

## **FREQUENTLY-ASKED QUESTIONS GUIDELINES ON THE ESTABLISHMENT AND OPERATIONS OF LABUAN LEASING BUSINESS**

### **A. APPLICABILITY**

- 1. Are the requirements under the Guidelines applicable to Labuan Banks undertaking Labuan financial business in relations to leasing business?**

The Guidelines is only applicable to Labuan licensed leasing companies i.e. those which were licensed to undertake Labuan leasing business under Sections 92 of the Labuan Financial Services and Securities Act 2010 (LFSSA) or Sections 67 of the Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

### **B. PERMITTED BUSINESS ACTIVITY**

- 2. The assets leased under the Labuan leasing business are expected to be big ticket items of high value or specialised assets. Is there any threshold on the minimum value of assets or any specific type of assets in order for them to be classified as such?**

The big ticket items are assets which have high value that may include assets used for aviation, shipping and other sectors for example, private and commercial aircrafts, oil rigs and etc.

The specialised assets are meant for assets intended for pecuniary or specific purpose and may be those assets that require a state-of-art technology that is not available in Malaysia. For example, the submarine or aviation simulators, hyperbaric diving chamber, seabed sonar mapping devices and etc.

## C. PAID-UP CAPITAL

### 3. Is there any minimum paid-up capital requirements?

The Labuan leasing company is expected to **at least** have sufficient and positive capital or working funds that commensurate with the size and nature of its leasing business. Typically, for a leasing company that has large and complex leasing business arrangements, it may need to have a substantial amount of capital to support its current day-to-day operations and obligations.

## D. OPERATIONAL REQUIREMENTS

### 4. Would a registered address i.e. the address of the Labuan leasing company's secretary be considered to fulfil the requirement of maintaining an operational office in Labuan?

An operational office refers to a physical set-up of the Labuan leasing company in Labuan. Generally, an operational office is expected to be sufficiently practical to be used for the leasing company's own operations i.e. have its own entrance with signboard, phone line(s) and equipment necessary to carry on its business.

In this regard, the address of the Labuan leasing company's secretary would not be deemed as its operational office in Labuan.

### 5. Would a corporate group that has more than one Labuan leasing companies be allowed to share the same operational office in Labuan?

Labuan leasing companies within the same group (i.e. related companies) are allowed to share the same operational office in Labuan. In other words, the Labuan leasing companies can operate based on the "umbrella concept". However, proper maintenance of accounting and business records must be in place and core-income generating activities should be undertaken out of the operational office.

For avoidance of doubt on the definition of related companies, where a corporation is the holding company of another corporation; or is a subsidiary of another corporation; or is a subsidiary of the holding company of another corporation; the first-mentioned corporation and the other corporation is deemed to be related to each other.

**6. Can a Labuan leasing company outsource the leasing operational activities to its related Malaysian company?**

Any outsourcing arrangements would require prior approval from Labuan FSA and the core income generating activities of a Labuan leasing company are expected to be carried out from the operational office in Labuan.

The core income generating activities may include, but not limited to, identifying and acquiring of leased assets, negotiating leasing terms, soliciting lessees, management of leased assets and financing the acquisition of assets.

**7. Is there any minimum requirement on the number of full-time employees? Would an appointment of a dedicated employee of a Labuan Trust Company to serve the Labuan leasing company be considered as fulfilling such requirement?**

The Labuan leasing company is expected to engage an adequate number of employees needed to run its business operations, in particular, the core income generating activities as entailed under item 6 above.

The employee must be engaged by the Labuan leasing company on a full-time basis to undertake the operational work at its operational office based in Labuan. For Labuan leasing company that is leveraging on its group sharing or centralised leasing arrangement, it must employ a dedicated employee in Labuan but is also allowed to serve other leasing company(s) within the same group of companies.

**8. What would be the minimum requirements for Labuan leasing companies to satisfy the substantial business presence requirement in Labuan?**

The Labuan leasing company is required to maintain an operational office in Labuan where the core income generating activities are expected to be carried out from this office. In addition, the Labuan leasing company should have adequate number of full-time employees that commensurate with the nature and volume of its leasing business.

**9. Labuan leasing company is required to incur adequate annual business spending. What is considered as part of the annual business spending?**

The annual business spending correlates with the expenses incurred to support the operations of the leasing business. This may include lease rentals, office rentals, defraying payments i.e. staff salary, service providers' services and/or statutory fees.

**10. Can a Labuan leasing company maintain and keep its records at a centralised location outside of Labuan including the leasing agreements? In addition, can the leasing agreement be stamped and endorsed by any branch of the Stamp Duty Office of Inland Revenue Board of Malaysia (IRBM)?**

The Labuan leasing company may apply in writing to seek for Labuan FSA's prior approval to maintain and keep its records outside of Labuan, provided that the same records are being kept at its operational office in Labuan, which are updated once in every six months.

The leasing agreement entered into by the Labuan leasing company must be stamped and endorsed by the Collector of Stamp Duties, at the Stamp Duty Office of IRBM, Labuan branch only.

**11. Does a Labuan leasing company need to obtain prior approval from Labuan FSA for each new and subsequent leasing transactions with resident or non-resident?**

Yes. No leasing transactions shall be undertaken prior to Labuan FSA's approval.

**E. FEES PAYABLE**

**12. What are the fees payable to undertake Labuan leasing business?**

Labuan leasing business dealing with Malaysian resident or non-Malaysian resident are subjected to the following fees:

Type of Fee	Amount (RM)
Annual licence fee	60,000
Each subsequent approved leasing transaction	20,000

## **F. IMPLEMENTATION DATE**

### **13. Does the transition period on the substance requirements apply to only the existing Labuan leasing companies?**

The later implementation date on substance requirements i.e. by 1 January 2019 applies to all existing Labuan leasing companies and new set-ups.

**Labuan Financial Services Authority**

*16 April 2018 (Updated)*

20 February 2018