

A GUIDE TO PRIVATE FOUNDATIONS FOR WEALTH MANAGEMENT

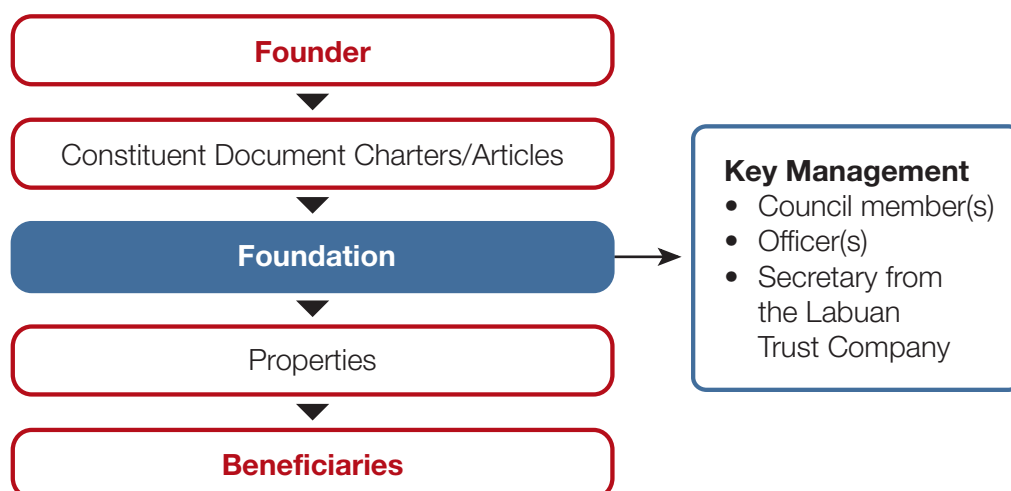
Labuan International Business and Financial Centre (Labuan IBFC) is at the forefront of international cross-jurisdictional wealth planning, offering high-net-worth individuals a plethora of wealth creation and wealth preservation structures in both conventional and Islamic forms.

High-net-worth individuals will find a comprehensive stable of private wealth management vehicles on offer in Labuan IBFC ranging from common law trusts to civil law foundations. Labuan IBFC is the only jurisdiction in Asia that offers private foundations as a wealth management solution.

WHAT ARE FOUNDATIONS?

A Labuan foundation, as provided by the Labuan Foundations Act 2010, is a corporate body with a separate legal entity, established to manage its own property for any lawful purpose, be it for charitable or non-charitable purposes.

Established by a founder, a typical structure for a Labuan foundation is depicted below:



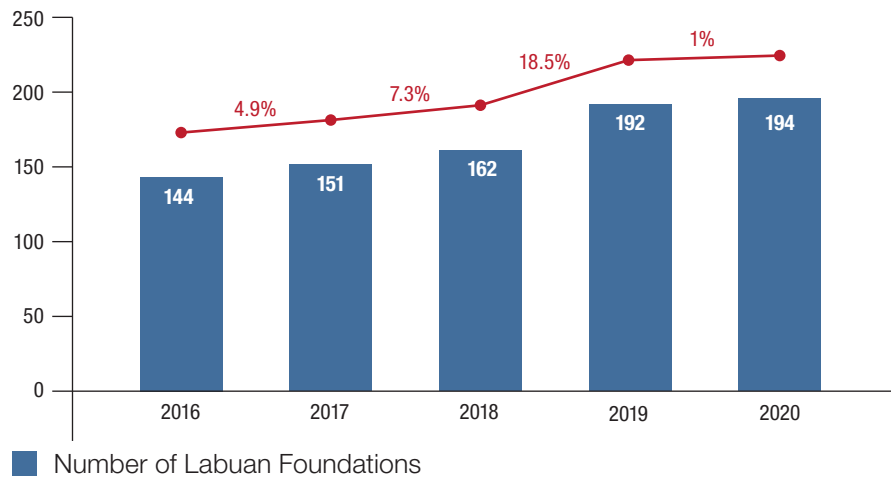
Foundations provide a conduit for dynamic wealth transfer, dynastic planning and inheritance management protected within a tax-efficient legal entity.

In the case of a Labuan Islamic foundation, objectives and operations shall comply with Shariah principles, as enshrined in its incorporation charter and guided by Labuan IBFC's Islamic omnibus legislation (Labuan Islamic Financial Services and Securities Act 2010).

COMPARISON WITH OTHER JURISDICTIONS

	Labuan IBFC	Liechtenstein	Panama	Seychelles
Minimum Endowment	No minimum	USD 30,000	USD 10,000	USD 1
Privacy	Only registration required. Founder has extensive control.	Supervision by government.	Founder can name Supervisory Board members.	Founder has extensive control.
Confidentiality	Foundations articles have to be registered with the regulator. End beneficiaries may remain anonymous.	Foundations articles have to be registered in the public registry, including name of beneficiaries and founder.	Beneficiaries and founders can remain anonymous.	Beneficiaries' and future beneficiaries' names do not have to be included in the foundation charter.
Nationality Requirements	No nationality requirement for founder/councilor.	At least one member of the council must be a private person with Liechtenstein nationality. Several board members needed.	One resident director needed.	No nationality requirement for founder/councilor.
Capital Transfer	Capital can be transferred after registration of foundation.	Has to be done before the registration of the foundation. Added assets will always be public.	Capital can be transferred after registration of foundation.	Capital can be transferred after registration of foundation.
Appeal by Creditors	Creditors can appeal against transfer within the first two years of registration of the foundation. If transfer takes place later, no appeal is possible.	Creditors of founder can appeal against transfer of assets to the foundation.	Creditors can appeal against transfer within the first three years of registration of the foundation. If transfer takes place later, no appeal is possible.	Creditors can appeal against transfer within the first three years of registration of the foundation. If transfer takes place later, no appeal is possible.
Appeal Against Inheritance Provisions	No appeal possible because of foreign laws.	Possible if provisions violate laws of founder's country of origin.	No appeal possible because of foreign laws.	No appeal possible because of foreign laws.
Language	Any language is possible, all that is required is that an English translated copy is provided.	German is a must for official papers.	Spanish translation of official papers needed.	All paperwork can be done in English or French. If other language is used the translation is needed.
Shariah Compliant	Possible	Possible	Not possible	Not possible
Re-domiciliation	Yes	Yes	Yes	Yes
Requirement for an independent council member?	No	No	Yes	Yes

GROWTH OF FOUNDATIONS IN LABUAN IBFC



*Note: As at 31 December 2020

INTERESTING FACTS ABOUT LABUAN FOUNDATIONS

- A foundation is a registered legal entity
- As a legal entity, a foundation offers legal certainty
- May be re-domiciled to other jurisdictions
- May be re-domiciled from other jurisdictions
- Provides for unenforceability of foreign claim or judgment
- No minimum initial asset is required to set up
- The rights and powers of a founder can be enshrined via the charters
- Charitable and non-charitable foundations may hold Malaysian assets, with Labuan FSA's approval
- Arbitration is allowed
- A corporate body is allowed to be appointed as council and officer
- May exist in fixed or perpetual duration
- May be dissolved with assets returned to a designated party
- Protected by confidentiality
- Allows reserved power by the founder
- Allows the appointment of a supervisory person
- Short clawback period of 2 years
- Flexibility to evolve according to circumstances, by issuing articles to reflect changes
- Need not have an independent party in the council
- 'Ownership' may be transferred with protection intact
- Beneficiary has no legal or beneficiary ownership over the foundation's asset

FREQUENTLY ASKED QUESTIONS

Q: Can Malaysians set up a foundation?

Yes.

Q: Are there any other countries in Asia with foundations, which act as a wealth management tool?

No, there is no other country in Asia that offers foundations as a wealth management tool. The foundations in other Asian jurisdictions are limited to charitable purposes, with detailed reporting requirements.

Q: Are there any insurance-related wealth structures?

Yes, protected cell companies and limited liability partnerships may also be used either in conjunction with a foundation or independently as a wealth management tool.

Q: Are foundations required to be registered?

Yes, foundations must be registered with the regulator, Labuan FSA.

Q: Is a foundation registered in Labuan required to have an office in Labuan?

A Labuan foundation must maintain a registered office in Labuan. Its address shall be the address of the secretary to the foundation, which is a Labuan trust company.

Q: Must the council meeting be held in Labuan?

No.

Q: Would it be possible to combine a foundation and a trust?

Yes, one can own the other.

Q: What is the taxation rate of a Labuan foundation?

All non-trading income which includes investment holding income is not taxable. Any trading income is taxed at 3% as provided by the Labuan Business Activity Tax Act 1990.

Q: What is the tax implication on distributions by a Labuan foundation?

The distributions by a Labuan foundation to its beneficiaries are tax exempt in Labuan. The beneficiaries of the foundation will need to satisfy their own tax liabilities in their respective jurisdictions of tax residence.

Q: Are foundations flexible?

Yes, any changes may be incorporated in the charter to allow for flexibility.

Q: Can a Muslim use a foundation to manage their estate while alive?

Yes.

FOR MORE INFORMATION, LOG ON TO WWW.LABUANIBFC.COM

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