

GUIDELINES ON THE ESTABLISHMENT OF LABUAN COMPANY MANAGEMENT IN LABUAN IBFC

1.0 Introduction

- 1.1 Labuan International Business and Financial Centre (Labuan IBFC) facilitates cross-border activities by supporting entities that wish to expand regionally or globally, using the legal structure that is readily available in the centre. In today's business environment, companies are increasingly seeking opportunities to expand their operations internationally by establishing subsidiaries or branches in foreign jurisdictions and navigating complex laws and regulations. To effectively manage these activities and ensure compliance with various legal and regulatory requirements, the Group of Companies require comprehensive company management services that provide treasury processing services within the Group. By leveraging advanced technologies and expertise in financial management, the treasury processing service providers may offer innovative solutions that enable the Group of Companies to effectively manage their cash flows, hedge against currency fluctuations, and optimise their working capital.
- 1.2 Company management services play a crucial role for businesses operating in multiple jurisdictions to navigate the complexities and challenges associated with such operations. Hence, the Guidelines are issued for the following purposes:
- (a) to clarify the application procedures for Labuan companies that intend to carry on company management business in Labuan IBFC;
 - (b) to provide the operational and regulatory requirements for Labuan companies that carry on company management business in Labuan IBFC; and
 - (c) to clarify the services which are permitted by Labuan Financial Services Authority (Labuan FSA) to be provided under the company management as defined under section 129 of the Labuan Financial Services and Securities Act 2010 (LFSSA).

2.0 Applicability

- 2.1 The Guidelines are applicable to any person who intends to be or is licensed by Labuan FSA to carry on Labuan company management business pursuant to section 131 of the LFSSA. For the avoidance of doubt, this Guidelines is not applicable to a Labuan entity that establishes a Special Purpose Vehicles (SPV) to provide one-off company management services (Refer to **Appendix I** for illustrations).

3.0 Legal Provision

- 3.1 The Guidelines is issued pursuant to Section 4A of the Labuan Financial Services Authority Act 1996 (LFSAA) to clarify the provisions of Part VIII of LFSSA.
- 3.2 Any person who fails to comply with the Guidelines may be subject to an administrative penalty and/or other enforcement actions under section 36B and section 36G of the LFSAA.

4.0 Effective Date

- 4.1 The Guidelines shall come into effect immediately and would remain effective and applicable unless otherwise amended or revoked.
- 4.2 The Guidelines supersedes the Guidelines on Company Management Business in Labuan IBFC dated 1 March 2021.
- 4.3 All licences granted by Labuan FSA prior to the effective date of this Guidelines shall remain valid unless otherwise revoked and are subjected to the new requirements of this Guidelines upon its effective date.

5.0 Eligibility

- 5.1 The applicant for a Labuan company management licence shall have the following:
- (a) a credible and viable business plan that sets out the approach to implement the proposed strategic business objectives or operations;
 - (b) a set of proper internal policies and controls that commensurate with the business profile or risks;

- (c) board members and senior management that have the competency and experience to undertake the company management business;
- (d) no adverse report on the shareholder, directors, or principal officer of the company;
- (e) adequate financial resources to meet and maintain the minimum paid-up capital requirement; and
- (f) such other documents or information as the Authority may reasonably require.

6.0 Permissible Activities

- 6.1 Labuan company management business is defined as the provision of treasury processing services and such other services, and to such persons, as may be permitted by the Labuan FSA under section 129 of the LFSSA.
- 6.2 Provision of the treasury processing services is confined to **its group of related companies and associated companies globally**. These services include:
 - (a) arranging credit facilities;
 - (b) providing corporate finance advisory services;
 - (c) providing guarantees, performance bonds, standby letters of credit and services relating to remittances;
 - (d) managing the funds of any of its approved offices or associated companies;
 - (e) performing economic or investment research and analysis;
 - (f) providing credit administration and control;
 - (g) providing general management and administration; or
 - (h) providing business planning and coordination.

- 6.3 For avoidance of doubt, the group of related companies and associated companies specified under paragraph 6.2 refers to the following:
- (a) a group of related companies refers to related companies as defined under section 4 of Labuan Companies Act 1990.
 - (b) an associated company refers to “associate” definition under the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB).
- 6.4 The applicant may conduct such services based on conventional and Shariah-compliant requirements.

7.0 Operational Requirements

- 7.1 Maintain a minimum paid-up capital (unimpaired by losses) of RM100,000 or its equivalent in any foreign currency. However, Labuan FSA may exercise its discretion to require additional capital to commensurate with the business operations, taking into account the risk profile as well as nature, scale, complexity and diversity of the company management businesses activities;
- 7.2 Establish an adequate set of internal policies and controls for its operations, compliances, corporate governance and risk management including policies and controls on technology-related areas. These need to be regularly reviewed to ensure that they remain appropriate, relevant and prudent;
- 7.3 Comply with reporting requirement including but not limited to the following:
- (a) submit audited financial statements within six (6) months after the closure of each financial year; and
 - (b) statistics and other information as Labuan FSA may require from time to time.
- 7.4 Obtain prior approval from Labuan FSA on the following matters:
- (a) change of business plan;

- (b) change of ten per centum (10%) or more of the shareholding¹;
 - (c) appointment of its board of directors or principal officer;
 - (d) reduction of paid-up capital which shall not be lower than the minimum paid-up capital required under paragraph 7.1;
 - (e) change of name; or
 - (f) change of place of business or establishment of office outside of Labuan.
- 7.5 Notify Labuan FSA within seven (7) days pertaining to the following matters:
- (a) resignation of directors or principal officer;
 - (b) any change of information with regard to the place of business or office in Labuan; or
 - (c) any change to its constituent documents.
- 7.6 Ensure that the persons in control, directors and principal officer meet the fit and proper person requirements as specified in the Guidelines on Fit and Proper Person Requirements issued by Labuan FSA;
- 7.7 Ensure the employees are competent and possess sound knowledge of the services to be offered;
- 7.8 Maintain adequate and proper records and books of accounts in Labuan;
- 7.9 Ensure the entity's name and licence number are clearly indicated on its letterhead, stationery and other documents; and
- 7.10 Observe any applicable laws, rules and regulations relevant to the company management business, including any other relevant guidelines issued by Labuan FSA from time to time including those listed in **Appendix II**.

¹ For branch set-ups, only notification to Labuan FSA is required for the change of shareholding structure and appointment of its board of directors.

8.0 Application Procedures

- 8.1 Submit a completed application form with the relevant supporting documents as stipulated in the Form LCM – Labuan Company Management Business, which is downloadable at www.labuanfsa.gov.my under the category of “licence application form” together with a processing fee of USD350. The applicant may also opt for fast track processing with an additional fee².
- 8.2 For applicant that is already regulated in other jurisdiction, prior approval from its home supervisory authority may be required before applying for a Labuan company management licence, where applicable.
- 8.3 Notwithstanding the above, Labuan FSA may require additional information or documents to support the processing of the application.

9.0 Annual Licence Fee

- 9.1 The annual licence fees payable for Labuan company management business upon the grant of its licence are as specified under the Labuan Financial Services and Securities (Amendment) Regulations 2022.
- 9.2 The subsequent payment of annual licence fee is payable by 15 January of each year.

10.0 Submission of Application and Enquiries

- 10.1 The licence application for Labuan company management business is to be submitted to:

Head of Authorisation and Licensing Unit
Labuan Financial Services Authority
17th Floor, Main Office Tower
Financial Park Complex, Jalan Merdeka
87000 Federal Territory of Labuan, Malaysia

² Subject to the Authority's acceptance of fast track application.

10.2 Any enquiries or clarification may be directed to the following contact details:

Telephone no. : 03 8873 2000

E-mail : (a) Business Policy Unit (*Guidelines*)

bpu@labuanfsa.gov.my

(b) Authorisation and Licensing Unit (Licence application)

licensing@labuanfsa.gov.my

Labuan Financial Services Authority

15 November 2023

1 March 2021

14 May 2019

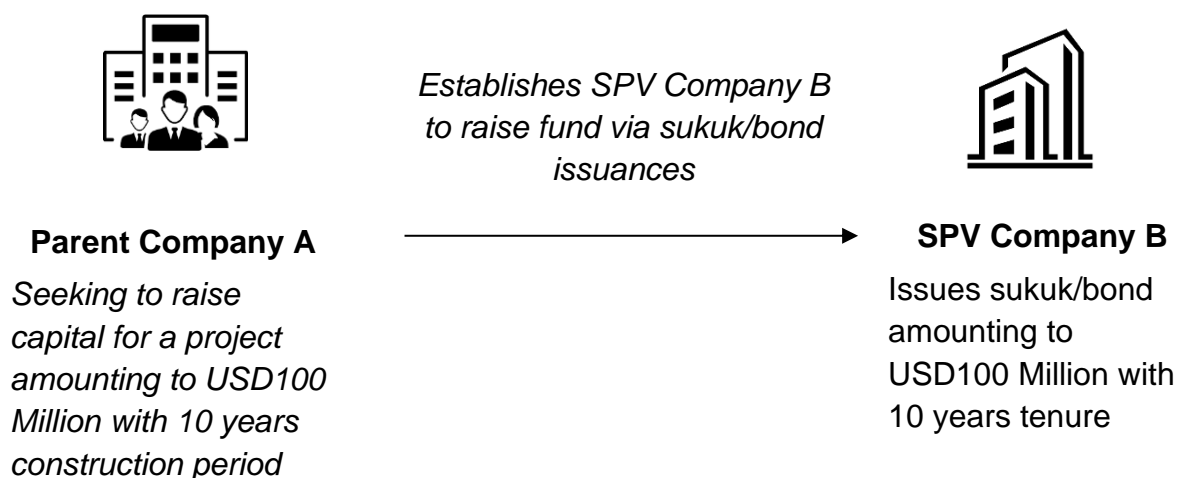
For the purpose of this Guidelines, Appendix I provides illustration on Special Purpose Vehicles (SPVs) and companies arranging and providing intra-group financings. Please note that the illustrations under Appendix I are provided as examples only and do not reflect all possible structures or scenarios.

A. One-off Company Management Services

i. Company that acts as SPV

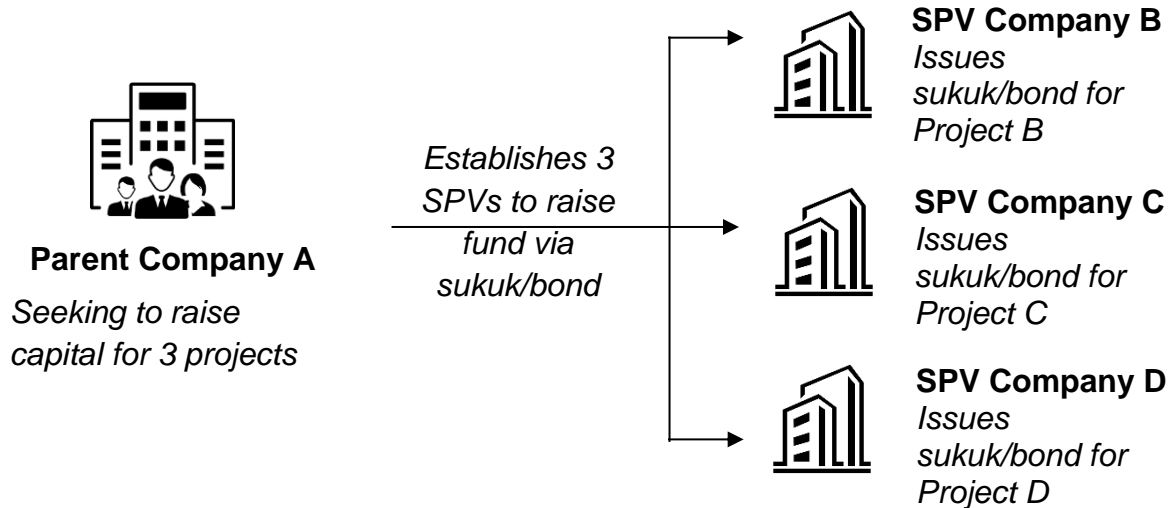
Scenario 1

The Parent Company A receives a project with cost amounting to USD100 Million with 10 years construction period. To raise the additional capital, Company A establishes a SPV Company B to raise funds via issuance of sukuk/bond for the project for a specified period. Upon completion of the project and financing objective, SPV Company B shall be dissolved and shall not be used to finance new projects.



Scenario 2

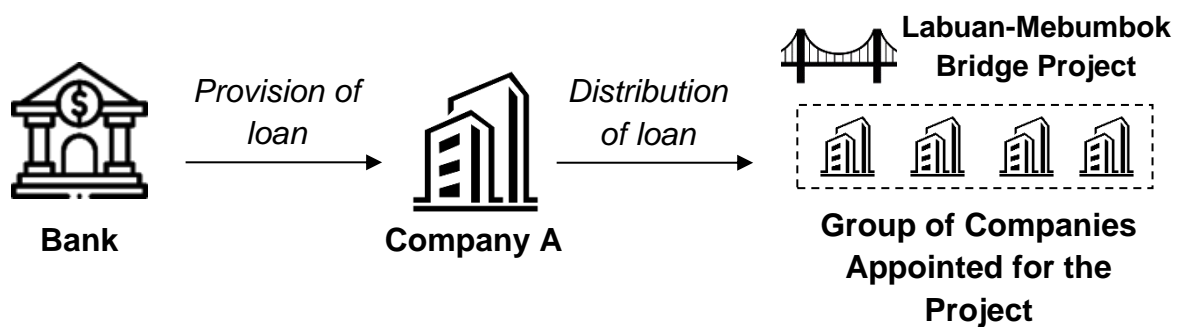
The Parent Company A receives three (3) projects, i.e. Project B, C & D, which require raising of additional capitals. Company A establishes three (3) SPVs, i.e. Company B, C and D to raise the funds via issuance of sukuk/bond for the three (3) projects for a specified amount and period. Upon completion of the project and financing objective, SPV Company B, C and D shall be dissolved and shall not be used to finance new projects.



ii. Company that acts as an intermediary

Scenario 3

Company A acts as an intermediary between its groups of companies and the Bank/ financier for a specified project/ amount and period, e.g. Labuan-Menumbok bridge project. The financing between Company A and its Groups can be in multiple tranches/ transactions subject to the agreed loan amount. Once the project is completed, Company A shall cease to exist and new activity of any intra-group financing is not permitted.



B. Recurring Company Management Services

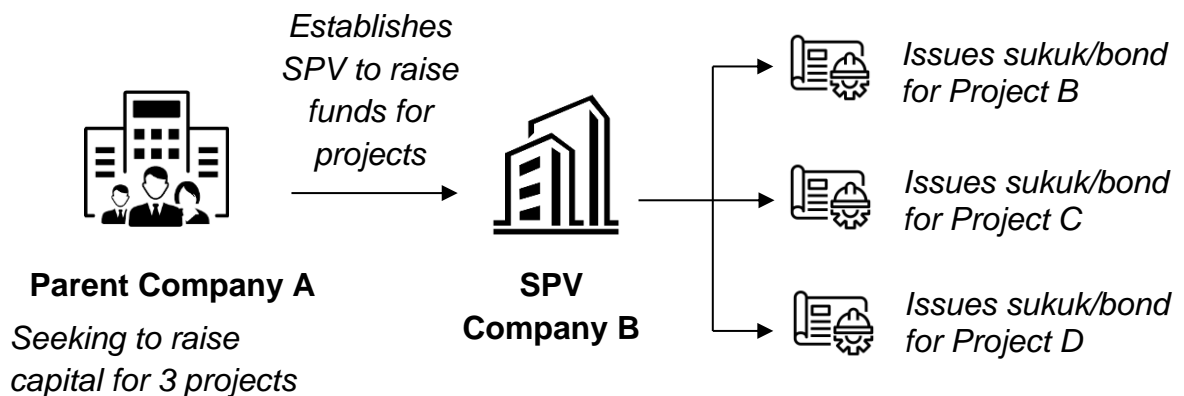
- i. Company that acts as SPV

Scenario 1

The Parent Company A receives three (3) projects that require financing as follows:

- (a) Project B: Development of a condominium with a cost of USD100 Million within 10 years
- (b) Project C: Purchase of 20 aircrafts for commercial use with a cost of USD300 Million within 15 years
- (c) Project D: 5 years oil and gas exploration project with a cost of USD50 Million in Saudi

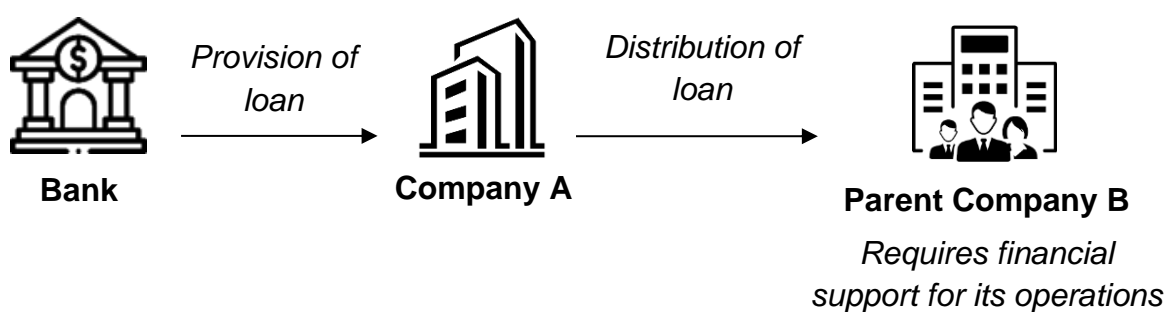
Based on the above, Company A establishes a SPV Company B to issue three (3) sukuk/bonds to raise the funds for its parent Company A. Upon completion of the projects and financing objectives for Project B, C and D, SPV Company B continues to issue sukuk/ bonds and be used to finance new projects for Company A.



ii. Company that acts as an intermediary

Scenario 2

Company A acts as an intermediary between its parent Company B and the Bank/ financier for any project or operational financing arrangements. The financing between Company A and parent Company B can be in multiple tranches/ transactions. The activity of borrowing and on-lent is repetitively undertaken by Company A to support its parent company for multiple projects or operational purposes.



List of Relevant Guidelines and Circulars

1. Guidelines on Fit and Proper Person Requirements
2. Guidance Note on Anti-Money Laundering and Counter Financing of Terrorism for Labuan Specified Entities
3. Directive on Financial Reporting Standards for Labuan Financial Institutions
4. Circular on Financial Reporting Standards for Labuan Financial Institutions
5. Directive on Accounts and Record-Keeping Requirements for Labuan Entities
6. Directive on Islamic Financial Business in Labuan IBFC

Note: The above lists are not exhaustive. Please observe the applicable and relevant policies issued by Labuan FSA from time to time.