

CHANGES TO LABUAN'S LEGAL FRAMEWORK

Comprehensive changes were made to Labuan's legal framework on 11 February 2010. Labuan, referred to as Labuan Offshore Financial Centre has been rebranded as Labuan International Business and Financial Centre ("Labuan IBFC"). Consequently, the Labuan Offshore Financial Services Authority (LOFSA) has been renamed Labuan Financial Services Authority ("Labuan FSA") and the word 'Offshore' has been either deleted from or replaced with the word 'Labuan' in the amended Acts. Some of the key changes are set out below.

The new **Labuan Financial Services and Securities Act 2010** provides for the registration of Labuan private trust companies to act as trustees for specific trusts where the settlers are family members or connected persons. Whereas the new **Labuan Foundations Act 2010** provides for the establishment of foundations based on the concept of contractual duties recognised in civil law countries. The main purpose of a Labuan foundation shall be to manage its property and the founder and beneficiaries of a Labuan foundation may be residents or non-residents.

The new **Labuan Islamic Financial Services and Securities Act 2010** sets the licensing and regulatory framework for Islamic financial services and securities in Labuan and provides for the establishment of Islamic banking and Takaful business including captive Takaful business plus Labuan Islamic trusts, foundations, limited partnerships and limited liability partnerships. The new **Labuan Limited Partnerships and Limited Liability Partnerships Act 2010** renamed offshore limited partnership as Labuan limited partnership and provides for the establishment and conversion of Labuan companies into Labuan limited liability partnership.

The amended **Labuan Companies Act 1990** (formerly Offshore Companies Act) allows for the incorporation and conversion of an existing Labuan company into a protected cell company ("PCC") for the conduct of insurance and mutual fund businesses. The PCC remains a single legal entity but may segregate its assets into separate legally independent cells, each of which is ringfenced from the other cells. The amended **Labuan Trusts Act 1996** now also allows a Malaysian resident to set up and be the beneficiary of a Labuan trust.

To remain as a current international financial centre, the Minister of Finance is empowered under the amended **Labuan Business Activity Tax Act 1990** to designate any activity carried on by any Labuan entity to be a Labuan business activity. Meanwhile the **Labuan Financial Services Authority Act 1996** has been amended to enhance, broaden and clarify Labuan FSA's role as the central regulatory and supervisory authority for the business and financial services sectors in Labuan. For instance, the Labuan FSA now has investigative and enforcement powers similar to those under the Anti-Money Laundering and Anti-Terrorism Financing Act 2001.

With these changes Labuan IBFC provides investors with a wider choice of financial products and targets to be more a vibrant and active international business and financial centre.

For further information and assistance, please contact the RL Corporate and M&A Team at T: + 603 2093 3939 ext. 286 or email: rexlex@raslanloong.com.

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Important Notice: The contents of this document are no more than a general guide for investors, outlining some of the main issues which should be considered. It is necessarily selective and should not be used as a substitute for formal professional advice.

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