



GUIDELINES ON THE TREATMENT OF CLIENT MONIES FOR LABUAN INSURANCE AND TAKAFUL BROKERS

1.0 Preamble

- 1.1 The guidelines are issued pursuant to section 4A of the Labuan Financial Services Authority Act 1996 and are applicable to the following :-
- 1.1.1 Labuan insurance broker licensed under Part VII of the Labuan Financial Services and Securities Act 2010 (LFSSA);
 - 1.1.2 Labuan takaful broker licensed under Part VII of the Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA); and
 - 1.1.3 Labuan insurance broker that has been given approval to conduct its business as a Labuan takaful broker under Part VII of LIFSSA.
- 1.2 The purpose of the guidelines is to provide clarifications on the treatment of monies received or held by the Labuan insurance and takaful brokers (Labuan brokers) from or for their clients.

2.0 Client monies

- 2.1 For the purpose of the guidelines, client monies include :-
- 2.1.1 Any monies received or held by any Labuan brokers from or for their clients for onward transmission or payment to insurers¹; and
 - 2.1.2 Any claims monies or refunded premiums (or contributions in the case of takaful and retakaful businesses) from insurers for onward payments to the clients.

¹ Insurer also includes reinsurer, takaful and retakaful operator.

- 2.2 Labuan brokers may receive and hold client monies as agents of the insurers via a written agreement between both parties and bounded by the following parameters :-
- 2.2.1 The client monies are treated as being received by the insurers when they have been received by the Labuan brokers and cleared in the client money account; and
 - 2.2.2 Any claims monies and refunded premiums are only treated as being received by the clients when they are paid over by the Labuan brokers from the client money account.
- 2.3 In case of the dissolution of Labuan brokers, any client monies held are available to the respective clients ahead of insurers and other creditors.

3.0 Segregation and Maintenance of Client Money Account

- 3.1 Labuan brokers shall open and maintain separate bank accounts for client monies (client money account) and ensure that the accounts are clearly segregated and distinguishable from their own bank accounts.
- 3.2 Labuan brokers shall not hold monies other than client monies in the client money account, unless such other monies are :-
- 3.2.1 The minimum sum required to open the accounts or maintenance purposes;
 - 3.2.2 Interest (or profit in the case of a Shariah compliant account) credited to the accounts which exceed the amount due to clients as interest which has not yet been withdrawn by the Labuan brokers;
 - 3.2.3 Commissions due to the Labuan brokers; or
 - 3.2.4 Monies credited to the client money account to make good any shortfall to the accounts.

- 3.3 Any monies received from the clients shall be paid to the insurers within three working days after receipt and cleared in the client money account.
- 3.4 Claims monies or refunded premiums from the insurers shall be paid to the clients within three working days after receipt and cleared in the client money account.
- 3.5 Specifically for general reinsurance and retakaful brokers :-
- 3.5.1 Any monies received from the clients in the client money account will be transmitted to the reinsurers or retakaful operators as per the established terms of business agreement.
- 3.5.2 Any claims monies or refunded premiums from the reinsurers or retakaful operators in the client money account will be transmitted to the clients as per the established terms of business agreement.
- 3.6 In the case where the payment cannot be made within the timeframes under paragraphs 3.3 and 3.4, the following internal controls apply :-
- 3.6.1 It must be paid into the client money account within one working day after the omission has been discovered;
- 3.6.2 The reason for the failure must be recorded and kept in the client file; and
- 3.6.3 Where the monies are not paid within the three working days of being received, the relevant client must be informed.
- 3.7 Any set-off or contra of transactions are allowable subject to the consent and agreement by all parties involved.
- 3.8 Labuan brokers must also ensure the following :-
- 3.8.1 The balance amount for the client monies held for each client in the client money account is positive; and

3.8.2 No payment shall be made from the client money account for the benefit of the clients, unless :-

- (i) The clients have provided the Labuan brokers with sufficient cleared funds to enable payment to be made; or
- (ii) The insurers have provided the Labuan brokers with sufficient cleared funds to pay a claims or refund of premiums.

3.9 If the client monies are received in the form of automated transfer directly into the Labuan brokers' account, the Labuan brokers must ensure that the monies are transferred into the client money account within three working days after receipt and clearance.

3.10 The Labuan brokers may withdraw commissions from the client money account if :-

3.10.1 They have received the funds from the clients; and

3.10.2 Consistent with the Labuan brokers' agreement with their clients.

4.0 Reconciliation

4.1 Labuan brokers shall reconcile the balances of the client money account with their internal records using the banks' statements on a monthly basis.

4.2 If there are any differences between the Labuan brokers' records and the banks' statements, the reason must be identified and rectified as soon as possible unless the difference is solely as a result of timing differences between the banks and the Labuan brokers' records.

4.3 If the Labuan brokers are unable to resolve any differences arising from reconciliation, they shall assume that until the matter is finally resolved,

there are shortfalls of client monies and pay their own monies into the client money account to ensure that the shortfall are met in full.

4.4 Labuan brokers must also ensure that the client money account is part of the annual financial audit, the scope of which should include compliance with the following :-

4.4.1 The requirements of the these guidelines; and

4.4.2 The agreements between the Labuan brokers and their clients pertaining to the handling of client monies.

5.0 Implementation Date

The guidelines shall come into effect on **1 January 2012** and would remain effective and applicable unless amended or revoked otherwise.