

# LABUAN FUND MANAGER

A Labuan fund manager carrying on fund management activities are regulated under the Labuan Financial Services and Securities Act 2010 (“LFSSA”) or Labuan Islamic Financial Services and Securities Act 2010 (“LIFSSA”).

A Labuan fund manager is defined as:

*“a person, for valuable consideration, provides management services which may include investment advice or administrative services in respect of securities for the purposes of investment, including dealing in securities. For a Labuan fund manager undertaking Islamic fund management activities, its operation shall also comply with Shariah principles.”*

## Application for fund manager license

Any person intending to undertake fund management activities may submit an application to Labuan FSA.

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

## Permitted activities



## Who Is Eligible To Apply?

- > An individual who holds a relevant degree or professional qualification to carry on fund management activities. Labuan FSA may also consider an applicant with at least minimum qualification of diploma holder and 3 years’ relevant experiences in capital market or direct experiences in fund management activities;
- > An approved fund manager or any provider of such services from a country or jurisdiction who is a member of the International Organization of Securities Commission (IOSCO); or
- > A person who does not fulfil the above may also be considered, provided that the fund management activities are run and managed by suitably qualified and experienced individuals.
- > The above is not exhaustive, Labuan FSA would also consider other factors in assessing the application for Labuan fund manager.

## Operational Requirements

- > Maintain a paid-up capital unimpaired by losses of at least RM300,000 equivalent in any foreign currency throughout its operations. Where the Labuan fund manager has Asset Under Management (“AUM”) of more than RM150 million, it must maintain additional capital equivalent to 0.2% of the AUM in excess of RM150 million.
- > Maintain a professional indemnity insurance policy with coverage of not less than RM1 million or its equivalent in any foreign currency throughout its operations.
- > Maintain a registered office in Labuan and ensure that the business must be carried on in, from or through Labuan.



### Operational Requirements (continuation)

- May apply for establishment of marketing office outside of Labuan in Malaysia.
- Ensure that the shareholder(s), directors, principal officer, representative including any other relevant person meet the requirement of the Guidelines on Fit and Proper Person issued by Labuan FSA.
- Established an adequate set of internal policies and procedures for its operations, compliance, corporate governance and risk management including business continuity plan.
- Ensure compliance of the duties of a Labuan fund manager including segregation of clients' assets-
- Appoint an approved auditor in Labuan to carry out an annual audit of its accounts
- Conduct its business with due diligence and sound principles, maintain adequate records in Labuan and indicate clearly its name and license or registration numbers on its letterhead, stationery and other documents.
- Appointment of qualified person to its internal Shariah advisory board for Labuan fund manager undertaking Islamic fund management activities.
- Obtain prior approval from Labuan FSA for :
  - Changes of its identity, place of business or office in/or outside Labuan, ownership and shareholding of the fund manager.
  - Appointment of director(s) and shareholders(s).
- Notify Labuan FSA in writing on :
  - Any amendment or alteration to any of its constituent documents within 30 days of the changes being affected including the business plan.
  - Appointment of internal Shariah advisory board within 30 days of changes being affected for Labuan fund manager undertaking Islamic fund management activities.
- Comply with relevant directive, guidelines and reporting requirements issued by Labuan FSA from time to time as well as the relevant laws and regulations of the jurisdictions where it intends to operate.
- Submission of audited financial statements and other statistics/information to Labuan FSA.

### Market Conduct and Practices

The Labuan fund manager shall adhere with the following requirements to promote market integrity and investors' confidence:

- Integrity and fair dealing.
- Skills, care and diligence.
- Acting in client's interest.
- Complaints' policy and management.
- Proper compliance function.

### 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.
- Pursuant to the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2021 that took effect on 1<sup>st</sup> January 2019:
  - Labuan trading activity has been restricted to license business activities and selected type of trading activities only. Please refer to the above Regulations 2021.
  - Labuan non-trading activity has been restricted to holding company, namely Pure Equity Holding and Non-Pure Equity Holding.

### Substance Requirement 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 the substance requirement 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 Labuan Fund Manager will need to comply with the substance requirements of minimum number of two (2) full time employees in Labuan and minimum annual operating expenditure of RM100,000 in Labuan.



### Dealings with resident

All Labuan entities may conduct transactions with Residents of Malaysia in Ringgit Malaysia except for:

- > Issuing or offering to any Residents of Malaysia for subscription or purchase; or
- > Invite any resident to subscribe or purchase

any interest pursuant to the relevant provisions of the Interest Schemes Act 2016 where such issue or offer or invitation is made in Malaysia, other than Labuan, unless the provisions of the Interest Schemes Act 2016 are complied.

“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.

The amount of deductions allowed in respect of payments made by Residents to Labuan entities are as follows:-

> Interest expense	75% deductible
> Lease rental	75% deductible
> General reinsurance premiums	100% deductible
> Other type of payments	3% deductible

### Labuan fund manager license fee

- > **Processing fee (once-off)**  
USD350
- > **Annual Fee**  
USD1,500

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. All licensees are required to pay to Labuan FSA subsequently the annual license fees on or before 15 January of each calendar year.

### Advantages and key benefits of Labuan fund manager

- > ZERO withholding tax on payments of dividend and interest to non-residents.
- > No stamp duty on all instruments relating to offshore business activities including share transfer.
- > No import duty / sales tax.
- > No foreign exchange controls.
- > No capital gain tax / inheritance tax.
- > Double Tax Agreements between Malaysia and over 70 countries.
- > 100% exemption for director’s fees received by non-citizen directors of Labuan companies.



## KEY CONTACTS



**EMILY LIEW**

Managing Director  
Kensington Trust Labuan Limited

T: +60 87 599 803  
E: [malaysia@kensington-trust.com](mailto:malaysia@kensington-trust.com)



**RAYMOND WONG**

Regional Managing Director  
Kensington Trust Group

T: +603 2202 1929  
E: [malaysia@kensington-trust.com](mailto:malaysia@kensington-trust.com)



**JOSEPHINE KWAN**

Executive Director  
Kensington Trust Labuan Limited

T: +60 87 599 837  
E: [malaysia@kensington-trust.com](mailto:malaysia@kensington-trust.com)



**MANDY CHUA**

Associate Director  
Kensington Trust Labuan Limited

T: +603 2201 9689  
E: [malaysia@kensington-trust.com](mailto:malaysia@kensington-trust.com)

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JTC is a publicly listed, global professional services business with deep expertise in fund, corporate and private client services.

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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