

This exposure draft (ED) presented by Labuan FSA was developed jointly with the industry through a joint Working Group between Labuan FSA and ALTC. The ED outlines the regulatory expectations for managing risks arising from external service arrangements (ESAs) by Labuan Trust Companies (LTCs). The proposed requirements aim to strengthen regulatory oversight and enhance risk management practices in engaging service providers, in line with international standards issued by the Group of International Finance Centre Supervisors (GIFCS).

Labuan FSA welcomes and values feedback on the requirements of the ED. 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 using the response template by **30 June 2026** to ppu@labuanfsa.gov.my. Should you require any clarification on the exposure draft, please contact the following officers:

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GUIDELINES ON EXTERNAL SERVICE ARRANGEMENTS FOR LABUAN TRUST COMPANIES

1.0 Introduction

- 1.1 Labuan trust companies (LTCs) serve as key intermediaries and gatekeepers within the Labuan International Business and Financial Centre (Labuan IBFC). Given the nature and scope of their activities, Labuan FSA expects LTCs to conduct their operations in a prudent and sound manner. Deficiencies in operational arrangements, including external service arrangement, may expose LTCs to operational, legal, compliance and reputational risks and undermine confidence in the Centre.
- 1.2 The *Guidelines on External Service Arrangements for Labuan Trust Companies* (the Guidelines) set out the regulatory expectations governing the management of risks arising from external service arrangements (ESAs) undertaken by LTCs. The requirements put forth by the Guidelines are aligned with internationally recognised standards and best practices, including those issued by the Group of International Finance Centre Supervisors (GIFCS)¹.

2.0 Regulatory Expectation

- 2.1 LTCs are expected to maintain adequate in-house capabilities to effectively carry out their functions, commensurate with the nature, scale and complexity of their business operations. For this purpose, LTCs are prohibited from engaging service providers to perform any core functions or activities as set out in **Appendix I**.

¹ Standard on the Regulation of Trust and Corporate Service Providers.

- 2.2 Reliance on service providers shall be limited in scope and, unless otherwise permitted under the applicable laws and regulatory requirements, may only be undertaken in respect of ancillary activities that are not critical to LTC's safety and soundness.
- 2.3 LTCs are required to ensure that all ESAs are supported by robust governance, sound risk management practices and effective oversight in accordance with the Guidelines. LTCs remain fully accountable and responsible for all ESAs. The delegation of any function or activity to a Group Shared Services (GSS) or third-party service provider must not diminish LTCs' obligations to comply with all applicable regulatory requirements.
- 2.4 LTCs must ensure that ESAs do not result in the delegation of a significant proportion of LTC's functions such that its presence, oversight and ability to discharge its regulatory obligations within the Labuan IBFC is undermined.
- 2.5 The Guidelines shall not be construed as a means to substitute or dilute the substantial activity requirements under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018.

3.0 Applicability

- 3.1 The Guidelines are applicable to the Labuan Trust Companies licensed under Part V of the Labuan Financial Services and Securities Act 2010 (LFSSA) excluding Labuan Private Trust Companies.
- 3.2 In the case of Labuan Managed Trust Companies (LMTCs), the appointment of an LTC as its Labuan managed trust manager pursuant to section 72(1) of LFSSA is excluded from the scope of the Guidelines. For ESAs which entail the engagement of service providers beyond the appointed managed trust manager, LMTCs are required to comply with these Guidelines, except for paragraph 7.0, which may be adopted as best practice.
- 3.3 The Guidelines are to be read together with the requirements under the relevant guidelines issued by Labuan FSA as set out in **Appendix II**.

4.0 Legal Provision

- 4.1 The Guidelines are issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) for the purpose of specifying the requirements to be implemented by LTCs.
- 4.2 Any person who fails to comply with the Guidelines may be subject to enforcement actions which include an administrative penalty under Section 36G of the LFSAA and/or any other enforcement action provided under LFSAA, or other applicable laws governed by Labuan FSA.

5.0 Effective Date

- 5.1 The Guidelines shall come into effect on **1 January 2027** and would remain effective and applicable unless amended or revoked.
- 5.2 Any ESAs that are to be effected on 1 January 2027 onwards are expected to be in full compliance with the requirements of the Guidelines.
- 5.3 As a transitioning measure, all existing ESAs are required to comply with the Guidelines upon expiry of the existing contracts or by **1 January 2028**, whichever is earlier. Notwithstanding this, LTCs which intend to early adopt the requirements of the Guidelines are permitted to do so prior to the effective date.

Question 1:

Do you foresee any challenges in complying with the Guidelines by the proposed effective date? If yes, please suggest an alternative effective date and provide justification for the proposed timeline.

6.0 Definitions

Board	This refers to the board of directors of the LTC; or any equivalent person or body with the authority to oversee the LTC.
Client Information	This refers to any information ² relating to the affairs of any particular client ³ of the LTC in whatever form, including in the form of a record book, register, correspondence, or other documents.
Group Shared Services	This refers to the group's centralised service arrangements which may be undertaken by: <ul style="list-style-type: none">(i) related companies in the form of subsidiary, holding company and related companies as defined under Sections 3 and 4 of Labuan Companies Act 1990;(ii) regional or head office of the LTC;(iii) other branch of the entities mentioned in (i) and (ii); or(iv) any service provider engaged for the group's ESAs.
Material External Service Arrangement	This refers to an ESA which: <ul style="list-style-type: none">(i) in the event of a service failure or security breach, has the potential to significantly impact the LTC's provision of services to clients, business operations, financial position, reputation, or compliance with applicable laws and regulatory requirements;(ii) involves client information and in the event of unauthorised access, disclosure or modification, or loss or theft of the information, has a material impact on the client or LTC; or(iii) relates to internal control functions of the LTC relating to risk management, internal audit and compliance functions. <p>In assessing whether an ESA is material, the LTC shall have regard to the factors set out in Appendix III.</p>

² Any information that is related or to have reference to the exact client.

³ This includes person representing the client e.g. parent, authorised representative, who enters into an agreement with the LTC for the benefit of the client.

External Service Arrangement	This refers to an arrangement in which a service provider performs an activity on behalf of the LTC on a continuing basis ⁴ , where the activity would otherwise be undertaken by the LTC and does not include activities set out in Appendix IV ⁵ .
Senior Management	This refers to the principal officer, any officer(s) or committee performing a senior management function who reports to the Board of LTC and is principally accountable for: <ul style="list-style-type: none"> (i) Making decisions that affect the whole, or a substantial part of, the LTC's business; (ii) Implementing and enforcing policies and strategies approved by the Board including the Head of Department or any equivalent designated person; or (iii) Internal controls or other key functionalities of the LTC which include compliance, AML/CFT compliance, internal audit and risk management.
Service Provider	This refers to any service provider engaged by the LTCs including the GSS, for the ESAs.

⁴ For the avoidance of doubt, an agreement which is time-bound does not preclude the activity from being considered as being performed on a continuing basis.

⁵ Appendix IV provides a non-exhaustive list of arrangements that are outside the scope of the Guidelines.

7.0 Responsibilities of the Board and Senior Management

- 7.1 LTCs are required to maintain effective oversight and control over all ESAs subject to a standard that would have been applied should these functions were performed in-house.
- 7.2 The Board and senior management are accountable to ensure effective oversight and governance of ESAs through:
- (i) robust risk management framework⁶ to mitigate risks arising from ESAs; and
 - (ii) ongoing compliance with applicable laws, regulations and prudential requirements.

Responsibilities of the Board

- 7.3 The roles and responsibilities of the Board include:
- (i) establishing a clear risk appetite governing the ESA;
 - (ii) approving the policies and procedures for the management of ESA⁷ which, among others, specifying the LTC's basis and approach⁸ for identifying material ESA;
 - (iii) ensuring effective management of ESA risks, having regard to the assessments made by senior management on the state of compliance to the LTC's policies and procedures for the management of ESA;
 - (iv) establishing a sound internal governance structure that ensures effective oversight and control over ESAs, mitigates conflicts of interest, in line with the LTC's overall business strategy and risk appetite; and

⁶ Where the LTC is responsible for oversight over its subsidiaries, the Board and senior management must ensure that the group-wide policies and procedures for the management of ESA adequately addresses ESA risk across entities within the group.

⁷ The policies and procedures for managing ESA may be part of the LTC's risk management framework.

⁸ Approach to determine whether an ESA is material and appropriate for externalisation is based on the LTC's risk management framework and having regard to the factors set out in Appendix III.

- (v) ensuring sufficient management capacity and skilled resources within the LTC to oversee the ESA.

Responsibilities of the Senior Management

7.4 Senior management is responsible for the day-to-day management of ESAs, including the following:

- (i) Establishing policies and procedures for the management of ESA which amongst others, clearly articulates the accountability of the Board and senior management as well as the process for approving and overseeing ESAs. These must be reviewed periodically and kept up to date to ensure continued appropriateness in light of material changes to the scope, nature and complexity of the LTC's operations and alignment with the LTC's ESA strategy and risk appetite;
- (ii) Managing ESA risks on an institution-wide basis, including undertaking periodic assessments, at least annually, to evaluate the effectiveness of the management of ESA as set out under paragraph 9.3;
- (iii) Providing timely escalation to the Board of material developments on ESAs, including risk issues and incidents of non-compliance by the service provider;
- (iv) Ensuring that contingency arrangements are in place and tested to address any failure by the service provider to deliver the agreed services;
- (v) Ensuring internal audit adequately covers ESA risks as part of the LTC's risk-based audit plan;
- (vi) Ensuring that appropriate and timely remedial actions are taken to address ESA-related audit findings;
- (vii) Maintaining a complete register of ESAs, which is updated on an ongoing basis. The register must, at a minimum, include the information set out in **Appendix V** and be made readily available to Labuan FSA upon request; and

- (viii) Ensuring prompt notification to Labuan FSA of any adverse developments⁹ arising from its ESA that could significantly impact the LTC.

Question 2:

Please indicate whether there are any additional areas that should be considered with respect to the Board and senior management in relation to ESA.

8.0 Group Shared Services

8.1 The use of GSS arrangements is a common practice within the Group and is driven by the strategic objective of optimising resources, enhancing operational efficiency, and strengthening intra-group governance. Where the functions are carried out by GSS, the LTC must undertake the appropriate due diligence on the service provider, including the following:

- (i) Evaluating the qualitative aspects of the service provider's ability to address risks specific to the LTC, particularly those relating to business continuity management, monitoring and control, audit and inspection. For this purpose, LTC may rely on the due diligence undertaken by its Group on the service provider and ensure that the evidence of the due diligence process shall be maintained in writing and made available to Labuan FSA upon request;
- (ii) Ensuring that the respective roles and responsibilities of each party under the ESA are clearly documented in a written service legal agreement or an equivalent document; and
- (iii) Ensuring that Labuan FSA is provided with the right of access to relevant information and records necessary for the effective supervision over the LTC and compliance with local regulatory requirements (if any).

⁹ This includes any event that may result in prolonged service failure or disruption to the ESA, or any compromise to the security and confidentiality of the LTC's client information.

- 8.2 When ESA is concluded by the Group, the LTC is required to have a written acknowledgement from the Group that the activity falls within the scope of its shared services and applies to the LTC.

9.0 Risk Management Controls

- 9.1 The LTC is required to implement appropriate controls and safeguards to manage risks arising from cross-border arrangements, having regard to social and political conditions, government policies, and legal and regulatory developments. In addition, the LTC must ensure that its due diligence assessment addresses the additional dimensions of risk in ESA to support timely and appropriate responses to emerging risk events.
- 9.2 Prior to any initiation of ESA, the LTC must conduct and document a comprehensive risk evaluation which includes:
- (i) Identifying the nature and scope of the ESA and the key risks involved;
 - (ii) Evaluating the service provider's capability to perform the ESA, including its ability to comply with relevant laws, regulations and guidelines;
 - (iii) Assessing the impact of the ESA on LTC's operations and overall risk profile;
 - (iv) Ensuring that adequate internal oversight and resources are in place to manage and monitor the ESA, including operational and concentration risks; and
 - (v) Assessing the benefits of ESA against potential risks¹⁰.

¹⁰ Such as service disruption, data security or confidentiality breaches, loss control of data and unexpected termination.

9.3 In conducting the assessment referred to in paragraph 7.4(ii), the LTC must ensure the that the following are met, where relevant:

- (i) Reviewing the performance of the service provider¹¹ and its compliance with the terms of the agreement;
- (ii) Assessing the adequacy of internal control processes, including the service provider's data security practices;
- (iii) Evaluating the effectiveness of corrective actions taken by the service provider in the event of any breach of the agreement;
- (iv) Determining whether the terms of the agreement remain appropriate and aligned with the LTC's ESA risk appetite; and
- (v) Assessing LTC's ability to preserve continuity of the ESA under periods of stress¹².

9.4 The LTC must ensure that all ESAs are conducted in a manner which does not impair Labuan FSA's ability to exercise its regulatory or supervisory powers, in particular Labuan FSA's timely and unrestricted access to systems, information or documents relating to the ESA.

Question 3:

Based on the requirements set out above, are there any practices currently undertaken by the LTC that should be reflected or included?

¹¹ This includes an assessment of the continued ability of the service provider to perform the activity to the level expected in accordance with the ESA.

¹² For avoidance of doubt, this refers to stress incidents that could occur at the LTC or the service provider.

10.0 Assessment of Service Providers

- 10.1 A comprehensive and robust due diligence process is critical to enable the LTC to make informed decisions when selecting service providers, taking into account the risks associated with the ESAs.
- 10.2 The LTC must conduct appropriate due diligence of a third-party service provider¹³ at the point of considering all new ESAs and renewing or renegotiating existing arrangements. The scope and depth of the due diligence process must be commensurate with the materiality and nature of the ESA. The due diligence process on the third-party service providers for material ESAs includes, as appropriate:
- (i) Capacity, capability, financial strength and business reputation¹⁴;
 - (ii) Risk management, internal control and business continuity capabilities¹⁵, including physical and IT security controls, as well as contingency arrangements;
 - (iii) The location of the ESA to be undertaken (e.g. city and country), including primary and back-up sites;
 - (iv) The ability of the LTC and Labuan FSA to obtain access to relevant information, records and systems regarding ESA¹⁶;
 - (v) Measures and processes in place to ensure data protection and confidentiality;
 - (vi) Undue risks¹⁷ resulting from similar business arrangements, if any, between the service provider and the LTC;

¹³ This refers to service providers that are external to the LTC and not part of the group shared services.

¹⁴ This includes an assessment of the continued ability of the service provider to perform the activity to the level expected in accordance with the ESA.

¹⁵ Including the ability of the service provider to respond to service disruptions or problems resulting from natural disasters, or physical or cyber-attacks, within an appropriate timeframe.

¹⁶ This is not applicable for ESA that will be undertaken by a service provider regulated by Labuan FSA.

¹⁷ For instance, concentration risk to a systemic service provider in the industry or where the service provider's fee structure or relationship with the LTC may create potential conflict of interest issues.

- (vii) The extent of concentration risk to which the LTC is exposed with respect to a single service provider and the mitigation measures to address this concentration;
- (viii) Ability of the service provider to comply with relevant laws, regulations and guidelines¹⁶; and
- (ix) the extent of reliance on sub-contractors, on a best-effort basis.

10.3 The LTC must ensure that the outcomes of the due diligence process are well-documented.

Question 4:

Are the proposed requirements operationally practical and proportionate for implementation by LTCs?

11.0 Agreement of the External Service Arrangement

- 11.1 An ESA must be governed by a written agreement that is legally enforceable. The agreement, at a minimum, covers the following:
- (i) Duration of the agreement with date of commencement and expiry or renewal date;
 - (ii) Duties and responsibilities of the contracting parties;
 - (iii) Controls and risk mitigation for information security including the use of information shared with the service provider;
 - (iv) Audits and inspections on the service provider and activities undertaken;
 - (v) Notification to LTC on adverse developments affecting the ESA and measures that the service provider would take to ensure service continuity;
 - (vi) Regular testing of service provider's business contingency plan;
 - (vii) Dispute resolution process for any default of obligations which may include monetary compensation;

- (viii) Termination provisions of the arrangement which include termination rights and timeline to execute the provisions;
- (ix) Obligations to comply with conduct requirements and standards imposed by Labuan FSA;
- (x) Provisions for supervisory access to documents, independent review and intervention; and
- (xi) Protection of the confidential and other proprietary information or materials of the business.

12.0 Protection of Data Confidentiality

- 12.1 Misuse, unauthorised or inadvertent disclosure of confidential information is a serious risk event for LTC. It is therefore imperative that the LTC satisfies itself that the level of security controls, governance, policies, and procedures at the service provider are robust to protect the security and confidentiality of information shared under the ESA.
- 12.2 LTCs must ensure that appropriate controls are in place and are effective in safeguarding the security, confidentiality and integrity of any information shared with the service provider. In meeting this requirement, the LTC would need to consider that:
- (i) The ESA agreement clearly defines the parties' responsibilities for maintaining effective security policies and practices, which the party is liable for losses in the event of a breach of security or confidentiality and the service provider's obligation to inform the LTC;
 - (ii) Information disclosed to the service provider is limited to the extent necessary to provide the contracted service, and only on a need-to-know basis;
 - (iii) Information shared with the service provider is used only to the extent necessary to perform the obligations under the ESA agreement;

- (iv) Clients are notified that data may be shared with service providers already permitted under existing terms and conditions;
- (v) All locations (e.g. city and country) where information is processed or stored, including back-up locations, are made known to the LTC;
- (vi) Where the service provider is located, or performs the activity outside Malaysia, the service provider is subject to data protection standards that are comparable to Malaysia;
- (vii) Where the service provider provides services to multiple clients, the LTC's information must be segregated (either logically or physically) from the information of other clients of the service provider;
- (viii) The service provider is bound by confidentiality provisions stipulated under the ESA agreement even after the arrangement has ceased; and
- (ix) Information shared with the service provider is destroyed, rendered unusable, or returned to the LTC in a timely and secure manner once the ESA agreement ceases or is terminated.

13.0 Business Continuity Planning

- 13.1 The LTC needs to ensure that its business continuity is not compromised by ESA and its Business Continuity Plan (BCP) adequately considers any operational disruptions at, or failure of the service provider.
- 13.2 The LTC must ensure that its BCP provides for all ESAs commensurate with the materiality of the ESA. At a minimum, the LTC must ensure that the BCP includes probable, adverse scenarios¹⁸ with specific action plans. The practicality of such plans must be commensurate with the nature, scale, and complexity of LTC's operations.

¹⁸ For instance, failure, liquidation or operational disruption of the service provider, non-performance by the service provider, unexpected termination of the external service arrangement or material deterioration in the performance of the service provider.

- 13.3 The LTC must ensure that ESAs undertaken outside Malaysia are conducted in a manner which does not affect:
- (i) the LTC's ability to effectively monitor the service provider and execute its BCP; and
 - (ii) the LTC's prompt recovery of data in the event of the service provider's failure, having regard to the laws of the particular jurisdiction.

14.0 External Service Arrangements involving Cloud Services

- 14.1 Where the ESA involves a cloud service provider, the LTC must take effective measures to address risks associated with data accessibility, confidentiality, integrity, sovereignty, recoverability and regulatory compliance. This is particularly important as cloud service providers often operate a geographically dispersed computing infrastructure with regional or global distribution of data processing and storage.
- 14.2 In using cloud services, the inherent risks involved are similar to those of other forms of ESAs. As such, the LTC that subscribes to cloud services must ensure adherence to the relevant requirements of the Guidelines.
- 14.3 In relation to the LTC's ability to conduct audits and inspections on the cloud service provider, the LTC may rely on third-party certification and reports made available by the cloud service provider for the audit¹⁹. Such reliance is permitted provided the LTC obtains an adequate understanding of the audit scope and methods employed and can access both the third party and the service provider to clarify matters relating to the audit.

¹⁹ For the avoidance of doubt, such certifications or reports should not substitute the LTC's right to conduct on-site inspections where necessary.

15.0 Record Keeping

15.1 The LTC must ensure that all records relating to ESAs are always maintained and remain fully accessible without recourse to third parties. In this regard, the LTC must ensure that such records are:

- (i) securely maintained and protected against operational risks, including loss, unauthorised access or alteration;
- (ii) maintained in a manner that ensures they are readily accessible upon request;
- (iii) in compliance with all applicable regulatory requirements and confidentiality obligations; and
- (iv) made available to Labuan FSA upon request, including access to relevant documents and accounting records relating to the ESA.

15.2 In addition, LTC must always comply with the requirements under the *Directive on Accounts and Record-Keeping Requirement for Labuan Entities* as well as other relevant laws and regulations issued by Labuan FSA from time to time.

16.0 Regulatory Process

16.1 The LTC must obtain Labuan FSA's written approval before:

- (i) entering into a new material ESA²⁰; and
- (ii) making a significant modification to an existing material ESA. A significant modification to ESAs is one that materially changes the level or type of risk the LTC is exposed to with respect to the arrangement (e.g. geographical risk). This includes amongst others, change in service provider or change of country location where the service is provided.

²⁰ Excluding the internal control functions i.e. internal audit, compliance, actuarial and risk management undertaken under the group shared services where only prior written notification within 30 days to Labuan FSA is required.

16.2 Labuan FSA expects the approval application to comprise, at a minimum the following information:

- (i) Name and registered address of the service provider, where applicable;
- (ii) Date of commencement of the arrangement and expiry or renewal date;
- (iii) A brief description of the activity to be externalised;
- (iv) The locations (e.g. city and country) where the material ESA is undertaken by the service provider, including where information is processed or stored, and the primary and back-up locations;
- (v) Where the arrangement involves the use of cloud service providers, the cloud services, deployment model, nature of data to be held and locations (e.g. city and country) where such data is stored, including back-up locations;
- (vi) Outcomes of the LTC's due diligence process;
- (vii) Total costs of the ESA, including upfront and ongoing expenses;
- (viii) Overall impact of the arrangement on employment and talent capacity within the LTC, where relevant; and
- (ix) A copy of the board resolution, board confirmation or evidence of similar approval granted by the relevant approval authority as determined under the LTC's internal governance framework on the appointment of the service provider for the ESAs.

Leveraging on internal control functions under Group Shared Services

16.3 LTCs that leverage on GSS for internal control functions (i.e. internal audit, compliance and risk management functions) are required to provide prior written notification to Labuan FSA at least 30 days before the proposed arrangements take effect. During this 30-day period, Labuan FSA may liaise with the LTC to deny or require modifications to the proposed arrangements. In the absence of any response from Labuan FSA within this timeframe, concurrence shall be deemed granted, and the LTC may proceed with the group arrangement accordingly.

16.4 Notwithstanding the above, where the Group's centralised internal control functions are performed by a third-party service provider, the LTC must undertake appropriate due diligence on the service provider in accordance with paragraph 8.1 and obtain prior approval from Labuan FSA pursuant to paragraph 16.6 of the Guidelines.

Sub-contracting arrangement

16.5 Given its critical roles as a key intermediary, any material ESA involving sub-contracting²¹ arrangement by LTCs is discouraged. The LTC must ensure that its service provider does not sub-contract the ESA to any third-party without approval.

16.6 However, in very limited circumstances where sub-contracting is unavoidable, or where an LTC becomes aware that a service provider has entered into a sub-contracting arrangement, the LTC must obtain prior approval from Labuan FSA.

Submission of External Service Arrangements

16.7 The submission of notification and application for approval to Labuan FSA shall be made to the following address:

Supervision Department
Labuan Financial Services Authority
Level 17, Main Office Tower
Financial Park Complex
Jalan Merdeka
87000 Federal Territory of Labuan, Malaysia

Telephone no: 03 8873 2000

Facsimile no: 03 8873 2209

Email: sed@labuanfsa.gov.my

²¹ Refers to assigning part of the obligations and tasks under a contract to another party i.e. a subcontractor.

17.0 Statistical Reporting

- 17.1 For the purpose of statistical reporting under the Statistical Management System (SMS), the LTC is required to submit information on any of its ESAs pursuant to the *Reporting Guideline on Statistical Data Submission for Labuan Entities*. The information must include both material and non-material ESA.
- 17.2 In the event where Labuan FSA is of the view that the ESA is considered material, the LTC shall comply with paragraph 16.1.

Question 5:

Based on current market practices, are there any additional requirements or recommendations that should be considered for inclusion in the Guidelines? Please provide details.

APPENDIX I LIST OF CORE FUNCTIONS PROHIBITED FROM ESA

1. For the purpose of the Guidelines, core functions or activities refer to functions or activities that are fundamental to LTCs' role as key intermediaries within the Labuan IBFC, including activities integral to the discharge of fiduciary duties, regulatory obligations and the safeguarding of client interests. Such core functions or activities must not be externalised.
2. For avoidance of doubt, the following core functions and activities shall not be externalised by the LTC:
 - (i) Incorporating or registering entities under relevant Labuan laws, e.g., Labuan Companies Act 1990, Labuan Foundation Act 2010, etc.;
 - (ii) Providing management services that involved decision-making, oversight, compliance or fiduciary responsibilities in relation to Labuan entities;
 - (iii) Acting as directors, secretaries, agents, officers of Labuan foundations and registered offices for Labuan entities incorporated or registered under relevant Labuan laws;
 - (iv) Performing the secretarial duties of the Labuan entities, such as lodgement of any documents and reports as required under relevant Labuan laws;
 - (v) Carrying out activities such as being trustees, agents, executors or administrators pursuant to the objectives of the trust company;
 - (vi) Acting as a manager to a Labuan managed trust company; and
 - (vii) Acting as an agent to a Labuan private trust company.
3. The above list is not exhaustive, and Labuan FSA may modify or specify additional functions that are not allowed to be externalised from time to time.

Question 6:

Do you agree that the above list sufficiently captures all non-ESA activities of the LTCs or are there any additional functions that should be included or excluded?

APPENDIX II LIST OF POLICY DOCUMENTS TO BE READ TOGETHER WITH THE GUIDELINES

The Guidelines are to be read together with the following guidelines:

- (i) Guidelines on Client Money for Labuan Trust Companies;
- (ii) Guidelines on Fit and Proper Person Requirements;
- (iii) Guidelines on Digital Governance Framework;
- (iv) Guiding Principles on Business Continuity Management;
- (v) Guidelines for Labuan Trust Officers Governance and Market Conduct Framework for Labuan Trust Companies;
- (vi) Guidelines for the Establishment of Labuan Trust Companies;
- (vii) Guidelines on Compliance Function for Labuan Licensed Entities; and
- (viii) 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.

APPENDIX III MATERIAL EXTERNAL SERVICE ARRANGEMENTS

1. In assessing whether an ESA is material, the LTC needs to take into account the following factors:
 - (i) Significance of the arrangement e.g. in terms of contribution to income, cost as a percentage of total operating expenditure, or ability to achieve its strategic and business objectives;
 - (ii) Financial, reputational and operational impact on the LTC or significant business line;
 - (iii) Impact on the LTC's continuing ability to meet its obligations to its clients and counterparties in the event the service provider fails to provide the service or encounters a breach of confidentiality or security;
 - (iv) Impact of the arrangement on the LTC's ability to maintain strong internal controls and meet its legal and regulatory requirements;
 - (v) Risk to security, confidentiality and integrity of its client information;
 - (vi) Interdependence of the activity to be undertaken through ESA with other activities of the LTC;
 - (vii) Aggregate exposure to a particular service provider in cases where the LTC, including any GSS, place multiple activities under the ESA with the same service provider;
 - (viii) Impact to the LTC's business continuity, including the degree of difficulty, cost and time required to select an alternative service provider or to bring the ESA in-house; and
 - (ix) Complexity of the ESA and number of parties involved, in particular where the service is sub-contracted or where more than one service provider collaborates to deliver an end-to-end solution.

2. For the avoidance of doubt, an assessment of the factors in paragraph 1 of this Appendix shall be made independent of mitigating controls by the LTC to reduce the impact of a potential failure by a service provider in meeting the obligations under an ESA.

APPENDIX IV EXAMPLES OF ARRANGEMENTS EXCLUDED FROM THE SCOPE OF ESA REQUIREMENTS

1. For the purpose of the Guidelines, the following principles shall apply in determining arrangements that are excluded from the ESA requirements:
 - (i) Procurement of services²²;
 - (ii) Leveraging common industry-wide infrastructure driven by regulatory requirements; or
 - (iii) Involvement of third parties due to legal requirements.

2. The following arrangements are excluded from the scope of the Guidelines:
 - (i) Appointment of LTC as Labuan Managed Trust Company Manager²³;
 - (ii) Independent audit assessment;
 - (iii) Independent consultancy service (e.g. legal opinions and tax planning);
 - (iv) Repair, support and maintenance of tangible assets;
 - (v) Purchase or subscription of commercially available software;
 - (vi) Maintenance and support of licensed software;
 - (vii) Marketing and advertising;
 - (viii) Telecommunication, postal and courier services;
 - (ix) Physical security, premise access and guarding services; and
 - (x) Cleaning and event services.

Question 7:

Please provide any additional examples based on LTC's practices or arrangements that should be excluded from the ESA activities.

²² Where the LTC acquires services, goods or utilities which are not expected to be performed by the LTC.

²³ This is applicable only to Labuan managed trust companies.

APPENDIX V REGISTER OF EXTERNAL SERVICE ARRANGEMENTS

1. The register must, at a minimum, include the following information for all ESAs including GSS:
 - (i) Date of last update of the register;
 - (ii) Name, registered address, country of registration and corporate registration number of the service provider;
 - (iii) Clear identification of any service provider that is a GSS of the LTC;
 - (iv) Whether the service provider is licensed, registered or supervised by a regulatory authority;
 - (v) A brief description of the services/activities undertaken;
 - (vi) Date of first commencement of arrangement, current date of appointment and expiry/renewal date;
 - (vii) The locations (e.g. city and country) where the activity is undertaken by the service provider, including where information is processed or stored, and back-up locations;
 - (viii) Where an arrangement involves the use of cloud service provider, the nature of data held and locations where such data is stored; and
 - (ix) Where there are incidents involving data security breaches, a brief description of the incidents including the date of incident and corrective actions taken by the service provider.