



GUIDELINES ON THE ESTABLISHMENT OF LABUAN INTERNATIONAL COMMODITY TRADING COMPANY UNDER THE GLOBAL INCENTIVES FOR TRADING PROGRAMME

1.0 Introduction

- 1.1 The *Guidelines on the Establishment of Labuan International Commodity Trading Company (LITC) under the Global Incentives for Trading (GIFT) Programme* set out the parameters relating to the establishment and operations of the LITC under the GIFT programme.

2.0 Applicability

- 2.1 The Guidelines are applicable to all Labuan companies licensed as LITC under Section 92 of the Labuan Financial Services and Securities Act 2010 (LFSSA) to conduct international commodity trading business in Labuan IBFC.

3.0 Legal Provision

- 3.1 The Guidelines is issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to clarify provisions of Section 92 of LFSSA pertaining to the licensing requirements of LITC.

4.0 Effective Date

- 4.1 The Guidelines shall come into effect on **1 October 2018** and would remain effective and applicable unless amended or repealed.

- 4.2 Subsequently, with the issuance of the above, the following have been repealed:
- 4.2.1 Circular on the Application to be Licensed under the Guidelines on the Establishment of LITC under the GIFT Programme issued on 23 June 2014;
 - 4.2.2 Circular on the Submission of Audited Financial Statements by Labuan International Commodity Companies to Labuan FSA issued on 29 April 2015; and
 - 4.2.3 Guidelines on the Establishment of LITC under the GIFT Programme updated on 27 December 2016.

5.0 Global Incentives For Trading Programme

- 5.1 The GIFT programme is a framework of incentives for traders that are undertaking the trading of physical products and related derivatives in petroleum and petroleum-related products (Petroleum¹) including liquefied natural gas (LNG) and use Malaysia as their international trading base to undertake international commodity trading business in Labuan IBFC.
- 5.2 In setting Malaysia as its trading base, LITC is expected to have some or all of the following functions in Malaysia:
- 5.2.1 Strategic management;
 - 5.2.2 Banking, finance and treasury management;
 - 5.2.3 Risk management;
 - 5.2.4 Market research and product portfolio development;
 - 5.2.5 Logistics management;
 - 5.2.6 Global procurement; or
 - 5.2.7 Marketing and sales planning.

¹ For the purpose of the Guidelines, the term "Petroleum" shall constitute both Petroleum and Petroleum-Related products unless specified otherwise.

6.0 Corporate Tax

6.1 The LITC is subject to a corporate tax rate of 3% of chargeable profits as reflected in the audited account under the *Labuan Business Activity Tax Act 1990* pursuant to the relevant exemption order.

7.0 Operational Requirements

7.1 The LITC must have sufficient capital or working funds that commensurate with its operations and activities.

7.2 The LITC must indicate clearly on its letterhead, stationery and other documents including signage containing its name that it is licensed as a “Labuan International Commodity Trading Company licensed by Labuan FSA”, together with its licence number.

7.3 The LITC is required to establish its operational office, which can be anywhere in Malaysia. The following details must be identified and provided to Labuan FSA prior to the commencement of business:

7.3.1 Principal Officer

Name, designation and contact details such as telephone number and e-mail address of the officer that is in charge of the LITC.

7.3.2 Address of Operational Office

To provide address and staffing plan at its operational office.

7.4 The LITC must ensure that its business is conducted with both corporate governance and risk management frameworks in place.

7.5 Ensure that the Principal Officer, Director(s) and Officer(s) responsible for the management of the company are fit and proper persons pursuant to Section 4 of

LFSSA and the Guidelines on Fit and Proper Person Requirements issued by Labuan FSA.

- 7.6 Where the LITC carries on business other than the one specified under paragraph 5.1, a separate set of accounts must be maintained.
- 7.7 The LITC is required to submit to Labuan FSA the following:
- 7.7.1 The completed Annual Update Submission Form latest by 15 January of each year (as per Appendix I); and
 - 7.7.2 A copy of its audited financial statements within six (6) months after the close of each financial year.
- 7.8 Obtain prior approval from Labuan FSA on any new changes being effected on the following:
- 7.8.1 Business plan;
 - 7.8.2 Principal Officer;
 - 7.8.3 Directorship; and
 - 7.8.4 Shareholding.
- 7.9 The LITC is expected to comply with all the requirements of this Guidelines as well as the relevant requirements under LCA, LFSSA, other Labuan legislations and the laws of the jurisdictions in which the LITC operates from, whichever applicable.

8.0 Post-Licensing Requirements

- 8.1 LITC must comply with the following conditions after the granting of its licence and commencement of its business:
- 8.1.1 Achieve minimum annual turnover of USD50 million;
 - 8.1.2 Incur minimum annual business spending of RM3 million payable to Malaysian residents in Malaysian Ringgit; and

8.1.3 Employ at least three professional traders that fulfill the following requirements:

(a) The Principal officer or any person performing a senior management function who would be principally accountable for:

- (i) making decisions that affect the whole, or a substantial part of the LITC business;
- (ii) implementing and enforcing policies and strategies approved by the LITC's Board of Directors including Head of Department or any equivalent designated person; or
- (iii) internal controls and processes of the LITC.

(b) These professional traders shall be involved in any one of the following areas:

- (i) Trading;
- (ii) Risk Management;
- (iii) Procurement; or
- (iv) Sales & Marketing.

(c) These professional traders shall be residents of Malaysia in a calendar year for the year of assessment under the Income Tax Act 1967 (ITA).

9.0 Annual Licence Fee

9.1 The annual licence fee amounting to USD13,000 or RM40,000, is payable to Labuan FSA upon the grant of licence and may be included as part of the qualifying expenses under paragraph 8.1.2.

9.2 The subsequent payment of annual fee is payable not later than 15 January of every year.

10.0 Submission of Application for Licence and Enquiries

10.1 Any person intending to undertake Labuan international commodity trading business under the GIFT programme may apply to Labuan FSA for approval by submitting a completed Application Form to Carry on Labuan International Commodity Trading Business which is available in Labuan FSA's website at www.labuanibfc.com together with a processing fee of RM1,000.

10.2 Upon receiving approval from the Labuan FSA, the applicant is required to establish a Labuan company incorporated or registered under LCA.

10.3 The licence application under the Guidelines is to be submitted to:

Head of Business Operations Unit
Legal and Business Management Department
Labuan FSA
17th Floor, Main Office Tower
Financial Park Complex, Jalan Merdeka
87000 Federal Territory of Labuan, Malaysia

10.4 Any request for additional information or clarification pertaining to the guidelines or licensing application may be directed to the following contact details:

Telephone : +6 087 591 200
Facsimile : +6 087 453 422 / 422 300
Email : bpu@labuanfsa.gov.my (Guidelines)
bou@labuanfsa.gov.my (Licence application)

Labuan Financial Services Authority 8 March 2018

27 December 2016 (Revised)
6 September 2016 (Revised)
26 June 2013 (Revised)
1 January 2013 (Revised)
31 October 2011