

OVERVIEW OF LABUAN FOUNDATION AND LABUAN TRUST

Commonly utilised by high-net-worth families, private individuals and non-profit organisations for the following purposes:

- > Lawful wealth accumulation, preservation, and management Succession planning and orderly transfer of assets
- > Asset protection
- > Enhanced confidentiality
- > Asset consolidation, centralised administration and management
- > Structured pooled family investment planning and family governance planning
- > Alternative planning mechanisms for forced heirship or mandatory succession regimes

Similarities between Labuan Foundation and Labuan Trust

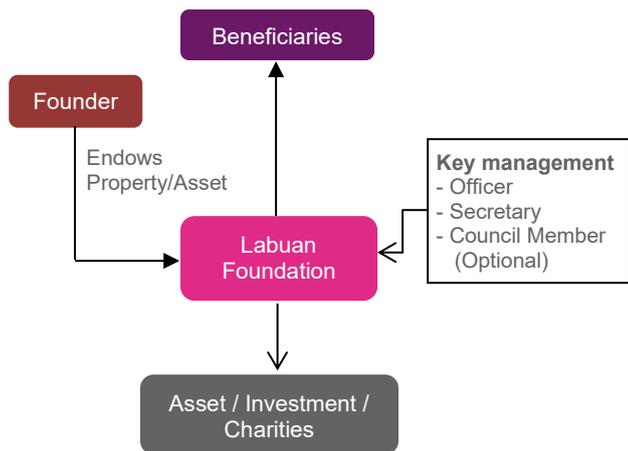
- > Assets may be settled, endowed and donated into both structures
- > Structure may be revocable
- > Structure may be established during the lifetime or upon death of the patriarch or matriarch
- > Structure may be established with perpetual or indefinite duration
- > Has the option to appoint Protector or Enforcer
- > Structured for pooled family investment planning and family governance planning
- > No statutory minimum requirement in respect of initial endowment, settlement amount, or value of assets to be contributed
- > Structure can be established for any lawful purpose

Differences between Labuan Foundation and Labuan Trust

Trust	Foundation
Common law origins	Civil law origins
Legal relationship	Separate legal entity with its own identity
Assets, upon being vested in the trust, are legally owned by trustee	Assets are legally owned by the foundation. Upon registration of the foundation, the property endowed no longer belong to the founder, but belong to the foundation
Relationship amongst parties is fiduciary	Relationship amongst parties is contractual
<ul style="list-style-type: none"> > The person(s) who establishes the trust is known as settlor > The persons who benefit from the trust are known as beneficiaries 	<ul style="list-style-type: none"> > The person(s) who creates the endowment is known as founder > The persons who benefit from the endowment are known as beneficiaries
Optional to register trust	Mandatory to register foundation
Trust deed is the document that establishes the trust	Charter is the main constituent document of a foundation. A foundation may also have articles with detailed rules governing its administration matters
The appointed trustee is the person responsible to hold and legally own the trust assets and administer the trust arrangement	The Officer is entrusted to carry on the daily business and affairs of the foundation and pursue its objects. The foundation can also appoint a body called council to supervise the Officers. Both Officers and Council are required to act in accordance with the terms of the charter and articles
Settlor may have certain reserved powers after constituting the trust and vesting the legal title of the trust assets to the trustee	The founder does not retain or acquire any ownership rights in relation to the foundation's property. Beneficiaries or the persons named as beneficiary (may include the founder) can receive distribution from the foundation



Key parties - Labuan foundation



NOTE:

Assets once endowed are legally owned by the foundation. The Founder may, if he wishes to, continue to have control over their assets and businesses by acting as an officer or appointed as council member of the foundation.

- > **Founder** – Establish the foundation. May be either natural person or corporate and subscriber to the Charter
- > **Beneficiaries** – Persons who have vested interest in assets of the foundation
- > **Officer** – Administers the Foundation to achieve its purpose
- > **Council** - Oversight role for administration of the Foundation

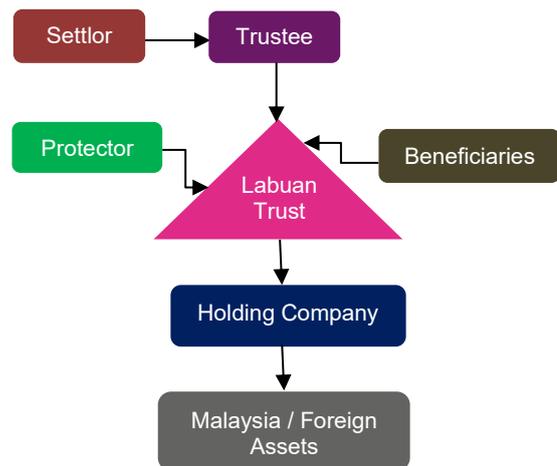
Why the Need for Succession Planning

- > Avoidance of probate and estate administration formalities- To facilitate the orderly transfer and distribution of assets to heirs without, or with minimal, exposure to the costs, delays, and public disclosure associated with probate or court-supervised estate administration.
- > Asset protection - To ring-fence assets from future creditors, matrimonial claims, or other third-party claimants
- > Control and management of distribution - To regulate the conditions for named beneficiaries to receive assets, including staged distributions or distributions linked to specific milestones.
- > Preservation and transmission of family wealth and values - To ensure continuity of family wealth, governance principles, and long-term objectives across successive generations.

Complex family structures – To address succession planning needs arising from family expansion, multiple families, or multiple lines of descent.

- > Philanthropic and charitable planning - To facilitate structured and sustainable charitable
- > Cross-border assets and beneficiaries considerations - To manage assets and beneficiaries across multiple jurisdictions while mitigating conflicts of law, succession rules, and administrative complexity.
- > Tax planning and mitigation - To achieve tax efficiency and mitigate exposure to estate, inheritance, or other taxes, subject to the tax laws of relevant jurisdictions.

Key parties – Labuan trust



NOTE:

The settlor ceases to be the owner of the assets settled, the trustee becomes the legal owner of the trust assets and the beneficiaries are the interested parties to benefit from the trust

- > **Settlor** – Creates the trust by settling assets into a trust. Settlor may be an individual person or a corporate entity
- > **Trustee** – Holds and legally own the trust assets and is responsible for its administration for benefit of the beneficiaries
- > **Trust Deed** – Central governing document and sets out trustee’s powers (among other things). Settlor is able to tailor the terms of the trust to satisfy their requirements
- > **Protector/Enforcer** – May be appointed by settlor, who acts like a “watchdog” over the trustee for the benefit of the beneficiaries
- > **Beneficiaries** – Persons legally entitled to enforce and benefit from the trust. Can be individual or reference to a class, charities, minors, corporations etc.

Lack of Planning – Consequences

- > High legal costs and long probate process
- > Inaccessibility of assets due to prolonged legal process
- > Family dispute and breakdown
- > Family business disruption
- > Negative publicity
- > Tax exposure in certain jurisdictions



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

