

## **Guidance Note for Applicants | Malaysian Law Firm to Employ Foreign Lawyer**

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 Malaysian Law Firm (“MLF”) may make an application under section 40H of the Act for a licence to employ a foreign lawyer.

- (1) A Malaysian law firm may make an application to the Bar Council for a licence to employ a foreign lawyer to practise in the permitted practice areas in the Malaysian law firm, in Form C of the Rules.
- (2) The number of foreign lawyers employed by a Malaysian law firm shall not at any time exceed thirty per cent (30%) of the total number of lawyers in that firm, unless otherwise determined by the Selection Committee.
- (3) The following are specifically excluded from the permitted practice areas for the foreign lawyer, 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.
- (4) The foreign lawyer should have the relevant legal expertise and experience in the permitted practice areas as may be determined by the Bar Council. 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 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.
- (5) A foreign lawyer shall make an application under section 40J of the Act to practise as a foreign lawyer in the MLF.
- (6) No foreign lawyer registered to practise in the relevant permitted practice areas shall practise other than as an employee in the MLF.
- (7) Application fees for a licence to employ a foreign lawyer in a Malaysian law firm, as stated in Rule 14 (Second Schedule) of the Rules is RM5,000.00. The applicant must ensure that the fee is paid before submitting the application and a copy of the receipt 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.

(8) The MLF shall ensure that its mandatory professional indemnity insurance cover is amended to include the following:

- (i) The name of the foreign lawyer;
- (ii) Worldwide jurisdiction or, as a minimum, cover the jurisdictions equivalent to the foreign law work / advice given now or at any time in the past by the foreign lawyer;
- (iii) The policy limit required will remain as per existing Bar Council limit requirements for mandatory insurance. However, the additional premium (and any specific coverage terms, conditions and retention variations) will be subject to individual underwriting by the Mandatory Insurer;
- (iv) The MLF can have the option to purchase a separate policy, only for this foreign lawyer's activities (and not replacing the Mandatory policy) from any other Malaysian registered Insurers, equivalent to the minimum limit requirements for the entire firm. The firm must also provide a copy of the policy purchased to the Bar Council annually and the scope of cover must, where reasonably practical, not be materially more restrictive than the Mandatory scheme; and
- (v) Please note that should the MLF cease to employ or practise such foreign law work, they will be required to maintain cover for the relevant jurisdictions as part of their Mandatory insurance coverage for at least 6 years from the date that such work ceased.

(9) Should the MLF need assistance in respect of the required professional indemnity insurance they can contact Jardine Lloyd Thompson Sdn Bhd ("JLT") at:

Jardine Lloyd Thompson Sdn Bhd  
Level 42-01A (West Wing), Q Sentral  
2A Jalan Stesen Sentral  
50470 Kuala Lumpur  
Tel: 03-2723 3241 / 3388  
Email: [mbar@jltasia.com](mailto:mbar@jltasia.com)

- (10) Upon approval of this application, the Bar Council will issue a licence in Form F of the Rules.
- (11) Within three (3) months after the end of each period of twelve (12) months of the date of commencement of the licence, the MLF shall submit an annual report and accounting requirements in respect of the performance of the foreign lawyer. The annual report should contain information pertaining to:
  - (i) the operational performance of the MLF relative to the targets or benchmarks set in the MLF;
  - (ii) proposed plans, if any, to expand or restructure the operations of the MLF, including but not limited to changes in the number of lawyers and other employees and the scope of the practice of the MLF (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 MLF.
- (12) The licence to employ a foreign lawyer in the permitted practice areas in the MLF shall be valid for an initial period of three years, unless earlier revoked. The licence shall be deemed to be automatically revoked upon the cessation of employment of the foreign lawyer by the MLF for any reason whatsoever.

*(Updated on 22 July 2020)*