

Labuan

General	
Type of entity	Offshore Trading
Type of law	Common
Shelf company availability	No
Our time to establish a new company	4 - 8 days
Minimum government fees (excluding taxation)	RM 1,500
Corporate Taxation	3% or RM 20,000
Double taxation treaty access	Yes
Share Capital or Equivalent	
Standard currency	US\$
Permitted currencies	Any except RM
Minimum paid up	US\$1
Usual authorised	US\$1 – US \$1,400
Directors or Managers	
Minimum number	One
Local required	No
Corporate Directors permitted	Yes
Publicly accessible records	No
Location of meetings	Anywhere
Members	
Minimum number	One
Publicly accessible records	No
Location of meetings	Anywhere
Company Secretary	
Required	Yes
Local or qualified	Local
Accounts	
Requirement to prepare	Yes
Audit requirements	Not required if a company pays a flat tax rate of RM20,000
Requirement to file accounts	Not required if a company pays a flat tax rate of RM20,000
Publicly accessible accounts	No
Other	
Requirement to file annual return	Yes
Change in domicile permitted	Yes

GENERAL INFORMATION

Introduction

The Federal Territory of Labuan is part of Malaysia and comprises seven small islands of which Pulau Labuan is the largest. Labuan lies off the north-west coast of Borneo 8 km from the Malaysian state of Sabah. It is located on the major shipping and air routes of the Asian Region and is Malaysia's only deepwater anchorage. Labuan is roughly triangular in shape and derives its name from the Malay word for "an anchorage". Labuan has a tropical climate, which is warm and humid throughout the year. Daytime temperatures average 30°C with two seasonal monsoon periods stretching from April to June and from September to December.

Population

The Island of Labuan covers an area of approximately 92 sq km, and has an estimated population of 78,000. The largest town and financial centre is Labuan Town and the main language is Bahasa Malayu but English, Tamil and various Chinese dialects are widely spoken.

Political Structure

Labuan was ceded to the state of Sabah in 1963; subsequently its administration was handed to the Federal Government of Malaysia in 1984. Malaysia consists of thirteen states and two federal territories of Kuala Lumpur and Labuan. Malaysia has a complex political system with power retained in the hands of nine hereditary sultans, who elect a head of state every five years from among their number. Legislative power is in the hands of a bicameral parliament comprising of a House of Representatives (Dewan Rakyat) and a Senate (Dewan Negara), Executive power is held by the Prime Minister who governs with the assistance of a ministerial cabinet. Appointments are for a five year term

Infrastructure and Economy

The Nation is economically strong and politically stable. Under the guidance of LOFSA (the Labuan Offshore Financial Services Authority) the Malaysian authorities have invested heavily into the improvement of Labuan's physical infrastructure, which is completely modernised and provides a state of the art telecommunications system including an Internet Gateway which provides an e-commerce platform. More than 50 of the world's top banks have branches in Labuan.

Language

The Official Language is Bahasa Malayu. However, English is widely spoken and many documents and publications are available in English (including the Labuan offshore Legislation).

Currency

The Malaysian currency is the Ringgit. Apart from certain exceptions, offshore companies in Labuan are required to carry on business in a foreign currency.

Exchange Control

None.

Type of Law

The Malaysian legal system is based on the English model. Special laws applicable to the offshore industry in Labuan have been enacted. Arbitration is permitted. Disputes are heard in camera. Final appeal lies with the Supreme Court.

Principal Corporate Legislation

On 6th November 1989, the Government of Malaysia declared the Federal Territory of Labuan as an International Offshore Financial Centre. The following statutes apply:

- The Offshore Companies Act 1990.
- The Labuan Trust Companies Act 1990.
- The Offshore Banking Act 1990.
- The Offshore Insurance Act 1990.
- The Labuan Offshore Business Activity Tax Act 1990 (as amended 2004)
- The Labuan Offshore Trusts Act 1997.
- The Labuan Offshore Limited Partnerships Act 1997.
- The Labuan Offshore Securities Industry Act 1998.



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In addition, the Labuan Offshore Financial Services Authority (LOFSA) has been established as the sole regulatory body for those statutes.

COMPANY INFORMATION

Procedure to Incorporate

Submission to the Registry of:

- Memorandum and Articles of Association,
- Consent form to act as a director,
- Statutory Declaration of Compliance with the Companies Act
- Certificate of Identity
- Statutory declaration by persons before appointments as directors
- and the requisite fee.

Restrictions on Trading:

Permitted trading of an offshore company:-

An Offshore Company shall only carry on business in, from or through Labuan. An Offshore Company may not: carry on business with a resident of Malaysia except as permitted by the Labuan Financial Services And Securities Act 2010 [Act 704]; carry on the business of Banking or Insurance or such similar business unless it is licensed so to do under the Labuan Financial Services And Securities Act 2010 [Act 704]; carry on business in the Malaysian currency except for defraying its administrative and statutory expenses; carry on business of shipping or petroleum operations in Malaysia or carry on business as a trust company.

Exceptions to carrying on business with residents of Malaysia:

An Offshore Company is not treated as carrying on business with residents of Malaysia if it makes or maintains deposits with a person carrying on business in Malaysia; it makes contact with professional advisers carrying on business in Malaysia; it prepares and maintains books and records in Malaysia; it acquires or holds any lease or property for operational purposes or accommodation of its employees; it holds directors' or members' meetings within Malaysia; it holds shares, debt obligations, or other securities in a company incorporated under the by Labuan Financial Services and Securities Act 2010 [Act 704] or in a domestic company, or holds shares, debts obligations or other securities for the purposes of a transaction entered in to in the ordinary course of a money-lending business.

Powers of Company

A company incorporated in Labuan has the same powers as a natural person.

Language of Legislation and Corporate Documents

English.

Registered Office Required

Yes and Licensed Agent.

Shelf Companies Available

No.

Time to Incorporate

Eight days.

Name Restrictions

Names resembling the name of an existing company are not acceptable or names that in the opinion of the Registrar suggest Royal or government patronage. Names, which the Registrar considers undesirable, will be rejected.

Names Requiring Consent or a Licence

Bank, building society, insurance, assurance, reinsurance, fund management, investment fund, trust, trustees, Chamber of Commerce, university, municipal or their foreign language equivalents.



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Language of Name

Offshore companies are allowed to have names in a foreign language, provided they use the Latin alphabet.

Suffixes to Denote Limited Liability

Limited, Incorporated, Corporation, Société Anonyme, Sociedad Anonima or their relevant abbreviation. If the Malaysian word Berhad is used then it must be preceded by "(L)" to denote that the company is incorporated in Labuan.

Disclosure of Beneficial Ownership to Authorities

No.

COMPLIANCE

Authorised and Issued Share Capital

The standard authorised capital is US\$ 10,000; divided in to 10,000 shares of US\$ 1. The minimum issued capital is one share, which may be fully or partly paid.

Classes of Shares Permitted

Registered shares of par value, preference shares, redeemable shares and shares with no voting rights.

Taxation

Offshore Companies that are trading pay 3% on net audited profits or the sum of RM 20,000.

The factor that determines the locality of profits from trading in goods and commodities is generally the place where the contracts for purchase and sale are effected. "Effected" does not only mean that the contracts are legally executed. It also covers the negotiation, conclusion and execution of the terms of the contracts.

If a business earns commission by securing buyers for products or by securing suppliers of products required by customers, the activity which gives rise to the commission income is the arrangement of the business to be transacted between the principals. The source of the income is the place where the activities of the commission agent are performed. If such activities are performed through an office in Hong Kong, the income has a source in Hong Kong.

Double Taxation Agreements

Labuan, being a region of Malaysia, is party to over sixty three double tax agreements. The countries include: Albania, Argentina, Australia, Austria, Bahrain, Bangladesh, Belgium, Canada, Chile, China, Croatia, Czech Republic, Denmark, Egypt, Fiji, Finland, France, Germany, Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Jordan, Kuwait, Kyrgyzstan, Lebanon, Luxembourg, Malta, Mauritius, Mongolia, Morocco, Myanmar, Namibia, Netherlands, New Zealand, Norway, Pakistan, Papua New Guinea, Philippines, Poland, Romania, Russia, Saudi Arabia, Seychelles, Singapore, South Africa, South Korea, Sri Lanka, Sudan, Sweden, Switzerland, Taiwan, Thailand, Turkey, UAE, UK, USA, Vietnam, Yugoslavia and Zimbabwe.

Licence Fees

RM 2,600 per annum.

Financial Statements Required

A set of accounting records must be kept in Labuan.

Trading companies which elect to pay tax of RM 20,000 p.a. are not required to file financial statements. Such companies are exempt from appointing an auditor if they are not a licensed offshore bank or insurance company, did not invite the public to subscribe for shares or debentures or to deposit money with or lend money to the company and the members of the company have resolved that no auditor be appointed.

A trading company, which pays 3% of audited net profits, is required to appoint an auditor and file audited financial statements.

There is a filing fee of RM 50 for "adoption of accounts" and if the accounts of the Labuan Company have been audited, then there is a filing fee of RM 50 for the "lodgement of the said audited accounts".



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Note that Labuan Company accounts need not be audited unless the company wishes to pay 3% of the net profit (as per the audited accounts).

Directors

The minimum number of directors is one. Corporate directors are allowed. Directors may be of any nationality and need not be resident in Labuan or Malaysia.

Company Secretary

A Labuan company must have a resident company secretary, who must be a Trust Officer of a trust company.

Shareholders

The minimum number of shareholders is one.

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