

GUIDELINES FOR THE ESTABLISHMENT OF LABUAN MANAGED TRUST COMPANIES

1.0 Preamble

- 1.1 The Guidelines are issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 to facilitate an application to carry out Labuan trust company business under Part V of the Labuan Financial Services and Securities Act 2010 (LFSSA) as Labuan managed trust company.
- 1.2 The Guidelines serve to clarify the requirements and expectation of Labuan Financial Services Authority (Labuan FSA) on a Labuan managed trust company licensed pursuant to section 71 of LFSSA.

2.0 Definition

Labuan managed trust company means a person carrying on trust company business where such business is managed by another Labuan trust company.

3.0 Who Qualifies?

- 3.1 A Labuan company that is incorporated or registered under the Labuan Companies Act 1990 (LCA) as a Labuan Company.
- 3.2 A foreign company licensed, registered or approved to carry out trust company business in other jurisdictions.

4.0 Managed Trust Company Business

The business of a Labuan managed trust company business includes:

- 4.1 Incorporating or registering entities under LCA, Labuan Limited Partnerships and Limited Liability Partnerships Act 2010, Labuan Foundations Act 2010 and Labuan Trust Act 1996;
- 4.2 Providing management and accounting services or acting as directors, secretaries, agents, officers of Labuan foundations and registered offices for Labuan entities incorporated or registered under relevant Labuan laws;

- 4.3 Performing the secretarial duties of the Labuan entities, such as lodgement of any documents and reports as required under relevant Labuan laws;
- 4.4 Carrying out activities such as being a trustee, agent, executor or administrator pursuant to the objectives of the managed trust company including related Shariah compliant activities; and
- 4.5 Providing other services as may be permitted under relevant Labuan legislation or approved by Labuan FSA from time to time.

5.0 Application Requirements

5.1 The applicant for a Labuan managed trust company licence shall:

- 5.1.1 Submit a duly completed Form LTC - Application for Licence to Carry on Labuan Managed Trust Company Business as required under section 71(1) of LFSSA;
- 5.1.2 Appoint a Labuan trust company as its manager to manage its trust company business on its behalf and provide the detailed management agreement executed with the manager;
- 5.1.3 Provide a business plan that includes but not limited to the following;
 - a. Types of product and services to be offered;
 - b. Target market, specifying the clients, geographical spread and industry focus;
 - c. Management team;
 - d. Manpower planning/organisation chart; and
 - e. Three (3) years financial projection (properly drawn up income statement and balance sheet quoted in foreign currency).
- 5.1.4 Provide full disclosure of shareholdings of the company and the ultimate beneficiaries including submission of corporate profile (e.g. name and type of legal entity, principal business/activity, Board of Directors) for corporate shareholder and detailed background (e.g. copy of passport or ID and comprehensive resume) for individual shareholder;
- 5.1.5 Ensure that the directors and officers responsible for the management of the proposed Labuan managed trust company are fit

and proper persons pursuant to section 4 of LFSSA and the Guidelines on Fit and Proper Person issued by Labuan FSA;

5.1.6 Submit the certified copy of certificate of incorporation or constituent document of the applicant; and

5.1.7 Provide a letter of good standing or such other document of this nature from the relevant authority of the applicant's home country where applicable.

5.2 Managed Labuan trust company acting as trustee of a Labuan Islamic trust under Labuan Islamic Financial Services and Securities Act 2010 shall appoint a qualified person as a Shariah adviser, or consult a qualified person to advise the operations and ensure Shariah compliance.

6.0 Operational Requirements

A licensed Labuan managed trust company shall:

6.1 Appoint at least one trust officer approved by Labuan FSA of which may be the employee of the appointed manager (Labuan trust company);

6.2 Have its own letterhead and stationeries and its office can be the office of the Labuan trust company who is managing the Labuan managed trust company;

6.3 Ensure that all its books and records including records of its clients are kept and made available for inspection in Labuan IBFC;

6.4 Keep all assets and other valuables that it has received in its capacity as trustee duly separated from its own assets and liabilities;

6.5 Obtain the written consent from Labuan FSA prior to making any change to its shareholding and directorship;

6.6 For a managed trust company that is a licensed foreign company, notify Labuan FSA for any change in its shareholding and directorship;

6.7 Notify Labuan FSA on the change in its managed trust company manager within seven working days from the effective date of change specified;

6.8 Ensure compliance with the Guidelines on Anti-Money Laundering and Counter Financing of Terrorism; and

6.9 Comply with guidelines, directive and reporting requirements issued by Labuan FSA.

7.0 Annual and Licence Fee

7.1 The licence fee amounting to RM 15,000 is payable to Labuan FSA upon the grant of licence.

7.2 The subsequent payment of annual fee is payable not later than 15 January of each year during which the licence is valid.

8.0 How to Apply?

The application for a Labuan managed trust company licence must be forwarded to:

Director General
Labuan Financial Services Authority (Labuan FSA)
17th Floor, Main Office Tower
Financial Park Complex
Jalan Merdeka
87000 Federal Territory of Labuan
Malaysia

Telephone no.: 087 591 200
Facsimile no. : 087 453 442 / 413 328
E-mail: business_management@labuanfsa.gov.my

9.0 Implementation Date

9.1 The Guidelines shall take effect from 1 September 2011 and remain effective unless otherwise amended or revoked.

9.2 The Guidelines supersede the Guidelines on Managed Trust Companies issued in August 2000.

Labuan Financial Services Authority

1 September 2011

18 December 2015 (Updated)