

# LABUAN IBFC – ASIA PACIFIC’S LEADING MIDSHORE IBFC



## INTRODUCTION

Labuan International Business and Financial Centre (IBFC), located in Malaysia is strategically located in the heart of the Asia Pacific region, sharing a common time zone with many major Asian cities, complementing the financial centres of Hong Kong, Singapore and Shanghai.

Its regulator, Labuan Financial Services Authority (Labuan FSA) promotes a robust, modern and internationally recognised regulatory regime.

Labuan IBFC boasts Asia’s widest range of business and investment structures for cross border transactions, business dealings and wealth management needs.

It also offers straightforward and simple tax framework and with access to Malaysia’s extensive double tax treaty network with more than 70 countries.

Malaysia is a leader in Islamic finance and Labuan IBFC is the pioneer amongst international centres by having the world’s first omnibus legislation governing Islamic finance transactions in an international business and financial centre.

## WHERE IS LABUAN?



- Officially the Federal Territory of Labuan is a federal territory of Malaysia
- Off the coast of Sabah, East Malaysia

## LABUAN IBFC TAX REGULATORY

Labuan Business Activity Tax Act 1990 (“LBATA”) governs the imposition, assessment and collection of tax on a Labuan business activity carried on by a Labuan entity in, from or through Labuan. Only Labuan entities carrying on a Labuan business activity are chargeable to tax under the LBATA.

“Labuan business activity” means:

- a Labuan trading or a Labuan non-trading activity carried out by a Labuan entity;
- activities carried on in, from or through Labuan;
- business currency other than Malaysian currency;
- activities carried out with non-resident or with another Labuan entity

“Resident” means:

- in relation to a natural person, a citizen or permanent resident of Malaysia; or
- in relation to any other person, a person who has established a place of business, and is operating in Malaysia
- and includes person who is declared to be a resident pursuant to s.43 of the Malaysian Exchange Control Act 1953

## LABUAN IBFC PRODUCTS & OFFERINGS

Labuan IBFC's comprehensive legal framework provides for a wide range of legal entities and varies choices of products & offerings.

NON-LICENSE	LICENSE
<ul style="list-style-type: none"> <li>● Holding Company</li> <li>● Trading Company</li> <li>● Company for any lawful purpose and activities</li> <li>● Special Purpose Vehicle</li> <li>● Shipping &amp; Ship Registry</li> <li>● Private Fund</li> <li>● Partnership</li> <li>● Private Trust Company</li> <li>● Foundation</li> <li>● Trust</li> </ul>	<ul style="list-style-type: none"> <li>● Banking</li> <li>● Insurance</li> <li>● Leasing</li> <li>● Public Funds</li> <li>● LITC under GIFT programme</li> <li>● Securities Licensee</li> <li>● Money Broking</li> <li>● Factoring</li> <li>● Protected Cell Company</li> <li>● Trust Companies</li> </ul>

## LABUAN NON-TRADING ACTIVITY

- Zero tax

*"Labuan non-trading activity" means an activity relating to the holding of investments in securities, stock, shares, loans, deposits or any other properties by a Labuan entity on its own behalf.*

## LABUAN TRADING ACTIVITY

- 3% of audited net profits OR flat rate of MYR20,000 per year of assessment, upon election annually

*"Labuan trading activity" includes banking, insurance, trading, management, licensing, shipping operations or any other activity which is not a Labuan non-trading activity.*

## LABUAN TRADING & NON-TRADING ACTIVITIES

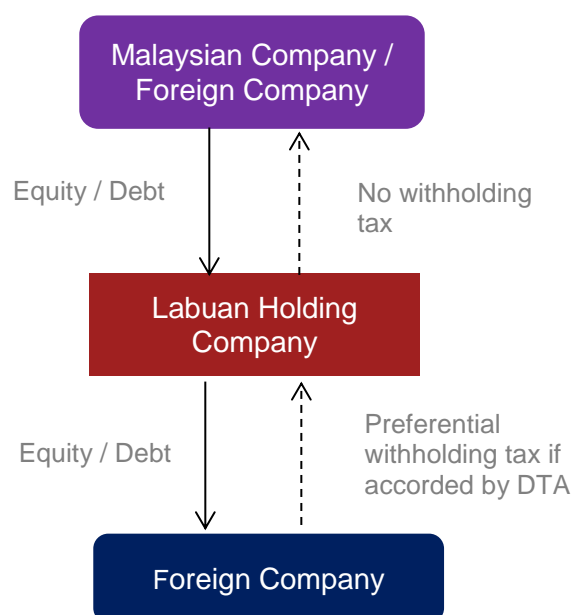
- 3% of audited net profits OR flat rate of MYR20,000 per year of assessment, upon election annually

## NON-LABUAN BUSINESS ACTIVITIES

- Subject to provisions of the Malaysian Income Tax Act, 1967

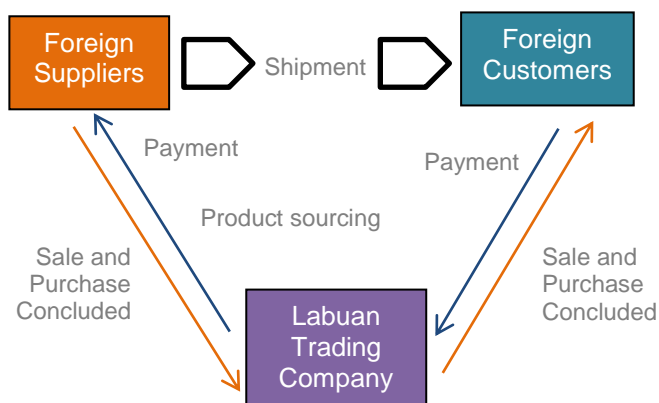
## LABUAN IBFC POPULAR USES

### LABUAN INVESTMENT HOLDING



- Income from investments received by Labuan Holding Company is not subject to tax in Labuan.
- No Malaysian withholding tax on payments of dividends, interest, service fees and royalties by Labuan Holding Company to non-residents,
- No capital gains tax / inheritance tax in Labuan.
- No stamp duties on instruments executed by Labuan Holding Company.
- Liberal exchange control environment in Labuan.
- Access to benefits under Malaysia's DTAs network.

## LABUAN INTERNATIONAL TRADING



### Commercial substance in Labuan

#### Business Purpose

The establishment of the company or arrangement of transaction structure is not aimed solely at utilizing tax treaty. It is also not to be set up as a “Conduit company” for purpose of avoiding tax or transferring profits.

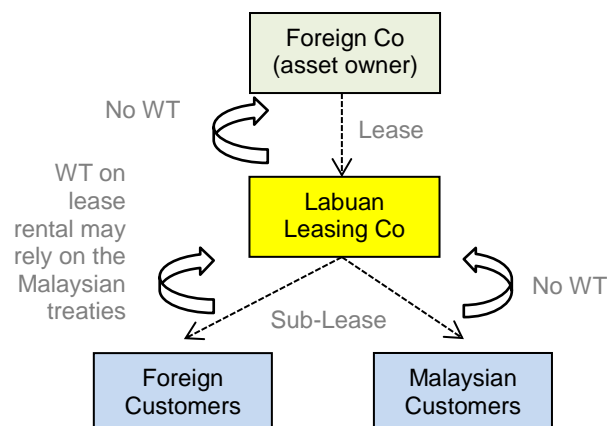
#### Substance

Examples of commercial substance:

- Maintain physical business office in Labuan.
- Board meetings held in Labuan from time to time where key business decisions are being made.
- Principal bank account maintained in Labuan.
- Accounting, secretarial and other compliance activities of the Labuan Company are carried out in the island.
- Operational substance – Employees, directors or management team performing various trade functions eg. Procurement, supply chain, finance, accounting and other activities relating to trade, are being performed out from the Labuan office.
- Labuan Company to incur relevant costs eg. Payroll, rental etc.

## LABUAN LEASING

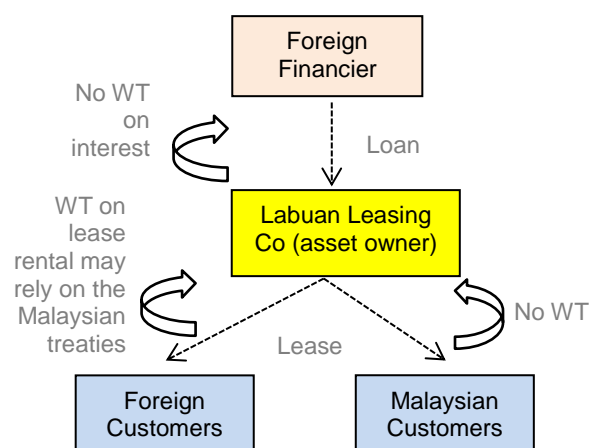
### Example 1



Benefits:

- The Labuan Leasing Co is taxed at RM20,000/- or 3% of net audited profits
- No withholding tax on lease rental received from Malaysian Customers
- No withholding tax on lease rental payable by Labuan Leasing Co to Foreign Co
- Access to benefits under Malaysia’s DTAs to reduce withholding tax on lease rental received by Labuan Leasing Co from Foreign Customers
- Liberal exchange control environment in Labuan

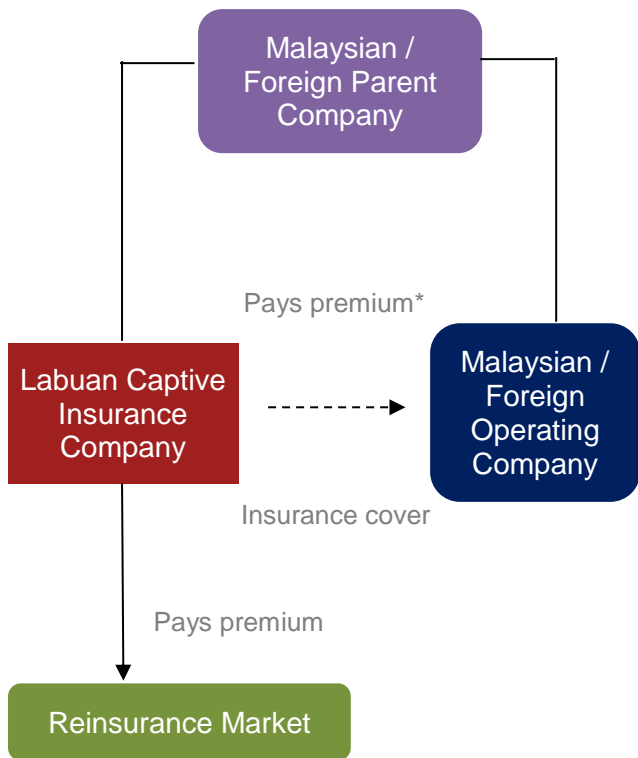
### Example 2



Benefits:

- The Labuan Leasing Co is taxed at RM20,000/- or 3% of net audited profits
- No withholding tax on lease rental received from Malaysian Customers
- No withholding tax on interest payment payable by Labuan Leasing Co to Foreign Financier
- Access to benefits under Malaysia’s DTAs to reduce withholding tax on lease rental received by Labuan Leasing Co from Foreign Customers
- Liberal exchange control environment in Labuan

## LABUAN CAPTIVE INSURANCE

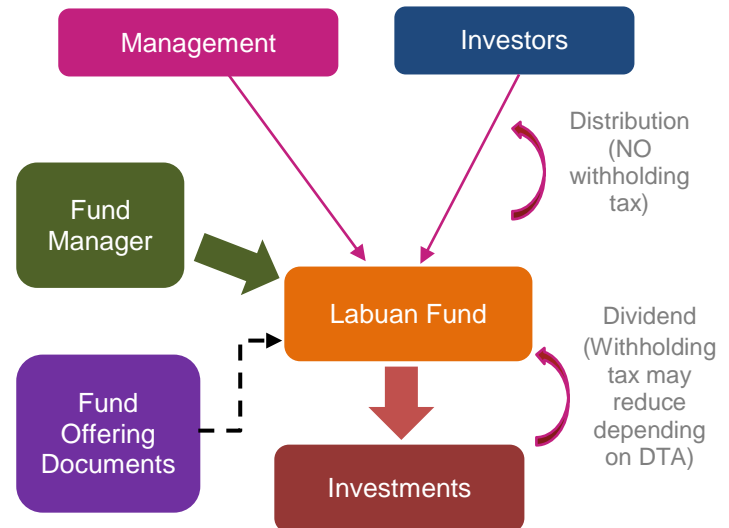


*\* Fronting company may be required for certain Malaysian captives*

A Labuan captive insurance business means insurance business where the insured party is a related / associate corporation of the Labuan insurer. 3rd party risks may also be insured subject to approval from Labuan FSA. Captives may be established under a conventional insurance structure or under a Takaful structure.

- Minimum tax upon election annually by Labuan captive insurance company of 3% of net audited profits OR flat rate of RM20,000
- No Malaysian withholding tax on payments of dividends and interest by Labuan captive insurance company to non-residents
- No capital gains tax / inheritance tax in Labuan
- No stamp duties
- Premiums on insurance and reinsurance through Labuan IBFC should be 100% deductible
- Liberal exchange control environment in Labuan
- Access to benefits under Malaysia's DTAs network
- Manage group's exposure to insurable risks
- Reduce group's insurance costs

## LABUAN PRIVATE FUND



### ● MAXIMUM 50 INVESTORS

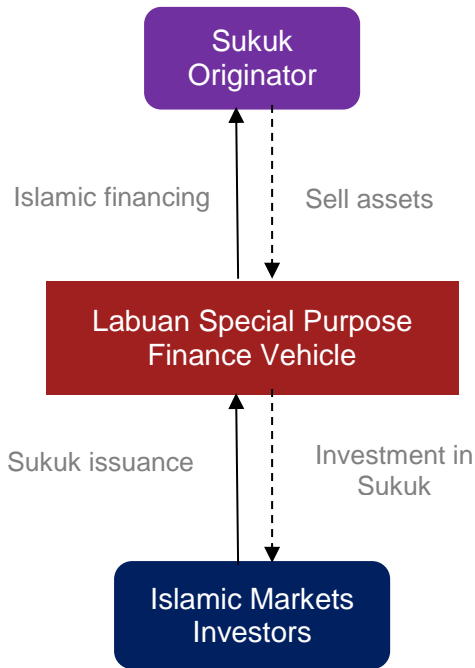
First time investment by each investor is NOT LESS than RM 250,000 (equivalent in Non-Ringgit); OR

### ● UNLIMITED NUMBER OF INVESTORS

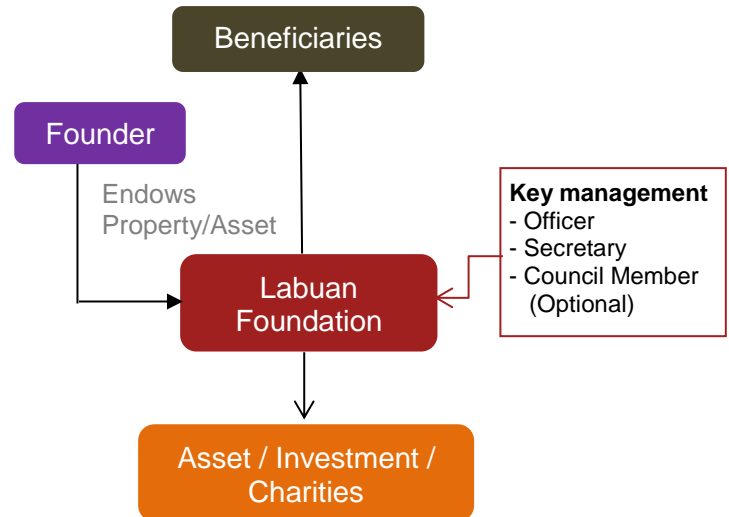
First time investment by each investor is NOT LESS RM 500,000 (equivalent in Non-Ringgit)

- Not offered to general public
- Fund Manager need not be licenced
- No approval required from Labuan FSA
- Notification to Labuan FSA prior to launching of fund by submission of fund offering documents

## LABUAN ISLAMIC FINANCE



## LABUAN FOUNDATION



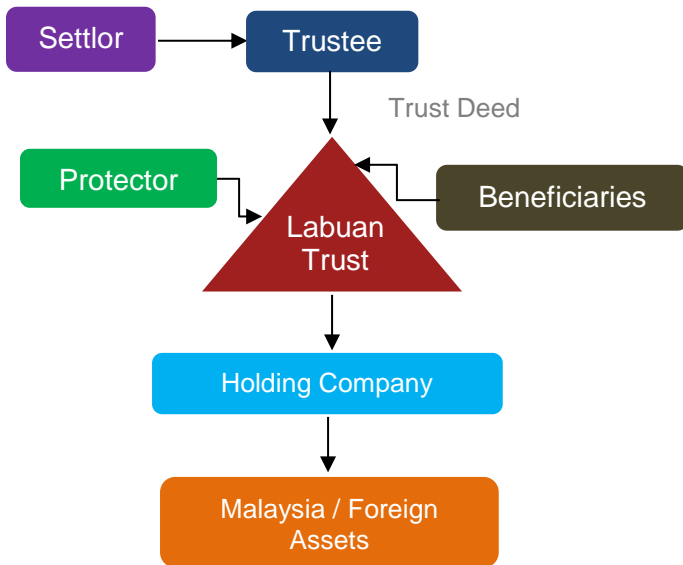
**NOTE:** Assets once transferred, are legally owned by the foundation. The Founder may, if he wishes to, continue to have control over their assets and businesses by acting as a council member of the foundation

- The range of Islamic financial services available in Labuan IBFC include banking, insurance, sukuk issuance, protected cell companies, limited partnerships and limited liability partners, private trust companies, trusts and foundations. All of which can be structured on Shariah-compliant principles.
- Labuan IBFC collaborates with the Malaysia International Islamic Financial Centre (MFC) initiative, making it well placed to promote Islamic financial products and services to international audience.
- Minimum tax under LBATA on the Labuan Business Activity carried out by the Labuan Special Purpose Vehicle.
- No Malaysian withholding tax on payments of dividends, interests and royalties to non-residents investors.
- No capital gains tax, wealth tax, inheritance tax and no stamp duty.
- Liberal exchange control environment in Labuan.

A foundation is a hybrid between a company (separate legal entity, hold property in own name, can transact in own name) and a trust (confidentiality).

- Malaysian / Foreigners with Malaysian / International property may endowed them into a Labuan Foundation
- Founder has exclusive control over how the Foundation is structured
- Confidentiality
- May be used for charitable or private beneficiary (family) purposes
- Income from investments received by Labuan Company and Labuan Foundation enjoy minimum tax under the LBATA
- No withholding tax on payments made by Labuan Foundation
- No capital gains tax / inheritance tax in Labuan
- Suitable for wealth creation & accumulation, succession planning and asset protection

## LABUAN TRUST



**NOTE:** The settlor ceases to be the owner of the assets transferred, the trustee becomes the legal owner of the trust fund and the beneficiaries are the beneficial owners

Type of Trusts in Labuan IBFC:

- (a) CHARITABLE TRUST
- (b) PURPOSE TRUST
- (c) SPECIAL TRUST

- Income from investments received by Labuan Company and Labuan Trust enjoy minimum tax under the LBATA.
- Income from Malaysian properties is subject to tax under the Malaysian Income Tax Act 1967.
- No Malaysian withholding tax on payments made by Labuan Company and Labuan Trust.
- No capital gains tax / inheritance tax in Labuan.
- Suitable for wealth creation & accumulation, succession planning, asset protection, dynasty planning.
- Liberal exchange control environment in Labuan.
- Duration – Perpetual / Fixed Term.
- Confidentiality.

## WHY LABUAN INTERNATIONAL BUSINESS AND FINANCIAL CENTRE (IBFC)

- Strategically located in Malaysia, sharing common time zone with major Asian cities, complementing financial centres of Hong Kong, Singapore & Shanghai.
- A leading business and financial centre in Asia Pacific with growing reputation and track record.
- Striking an ideal balance between client confidentiality and compliance with international best standards.
- Robust and well-balanced legal and regulatory framework.
- A tax-efficient jurisdiction to facilitate businesses.
- Access to Malaysia's double taxation treaty network with more than 70 countries.
- A complete range of solutions for business and investment structures for cross border transactions, business dealings and wealth management needs

## TAX EXEMPTION

- **Stamp duty on all instruments executed by Labuan entity** in connection with Labuan business activity, including M&A and transfer of shares instruments in Labuan entity.
- **Dividends received from Labuan entities.**
- **Distributions received from Labuan trusts and foundations** by the beneficiaries.
- **Distributions of profits** by Labuan partnerships.
- **Royalties** received from a Labuan entity by a non-resident person or another Labuan entity.
- **Interest received** from a Labuan entity by another Labuan entity, resident or non-resident person (other than interest accruing to a business carried on by a non-resident person in Malaysia where that non-resident person is licensed to carry on business under the Malaysian Banking and Financial Institutions Act 1989, Islamic Banking Act 1983, Insurance Act 1996 or Takaful Act 1984).

## TAX INCENTIVES

Applicable up to year of assessment 2020:

- Tax exemption on **directors' fees received by a non-Malaysian citizen** as director of a Labuan entity.
- Tax exemption on **50% of gross income received by an individual non-Malaysian citizen from exercising an employment in a managerial capacity** with a Labuan entity in Labuan, co-located office or marketing office.
- Tax exemption on **50% of gross housing and Labuan Territory allowances received by Malaysian citizen from exercising an employment in Labuan** with a Labuan entity.
- Tax exemption on **65% of the statutory income of any person providing qualifying professional services** eg. legal, accounting, financial and secretarial services, rendered in Labuan to a Labuan entity.

## OTHER ATTRACTIONS OF LABUAN IBFC

- **NO** Withholding Tax
- **NO** Capital Gains Tax
- **NO** Inheritance Tax
- **NO** Indirect Tax
- **NO** VAT / goods and services tax (GST)
- **NO** import duty / sales tax
- **NO** exchange control

## ABOUT JTC KENSINGTON

**JTC Kensington** is the brand name of Kensington Trust Group, a part-owned associate of JTC, offering trust, fiduciary and corporate services and fund administration.

**JTC** is an independent, award-winning provider of fund, corporate and private wealth services to institutional and private clients. Established in 1987, we now have around 600 people globally, with assets under administration totalling US\$85billion.

Our independence and shared ownership culture mean we all share the same priority: the best interests of our clients.

## WHAT MAKES US DIFFERENT?

**We value shared ownership.** We operate around the principle that if our people have a stake in the business, they will do a better job for our clients.

**We value relationships.** We aim to work with clients who share our belief in the importance of building strong relationships over time.

**We invest in our people.** Over 70% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

**We embrace technology.** Our market-leading systems and operating platform are robust, powerful and flexible.

## JTC KENSINGTON – KEY CONTACTS

If our philosophy, approach and commitment to service are of interest we would love to hear from you.



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