



Regulatory Framework For Islamic Finance In Brunei Darussalam: A Critical Analysis

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Abstract

The development of Islamic finance in Brunei Darussalam commenced with the establishment of Tabung Amanah Islam Brunei (TAIB) in 1991. Under the auspices of the Brunei Darussalam Central Bank (BDCB) and with the continued support of the Ministry of Finance and Economy (MOFE), the nation has progressively strengthened its position within the global Islamic finance sector. A robust regulatory framework is imperative to sustain this development, attract investment, and foster stakeholder engagement. Nevertheless, despite this progress, the sector's regulatory infrastructure requires continuous refinement to keep pace with industry advancements. While the Islamic Banking Order (IBO) 2008 established a foundational legal structure, several provisions require revision and enhancement to meet contemporary market demands. This paper critically analyses the current regulatory framework governing Islamic finance in Brunei Darussalam. Employing qualitative documentary analysis, the study examines primary legal instruments, including Acts, Orders, Guidelines, and Notices, supplemented by secondary academic literature. The findings reveal that additional legislative measures are essential to establish a more comprehensive and resilient regulatory framework. Although Brunei Darussalam currently has only one full-fledged Islamic bank, a robust regulatory framework remains critical to ensuring the effective and consistent application of *Shariah* principles across Islamic financial operations. The paper concludes by offering targeted policy recommendations for the relevant regulatory authorities, thereby contributing to the broader discourse on strengthening the legal and regulatory architecture of Islamic finance.

Keywords: Regulatory framework; Islamic finance; Brunei Darussalam; Shariah compliance; Islamic banking laws

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Introduction

Over the past few decades, Brunei Darussalam has progressively developed its Islamic banking and finance sector, which has emerged as an important component of the nation's financial services industry. The country commenced its journey into Islamic finance with the establishment of its first Islamic financial institution, Tabung Amanah Islam Brunei (TAIB), in 1991. Since then, the sector has witnessed substantial expansion in terms of the number and diversity of financial institutions and services. The ICD Thomson Reuters Islamic Finance Development Indicator for 2014 ranked Brunei Darussalam 10th among 92 countries practising Islamic finance (Yaacob, Basir, Yaacob, & Ali, 2021). This ranking underscores the nation's potential to assume a more prominent role within the global Islamic finance industry, particularly in Islamic investment management and *takaful* (Islamic insurance) services. In line with the national vision, Wawasan Brunei 2035, the financial sector, including Islamic finance, is projected to increase its contribution to gross domestic product (GDP) to 8% by 2035 (Zul Kepli, 2014).

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Brunei Darussalam operates under a dual legal system encompassing both English common law and *Shariah* law (Zul Kepli, 2014; Yaacob, 2018). This legal framework accommodates both conventional and Islamic financial activities. The Islamic finance industry in Brunei Darussalam can be broadly categorised into three primary segments: Islamic banking, *takaful*, and the Islamic capital market. To regulate these sectors, a series of Orders and Acts have been enacted to ensure that Islamic financial products and operations comply with *Shariah* principles (Yaacob, 2024). The regulatory framework for Islamic finance in Brunei Darussalam is anchored by several key legislative instruments. Islamic banking activities are primarily governed by the Islamic Banking Order (IBO) 2008, while the *takaful* sector is regulated under the Takaful Order 2008. Furthermore, Islamic capital market activities are regulated by the Securities Market Order (SMO) 2013 and its subsidiary legislation, the Securities Markets Regulations (SMR) 2015. The Brunei Darussalam Central Bank (BDCB) administers and supervises these regulatory instruments as part of its mandate to promote monetary and financial stability. Islamic financial institutions in Brunei Darussalam are also subject to prudential standards and reporting requirements. Additionally, Islamic banks must comply with the Guideline on Compliance and Compliance Function issued by the BDCB in 2018, which is aligned with the principles established by the Basel Committee on Banking Supervision.

As stated in *The Compliance Function in Banks*:

“Compliance with laws, rules and standards helps to maintain the bank’s reputation with, and thus meet the expectations of, its customers, the markets and society as a whole.”

Building on this premise, strengthening the Islamic finance industry requires a comprehensive legal and regulatory framework capable of enhancing operational efficiency, maintaining financial stability, and supporting sustainable development. Previous studies have emphasised the importance of an effective regulatory regime in supporting the development of Islamic finance (Markom, 2016; Syarif, 2019; Yaacob, 2018, 2026). Against this backdrop, this paper critically examines the regulatory framework governing Islamic finance in Brunei Darussalam, with particular emphasis on the need for a cohesive legal and regulatory structure to support the industry's continued development. This study encompasses the major segments of Islamic finance in Brunei Darussalam, namely Islamic banking, *takaful*, the Islamic capital market, and other specialised areas within the industry. Furthermore, the regulatory framework is examined in the context of Islamic social finance, particularly concerning matters that fall under the jurisdiction of the Islamic Religious Council and the *Shariah* Courts. Methodologically, the study employs qualitative documentary analysis involving a systematic examination of primary legal and regulatory instruments, including Acts, Orders, Guidelines, and Notices. These primary sources are supplemented by secondary literature, including academic journal articles and books, to provide a comprehensive assessment of the regulatory landscape governing Islamic finance in Brunei Darussalam.

2. Literature Review

The Islamic finance industry constitutes an important component of Brunei Darussalam's financial system and broader economic development. As noted by Yaacob et al. (2021), His Royal Highness Prince Haji Al-Muhtadee Billah, the Crown Prince and Senior Minister at the Prime Minister's Office, emphasised that Islamic finance, when grounded in *Shariah* principles, contributes to the development of a stable global Islamic financial system. His Royal Highness also called upon the Brunei Darussalam Central Bank (BDCB)—formerly the Autoriti Monetari Brunei Darussalam (AMBD)—and other relevant agencies to strengthen their collaborative efforts in support of His Majesty's vision to establish Brunei Darussalam as a globally recognised Islamic financial hub. The development of Brunei Darussalam's Islamic finance industry can be traced to a royal decree issued by His Majesty the Sultan and Yang Di-Pertuan on 25 September 1990, during a meeting of the Islamic Religious Council (*Majlis Ugama Islam Brunei*) (Zul Kepli, 2014). In his address, His Majesty underscored the establishment of an Islamic bank as a *fard kifayah*, referring to a communal religious obligation (Ebrahim & Tan, 2001; Yaacob, 2024). This directive catalysed the formal development of Islamic banking in the country, culminating in the establishment of Tabung Amanah Islam Brunei (TAIB) in 1991, the country's first Islamic trust fund. Established primarily to facilitate financial preparations for the *Haji* pilgrimage among local Muslims, TAIB marked an important milestone in the development of Islamic finance in Brunei Darussalam, as it became the first domestic financial institution to operate in accordance with Islamic principles.

The sector continued to develop in 1993 when the Island Development Bank, previously a conventional institution, was converted into the country's first full-fledged Islamic bank and subsequently renamed the Islamic Bank of Brunei. Another significant development occurred in 2005 with the formation of Bank Islam Brunei Darussalam (BIBD). BIBD was established through the merger of the Islamic Bank of Brunei and the Islamic Development Bank of Brunei and has since become the country's largest banking institution and a leading Islamic financial institution (Zul Kepli, 2014).

This institutional development underscores the importance of an effective legal and regulatory framework. Syarif (2019) argues that jurisdictions require a regulatory framework that integrates *Shariah* principles into the national legal system while encompassing the regulatory requirements necessary for the effective operation of Islamic finance. A robust legal framework can enhance investor confidence and mitigate systemic risks that may undermine financial stability. Accordingly, regulatory regimes need to evolve in response to emerging market challenges and address identified legislative and regulatory gaps to support the continued development of Islamic finance.

Similarly, Markom (2016) advocates the implementation of key strategic areas identified in the *World Islamic Banking and Finance Report 2016* to address challenges facing the Islamic finance industry and promote equitable financial practices. These include establishing a supportive regulatory environment through the consistent application of Basel III and Islamic Financial Services Board (IFSB) standards, addressing systemic risks arising from dual banking systems, and strengthening cross-border supervisory mechanisms. Khan et al. (2015) likewise highlight the need for a harmonised regulatory and supervisory framework to address contemporary challenges in Islamic banking. They further argue that greater consensus among *Shariah* scholars is important for promoting greater standardisation in the regulatory framework governing Islamic finance. Yaacob (2024) further emphasises the importance of an appropriate regulatory framework in highly regulated sectors such as finance. Effective regulation can encourage market participation and investment by fostering trust and confidence among stakeholders. A transparent regulatory framework defines the rights and obligations of market participants and establishes the requirements governing their activities. From a public policy perspective, effective regulatory governance is important to ensure that regulatory interventions are transparent, proportionate, equitable, and consistently enforced. In this context, a regulatory framework may be understood as a system of rules, guidelines, and enforcement mechanisms established by the relevant authorities to regulate a particular sector.

Providing a broader perspective on banking and financial systems, Yaacob (2018), in *The World Banking System*, examines the historical development and operations of financial institutions and the relationship between domestic banking regulations and the international financial system. This perspective provides a useful basis for understanding the regulatory environment of Islamic finance and highlights the importance of aligning domestic regulatory frameworks with developments in the international financial system.

3. Research Methodology

3.1 Research Design

This study adopts a qualitative documentary analysis approach to examine the regulatory framework governing Islamic finance and *Shariah* compliance in Brunei Darussalam. This approach is appropriate because the study primarily seeks to examine, interpret, and synthesise legal and regulatory requirements through documentary evidence (Morgan, 2021). Accordingly, the analysis focuses on primary legislation, regulatory instruments, and relevant academic literature.

The analysis is principally doctrinal in nature, as it examines the content, scope, and interrelationships of the legal and regulatory instruments governing Islamic banking in Brunei Darussalam. A qualitative analytical approach is also employed to examine the regulatory structure, institutional responsibilities, *Shariah* compliance requirements, and implementation mechanisms established within the existing framework.

3.2 Sources of Documents

The documentary sources analysed in this study comprise both primary and secondary sources. Primary sources include relevant Acts, Orders, and Regulations, such as the Islamic Banking Order 2008, the Brunei Darussalam Central Bank Order 2010, and the Syariah Financial Supervisory Board Order 2006, as well as guidelines, standards, and notices issued by Brunei Darussalam Central Bank (BDCB) and the Syariah Financial Supervisory Board (SFSB). Secondary sources comprise peer-reviewed journal articles, academic books, research papers, and other scholarly publications relating to Islamic finance, Islamic banking regulation, *Shariah* governance, regulatory compliance, and the development of Islamic finance in Brunei Darussalam.

Relevant sub-regulatory instruments, including notices, guidelines, and standards issued by the regulatory authorities, were also examined alongside applicable international standards and frameworks.

The documentary review was conducted by identifying and examining the principal legal and regulatory instruments relevant to Islamic banking in Brunei Darussalam. Documents were selected based on their direct relevance to the research objectives and their regulatory significance. The review focused on provisions concerning the establishment and regulation of Islamic financial institutions, regulatory and supervisory authority, *Shariah* governance, product approval, *Shariah* compliance, internal controls, *Shariah* audit, monitoring, and reporting. Relevant academic literature was reviewed alongside primary legal sources to support the interpretation of regulatory provisions and provide scholarly perspectives on Islamic finance regulation and *Shariah* governance.

4. Discussion

4.1 Regulatory Framework

The regulatory framework governing a financial institution provides the basis for regulating its activities and facilitating the achievement of its objectives. Enhancing operational efficiency, promoting financial stability, mitigating risks, and supporting broader economic development depend substantially on the effectiveness of this regulatory framework (Syarif, 2019). In the context of Islamic finance, the regulatory framework is complemented by a *Shariah* governance framework, which establishes mechanisms for overseeing Islamic financial institutions and ensuring compliance with *Shariah* principles in their operations (Elasrag, 2014).

Broadly, the regulatory framework governing Islamic finance in Brunei Darussalam can be categorised into six principal areas, each supported by specific Orders, Acts, regulations, and subsidiary regulatory instruments. These areas are outlined as follows:

Islamic banking: Islamic banking is primarily regulated under the Islamic Banking Order (IBO) 2008, which provides the principal legal framework for Islamic banking activities in the country. The Order is supplemented by the Islamic Banking (Miscellaneous Provisions) Regulations 2008, particularly in relation to licensing requirements.

Takaful: The *takaful* (Islamic insurance) industry is regulated under the Takaful Order 2008, which provides the primary regulatory framework for the sector. It is supplemented by the Takaful Regulations 2008, which include requirements relating to the licensing of *takaful* operators.

Islamic capital market: Islamic capital market activities are primarily regulated under the Securities Market Order (SMO) 2013.

Islamic social finance: Islamic social finance activities are regulated predominantly under the Religious Council and Kadhi Courts Act (Chapter 77) and related legislation. This legal framework was further developed in 2018 through the introduction of specific legislation relating to *hibah* (gifts).

Digital currency and cryptocurrency: Digital currency and cryptocurrency activities are not currently governed by a dedicated framework under specific Islamic finance legislation. Nevertheless, certain provisions of the Electronic Transactions Act 2001 may apply to transactions conducted in digital form.

Specialised financial activities: Specialised financial activities, including money-changing, remittance businesses, pawnbroking, and money-lending, are governed by their respective Orders and Acts.

As the Islamic finance industry has expanded, the establishment of appropriate rules and regulations has become increasingly important for governing its activities and ensuring the *Shariah* compliance of financial products and services. The introduction of diverse financial products by Islamic financial institutions has necessitated effective mechanisms for assessing their conformity with Islamic principles. Consequently, *Shariah* boards have been established within Islamic financial institutions to review, oversee, and monitor the *Shariah* compliance of their products and operations.

At the international level, several standard-setting bodies have been established to develop standards, guidelines, and supporting infrastructure for the global Islamic financial industry. Prominent institutions include the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), the Islamic

Financial Services Board (IFSB), the International Islamic Liquidity Management Corporation (IILM), the Islamic International Rating Agency (IIRA), and the International Islamic Financial Market (IIFM) (Syarif, 2019). These institutions contribute to the development of common standards and regulatory practices, thereby promoting greater consistency in the application and interpretation of *Shariah* principles across jurisdictions.

Shariah compliance provides benefits not only from a regulatory perspective but also to financial institutions, their customers, governments, and the broader socio-economic development of a country. To realise these benefits, Islamic financial institutions require effective *Shariah* governance mechanisms. Central to this framework is the *Shariah* board, which is generally composed of Islamic scholars responsible for reviewing and determining whether an institution's products, services, and operations comply with *Shariah* principles. In many jurisdictions, the establishment of a *Shariah* board is a statutory requirement. Effective *Shariah* governance is therefore an important component of a sound regulatory and supervisory framework for ensuring the continued development and integrity of the Islamic finance sector.

In line with international financial developments, Brunei Darussalam operates a dual banking system encompassing both conventional and Islamic financial institutions. The coexistence of these systems necessitates regulatory and institutional mechanisms that promote consistency, systemic stability, and effective supervision. The development of modern banking regulation has also been influenced by international standardisation efforts. As Yaacob (2018, 2024) notes, the development of international banking standards can be traced to important institutional milestones, including the establishment of the Bank for International Settlements in 1930 and the Bretton Woods arrangements in 1944.

In jurisdictions operating dual financial systems where conventional money markets are highly developed, Islamic banks frequently operate in an environment in which conventional interest rates influence market pricing. The interaction between conventional and Islamic financial systems can affect the funding costs of Islamic banks, the returns on Profit-Sharing Investment Accounts (PSIAs), and the pricing of Islamic financing facilities. Furthermore, Islamic financial markets in such jurisdictions may lack equivalent money-market instruments and sovereign yield curves that could serve as independent benchmarks for pricing Islamic financial products. Consequently, some Islamic banks may rely on conventional interest-rate benchmarks when pricing contracts such as *Murabahah* (cost-plus financing) and *Ijarah* (leasing) (Yaacob, 2024).

5. Analysis

According to Yaacob (2018), in The World Banking System, the regulatory framework of Islamic finance operates within structures similar to those governing conventional banking. Institutions at Layer 1 function as “silent regulators” by indirectly influencing the financial system. These include organisations such as the World Bank, International Monetary Fund (IMF), International Organization of Securities Commissions (IOSCO), Bank for International Settlements (BIS), Financial Stability Board (FSB), and Financial Action Task Force (FATF), among others. These institutions establish regulatory and supervisory frameworks for prudential oversight, promote fair and transparent financial markets, and support financial integrity by addressing issues such as money laundering and terrorist financing. Yaacob (2018) further illustrate the relationship between the functioning of the banking system and the roles of these regulatory institutions. International standards issued by these organisations are transmitted to central banks, which subsequently disseminate the relevant information, standards, guidelines, and directives. Such standardisation is essential for harmonising financial practices and facilitating greater integration within the global financial system.

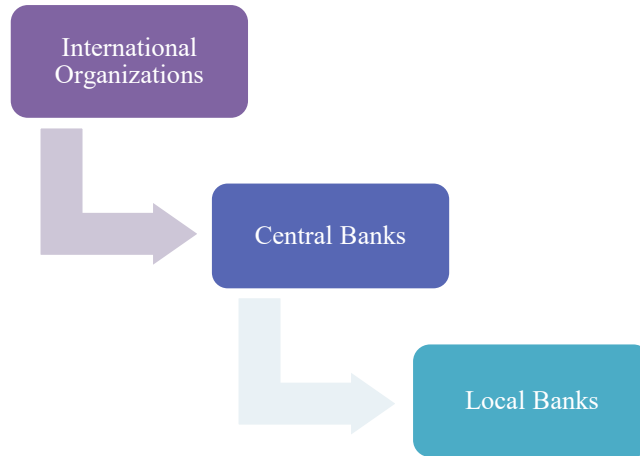


Figure 1: The three layers relationships – standards.

As shown in Figure 1, the interaction among the three layers contributes to the standardisation and implementation of financial practices. Over time, local institutions adopt the standards established at the international level. Once integrated into national jurisdictions and institutions, these standards are monitored and reviewed to ensure compliance. Such compliance requires consistent adherence to the established regulatory requirements. Figure 2 further illustrates the relationship among Layer 1, Layer 2, and Layer 3. Layer 2, comprising central banks worldwide, implements the policies and mandates established by Layer 1 and transmits them to Layer 3, which consists of local banks within each jurisdiction. Thus, regulations and standards developed at Layer 1 are channelled through Layer 2 at the central bank level and ultimately implemented at Layer 3 by both conventional and Islamic banks, as depicted in Figure 2.

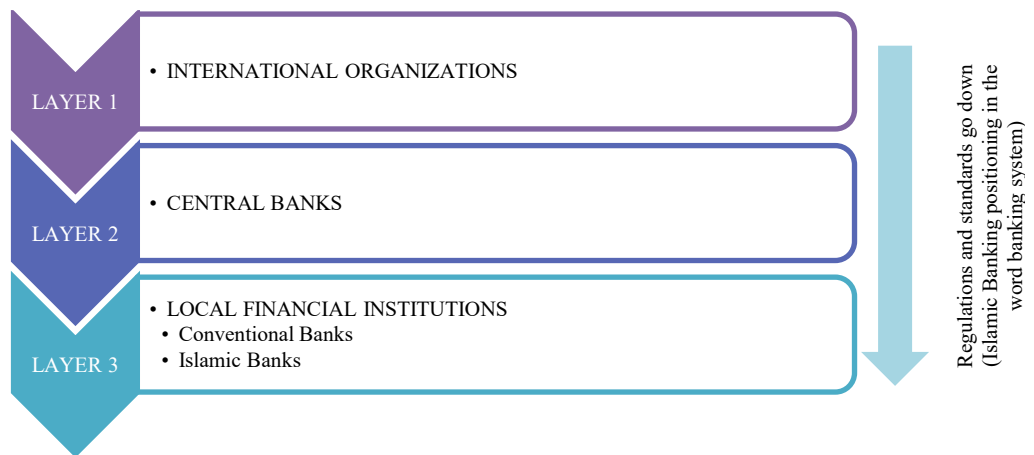


Figure 2: The connection of Layer 1, Layer 2 and Layer 3 in the context of financial institutions.

Based on Figure 2, Islamic banking is positioned on an equal footing with conventional banking within the broader financial system. The key distinction lies in the additional *Shariah* requirements and supervision imposed by the central bank or monetary authority to ensure that Islamic financial products and related activities comply with *Shariah* principles. Consequently, Islamic banking is subject to regulatory requirements that extend beyond those applicable to conventional banking (Yaacob, 2024). An effective regulatory system is essential for managing the flow of regulations and their impacts, while also shaping regulatory behaviour and policymaking. Regulatory activities should be transparent, accountable, proportionate, and consistent, with intervention limited to areas where regulatory action is necessary. This approach is generally supported by

clearly defined legal mandates governing regulatory authorities.

According to the IMF, regulatory responsibilities may be distributed among different authorities, with specific arrangements varying across countries. Typically, the central bank or Ministry of Finance oversees the primary market and its dealers, while the securities regulatory authority is responsible for regulating intermediaries in the secondary market. Effective regulation therefore requires comprehensive coverage and coordination among the relevant authorities. Harmonisation and coordination help minimise regulatory gaps and reduce the risk of inconsistent treatment of market participants engaged in similar activities, which may otherwise result in regulatory arbitrage and market distortions. Effective regulation of the secondary market should include: (i) oversight of market intermediaries; (ii) regulation of market conduct, including trading rules and market surveillance; and (iii) transparency requirements appropriate to the structure of the market.

Islamic finance operates within a comprehensive regulatory framework similar to that of the conventional financial industry, but its distinctive feature is the additional layer of *Shariah* governance. *Shariah* rulings and decisions issued by internal bodies, such as *Shariah* Committees or advisers, are incorporated into institutional policies and are subject to *Shariah* review and audit. Accordingly, the Islamic finance regulatory framework encompasses requirements relating to market conduct and compliance with both legal and *Shariah* standards. These requirements may derive from international standards, national legislation, central bank guidelines, *Shariah* fatwas, and resolutions issued by *Shariah* advisers or committees (Syarif, 2019; Yaacob, 2024).

In summary, the regulatory framework for Islamic finance includes:

International financial standards issued by bodies such as the Bank for International Settlements (BIS) and the Financial Action Task Force (FATF), which establish standards and compliance requirements for financial institutions.

A hierarchical regulatory structure. According to Yaacob (2018), these regulatory structures operate within a pyramid, beginning with international standard-setting bodies at the highest level and extending to central banks and financial institutions within individual jurisdictions. Central banks play a crucial role in translating and implementing these international standards within their respective jurisdictions and ensuring that local financial institutions comply with relevant regulatory requirements. One of their key objectives is to maintain financial stability through effective supervision and enforcement. Within Islamic finance, *Shariah* decisions and requirements are implemented alongside these broader regulatory standards and principles.

For example, corporate governance principles issued by international standard-setting bodies may influence governance requirements adopted by financial institutions, including the governance arrangements of *Shariah* Boards or Committees. Similarly, compliance with international standards extends to anti-money laundering and counter-terrorist financing measures established by the FATF. Figure 3 provides an overview of the hierarchical relationship between international standard-setting bodies, central banks, and local financial institutions within the regulatory framework.

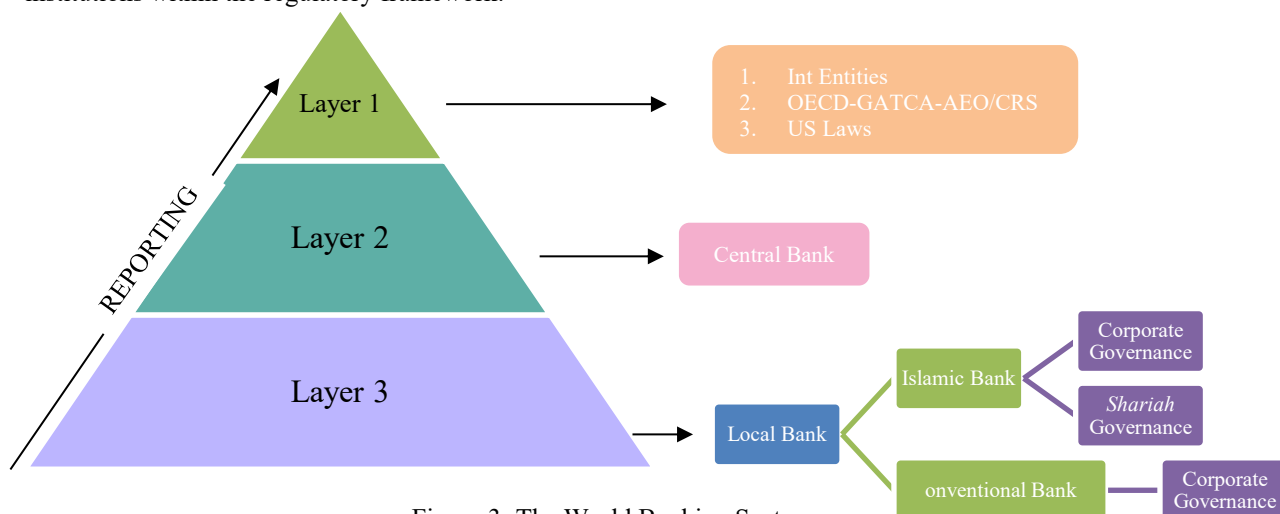


Figure 3: The World Banking System

As illustrated in Figure 3, the first layer of regulation is responsible for promoting compliance with international standards, supported by reporting and assessment mechanisms such as the Financial Sector Assessment Program (FSAP) conducted by the International Monetary Fund (IMF). The FSAP has two primary objectives: assessing the stability and soundness of the financial sector and evaluating its potential contribution to economic growth and development. In terms of financial stability, FSAP teams assess the resilience of both banking and non-banking sectors, conduct stress tests, and analyse systemic risks. This includes examining the interconnections between banks and non-bank financial institutions, as well as potential domestic and cross-border spillovers. The assessment also considers emerging risks, such as climate-related and cyber risks, and evaluates the quality of regulatory oversight, including that relating to fintech activities. Furthermore, it examines the capacity of central banks, regulatory authorities, policymakers, and financial safety nets to respond effectively to systemic stress.

From a development perspective, FSAPs evaluate financial-sector institutions, markets, and infrastructure, including legal frameworks, payment systems, and barriers to market competitiveness. They also assess progress in financial inclusion, access to digital financial services, and the contribution of the financial sector to economic growth, with particular attention to the development and deepening of domestic capital markets in developing countries. The IMF has continued to strengthen the FSAP framework by expanding its scope and coverage and improving the use of financial stability technical assistance. In February 2022, the IMF launched a new database on Financial Soundness Indicators (FSIs), which supports the monitoring and assessment of financial-sector stability. The IMF and World Bank also promote internationally recognised standards and codes across key areas through Reports on the Observance of Standards and Codes (ROSCs). These reports, prepared at the request of member countries, often accompany FSAPs and provide detailed assessments of countries' observance of relevant international standards.

Beyond these international assessment mechanisms, regulatory compliance is also supported through intergovernmental and regional agreements. For instance, the Foreign Account Tax Compliance Act (FATCA) is a United States legislative framework requiring foreign financial institutions to identify and report information concerning accounts held by US taxpayers to the Internal Revenue Service (IRS). Compliance may be facilitated through direct registration with the IRS or through intergovernmental agreements established between the United States and participating countries. At the regional level, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) contains provisions relating to financial services. In addition, the Common Reporting Standard (CRS) provides a framework for the automatic exchange of financial account information among participating jurisdictions to support international tax compliance and combat tax evasion.

At the national level, central banks and monetary authorities play an important role in translating international regulatory principles into applicable requirements and supervisory practices. In Islamic finance, this includes the formulation and implementation of *Shariah* standards and regulatory requirements to ensure compliance with Islamic principles. Jurisdictions such as Malaysia and several countries in the Middle East have established regulatory and *Shariah* governance frameworks for this purpose. Standards developed by international organisations, particularly the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB), serve as important benchmarks for Islamic financial institutions. Although these standards are not necessarily legally binding in all jurisdictions, they may be adopted or incorporated into national regulatory frameworks and institutional policies.

Local legislation and *Shariah* resolutions constitute another important layer of compliance. Regulations governing areas such as stamp duty, contracts, land, taxation, and financial transactions provide the legal framework within which financial institutions operate. In Islamic finance, *Shariah* resolutions issued by central bank-level or national *Shariah* authorities may also form part of the applicable regulatory framework. Where such decisions are legally binding, financial institutions are required to comply with them, and non-compliance may result in regulatory sanctions. At the institutional level, decisions issued by internal *Shariah* advisers or *Shariah* Committees provide further guidance on the *Shariah* compliance of specific products, transactions, and operations. The extent to which such decisions are legally binding, and the consequences of non-compliance, depend on the regulatory and *Shariah* governance framework of the respective jurisdiction.

Overall, the three-tiered relationship described in *The World Banking System* illustrates how international standards and regulatory principles are transmitted through central banks and other national authorities to local financial institutions. Through this hierarchical process, international standards are translated into national regulations, institutional policies, and *Shariah* requirements. Their subsequent monitoring and review promote consistency, accountability, and compliance across financial institutions, thereby contributing to the

harmonisation of regulatory practices within the global financial system.



Figure 4: Regulatory Framework of Islamic financial regulations.
Source: (Yaacob, 2022).

As illustrated in Figure 4, the regulatory framework for Islamic finance comprises a combination of hard and soft law. As noted by Chinkin (1989), the distinction between hard and soft law presents various challenges at different levels, particularly concerning the legal effects and compliance implications of soft-law instruments. This issue is particularly evident in the context of international economic law. Although soft-law instruments have limited juridical effects, member countries may nevertheless be expected to comply with the standards and principles established under relevant international compliance regimes.

5.1 Islamic Finance Regulatory Framework in Brunei Darussalam

The regulatory framework for Islamic finance in Negara Brunei Darussalam encompasses various aspects of the banking and financial sectors. Brunei Darussalam operates a dual banking system that permits both Islamic and conventional banking, thereby providing customers with a wider range of financial products and services. Regulatory authorities have undertaken initiatives to enhance public understanding of Islamic finance, while leading institutions such as Bank Islam Brunei Darussalam (BIBD) have contributed to the development of Islamic financial products and practices. The operations and activities of the Islamic finance sector are regulated by the Brunei Darussalam Central Bank (BDCB) under the provisions of the Brunei Darussalam Central Bank Order 2010.

5.1.1 Dual Banking System

Brunei Darussalam operates a dual banking system that accommodates both conventional and Islamic banking. This structure provides customers with a broader range of financial products and services while allowing Islamic financial institutions to offer competitive, *Shariah*-compliant alternatives. The competitive environment created by this dual system has encouraged financial institutions to respond to changing customer needs through the development of new products and services. These include various forms of financing, deposit products, insurance-related services such as *takaful*, and other banking facilities. Within the Islamic banking

sector, these products are structured to meet the financial needs of Muslim customers while adhering to *Shariah* principles, including the preservation and purification of wealth (mal).

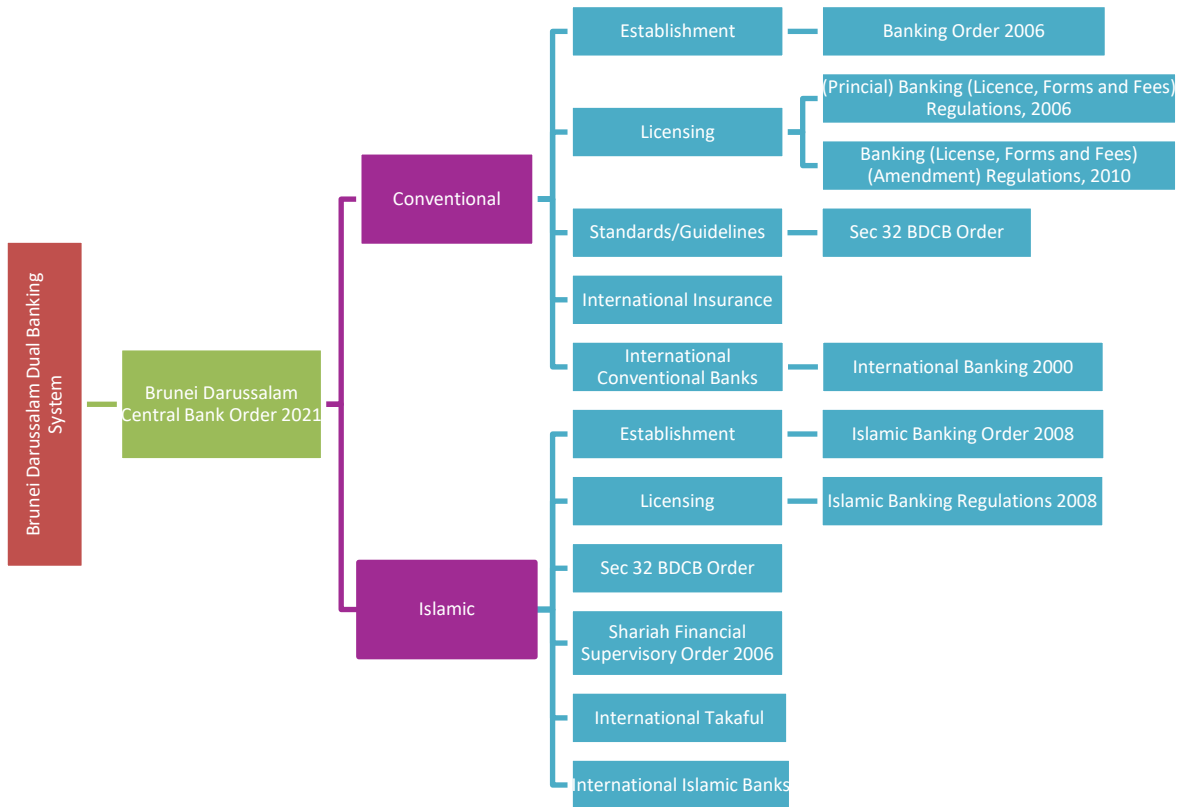


Figure 5: Brunei Darussalam Dual Banking Framework.

As illustrated in Figure 5, Brunei Darussalam operates a dual banking system comprising both conventional and Islamic banking. Conventional banking is regulated under the Banking Order 2006, with the licensing process and related statutory requirements stipulated in the Banking (Licence Forms and Fees) (Amendment) Regulations 2010.

A significant institutional transition occurred on 26 June 2021, when the Autoriti Monetari Brunei Darussalam Order 2010 (AMBD Order 2010) was amended and superseded by the Brunei Darussalam Central Bank Order (Amendment) 2021. Following this transition, the provisions of the AMBD Order 2010, hereafter referred to as the Principal Order, remain applicable except for those that were amended or newly inserted under the 2021 legislation. Under the current regulatory framework, both Islamic and conventional banks are regulated by the Brunei Darussalam Central Bank (BDCB) under the applicable provisions of the BDCB Order. Section 32 of the Principal Order further grants the Central Bank the authority to issue guidelines, circulars, or notices in relation to specific provisions of the Order or the conduct of banks and financial institutions. Islamic banking is specifically regulated under the Islamic Banking Order (IBO) 2008, which replaced the earlier Islamic Banking Act 1992 (Cap. 168).

5.1.2 Regulators in the Financial Industry

The regulatory authorities responsible for overseeing the financial industry and related activities in Brunei Darussalam are outlined in Figure 6.

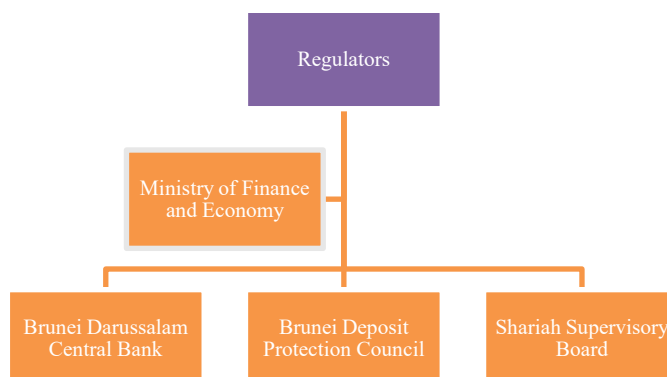


Figure 6: Regulators of Brunei Darussalam's financial industry.

Figure 6 illustrates the regulatory authorities responsible for the financial industry in Brunei Darussalam. In terms of governance, the Islamic finance industry and the broader financial sector are currently overseen by the Ministry of Finance and Economy (MOFE). The relevant regulatory authorities are accountable to the MOFE in carrying out their respective regulatory and supervisory responsibilities. The regulatory landscape in Brunei Darussalam is illustrated in Figure 7.

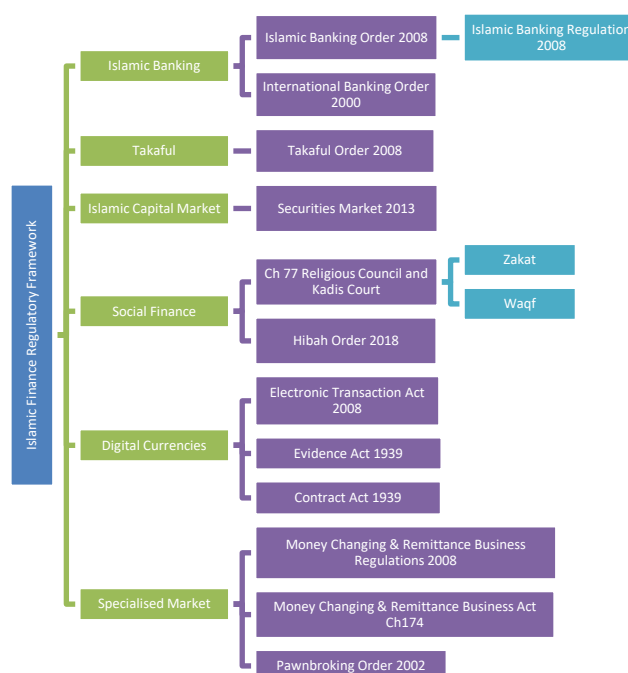


Figure 7: Regulatory Framework of Islamic Finance in Negara Brunei Darussalam.

Any party intending to establish an Islamic bank in Negara Brunei Darussalam is required to complete the application form prescribed in the First Schedule to the Islamic Banking (Miscellaneous Provisions) Regulations 2008. Pursuant to Section 7 of the Islamic Banking Order (IBO) 2008, an incorporated entity intending to conduct Islamic banking business must submit the application form together with its Memorandum of Association (MOA) and other required financial statements or supporting documents. Section 8 of the IBO 2008 sets out the criteria for approval and the granting of an Islamic banking licence.

The central monetary authority of Brunei Darussalam was established in 2010 under the Autoriti Monetari Brunei Darussalam Order 2010 (AMBD Order 2010). The principal objectives of the Central Bank include achieving and maintaining domestic price stability; ensuring the stability of the financial system, particularly through the formulation of financial regulations and prudential standards; supporting the establishment and

efficient operation of payment systems; and fostering the development of a sound and progressive financial services sector. In addition to these objectives, the Central Bank is responsible for supporting the general economic policies of the Government to the extent that it considers appropriate.

Under the prevailing regulatory framework, the Central Bank is responsible for regulating and supervising financial institutions, including those operating in the Islamic finance sector. In this capacity, the BDCB has the authority to issue guidelines pursuant to Section 32 of the BDCB Order. In relation to international obligations, Section 33(1) provides for the issuance of directions or regulations to facilitate the discharge of the Government's international obligations. The BDCB is also authorised to inspect financial institutions to assess compliance with applicable directions and regulations, including those relating to international obligations issued by the United Nations Security Council under Section 33 and anti-money laundering requirements under Section 34.

Pursuant to Section 3 of the Syariah Financial Supervisory Board (SFSB) Order 2006, the SFSB was established as the authority responsible for the ascertainment of Islamic law (*Hukum Syara'*) in relation to Islamic banking business, *takaful* business, Islamic financial business, Islamic development financial business, and any other business based on *Shariah* principles that is supervised and regulated by the Authority. As specified under Section 2 of the Order, the term "Authority" refers to the Minister of Finance, under whose purview the SFSB operates. Under Section 4 of the SFSB Order 2006, the functions of the Board include:

- (a) performing such functions as may be determined by the Authority; and
- (b) serving as a reference body for financial institutions seeking guidance on *Shariah* matters relating to Islamic banking business, *takaful* business, Islamic financial business, Islamic development financial business, and any other business based on *Shariah* principles.

In carrying out these functions, the SFSB is empowered under Section 5 to issue written directives. Commonly referred to as *Shariah* resolutions, these directives address matters including the endorsement of Islamic financial products and promote consistency in the interpretation and application of *Hukum Syara'* across the financial sector. This centralised governance framework is important for mitigating *Shariah* non-compliance risks, reducing interpretative divergence among Islamic financial institutions, and strengthening public confidence in the *Shariah* compliance and legitimacy of Islamic financial products and operations.

5.2 Dispute Resolution

At present, legal disputes relating to Islamic finance in Brunei Darussalam are generally heard by the civil courts. The jurisdiction of the *Syariah* Courts over Islamic finance disputes is limited under the Religious Council and Kadis Courts Act (Cap. 77) and the *Syariah* Courts Act (Cap. 184), together with specific provisions relating to *hibah* and *rahn*. Certain matters, particularly those relating to *hibah* and *rahn* within the area of Islamic social finance, may fall within the jurisdiction of the *Syariah* Courts. However, the existing legal framework does not provide clear procedural guidance on how such matters should be handled by the *Syariah* Courts.

6. Conclusion

In summary, the financial system—whether Islamic or conventional—operates within a regulatory framework based on a layered and hierarchical structure. Brunei Darussalam maintains a dual banking and regulatory system that accommodates both Islamic and conventional finance. Within this framework, Islamic financial institutions are subject to the same broader regulatory requirements as their conventional counterparts, together with additional *Shariah* governance and compliance requirements. Relevant *Shariah* authorities provide guidance and resolutions on matters of *Shariah* compliance, while the Brunei Darussalam Central Bank (BDCB), the Ministry of Finance and Economy (MOFE) and *Syariah* Financial Supervisory Board (SFSB) play important roles in regulating and overseeing the financial sector. The regulation of Islamic financial institutions is therefore based on both statutory legal requirements and *Shariah* principles. An enabling legal and regulatory framework is important for the continued development, competitiveness, and integration of Islamic finance into the global financial system. Such a framework should ensure the legal recognition and enforceability of Islamic contracts within the domestic legal system, support compliance with *Shariah* principles and rulings, promote financial inclusion, and protect the interests of financial consumers. These elements are important for strengthening confidence in Islamic financial services and supporting the sustainable development of the sector.

References

- Autoriti Monetari Brunei Darussalam (AMBD). (2016). *Brunei Darussalam financial sector blueprint*.
- Ebrahim, M., & Tan, K. (2001). Islamic banking in Brunei Darussalam. *International Journal of Social Economics*, 28(4), 314–337.
- Elasrag, H. (2014). *Corporate governance in Islamic finance: Basic concepts and issues*.
- Markom, R. (2016). The role of law and Shariah governance in Islamic finance towards social justice in diversity. *Diponegoro Law Review*, 3(2).
- Morgan, H. (2022). Conducting a qualitative document analysis. *The Qualitative Report*, 27(1), 64–77. <https://doi.org/10.46743/2160-3715/2022.5044>
- Syarif, F. (2019). Regulatory framework for Islamic financial institutions: Lesson learnt between Malaysia and Indonesia. *Journal of Halal Product and Research*, 2(2).
- Yaacob, H. (2018). *The world banking system*. KPIJ Press.
- Yaacob, H. (2024). *Islamic finance regulatory framework in Negara Brunei Darussalam*. UNISSA Press.
- Yaacob, H., Basir, K. H., Yaacob, A., & Ali, Q. (2021). Enabling legal environment of Islamic finance and social finance in Brunei Darussalam: A demand for improvement. In A. Sarea (Ed.), *Impact of zakat on sustainable economic development* (pp. 186–188). IGI Global.
- Zul Kepli, Y. (2014). Islamic finance in Brunei. *International Journal of Economics, Commerce and Research (IJECR)*, 4(1), 15–34.