

## **GUIDELINES ON THE ESTABLISHMENT OF MONEY BROKING BUSINESS IN LABUAN IBFC**

### **1.0 Introduction**

- 1.1 Money broking business is defined as the business of arranging transactions between buyers and sellers in the money or foreign exchange markets as an intermediary in consideration for brokerage fees paid or to be paid, but does not include the buying or selling of Ringgit or foreign currencies as a principal or liquidity providers or market makers in such markets. The prohibition on acting as a principal or liquidity providers or market makers aims to maintain a clear distinction between the roles of intermediaries and the actual parties involved in these transactions to uphold the integrity, transparency, and fairness of these financial dealings.
- 1.2 The money broking business has undergone significant evolution due to technological advancements to offer its services with greater efficiency and transparency. Whilst the digital asset landscape continues to evolve, money brokers are innovating solutions that enables them to effectively facilitate both traditional and digital assets within their portfolios. In tandem with the increasing demand for innovating technology-based financial solutions and the evolution of digital assets, regulators are enhancing regulations that align with international standards to safeguard investors, ensure market stability, and foster trust in the financial system. For the purpose of the Guidelines, “Digital Asset<sup>1</sup>” refers to a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes.
- 1.3 The Guidelines outlines the application procedures, operational and regulatory requirements for Labuan money broking business<sup>2</sup> that is carried on in Labuan International Business and Financial Centre (Labuan IBFC).

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<sup>1</sup> For avoidance of doubt, the Digital Asset allowed to be traded shall not have the features of securities as defined under Section 2 of LFSSA.

<sup>2</sup> Including Islamic money broking business.

## **2.0 Applicability**

2.1 The Guidelines is applicable to any person licensed by Labuan Financial Services Authority (Labuan FSA), including new applications, to carry on money broking business pursuant to Sections 90 and 92 of Labuan Financial Services and Securities Act 2010 (LFSSA) or Sections 65 and 67 of Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

## **3.0 Legal Provision**

3.1 The Guidelines is issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to clarify the provisions of Part VI of LFSSA and Part VI of LIFSSA.

3.2 Any person who fails to comply with the Guidelines may be imposed with administrative penalty and/or other appropriate enforcement actions under section 36G and section 36B of the LFSAA.

3.3 The Guidelines should be read together with the requirements of the relevant Guidelines and Circulars including those listed under Appendix I.

## **4.0 Effective Date**

4.1 The Guidelines shall come into effect immediately and will remain effective and applicable unless amended or revoked. The Guidelines would supersede the Guidelines on Money Broking Business in Labuan IBFC dated 24 November 2017.

4.2 All approvals granted by Labuan FSA relating to Labuan money broking 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.

## **5.0 Eligibility**

5.1 The applicant for licence to carry on money broking business in Labuan IBFC shall have the following:

(i) possess money broking expertise and has good track records in carrying on such business, including sufficient number of years of experience<sup>3</sup>. If the

<sup>3</sup> Typically, Labuan FSA would expect such applicant to have at least three-year experience in money broking business. Notwithstanding this, all applicants would be assessed holistically based on their own merits of the application.

applicant is a regulated money broker or any provider of such services from other jurisdictions, a Letter of Awareness or any written consent has to be obtained from its home supervisory authority for conducting money broking business in Labuan IBFC;

- (ii) an adequate financial resources including capital resource to meet and maintain the minimum paid-up capital requirement, taking into account the nature, scale, complexity and diversity of the business and the risks to which the applicant is likely to be exposed; and
- (iii) a credible and viable business plan that sets out the approach to implement the proposed business objectives or operations. Its management and operational structure should be adequate for the intended business plan. Where the applicant is part of a group, Labuan FSA may assess the management and operational structure of the group, or related corporation, to ensure that Labuan FSA can effectively oversee the applicant if a licence is granted.

## **6.0 Permissible Money Broking Activities**

### 6.1 In carrying on the money broking business, the licensee shall:

- (i) bring together the counterparties on mutually acceptable terms for the same financial products in the money or foreign exchange market to facilitate the conclusion of a transaction. Financial products that do not fall within the money or foreign market exchange are not permitted under this licence, this includes but not limited to contract for difference (CFD) of which the underlying assets are other than products traded in the money and foreign exchange market;
- (ii) receive payment for its service in the form of brokerage or commission fees.

The fees charged must be adequate and appropriate; and

- (iii) act as a mediator and strictly not permitted to act as a principal<sup>4</sup>.

### 6.2 In addition, the Labuan money broker is allowed to undertake the following activities:

- (i) bring together the counterparties on mutually acceptable terms for the trading and exchanging of Digital Assets; and

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<sup>4</sup> Principal will 'deal for their own account and based on its own risk'. This Guidelines restricts position-taking by the Labuan money broker and are not permitted to speculate or engage in proprietary trading.

- (ii) provide a system or facilitate a person who can enter into an agreement or match orders to trade or exchange Digital Assets.

## 7.0 Operational Requirements

7.1 Maintain a paid-up capital unimpaired by losses at all times of at least:

- (i) RM1,000,000 or its equivalent in any foreign currency for Labuan money brokers undertaking only activities as specified under paragraph 6.1 of the Guidelines.
- (ii) RM1,500,000 or its equivalent in any foreign currency for Labuan money brokers undertaking activities as specified under paragraph 6.1 and 6.2 of the Guidelines.

In assessing an applicant's financial resources, Labuan FSA will consider the quality and quantity of the resources as well as their availability to the applicant. Labuan FSA may also exercise its discretion to require additional capital to commensurate with the business operations of the Labuan money brokers, taking into account the risk profile as well as nature, scale, complexity and diversity of their business activities. The Labuan money broker must provide a certified evidence that the paid-up capital has been deposited with a regulated bank in Labuan or Malaysia for the money broking operation.

7.2 Maintain an operational office in Labuan. The operational office should be used for business purposes only and must be appropriately furnished with office equipment. The office shall entail the deployment of resources with sufficient knowledge and expertise to deliver, but not limited to, the following roles and functions:

- (i) Finance and Accounting

Preparation and maintenance of proper accounting records relating to the client's monies.

- (ii) Statistical Submission

Preparation and submission of audited account and periodic statistical returns to Labuan FSA.

- (iii) Preparation and Maintenance of Records

- (a) Preparation and maintenance of documents that record any business or corporate decisions made;

- (b) Preparation and maintenance of all records which include the client's trading records, books and accounts relating to its business operation; and
- (c) Ensure the records and books of account including its service level agreement of outsourcing (if any) are readily available and easily retrievable for inspection by Labuan FSA.

(iv) Contact Person Stationed at Labuan Office

For official communication with Labuan FSA, the contact person may be the Principal Officer or any other senior officer(s) who have the authority and responsibility for planning, directing or controlling the activities of the money broking business e.g. operation manager or any other similar functionaries.

7.3 Ensure that the persons in control, directors and principal officer meet the fit and proper person requirements as specified in the Guidelines on Fit and Proper Requirements issued by Labuan FSA at all times. It is expected that the employees employed to transact in the money broking business are competent and possess sound knowledge of the services offered.

7.4 Establish and maintain adequate and effective internal policies and controls for its operations, compliances, corporate governance and risk management that are appropriate for the nature, size, complexity, structure and diversity of its business. These need to be regularly reviewed to ensure that they remain appropriate, relevant and prudent, which include but not limited to the following:

- (i) the business of the licensee is planned and conducted properly, adequately, in an orderly manner and in accordance with the strategies and policies approved and established by the board and senior management respectively;
- (ii) the assets of the licensee are appropriately safeguarded and the liabilities controlled through measures designed to minimize the risk of loss from irregularities, error, fraud and physical damage, and to identify such occurrences promptly should they occur;
- (iii) the accounting and other records (e.g. records of transactions and list of names of their counterparties) of the licensee are complete, accurate and timely and can be used to compile financial statements as required by the regulatory enactments and management information in line with the licensee's regulatory and AML/CFT obligations; and
- (iv) that its internal controls are in place including measures for addressing risks from any outsourced functions.

- 7.5 Ensure that the counterparties (including but not limited to the principal broker, custodian of client assets, payment system provider, e-wallet service provider, and liquidity provider) are regulated by a recognised supervisory or regulatory authority and have good track record, where applicable. Proper due diligence controls must be undertaken prior to engagement with these service providers. The Labuan money broker shall provide a written declaration that the counterparties engaged are in full compliance with its regulatory and other relevant obligations from the home supervisory authority. Notification to Labuan FSA within seven (7) days prior to commencement of the new arrangement is required for any changes to the counterparties of the business operations including but not limited to, the principal broker, custodian of client assets, payment system provider or e-wallet service provider and liquidity provider.
- 7.6 Labuan money broking business is intended to serve institutional investors and high-net worth individuals which is defined under Appendix II of the Guidelines. In this regard, the Labuan money broker is expected to impose a maximum leverage limit of 100:1 on its clients' trading transactions that would translate to a minimum of 1% margin deposit to enable the opening of a trade position. For facilitating trading of Digital Assets, due to the speculative nature of these assets, the Labuan money broker is expected to impose a maximum leverage limit of 1:1 on its client trading transactions. For illustration purposes, considering the minimum leverage limit of 100:1, assuming that the transacted volume is USD100,000, the minimum margin requirement will be equivalent to USD1,000.
- 7.7 Appoint a Labuan approved auditor to carry out an annual audit of its accounts in respect of the business operations pursuant to LFSSA and LIFSSA that is fit and proper.
- 7.8 Ensure compliance with 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 (AML/CFT and TFS for Labuan KRIs) including any AML/CFT policy documents applicable to Labuan money broker issued by Labuan FSA.
- 7.9 Maintain adequate and proper records and books of accounts in Labuan as required by the Directive on Accounts and Record-keeping Requirement for Labuan Entities issued by Labuan FSA. Its name and company number must be clearly indicated on its letterhead, stationery and other documents.

7.10 Obtain prior approval from Labuan FSA on the following matters:

- (i) change of business plan;
- (ii) change of ten per centum (10%) or more of the shareholding<sup>5</sup>;
- (iii) appointment of its directors and principal officer;
- (iv) reduction of paid-up capital which shall not be lower than the minimum paid-up capital required under paragraph 7.1;
- (v) establishment of additional office; and
- (vi) any outsourcing arrangement.

7.11 Notify Labuan FSA within seven (7) days pertaining to the following matters:

- (i) change of bank account where the paid-up capital has been deposited;
- (ii) resignation of its directors or principal officer;
- (iii) change of place of business or office in or outside of Labuan;
- (iv) change to its constituent documents;
- (v) significant event that affects its going concern or reputation; and
- (vi) change of its financial year end.

7.12 For Labuan money broker's business model/customer interface which is exclusively or substantially electronic, proper management of technology risk must be in place:

- (i) data/system security and arrangements for IT systems maintenance, resilience and support must be supported by a dedicated IT staff(s);
- (ii) notify Labuan FSA as soon as possible, upon discovery of any incident of system malfunction and intrusion. A root cause and impact analysis report must be submitted to the Supervision Department within fourteen (14) days or such longer period as the Authority may allow, from the discovery of the incident. The report shall contain:

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<sup>5</sup> For branch set-ups, only notification to Labuan FSA is required for the change of shareholding structure and appointment of its board of directors.

- (a) an executive summary of the relevant incident;
- (b) an analysis of the root cause and the description of the impact of the relevant incident to the money broking business; and
- (c) a description of the remedial measures taken to address the root cause and consequences of the relevant incident.

7.13 For Labuan money broker that undertakes Islamic money broking business, is required to appoint a qualified person<sup>6</sup> to its internal Shariah advisory board to ensure that its management and operation are in compliance with Shariah principles. In this regard, the Directive on Islamic Financial Business in Labuan IBFC shall also be observed.

7.14 Notwithstanding the above, Labuan FSA may impose any additional operational requirements depending on the riskiness level of the money broking business operations on a case-by-case basis.

7.15 Comply with applicable laws, rules and regulations relevant to the money broking business activity, including relevant guidelines issued by Labuan FSA, regulatory requirements of the jurisdictions where the Labuan money broker is authorised to operate in as well as the Malaysian Foreign Exchange Administration rules, at all times. In this regard, the Labuan money broker is expected to obtain the necessary approvals from the authorities in the markets it intends to operate in prior to commencing its business in those respective markets and shall provide a copy of the said approval to Labuan FSA.

## **8.0 Roles and Responsibilities of the Board and Senior Management**

- 8.1 Must appoint a minimum of two (2) Board members.
- 8.2 Must be able to assess and monitor the sufficiency of capital and, in relation to the business of the licensee, including risk profiles and the quality of its assets.
- 8.3 Must have effective oversight on the liquidity risk associated with the money-brokering business by ensuring they are kept updated on liquidity risk matters regularly and as and when required.
- 8.4 Must be able to identify and regularly assess all relevant risks in the conduct of the licensee's business, so that:

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<sup>6</sup> May include its employee who possesses the necessary qualifications and expertise in Islamic commercial law and Islamic jurisprudence in line with section 2 of LIFSSA.

- (i) identified risks can be measured, monitored and controlled appropriately;
- (ii) any losses can be monitored and controlled on a regular and timely basis; and
- (iii) appropriate provisions can be made for bad and doubtful debts and for any other exposures, both on-and off-balance sheet.

8.5 Must be able to properly guard against involvement in financial crime and ensure that the licensee is complying with all its regulatory and AML/CFT obligations. This may include ensuring relevant employees of the licensee are able to perform sufficient due diligence on the licensee's customers and prospective customers to adequately assess all relevant risks, including the risks of money laundering and terrorist financing.

8.6 Ensure adequate business resumption, disaster recovery and other contingency arrangements are in place and tested at appropriate intervals.

8.7 Ensure adequate controls are in place, including controls relating to:

- (i) changes to systems and records to ensure that only valid changes are made to them;
- (ii) access to protect the confidentiality and integrity of electronic assets; and
- (iii) appropriate cross-checking and reconciliations, including of accounts, is undertaken.

## **9.0 Conduct Requirements**

9.1 The Labuan money broker shall abide by the following conduct requirements to promote good professionalism and clients' confidence in the Labuan money broking market:

- (i) Integrity and Fair Dealing: Conduct its business with honesty, fairness, integrity and professionalism.
- (ii) Skills, Care and Diligence: Act competently and diligently in regard to all transactions between themselves and their clients.
- (iii) Handling of Confidential Information: Treat information relating to the deals transacted or being transacted as confidential and limit access to such information. Subject to applicable laws and regulations, confidential information may be disclosed where the disclosure is:

- (a) with the explicit permission from the parties involved; or
- (b) required by laws, a court of law or relevant supervisory authorities.

The employees employed to transact in the money broking business must not reveal confidential information even following termination of employment.

- (iv) Professional Client Management: Act in the best interest of its clients and must not jeopardise or prejudice clients' interests. Any information provided to its clients must be fair, accurate, timely and not misleading.
- (v) Dispute Mechanism and Complaint Handling: Have in place a dispute mechanism and adequate complaint handling procedure. The complaints received shall be handled in a fair, timely and appropriate manner. Details of the complaints, responses and actions taken must be recorded and maintained.

- 9.2 In addition to the requirements under paragraph 7.4, the Labuan money broker shall also ensure that it has risk mitigating measures such as stop loss orders that serve as safeguards in preventing undue exposures arising from excessive leveraging and unexpected losses of its clients.
- 9.3 The Labuan money broker shall conduct proper due diligence on its clients, principal broker or liquidity provider as well as the trading platform providers. The due diligence efforts must be commensurate with the level of exposure of the counterparties.
- 9.4 In relation to handling of client's monies, the Labuan money broker is required to:
  - (i) keep client's monies accounts separate from its own account and marked in the books of the money broker relating to each client's account. Such monies shall at no time be mixed with the general assets of the Labuan money broker. The client's monies shall be readily identified at any time. In this regard, any withdrawal of client's monies is expected to be completed within three (3) working days from the date of the client's withdrawal request;
  - (ii) maintain proper record of the client's monies accounts. The balance of client's monies accounts needs to be reconciled with internal records and clients' records on a monthly basis so as to ensure accuracy and consistency; and
  - (iii) client's monies shall not be available for the payment of debts of the Labuan money broker or liable to be paid or taken in execution under an order of process of court for payment of the debt of the Labuan money broker.

9.5 The Labuan money broker must always make it absolutely clear to its clients, the capacity in which the institution is acting. A written agreement with the clients must be in place that details out its duties and responsibilities. The Labuan money broker shall provide full and true disclosure to the clients for any actual or potential conflicts of interest arising from any connection to or association with any service providers (e.g. the principal broker, custodian of client assets, payment system provider or e-wallet service provider or liquidity provider), including any material information or facts that might compromise their objectivity or independence in carrying on its activities as a Labuan money broker. This includes having adequate mechanisms to protect the interest of the Labuan money broker's client in the event there is dispute or conflict in relation to the associated service providers.

9.6 The Labuan money broker must make clear whether the price or rate quoted for the financial products in the money or foreign exchange market is firm or merely indicative. No frivolous quote is allowed which the Labuan money brokers have no intention of honouring.

9.7 The Labuan money broker shall disclose in a timely manner, at the minimum but not limited to, the following to its clients:

- (i) how the execution services will be done. This includes the order-routing procedures and how they should be applied fairly. Any arrangements or changes made with third parties for routing of client orders, including arrangements to disclose payment for order flow or any other forms of inducements must be made available.
- (ii) list of authorised introducing brokers<sup>7</sup> on a publicly accessible medium, e.g. website. This shall include the roles and responsibilities of the introducing brokers. In this instance, the Labuan money broker is expected to have in place a written agreement with the introducing brokers which sets out the roles and responsibilities in detail. The Labuan money broker shall also ensure its appointed introducing broker undertakes its functions in a professional manner. This may be undertaken based on the "best execution" principles<sup>8</sup>;
- (iii) risk disclosure and spreads charged; and
- (iv) any other fees or charges related to the client's trading transactions.

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<sup>7</sup> Intermediary acting as an agent on behalf of the Labuan money brokers.

<sup>8</sup> "Best execution" principles may include:

- (a) the usage of clear language in communicating with a client;
- (b) requirements to be truthful and transparent when communicating with a client; and
- (c) prompt and fair execution the order based on the client's instruction.

9.8 The Labuan money broker shall ensure that the clients are well updated on their trading performance on monthly basis. The performance updates may be in the form of a self-prepared manual report, or a report generated from the money broking platform.

## **10.0 Reporting Requirements**

10.1 Labuan money brokers are required to submit to Labuan FSA the following:

- (i) audited financial statements via COR@L, through its respective appointed resident secretary or trust company, within six (6) months after the closure of each financial year; and
- (ii) statistics and information as Labuan FSA may require from time to time.

## **11.0 Annual Licence Fee**

11.1 The annual licence fee payable is as specified under the *Labuan Financial Services and Securities (Amendment) Regulations 2022*.

11.2 The subsequent payment of annual licence fee is payable on or before 15 January of each year.

## **12.0 Application Requirements**

12.1 Submit a duly completed application form with the relevant supporting documents as stipulated in the Form LFB-MB, available at [www.labuanfsa.gov.my](http://www.labuanfsa.gov.my) under the "licence application form" together with a processing fee of USD350.

12.2 Labuan FSA may require from the applicant such other information or documents for the purpose of determining the merits of the application.

## **13.0 Submission of Application and Enquiries**

13.1 The licence application for money broking business 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

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

Telephone no. : 03 8873 2000  
E-mail : [bpu@labuanfsa.gov.my](mailto:bpu@labuanfsa.gov.my) (Guidelines)  
[bplicensing@labuanfsa.gov.my](mailto:bplicensing@labuanfsa.gov.my) (Application)

**Labuan Financial Services Authority**

*9 September 2024*

*24 November 2017*

**List of Relevant Guidelines, Circulars and Directives**

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

1. Guidelines on Fit and Proper Person Requirements
2. Directive on Financial Reporting Standards for Labuan Financial Institutions
3. Circular on Financial Reporting Standards for Labuan Financial Institutions
4. Directive on Accounts and Record-Keeping Requirements for Labuan Entities
5. Guidelines on the Establishment of Marketing Office
6. Circular on Submission of Audited Financial Statements by Labuan Entities Through Cor@L
7. Guidelines on Digital Governance Framework
8. Circular on Electronic Know-Your-Customer (e-KYC) for Digital Financial Services
9. Guidelines on Technology Management
10. Guidelines on Market Conduct for Labuan Digital Financial Intermediaries
11. Guidelines on Anti-Money Laundering, Countering Financing of Terrorism, Countering Proliferation Financing and Targeted Financial Sanctions for Labuan Key Reporting Institutions (AML/CFT/CPF AND TFS FOR LABUAN KRIs)
12. Circular on Submission of Compliance Report and Anti-Money Laundering Counter Financing of Terrorism (AML/CFT) Independent Audit Report to Labuan FSA

*Disclaimer: The above lists are not exhaustive. In the event of any amendments to the existing guidelines, the stipulations outlined in the new/updated guidelines will prevail.*

**Institutional Investor and High-Net Worth Individual Definition**

**1. Institutional Investors**

- a) any entity regulated or supervised by a competent financial services regulator in the jurisdiction in which it is located;
- b) any Virtual Asset Service Provider (VASP) as defined by the Financial Action Task Force on Money Laundering (FATF);
- c) any government, any institution which performs the functions of a central bank, or any multilateral agency;
- d) a trust corporation or any other corporation which has been entrusted under the trust(s) of which it acts as a trustee; or
- e) a corporation or a partnership with total net assets exceeding USD3 Million or its equivalent in foreign currencies.

**2. High-Net Worth Individuals**

- a) An individual whose total net personal or total net joint assets with his or her spouse, exceeding USD1 Million or its equivalent in foreign currency; or
- b) An individual with gross annual income exceeding USD150,000 or its equivalent in foreign currency.

*Disclaimer: The definitions provided in this Appendix apply exclusively to this document and may not fully apply to other Labuan business activities, such as the Labuan capital market sectors, unless otherwise specified by Labuan FSA.*