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JOINT WEBINAR

WEALTH MANAGEMENT WEBINAR SERIES 3:
Shariah Succession Planning for Global Families

Wed, 29 Sept | 4.00pm-5.00pm (GMT +8)

Supported by:



Shariah Succession Planning for Global Families



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Fundamentals of Succession Planning

Concept of Wealth

Holistic approach covering:

- worldly matters & the afterlife
- sustainability of businesses & benefit to the society at large

CREATION



PROTECTION



ACCUMULATION



DISTRIBUTION



It was narrated by Abu Hurairah that Prophet Muhammad (SAW) said:

“When a man dies, his good deeds come to an end except three: ongoing charity, beneficial knowledge, and righteous offspring who will pray for him.”
(Muslim)

Fundamentals of Succession Planning

Inheritance Law

Inheritance plays an important role in the understanding of succession planning

The sources of Islamic law are the Qur'an, Sunnah, Ijma and the Qiyas.

The rules laid out in these sources are complex and context specific.

Misunderstanding & misconception about rules of distribution & estate administration

- Rules of Distribution / Faraid
- Gift Intervivos / Hibah
- Wasiyyah as a rule of bequest & testamentary instrument
- Power of attorney
- Grant of Probate /Letters of Administration

Fundamentals of Succession Planning

Jurisdictions

1

Applicability of Syariah law in different jurisdictions are diverse and varied subject to existing laws of the country

2

Law of Domicile in Private International Law

Issues faced by Muslims globally

Multi-fold Concern & Conflict :

1. equality vs. rights amongst female & male heirs?
2. family bond- how to avoid dispute amongst family members;
3. who shall succeed in the business
4. inheritors of assets vs. to ensure the properties left are not divided; and
5. 'to ensure that children will make *du'ā* for them'

Limitations:

- Malaysia: dual legal system—civil law & Syariah/civil court & Syariah Court-federal law & State law
- Uncertainties in the implementation of Syariah principle in other civil & common law legal system

Solution Sought:

- 'Standard simplified products'
- Best practices
- Labuan wealth planning structures as an alternative jurisdiction

Labuan Trust

Islamic Trust

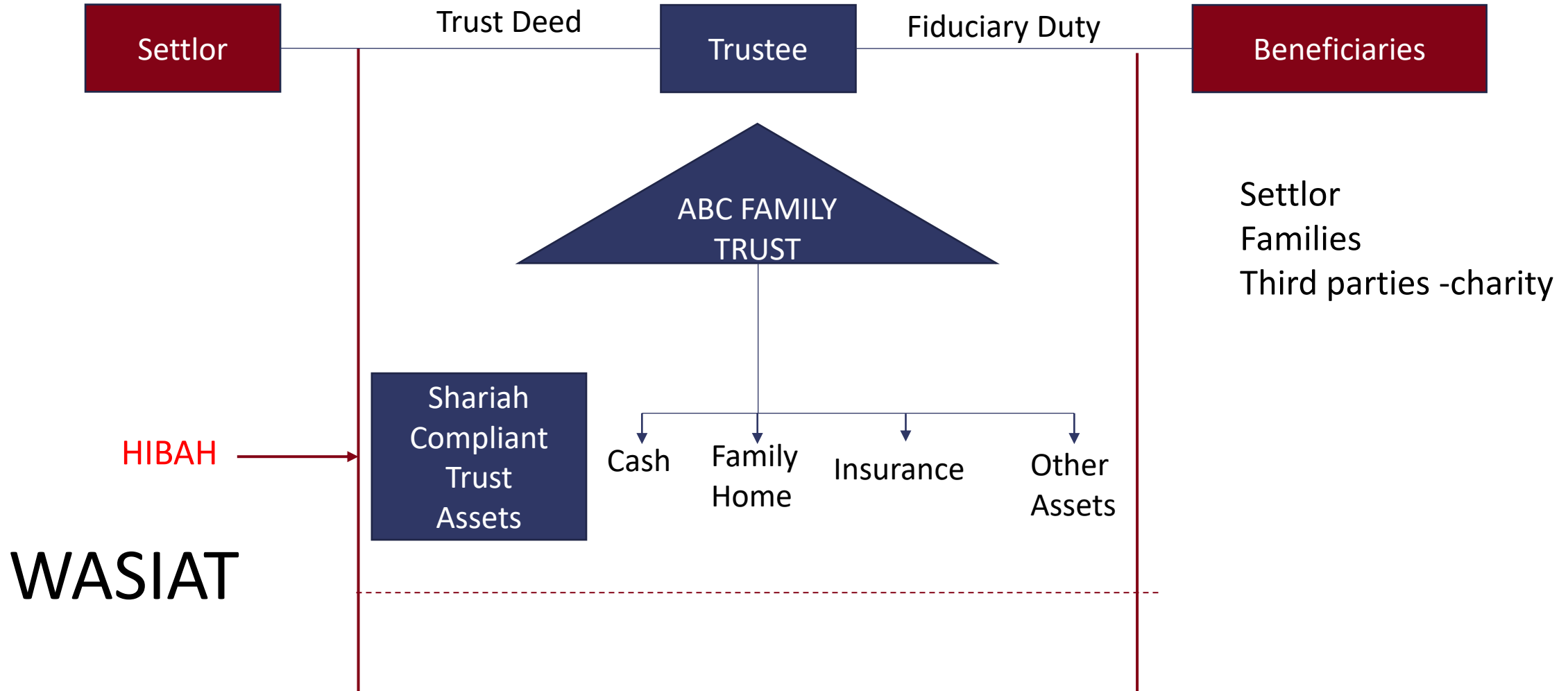
- Labuan Trusts Act 1996 & LIFSSA 2010
- Trust is established by a settlor to give specific property to a third party to be held for the benefit of others, including charities.
- Fiduciary relationship
- Ownership of Assets : legally owned by the trustees but beneficially owned by beneficiaries as per trust deed

Labuan Foundation

Islamic Foundation & Waqf

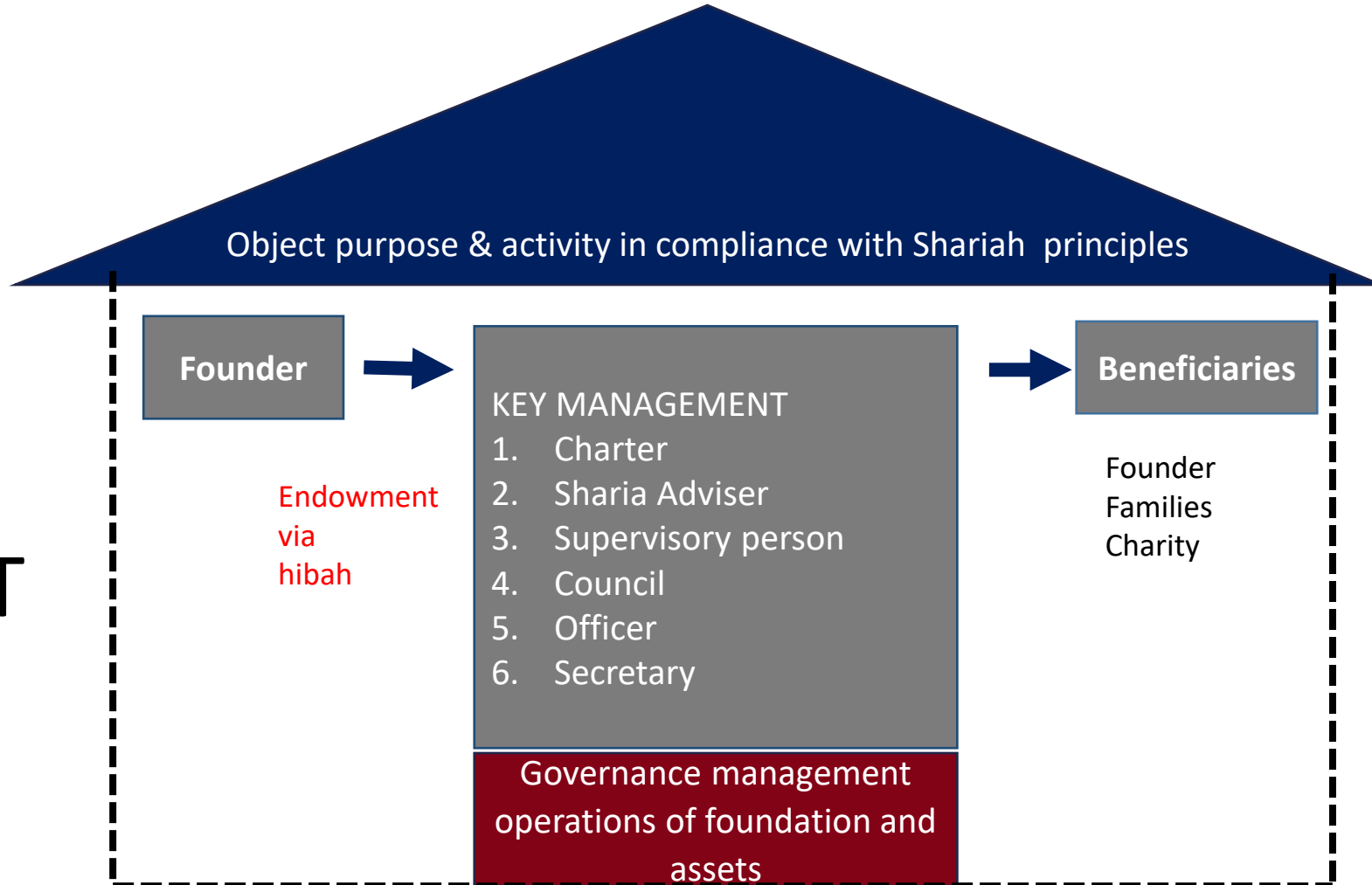
- Labuan Foundations Act 2010 & Labuan Islamic Financial Services and Securities Act 2010
- Foundation is a corporate body with a separate legal entity, established to manage its own property for any lawful purposes which may be charitable or non-charitable.
- Ownership of Assets: legal & beneficially owned by the foundation

Labuan Islamic Trust



Labuan Islamic Foundation

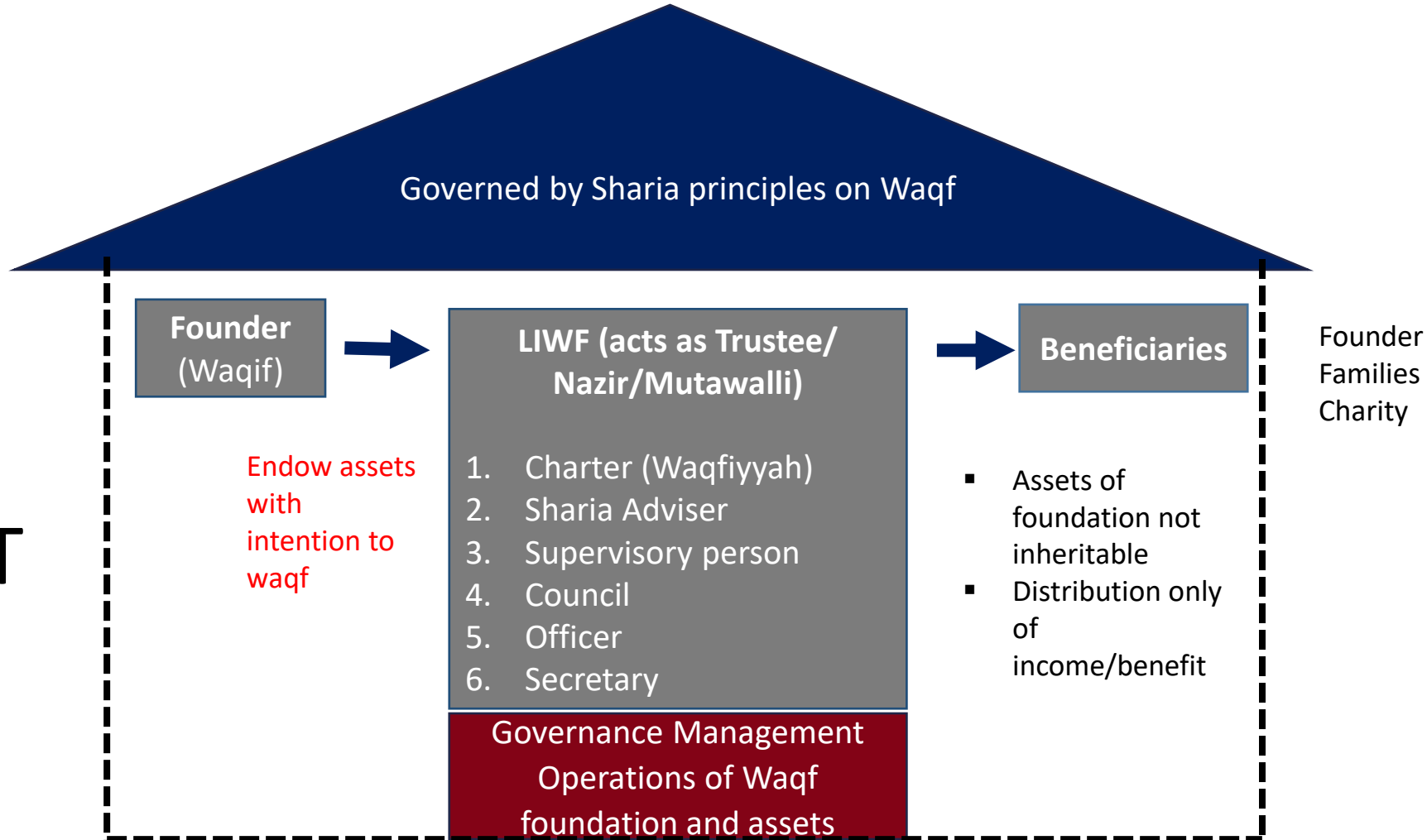
WASIAT



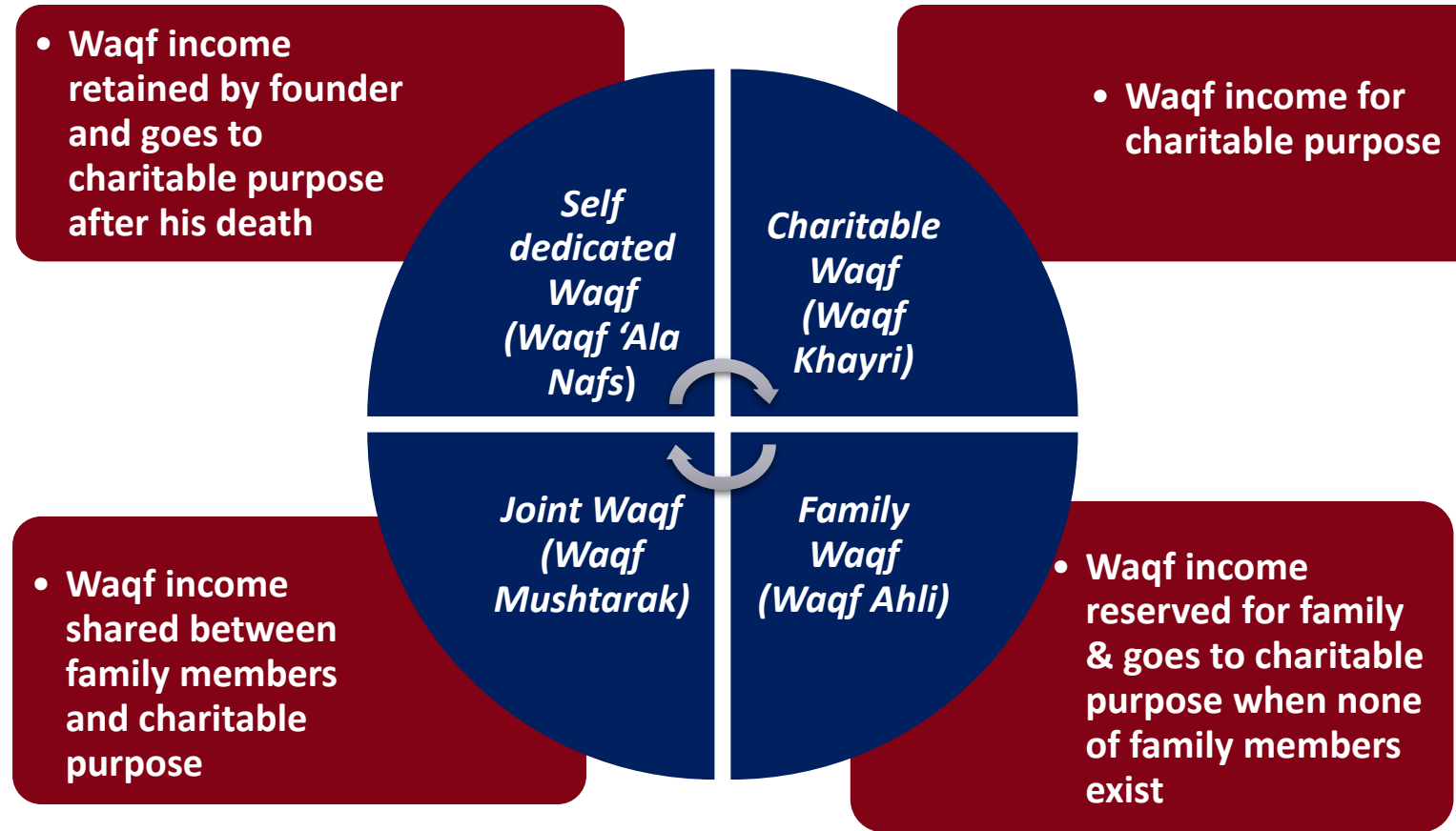
Labuan International Waqf Foundation



WASIAT



Versatility of Purpose and Object of LIWF



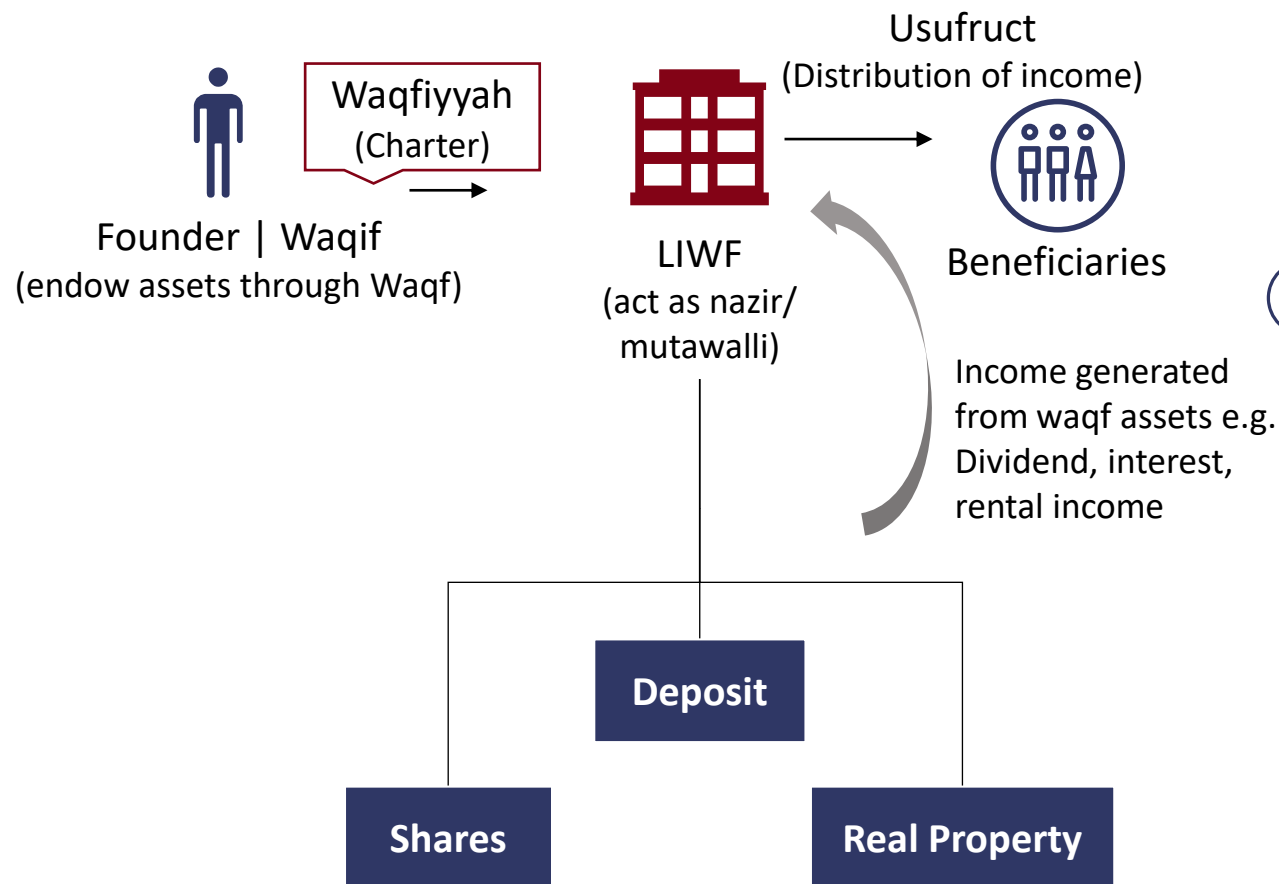
Recipient of charitable purpose defined by founder and endorsed by Shariah Adviser



Thank You
Terima Kasih

Labuan International Waqf Foundation (“LIWF”)

Understanding the tax considerations



Waqif | Founder

Set up and endow property / asset into LIWF –

- RPGT (real property)
- Stamp duty (shares, real property)



Beneficiaries

- Beneficiaries have no rights to LIWF’s assets.
- Distributions generally exempted from Malaysian tax
- The beneficiaries will need to satisfy their own tax liability in their respective jurisdictions of tax residence.

Labuan International Waqf Foundation (“LIWF”)

Understanding the tax considerations

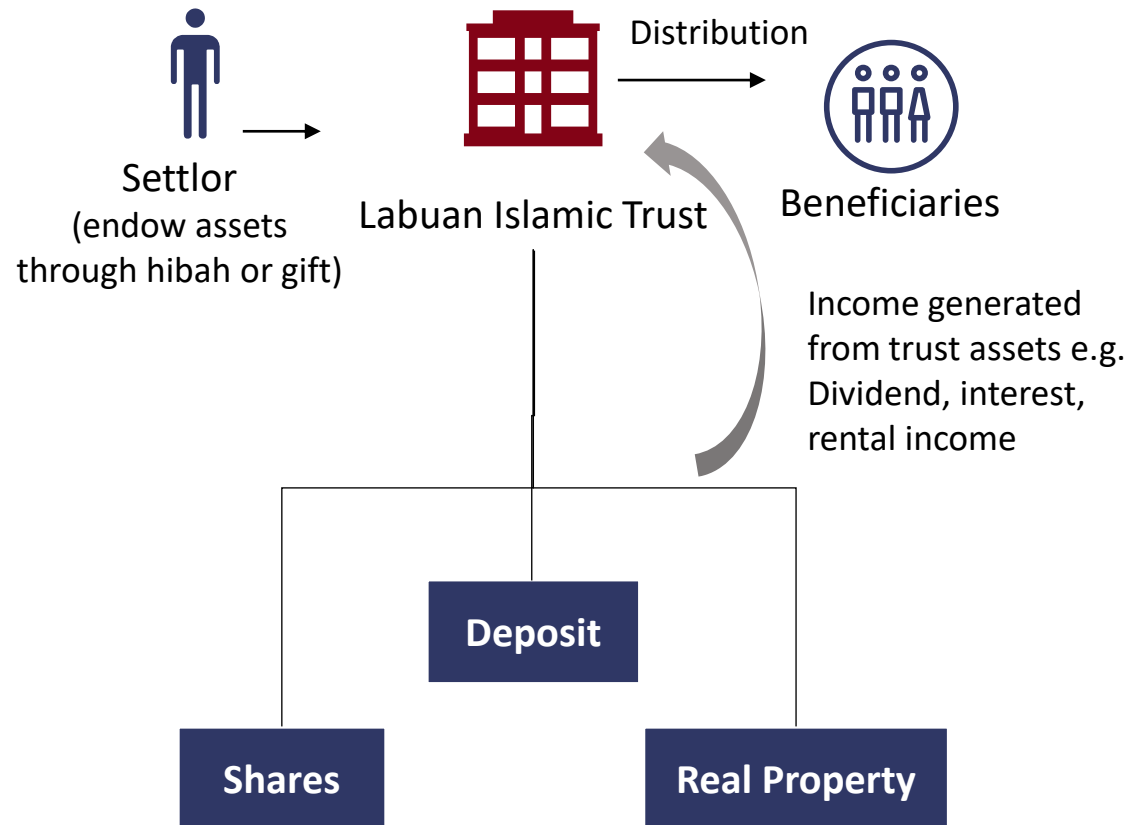


LIWF

- Income from Malaysian property - subject to under the Income Tax Act 1967.
- “Malaysian property” means any property which is situated in Malaysia.
- “Property” includes -
 - a) assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, however acquired; and
 - b) legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in, such assets as described in paragraph (a), including bank cheques, money orders, shares, securities, bonds, bank drafts and letters of credit;
- The income derived from any property which is not Malaysian property is subject to the Labuan Business Activity Act 1990 (“LBATA”).
- LIWF would generally be regarded as a Labuan entity conducting Labuan non-trading activity
- Income from investment holding is not taxable, subject to meeting the substance requirements as per the regulations [P.U.(A)392/2018] and [P.U.(A) 375/2020]
- Any trading income is taxed at 3% or 24% depending on satisfying the substance requirements.

Labuan Islamic Trust

Understanding the tax considerations



Settlor

Set up and endow property / asset into –

- RPGT (real property)
- Stamp duty (shares, real property)



Foundation

- Income from Malaysian property - subject to tax under the Income Tax Act 1967.
- The income derived from non-Malaysian property is subject to tax under LBATA.
- Income from investment holding is not taxable, subject to meeting the substance requirements.
- Any trading income is taxed at 3% or 24% depending on satisfying the substance requirements.

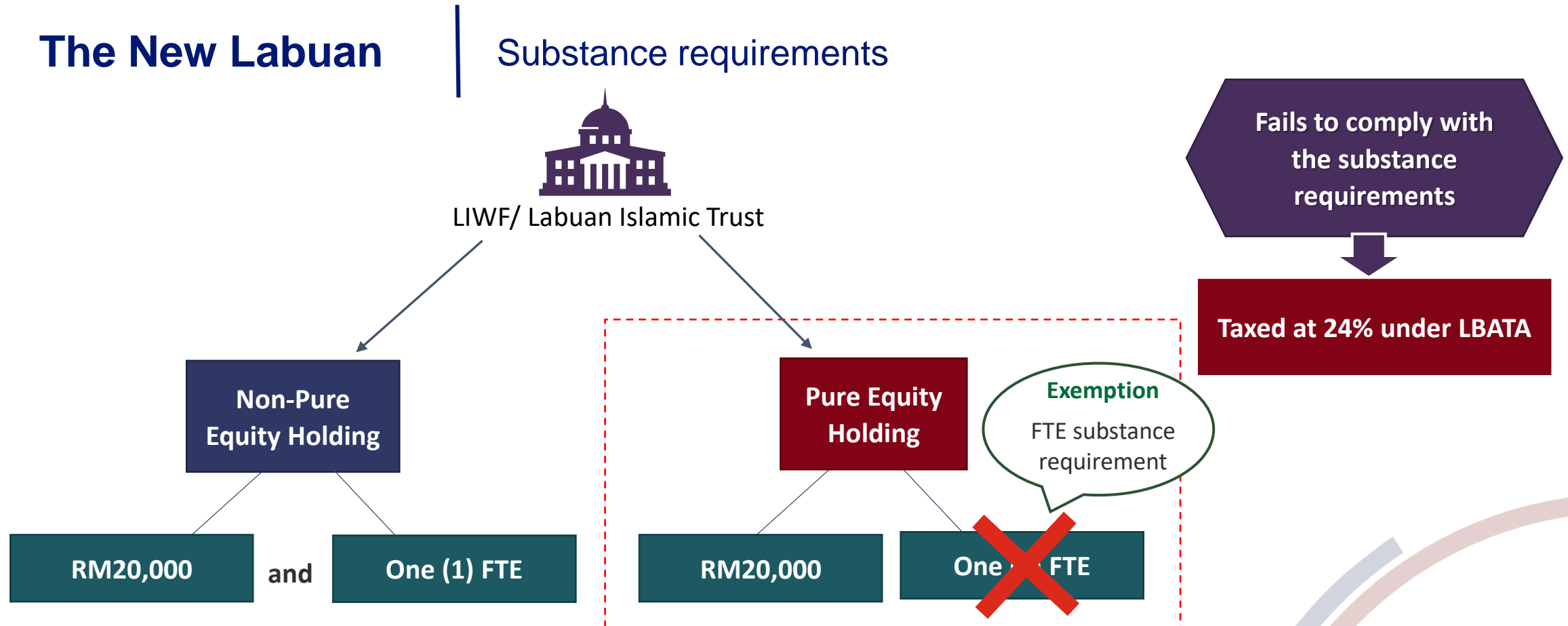


Beneficiaries

- Distribution of income generally exempted from Malaysian tax
- The non-resident beneficiaries will need to satisfy their own tax liability in their respective jurisdictions of tax residence.

The New Labuan

Substance requirements



To comply with management and control requirement in Labuan, the entity is to hold at least a minimum of one board meeting in Labuan for each calendar year



Thank You
Terima Kasih