



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.

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, outlining the parameters relating to the establishment and operation of the LITC on 17 April 2020.

License Application

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

JTC Kensington is a licensed trust company in Labuan and may assist you with the application for approval to establish a LITC, and subsequently, administering your LITC.

Global Incentives for Trading programme

The GIFT programme serves as a framework of incentives for traders engaged in the trading of the following specified physical commodities and related derivatives, using Malaysia as their international trading base to conduct international commodity trading activities through Labuan IBFC: -

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

When using Malaysia as its trading base, LITC is expected to undertake 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 size of operations and activities.
- > Establish an operational office, which can be anywhere in Malaysia but there will be economic substance requirements to be complied in Labuan. Please read below on Substance Requirements under LBATA.
- > 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 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 audited financial statements within six (6) months after the close of each financial year.

Fees Payable to Labuan FSA

- > **License processing fee (one-off): USD500**
- > **Annual license fee: USD13,000**
[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

Upon the granting of license and commencement of business, a LITC is required to comply with the following conditions:

- > **Annual Turnover** - Achieve a minimum of USD50 million;
- > **Business Spending** - Incur minimum annual spending of RM3 million payable to Malaysian residents in Malaysian Ringgit; and
- > **Employment** - Employ at least three professional traders who meet the following criteria: -
 - (a) Shall be a designated Principal Officer or any person principally accountable to perform 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

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

- (a) Employ at least (3) three fit & proper 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) fit and proper 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 net audited chargeable profits
- > Stamp duty exemption on all instruments for Labuan business activities, subject to compliance with economic substance requirements & application to and with agreement by IRB
- > 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



EMILY LIEW

Managing Director
JTC Kensington Labuan Limited

T: +60 87 599 803
E: malaysia@kensington-trust.com



JUNE CHIN

Senior Associate Director
JTC Kensington Labuan Limited

T: +60 87 599 800
E: malaysia@kensington-trust.com



MANDY CHUA

Associate Director
JTC Kensington Labuan Limited

T: +603 2201 9689
E: malaysia@kensington-trust.com



ZAIDI HANAFI

Business Development Manager
JTC Kensington Labuan Limited

T: +603 2201 6929
E: malaysia@kensington-trust.com

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Every JTC person is an owner of the business and this fundamental part of our culture aligns us with the best interests of all of our stakeholders.

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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