

No. S 36

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

SYARIAH FINANCIAL SUPERVISORY BOARD (AMENDMENT) ORDER, 2022

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

SYARIAH FINANCIAL SUPERVISORY BOARD (AMENDMENT) ORDER, 2022

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

1. This Order may be cited as the Syariah Financial Supervisory Board (Amendment) Order, 2022.

Amendment of section 2 of S 5/2006

2. Section 2 of the Syariah Financial Supervisory Board Order, 2006, in this Order referred to as the principal Order, is amended –

(a) by deleting the definition of "Authority" and by substituting the following new definition therefor –

" "Authority" means the Brunei Darussalam Central Bank established by section 3(1) of the Brunei Darussalam Central Bank Order, 2010 (S 103/2010);";

(b) in the definition of "Islamic banking business", by deleting "Islamic Banking Act (Chapter 168)" and by substituting "Islamic Banking Order, 2008 (S 96/2008)" therefor;

(c) by deleting the definition of "Minister" and by substituting the following new definition therefor –

" "Minister" means the Minister charged with the responsibility for financial matters;".

Amendment of section 3

3. Section 3 of the principal Order is amended by deleting "supervised and regulated" from the second last line and by substituting "carried out, supervised or regulated" therefor.

Amendment of section 4

4. Section 4 of the principal Order is amended, in subsection (2), by deleting "Every financial institution" from the first line and by substituting "The Authority" therefor.

Insertion of new section 5A

5. The principal Order is amended by inserting the following new section immediately after section 5 —

"Power to issue guidelines etc.

5A. (1) The Authority may issue, in such manner as it considers appropriate, such guidelines, circulars or notes as it considers desirable in respect of —

(a) any of the provisions of this Order; or

(b) the conduct of any financial institution.

(2) Any financial institution which fails to comply with any of the provisions of a guideline, circular or note issued under this section that applies to it shall not of itself render that financial institution liable to criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied on by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(3) Any guideline, circular or note issued under this section —

(a) may be of general or specific application; and

(b) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.

(4) For the avoidance of doubt, any guideline, circular or note issued under this section is deemed not to be subsidiary legislation."

Substitution of section 6

6. Section 6 of the principal Order is repealed and the following new section is substituted therefor —

"Membership of Board

6. (1) The Board shall consist of the following members —

- (a) a chairman;
- (b) a deputy chairman;
- (c) not less than 6 other persons —
 - (i) at least 4 of whom —
 - (A) being the citizens of Brunei Darussalam, are followers of the Shafeite sect of Ahlis Sunnah Waljamaah and are religious scholars who are experts in Islamic knowledge or experienced in *Fiqh al-Mu'amalat*; or
 - (B) not being citizens of Brunei Darussalam, are followers of the Shafeite, Hanafi, Maliki or Hanbali sect of Ahlis Sunnah Waljamaah and religious scholars who are experienced in *Fiqh al-Mu'amalat*; and
 - (ii) at least 2 of whom are experienced in banking, economics, finance, Syariah law or any other related discipline.

(2) The members of the Board shall be appointed by His Majesty the Sultan and Yang Di-Pertuan on the recommendation of the Authority after consultation with the Majlis.

(3) No person shall be appointed as a member unless he is professing the Islamic Religion."

Substitution of section 7

7. Section 7 of the principal Order is repealed and the following new section is substituted therefor —

"Period of office

7. (1) Any member appointed under section 6 shall hold office for a term not exceeding 3 years and shall be eligible for re-appointment.

(2) If any member appointed under section 6 dies, resigns or otherwise vacates his office before the expiry of the period for which he has been appointed, another person may be appointed by His Majesty the Sultan and Yang Di-Pertuan, on the recommendation of the Authority after consultation with the Majlis, for the unexpired period of office of the member in whose place he is appointed."

Substitution of section 9

8. Section 9 of the principal Order is repealed and the following new section is substituted therefor —

"Notification of appointments

9. Notices of appointments under section 6 shall be published in the *Gazette*."

Amendment of section 10

9. Section 10 of the principal Order is amended, in subsection (1), by deleting ", and in case he is, at that time absent, the Authority shall elect any other member to be the chairman for that meeting" from the last two lines.

Amendment of section 11

10. Section 11 of the principal Order is amended —

(a) by repealing subsection (2) and by substituting the following new subsection therefor —

"(2) At every meeting of the Board, two-thirds of the numbers of members including the chairman or deputy chairman shall constitute a *quorum*."

(b) by repealing subsection (3) and by substituting the following new subsection therefor —

"(3) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting."

Amendment of section 14

11. Section 14 of the principal Order is amended —

(a) in the section heading, by inserting "or services" immediately after "product";

(b) in subsection (1) —

(i) by deleting "Board for approval" and by substituting "Authority for the approval by the Board" therefor;

(ii) by inserting "or services" immediately after "product";

(c) in subsection (2), by inserting "or Authority" immediately after "Board".

Amendment of section 17

12. Section 17 of the principal Order is amended by deleting "issued by the Authority pursuant to subsection (1) of section 5" from the fifth and sixth lines and by substituting ", guidelines, circulars or notes issued by the Authority pursuant to section 5 or 5A" therefor.

Amendment of section 23

13. Section 23 of the principal Order is amended by deleting "Minister" and by substituting "Authority" therefor.

Amendment of section 24

14. Section 24 of the principal Order is amended —

(a) in subsection (1), by deleting "Minister" from the first line and by substituting "Authority" therefor;

(b) in subsection (2), by deleting "Minister" and by substituting "Authority" therefor.

Substitution of Schedule

15. The Schedule to the principal Order is repealed and the following new Schedule is substituted therefor —

"SCHEDULE
(section 2)

FINANCIAL INSTITUTIONS

- (a) Any bank licensed under the Banking Order, 2006 (S 45/2006).
- (b) Any finance company licensed under the Finance Companies Act (Chapter 89).
- (c) Any Islamic bank licensed under the Islamic Banking Order, 2008 (S 96/2008).
- (d) Any licensee under the Money-Changing and Remittance Businesses Act (Chapter 174).
- (e) Any licensee under the Moneylenders Act (Chapter 62).

- (f) Any licensee under the Pawnbrokers Order, 2002 (S 60/2002).
- (g) Any insurer registered under the Insurance Order, 2006 (S 48/2006).
- (h) Any regulated person within the meaning of the Securities Market Order, 2013 (S 59/2013).
- (i) Any takaful operator registered under the Takaful Order, 2008 (S 100/2008).
- (j) The Perbadanan Tabung Amanah Islam Brunei established by section 3(1) of the Perbadanan Tabung Amanah Islam Brunei Act (Chapter 163)."

Consequential amendment to S 103/2010

16. The First Schedule to the Brunei Darussalam Central Bank Order, 2010 is amended by inserting the following new item immediately before "the Takaful Order, 2008 (S 100/08)" —

"the Syariah Financial Supervisory Board Order, 2006 (S 5/2006);".

Made this 13th. day of Jamadilawal, 1444 Hijriah corresponding to the 7th. day of December, 2022 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

**HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN,
BRUNEI DARUSSALAM.**



