

No. S 112

DEPOSIT PROTECTION ORDER, 2010

DEPOSIT PROTECTION (TERMS AND CONDITIONS OF MEMBERSHIP)
REGULATIONS, 2010

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DEPOSIT PROTECTION ORDER, 2010

**DEPOSIT PROTECTION (TERMS AND CONDITIONS OF MEMBERSHIP)
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In exercise of the powers conferred by sections 30 and 86 of the Deposit Protection Order, 2010, the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Regulations —

Citation and commencement.

1. These Regulations may be cited as the Deposit Protection (Terms and Conditions of Membership) Regulations, 2010 and shall commence on the same day as the Deposit Protection Order, 2010.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"senior officer" means a person occupying or acting in the position of —

- (a) chief executive officer;
- (b) chief financial officer;
- (c) chief operating officer;
- (d) chief credit officer;
- (e) chief risk officer; or
- (f) chief internal auditor,

of a member institution or a person occupying or acting in any such position by whatever name called.

Compliance with regulations, rules and others.

3. A member institution shall comply with and observe all regulations, rules, orders, by-laws, notifications, guidelines, circulars, notes, directions, specifications, requirements, notices, limits and restrictions made, issued, given, or imposed by the Minister or the Corporation.

Adequate funds and assets.

4. A member institution shall maintain an adequate level of capital funds unimpaired by losses and liquid assets in accordance with the requirements of the Minister or the Authority, as the case may be.

Risk management.

5. A member institution shall have in place appropriate, effective and sound risk management policies, procedures and controls with respect to its business and affairs.

Qualified senior officers.

6. A member institution shall employ senior officers who possess relevant qualifications or experience commensurate with the respective offices, duties and responsibilities at the member institution.

Compliance with undertaking and agreement.

7. A member institution shall comply with and fulfill the terms of any undertaking given by it to the Corporation relating to the operations, safety or soundness of the member institution and any agreement it has made with the Corporation relating to the operations, safety or soundness of the member institution.

Maintenance of records.

8. (1) A member institution shall prepare and maintain records that correctly describe and disclose all its assets and liabilities (whether on or off balance-sheet) including but not limited to deposits, revenues, expenses and shareholders' equity.

(2) A member institution shall retain all deposit records in Brunei Darussalam.

True, correct and complete information.

9. Any information provided or submitted by a member institution to the Corporation pursuant to any regulations, rules, order, by-law, notification, guidelines, circular, note or directive made or issued by the Minister shall be true, correct and complete.

Amended and certified return.

10. (1) Where the Corporation, or a member institution, or any person authorised to make an examination, investigation or inspection of the member institution, finds any error in the return of the member institution, the member institution shall promptly submit to the Corporation a duly amended and certified return.

(2) Without prejudice to any rights and powers of the Corporation under the Order, where, based on an amended and certified return, the Corporation determines that there is a difference in the amount of premium, additional premium or late payment fee —

(a) a member institution shall pay to the Corporation, or the Corporation shall refund or otherwise credit to the member institution, such difference in amount, as the case may be; and

(b) in respect of any additional amount of premium which should have been paid or is payable, a member institution shall pay to the Corporation any late payment fee as determined by the Corporation.

Notification of surrender or revocation of licence.

11. A member institution shall notify the Corporation in writing when it surrenders its licence or its licence is revoked under the Banking Order, 2006, (S 45/2006) or the Islamic Banking Order, 2008 (S 96/2008) or the Finance Companies Act (Chapter 89) as the case may be, within 7 days of such surrender or revocation.

Notification of approvals and events.

12. (1) A member institution shall notify the Corporation in writing of an approval of any of the following events, within 7 days of such approval —

(a) a change in control of the member institution or any of its subsidiaries;

(b) a change in control of any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary;

(c) a restructuring, amalgamation, merger, arrangement or otherwise which involves the member institution, or any of its subsidiaries, or a substantial portion of the assets or liabilities of the member institution or any of its subsidiaries;

(d) a restructuring, amalgamation, merger, arrangement or otherwise which involves any corporation related to the member institution, if it materially affects or may materially affect the operations or financial conditions of the member institution or any corporation of which the member institution is a subsidiary;

(e) a transfer of all or a substantial portion of the assets or liabilities of the member institution or any of its subsidiaries;

(f) a transfer of all or a substantial portion of the assets or liabilities of any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary;

(g) a substantial acquisition of assets or liabilities by the member institution or any of its subsidiaries; or

(h) a substantial acquisition of assets or liabilities by any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary.

(2) The member institution shall notify the Corporation in writing of any of the events set out in sub-regulation (1), within 7 days of the event.

Notification of other events.

13. Without prejudice to regulation 12, a member institution shall notify the Corporation in writing of any of the following events, within 7 days of the events –

(a) a substantial withdrawal of deposits from the member institution or any problem with the liquidity of the member institution, which may be considered as not usual in the course of its business;

(b) issuance of any demand or notice pursuant to section 163 of the Companies Act (Chapter 39) against the member institution;

(c) commencement of any dissolution process or liquidation proceedings (whether voluntary or otherwise) in respect of the member institution or any of its subsidiaries including but not limited to a resolution to wind up the member institution or such subsidiary, an appointment of any receiver or manager over the member institution of such subsidiary, and a presentation of a winding-up petition against the member institution or such subsidiary; or

(d) commencement of any dissolution process or liquidation proceedings (whether voluntary or otherwise) in respect of any corporation related to the member institution including but not limited to a resolution to wind up such corporation, an appointment of any receiver or manager over such corporation, and a presentation of a winding-up petition against such corporation, if such commencement materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary.

Publication in daily newspaper upon merger and others.

14. Where —

(a) there is a merger or amalgamation involving a member institution;
or

(b) any deposit in a member institution is transferred to or acquired by another member institution or any other person,

the member institution shall publish in not less than 2 newspapers published in Brunei Darussalam, one of which shall be in the Malay language and the English language, regarding the period of protection coverage for the deposits held by it.

Copy of undertaking and agreement with authorities.

15. (1) A member institution shall provide the Corporation with a copy of any undertaking given by it to or any agreement made with any regulator or other authority, whether in or outside Brunei Darussalam, within 7 days of such undertaking or agreement.

(2) Where such undertaking relates to any deficiency or non-compliance in respect of the member institution, the member institution shall provide the Corporation with a copy of its corrective or action plan to address the deficiency or non-compliance and its progress report on the implementation of such corrective or action plan —

(a) if the undertaking is given to the Minister, within 7 days of it submitting to the Minister the corrective or action plan, or the progress report, as the case may be; and

(b) if the undertaking is given to any other regulator or authority, within such time and in such manner as determined by the Corporation.

Copy of order and others relating to non-compliance.

16. A member institution shall provide the Corporation with a copy of any order, ruling, direction, notice, limit or restriction made, issued, given, or imposed by any regulator or other authority or court, whether in or outside Brunei Darussalam, relating to any deficiency or non-compliance, within 7 days of such order, ruling, direction, notice, limit or restriction.

Notification of changes to information.

17. A member institution shall notify the Corporation in writing of any material change to any information or document provided pursuant to regulation 12, 13, 15 or 16 within 7 days of such material change.

Access to and release of information.

18. Under these Regulations, a member institution authorises –

(a) the Corporation to have access to any information or document, regarding any matter relating to the business or affairs of the member institution which is held by or in the possession of any regulator or other authority; and

(b) the release of information or document by such authority to the Corporation.

Copy of annual report and others.

19. A member institution shall provide the Corporation with a copy of the following documents, not exceeding 90 days after the end of each financial year of the member institution –

(a) its annual report and audited financial statements approved by the board of directors of the member institution together with a copy of its auditor's report;

(b) the annual report of its Head Office and the audited financial statements of a member institution incorporated outside Brunei Darussalam of its business in Brunei Darussalam together with a copy of its auditor's report;

(c) a list of the related corporations of the member institution as at the date of submission to the Corporation;

(d) a list of the names, addresses, telephone numbers and designations of the directors and officers of the member institution as at the date of submission to the Corporation; and

(e) a list of the names, addresses and telephone numbers of the auditors of the member institution as at the date of submission to the Corporation.

Copy of financial statements and others.

20. A member institution shall provide the Corporation with a copy of the following documents when so required by the Corporation and within such period as deemed necessary or expedient by the Corporation –

(a) financial statements of the member institution for any period determined by the Corporation, prepared on a consolidated or unconsolidated basis, other than the financial statements under sub-regulation 19*(a)* and *(b)*;

(b) financial statements of any of the related corporations of the member institution for any period determined by the Corporation, prepared on a consolidated or unconsolidated basis;

(c) a list of the names, addresses, telephone numbers and designations of the directors and officers of any of the related corporations of the member institution as at the date of submission to the Corporation;

(d) a list of the names, addresses and telephone numbers of the auditors of any of the related corporations of the member institution as at the date of submission to the Corporation; and

(e) a business plan of the member institution or any of its related corporations for any period determined by the Corporation.

Outstanding premium, additional premium and late payment fees.

21. Where –

(a) a member institution's membership is cancelled or terminated, and there are any outstanding amount of premiums, additional premiums or late payment fees; or

(b) any deposits in a member institution are transferred to or acquired by any person, or are involved in a merger or amalgamation, and there are any outstanding amount of premiums, additional premium or late payment fees in respect of such deposits,

such amount of premiums, additional premium or late payment fees shall remain due and payable to the Corporation by the member institution notwithstanding the member institution is no longer a member or such deposits are no longer held by the member institution, unless such amount of premiums, additional premium or late payment fees has been paid to the Corporation by the next member institution holding such deposits.

Cost incurred for examination and others.

22. When so required by the Corporation, a member institution shall pay to the Corporation the costs incurred by the Corporation for any examination, investigation, inspection or resolution in relation to the member institution, within such time and in such manner as determined by the Corporation.

Made this 22nd. day of Muharam, 1432 Hijriah corresponding to the 28th. day of December, 2010.

AWANG HAJI MOHD. ROSELAN BIN HAJI MOHD. DAUD
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.