



LABUAN BANKING BUSINESS

The Labuan banking business is governed by the Labuan Financial Services and Securities Act 2010 (“LFSSA”).

Definition of Labuan banking business

Labuan banking is defined as:

- > the business of receiving deposits on a current account, deposit account, savings account or any other account as may be specified by Labuan Financial Services Authority (“Labuan FSA”);
- > **Labuan investment banking business;**
- > Labuan financial business*;
- > **Labuan Islamic banking business;**
- > such other business as the Labuan FSA may specify, with the approval of the Malaysian Minister of Finance in any currency (including Malaysian Ringgit where permitted under the Financial Services Act 2013 or such other relevant law in force).

* “**Labuan financial business**” means –

- a) building credit business;
- b) credit token business;
- c) development finance business;
- d) leasing business;
- e) factoring business;
- f) money-broking business;
- g) Labuan Islamic financial business

Who Is Eligible To Apply?

A Labuan bank can be set up as a branch or subsidiary under the Labuan Companies Act 1990. An applicant should meet the following minimum eligibility criteria:

- > Must be a bank or financial institution;
- > Possesses a sound track record;
- > Accorded a good credit rating by acceptable rating agencies;
- > Supervised by a competent regulatory authority; and
- > Conform to generally accepted standards of international banking practices or the Bank for International Settlements (BIS), as the case may be.

Labuan Investment Banks

Labuan investment banking business means:

- > the business of providing credit facilities;
- > the business of providing consultancy and advisory services relating to corporate and investment matters including dealing in securities, or making and managing investments on behalf of any person;
- > the business of undertaking foreign exchange transactions, interest rate swaps, dealings in derivative instruments or derivative financial instruments or any other similar risk management activities;
- > Labuan Islamic investment banking business;
- > Labuan financial business; or
- > such other business as Labuan FSA may specify, with the approval of the Malaysian Minister of Finance in any currency (including Malaysian Ringgit where permitted under the Financial Services Act 2013 or such other relevant law in force).

Note: Labuan investment banks are not allowed to accept deposits.

Who Is Eligible To Apply?

A Labuan investment bank can be set up as a branch or subsidiary under the Labuan Companies Act 1990. An applicant should meet the following minimum eligibility criteria:

- > An investment bank or group engaging in investment banking activities licensed by the regulatory authority in the country of origin;
- > A licensed bank or an established financial institution or financial service provider supervised by a competent regulatory authority;
- > Any institutions licensed under the Financial Services Act 2013 with prior approval from Bank Negara Malaysia; and
- > Corporations with the necessary expertise and experience in the financial industry with at least three (3) years of good track record and regulated by an authority in their home country.



Operational Requirements

- > Maintain a physical presence in Labuan.
- > Every director or principal officer (“PO”) of a Labuan bank must be fit and proper persons and shall not be subject of any adverse report from any reliable sources. The appointment of a director or PO of a Labuan bank must obtain prior approval from Labuan FSA.
- > Comply with the statutory requirements under the LFSSA.
- > Comply with the prudential and reporting requirements issued by Labuan FSA.
- > Adhere to any other requirements issued by Labuan FSA from time to time.
- > Meet certain pre-determined criteria, should it prefer to co-locate to any other parts of Malaysia.

Minimum paid-up share capital and/or Capital Adequacy / Solvency Requirements

- a) Minimum RM10 million or its equivalent in any other currency unimpaired by losses; and
- b) Minimum risk-weighted capital ratio of 4% for Tier 1 Capital ⁽¹⁾ and 8% for Total Capital ⁽¹⁾.
 Note: ⁽¹⁾ As defined under the Guidelines on Risk-Weighted Capital Adequacy issued by Labuan FSA.

All Labuan banks and investment banks are required to maintain its minimum paid-up capital at all times as prescribed by Labuan FSA. In addition to this minimum paid-up capital, the Labuan banks shall also comply with the capital adequacy ratio or solvency margin requirements imposed on them.

Co-Location of Labuan banks

Option had been given for Labuan banks and investment banks to establish office(s) in other part of Malaysia other than its office in Labuan (referred to as the “Co-located Office”).

Labuan FSA's fees

- > License processing fee (*once-off*) : USD350
- > Annual license fee : USD30,000
- > Annual Co-located Office fee (if applicable) : USD3,500
- > Annual Marketing Office fee (if applicable) : USD2,500

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.

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.
- > 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

- > 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 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.
- > **Labuan bank, Labuan investment bank, Labuan Islamic bank or Labuan Islamic investment bank**

Minimum number of three (3) full time employees in Labuan and minimum annual operating expenditure of RM200,000 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 Islamic Banking Window

The setting up of an Islamic banking or investment banking window by a Labuan bank or investment bank under the LFSSA does not require a separate licence and therefore, no additional licence fee is involved.

A Labuan bank or investment bank may submit the application for approval with the following documents:

- > Certified true copy of board resolution pertaining to the proposed establishment of an Islamic banking or investment banking window in Labuan;
- > Business plan inclusive of three years' financial projection;
- > Information on its own internal Shariah Advisory Board



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