

No. S 97

ISLAMIC BANKING ORDER, 2008

ISLAMIC BANKING (MISCELLANEOUS PROVISIONS) REGULATIONS, 2008

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ISLAMIC BANKING ORDER, 2008

ISLAMIC BANKING (MISCELLANEOUS PROVISIONS) REGULATIONS, 2008

In exercise of the power conferred by section 126(1) of the Islamic Banking Order, 2008, the Minister of Finance, 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 Islamic Banking (Miscellaneous Provisions) Regulations, 2008 and shall commence on the same date as the Islamic Banking Order, 2008.

Application forms.

2. An application for a licence under section 7 of the Order shall be made in a form specified in the First Schedule.

Fees.

3. The fees to be paid in respect of any licence under the Order shall be as specified in the Second Schedule.

Publication of information relating to unclaimed money.

4. Pursuant to section 71(1)(a) of the Order, information relating to unclaimed money exceeding \$1,000 which includes the identity of the owner (if known) shall be published at least twice a year by the Islamic bank in at least one daily Malay and English newspaper circulating in Brunei Darussalam.

FIRST SCHEDULE

(regulation 2)

APPLICATION FORMS

APPLICATION FORM TO SET UP ISLAMIC COMMERCIAL BANK/
ISLAMIC WHOLESALE BANK/ISLAMIC MERCHANT BANK

(a) Name of Applicant Bank: _____

(b) Address: _____

Tel: _____ Fax: _____

(c) Country of Incorporation: _____

(d) Applicant. (The application should be submitted by the Chief Executive Officer or equivalent of the bank or its Brunei Darussalam office, who should attest that the information submitted is true to the best of his knowledge. Your bank may be required to furnish additional information and any changes should be communicated promptly to the Authority. Misrepresentations or omissions of material facts may be grounds for rejecting the application.)

Name (in Block Letters) : _____

Designation : _____

Telephone : _____

E-mail : _____

SECTION I: BACKGROUND INFORMATION

A. BRIEF HISTORY

Please provide a brief history of your bank including information on any takeovers involving your bank or merger with other entities.

B. SHAREHOLDING STRUCTURE

List the names of shareholders holding 5% or more of the shares or voting power of your bank and your bank's holding company, if applicable. Please state the shareholding or voting power of each of these shareholders, grouping together family or related shareholders where possible. If there are no shareholdings or voting power exceeding 5%, please give the names and shareholding or voting power of each of the 10 largest shareholders, grouping together family or related shareholders where possible. Please state the name of the stock exchange your bank is listed on as well.

If your bank is a subsidiary, state the name, address and business activities of the holding company and name of the stock exchange it is listed on and its shareholding in your bank.

Please state the names and places of incorporation and business activities of all subsidiaries and your bank's shareholding in these subsidiaries. Please also provide an organisation chart (showing all subsidiaries and associates) of your bank and any holding company with controlling interest¹ or ability to exercise significant influence over your bank.

C. MANAGEMENT

Names of members of the Board of Directors, and where relevant, supervisory boards. Names and experience of the Chairman, Chief Executive and senior executives (Executive Vice President or Senior Vice President) of your bank and its holding company if your bank is a subsidiary, including those who would be in charge of the Brunei Darussalam office.

D. OVERSEAS NETWORK

Please provide a list of your bank's international branch network, representative offices and joint ventures.

¹ A shareholder with controlling interest is one which holds 20% or more of the shares/voting power of the company

E. ACTIONS AGAINST ISLAMIC BANK

Was your bank (including branches) or your bank's holding company, related subsidiaries and associated companies, or their directors, convicted or censured or reprimanded by your bank's or other regulatory authorities during the last 3 years or are there any proceedings now ongoing which may lead to such a conviction? Are there any restrictions imposed on the operations of your bank (including branches) or your bank's holding company, related subsidiaries and associated companies by your bank's home or other regulatory authorities? Has your bank had any of its previous applications to open banking offices (branches or subsidiaries) or representative offices in other countries rejected? If yes, please elaborate.

SECTION II: FINANCIAL INDICATORS AND CREDIT RATINGS**A. CREDIT AND SUPPORT RATINGS**

Please provide, for the last 3 years, your bank's lowest credit and support ratings in each year from the following –

	<u>Islamic Bank</u>			<u>Group</u>		
	2005	2006	2007	2005	2006	2007
Fitch IBCA						
- Individual Rating						
- Support Rating						
Moody's						
- Financial Strength Rating						
Standard & Poors						
- Long Term Counterparty Rating						
Ratings from other agencies						

B. OTHER FINANCIAL INDICATORS**Ranking**

Please provide your bank's ranking in world and home country for the past 3 years in terms of –

	2005	2006	2007
- Total assets as published by "The Banker"			
- Tier 1 capital as published by "The Banker"			

If the bank is not ranked, please provide the ranking of the group.

Capital Ratios

Please provide your bank's capital ratios, including breakdown of components of capital for the past 3 years and explanations for any significant changes.

	<u>Bank</u>			<u>Group</u>		
	2005	2006	2007	2005	2006	2007
- Tier 1 capital						
- Total capital						
<u>Size of Operations</u> In absolute and percentage term				2005	2006	2007
Overseas operations/Global operations						
- by assets						
- by income						
<u>Financial Ratio Analysis</u>				2005	2006	2007
<u>Liquidity</u> Total deposits/total liabilities						
Net interbank deposits/total liabilities						
Financing/deposits and sukuk						
Liquid assets, sukuk and other syariah compliant securities and interbank assets/total assets						
<u>Profitability</u> Operating profit/total assets						
Operating profit/equity						
Net profit income/total assets						
Net profit income/total income						
Pre-tax profits/total income						

Asset Quality			
Loss provisions for financing extended/ total financing			
Loss provisions for financing extended/ operating income			
Non-performing financing/total financing			
Loss provisions for financing extended/ non-performing financing			

C. **NON-PERFORMING ASSETS**

	2005	2006	2007
Total non-performing financing (NPF)			
- Substandard			
- Doubtful			
- Loss			
Restructured financing			
Specific provisions			
General provisions			

Please describe your bank's financing grading system. Please give details of the criteria used in grading financing and provisioning policy, and the classification of financing as non-performing and/or restructured.

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BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Please state the amount of financing and advances to non-bank customers according to economic sectors such as commerce, industry etc. for the latest financial year.

Please indicate the credit risk exposure to individual countries according to bank and non-bank sectors, and the total provision made for exposures to each country for the latest financial year.

D. RISK MANAGEMENT

Please outline the framework of your bank's risk management and monitoring system with respect to the major risks faced by your bank. Describe the roles, functions and types of risk management activities performed in Brunei Darussalam, including those for the regional and global business activities, if any, and the capabilities and resources (including manpower, Management Information System, risk systems etc.) in Brunei Darussalam. Please also provide information on major plans and initiatives in risk management activities in Brunei Darussalam, including key areas, which have been highlighted by your auditors or parent supervisors for enhancement to commensurate with the activities of the bank, if applicable.

SECTION III: OVERVIEW OF PLANS FOR BRUNEI DARUSSALAM OPERATIONS

EXISTING AND PLANNED SCALE OF OPERATIONS IN BRUNEI DARUSSALAM

Briefly describe how the operations in Brunei Darussalam will be staffed and supervised by the Head Office, and/or any intermediate entity exercising control over the Brunei Darussalam office.

For a bank incorporated in Brunei Darussalam, state the proposed name, authorised capital and paid-up capital, names, and addresses of the shareholders and their ownership of the proposed bank in actual and percentage terms.

Please give detailed description of –

- (i) The group's existing activities in Brunei Darussalam;
- (ii) The business strategies/new project pipeline for the Brunei Darussalam operations for the next 3 years.

Please indicate how the operations in Brunei Darussalam will be funded and provide projected Balance Sheet and Profit & Loss Statement for the next 3 years.

If the group is undergoing/planning to undergo some significant changes globally e.g. merger, restructuring or expansion in particular business areas or markets, please outline and elaborate on how these changes may affect the operations in Brunei Darussalam.

Further details should be provided for each business area in Section IV.

SECTION IV: DETAILED PLANS FOR EACH BUSINESS AREA

Business Areas: Commercial Banking / Treasury / Capital Markets (Sukuk) / Capital Markets (Syariah Compatible Equity) / Investment Banking / Asset Management / Operations and Processing / Commodities / Technology Development and Support / Others: _____ (please specify) *

* Please delete accordingly

STRUCTURE OF BUSINESS AREA WITHIN THE APPLICANT'S GROUP

Please describe how your group's activities in this business area are structured (including reporting channels) both globally and in the Asia Pacific region. Please provide an organisation chart of the Brunei Darussalam office, which should include the reporting lines to the bank's Head Office (including intermediate entity, where applicable).

Please describe the business lines handled by the Brunei Darussalam office as well as its scope of geographical coverage.

Please also describe the responsibilities of the Brunei Darussalam office in the context of the Group's global and Asia Pacific operations. In the case of a business activity matrix, please describe, through an organisation chart, the location and reporting structure of the respective business/functional heads globally, within the Asia-Pacific region, and in Brunei Darussalam.

Please give details of main sources of income (including estimates of assets under management, trading, and fee income) over the next 3 years.

Please give details of any expansion plans and anticipated manpower/staffing requirements in the next 3 years.

SECTION V: BANKING SYSTEM

A. OVERVIEW

Briefly describe the banking system in your bank's home country. You should provide more information on the licence your bank operates under, if more than one type of licence is issued in your bank's home country (*If applicable).

B. SUPERVISORY FRAMEWORK

Briefly describe the functions and powers of the home country supervisory authority of your bank and holding company², and the extent to which the authority exercises comprehensive or consolidated supervision, including the manner in which it supervises your bank, its subsidiaries and associates to assess your bank's overall financial condition and compliance with laws and regulations (* If applicable).

Indicate the frequency and scope of on-site examinations conducted by the home country supervisory authority and the date of your bank's most recent examination (* If applicable).

Where the home country of your bank is not a Member to the World Trade Organisation agreement and your bank is not owned or controlled by natural persons or juridical persons of a World Trade Organisation member country, state whether the home country authorities of your bank would accord reciprocity to Brunei Darussalam-incorporated banks seeking to establish a banking office (branch or subsidiary) or representative office in the home country should your bank be granted a licence to operate in Brunei Darussalam. Please elaborate on your home country's reciprocity policies and arrangements, if any.

² In countries where the applicant and holding company are supervised by more than one agency, provide information on the agencies concerned.

C. LEGISLATION IN HOME COUNTRY

Does your home country have any legislation which will confer lower priority to depositors in the Brunei Darussalam office in relation to the home country depositors, in repayment of deposits or any other non-bank funds in the event of receivership, winding-up proceedings or equivalent proceedings of the bank? Is there any deposit insurance scheme in your home country or foreign exchange controls on movement of funds from and to your home country? If yes, please elaborate.

SECTION VI: ANY OTHER INFORMATION

ANY OTHER INFORMATION WHICH WILL SUPPORT YOUR BANK'S APPLICATION

A large, empty rectangular box with a thin black border, intended for the applicant to provide any other information that will support their bank's application. The box is currently blank.

SECTION VII: DOCUMENTS TO BE SUBMITTED

A certified English translation is required for each of the following documents if the original is not in English —

- (a) Original letter from the home country supervisory authority approving the establishment of the office in Brunei Darussalam;
- (b) Certified copy of the Memorandum and Articles of Association of your bank;
- (c) Undertaking from your bank to keep the Authority informed of any material adverse developments, including breach of legal and prudential requirements;
- (d) Annual Reports of your bank for the last 2 years, and a Balance Sheet and Profit and Loss Account dated not more than 3 months prior to the date of the application; and
- (e) Annual Reports of your bank's holding company or shareholders with controlling interest for the latest financial year.

**SECOND SCHEDULE
(regulation 3)**

LICENCE FEES

	Fees
Headquarters or principal branch of a licensed Islamic bank	\$50,000
Branch of a licensed local Islamic bank and sub-branch of a licensed foreign Islamic bank	\$10,000
Automated Teller Machine (ATM) off premises of a licensed Islamic bank	\$3,000.

Made this 23rd. day of Ramadan, 1429 Hijriah corresponding to the 24th. day of September, 2008.

DATO PADUKA HAJI ALI BIN APONG
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.

Dicetak oleh AWANG MOHIDIN BIN HAJI DAUD, Pengarah Percetakan,
di Jabatan Percetakan Kerajaan, Bandar Seri Begawan BB3510, Negara Brunei Darussalam.

Harga B\$5.00