

No. S 68

INTERNATIONAL BANKING ORDER, 2000

**INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000**

In exercise of the power conferred by section 31 of the International Banking Order, 2000, 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 International Banking (Fees, Forms and Miscellaneous Provisions) Regulations, 2000 and shall commence on the day appointed for the commencement of the International Banking Order, 2000.

Application fee.

2. These application fee payable under section 4(1) of the Order is five thousand dollars.

Annual licence fees.

3. The annual licence fees in respect of licences granted under section 6 of the Order to carry on banking business is —

	United States Dollars
full international licence	: 50,000
international investment banking licence	: 35,000
international Islamic banking licence	: 50,000
restricted international banking licence	: 25,000

Manner of payment.

4. (1) A bank licensed under the Order shall, immediately upon being granted a licence, pay the appropriate annual licence fee to the Authority.

(2) Without prejudice to sub-regulation (1), the annual licence fees payable by a licensee thereafter shall become due on each anniversary of the grant of the licence. If the annual licence fee is not paid within sixty days of the due date, a penalty of twenty-five per cent of the licence fee shall immediately be payable.

Confirmation by home authority.

5. In addition to the forms and documents specified in section 4 of the Order, an institution desiring to conduct international banking business in Brunei Darussalam shall supply written confirmation given by its home country supervisor that such supervisor agrees to the licensee conducting banking business in Brunei Darussalam under the class of licence applied for.

Forms.

6. (1) The forms set out in the Schedule are prescribed as the forms to be used for the purposes of the Order.

(2) Strict compliance with the forms in the Schedule is not required and substantial compliance is sufficient.

(3) When a form requires certain particulars, such particulars are included as matters prescribed.

General requirements for documents lodged with Registrar.

7. A document to be lodged with the Authority shall comply with the following requirements –

(a) the document shall be clearly printed on paper of medium weight, good quality and of international sheet A4 size;

(b) with the consent of the Authority, the document may be facsimile or photocopy.

Maintenance of unimpaired capital.

8. The capital funds unimpaired by losses and the maintenance thereof shall be set by the Authority as appropriate in the case of each applicant.

Capital requirements.

9. The minimum capital requirements prescribed pursuant to section 5(2)(g) is five million United States dollars.

FIRST SCHEDULE
(regulation 6)

Section/No.	Description of Form	Form No.
6, 7 and 8.	Licence to conduct International Banking Business	1
4(1)	Form of Licence Application	2
4(1)(i)	Personal Questionnaire	3
4(1)(i)	Questionnaire for Syaria'h Council	4
12(1)	Annual Notification of Controllers	5

SCHEDULE

INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000

FORM 1

INTERNATIONAL BANKING ORDER, 2000
(sections 6, 7 and 8)

LICENCE TO CONDUCT INTERNATIONAL BANKING BUSINESS

THIS IS TO CERTIFY THAT

.....
.....
incorporated under

HAS BEEN ISSUED WITH A

LICENCE TO CONDUCT INTERNATIONAL BANKING BUSINESS

Subject to the provisions of the Order and to the conditions attached to the licence at the date hereof and as the same may be varied from time to time.

Dated this day of, 200.....

.....
the Authority, International Banking Order

**INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000**

FORM 2

**INTERNATIONAL BANKING ORDER, 2000
(section 4(1))**

FORM OF LICENCE APPLICATION

1. Applicant.

1.1 Name of applicant.

1.2 Address in Brunei Darussalam of the principal office of the applicant and, in the case of a company, its registered office.

1.3 In the case of a company —

1.3.1 the names, addresses and particulars of —

(a) all directors and shareholders and their nationalities;

(b) all officers and managers; and

(c) foreign agents or offices;

(See Form 3)

1.3.2 a description of any material contractual arrangements with such persons responsible for proposed operation in Brunei Darussalam.

2. Group Structures.

2.1 Parent, subsidiary, and affiliated companies: names and registered office address and names of their registered agents.

2.2 Chart showing relationship of applicant with other group members.

3. Financial Information.

3.1 Copies of audited **annual accounts** of the applicant/group, if any, for the preceding three years and thereafter annual duly audited and certified by an independent auditor.

- 3.2 Statement of assets and liabilities of applicant at the end of the month prior to the submission of the application certified by a director or senior officer.
 - 3.3 Evidence that the applicant meets and will be able to continue to meet, relevant capital adequacy and liquidity and any other supervisory requirements.
 - 3.4 A letter of guarantee from the applicant's holding company confirming responsibility for all liabilities of the applicant.
- 4. Relevant information to establish compliance with criteria.**
- 4.1 A statement describing the classes, including all services and activities of the international banking business the applicant will seek to undertake, and the experience of the applicant and its directors or employees in such business.
 - 4.2 Competence: evidence that the applicant possesses appropriate experience for conduct of business under class of licence sought. [See section 4(1)(e) of the Order].
 - 4.3 Copies of any other documents, including published material relating to the applicant and or the group of which it is a member which might be of use in considering the application.
- 5. Constitution.**
- 5.1 Evidence of the proposed incorporation or registration of the company in Brunei Darussalam under the International Business Companies Order, and in the country of incorporation, as the case may be.
 - 5.2 A copy of the act, charter, certificate of incorporation or memorandum and articles of association of the applicant, as may be appropriate, certified by a director, or officer.
- 6. Professional Advisers.**
- 6.1 **Auditors –**
 - 6.1.1 names and addresses of proposed auditors of the applicant, together with a letter from such auditors confirming that they are prepared to act as auditors for the applicant.

6.2 Advocates and Solicitors –

6.2.1 names and addresses of legal advisers in Brunei Darussalam and letter from such advisers confirming they act.

6.3 Syaria'h Councillors

6.3.1 for an Islamic banking licence, names and addresses of proposed Syaria'h Councillors of the applicant, together with a letter from such councillors confirming that they are prepared to act as such for the applicant.

7. Business Plan.

A copy of a feasibility study for the applicant for the first three years of its operations in Brunei Darussalam, such study having been prepared by professional persons acceptable to the Authority.

8. Insurance.

8.1 Evidence, if available, of satisfactory insurance to cover –

8.1.1 professional indemnity;

8.1.2 employee fidelity insurance.

9. If not within the Brunei Darussalam, the address of the principal office of the applicant and of its registered office.

10. Where appropriate, a statement in writing in a form acceptable to the Authority from the authority responsible for the regulation of banking businesses, in the country in which the applicant or its parent company is incorporated or has its principal office, and confirmation that such authority is aware of the application.

11. (1) A statement giving the date for the drawing up of the annual accounts of the applicant; and

(2) details of the current business activities, if any, of the applicant.

12. Details of any management agreement which the applicant proposes entering into in relation to its business.

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

13. All documentation provided to the Authority as part of an application for a licence must be in the English language. Any non-English language documentation must be accompanied by a certified English translation thereof.

14. Such other documents as the Authority may require.

Name: Position:

Signed: Date:

**INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000**

FORM 3

**INTERNATIONAL BANKING ORDER, 2000
(section 4(1)(b))**

**PERSONAL QUESTIONNAIRE
FOR PROPOSED DIRECTORS, MANAGERS, CONTROLLERS
OR FINANCIAL CONTROLLERS**

1. Name of institution in respect of which this questionnaire is being completed.
2. Surname.
3. Forename(s).
4. Any previous name(s) by which you have been known.
5. Are you completing this questionnaire as a director, manager, controller or financial controller?
6. Private address.
7. Previous private addresses during the last seven years.
8. Date of birth. Place of birth.
9. Nationality, and how it was acquired (e.g. birth, registration, naturalisation, marriage).
10. Present occupation or employment and occupations, employment and directorships/board directorships during the last ten years, including the name of the employer or company, the nature of the business, the position held and relevant dates.
11. Of what bodies corporate are you now a director/board director or manager or do you have (present or future) beneficial ownership of, or control over, 5 per cent or more of the voting power?
12. Do any of the bodies corporate listed in answers to question 10 or 11 maintain a business relationship with the institution? If so, give particulars.
13. Do you, or does any institution with which you are or have been associated as a director/board director or manager, hold or have you or it ever held or applied for a licence or equivalent authorisation to carry on any business activity? If so, give particulars (including details of contact persons at relevant

- authorities). If any such application was refused or withdrawn after it was made or any authorisation revoked, give particulars (including details of contact persons at relevant authorities).
14. Have you at any time been a director/board director or manager of any institution whose licence has been cancelled, or whose legal authority to carry on a business has been cancelled, withdrawn or suspended under any law either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars (including details of contact persons at relevant authorities).
 15. Have you, or any institution with which you are or have been associated (either while you were associated with it or within one year after you ceased to be associated with it), at any time been charged with and/or convicted of any offence including an expunged offence (other than (a) an offence committed when you were under the age of 18 years unless the same was committed within the last ten years, or (b) an offence in connection with the use or ownership of a motor vehicle)? If so, give particulars of the court by which you or the institution were convicted, the offence with which you or the institution were charged and the penalty imposed and the date of conviction.
 16. Have you been censured, disciplined, warned as to future conduct or publicly criticised by, or made the subject of a court order at the instigation of, any regulatory authorisation or professional body to which you belong or belonged or have you ever held a practising certificate subject to conditions? If so, give particulars (including details of contact persons at relevant authorities).
 17. Have you, or any body corporate, partnership or un-incorporated institution with which you are, or have been associated as a director/board director or manager, been the subject of an investigation by, or at the instigation of, a governmental, professional or other regulatory body? If so, give particulars (including details of contact persons at relevant authorities).
 18. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.
 19. Have you been adjudicated bankrupt by a court or at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.
 20. Have you failed to satisfy any debt adjudged due and payable by you as a judgment debtor under an order of a court? If so, give particulars.
 21. Have you, in connection with the formation or management of any body corporate, partnership or unincorporated institution been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards

such a body or company, or towards any members thereof? If so, give particulars.

22. Has any body corporate, partnership or unincorporated institution with which you were associated as a director/board director or manager been compulsory wound-up or made any compromise or arrangement with its creditors or ceased trading, in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give particulars.
23. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.
24. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the institution? If so, give particulars.
25. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the institution, or hold any such voting power as trustee or nominee? If so, give particulars (including details of pledges or charges, if any).
26. Are you engaged in, or do you expect to be engaged in, any litigation or matter of dispute with any authority, including taxation authorities? If so, give particulars.

FORM OF DECLARATION

I,, being a director, manager, controller or financial controller ofon hereby certify that I have read and understood the provisions of the International Banking Order, 2000 and all regulations and circulars issued thereunder.

I certify that the information given in answer to the questions attached is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application and/or this questionnaire of which the Authority should be aware.

I undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application and/or this questionnaire. I further undertake that, in the event that the institution is granted the licence for which is hereby sought, I will notify the Authority of any material changes to or affecting the completeness or accuracy of, the answers to the questions above as soon as possible, but in any event not later than twenty-one days from the day that the changes come to my attention.

Name: Position:

Signed: Date:

**INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000**

FORM 4

**INTERNATIONAL BANKING ORDER, 2000
(section 4(1)(i))**

**PERSONAL QUESTIONNAIRE
FOR PROPOSED MEMBERS OF THE SYARIA'H COUNCIL**

1. Name of institution in respect of which this questionnaire is being completed.
2. Surname.
3. Forename(s).
4. Any previous name(s) by which you have been known.
5. Syaria'h qualification.
6. Private address.
7. Previous private addresses during the last seven years.
8. Date of birth. Place of birth.
9. Nationality, and how it was acquired (e.g. birth, registration, naturalisation, marriage).
10. Present occupation or employment and occupations, employment and directorships/board directorships and syaria'h counselling during the last ten years, including the name of the employer or company, the nature of the business, the position held and relevant dates.
11. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.
12. Do you, in your private capacity, or does any close relative or associate (either individual or corporate), undertake or intend to undertake business with the institution? If so, give particulars.
13. Do you, in your private capacity, or does any close relative or associate (either individual or corporate) hold any (present or future) beneficial interest in the voting power of the institution, or hold any such voting power as trustee or nominee? If so, give particulars (including details of pledges or charges, if any).

FORM OF DECLARATION

I,, being a Syaria'h
Councillor of
on hereby certify that I have read and understood
the provisions of the International Banking Order, 2000 and all regulations and
circulars issued thereunder.

I certify that the information given in answer to the questions attached is complete
and accurate to the best of my knowledge, information and belief and that there
are no other facts relevant to this application and/or this questionnaire of which
the Authority should be aware.

I undertake to inform the Authority of any changes material to the application
which arise while the Authority is considering the application and/or this
questionnaire. I further undertake that, in the event that the institution is granted
the licence for which is hereby sought, I will notify the Authority of any material
changes to or affecting the completeness or accuracy of, the answers to the
questions above as soon as possible, but in any event no later than twenty-one
days from the day that the changes come to my attention.

Name: Position:

Signed: Date:

**INTERNATIONAL BANKING
(FEES, FORMS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2000**

FORM 5

**INTERNATIONAL BANKING ORDER, 2000
(section 12(1))**

ANNUAL NOTIFICATION OF CONTROLLERS

To the Authority, International Banking Order,

Name of Bank:

Class of Licence:

In accordance with section 12 of the International Banking Order, 2000, I hereby advise that as of the date hereof, being the date for renewal of the banking licence, the following are the full names and addresses of all persons who are "controllers" in relation to the Bank as defined under the Order.

Please indicate in respect of each controller who is a shareholder/owner —

- (a) whether an indirect ten per cent, twenty per cent, thirty-three per cent, or majority controller;
- (b) percentage of shares of licensee held, either alone or with any associate or associates; and
- (c) percentage of the voting power at a general meeting of the licensee entitled to exercise, or control the exercise of, either alone or with any associate.

Dated this day of, 200

Certified true and correct

.....
Director
Name of Institution

BRUNEI DARUSSALAM GOVERNMENT GAZETTE

Made this 22nd. day of Rabiulawal, 1421 Hijriah corresponding to the 25th. day of June, 2000.

AWANG HAJI ABDUL HAMID BIN HAJI JANUDIN
Acting Permanent Secretary,
Ministry of Finance,
Brunei Darussalam.