



Association of Labuan Banks
Labuan Investment Banks Group
Labuan International Insurance Association
Association of Labuan Trust Companies

Dear Sir/Madam,

DIRECTIVE ON MINIMUM CAPITAL REQUIREMENT BY LABUAN LICENSED ENTITIES

1.0 Preamble

- 1.1 The Directive on Minimum Capital Requirement¹ by Labuan Licensed Entities (hereafter referred to as “the Directive”) is issued pursuant to section 4B of the Labuan Financial Services Authority Act 1996 (LFSAA).
- 1.2 The Directive is issued to reiterate and serve as a reminder on the prudential requirement to be complied with by all Labuan Licensed Entities (Labuan LEs). Specifically, all Labuan LEs are required to maintain its minimum paid-up capital **at all times** as prescribed by Labuan FSA. In addition to this minimum paid-up capital, the Labuan banks and Labuan insurance and insurance-related entities shall also comply with the capital adequacy ratio or solvency margin requirements imposed on them.

2.0 Non-Compliance

- 2.1 Each Labuan LE shall maintain its prescribed minimum paid-up capital which is unimpaired by losses at all times and the capital adequacy ratio or solvency margin requirements upon a licence being granted under paragraph 3.1 of the Directive. Any Labuan LEs which fail to comply with the Directive shall be guilty of an offence and be liable, on conviction, to the penalty as provided under section 4B(2)(b) of the LFSAA.

¹ For avoidance of doubt, the minimum paid-up capital should be defined as either the paid-up capital unimpaired by losses or capital funds (the sum of paid-up capital and reserves) unimpaired by losses or working funds (the surplus of assets over liabilities), whichever is applicable.

3.0 Applicability

3.1 The Directive is applicable to all Labuan LEs² which are licensed to carry on permissible activities under the Labuan Financial Services and Securities Act 2010 (LFSSA) and Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

4.0 Minimum Capital Requirements

4.1 For the purpose of the Directive, the amount of the minimum paid-up capital unimpaired by losses of Labuan LEs, which shall be maintained throughout its operation and denominated in the Ringgit Malaysia's equivalence of any foreign currency and the prescribed capital adequacy ratio or solvency margin requirements, are reiterated below:

Labuan LEs		Minimum Capital and/or Capital Adequacy/Solvency Requirements	
		Subsidiary	Branch
A.	Banking licensees		
(i)	Labuan bank and investment bank (including <i>Islamic bank and Islamic investment bank</i>)	a) RM10 million unimpaired by losses; and b) minimum risk-weighted capital ratio of 4% for Tier 1 Capital³ and 8% for Total Capital³ .	
B.	Insurance licensees		
(i)	Labuan general/life insurer (including <i>general/family takaful operator</i>)	a) paid-up capital of RM7.5 million unimpaired by losses; and b) RM7.5 million or 20% of net premium income of the preceding year, whichever is greater.	a) a surplus of assets over liabilities of RM7.5 million⁴ unimpaired by losses; and b) RM7.5 million or 20% of net premium income of the preceding year, whichever is greater.
(ii)	Labuan general/life composite and reinsurer (including <i>general/family Islamic composite and retakaful operator</i>)	a) paid-up capital of RM10 million unimpaired by losses; and b) RM7.5 million or aggregate of 20% of net premium income of the preceding year and 3% of the latest actuarial valuation of life insurance liabilities .	a) a surplus of assets over liabilities of RM10 million⁴ unimpaired by losses; and b) RM7.5 million or aggregate of 20% of net premium income of the preceding year and 3% of the latest actuarial valuation of life insurance liabilities .

² Regardless whether the Labuan LE concerned is a subsidiary or a branch.

³ As defined under the Guidelines on Risk-Weighted Capital Adequacy issued by Labuan FSA.

⁴ The surplus of assets is to be maintained by the branch licensee in the books of its office in Labuan.

Labuan LEs		Minimum Capital and/or Capital Adequacy/Solvency Requirements	
		Subsidiary	Branch
(iii)	Labuan rent-a-captive/master-rent-a-captive/protected cell company undertaking captive insurance or takaful business /other similar vehicles (including Islamic)	a) paid-up capital of RM500,000 unimpaired by losses; and b) RM500,000 or 20% of net premium income of the preceding year or 3% of the actuarial valuation of life insurance liabilities , whichever is greater.	a) a surplus of assets over liabilities of RM500,000⁴ unimpaired by losses; and b) RM500,000 or 20% of net premium income of the preceding year or 3% of the actuarial valuation of life insurance liabilities , whichever is greater.
(iv)	Labuan pure/single owner captive/ group association & multi-owner captives (including Islamic)	a) paid-up capital of RM300,000 unimpaired by losses; and b) RM300,000 or 20% of net premium income of the preceding year or 3% of the actuarial valuation of life insurance liabilities , whichever is greater.	a) a surplus of assets over liabilities of at least RM300,000⁴ unimpaired by losses; and b) RM300,000 or 20% of net premium income of the preceding year or 3% of the actuarial valuation of life insurance liabilities , whichever is greater.
C. Insurance-related licensees			
(i)	Labuan underwriting manager/ insurance manager/insurance broker (including <i>takaful underwriting manager, takaful manager and takaful broker</i>)	Paid-up capital of RM300,000 unimpaired by losses.	A surplus of assets over liabilities of RM300,000 unimpaired by losses.
D. Trust Company Business licensees			
(i)	Labuan trust company	Paid-up capital of RM150,000 unimpaired by losses.	A surplus of assets over liabilities of RM150,000 unimpaired by losses.
E. Capital Market licensees			
(i)	Labuan fund manager	a) paid-up capital of RM300,000 unimpaired by losses; and b) for Asset Under Management (AUM) of more than RM150 million, to maintain additional capital amounting to 0.2% of the AUM in excess of RM150 million ⁵ .	N/A

⁵ With effect from 13 February 2014.

Labuan LEs		Minimum Capital and/or Capital Adequacy/Solvency Requirements	
		Subsidiary	Branch
F.	Other Labuan Financial Business & Market Intermediary licensees		
(i)	Labuan money broker	Paid-up capital of RM300,000 unimpaired by losses.	N/A
(ii)	Labuan securities licensee (including Islamic securities licensee)	Paid-up capital of RM150,000 unimpaired by losses.	N/A
G.	Company Management		
(i)	Labuan company management	Paid-up capital of RM100,000 unimpaired by losses.	N/A

4.2 Notwithstanding the above minimum prescribed level, Labuan FSA has the discretion to impose higher capital requirements to commensurate with the LEs' business activities and risk exposures, based on Labuan FSA's supervisory assessment of the LE concerned.

Should you require further information or clarification on the above, you may contact the following officers:

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**FREQUENTLY-ASKED QUESTIONS
CLARIFICATION NOTE AND DIRECTIVE ON MINIMUM CAPITAL REQUIREMENT
BY LABUAN LICENSED ENTITIES**

A. DEFINITION

1. How would the “capital requirement” and “capital adequacy” be applied to the banking and insurance licensees of subsidiary and branch set-ups?

For illustration purposes, below are the required capital requirements (including capital adequacy) for banking and insurance licensees of “subsidiary and branch” set-ups:

Banking Licensees		Minimum Paid-up Capital	Risk Weighted Capital Ratio*
Entry /Licensing	Subsidiary	✓	
	Branch		
On-Going	Subsidiary		✓
	Branch		✓

Insurance Licensees		Minimum Paid-up Capital	Minimum Working Funds	Margin of Solvency*
Entry / Licensing	Subsidiary	✓		
	Branch		✓	
On-Going	Subsidiary			✓
	Branch			✓

Note:

* prescribed under the Directive on Minimum Capital Requirement and Clarification Note issued on 5 October 2015 and 13 October 2015, respectively

2. What does “unimpaired by losses” mean?

The term “unimpaired by losses” means that the paid-up capital amount and/or working funds shall be maintained at all times and shall not be impaired by any losses. In the event it is impaired, further capital injection is required to restore it to the required level.

B. CAPITAL REQUIREMENTS

I. Banks

3. Is there a requirement for working funds for branches of banking licensees?

For Labuan bank of branch set-up, the working funds requirement is not applicable currently.

4. How would the risk weighted capital ratio for branches be reported to Labuan FSA?

For Labuan bank of branch set-up, the risk weighted capital ratio shall be maintained at all times, as specified by Labuan FSA, which is computed and consolidated at the head office's level. In terms of reporting, the branches are not required to submit any statistical reporting pertaining to their consolidated risk weighted capital ratio to Labuan FSA.

II. (Re)insurers

5. For a composite reinsurer writing both general and life insurance, does the actuarial valuation of general insurance liabilities be included in determining the minimum solvency margin?

No, the *Guidelines on Application for Licence - Labuan Insurance and Insurance Related Activities* issued on 30 August 2001 stipulates the minimum solvency margin requirement. However, this requirement is currently under review and will be enhanced as part of the Insurance Capital Adequacy Framework (ICAF) in the near future.

6. How will the valuation methodology of insurance liabilities (general and life) as stipulated under Guidelines on Valuation Basis for Liabilities of Labuan General Insurance Business and Guidelines on Valuation Basis for Liabilities of Labuan Life Insurance Business (the Guidelines) issued on 1 September 2015 be included in the solvency computation?

In terms of the solvency surplus, it would take into account the total insurance liabilities derived in the manner determined by the Guidelines. The Guidelines will come into effect from financial year beginning on or after 1 July 2016.

III. Others

7. Is the capital requirement under paragraph 4.1(C)(i) of the Directive applicable to Lloyd's Syndicates licensed as a Labuan Underwriting Manager?

No. The capital requirement for Lloyd's Syndicates is or will be subjected to a specific licensing condition(s) as prescribed by Labuan FSA.

8. Is the capital requirement under paragraph 4.1(D)(i) of the Directive applicable to Labuan managed trust company and Labuan private trust company?

No. The capital requirement is not applicable to Labuan managed trust company and Labuan private trust company as there is no minimum paid-up capital requirements imposed on them.

9. Is the capital requirement under paragraph 4.1(D)(i) of the Directive applicable to Labuan leasing company?

No. The capital requirement is not applicable to Labuan leasing companies as the entry requirements are provided in the Guidelines on the Establishment and Operations of Labuan Leasing Business issued on 1 August 2013.

C. GENERAL

10. In the case of capital of the Labuan LE that has reached a level below the prescribed minimum due to exchange rate fluctuation, is additional capital injection needed?

Yes. If the capital level falls below the prescribed level due to exchange rate, the Labuan LE concerned would need to inject capital to address the shortfall accordingly.

11. When is the effective date of the Directive?

As the Directive is a reminder and an iteration of the minimum capital/solvency requirements of the various Guidelines issued by Labuan FSA in the past, the requirements are already in effect when the Directive was issued.