

## GUIDELINES FOR THE ESTABLISHMENT OF LABUAN TRUST COMPANIES

### 1.0 Introduction

- 1.1 Labuan trust companies play a pivotal role in Labuan International Business and Financial Centre (Labuan IBFC) in providing a wide spectrum of services, ranging from corporate secretarial, administrative functions as well as acting as trustees and custodians. They serve as the primary interface between clients and Labuan Financial Services Authority (Labuan FSA), and are entrusted with crucial responsibilities in the incorporation, administration and management of Labuan entities. In fulfilling these gatekeeping functions, trust companies are expected to uphold the highest standards of professionalism, integrity and market conduct.
- 1.2 The Guidelines outlines the application procedures, operational and regulatory requirements for undertaking trust company business in Labuan IBFC. The Guidelines also provide clarity on the skill sets expected within the sector, with the aim of elevating industry standards and strengthening the capacity and capabilities of Labuan trust companies.

### 2.0 Applicability

- 2.1 The Guidelines is applicable to any person licensed by Labuan FSA, including new applications, to carry on trust company business in Labuan IBFC pursuant to Section 60 of Labuan Financial Services and Securities Act 2010 (LFSSA).

### 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 V of LFSSA.
- 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 for the Establishment of Labuan Trust Companies dated 18 December 2015.
- 4.2 All approvals granted by Labuan FSA relating to Labuan trust company 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 trust company business in Labuan IBFC shall have the following:
- (a) possess expertise and have good track records in managing and/or undertaking trust company business or its related activities, including sufficient number of experiences<sup>1</sup>.
  - (b) an adequate financial resource including capital resources 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.
  - (c) 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 Trust Company Business**

- 6.1 The Labuan trust company business includes:
- (a) Incorporating or registering entities under Labuan Companies Act 1990, Labuan Limited Partnerships and Limited Liability Partnerships Act 2010, Labuan Foundations Act 2010 and Labuan Trust Act 1996;
  - (b) Providing management and accounting services or acting as directors, secretaries, agents, officers of Labuan foundations and registered

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<sup>1</sup> Typically, Labuan FSA would expect the applicant to have at least three years of experience in trust company business or its related activities. Notwithstanding this, all applicants would be assessed holistically based on their own merits of the application.

offices for Labuan entities incorporated or registered under relevant Labuan laws;

- (c) Performing the secretarial duties of the Labuan entities, such as lodgement of any documents and reports as required under relevant Labuan laws;
- (d) Carrying out activities such as being a trustee, agent, executor, or administrator pursuant to the objectives of the trust company, including those related to Shariah-compliant activities;
- (e) Acting as a manager to a Labuan managed trust company;
- (f) Acting as an agent to a Labuan private trust company; and
- (g) Providing other services as may be permitted under relevant Labuan laws or as approved by Labuan FSA from time to time.

### Question 1

Do you think the Guidelines should be updated/enhanced to explicitly recognise and provide for digital trustee/custodian services, to better reflect the evolving nature of trust and fiduciary activities within the digital business landscape? Please share your views.

## 7.0 Appointment of Trust Officer

- 7.1 A Labuan trust company is required to appoint at least two Trust Officers<sup>2</sup> (TOs) approved by Labuan FSA, one of whom must be based in Labuan.
- 7.2 The appointed TOs must be fit and proper individuals, possessing the relevant qualifications, experience and integrity as stipulated in the Guidelines for Labuan Trust Officers.
- 7.3 According to the regulation 10(2)(d) of the Labuan Financial Services and Securities Act (LFSSA) Regulations 2010, hereinafter referred to as “LFSSA Regulations 2010”, the TO must be an “officer” of a Labuan trust company and satisfy at least one of the criteria set out under the regulation.
- 7.4 However, pursuant to regulation 10(2)(d)(v) of the LFSSA Regulations 2010, a TO may also be a person recognised by Labuan FSA as being comparable to any of the persons specified under regulation 10(2)(d)(i)–(iv). The detailed criteria for such recognition are provided in **Appendix II**.

<sup>2</sup> “Trust officer” means an officer of a Labuan trust company approved and designated as a trust officer by the Authority as defined in Section 2 of LFSSA.

- 7.5 The recognised person is also subject to due diligence assessment conducted by Labuan FSA and must not have any adverse findings. Notwithstanding this, Labuan FSA reserves the right to amend these criteria from time to time at its discretion.

## Question 2

Do you think the criteria specified in **Appendix II** are adequate and appropriate for evaluating candidates as a Trust Officer? Please share your views.

## 8.0 Appointment of Trust Executive

- 8.1 In addition to the appointment of TO, a Labuan trust company is required to appoint at least two Trust Executives (TEs), approved by Labuan FSA.
- 8.2 A TE is a dedicated officer of a Labuan trust company that is approved and designated by Labuan FSA as a TE that will primarily carry out operational functions such as Labuan companies' incorporation or registration, corporate secretarial and other administrative tasks.
- 8.3 The TE is responsible for carrying on operational functions, which may include but are not limited to the following:
- (a) Company incorporation and registration.
  - (b) Secretarial duties and administrative.
  - (c) Record keeping.
- 8.4 The eligibility criteria for a TE are as follows:
- (a) Must be a Malaysian;
  - (b) Possess a minimum qualification of Sijil Pelajaran Malaysia (SPM);
  - (c) Comply with fit and proper person requirement as specified by Labuan FSA and have the experience in processing and assessing applications for licence or company incorporation; and
  - (d) Comply with additional requirements that may be imposed by Labuan FSA.
- 8.5 The application process for a TE is provided in the **Appendix III**.
- 8.6 A TE may apply for a TO position after five years of experience as a TE. However, this is subject to internal assessment of Labuan FSA.

### Question 3

- a) The introduction of the TE role aims to nurture and grow local talent, while strengthening the professional capacity of the trust and corporate services industry in Labuan IBFC. Labuan FSA believes that TEs who have served with trust companies for several years possess the competence and experience to progress into TO roles in the future. Through this initiative, Labuan FSA seeks to cultivate a stronger pool of qualified professionals and encourage trust companies to take an active role in training and developing their staff, thereby fostering long-term growth of local expertise within the industry.

Accordingly, a transition period of two (2) years is proposed for existing Labuan trust companies to comply with the requirement to appoint two TEs. During this period, the appointments may be phased as follows: one TE in the first year, and the second TE by the end of the second year. Please provide your views on whether this proposed transition period is sufficient and workable.

- b) Please indicate the possible challenges that you may encounter in fulfilling the requirement to appoint at least two TEs for each Labuan trust company?

## 9.0 Operational Requirements

- 9.1 Have and maintain paid-up capital or working funds of at least RM150,000 or its equivalent in any foreign currency at all times. Labuan FSA may exercise its discretion to require additional capital to commensurate with the business operations of trust company business taking into account the risk profile as well as nature, scale, complexity and diversity of their business activities.
- 9.2 Obtain a professional indemnity insurance policy with a coverage of not less than RM1 million or its equivalent in any foreign currency and remain indemnified throughout its operations.
- 9.3 Maintain an operational office in Labuan. The operational office should be used for business purposes only and must be appropriately furnished with office equipment.
- 9.4 Ensure that the persons in control, directors and officers meet the fit and proper person requirements as specified in the Guidelines on Fit and Proper Requirements issued by Labuan FSA at all times.
- 9.5 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 trust companies.

- 9.6 Maintain adequate and proper records and books of accounts in Labuan that will sufficiently explain its transaction and financial position 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.
- 9.7 Have proper arrangements in place to account for and keep all assets and other valuables that it has received in its capacity as trustee duly separated from its own assets and liabilities.
- 9.8 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.
- 9.9 Obtain prior approval from Labuan FSA on the following matters:
  - (i) change of shareholding<sup>3</sup>;
  - (ii) appointment and change of its directors, trust officer and principal officer;
  - (iii) establishment of any office or subsidiary outside Labuan; or
  - (iv) change of name.
- 9.10 Notify Labuan FSA within 7 days pertaining to the following matters:
  - (i) change of bank account where the paid-up capital has been deposited;
  - (ii) change of trust officers through the specified form;
  - (iii) resignation of directors or principal officer;
  - (iv) change of place of business or office in or outside of Labuan through the specified form;
  - (v) change to its constituent documents;
  - (vi) significant event that affects its going concern or reputation; or

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<sup>3</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.

(vii) change of its financial year end.

9.11 A Labuan trust company undertaking Shariah compliant activities shall ensure compliance with Shariah principles at all times.

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

## **10.0 Reporting Requirement**

10.1 Labuan trust companies are required to submit to Labuan FSA the following:

- (a) audited financial statements via COR@L within six (6) months after the closure of each financial year: and
- (b) statistics and information as Labuan FSA may require from time to time.

## **11.0 Annual Fee**

11.1 The annual 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 by 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 LTC – Application for Licence to Carry on Labuan Trust Company Business*, downloadable at [www.labuanfsa.gov.my](http://www.labuanfsa.gov.my) under the category of “licence application form” together with a processing fee as prescribed under the *Labuan Financial Services Authority (Processing and Approval Fees) (Labuan Financial Institutions) (Amendment) Order 2022*. The applicant may also opt for fast-track processing with additional fee<sup>4</sup>.

12.2 Additionally, applicants must submit a soft copy in PDF format of the completed application form and supporting documents together with the official receipt issued by Labuan FSA on the payment of processing fee.

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<sup>4</sup> Subject to the Authority's acceptance of fast-track application.

- 12.3 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 application and notification can be submitted to:

Head of Authorisation and Licensing Unit  
Labuan Financial Services Authority  
17<sup>th</sup> Floor, Main Office Tower  
Financial Park Complex, Jalan Merdeka  
87000 Federal Territory of Labuan, Malaysia.

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

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

#### **Labuan Financial Services Authority**

XX XX 2025  
18 December 2015  
1 September 2011



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

The following are the list of Guidelines/Circulars/Directives that are applicable to Labuan trust companies:

1. Guidelines on Fit and Proper Person Requirements
2. Guidelines on Client Money for Labuan Trust Company
3. Guidelines on Digital Governance Framework
4. Guiding Principles on Business Continuity Management
5. Circular on Re-assessment of the Appointment of Principal Officer for Labuan Trust Company
6. Guidelines for Labuan Trust Officers
7. Governance and Market Conduct Framework for Labuan Trust Companies
8. Circular on Professional Indemnity Insurance Policy for Labuan Trust Company
9. Circular on Submission of Regulatory Applications and Reports via Supervisory Intelligence System (Sis) Platform
10. Circular on Issuance of Checklist for Employment Pass / Work Permit for Licensed Entity
11. Circular on Payment of Fees and Other Chargeable Activities in United States Dollar (USD) Denomination
12. Circular on Submission of Compliance Report and Anti-Money Laundering Counter Financing of Terrorism (AML/CFT) Independent Audit Report to Labuan FSA
13. Circular on Submission of Audited Financial Statements by Labuan Entities Through COR@L
14. Guidelines on External Auditor of Labuan Financial Institutions.
15. Clarification Note for Guidelines on External Auditor of Labuan Financial Institutions
16. Directive on Financial Reporting Standards for Labuan Financial Institutions
17. Circular on Financial Reporting Standards for Labuan Financial Institutions
18. Circular on Reminder on Accuracy and Timely Submission of Statistical Returns
19. Guidelines on Compliance Function for Labuan Licensed Entities
20. Directive on Accounts and Record-Keeping Requirement for Labuan Entities

*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.*

**Recognised persons pursuant to regulation 10(2)(d)(v) of the Labuan Financial Services and Securities Act (LFSSA) Regulations 2010**

Category	Type of Qualifications	Minimum Year of Working Experience
Category 1	Former senior public officer <sup>5</sup> in the relevant Ministries <sup>6</sup> , subject to Labuan FSA's discretion.	Have a minimum of five (5) to seven (7) years of working experience
Category 2	A Master degree or PHD in relevant areas including but not limited to business, finance, accounting, law, economics, estate planning, financial planning, risk management (including insurance)	Have a minimum of three (3) years of working experience in corporate secretarial and trust services.
Category 3	Possess a bachelor's degree in any field	Have a minimum of five (5) years of experience in finance, legal, corporate secretarial, trust services or any relevant field.
Category 4	Professional certification in relevant areas including but not limited to business, finance, accounting, law, economics, estate planning, financial planning, risk management (including insurance)	Have a minimum of three (3) years of experience in finance, legal, corporate secretarial and trust work services.
Category 5	Diploma in relevant areas including but not limited to business, finance, accounting, law, economics, estate planning, financial planning, risk management (including insurance)	Have a minimum of seven (7) years of experience in corporate secretarial and trust work services.

<sup>5</sup> Refer to definition of "public officer" specified in the Interpretation Acts 1948 and 1967

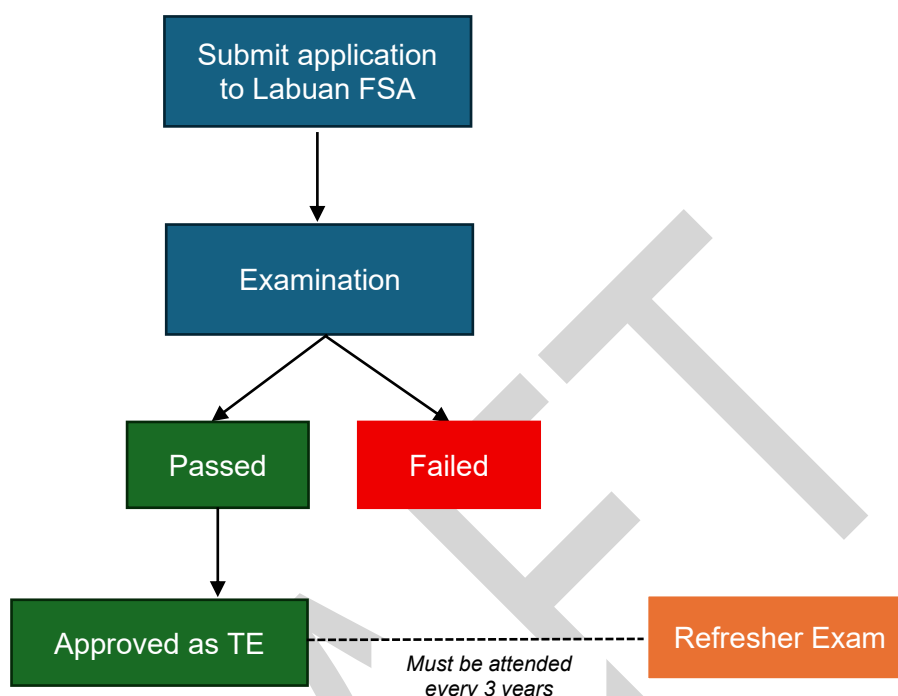
<sup>6</sup> The relevant Ministries may include the Ministry of Finance, Ministry of Education, Attorney General's Chambers, National Audit Department, Accountant General's Department, Ministry of International Trade, Judiciary, and Central Bank.

Category	Type of Qualifications	Minimum Year of Working Experience
Category 6	A Trust Executive (TE) of a Labuan trust company	Have served as a TE of any Labuan trust company for a minimum of 5 years, with continuous experience in trust administration or related functions, and have demonstrated competency and understanding of trust operations sufficient to assume a Trust Officer role.
Category 7	Other than the above	Have a minimum of an uninterrupted period of not less than 10 years of hands-on experience in the functions of finance, legal, corporate secretarial or trust services within the Labuan IBFC and holds a senior executive or supervisory position in the Labuan trust company.

#### Question 4

- a) Please provide your comments on whether the above proposed requirements are acceptable and reasonable.
- b) For Category 6, it is proposed that a TE who has served for more than five (5) years with a Labuan trust company and is subsequently employed by another trust company, the TE may be qualified to apply as a Trust Officer (TO) in the new trust company. However, this is subject to compliance with the requirements for a TO and Labuan FSA's assessment. Please provide your comments, if any.

## Flowchart for application as a Trust Executive (TE)



- (i) A Labuan trust company is required to nominate an individual as a candidate for approval as a TE.
- (ii) The application for Labuan FSA's approval shall be submitted to the Authorisation and Licensing Unit of Labuan FSA for assessment and evaluation.
- (iii) Upon completion of the assessment, Labuan FSA will notify the candidate to undertake an examination. The candidate is required to obtain a passing score to be considered successful. No interview process shall be conducted for a TE.
- (iv) Following approval, a TE is required to undergo a refresher examination once every three (3) years in order to maintain the approval.
- (v) In the event a TE fails the refresher examination, the TE is permitted to retake the examination once within six (6) months. A second failure may result in the revocation of the TE's approval by Labuan FSA, to ensure that only qualified individuals continue to hold this designation.