

No. S 8

**CONSTITUTION OF BRUNEI DARUSSALAM
(Order made under Article 83(3))**

AUTORITI MONETARI BRUNEI DARUSSALAM (AMENDMENT) ORDER, 2015

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AUTORITI MONETARI BRUNEI DARUSSALAM (AMENDMENT) ORDER, 2015

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

Citation and commencement.

1. This Order may be cited as the Autoriti Monetari Brunei Darussalam (Amendment) Order, 2015 and shall commence on a date to be appointed by the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

Amendment of section 2 of S 103/2010.

2. The Autoriti Monetari Brunei Darussalam Order, 2010, in this Order referred to as the principal Order, is amended —

(a) by inserting the following new definitions in the appropriate alphabetical order —

“corporation” has the same meaning as in section 2(1) of the Companies Act (Chapter 39);

“deputy managing director” means any deputy managing director appointed under section 14(1);

“officer”, in relation to the Authority, includes any person employed by the Authority in an executive capacity;”;

(b) in the definition of “managing director”, by inserting “and includes any acting managing director appointed as such under section 13(8)” immediately before the semicolon.

Amendment of section 9.

3. Section 9 of the principal Order is amended, in subsection (1)(a), by deleting “10 per cent” from the third line and by substituting “100 per cent” therefor.

Amendment of section 13.

4. Section 13 of the principal Order is amended by adding the following new subsection —

“{8} In the event of the absence or incapacity of the managing director, the Authority may appoint —

(a) a director; or

(b) a deputy managing director,

to discharge the duties of the managing director during the period of his absence or incapacity.”.

Amendment of section 14.

5. Section 14 of the principal Order is amended —

(a) by deleting subsection (1) and by substituting the following new subsection therefor —

“(1) His Majesty the Sultan and Yang Di-Pertuan shall, on the recommendation of the board, appoint deputy managing directors of the Authority for such period as may be specified in the instrument of appointment.”;

(b) by deleting subsection (4).

Insertion of new section 43A.

6. The principal Order is amended by inserting the following new section immediately after section 43 —

“Real-time gross settlement system.

43A. (1) The Authority may establish and operate one or more real-time gross settlement systems for the transfer of funds, settlement of payment obligations and the transfer and settlement of book-entry securities and instruments between or among participants.

(2) A settlement system may be linked to another system in Brunei Darussalam or elsewhere for the clearing or settlement of payment obligations, securities or instruments and whether or not such system is operated on a real-time gross settlement basis.

(3) The Authority may enter into agreements with participants of a settlement system and issue to the participants in writing rules for the operation of the settlement system and such rules are not to be regarded as subsidiary legislation.

(4) Without prejudice to the generality of subsection (3), such rules may provide for all or any of the following —

(a) the appointment of the Authority as a certification authority for the purpose of issuing certificates for participants;

(b) the conduct of participants;

(c) the authentication of transactions carried out electronically;

(d) if the Authority considers necessary in the interests of the system, for the Authority to stop or suspend the operation of the settlement system or stop or suspend the privileges or rights of any participant or class of participants;

(e) the appointment of auditors or inspectors for the auditing or inspection of the operating systems of participants in respect of the settlement system; and

(f) the payment of fees to the Authority.

(5) The Authority, any officer or employee of the Authority, or any person acting under the direction of the Authority, is not liable for any loss or damage suffered by any person or participant arising from, directly or indirectly, the use of a settlement system by any participant unless such loss or damage results from a reckless act or omission or any intentional misconduct of any officer or employee of the Authority or any person acting under the direction of the Authority.

(6) In this section —

“book-entry securities and instruments” means any securities and instruments that are transferable by a book-entry on a register or otherwise, and are —

(a) issued by the Government or the Authority under any written law; or

(b) approved by the Authority for clearing, settlement or transfer through or under a settlement system;

“certificate” means a certificate issued by a certification authority and which the subject named or identified in the certificate, who holds the key which creates a digital signature that corresponds to the key which verifies the digital signature, has accepted;

“certification authority” means a person who, or an organisation that, issues a certificate;

“participant” means a person approved by the Authority to be a participant of a settlement system and includes the Authority where it participates in the settlement system;

“real-time gross settlement system” means a system which can effect final settlement of funds, payment obligations and book-entry securities and instruments on a continuous basis during such operating hours of a processing day as the Authority may determine and on a transaction-by-transaction basis;

“settlement system” means any real-time gross settlement system established under subsection (1);”.

Insertion of new sections 75A and 75B.

7. The principal Order is amended by inserting the following two new sections immediately after section 75 —

“Recovery of fees.

75A. Any fees payable by any person to the Authority under this Order shall be recoverable as a civil debt due to the Authority.

Exemption.

75B. (1) The Minister in his discretion may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, by order exempt any person or class of persons from all or any regulations made under section 33 or 34 subject to such conditions as may be prescribed.

(2) The Authority may, on the application of any person, by notice in writing exempt the person from —

(a) all or any of the requirements made under section 33 or 34;
and

(b) all or any of the requirements specified in any direction made by the Authority under this Order,

subject to such conditions as the Authority may specify by notice in writing.

(3) The Authority may at any time, by notice in writing to a person, amend any condition imposed on the person under subsection (2).

(4) It shall not be necessary to publish any exemption granted under subsection (2) in the *Gazette*.”.

Amendment of section 77.

8. Section 77 of the principal Order is amended, in subsection (1), by deleting “Authority” from the first line and by substituting “Minister” therefor.

Made this 19th. day of Rabiulakhir, 1436 Hijriah corresponding to the 9th. day of February, 2015 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM