



# MONEY BROKING BUSINESS IN LABUAN

Guidelines for Money Broking Business carried on in the Labuan IBFC were revised by the Labuan Financial Services Authority (Labuan FSA), effective 9 September 2024.

## Definition of money broking business

Money broking business refers to the activity of arranging transactions between buyers and sellers in the money or foreign exchange markets, including digital assets, by acting as an intermediary in return for brokerage fees paid or to be paid. It does NOT include the buying and selling of Ringgit or foreign currencies as a principal or liquidity providers or market makers in such markets. The prohibition is intended to maintain a clear distinction between the roles of intermediaries and the principal parties involved in these transactions.

## Permissible money broking activities

The licensee is expected to:

- bring together counterparties on mutually acceptable terms involving the same financial products in money or foreign exchange market to facilitate the conclusion of a transaction;
- receive payment for its service in the form of brokerage or commission fees; and
- act solely as a mediator and is strictly NOT permitted to act as a principal<sup>(1)</sup>.

In addition, the licensee is allowed to undertake the following activities:

- bring together counterparties on mutually acceptable terms for trading and exchanging of digital assets; and
- provide a system or facilitate a person who can enter into an agreement or match orders to trade or exchange digital assets

<sup>(1)</sup> Principal will 'deal for their own account and based on its own risk'. Labuan FSA's guideline restricts position-taking by the Labuan money broker.

<sup>(2)</sup> Labuan FSA may also exercise its discretion to require additional capital to commensurate with the business operations in Labuan, depending on the scope of business activities of the Labuan money brokers.

## Application for money broking license

Any person intending to undertake money broking activities may submit an application to Labuan FSA.

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

## Who Is Eligible to Apply?

Applicant for license to carry on money broking business shall meet the following requirements:

- An individual or institution with money broking expertise and has good track records in carrying on such business, including sufficient number of years of experience (typically at least three-years of experience. If applicant is a regulated money broker or any provider of such services from other jurisdictions, a Letter of Awareness or written consent has to be obtained from its home supervisory authority for conducting money broking business in Labuan IBFC;
- An adequate financial resource including capital resource to meet and maintain the minimum paid-up capital requirement; and
- A credible and viable business plan that set out the approach to implement the proposed business objectives or operations, with adequate management and operational structure for the intended business plan

## Operational Requirements

- Maintain minimum paid-up capital unimpaired by losses at all time of between RM1,000,000 to RM1,500,000 or its equivalent in any foreign currency<sup>(2)</sup>.
- Maintain an operational office in Labuan for business purposes only and must be appropriately furnished with office equipment with the contact person for official communication with Labuan FSA (Principal Officer or any other senior office) stationed in the Labuan office. Roles and functions maintained in the operational office shall include"
  - (i) Finance and accounting
  - (ii) Statistical submission
  - (iii) Preparation and maintenance of records



### Operational Requirements (Cont.)

- > Must appoint at least two (2) board members and ensure all Directors, principal officer and persons in control to be 'fit and proper' persons.
- > Establish and maintain adequate and effective set of internal policies and controls for its operations, compliance, corporate governance and risk management.
- > Ensure counterparties (e.g. principal broker, custodian of client assets, payment system provider, e-wallet service provider and liquidity provider) are regulated by recognised supervisory or regulatory authority.
- > Expected to impose a maximum leverage limit of 100:1 on its clients' trading transactions that would translate to a minimum of 1% margin deposit to enable the opening of a trade position while for trading of digital assets, the expected maximum leverage limit is of 1:1 on its client trading transactions
- > Appoint an approved auditor in Labuan.
- > Ensure compliance with the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 and the Guidelines on Anti-Money Laundering, Countering Financing of Terrorism and Targeted Financial Sanctions for Labuan Key Reporting Institutions (AML/CFT and TFS for Labuan KRIs) including any AML/CFT policy documents issued by Labuan FSA.
- > Maintain adequate and proper records and books of accounts in Labuan.
- > For business model/customer interface, which is exclusively / substantially electronic, proper management of technology risk must be in place.
- > Required to appoint a qualified person to its internal Shariah advisory board to ensure that its management and operation are in compliance with Shariah principles for Labuan money broker that undertakes Islamic money broking business.

### Conduct Requirement

- > A Labuan money broker must adhere to the following conduct requirements to uphold professionalism and foster client confidence in the Labuan money broking market:
  - (i) Integrity and fair dealing: business conducted with honesty, fairness, fill with integrity and professionalism
  - (ii) Skills, care and diligence: All transactions must be conducted with competency and diligence.
  - (iii) Handling of confidential information: Information relating to deals transacted or being transacted are treated with as confidential and restricted access
  - (iv) Professional client management: Act in the best interest of clients and information furnished to its client must be fair, accurate, timely and not misleading
  - (v) Dispute mechanism and complain handling: Maintain a dispute mechanism and adequate complaint handling procedure – complaints received to be handled in fair, timely and appropriate manner and must be recorded

- > Ensure that appropriate risk mitigation measure such as stop-loss orders are in place to safeguard against undue exposures resulting from excessive leveraging and unforeseen client losses
- > Shall conduct proper due diligence on its clients, principal broker or liquidity provider as well as the trading platform providers.
- > Shall keep monies of client in an account separated from its own account and marked in the books accordingly. The withdrawal of a client's funds shall be processed and completed within three (3) working days from the date the withdrawal request is received and client monies shall not be used to settle the debts of the Labuan money broker, nor shall they be subject to execution or seizure under any court order for the payment of the Labuan money broker's debts.
- > Shall have a written agreement with clients that detailed its duties and responsibilities together with full and true disclosure for any actual or potential conflicts of interest arising from any connection to or association with any service providers, including material information or facts that may compromise its objectivity or independence
- > Must make clear on price or rate quoted for the financial produces in the money or foreign exchange market are firm or indicative
- > Must disclose in a timely manner the:-
  - (i) Execution services and any arrangements or changes made with a third parties of routing clients order including payment arrangements must be made available
  - (ii) List of authorized introducing brokers including the roles and responsibilities of the introducing brokers
  - (iii) Risk disclosure and spreads charged
  - (iv) Any other fees or charges related to trading transactions
- > Ensure that clients are well updated on their trading performance on monthly basis

### 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

- > Pursuant to section 2B(1) (b) of LBATA, the Labuan entities shall, for the purpose of the Labuan business activity, have:-
  - (i) Maintain 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 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 Money Broking Company will need to comply with the substance requirements of minimum number of two (2) fit and proper full-time employees in Labuan and minimum annual operating expenditure of RM100,000 incurred in Labuan.

### Labuan money broking license fee

- > **Processing fee (one-off)**  
USD500
- > **Annual license fee**
  - > **Conventional:** USD1,500 (to be increased to USD3,250 in year 2027 and thereafter USD5,000 effective in year 2028 onwards).
  - > **Digital Asset:** USD1,500 (to be increased to USD5,750 in year 2027 and thereafter USD10,000 effective in year 2028 onwards).
- > Marketing Office fee of USD3,500
- > Subsequent payment of annual license fee is payable by 15 January of each year.

### Reporting to Labuan FSA

- > Audited financial statements within six months from financial year end.
- > Statistics, compliance reporting and other information required by Labuan FSA.

### Advantages and key benefits of Labuan money broker

- > No withholding tax on dividend and interest payments to non-residents.
- > No indirect taxes
- > No inheritance tax.
- > No foreign exchange controls
- > Double Tax Agreements between Malaysia and over 70 countries.
- > Zakat Tax rebate



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