

## GUIDELINES ON THE ESTABLISHMENT OF LABUAN INTERNATIONAL COMMODITY TRADING COMPANY UNDER THE GLOBAL INCENTIVES FOR TRADING PROGRAMME

### 1.0 Introduction

- 1.1 The Global Incentives for Trading (GIFT) programme was established to encourage companies to use Malaysia as an international trading base for specified types of commodities to be conducted on in, from or through Labuan.
- 1.2 The Guidelines sets out the parameters relating to the establishment and operations of the LITC under the GIFT programme.

### 2.0 Applicability

- 2.1 The Guidelines is applicable to all Labuan companies licensed as LITC under Section 86 of the *Labuan Financial Services and Securities Act 2010 (LFSSA)* to conduct international commodity trading business in Labuan IBFC.

### 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 provisions of Section 92 LFSSA pertaining to the licensing and operational requirements of LITC.

### 4.0 Effective Date

- 4.1 The Guidelines shall come into effect **immediately** and would remain effective and applicable unless otherwise amended or revoked.
- 4.2 Subsequently, with the issuance of the above, the following guidelines or directive have been repealed:
  - 4.2.1 Guidelines on the Establishment of LITC under the GIFT Programme issued on 8 March 2018; and

- 4.2.2 Directive on LITC trading in non-petroleum and non-petroleum related commodities dated 8 March 2018.

## **5.0 Global Incentives For Trading Programme**

- 5.1 The GIFT programme is a framework of incentives for traders that are undertaking the trading of the following physical products and related derivatives by using Malaysia as their international trading base to undertake international commodity trading business via Labuan IBFC.
- 5.2 Any person intending to establish a Labuan entity to undertake such international commodity trading business shall apply for LITC licensee of licensees under GIFT Programme from Labuan FSA.
- 5.3 The specified trading of physical products and related derivatives are as follows:
- 5.3.1 Petroleum and petroleum-related products including liquefied natural gas;
  - 5.3.2 Minerals;
  - 5.3.3 Agriculture products;
  - 5.3.4 Refined raw materials;
  - 5.3.5 Chemicals;
  - 5.3.6 Base minerals; and
  - 5.3.7 Coal

## **6.0 Operational Requirements**

- 6.1 In setting Malaysia as its trading base, the LITC is expected to have the following functions (but not limited to) in Malaysia:
- 6.1.1 Strategic management;
  - 6.1.2 Banking, finance and treasury management;
  - 6.1.3 Risk management;
  - 6.1.4 Market research and product portfolio development;
  - 6.1.5 Logistics management;
  - 6.1.6 Global procurement; or
  - 6.1.7 Marketing and sales planning.
- 6.2 The LITC must have sufficient capital or working funds that commensurate with its operations and activities.

- 6.3 The LITC must indicate clearly on its letterhead, stationery and other documents including signage containing its name that it is licensed as a “Labuan International Commodity Trading Company licensed by Labuan FSA”, together with its licence number.
- 6.4 The LITC is required to establish its operational office, which can be anywhere in Malaysia. The following details must be identified and provided to Labuan FSA prior to the commencement of business:
- 6.4.1 Principal Officer  
Name, designation and contact details such as telephone number and e-mail address of the officer that is in charge of the LITC.
- 6.4.2 Address of Operational Office  
To provide address and organisational structure (indicating its existing and proposed staff) to be stationed at its operational office.
- 6.5 The LITC must ensure that it establishes an adequate set of internal policies and controls for its operation, proper corporate governance, risk management and compliance frameworks in place. These need to be regularly reviewed to ensure that they remain appropriate, relevant and prudent
- 6.6 Ensure that the Principal Officer, Director(s) and Officer(s) responsible for the management of the company remain fit and proper persons at all times pursuant to Section 4 of LFSSA and the Guidelines on Fit and Proper Person Requirements issued by Labuan FSA.
- 6.7 Where LITC carries on business other than the one specified under paragraph 5.1, a separate set of accounts must be maintained.
- 6.8 The LITC is required to submit to Labuan FSA the following:
- 6.8.1 The completed Annual Update Submission Form latest by 15 January of each year (as per Appendix I); and
- 6.8.2 A copy of its audited financial statements within six (6) months after the close of each financial year.

- 6.9 Obtain prior approval from Labuan FSA on any new changes relating to the following:
- 6.9.1 Business plan;
  - 6.9.2 Principal Officer;
  - 6.9.3 Directorship; and
  - 6.9.4 Shareholding.
- 6.10 The LITC must comply with the following conditions after commencement of its business:
- 6.10.1 Achieve minimum annual turnover of USD50 million;
  - 6.10.2 Incur minimum annual business spending of RM3 million payable to Malaysian residents in Malaysian Ringgit; and
  - 6.10.3 Employ at least three professional traders that fulfill the following requirements:
    - (a) The Principal Officer or any person performing a senior management function who would be principally accountable for:
      - (i) making decisions that affect the whole, or a substantial part of the LITC business;
      - (ii) implementing and enforcing policies and strategies approved by the LITC's Board of Directors including Head of Department or any equivalent designated person; or
      - (iii) internal controls and processes of the LITC.
    - (b) These professional traders shall be involved in any one of the following areas:
      - (i) Trading;
      - (ii) Risk Management;
      - (iii) Procurement; or
      - (iv) Sales & Marketing.
    - (c) These professional traders shall be residents of Malaysia in a calendar year for the year of assessment under the Income Tax Act 1967 (ITA).
  - 6.10.4 The LITC is expected to comply with all the requirements of this Guidelines as well as the applicable laws, rules and regulations relevant to the LITC at all times. In addition, the LITC 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, where applicable

## **7.0 Annual Licence Fee**

- 7.1 The annual licence fee amounting to USD13,000, is payable to Labuan FSA upon the grant of licence and may be included as part of the qualifying expenses under paragraph 6.10.2.
- 7.2 The subsequent payment of annual fee is payable not later than 15 January of every year.

## **8.0 Submission of Application for Licence and Enquiries**

- 8.1 Any person intending to undertake Labuan international commodity trading business under the GIFT programme may apply to Labuan FSA for approval by submitting a completed *Application Form to Carry on Labuan International Commodity Trading Business* which is available in Labuan FSA's website at [www.labuanibfc.com](http://www.labuanibfc.com) together with a processing fee of USD350.
- 8.2 The licence application under the Guidelines should be submitted to:

Head of Authorisation and Licensing  
Labuan FSA  
17th Floor, Main Office Tower  
Financial Park Complex, Jalan Merdeka  
87000 Federal Territory of Labuan, Malaysia

- 8.3 Any request for additional information or clarification pertaining to the guidelines or licensing application may be directed to the following contact details:
- Telephone : +6 087 591 200  
Facsimile : +6 087 453 422 / 422 300  
Email : [bpu@labuanfsa.gov.my](mailto:bpu@labuanfsa.gov.my) (Guidelines)  
[licensing@labuanfsa.gov.my](mailto:licensing@labuanfsa.gov.my) (Licence application)

### **Labuan Financial Services Authority**

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