



# MONEY BROKING BUSINESS IN LABUAN

Guidelines for money broking business that is carried on in the Labuan IBFC was issued by the Labuan Financial Services Authority (“Labuan FSA”) with effect from 1 January 2018.

## Definition of money broking business

It is the business of arranging transactions between buyers and sellers in the currencies market (i.e. either money or foreign exchange markets or crypto currencies) with brokers acting as an intermediary in consideration for brokerage fees paid or to be paid. This DOES NOT include the buying and selling of Ringgit or foreign currencies as a principal in such markets.

## Permissible money broking activities

Labuan money broking business is intended to serve institutional investors and high-net-worth individuals. The licensee is expected to:

- bring together the counterparties on mutually acceptable terms for 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 as a mediator and is strictly not permitted to act as a principal<sup>(1)</sup>.

## Application for money broking license

Any person intending to undertake money broking 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.**

<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 money broker.

<sup>(2)</sup> Typically, Labuan FSA expects applicants to have a minimum of three years’ experience in money broking business.

<sup>(3)</sup> Labuan FSA may exercise its discretion to require additional capital to commensurate with the business operations in Labuan.

## Who Is Eligible To Apply?

- An individual or institution with money broking expertise and has good track records, including sufficient number of experience<sup>(2)</sup>; or;
- A regulated money broker or any provider of such services from other jurisdictions with good track records in carrying on such business including sufficient number of experience<sup>(2)</sup>; with written consent obtained from its home supervisory authority for conducting money broking business in Labuan IBFC; or
- Any licensed institutions including approved money broker under Malaysia’s Financial Services Act 2013 with prior approval from Bank Negara Malaysia.

## Operational Requirements

- Maintain minimum paid-up capital unimpaired by losses of RM500,000 or its equivalent in any foreign currency<sup>(3)</sup>.
- Substance requirements will be required to maintain an appropriately furnished operational office in Labuan for business purposes only.
- Directors, principal officer and persons in control must be ‘fit and proper’ persons.
- Adequate set of internal policies and controls for its operations, compliance, corporate governance and risk management.
- Counterparties (e.g. principal broker and liquidity provider) are regulated by a recognised supervisory or regulatory authority.
- Appoint approved auditor in Labuan.
- Internal policies on Anti-Money Laundering and Counter Financing of Terrorism.
- For business model/customer interface which is exclusively/ substantially electronic, proper management of technology risk must be in place.



### 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 1<sup>st</sup> 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 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) full time employees in Labuan and minimum annual operating expenditure of RM100,000 in Labuan.

### Labuan money broking license fee

- > Annual license fee of USD1,500 upon granting of the money broking licence.
- > Marketing Office fee of USD2,500
- > 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

- > 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



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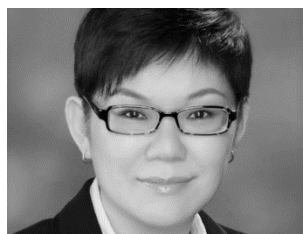
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## ABOUT JTC KENSINGTON

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC, offering trust, fiduciary and corporate services and fund administration.

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.

### We value shared ownership

- We operate around the principle that if our people have a stake in the business, they will do a better job for our clients.

### We value relationships

- We aim to work with clients who share our belief in the importance of building strong relationships over time.

### We invest in our people

- Over 85% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

### We embrace technology

- We operate a variety of best-in-class systems to deliver and maintain an impeccable standard of administration and use technology to innovate in both service delivery and efficiency.



## REGULATION AND TERMS OF BUSINESS

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC Group. Kensington Trust Group entities that carry on regulated business are (respectively): regulated by the Labuan Financial Services Authority, the Companies Commission of Malaysia and the Monetary Authority of Singapore.

JTC Group entities that carry on regulated business are (respectively): regulated by the British Virgin Islands Financial Services Commission; the Cayman Islands Monetary Authority; the Guernsey Financial Services Commission; the Jersey Financial Services Commission; the Commission de Surveillance du Secteur Financier and the Ordre des Experts-Comptables (Luxembourg); the Financial Services Commission (Mauritius); De Nederlandsche Bank (Netherlands); the South African Financial Sector Conduct Authority (FSCA) as an authorised financial services provider; chartered and regulated to provide trust services by the South Dakota Division of Banking in South Dakota (USA); a member of l'Association Romande des Intermédiaires Financiers (Switzerland)\*; licensed by the Isle of Man Financial Services Authority and by the Abu Dhabi Global Market (ADGM); registered with the Dubai Financial Services Authority, the US Securities and Exchange Commission and the Commodity Futures Trading Commission (USA); authorised by the Department of Justice and Equality of the Republic of Ireland to operate as trust or company service provider and authorised and regulated by the Central Bank of Ireland and by the Financial Conduct Authority (UK).

\* l'Association Romande des Intermédiaires Financiers (ARIF) is a self-regulatory body approved by the Swiss Financial Market Supervisory Authority (FINMA) for the supervision of financial intermediaries covered by Article 2 para.3 of the Swiss Federal Law on Combating Money Laundering and Financing of Terrorism in the Financial Sector (LBA). ARIF is also recognized by FINMA as a professional organization for the outflowing of rules of conduct relating to the exercise of the profession of independent asset manager within the meaning of the Swiss Federal Act on Collective Investment Schemes (CISA).

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