

LABUAN INTERNATIONAL COMMODITY TRADING COMPANY

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.

On 17 April 2020, the Labuan Financial Services Authority (“**Labuan FSA**”) issued a revised Guidelines on the establishment of Labuan International Commodity Trading Company (“**LITC**”) under the **GIFT** programme setting out the parameters relating to the establishment and operation of the LITC.

Application for license

Any person intending to undertake Labuan international commodity trading business under the GIFT programme may submit an application to Labuan FSA. Upon receiving approval from the Labuan FSA, the applicant is required to establish a LITC.

Kensington Trust Labuan Limited is a licensed trust company in Labuan and may assist you with application for LITC, establishment and administration of your LITC.

Global Incentives for Trading programme

The GIFT programme is a framework of incentives for traders that are undertaking the trading of the following physical products and related derivatives, and use Malaysia as their international trading base to undertake international commodity trading business in Labuan IBFC.

- > Petroleum and petroleum-related products including liquefied natural gas (LNG)
- > Minerals
- > Agriculture products
- > Refined raw materials
- > Chemicals
- > Base minerals
- > Coal

In setting Malaysia as its trading base, LITC is expected to have some or all of the following functions (but not limited to) in Malaysia:-

- > Strategic management;
- > Banking, finance and treasury management;
- > Risk management;
- > Market research and product portfolio development;
- > Logistics management;
- > Global procurement; or
- > Marketing and sales planning.

Operational requirements

- > Sufficient capital or working funds that commensurate with its operations and activities.
- > Establish its operational office, which can be anywhere in Malaysia but there will be requirements to comply with Substance in Labuan. Please read below on Substance Requirements.
- > Business is conducted with both corporate governance and risk management & compliance frameworks in place.
- > Principal Officer, Director(s) and Officer(s) responsible for the management of the company are fit and proper persons.
- > Prior approval from Labuan FSA is required on any new changes relating to the business plan, Principal Officer, Directorship and Shareholding
- > Appoint an approved auditor in Labuan.

Submission to Labuan FSA

- > Annual update submission form latest by 15 January of each year; and
- > A copy of its audited financial statements within six (6) months after the close of each financial year.

Fees to Labuan FSA

- > License processing fee: USD350 (one-off)
- > Annual license fee: USD13,000
The annual license fee is payable when the license is approved by Labuan FSA and remains valid until 31 December of the year of approval. Subsequent payment of annual fee is payable not later than 15 January of every year.



Post-licensing requirements

LITC must comply with the following conditions after the granting of its licence and commencement of its business:

- > Achieve minimum annual turnover of USD50 million;
- > Incur minimum annual business spending of RM3 million payable to Malaysian residents in Malaysian Ringgit; and
- > Employ at least three professional traders that fulfil the following requirements:
 - (a) A Principal Officer or any person performing a senior management function.
 - (b) Shall be involved in any one of the following areas:-
 - (i) Trading;
 - (ii) Risk Management;
 - (iii) Procurement; or
 - (iv) Sales & Marketing.
 - (c) Shall be residents of Malaysia in a calendar year for the year of assessment under the Income Tax Act 1967 (ITA).

Labuan IBFC taxation system

- > Labuan Business Activity Tax Act 1990 (“**LBATA**”) governs the imposition, assessment and collection of tax on a Labuan business activity carried on in, from or through Labuan.
- > Labuan entities that carry on a **non-Labuan business activity** are subject to the provisions of the Malaysian Income Tax Act, 1967 (ITA).
- > “Labuan business activity” means:
 - > a Labuan trading or a Labuan non-trading activity carried on in, from or through Labuan,
 - > excluding any activity which is an offence under any written law.

Substance Requirements under LBATA (with effect from 1st January 2019)

- > Pursuant to section 2B(1) (b) of LBATA, the Labuan entities shall for the purpose of the Labuan business activity, have :-
 - (i) an adequate number of full time employees in Labuan; and
 - (ii) an adequate amount of annual operating expenditure in Labuan

as prescribed by the Minister by regulations made under this Act.
- > Section 2B (1A) of LBATA further provides that a Labuan entity carrying on a Labuan business activity which fails to comply with regulations made under subsection (1) above for a basis period for a year of assessment shall be charged to tax at the rate of twenty four per cent (24%) upon its chargeable profits for that year of assessment.

To benefit under LBATA, a LITC will need to comply with the Substance Requirements as per the P.U.(A) 482 (Requirements for LITC Regulations 2021) in the following manner :-

- > For the period of 1 January 2021 onwards :
 - (a) Employ at least (3) three full-time employees including at least two (2) of them are full-time employees in its business operational office in Labuan in a group of companies, and
 - (b) Annual operating expenditure of at least RM3,000,000 in Malaysia including at least RM100,000 is incurred in Labuan for each company.
 - (c) If the LITC has more than five (5) related companies to carry on the qualifying activity, the LITC shall also have additional one (1) full-time employee in its business operational office in Labuan for every addition of up to five (5) related companies in a group of companies.

Dealings with resident

All LITC companies are allowed to conduct transactions with Residents of Malaysia in Ringgit Malaysia effective from 1 January 2019.

“Resident” here means:

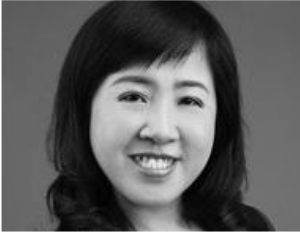
- > in relation to a natural person, a citizen or permanent resident of Malaysia; or
- > in relation to any other person, a person who has established a place of business, and is operating in Malaysia.
- > and includes person who is declared to be a resident pursuant to paragraph 214(6)(a) of the Financial Services Act 2013 and paragraph 225(6)(a) of the Islamic Financial Services Act 2013.

Attraction of GIFT programme

- > Corporate tax rate of 3% of audited chargeable profits
- > Stamp duty exemption on all instruments for Labuan business activities.
- > Tax exemption on dividends received by or from the LITC.
- > Operational cost in Malaysia is comparatively lower than in other commodities hubs across the world.
- > World class storage facilities in Malaysia.



KEY CONTACTS



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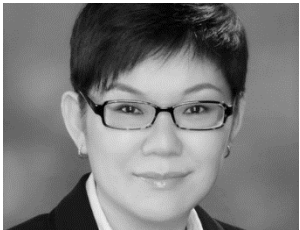
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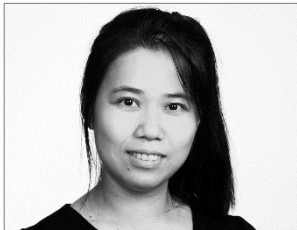
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Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

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