

FREQUENTLY ASKED QUESTIONS

GUIDELINES ON THE ESTABLISHMENTS OF MONEY BROKING BUSINESS IN LABUAN IBFC

1. Is there a transition period for existing licenced Labuan money broker to comply with the new requirements under the revised Guidelines?

Yes. Labuan money brokers licensed prior to the issuance of the revised Guidelines dated 9 September 2024 are granted a two-year transition period to comply with the revised Guidelines. Specifically, concerning the new paid-up capital requirement outlined in paragraph 7.1 of the Guidelines, Labuan money brokers are expected to increase their paid-up capital by at least 50% of their current amount within one year from the effective date of the revised Guidelines. This progressive expectation is designed to help entities meet the new standards in a manageable timeframe.

2. What should a Labuan money broker do if foresee difficulties in meeting the compliance deadlines within the transitional period?

If a Labuan money broker anticipates challenges in meeting the compliance deadlines during the transitional period, they should proactively seek an extension from Labuan FSA. To facilitate this, the entity must submit a detailed request outlining the specific issues they are facing and the measures they are taking to address them. Each extension request will be evaluated on a case-by-case basis, and approval will depend on the merits of the justification provided.

3. What should a Labuan money broker do if found undertaking business activity beyond what is permissible under the licence?

If a Labuan money broker is found to be engaging in activities beyond the scope of their license, i.e. business of arranging transactions between buyers and sellers in the money or foreign exchange markets as an intermediary, they should promptly consult with Labuan FSA to discuss the situation and explore the appropriate licensing options during the transitional period. This proactive engagement will help ensure compliance with the Guidelines and avoid any regulatory issues.

4. Referring to Paragraph 5.0 of the Guidelines, how does Labuan FSA evaluate an applicant's financial resources to ensure they are adequate?

Labuan FSA evaluates an applicant's financial resources by ensuring they have sufficient funds to inject at least RM1.0 million in capital. Additionally, the applicant must demonstrate the ability to continuously support their money broking operations throughout the licensing period. Specifically, shareholders are expected to maintain an additional 20% in reserve funds to offset any potential shortfall if the capital falls below the minimum requirement.

5. What is the regulatory expectation regarding the outsourcing arrangements to be undertaken by Labuan money brokers?

Labuan FSA expects that any outsourcing arrangements would not result in any delegation or dilution of management oversight and responsibilities as well as obligations of the Labuan money brokers towards their clients be compromised. This may include ensuring robust due diligence processes, maintaining effective oversight and governance over the outsourcing arrangements and implementing comprehensive risk management controls. As guidance, Labuan money brokers may refer to the *Guidelines on External Service Arrangements for Labuan Financial Institutions* as best practices in managing the risks arising from the outsourcing arrangement.

6. Can a Labuan money broker onboard retail investor?

Paragraph 7.6 of the Guidelines specifies that the Labuan money broking license is intended for serving institutional investors and high-net-worth individuals, as defined in Appendix II of the Guidelines. Therefore, it is expected that Labuan money brokers maintain a client portfolio where institutional investors and high-net-worth individuals comprise the majority. Specifically, retail clients should make up less than half of the portfolio, ensuring that the focus remains on the intended client base.

7. Can a Labuan money brokers engage with Malaysian and transact its business in Ringgit Currency?

The Labuan money broker must observe the regulatory requirements of the jurisdictions where it is authorised to operate which includes the Malaysian Foreign Exchange Administration rules, at all times. In this regard, the Labuan money broker is required to obtain the necessary approvals from the governing authorities in the domestic markets prior to commencing its business in those respective markets and shall provide a copy of the said approval to Labuan FSA.

8. Are Labuan money broker allowed to establish its physical office other than in Labuan?

Yes. The Labuan money broker may establish a marketing office outside of Labuan and observe the requirements under the Guidelines on the Establishment of Labuan Marketing Office.

9. Can a Labuan money broker satisfy the disclosure requirements under Paragraph 9.7(ii) by publishing the roles and responsibilities of introducing brokers (IBs) and referral partners on its website, while offering a verification mechanism where clients can submit inquiries to confirm whether a particular IB is authorised?

Yes, as it aligns with the intent of Paragraph 9.7(ii), which is to ensure transparency and provide clients with access to information on authorised IBs.

As long as the verification mechanism is clearly communicated and enables clients to confirm the authorisation status of an IB upon request, it would be deemed sufficient.

10. Paragraph 7.15 of the Guidelines requires a Labuan money broker to obtain the necessary approvals from the relevant authorities in the jurisdictions where it operates and submit a copy of such approvals to Labuan FSA. In situation where formal authorisation cannot be obtained, such as where no similar licensing regime exists or certain products are restricted, would a legal opinion confirming the broker's ability to operate in that jurisdiction be accepted?

Where a jurisdiction does not provide a licensing framework for similar business activity, but does not restrict its residents from accessing such services from foreign providers, Labuan FSA may consider legal opinions from law firms that are duly registered or licensed to practise in the relevant jurisdiction and recognised for their expertise in the relevant area of law. Such legal opinions must explicitly confirm:

- a) The regulatory position – That money broking activities as defined under Sections 90 and 92 of Labuan Financial Services and Securities Act 2010 and Sections 65 and 67 of Labuan Islamic Financial Services and Securities Act 2010 are not subject to local licensing or registration requirements in the jurisdiction.
- b) Market accessibility – That there are no legal or regulatory restrictions preventing residents of the jurisdiction from engaging with foreign money broking platforms (including the Labuan money broking platform).

The legal opinion must be duly submitted to Labuan FSA. Labuan money brokers remain responsible for ongoing compliance with the laws and regulations of all markets in which they operate and should monitor any changes that may affect their ability to lawfully provide services to clients in those jurisdictions.