

This exposure draft presented by Labuan FSA is intended to provide an overview of the proposed requirements on the Travel Rule for Labuan Digital Financial Services in Labuan International Business and Financial Centre. The exposure draft intends to enhance transparency of digital asset transfers related to digital financial services, which allows traceability for the purpose of preventing, detecting and investigating of money laundering, financing of terrorism and other financial crimes.

Labuan FSA welcomes and values feedback on the requirements of the exposure draft. The comments or inputs may encompass suggestions, recommendations and alternatives, which should be supported with clear rationale, practicality and relevance for Labuan FSA's consideration.

Feedback shall be submitted electronically to Labuan FSA by **24 November 2023** to the following officers:

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## **GUIDELINES ON TRAVEL RULE FOR LABUAN DIGITAL FINANCIAL SERVICES**

### **1.0 Introduction**

- 1.1 Recommendation 15 of the Financial Action Task Force (FATF) was developed with the objective of managing and mitigating the risks emerging from virtual assets. Part of the requirement is for the relevant entities to be subjected to effective systems for monitoring and ensuring compliance with the relevant measures in the FATF Recommendations. In the context of this Guidelines on Travel Rule for Labuan Digital Financial Services (the Guidelines), the requirement is in reference to Item 7 of the Interpretive Note to Recommendation 15 on preventive measures. The travel rule applies only when a digital asset transfer involves a Labuan reporting institution (Labuan RI) that undertaken digital financial services.
- 1.2 These requirements are intended to ensure a Labuan RI that engaged in digital asset transfers to obtain the required and accurate originator information and the required beneficiary information and to securely share it with counterparty digital asset service providers or financial institutions before or during the transmission of the digital asset transfers. In turn, this would allow for traceability for the purpose of preventing, detecting and investigating money laundering, financing of terrorism and other financial crimes.

### **2.0 Legal Provision**

- 2.1 The Guidelines is issued pursuant to :
- (a) Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA); and
  - (b) Sections 66B, 66E and 83 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds and Unlawful Activities Acts 2001 (AMLA).

- 2.2 Any person who fails to comply with the mandatory requirements under the Guidelines may be subject to an administrative penalty under Section 36G of the Labuan Financial Services Authority Act 1996.

### **3.0 Applicability**

- 3.1 The Guidelines is applicable to the following Labuan RIs that undertaken digital financial services:
- (a) Labuan banks and Labuan investment banks licensed under Part VI of the Labuan Financial Services and Securities Act 2010 (LFSSA);
  - (b) Labuan Islamic banks and Labuan Islamic investment banks licensed under Part VI of the Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA);
  - (c) Labuan trust companies including Labuan managed trust companies licensed under Part V of the LFSSA;
  - (d) Labuan money-broking business and Islamic money-broking business licensed under Part VI of the LFSSA and Part VI of the LIFSSA;
  - (e) Labuan payment system established under Part XI of the LFSSA and Part XII of the LIFSSA; and
  - (f) Labuan exchanges established under Part IX of the LFSSA.
- 3.2 Notwithstanding paragraph 3.1, Labuan Financial Services Authority (Labuan FSA) reserves the right to modify the scope to include other Labuan RIs to observe the minimum requirements of the Guidelines which may be specified from time to time.
- 3.3 A Labuan RI shall not execute any digital asset transfers if it does not comply with the requirements specified in this Guidelines.

## 4.0 Effective Date

- 4.1 The Guidelines which intends to take effect on DD MM 2024, would remain effective and applicable unless amended or revoked. Notwithstanding this, it is recommended that the requirements be adopted prior to the effective date.

### **Question 1 :**

Do you foresee any challenges in complying with the requirements in 2024?

## 5.0 Definition and Interpretations

- 5.1 For the purpose of the Guidelines, the following definition and interpretations apply:

“account number or wallet address or any unique transaction number”	Refers to where such an account is used to process the transaction which permits traceability of a digital asset transfer. Unique transaction number is a combination of letters, numbers or symbols in accordance with the protocols of the payment and settlement system or messaging system used for the digital asset transfers.
“beneficiary”	Refers to a natural or legal person or legal arrangement who is identified by the originator as the receiver of the requested digital asset transfers.
“beneficiary institution”	Refers to a beneficiary institution which receives the digital asset transfers from the ordering institution directly or through intermediary institution and makes the digital assets available to the beneficiary.

“cover payment”	Refers to the digital asset transfers that combines a payment message sent directly by the ordering institution to the beneficiary institution where the routing of the funding instruction (the cover) is carried out or performed through one or more intermediary institutions.
“digital asset transfers”	Refers to transactions of digital assets involve the following : (i) digital assets transfers between a Labuan RI and another obliged financial institution; or (ii) digital assets transfers between a Labuan RI and a non-obliged financial institution.
“intermediary institution”	Refers to the financial institution in a serial or cover payment chain that receives and transmits digital asset transfers on behalf of the ordering institution and beneficiary institution, or another intermediary institution.
“ordering institution”	Refers to the financial institution which initiates the digital asset transfers upon receiving the request for digital asset transfers on behalf of the originator.
“originator”	Refers to the account holder who allows the digital asset transfers from that account, or where there is no account, the natural or legal person that places the order with the ordering institution to perform the digital asset transfers.
“prior, simultaneously or concurrently”	Refer to submission of information for digital asset transfers to a financial institution, either single or in batches which occurs immediately and securely.

“serial payment”	Refers to a direct sequential chain of payment where the digital asset transfers and accompanying payment message travel together from the ordering institution to the beneficiary institution directly or through one or more institutions (e.g. correspondent banks).
“technology and software solution”	<p>Refers to any technology and software solution which enable the ordering, intermediary and beneficiary institution to obtain, hold, verify and transmit information.</p> <p>Examples :</p> <ul style="list-style-type: none"> <li>(i) Distributed Ledger Technology (DLT); (e.g. using a smart contract, multiple-signature);</li> <li>(ii) An independent (i.e. non-DLT) messaging platform; and</li> <li>(iii) Application Program Interface (API)</li> </ul>

## 6.0 Requisite Requirements for Travel Rule

- 6.1 A Labuan RI is required to comply with the following requirements under the *Guidelines on Anti-Money Laundering, Counter Financing of Terrorism and Targeted Financial Sanction for Labuan Key Reporting Institutions* (the Guidelines on AML/CFT and TFS) in relation to digital asset transfers:

	Content	Paragraph under the Guidelines on AML/CFT and TFS
1.	Application of Risk-based Approach	Paragraph B.1
2.	Customer Due Diligence	Paragraph B.5
3.	Political Exposed Persons	Paragraph B.7
4.	Correspondent Banking	Paragraph B.11
5.	Suspicious Transaction Report	Paragraph B.12
6.	Record Keeping	Paragraph B.14
7.	Targeted Financial Sanctions in relation Terrorism Financing, Proliferation Financing and under Other UN-Sanctions Regimes	Paragraph B.17

## 7.0 Information under Travel Rule Requirements

- 7.1 A Labuan RI that undertaken digital financial services is obligated to obtain, hold, verify, review and transmit originator and beneficiary information to the counterparty financial institution prior, simultaneously or concurrently with digital asset transfers and related messages (the digital asset transfers). The digital asset transfers could be made in a single or serial payment, directly or indirectly with a cover payment through an intermediary institution. Post facto submission of information is not permitted.
- 7.2 A Labuan RI which is an ordering institution shall include the following information:
- 7.2.1 For digital asset transfers below or equal to USD/EUR1,000, an ordering institution shall include in the message that accompanies to the digital asset transfer the following:
- (a) the name of the digital asset transfer originator;
  - (b) the digital asset transfer originator account number or wallet address or any unique transaction number;
  - (c) the name of the digital asset transfer beneficiary; and
  - (d) the digital asset transfer beneficiary account or wallet address or any unique transaction number.
- 7.2.2 For a digital asset transfer where the amount to be transferred exceeds USD/EUR1,000, an ordering institution shall include information in the message that accompanies to the digital asset transfer as required in Paragraph 7.2.1(a) to 7.2.1(d), and information of the digital asset transfer originator of the following:
- (a) the National Registration Identity Card (NRIC) number or passport number of the digital asset transfer originator, or where the digital asset transfer originator is not a natural person, the incorporation number or business registration number; and
  - (b) the residential address or registered or business address; or
  - (c) the date and place of birth or incorporation or registration.



7.2.3 An ordering institution shall verify the accuracy of the information about originator on the basis of documents, data or information obtained from a reliable and independent source, if the identity has not been previously verified.

7.3 A Labuan RI which is a beneficiary institution shall obtain the following information:

7.3.1 A beneficiary institution shall obtain and hold the following information for digital asset transfers below or equal to USD/EUR1,000:

- (a) the name of the digital asset transfer originator;
- (b) the digital asset transfer originator account number or wallet address or any unique transaction number;
- (c) the name of the digital asset transfer beneficiary; and
- (d) the digital asset transfer beneficiary account or wallet address or any unique transaction number.

7.3.2 For a digital asset transfer where the amount to be transferred exceeds USD/EUR1,000, a beneficiary institution shall obtain and hold the information as required in Paragraph 7.3.1(a) to 7.3.1(d), and information of the digital asset transfer originator of the following:

- (a) the National Registration Identity Card (NRIC) number or passport number of the digital asset transfer originator, or where the digital asset transfer originator is not a natural person, the incorporation number or business registration number; and
- (b) the residential address or registered or business address; or
- (c) the date and place of birth or incorporation or registration.

7.3.3 A beneficiary institution shall verify the accuracy of the information about beneficiary on the basis of documents, data or information obtained from a reliable and independent source, if the identity has not been previously verified.

**Question 2 :**

Do you foresee any challenges to obtain the information from the non-obliged financial institution?

## **8.0 Other Requirements**

- 8.1 A Labuan RI is advised to employ appropriate technology and software solution to ensure the compliance of obtaining, holding and transmitting the required information. These technological solutions should also enable the Labuan RI to carry out the following main actions:
- (a) protect the information from unauthorised disclosure;
  - (b) securely transmit data in protecting the integrity and availability of the required information; and
  - (c) provide information to Labuan FSA and other relevant authorities in a timely manner.
- 8.2 A Labuan RI is required to have an effective risk-based policies and procedures for determining:
- (a) when to execute, reject, or suspend digital asset transfers with insufficient required information of originator and/or beneficiary; and
  - (b) appropriate follow-up action.
- 8.3 A Labuan RI is required to take reasonable measures to identify digital asset transfers that lacking required originator or required beneficiary information.

**Question 3 :**

In order to obtain and submit the required information to the counterparty financial institution, what technology or solution software that you employed?

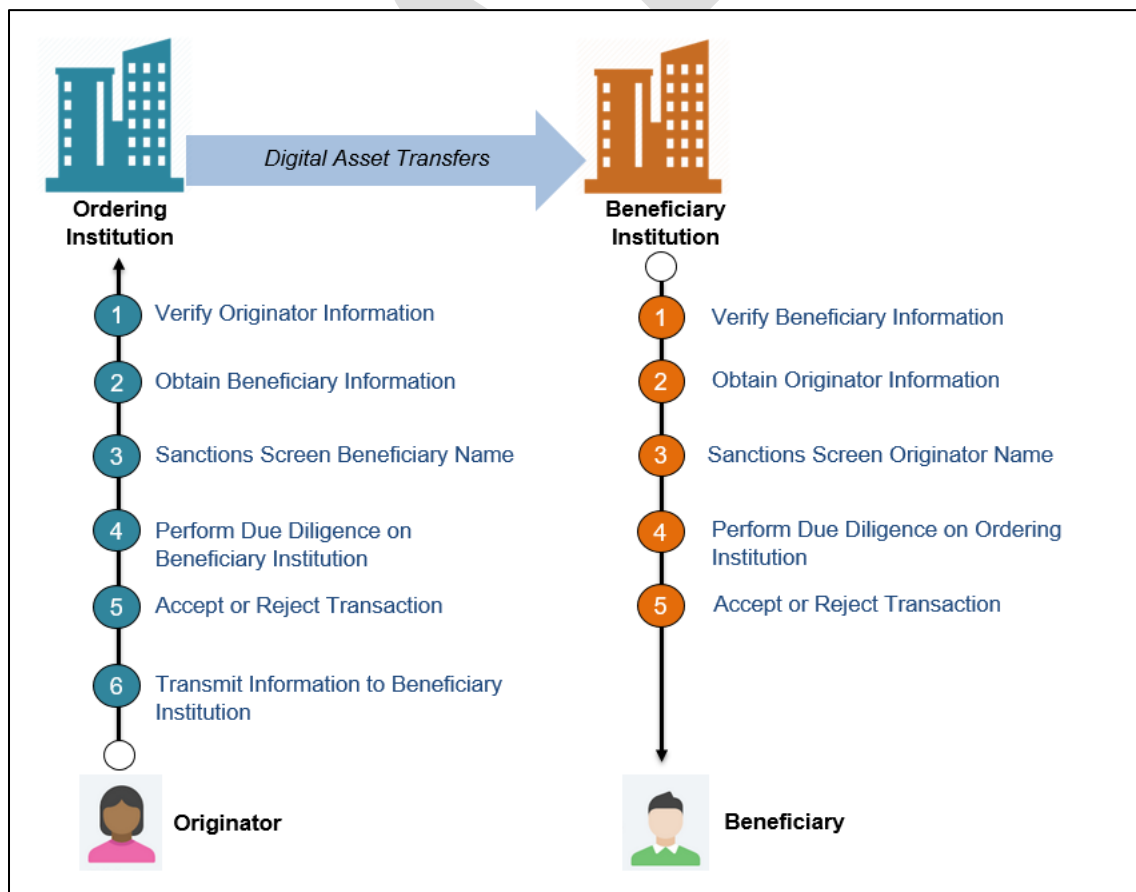
**Question 4 :**

Based on the response for Question no.3, how the technology or solution software that you employed assist you in complying with the requirements for travel rule?

## 9.0 Applications of Travel Rule Requirements

9.1 The Guidelines requires a Labuan RI to:

- (a) Obtain and verify the name and required information of their originator.
- (b) Obtain information of the beneficiary and perform sanctions screening.
- (c) For transactions with other digital asset service providers or financial institutions:
  - (i) Identify and perform due diligence on the beneficiary institution before transacting and sharing originator and beneficiary information.
  - (ii) Share the originator and beneficiary information with the beneficiary institution.
  - (iii) Accept or reject the digital asset transfers.



Labuan Financial Services Authority

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