

Guidance Note for Applicants | International Partnership

Under the Legal Profession Act 1976 (“Act”) and the Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014 (“Rules”) made thereunder, a Foreign Law Firm (“FLF”) and a Malaysian Law Firm (“MLF”) may apply under section 40F of the Act for an International Partnership (“IP”) licence.

- (1) A FLF and a MLF (collectively the “Firms”, and individually the “Firm”) may make a joint application to the Bar Council for an IP licence in Form A of the Rules.
- (2) The proposed name of the IP should constitute a combination of the names of the MLF and the FLF, and shall be approved unless the name is deemed inappropriate by the Bar Council.
- (3) The FLF and MLF should be of good reputation, and none of the lawyers in the FLF or the MLF should be subject to any disciplinary proceedings in any jurisdiction or should have been previously disciplined for any disciplinary offence. The firms shall also not be party to any criminal or civil proceedings that may lead to disciplinary proceedings being taken against the firm in any jurisdiction.
- (4) The following are specifically excluded from the permitted practice areas, namely, constitutional and administrative law; conveyancing; criminal law; family law; succession law, including wills, intestacy, probate and administration; trust law, where the settlor is an individual; the law relating to charities and foundations, whether the settlor is an individual or a corporation; retail banking, including corporate or commercial loans to small and medium enterprises; registration of patents and trademarks; appearing or pleading in any court of justice in Malaysia, representing a client in any proceedings instituted in such a court or giving advice, whether or not the main purpose of which is to advise the client on the conduct of such proceedings; and appearing in any hearing before a quasi-judicial or regulatory body, authority or tribunal in Malaysia.
- (5) The FLF and the MLF should have the relevant legal expertise and experience in the permitted practice areas. For the purpose of determining whether a lawyer satisfies the requirements of relevant legal expertise and experience, any period spent in attending any course, postgraduate education, articles, pupillage or similar training in the permitted practice areas will be disregarded. Permitted practice areas for the FLF in the IP are defined as transactions regulated by Malaysian law and at least one other national law, or a transaction regulated solely by any law other than Malaysian law.

For purposes of demonstrating its expertise and experience in the permitted practice areas, the MLF and FLF should provide the following information:

- (i) A summary of each Firm’s transactions in the permitted practice areas in the past 5 years, with details of financial values and transactional complexities;
- (ii) Each Firm’s track record or ranking in the permitted practice areas; and

- (iii) The number of lawyers with expertise in the permitted practice areas that would be based in the IP, and details of their participation in permitted practice area transactions in the past 5 years.
- (6) The FLF shall ensure that at least one (1) foreign lawyer in the IP, who shall be an equity partner in the FLF and the IP, will reside in Malaysia for not less than 182 days in any calendar year.
- (7) The MLF should not have less than 60%, and the FLF no more than 40%, of the equity and voting rights in the IP. The total number of foreign lawyers in the IP shall not be less than 40% of the total number of lawyers in the IP, unless otherwise determined by the Selection Committee.
- (8) The FLF and MLF shall submit a 3-year business plan (“Business Plan”) with its application form to the Bar Council. The Business Plan shall include but not be limited to any proposal for transfer of technology and expertise in the appropriate permitted practice areas, and the FLF’s proposed contribution to the growth and development of the Malaysian legal services market, as well as the implementation of the Business Plan. The FLF shall undertake that no material modification shall be made to the Business Plan without the prior written approval of the Bar Council. The Business Plan shall also include the following information:
 - (i) Number of lawyers and partners in the IP;
 - (ii) Equity and voting rights of the total number of lawyers in the IP;
 - (iii) Scope of the IP in terms of practice areas;
 - (iv) Scope of the IP in geographical reach;
 - (v) Projected increase of lawyers / partners (specify practice areas and seniority);
 - (vi) Projected growth in revenue;
 - (vii) Technology investment in the IP (equipment / software / databases and support);
 - (viii) Training plans for professional staff; and
 - (ix) Any other material information (e.g. proposed commencement date of the IP).
- (9) The FLF and the MLF shall have entered into a written agreement to participate in and jointly manage the IP, and shall have submitted a copy of such agreement to the Bar Council. No material modification may be made to the IP agreement without the prior written approval of the Bar Council. When seeking the approval of the Bar Council for such modification, the IP should set out the modification to be made to the agreement, the reasons for the modification, and the expected effect or impact on the IP and / or each Firm.
- (10) The curriculum vitae of Malaysian lawyers in the IP should contain information pertaining to:
 - (i) employment history;
 - (ii) experience and expertise in the permitted practice areas; and
 - (iii) professional achievements.

- (11) The IP will also be subject to prudential requirements in terms of professional indemnity insurance at a level appropriate to the nature and extent of its business pursuant to section 78A of the Act. In the case of an IP, the new firm shall provide evidence of professional indemnity insurance with the following minimum terms and conditions:
- (i) Insurance is obtained from a registered Malaysian insurance company;
 - (ii) Minimum mandatory limit of RM5,000,000 for each and every claim. The policy Retention (or Deductible) to be no more than RM500,000 for each and every claim (any requests for higher Retentions will be subject to the discretion and any additional requirements of the Bar Council);
 - (iii) Coverage for worldwide jurisdiction or, as a minimum, covering the jurisdiction(s) equivalent to the foreign law work / advice given now or at any time in the past by the IP;
 - (iv) The IP must provide evidence of the insurance policy purchased, to the Bar Council within 30 days of receiving its licence (and annually for renewal), and the scope of cover must, where reasonably practical, not be materially more restrictive than the mandatory scheme; and
 - (v) A worldwide professional indemnity insurance policy will be acceptable as long as there is a locally compliant policy subject to the minimum agreed standards and limits as above.
- (12) The IP must inform the Bar Council within seven (7) days of any material changes to the professional indemnity insurance policy / policies in respect of the indemnity against loss arising from claims in respect of civil liability in connection with the provision of legal services in or from Malaysia by the IP. Material changes include, but are not limited to, changes in the insurer, the coverage terms and conditions, and the amount of insurance coverage.
- (13) The application fee for an IP licence, as stated in Rule 14 (Second Schedule) of the Rules is RM15,000. The applicant must ensure that the fee is paid before submitting the application, and a copy of the receipt is enclosed with the application. The method of payment is as follows:
- (i) Cheque made payable to “Malaysian Bar”; or
 - (ii) Direct deposit or Internet banking (such as Instant Transfer) to:
 - Bank Name: RHB Bank Berhad
 - Account Name: Malaysian Bar
 - Account No: 2-64188-0000521-9
 - Bank Address: No. 75, Jalan Tun H. S. Lee, 50000 Kuala Lumpur, Malaysia
 - Swift Code: RHBBMYKL
 - Bank ID: KUP00980031

Note: No refund will be made in the case of unsuccessful applications.

- (14) Upon approval of the application, the Bar Council will issue a licence in Form D of the Rules.
- (15) Within three (3) months after the end of each period of twelve (12) months from the date of commencement of the licence, the IP shall submit an annual report and annual audited financial statements in respect of its business. The annual report should contain information pertaining to:
 - (i) the operational performance of the IP relative to the targets or benchmarks set in the IP Business Plan;
 - (ii) proposed plans, if any, to expand or restructure the operations of the IP, including but not limited to changes in the number of lawyers and other employees and the scope of the practice of the IP (e.g. changes in the areas of legal practice or geographical areas served); and
 - (iii) the cumulative amount of profits earned and the annual audited financial statements of the IP.
- (16) The IP licence shall be valid for an initial period of three years, unless earlier revoked.
- (17) The licensing of an IP shall not affect the practice of the MLF, which shall be entitled to continue its practice as if the IP licence had not been granted.
- (18) The Bar Council may, on receipt of an application in writing and payment of the prescribed fee, renew the IP licence subject to such conditions as it may impose.
- (19) All IPs shall be regulated by the Bar Council. The Act provides for the establishment of a Selection Committee that will be responsible for considering all applications, and for making recommendations for approval / non-approval to the Bar Council. The Selection Committee will be co-chaired by the Attorney General and the President of the Malaysian Bar and will have five members in all. The Bar Council will serve as the Secretariat for the Selection Committee. All applications should therefore be directed to the Bar Council, using the forms prescribed in the Rules.
- (20) All IPs will have to comply with the same rules and regulations governing advocates and solicitors in Peninsular Malaysia.

(Updated on 22 July 2020)