



LABUAN IBFC REINSURANCE AND RETAKAFUL BUSINESS

Labuan IBFC's insurance industry continues its vibrant growth in the past few years. Comprising not just reinsurers and direct insurers, Labuan IBFC also provides unique underwriting vehicles in the form of captives. Aside from conventional (re)insurance services, Labuan IBFC also offers Islamic (re)insurance, also known as (re)takaful, for those seeking Shariah-compliant protection. Other insurance-related businesses such as Insurance brokers, underwriting managers as well as insurance managers complete the supply chain by offering the needed services within the sector.

A Labuan insurance business is defined as an insurance business that is transacted in foreign currency and includes general, life, reinsurance, Labuan takaful and retakaful windows and captive insurance.

Definition of Labuan Reinsurance Business

An insurance business whereby the reinsurer assumes a part of the liability under an original contract of insurance of another insurer or reinsurer. A Labuan reinsurer may be conducting either a general or life reinsurance business.

Definition of Labuan Retakaful Business

A business in compliance with Shariah principles whereby the Labuan retakaful operator assumes a part of the liability under an original contract of takaful of another takaful operator or retakaful operator.

Application for Labuan Reinsurance Business

Application for a licence to carry out Labuan Insurance and Insurance-related activities can be made to the Director General of Labuan FSA.

The setting up of takaful or retakaful windows do not require a separate licence and there is also no additional licence fee involved. Labuan retakaful operators are expected to observe the objectives, management and activities of investments are in compliance with Shariah principles at all times.

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 or branch.

Licensing and Operational Requirements

- > The Labuan reinsurance entity must be a member of the Labuan International Insurance Association.
- > The Labuan reinsurance entity must provide a letter of guarantee or undertaking from the parent company to Labuan FSA.
- > The Labuan reinsurance entity must:
 - > establish an operational management office in Labuan with minimum three (3) full time employees in Labuan and minimum annual operating expenditure of RM200,000 in Labuan. The management team must have adequate knowledge and expertise in the insurance business; or
 - > appoint a licensed Labuan underwriting manager.
- > Appointment of any person in control, director or principal officer (PO) of a Labuan reinsurer must obtain prior approval from Labuan FSA. Notwithstanding, Labuan reinsurers that are established as a branch are not required to obtain approval on the appointment of their directors.
- > The person in control, director and PO of a Labuan reinsurer must be fit and proper persons and shall not be subject of any adverse report from any reliable sources.

Annual License Fee Requirements

Type of Licence	Licence Fee (USD)
General Insurer	15,000
Life Insurer	15,000
Composite Insurer	30,000
Core for Protected Cell Company (PCC) structure	9,500
Cell for PCC structure (each)	3,000



Capital/ Working Fund and Solvency Requirements

Type of Licence	Minimum Capital and Capital Adequacy / Solvency Requirements	
	Subsidiary	Branch
Labuan Reinsurance/ Retakaful)	Paid -up capital or working funds of RM10 million unimpaired by losses	A surplus of assets over liabilities of RM10 million ¹ unimpaired by losses
General Reinsurer/ Retakaful Operator	RM10 million or 20% of net premium/contribution on income of the preceding year, whichever is greater.	RM10 million or 20% of net premium/ contribution income of the preceding year, whichever is greater.
Life Reinsurer / Family Retakaful Operator	RM10 million or 3% of the latest actuarial valuation of life insurance / family takaful liabilities, whichever is greater.	RM10 million or 3% of the latest actuarial valuation of life insurance / family takaful liabilities, whichever is greater.

Notes:

¹ The surplus of assets is to be maintained by the branch licensee in the books of its office in Labuan.

The Labuan licensed entity must maintain a minimum paid-up capital or working funds as required above with a bank in Labuan.

“Capital requirement” and “Capital adequacy” shall be applied to the insurance licensees of subsidiary and branch set-ups as illustrated below:-

Insurance Licensees		Minimum Paid-up Capital	Minimum Working Funds	Margin of Solvency
Entry	Subsidiary	√		
	Branch		√	
On-Going	Subsidiary			√
	Branch			√

The term “unimpaired by losses” means that the paid-up capital amount and/or working funds shall be maintained at all times and shall not be impaired by any losses. In the event it is impaired, further capital injection is required to restore it to the required level.

Labuan IBFC tax 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 Requirement 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 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 Reinsurance Company will need to comply with the substance requirements of 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



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

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.

IMPORTANT INFORMATION: The content of this factsheet is intended for general information purposes only. It does not constitute, should not be interpreted as constituting and cannot be relied upon as providing (i) legal, investment or tax advice or any other form of professional advice, (ii) an offer to sell, a solicitation of an offer to buy, or a recommendation of any service or any other product or service regardless of whether such security, product or service is referenced in this factsheet. JTC has sought to ensure that the information provided in this factsheet is adequate, accurate and complete as at the time of publication but offers no assertion or warranty as to its adequacy, accuracy or completeness either at the time of publication or thereafter. No responsibility or liability will be accepted for any losses resulting from reliance places upon the content of this article.

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.

For full details of those JTC Group entities that carry on regulated business and certain other JTC Group entities, please visit our website: www.jtcgroup.com/legal-and-regulatory

