

Why Labuan?

Equipped with the general understanding of captive, especially on the minimum capital requirement/working fund to establish an entity, it's now essential that you understand why Labuan is the ideal domicile for a captive set-up. Firstly, Labuan is indeed the only location within Malaysia that permits setting up of a Captive Insurance, Reinsurance, Takaful and Retakaful company. Its strategic position in East Malaysia makes Labuan a crucial destination for captive businesses in Asia-Pacific.

Labuan is essentially an island administered by Malaysia and is easily accessible for major economies in Asia and the Pacific region. With the Malaysian government pulling out all the stops to develop Labuan into a world-class special economic zone, with the establishment of Labuan International Business and Financial Centre (Labuan IBFC), the island today offers, among others, impressive infrastructure, satellite telecommunication and low operating costs.

Key Legal Provisions of Interest

Having highlighted the minimum capital requirement/working fund and Captive governance in Labuan in the first edition, we will delve a little deeper on other essential prerequisites that need to be met to successfully establish a captive in Labuan. On the solvency front, the minimum margin required, referring to the excess of assets over liabilities must be equal or higher than the following:

- ➔ the minimum capital/working fund as stated in the preceding article or,
- ➔ in the case of a life insurance business, 3% of actuarial valuation of liabilities
- ➔ in the case of general insurance business, 20% of the net premium income

Moving on to license fees, the annual license fee payable – by 15 January every year – for a Pure Captive is RM 10,000, Rent-a-Captive is RM 13,000 and Protected Cell Company – Core/Cell is RM30,000 / RM10,000. The annual fees for a Labuan company – payable to the Labuan Financial Services Authority (Labuan FSA) – amounts to RM2,600 and will be due before or on the yearly anniversary of the date of incorporation or registration.

If your establishment is a licensed insurance and insurance related company in Labuan IBFC, you are required to be a member of the Labuan International Insurance Association, for which there will be an annual subscription fee of RM2,500 which payable by 31 January every year.

Business Transactions

There are several key areas of compliance for doing business as Captive company in Labuan and one of the most important that needs to be taken into account is business transactions. A Captive can transact general insurance or life insurance be it as a direct business or as a reinsurance accepted business.

However, it cannot transact Malaysian domestic businesses except as a reinsurance and Malaysian permitted risks such as those relating to international maritime shipping, international commercial aviation and any liability derived from such risks and risks related to goods in international transit (the Insurance [Exemption] Order 2009).

With the consent and agreement of Labuan FSA, Captives are permitted to do a limited number of third party business. However, it must not compromise its core character as a captive insurer.

Our next article will further highlight key areas in setting up a Captive in Labuan such as management, shareholders and more.