

GUIDELINES ON CAPITAL ADEQUACY REQUIREMENTS FOR LABUAN CAPTIVE INSURANCE AND TAKAFUL BUSINESS

1.0 Introduction

- 1.1 A sound and well-developed solvency regime is a vital component of any captive insurance supervisory regime. The level of solvency margin required in the case of captive insurers is influenced by the extent, appropriateness and security of its reinsurance arrangements as well as the adequacy of its reserves.
- 1.2 The *Guidelines on Capital Adequacy Requirements for Labuan Captive Insurance and Takaful Business* (the Guidelines) sets out prudential requirements that should be observed by Labuan captive insurers with regard to the minimum solvency requirement to be complied on an ongoing basis. The aim is to ensure that Labuan captive insurers can absorb significant unforeseen losses whilst also providing for varying degrees of supervisory intervention.

2.0 Applicability

- 2.1 The Guidelines is applicable to all Labuan financial institutions that are licensed to carry on:
- (i) Labuan captive insurance business as defined under Part VII of the Labuan Financial Services and Securities Act 2010 (LFSSA); and
 - (ii) Labuan captive takaful business as defined under Part VII of the Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).
- 2.2 For the purpose of the Guidelines, the term “captive insurer(s)” refers to any Labuan financial institutions carrying on Labuan captive insurance business or Labuan captive takaful business as provided under paragraph 2.1 above, whichever is applicable.

3.0 Legal Provision

3.1 The Guidelines is issued pursuant to section 109 of the LFSSA, section 84 of the LIFSSA and section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) for the purpose of clarifying the requirements on margin of solvency for Labuan captive insurers.

4.0 Effective Date

4.1 The Guidelines shall come into effect on 1 January 2021 and would remain effective and applicable unless amended or revoked.

4.2 The Guidelines' requirements will supersede and replace any reference to the margin of solvency for captive insurers under the following policy documents:

No.	Policy Document	Areas superseded
1	Application for Licence Labuan Insurance and Insurance-related Activities dated 30 August 2001 (Amended)	Solvency margin for Single Owner/Multiple Owner Captive/ Rent-A-Captive/Cell Captive or Similar Vehicle specified under paragraph 3 (<i>page 2</i>)
2	Guidelines on Captive Insurance Business in Labuan International Business and Financial Centre (Labuan IBFC) dated 28 October 2010 (Amended)	Margin of solvency requirement specified under paragraph 4.5 (<i>page 3</i>)
3	Directive on Minimum Capital Requirement by Labuan Licensed Entities dated 5 October 2015	Capital adequacy/solvency requirements specified under paragraph 4.1 (B) (iii)(b) and (iv)(b) (<i>page 3</i>)
4	Clarification Note for Guidelines on the Establishment of Labuan Protected Cell Company dated 10 October 2016	The clarification note is repealed

5.0 Structure of Capital Requirement

Minimum Capital Requirement

5.1 The Minimum Capital Requirement for Labuan captive insurers, which forms part of the licensing requirement, is the working fund's amount pursuant to section 101(1) and section 103(1)(b)(iii) of the LFSSA as well as section 76(1) and section 78(1)(b)(iii) of the LIFSSA. This is also in line with the requirements of paragraph 4.1 (B) (iii)(a) and (iv)(a) of the Directive on Minimum Capital Requirement by Labuan Licensed Entities dated 5 October 2015.

Solvency Capital Requirement

5.2 The Solvency Capital Requirement (SCR) is a minimum solvency control level above which Labuan FSA deems adequate and normally would not entail any supervisory intervention on capital adequacy grounds. Notwithstanding this, Labuan FSA may still exercise its discretion for any concerns related to other supervisory findings such as the weaknesses in the risk management or governance.

5.3 Labuan FSA's supervisory approach of pre-emptive intervention means that supervisory action will be taken during the early stages of financial difficulties faced by a Labuan captive insurer. In this regard, the minimum SCR level for Labuan captive insurers, which is to be maintained at all times, is as follows:

No.	Types of Captives	General insurance /General takaful business	Life insurance /Family takaful business
1	i. Pure/ Single Owner Captive ii. Group/ Association & Multi-owner Captives	The surplus of assets over liabilities is at least the higher of: (a) the working fund's amount of RM300,000; or (b) 10% of the net premium/contribution income for the preceding year; or (c) 10% of provision for outstanding claims for the preceding year (net basis).	The surplus of assets over liabilities is at least the higher of: (a) the working fund's amount of RM300,000; or (b) 2.5% of the actuarial valuation of the liabilities for life insurance/ family takaful business as at the last valuation date.

No.	Types of Captives	General insurance /General takaful business	Life insurance /Family takaful business
2	Master Rent-a-Captive (MRAC)	The surplus of assets over liabilities is at least the higher of: (a) the working fund's amount of RM500,000; or (b) 10% of the net premium/contribution income for the preceding year; or (c) 10% of provision for outstanding claims for the preceding year (net basis).	The surplus of assets over liabilities is at least the higher of: (a) the working fund's amount of RM500,000; or (b) 2.5% of the actuarial valuation of the liabilities for life insurance/ family takaful business as at the last valuation date.
3	Protected Cell Company (PCC) Captive (Overall)	The surplus of aggregate assets over aggregate liabilities ¹ is at least the higher of: (a) the working fund's amount of RM500,000; or (b) 10% of the Cells' net premium/ contribution income for the preceding year; or (c) 10% of the Cells' provision for outstanding claims for the preceding year (net basis).	The surplus of aggregate assets over aggregate liabilities ¹ is at least the higher of: (a) the working fund's amount of RM500,000; or (b) 2.5% of the Cells' actuarial valuation of the liabilities for life insurance/ family takaful business as at the last valuation date.
4	i. PCC Captive Cell ii. Subsidiary Rent-a-Captive (SRAC)	The surplus of each Cell's or each SRAC's assets over its liabilities is at least the higher of: (a) 10% of the Cell's or 10% of the SRAC's net premium/contribution income for the preceding year; or (b) 10% of the Cell's or 10% of the SRAC's provision for outstanding claims for the preceding year (net basis).	The surplus of each Cell's or each SRAC's assets over its liabilities is at least 2.5% of the Cell's or 2.5% of the SRAC's actuarial valuation of the liabilities for life insurance/ family takaful business as at the last valuation date.

¹ The aggregated net assets of the PCC's Core and its Cells
i.e. (Core Assets – Core Liabilities) + \sum (Total Cell Assets – Total Cell Liabilities)

5.4 A Labuan captive insurer must monitor the level of its solvency regularly. The SCR level as prescribed in the Guidelines is the minimum solvency amount to be complied by Labuan captive insurers at all times. Notwithstanding this, Labuan FSA has the discretion to impose higher capital requirements to commensurate with Labuan captive insurers' business activities and risk exposures, based on Labuan FSA's supervisory assessment of the Labuan captive insurer concerned.

6.0 Reporting to Labuan FSA

- 6.1 All Labuan captive insurers shall submit the Statement of Solvency to Labuan FSA based on the financial year end positions, within six (6) months after the end of each financial year or on other such date as may be requested by Labuan FSA using the form in **Appendix**.
- 6.2 The Labuan PCC captive insurer is also required to submit the Statement of Solvency on half-yearly basis using the form in **Appendix**. The half-yearly submissions shall be made to Labuan FSA by 15th after end of reporting period.
- 6.3 Submission of the Statement of Solvency shall be made to the Industry Reporting Unit of Labuan FSA through email (irrc@labuanfsa.gov.my) before the reporting form being incorporated into the Statistical Management System. The Principal Officer or his delegated officer is required to confirm the information provided in the report prior to submission to Labuan FSA.

Labuan Financial Services Authority
31 October 2019

Statement of Solvency

Company	
Type of Licence	Pure/ Single owner captive; Group/ Association & Multi-owner captives; Master RAC; Subsidiary RAC
Business Nature	General/ Life/ Family
Calendar Year	
Calendar Month	

Item	Requirement	Total (USD)
A	Solvency Capital Requirement (SCR) (the greatest amongst A1, A2, A3 and A4)	
A1	<i>Working Fund</i>	
A2	<i>General: 10% of net premium/ contribution income from preceding year</i>	
A3	<i>General: 10% of provision for outstanding claims from preceding year</i>	
A4	<i>Life/ Family: 2.5% of the actuarial valuation of liabilities as at the last valuation date</i>	
B	Total Assets	
C	Total Liabilities	
D	Excess of Assets over Liabilities (B - C)	
E	Surplus/(Deficit) of SCR (D - A)	
F	Meets Minimum Solvency Requirement (YES/NO)	
<p>_____</p> <p>(Signature)</p> <p>Name of Principal Officer :</p> <p>Date :</p>		

Statement of Solvency

Company	
Type of Licence	PCC Captive
Business Nature	General/ Life/ Family
Calendar Year	
Calendar Month	

Item	Requirement	Core (USD)	Cell 1 (USD)	Cell 2 (USD)	Cell 3 (USD)	Cell 4 (USD)	Total (USD)
A	Solvency Capital Requirement (SCR) (the greatest amongst A1, A2, A3 and A4)						
	A1 <i>Working Fund</i>						
	A2 <i>General : 10% of net premium/ contribution income from preceding year</i>						
	A3 <i>General : 10% of provision for outstanding claims from preceding year</i>						
	A4 <i>Life/Family : 2.5% of the actuarial valuation of liabilities as at the last valuation date</i>						
B	Total Assets						
C	Total Liabilities						
D	Excess of Assets over Liabilities (B - C)						
E	Surplus/(Deficit) of SCR (D - A)						
F	Meets Minimum Cell Solvency Requirement (YES/NO)						
G	Meets Minimum PCC Solvency Requirement (YES/NO)						

*To add more Cell's columns if needed.

(Signature)

Name of Principal Officer :

Date :