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 licensed entity must be a member of the Labuan International Insurance Association.
- The Labuan licensed 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**

<table>
<thead>
<tr>
<th>Type of Licence</th>
<th>Licence Fee (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Insurer</td>
<td>15,000</td>
</tr>
<tr>
<td>Life Insurer</td>
<td>15,000</td>
</tr>
<tr>
<td>Composite Insurer</td>
<td>30,000</td>
</tr>
</tbody>
</table>
Capitalisation / Working Fund and Solvency Requirements

<table>
<thead>
<tr>
<th>Type of Licence</th>
<th>Minimum Capital and Capital Adequacy / Solvency Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidiary</td>
<td>Branch</td>
</tr>
<tr>
<td>Labuan Reinsurance (including retakaful) a) paid-up capital or working funds of RM10 million or 20% of net premium/contribution income of the preceding year, whichever is greater.</td>
<td>a) a surplus of assets over liabilities of RM10 million (^1) unimpaired by losses</td>
</tr>
<tr>
<td>b) General Reinsurer/Retakaful Operator RM10 million or 3% of the latest actuarial valuation of life insurance / family takaful liabilities, whichever is greater.</td>
<td>b) General Reinsurer/Retakaful Operator RM10 million or 20% of net premium/contribution income of the preceding year, whichever is greater.</td>
</tr>
<tr>
<td>Life Reinsurer / Family Retakaful Operator RM10 million or 3% of the latest actuarial valuation of life insurance / family takaful liabilities, whichever is greater.</td>
<td>Life Reinsurer / Family Retakaful Operator RM10 million or 3% of the latest actuarial valuation of life insurance / family takaful liabilities, whichever is greater.</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Insurance Licensees</th>
<th>Minimum Paid-up Capital</th>
<th>Minimum Working Funds</th>
<th>Margin of Solvency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entry Subsidiary</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Branch</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On-Going Subsidiary</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Branch</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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-Laban 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.

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.

Dealsings with resident

All Labuan entities are allowed to conduct transactions with Residents of Malaysia in Ringgit Malaysia subject to the filing of a notification to Labuan FSA within 10 days from the transaction effective date. “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 s.43 of the Malaysian Exchange Control Act 1953.

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

(Last updated on January 2020)
KEY CONTACTS

EMILY LIEW
Managing Director of Kensington Trust Labuan Limited
T: +60 87 599 803
E: emily.liew@kensington-trust.com

RAYMOND WONG
Regional Managing Director Kensington Trust Group
T: +603 2202 1909
E: raymond.wong@kensington-trust.com

LAY LENG NG
Director of Kensington Trust Labuan Limited
T: +603 2201 9689
E: layleng.ng@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, award-winning provider of fund, corporate and private client services.

Founded in 1987, we have c.900 people working across our global office network and are trusted to administer assets of c. US$130 billion.

The principle of making all our people owners of the business is fundamental to our culture and aligns us completely with the best interests of our clients.

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 70% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

We embrace technology

› Our market-leading systems and operating platforms are robust, powerful and flexible.