties' insurable risks; and
- (v) notify Labuan FSA within seven (7) days after the change of cell owner together with a revised notification form. The change of cell owner is limited to changes within the group structure and does not affect the current insurable risks.

8.3 For intermediary-owned⁵ SRAC, XRAC or PCC, the managers i.e. MRAC or PCC shall ensure proper policies and controls are in place to manage all potential conflicts of interest faced by the managers and other related parties in the structure. Depending on the structure, Labuan FSA may require additional controls or disclosure to be put in place to ensure transparency and fairness is maintained for the clients.

⁵ Refer to insurance manager, underwriting manager or insurance broker including takaful intermediaries.

9.0 Annual fee

- 9.1 The annual licence fee payable is as specified under the *Labuan Financial Services and Securities (Amendment) Regulations 2022*.
- 9.2 The subsequent payment of annual licence fee is payable by 15 January of each year.

10.0 Application requirements

- 10.1 Submit a duly completed application form with the relevant supporting documents as stipulated in the *Form LIB – Labuan insurance Business*, and downloadable at www.labuanfsa.gov.my under the category of “licence application form” together with a processing fee of USD350. The applicant may also opt for fast track processing with additional fee⁶.
- 10.2 In addition to paragraph 10.1, applicants may be required to provide other information or documents that may be requested by Labuan FSA for the purpose of assessing the application.

11.0 Submission of application and enquiries

- 11.1 The application can be submitted to:

Head of Authorisation and Licensing Unit
Labuan Financial Services Authority
17th Floor, Main Office Tower
Financial Park Complex, Jalan Merdeka
87000 Federal Territory of Labuan, Malaysia

- 11.2 Any enquiries or clarification may be directed to the following contact details:

Telephone no. : 03 8873 2000
E-mail : bpu@labuanfsa.gov.my (Guidelines)
licensing@labuanfsa.gov.my (Licence application)

Labuan Financial Services Authority

21 August 2023
28 October 2010
22 January 2002
10 Dec 2001

⁶ Subject to the Authority's acceptance of fast track application

Type of Captive Structures

- 1) **Pure/single captives** may include single parent companies writing only the risks of their owner and/or affiliates.
- 2) **Group captives/association captives** may include multi-owned insurance companies writing only the risks of their owners and/or affiliates, usually within a specific trade or activity or a captive formed or owned by members of a common industry or trade association to share risks of that industry among its members.

Type of Captive Structures

- 1) **Master rent-a-captive (MRAC)** acts as a master captive, which provides captive facilities and services to subsidiary rent-a-captive and external rent-a-captive.
 - a) **Subsidiary rent-a-captive (SRAC)** is an entity with separate licenses, assets and accounts but at the same time using the working capital of MRAC, with no less than 50% shareholding by MRAC.
 - b) **External rent-a-captive (XRAC)** is an entity with separate licenses, assets and accounts but at the same time using the working capital of MRAC with less than 50% shareholding by MRAC.
- 2) **Protected cell company (PCC)** may include protected cell captive, where legislation protects each individual cell from the liabilities of other cells within the PCC.
- 3) **Multi owner captive** is owned by two or more unrelated persons or organisations and writing the risks of its owner and/or affiliates and is designed to insure the risks of these different entities.
- 4) **Agency/Intermediary-owned captive** is owned by one or more independent insurance intermediaries e.g. insurance managers, underwriting managers or insurance brokers to write high-quality risks that the agents control so the agents can participate in the profits generated by the business.

Note: The above lists are not exhaustive and may be amended from time to time.

List of Relevant Guidelines and Circulars

The following are the list of Guidelines/Directives/Circulars that are applicable to Labuan captives:

- 1) Directive on Minimum Capital Requirement by Labuan Licensed Entities
- 2) Directive on Financial Reporting Standards for Labuan Financial Institutions
- 3) Directive on Accounts and Record-Keeping Requirements for Labuan Entities
- 4) Directive on Islamic Financial Business in Labuan IBFC
- 5) Guidelines on Capital Adequacy Requirements for Labuan Captive Insurance and Takaful Business
- 6) Guidelines on Fit and Proper Person Requirements
- 7) Guidelines on the Establishment of Marketing Office
- 8) Guideline on Co-location of Labuan Insurance and Takaful Licensee
- 9) Guidelines on Investment Management for Labuan Insurance and Takaful Business
- 10) Guidelines on Market Conduct for Labuan Insurance and Insurance-related Companies
- 11) Guidelines on Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Labuan Key Reporting Institutions
- 12) Guidelines on Minimum Audit Standards for Internal Auditors of Labuan Insurance and Insurance-Related Companies
- 13) Guidelines on Minimum Requirements for Management Office of Labuan Insurance and Insurance-Related Companies
- 14) Circular on Financial Reporting Standards for Labuan Financial Institutions
- 15) Circular on Submission of Audited Financial Statements by Labuan Entities Through Cor@L

Note: The above lists are not exhaustive. Kindly observe any other applicable and relevant policies issued by Labuan FSA from time to time.