



# LABUAN INVESTMENT BANKING BUSINESS

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

## Permissible activities of Labuan investment banking business

Labuan investment banking business means the business of:

- Providing credit facilities;
- 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;
- 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<sup>^</sup>;
- Labuan financial business<sup>\*</sup>; 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.

<sup>^</sup> In addition to standalone Labuan investment banks licensed under LFSSA, the applicant may also carry on Labuan Islamic investment business under the “Islamic window” set-up subject to prior approval of Labuan FSA pursuant to Section 62(2) of Labuan Islamic Financial Services and Securities Act 2010.

<sup>\*</sup> “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 investment bank can be set up as a branch or subsidiary under the Labuan Companies Act 1990.

An application for setting up of a Labuan investment bank may be accepted from:

- 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 licensed institutions licensed under the Financial Services Act 2013 with prior approval from Bank Negara Malaysia; and
- Any corporations with the necessary expertise or experience in the financial or financial related industry with at least three (3) years of good track records and sound financial performance.

## Assessment for application

The applicant is required to demonstrate the followings:

- The sufficiency and soundness of the financial resources of the applicant as a key source of continuing financial support for the investment banking business;
- A credible and viable business plan that sets out the approach to implement the proposed strategic business objective or operations;
- A set of robust internal policies and controls that commensurate with the business profile or risks; and
- Board members and senior management that have the competency and experience to undertake the investment banking business.
- Where applicable, applicant that is already regulated elsewhere, prior approval from its home supervisory authority may be required before applying for a Labuan investment banking license of if so required by its constituent documents.
- Labuan FSA may require additional information or documents to support the processing of the application.



## Operational Requirements

- > Maintain a paid-up capital or working funds unimpaired by losses of a minimum of RM10 million. Labuan FSA may exercise its discretion to require additional capital or working funds to commensurate with the business operations of the bank, taking into account the risk profile as well as nature, scale, complexity and diversity of the Labuan investment banking business activities.
- > Comply with substantial activity requirements in Labuan as prescribed under the Labuan Business Activity Tax (Requirements for Labuan Business Activity) Regulations 2018 (Substance Regulation) including establishing an operational office in Labuan.
- > Establish an adequate set of internal policies and controls for its operations, compliances, corporate governance and risk management at all times
- > The name of Labuan investment bank must include the word “Investment Bank” as part of its name
- > Obtain prior approval from Labuan FSA on the following matters:
  - a) Change of business plan
  - b) Change of ten per centum or more of the shareholding of the bank;\*
  - c) Appointment of its board of directors\* and principal officer;
  - d) Establishment of office outside Labuan including the acquisition of subsidiary and establishment of a marketing office or co-located office;
  - e) Reduction of paid-up capital; ^
  - f) Use of external service provider; or
  - g) Change of Name.
- > Notify Labuan FSA within 14 days on the following matters :
  - a) Resignation of directors and principal officer;
  - b) Change of place of business or office in Labuan;
  - c) Change to its constituent documents; or
  - d) Significant event that affects its going concern or reputation.

### Note:

\* For branch set-ups, only notification to Labuan FSA is required for the change of shareholding structure and appointment of its board of directors.

^ Not tantamount to reduction of amount lower than the prescribed minimum paid-up capital requirement and/or higher capital as imposed/determined by Labuan FSA, during the licence granted.

- > Appoint an internal and external auditor to carry out an audit of its accounts in respect of the business operations.
- > Ensure that the persons in control, directors and officers meet the fit and proper person requirements. It is also expected that the employees employed to transact in the investment banking business are competent and possess sound knowledge of the services to be offered
- > Maintain adequate and proper records and books of accounts in Labuan. Its name, licence number must be clearly indicated on its letterhead, stationery and other documents.

- > In dealing with the residents approved by Bank Negara Malaysia and arranging a syndicated financing scheme to the residents company, the investment bank must ensure that the syndication as far as possible should involve the Labuan banking institutions in Labuan before involving other financial institution overseas.
- > Labuan Islamic investment banks are required to appoint an internal Shariah advisory board to ensure that its management and operation are in compliance with Shariah principles.
- > Comply with the applicable laws, rules and regulations relevant to the Labuan investment banking business, including relevant guidelines issued by Labuan FSA and other regulatory requirements of the jurisdictions where the Labuan investment bank is authorised to operate in as well as the Malaysian Foreign Exchange Administration rules (where applicable), at all times. In this regard, Labuan investment bank is expected to obtain the necessary approvals from the authorities in the markets it intends to operate in prior to commencing its business in those respective markets.
- > Comply with any other operational requirements as may be imposed by Labuan FSA from time to time.

## Reporting requirements

- > Labuan investment banks are required to submit its audited financial statements within six (6) months after the closure of each financial year to Labuan FSA’s Supervision and Monitoring Unit via the Trust Company.
- > Labuan FSA may request for additional statistics and information from the Labuan investment banks from time to time.

## Co-Location of Labuan banks

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

## Labuan FSA’s fees

- > License processing fee (*one-off*): USD500
- > Annual license fee: USD35,000
- > Annual Co-location Office fee (if applicable): USD4,500
- > Annual Marketing Office fee (if applicable): USD3,500

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 and co-located or marketing office 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.
- > “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 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 fit and proper 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.
- > **The substance requirement for Labuan investment bank or Labuan Islamic investment bank is as follow:**
  - > Minimum number of three (3) fit and proper full-time employees in Labuan
  - > AND incur 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 investment banking window by a Labuan investment bank under the LFSSA does not require a separate licence and therefore, no additional licence fee is involved.

A Labuan 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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