



*Asia's Premier International Financial Hub*

# **A GUIDE TO PRIVATE FOUNDATIONS FOR WEALTH MANAGEMENT**

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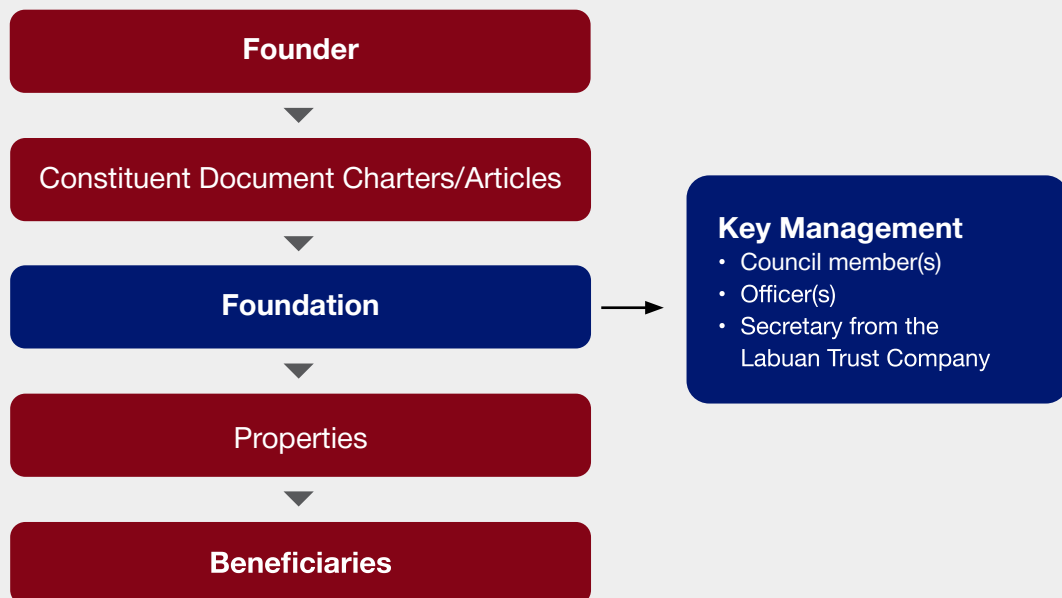
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# A guide to Private Foundation for Wealth Management

Labuan International Business and Financial Centre (Labuan IBFC) is at the forefront of international cross-jurisdictional wealth planning, offering high-net-worth individuals (HNWIs) a plethora of wealth creation and wealth preservation structures in both conventional and Islamic forms. HNWIs will find a comprehensive stable of private wealth management vehicles on offer in Labuan IBFC ranging from common law trusts to civil law foundations.

## 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.

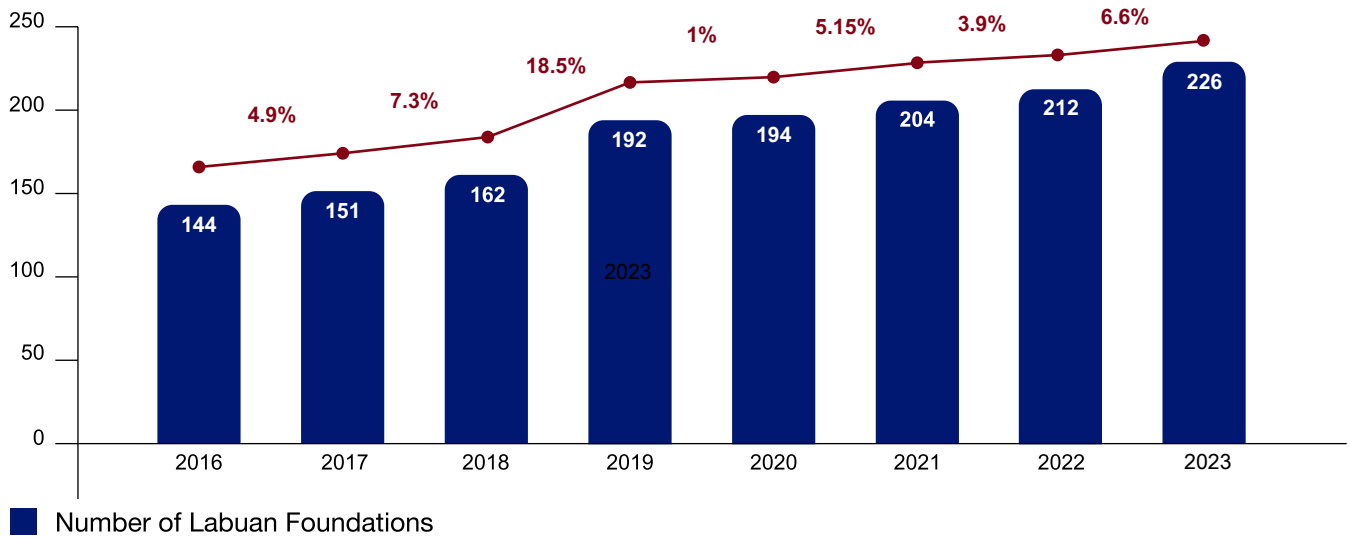
In the case of a Labuan Islamic foundation, objectives and operations shall comply with Shariah principles, as enshrined in its incorporation charter and guided by Labuan IBFC's Islamic omnibus legislation (Labuan Islamic Financial Services and Securities (Amendment) Act 2022).

# Key Factors of Labuan IBFC

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<b>Minimum Endowment</b>	Minimum USD 1.
<b>Privacy</b>	Only registration is required. Founder has extensive control.
<b>Confidentiality</b>	Foundation's charter has to be registered with the regulator. End beneficiaries may remain anonymous.
<b>Nationality Requirements</b>	No nationality requirement for founder/councilor.
<b>Capital Transfer</b>	Capital can be transferred after registration of foundation.
<b>Appeal by Creditors</b>	Creditors can appeal against the transfer within the first two years of registration of the foundation. If the transfer takes place later, no appeal is possible.
<b>Appeal Against Inheritance Provisions</b>	No appeal is possible because of foreign laws.
<b>Language</b>	Any language is possible, all that is required is that an English-translated copy is provided.
<b>Shariah-Compliant</b>	Possible.
<b>Re-domiciliation</b>	Yes.
<b>Requirement for an independent council member?</b>	No.

## Growth of Foundations in Labuan IBFC



\*Note: As at 31 December 2023

## 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
- Minimum of USD 1 as initial asset is required to set up
- The rights and powers of a founder can be enshrined via the charter
- 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 assets

# Frequently Asked Questions

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**1: Can Malaysians set up a foundation?**

Yes.

**2: 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.

**3: 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.

**4: Are foundations required to be registered?**

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

**5: 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.

**6: Must the council meeting be held in Labuan?**

No.

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

Yes, one can own the other.

**8: 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.

**9: Are foundations flexible?**

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

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

Yes.

# Summary of Labuan IBFC Strategic Roadmap 2022-2026

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# Strategic Thrusts

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## Spurring Market Innovations & Vibrancy

- Transforming into a Digital Financial Hub
- Intensifying Labuan's insurance market growth
- Promoting international Islamic finance
- Revitalising niche and prospective segments



## Promoting Market Facilitation & Visibility

- Upscaling Labuan IBFC's ecosystem and infrastructure
- Enhancing Labuan IBFC's visibility and branding



## Strengthening Labuan IBFC's Complementary Roles to Malaysia

- Complementary capacity to Malaysia's economy



## Effecting Relevant & Proportionate Regulations

- Continued prudential regulatory and legal upscaling in accordance with international standards
- Developing risk-sensitive, fit-for-purpose regulations to cater for emerging concerns
- Securing good ratings for incoming international assessments on Labuan IBFC
- Fiscal planning to meet Organisation for Economic Co-operation and Development's (OECD) new requirements and BEPS 2.0



## Effecting Pre-Emptive Supervision & Enforcement

- Intensifying and modernising supervisory approach and cross-border engagements



For more information, log on to **[www.labuanibfc.com](http://www.labuanibfc.com)**

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