



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 operation 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 under GIFT programme.

3.0 Legal Provision

- 3.1 The Guidelines are issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to clarify provisions of section 92 LFSSA pertaining to the licensing and operational requirement for LITC.
- 3.2 Any person who fails to comply with the Guidelines may be guilty of an offence punishable under Section 36B and 36G of the LFSAA.

4.0 Effective Date

- 4.1 The Guidelines shall come into effect on **26 June 2013** and would remain effective and applicable unless amended or revoked otherwise.
- 4.2 The Guidelines supersedes the Guidelines on the Establishment of Labuan International Commodity Trading Company under the Global Incentives For Trading Programme issued on 15 January 2013.

5.0 Global Incentives For Trading (GIFT)

- 5.1 The GIFT programme is a framework of incentives for traders, of specified commodities, to use Malaysia as their international trading base to undertake International Commodity Trading Business in Labuan IBFC.
- 5.2 The Labuan international commodity trading business is the trading of physical and related derivative instruments of:
- 5.2.1 Petroleum and petroleum-related products including liquefied natural gas (LNG);
 - 5.2.2 Agriculture products;
 - 5.2.3 Refined raw materials;
 - 5.2.4 Chemicals; and
 - 5.2.5 Base minerals,
- in any currency other than Ringgit.
- 5.3 LITC is to deal only with non-residents in any currency other than Ringgit. However, LITC that trades commodities as specified under paragraph 5.2.1 and coal is permitted to deal with residents in any currency other than Ringgit.
- 5.4 LITC is allowed to establish its operational office(s) anywhere in Malaysia.

5.5 The LITCs are encouraged to utilise Malaysia's support functions which may include but not limited to:-

5.5.1 Strategic management;

5.5.2 Banking, finance and treasury management;

5.5.3 Risk management;

5.5.4 Market research and product portfolio development;

5.5.5 Logistics management;

5.5.6 Global procurement; or

5.5.7 Marketing and sales planning.

6.0 Qualifying Criteria

6.1 The LITC must comply with the following criteria:-

6.1.1 Minimum annual turnover of USD100 million;

6.1.2 Minimum annual business spending of RM3 million payable to Malaysian residents; and

6.1.3 To employ at least three professional traders with a minimum salary of RM15,000 per month each and being resident of Malaysia in a calendar year for a year of assessment under the Income Tax Act 1967.

6.2 Any non-compliance with the conditions under paragraph 6.1 shall be subject to general penalty under section 36C and 36G of the LFSAA.

6.3 Notwithstanding the above, the LITC is exempted from complying with the criteria specified under paragraph 6.1 above for the first 5 years from the date of licence.

7.0 Corporate Tax

- 7.1 The LITC shall be 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 as per the relevant exemption order.
- 7.2 A LITC set up purely as an LNG trading company would be entitled to a 100% income tax exemption on chargeable profit for the first three (3) years of its operation provided the company is licensed before 31 December 2014. Thereafter, the LITC will be subject to the corporate tax as per paragraph 7.1.

8.0 Operational Requirements

- 8.1 The LITC must have sufficient capital/working funds to commensurate or in accordance with its operations and activities.
- 8.2 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” under LFSSA, together with its licence number.
- 8.3 The LITC is required to maintain a registered office in Labuan, which is the office of its Labuan trust company. However, the LITC is allowed to establish its operational office(s) anywhere in Malaysia but is required to provide the details i.e. address and number of staff of its operational office to Labuan FSA upon commencement of business.
- 8.4 The LITC must ensure that the business is conducted with proper corporate governance and risk management framework is in place.

8.5 The LITC is required to submit to Labuan FSA the following:

8.5.1 The completed Annual Update Submission Form latest by 15 February of each year (as per appendix I); and

8.5.2 A copy of its audited financial statements within three (3) months after the close of each financial year.

8.6 The LITC is expected to comply with other requirements of the Labuan Companies Act 1990 (LCA), LFSSA and the relevant laws where the LITC operates, whichever applicable.

9.0 Other Incentives Applicable for LITC

9.1 100% exemption on director fees paid to non-Malaysian director of the LITC.

9.2 50% exemption on gross employment income of Non-Malaysian professional, managerial staff including traders with the LITC.

9.3 Exemption on dividends received by or from the LITC.

9.4 Exemption on royalties received from the LITC.

9.5 Exemption on interest received by resident or non-resident from the LITC.

9.6 Stamp duty exemption on all instruments for Labuan business activities, M & A of Labuan company and transfer of shares.

10.0 Annual Fee

- 10.1 The annual licence fee amounting to RM40,000 is payable to Labuan FSA upon the grant of licence. This annual licence fee can be included as part of the qualifying expenses under paragraph 6.1.2.
- 10.2 The subsequent payment of annual fee is payable not later than 15 January of each year commencing from 2014.

11.0 Application for Licence

- 11.1 Any person intending to undertake Labuan international commodity trading business under the GIFT initiative may apply to Labuan FSA for approval by submitting a completed Application Form for Licence to Carry on Labuan Financial Business which is available in the Labuan FSA's website at www.labuanfsa.gov.my together with a processing fee of RM1,000.
- 11.2 Upon receiving approval from the Labuan FSA, the applicant is required to establish a Labuan company incorporated or registered under LCA.
- 11.3 The application under the guidelines can be submitted to:-

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

- 11.4 Any request for additional information or clarification pertaining to the guidelines may be directed to the following contact details:-

Labuan Financial Services Authority (Labuan FSA)

Telephone : +6 087 591 200
Facsimile : +6 087 422 300
E-mail : business_operations@labuanfsa.gov.my
Contact person : Mr. Jaffree Ismail

12.0 Transitional Period

- 12.1 Existing Labuan companies currently undertaking the trading business in petroleum and petroleum-related products including LNG are required to be licensed as an LITC by 30 June 2013.
- 12.2 Existing Labuan companies that are currently undertaking trading business in the specified commodities other than those mentioned in paragraph 12.1 are required to be licensed as an LITC by 31 January 2014.

Labuan Financial Services Authority
26 June 2013