



LABUAN SECURITIES LICENSEE

The Guidelines on the establishment of Labuan Securities Licensee including Islamic Securities Licensee issued by the Labuan Financial Services Authority (“FSA”) took effect on 1 January 2014.

Labuan securities licensee refers to a person who for valuable consideration provides investment advice or administrative services in respect of securities for purpose of investment and dealing in securities. For a Labuan Islamic securities licensee, its operations shall comply with Shariah principles.

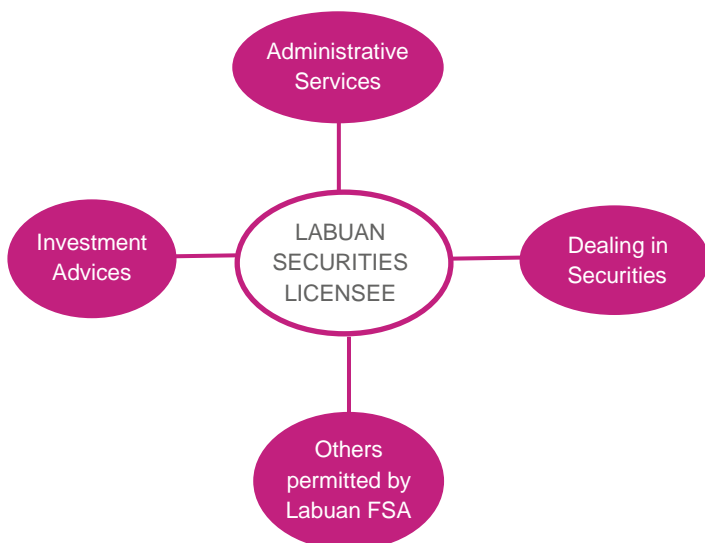
The Labuan fund manager is differentiated with Labuan securities licensee, through the provision of management services, which is its principal activity. In addition, Labuan securities licensee is not allowed to hold clients’ monies or assets.

Application for Labuan securities licensee

Any person intending to undertake securities licensee 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 activities of a securities licensee. Labuan FSA may also consider an applicant with at least minimum qualification of diploma holder and 3 years’ relevant experience in capital market or direct experience in the permitted activities of a securities licensee; or
- > A licensed/approved individual who undertakes such permitted activities from relevant regulatory and supervisory Authority or a 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 Labuan securities licensee 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 securities licensee.

Labuan securities licensee 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.



Operational Requirements

- Maintain a paid-up capital unimpaired by losses of at least RM150,000 equivalent in any foreign currency throughout its operations. In addition, based on the securities licensee's risk management assessment, additional capital may need to be injected to commensurate its risk profile as well as the nature and complexity of its business.
- 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 registered and management office in Labuan and ensure that the business must be carried on in, from or through Labuan. May apply for Labuan marketing office (LMO) anywhere in Malaysia outside of Labuan. To ensure that the establishment of the LMO complies with the relevant requirements of the Malaysian authorities.
- Ensure that the directors and principal officer and any other relevant person of the Labuan securities licensee meet the requirement of the Guidelines on Fit and Proper Person issued by Labuan FSA.
- Establish an adequate internal policies and procedures for its operations, compliances, internal controls, corporate governance and risk management including the business continuity plan.
- Conduct its business with due diligence and sound principles, maintain adequate and proper records in Labuan and indicate clearly its name and license or registration number on its letterhead, stationery and other documents.
- Appoint approved auditor in Labuan to carry out an annual audit of its accounts.
- Appointment of qualified person to its internal Shariah advisory board for Labuan securities licensee undertaking Islamic securities licensee activities.
- Obtain prior approval from Labuan FSA for any appointment of director(s) and shareholder(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.
 - For Islamic securities licensee, notification is required within 30 days from the appointment of internal Shariah advisory board.
- Comply with relevant directive, guidelines, prudential 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.

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 1st 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 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 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 securities licensee company 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

Advantages and key benefits of Labuan securities licensee

- > ZERO withholding tax on payments of dividend and interest to non-residents.
- > 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

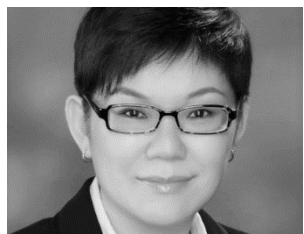
T: +60 87 599 803
E: malaysia@kensington-trust.com



RAYMOND WONG

Regional Managing Director
Kensington Trust Group

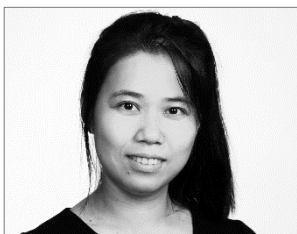
T: +603 2202 1929
E: malaysia@kensington-trust.com



JOSEPHINE KWAN

Executive Director
Kensington Trust Labuan Limited

T: +60 87 599 837
E: malaysia@kensington-trust.com



MANDY CHUA

Associate Director
Kensington Trust Labuan Limited

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

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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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