

GUIDELINES ON THE ESTABLISHMENT OF LABUAN INVESTMENT BANKING BUSINESS IN LABUAN IBFC

1.0 Introduction

- 1.1 The economic backdrop for the global banking sector is increasingly challenging due to the current trade-frictions, progressive regulatory reforms on banks and emergence of new market players. Amidst these challenges, the banking industry must evolve to continue serving the complex demands arising from the demographic shifts and far reaching effects of innovative technology.
- 1.2 In line with this evolution, Labuan FSA has revised the Guidelines to allow for qualified applicants to offer banking products and services in Labuan IBFC. The licensing of these new players with the necessary expertise or experience in financial and financial-related industry, coupled with good track record and sound financial performance is expected to add dynamism to the banking landscape including offering of affordable financial solutions for the underserved and unserved market segments.
- 1.3 The purpose of this Guidelines is to outline the application procedures, operational and regulatory requirements for Labuan companies or corporations that intend to undertake Labuan investment banking business¹ in Labuan International Business and Financial Centre (Labuan IBFC).

2.0 Applicability

- 2.1 The Guidelines is applicable to any person² licensed by Labuan Financial Services Authority (Labuan FSA), including new applicant that can meet the prescribed eligibility criteria, to carry on Labuan investment banking business pursuant to Section 87 of Labuan Financial Services and Securities Act 2010 (LFSSA) or Section 62 of Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).
- 2.2 The Guidelines should be read together with the requirements of the relevant Guidelines and Circulars including those listed under the **Appendix**.

¹ Including Islamic investment banking business.

² Refers to a Labuan company, foreign Labuan company or branch of a Malaysian bank.

3.0 Permissible Activities

3.1 Labuan investment banking business as defined under the LFSSA means the business of:

- (i) Providing credit facilities;
- (ii) Providing consultancy and advisory services relating to corporate and investment matters, including dealing in securities, or making and managing investments on behalf of any person;
- (iii) Undertaking foreign exchange transactions, interest rate swaps, dealings in derivative instruments or derivative financial instruments or any other similar risk management activities;
- (iv) Labuan Islamic investment banking business³;
- (v) Labuan financial business; or
- (vi) Such other business as the Authority, with the approval of the Minister, may specify.

3.2 Labuan investment banks are not allowed to accept deposit.

4.0 Eligibility

4.1 The following entities may apply for a Labuan investment banking licence in Labuan IBFC:

- (i) An investment bank or group engaging in investment banking activities licensed by the regulatory authority in the country of origin;
- (ii) A licensed bank or an established financial institution or financial service provider supervised by a competent regulatory authority;
- (iii) Any licensed institutions under Financial Services Act 2013 with prior approval of Bank Negara Malaysia; or
- (iv) Any corporations with the necessary expertise or experience in the financial or financial-related industry with at least 3 years good track records and sound financial performance.

³ In addition to standalone Labuan investment banks licensed under LFSSA, the applicant may also carry on Labuan Islamic investment business under the "Islamic window" set-up subject to prior approval of Labuan FSA pursuant to Section 62(2) of LFSSA.

- 4.2 In assessing an application to carry on Labuan investment banking business, the applicant is required to demonstrate the followings:
- (i) The sufficiency and soundness of the financial resources of the applicant as a key source of continuing financial support for the investment banking business;
 - (ii) A credible and viable business plan that sets out the approach to implement the proposed strategic business objectives or operations;
 - (iii) A set of robust internal policies and controls that commensurate with the business profile or risks; and
 - (iv) Board members and senior management that have the competency and experience to undertake the investment banking business.

5.0 Effective Date

- 5.1 The Guidelines shall come into effect immediately and would remain effective and applicable unless otherwise amended or revoked.
- 5.2 The following guidelines or circular are now repealed and replaced by this Guidelines:
- (i) Circular on Application for Labuan Investment Banking license dated 19 August 2013; and
 - (ii) Guidelines on Investment Banking Business dated 14 May 2019.
- 5.3 All approvals granted by Labuan FSA prior to the effective date of this Guidelines shall remain valid unless otherwise revoked.

6.0 Application Requirements

- 6.1 Submit a completed application form with the relevant supporting documents as stipulated in the Form LBB – Labuan Banking Business, which is downloadable at www.labuanibfc.com.
- 6.2 For applicant that is already regulated elsewhere, prior approval from its home supervisory authority may be required before applying for a Labuan investment banking licence or if so required by its constituent documents.
- 6.3 Notwithstanding the above, Labuan FSA may require additional information or documents to support the processing of the application.

7.0 Operational Requirements

- 7.1 Maintain a paid-up capital or working funds unimpaired by losses of a minimum of RM10 million. Labuan FSA may exercise its discretion to require additional capital or working funds to commensurate with the business operations of the bank, taking into account the risk profile as well as nature, scale, complexity and diversity of the Labuan investment banking business activities.
- 7.2 Comply with substantial activity requirements in Labuan as prescribed under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 (Substance Regulation) including establishing an operational office in Labuan.
- 7.3 Establish an adequate set of internal policies and controls for its operations, compliances, corporate governance and risk management at all times.
- 7.4 The name of Labuan investment bank must include the word “Investment Bank” as part of its name.
- 7.5 Obtain prior approval from Labuan FSA on the following matters:
- (i) Change of business plan;
 - (ii) Change of ten per centum or more of the shareholding⁴ of the bank;
 - (iii) Appointment of its board of directors⁴ and principal officer;
 - (iv) Establishment of office outside Labuan including the acquisition of subsidiary and establishment of a marketing office or co-located office;
 - (v) Reduction of paid-up capital⁵;
 - (vi) Use of external service provider; or
 - (vii) Change of name.
- 7.6 Notify Labuan FSA within 14 days pertaining to the following matters:
- (i) Resignation of directors and principal officer;
 - (ii) Change of place of business or office in Labuan;

⁴ For branch set-ups, only notification to Labuan FSA is required for the change of shareholding structure and appointment of its board of directors.

⁵ Not tantamount to reduction of amount lower than the prescribed minimum paid-up capital requirement and/or higher capital as imposed/determined by Labuan FSA, during the licence granted.

- (iii) Change to its constituent documents; or
 - (iv) Significant event that affects its going concern or reputation.
- 7.7 Appoint an internal and external auditor to carry out an audit of its accounts in respect of the business operations pursuant to Sections 173 and 174 of LFSSA and Sections 134 and 135 of LIFSSA as the case may be.
- 7.8 Ensure that the persons in control, directors and officers meet the fit and proper person requirements. It is also expected that the employees employed to transact in the investment banking business are competent and possess sound knowledge of the services to be offered.
- 7.9 Maintain adequate and proper records and books of accounts in Labuan. Its name, licence number must be clearly indicated on its letterhead, stationery and other documents.
- 7.10 In dealing with the residents approved by Bank Negara Malaysia and arranging a syndicated financing scheme to the residents company, the investment bank must ensure that the syndication as far as possible should involve the Labuan banking institutions in Labuan before involving other financial institution overseas.
- 7.11 Labuan Islamic investment banks are required to appoint an internal Shariah advisory board to ensure that its management and operation are in compliance with Shariah principles.
- 7.12 Comply with the applicable laws, rules and regulations relevant to the Labuan investment banking business, including relevant guidelines issued by Labuan FSA and other regulatory requirements of the jurisdictions where the Labuan investment bank is authorised to operate in as well as the Malaysian Foreign Exchange Administration rules (where applicable), at all times. In this regard, Labuan investment bank 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.
- 7.13 Comply with any other operational requirements as may be imposed by Labuan FSA from time to time.

8.0 Reporting Requirements

- 8.1 Labuan investment banks are required to submit one (1) hardcopy and one (1) soft copy of its audited financial statements within six (6) months after the closure of each financial year to:

Head of Supervision and Monitoring Unit
Labuan Financial Services Authority
17th Floor, Main Office Tower
Financial Park Complex, Jalan Merdeka
87000 Federal Territory of Labuan, Malaysia
(E-mail: sed@labuanfsa.gov.my)

- 8.2 Labuan FSA may request for additional statistics and information from the Labuan investment banks from time to time.

9.0 Annual Licence Fee

- 9.1 The annual licence fee payable for Labuan investment banks upon the grant of its licence is USD30,000.
- 9.2 The subsequent payment of annual licence fee is payable by 15 January of each year.

10.0 Submission of Application and Enquiries

- 10.1 The licence application for Labuan investment banking business is to be submitted to:

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

10.2 Any enquiries or clarification may be directed to the following contact details:

Telephone no. : 087 591 200

E-mail : bpu@labuanfsa.gov.my (Guidelines)

licensing@labuanfsa.gov.my (Licence application)

Labuan Financial Services Authority

2 March 2020 (Revised)

14 May 2019

18 December 2015

2 October 2009

List of Relevant Guidelines and Circulars

The following are the list of Guidelines/Directives/Circulars that are applicable to Labuan investment banks (including Islamic):

- 1) Guidelines on Fit and Proper Person Requirements;
- 2) Guidelines on Compliance Function for Labuan Licensed Entities;
- 3) Directive on Financial Reporting Standards for Labuan Financial Institutions;
- 4) Circular on Financial Reporting Standards for Labuan Financial Institutions;
- 5) Directive on Accounts and Record-Keeping Requirements for Labuan Entities;
- 6) Guidelines on External Auditor of Labuan Financial Institutions;
- 7) Guidelines on Shariah Governance for Labuan Islamic Financial Institutions;
- 8) Directive on Islamic Financial Business in Labuan IBFC;
- 9) Guidelines on Corporate Governance for Labuan Banks and Labuan (Re)Insurers;
- 10) Guidelines on Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) for Banking Sector;
- 11) Guidelines on the Establishment of Marketing Office;
- 12) Guideline on Co-location of Labuan Bank;
- 13) Banking Capital Adequacy Framework: Guidelines on Capital Components;
- 14) Banking Capital Adequacy Framework: Guidelines on Risk Weighted Assets;
- 15) Guidelines on Minimum Audit Standards for Internal Auditors of Labuan Banks;
- 16) Guidelines on Single Counterparty Exposure Limit for Labuan Banks;
- 17) Guidelines on Credit Transactions and Exposures with Connected Parties for Labuan Banks; and
- 18) Guidelines on Classification and Impairment Provisions for Loans/Financing for Labuan Banks.

Note: The above lists are not exhaustive and may be amended from time to time.