

GUIDELINES FOR THE ESTABLISHMENT OF LABUAN PRIVATE TRUST COMPANIES

1.0 Preamble

- 1.1 The Guidelines are issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 to facilitate an application to carry out Labuan private trust company business under Part V of the Labuan Financial Services and Securities Act 2010 (LFSSA) as Labuan private trust company.
- 1.2 The Guidelines serve to clarify the application requirements and expectation of Labuan Financial Services Authority (Labuan FSA) on a Labuan private trust company registered pursuant to section 74 of LFSSA.

2.0 Definition

- 2.1 A Labuan private trust company is a Labuan company or foreign Labuan company registered to undertake the services of a trust company for the purpose of a private trust(s) created by a settlor or individuals connected to the settlor described in the trust instrument creating the private trust.
- 2.2 Connected person has the meaning assigned to it under section 73(b) of LFSSA.

3.0 Who Qualifies?

A company that is incorporated or registered under the Labuan Companies Act 1990 (LCA) as a Labuan company or a foreign Labuan company.

4.0 Private Trust Company Business

A Labuan private trust company may only provide the trust company services to the private trust. The types of services to be provided by a Labuan private trust company may include the following:

- 4.1 Providing trustee services including review of the trust instrument(s) and the type of assets funding the trust(s), trust management and accounting services;
- 4.2 Performing the secretarial duties of the private trust(s), such as lodgement of any documents and reports through the Labuan trust company (appointed Agent) as required under the LFSSA;
- 4.3 Carrying out activities such as being an agent, executor or administrator or other activities pursuant to the objectives of the private trust company; and

- 4.4 Providing other services as may be approved by Labuan FSA from time to time.

5.0 Registration Requirements

- 5.1 The applicant for the registration as a Labuan private trust company shall:
 - 5.1.1 Submit a duly completed Form PTL - Application for Registration to Carry on Labuan Private Trust Company Business as required under Section 74(2) of LFSSA;
 - 5.1.2 Submit a copy of the draft trust instrument to Labuan FSA;
 - 5.1.3 Ensure that the directors and officers responsible for the management of the proposed Labuan private trust company in Labuan IBFC are fit and proper persons pursuant to section 4 of LFSSA and the Guidelines on Fit and Proper Person issued by Labuan FSA;
 - 5.1.4 Provide a letter of undertaking that it shall not carry out any trust company business other than with respect to the private trust(s); and
 - 5.1.5 Appoint a Labuan trust company as its agent and provide a certified copy of the executed agent's engagement agreement.

6.0 Operational Requirements

- 6.1 All registered private trust companies in Labuan IBFC shall:
 - 6.1.1 Submit a certified copy of the executed trust instrument and any subsequently executed trust instrument;
 - 6.1.2 Ensure compliance with the Guidelines on Anti-Money Laundering and Counter Financing of Terrorism;
 - 6.1.3 Notify Labuan FSA on the change in its Labuan trust company agent within seven working days from the effective date of change specified.
 - 6.1.4 Observe the statutory requirements under the LFSSA;
 - 6.1.5 Have proper arrangements in place to account for and keep all assets and other valuables that it has received in its capacity as trustee duly separated from the trust company's own assets and liabilities; and
 - 6.1.6 Comply with guidelines, directive and reporting requirements issued by Labuan FSA.
- 6.2 Labuan private trust company may appoint an external auditor and conduct an annual audit. Nevertheless, it must ensure that all its accounting and other records are properly kept and managed.

7.0 Duties of Agent

- 7.1 Labuan trust company acting as agent of the Labuan private trust company shall ensure that it keeps the most recent copies of the following:
- 7.1.1 The trust instrument and any deed or document varying the terms of the trust for each relevant trust; and
 - 7.1.2 The documentation and other information that on which it has relied to satisfy itself that the Labuan private trust company complies with section 74(2)(a) of LFSSA.
- 7.2 The Agent must ensure the Labuan private trust company restricts its business to providing trust company activities only to members that fulfil the connected party rule as set out in Section 74(2)(a).

8.0 Annual and Registration Fee

- 8.1 The registration fee amounting to RM5,000 is payable to Labuan FSA upon the grant of registration for Labuan private trust company.
- 8.2 The subsequent payment of annual fee is payable not later than 15 January of each year.

9.0 How to Apply?

The application for a private trust company registration must be forwarded to:

Director General
Labuan Financial Services Authority (Labuan FSA)
17th Floor, Main Office Tower
Financial Park Complex
Jalan Merdeka
87000 Federal Territory of Labuan
Malaysia

Telephone no.: 087 591 200
Facsimile no. : 087 453 442 / 413 328
E-mail: business_management@labuanfsa.gov.my

10.0 Implementation Date

The Guidelines shall take effect from 1 September 2011 and remain effective unless otherwise amended or revoked.

Labuan Financial Services Authority
1 September 2011