

Supervisory Expectations: Labuan Charitable Foundation and Labuan Charitable Trust

- Supervision Department

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Outline

- Laws and Guidelines Applicable to Labuan Foundation/Trust
- Supervisory Monitoring for Labuan Foundation/Trust
- Common Supervisory Issues for Labuan Foundation/Trust
- Control Measures to Mitigate ML/TF/PF Risks for Labuan Foundation and Labuan Trust

Laws and Guidelines Applicable to Labuan Foundation/Trust

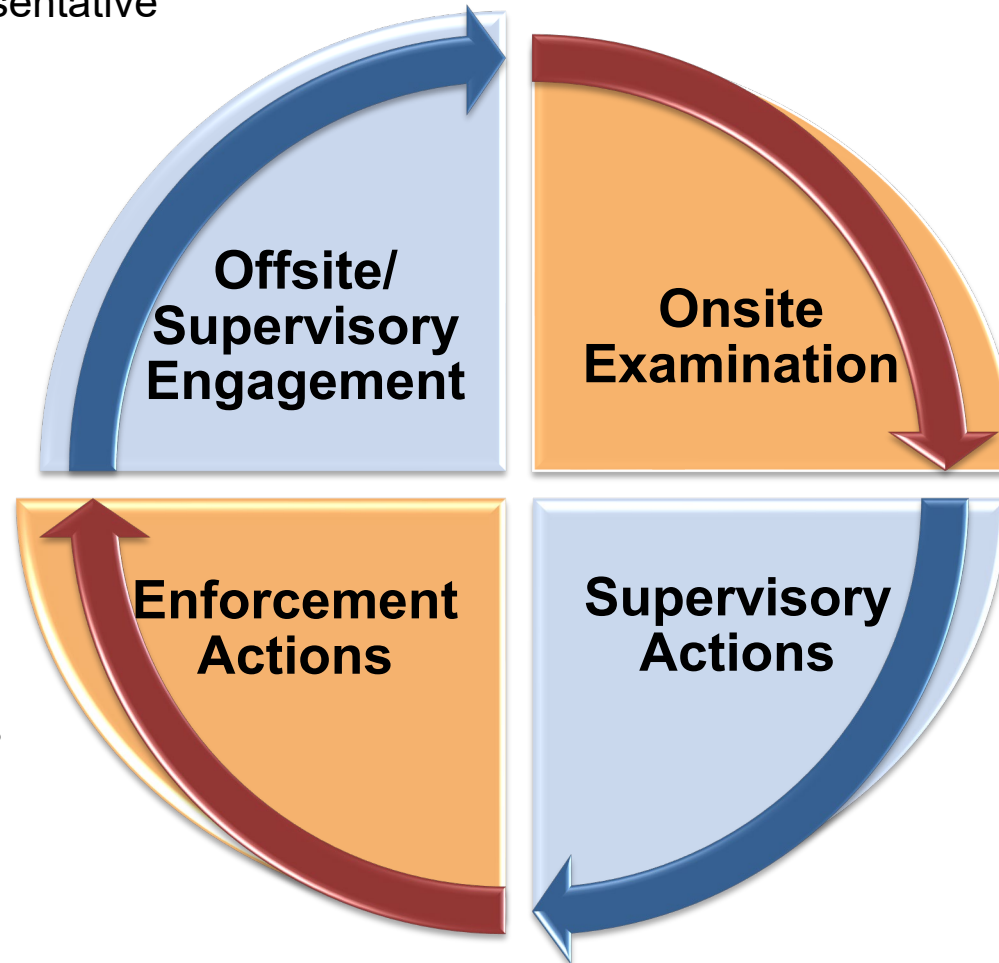
The laws and guidelines applicable to Labuan Foundation/Trust include the following:

Laws / Guidelines	Foundations	Trusts
Labuan Foundation Act 2010	✓	
Labuan Trust Act 1996	✓	✓
Labuan Business Activity Tax Act 1990	✓	✓
Labuan Financial Services Authority Act 1996	✓	✓
Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLA)	✓	✓
Guidelines on the Establishment of Labuan Foundation including Islamic Foundation	✓	
Guidelines for Establishment of Labuan Trust and Islamic Trust		✓
Guidelines on AML/CFT – Capital Market and Other Business Sectors	✓	✓
Guidance Note on Anti-Money Laundering and Counter Financing of Terrorism for Labuan Specified Entities	✓	✓
Guidelines on Beneficial Ownership for Labuan Legal Persons and Legal Arrangements	✓	✓
Guidelines on Politically Exposed Person (PEP) – Family Members And Close Associates Of PEP	✓	✓
Submission of Audited Financial Statements by Labuan Entities through Cor@l	✓	
Guidelines on Fit and Proper Person Requirements	✓	
Directive on Accounts and Record-keeping Requirement for Labuan Entities	✓	✓

Supervisory Monitoring for Labuan Foundation/Trust

- Audited Financial Statements
- Activity Report (Representative Office)
- Self - Assessment Questionnaires (SAQ)
- News, Complaints and Feedback from Public/ Regulator

- Directive
- Administrative Penalty
- Restriction of Business
- Deregistration



- Beneficial Ownership
 - Beneficiaries
 - Customer Due Diligence (CDD)/ Enhanced CDD
 - STR mechanism
 - Management Information System
 - Compliance to Regulatory Requirements
 - Foundation Charter
 - Standard Operating Procedures
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- Supervisory Letter
 - Advisory for Improvement

Common Supervisory Issues for Labuan Charitable Foundation/Trust

- Inadequacy of internal policies and procedures including the Standard Operating Procedures related to Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT)
- Foundation charter not updated i.e. changes on the council members, officers of the foundation
- Failure to submit the AFS within the time frame
- Failure to submit the Self Assessment Questionnaires (SAQ)

Control Measures for Labuan Foundation/Trust

Control measures to mitigate ML/TF/PF risks

Profile

- (i) Non-Charitable
- (ii) Charitable
- Origin : Malaysian
Foreign

- Founder/Supervisory Officer/Council Members
- Objectives of the Foundation / Trust
- Endowment: Initial & Subsequent
- Location of the asset
- Beneficiaries

Regulatory Requirements



- Accounting records at registered office
- Documents kept at least 6 years
- Submission of Audited Financial Statement, 6 months after close of financial year
- Payment of Annual Fee

Roles of the Trust Company



- Services offered by the TC
- The role of TC for its client (secretary/ director/ trustee/officer/ council/ etc.)
- Preventive measures for any conflict of interest in the course of providing its services.

AML/CFT/CPF

- Policies and procedures on AML/CFT/CPF
- Conduct due diligence on Employees, Donor, Partner, Beneficiary and etc.
- Conduct risk profiling i.e. based on countries, geographical areas and type e.g. Political Exposed Person
- Level of understanding on ML/TF/PF risks
- AML/CFT/CPF risk awareness training program for employees
- Use 3rd party service to perform due diligence

THANK YOU

www.labuanfsa.gov.my

Disclaimer

The information contained herein is of a general nature and should not be regarded as offering a complete explanation of the business of Labuan IBFC or Labuan FSA.