

MUTUAL FUNDS ORDER, 2001

**MUTUAL FUNDS (FEES, FORMS AND MISCELLANEOUS PROVISIONS)
REGULATIONS, 2001**

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No. S 20

MUTUAL FUNDS ORDER, 2001

**MUTUAL FUNDS (FEES, FORMS AND MISCELLANEOUS PROVISIONS)
REGULATIONS, 2001**

In exercise of the power conferred by section 3 of the Mutual Funds Order, 2001, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

PART 1

PRELIMINARY

Citation and commencement.

1. These Regulations may be cited as the Mutual Funds (Fees, Forms and Miscellaneous Provisions) Regulations, 2001 and shall commence on the day appointed for the commencement of the Mutual Funds Order, 2001.

Interpretation.

2. In these Regulations, unless the context otherwise requires —

"authorised officer" means an officer of a mutual fund approved in writing notified to the Authority and authorised to sign on behalf of the mutual fund;

"trust corporation" means a person licensed under the Registered Agents and Trustees Licensing Order, 2000 (S 54/2000).

PART II

FEES

Fees and penalties.

3. (1) The fees and penalties set out in the third column of the First Schedule are prescribed as the fees and penalties applicable to the items respectively set out in the second column of the First Schedule.

(2) A fund, person or body of persons registered, licensed or granted a permission under the Order continues to be liable for all fees and penalties payable under the Order, notwithstanding that the registration, licence, or permission has lapsed, been suspended or withdrawn, and all those fees and penalties have priority over all other claims against the

assets of such a fund, person or body of persons. The Authority may refuse to take any action under the Order for which a fee is prescribed until all fees and penalties have been paid.

PART III

FORMS

Forms.

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

(2) Unless the Authority specifically so requires, strict compliance with a prescribed form is not required and substantial compliance is sufficient.

Particulars prescribed by forms.

5. Where a prescribed form requires completion by insertion or by an attachment referred to in the form, the content of those insertions and attachments are prescribed as the particulars or other matters required under the provisions of the Order for the purposes for which the form is prescribed.

Directions in forms.

6. A prescribed form shall be completed in accordance with such directions as are specified in the form.

PART IV

GENERAL PROVISIONS RELATING TO FORMS AND OTHER DOCUMENTS

General requirements for documents lodged with Authority.

7. (1) A document to be lodged with the Authority shall where applicable —

(a) be on paper of medium weight, good quality and of international sheet A4 size;

(b) be clearly printed or otherwise produced in a manner that is permanent;

and may with the Authority's consent be a facsimile or electronically reproduced.

(2) The prescribed fee payable to the Authority in respect of the lodgment of a document with the Authority shall be paid at the time the document is lodged.

(3) Where a fee is payable for or in respect of the lodgment of any document with the Authority and the document is submitted for lodgment without payment of the fee, the document is deemed not to have been lodged until the fee has been paid.

Verification of documents.

8. (1) For the purposes of the Order, any document which requires verification shall be verified —

- (a) by an appropriate official in the country or territory or part thereof in which that document originates;
- (b) by a notary public;
- (c) by a director, manager, partner, trustee or secretary of the fund in question; or
- (d) by a director, secretary or authorised officer of the trust corporation associated with the fund,

as the Authority may consider appropriate and acceptable.

Prospectus - Agents' authorities to be lodged.

9. Where a copy of a prospectus is signed by an agent of a director or proposed director authorised in writing, the authority or a verified copy of the authority shall be annexed to the copy of the prospectus lodged with the Authority.

Signature of documents lodged with Authority.

10. Except as otherwise provided in the Order or these Regulations, a document to be lodged with the Authority under the Order or these Regulations shall —

- (a) in relation to a mutual fund, be signed or authenticated by a director, authorised officer or resident secretary of the company; and
- (b) in relation to a foreign company, be signed or authenticated by a director or secretary of the company, or an officer of the registered agent which is appointed as agent of the company.

Changes to documents and information.

11. Where any of the following changes or alterations arise or occur —

- (a) a change or changes to any document or information filed or supplied to the Authority; or
- (b) a change or changes in the appointment of any director, secretary, officer, partner, manager, administrator, custodian, trustee or registered agent, or any person holding or exercising the functions of any office or position analogous to any of the foregoing,

in addition to any other requirement under the Order or any other written law, each such change or alteration, duly verified, shall be supplied to the Authority within the time prescribed in Regulation 12.

Time for lodging documents.

12. Where a document is required by the Order to be lodged with the Authority, and no time period within which the document is to be lodged is prescribed, the document shall be lodged within one month or, in the case of a document required to be lodged by a foreign company, within such further period as the Authority may in special circumstances allow after the happening of the event to which the document relates.

Affidavits and statutory declarations.

13. (1) Except as otherwise provided in the Order or these Regulations, an affidavit or statutory declaration sworn or declared for the purposes of the Order or these Regulations shall —

- (a) on behalf of mutual fund, be made by a director or a resident secretary of the fund; and
- (b) on behalf of a foreign company, be made by a director or secretary of the company, or an officer of the registered agent which is appointed as agent of the company.

(2) Where an affidavit or a statutory declaration by the Order or these Regulations purports to be sworn or declared at a place outside Brunei Darussalam, the affidavit or statutory declaration shall be sufficient for the purposes of the Order and these Regulations if it purports to be sworn or declared in accordance with the requirements of the law of that place.

FIRST SCHEDULE
(regulation 3)

FEES

(Payable in United States dollars)

SECTION	ITEM	FEE (United States dollars)
7(1)	Application fee in respect of a public fund	\$1,000
7(1)	Application fee in respect of a private or professional fund	\$500
11(1)	Application fee in respect of a mutual fund administrator or manager in respect of a public fund	\$1,000
11(1)	Application fee in respect of a mutual fund administrator or manager in respect of a private or professional fund	\$500
14(1)	Application fee in respect of a mutual fund custodian or trustee in respect of a public fund	\$1,000
14(1)	Application fee in respect of a custodian or trustee in respect of a private or professional fund	\$500
18(6)(a)	For an inspection of the documents kept by the Registrar pursuant to the Order, on each occasion	\$25
18(6)(b)	Upon the issue of a copy or extract of a document, per A4 sheet	\$1
41(1)	Annual licence fee in respect of a public fund	\$3,000
41(1)	Annual permission fee in respect of a private or professional fund	\$1,000

**FIRST SCHEDULE
(regulation 3)**

FEES (Continued)

(Payable in United States dollars)

SECTION	ITEM	FEE (United States dollars)
41(1)	Annual fee in respect of mutual fund administrator or manager in respect of a public fund	\$2,000
41(1)	Annual fee in respect of a mutual fund administrator or manager in respect of a private or professional fund	\$1,000
41(1)	Annual fee in respect of a mutual fund custodian or trustee in respect of a public fund	\$1,000
41(1)	Annual permission fee in respect of mutual fund custodian or trustee in respect of a private or professional fund	\$1,000
REGULATION 11	Upon the notification of any change relating to the manager, administrator, custodian or trustee of a fund	\$200
	Any other application or document	\$75

**SECOND SCHEDULE
(regulation 4(1))**

Form 1

MUTUAL FUNDS ORDER, 2001

(Section 7)

APPLICATION FOR MUTUAL FUND LICENCE OR PERMISSION

1. Name of Mutual
Fund:

2. Name of Applicant:
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3. Correspondence Address:
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4. Class of Fund: Public¹ / Professional¹ / Private²³

5. Currency Used:
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6. Name of Fund
Manager:

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7. Principal Address:
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8. Name of Fund Administrator:
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9. Principal Address:
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10. Name of Fund Trustee / Custodian⁴ :

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.....

11. Principal Address:
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Lodged in the office of the Authority in Brunei Darusalam by:	For Registry's Use
Name :	Date of Registration :
Address :	Receipt No.:
Telephone No :	Checked by :
Fax No :	

¹To be accompanied by statement of Manager (Form 5).

²Please delete as necessary.

³To be accompanied by Prospectus (Draft).

⁴The Trustee/Custodian may not be the Fund Manager.

Form 2

**MUTUAL FUNDS ORDER, 2001
(Section 9)**

PROVISIONAL LICENCE OR PERMISSION TO OPERATE A MUTUAL FUND

THIS IS TO CERTIFY THAT

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is duly licensed as a Mutual Fund under the provisions of the Mutual Funds Order, 2001

AND FURTHER

that the following persons have been approved to conduct the activities of the fund in the capacities set forth hereunder:

..... Fund

Manager,

..... Fund Administrator

and

..... Fund Trustee or

Custodian

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 .

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The Authority

Form 3
MUTUAL FUNDS ORDER, 2001
(Section 11)

APPLICATION FOR AN INDIVIDUAL OPERATOR'S LICENCE OR PERMISSION

1. Name of Mutual Fund in respect of which this application is being completed:

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2. Name of Applicant:

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3. Nature of licence Permission sought:

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4. Private Address:

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5. Address in Brunei Darussalam:

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6. Date of Birth: of Birth:

7. Place of Birth:
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8. Nationality:
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9. NRIC No./Passport No.:

10. Present occupation or employment and occupations, previous employment and position(s) held, the nature of the business, including name(s) of the employer(s) or company and relevant date(s).
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11. Directorships held now and during the last 10 years, including names(s) and address(es), company(ies) and relevant date(s).

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12. Qualifications attained.

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13. Have you, or any mutual fund with which you are or have been associated, 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 10 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 mutual fund were convicted, the offence charged and the penalty imposed and the date of conviction.

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14. Have you at any time been a Fund Manager, fund Administration, Trustee/ Custodian or any other similar position of any mutual fund whose licence has been cancelled, or whose legal authority to operate a mutual fund 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).

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15. 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).

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16. Have you, or any body corporate, partnership or un-incorporated institution with which you are, or have been associated as a Fund Manager, Fund Administrator, Trustee/Custodian or any other similar position of any mutual fund, 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).

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17. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give particulars.

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18. 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.

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19. 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.

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20. Have you, in connection with the management of any mutual fund been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a fund, or towards any members thereof? If so, give particulars.

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21. Has any mutual fund with which you were associated as a Fund Manager, Fund Administrator, Trustee/Custodian or any other similar position of any mutual fund 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.

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22. In carrying out your duties will you be acting on the direction or instructions of any other person? If so, give particulars.

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23. 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 mutual fund? If so, give particulars.

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24. 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 mutual fund, or hold any voting power? If so, give particulars.

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25. 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.

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FORM OF DECLARATION

I being a proposed Fund Manager/Fund Administrator/Trustee/Custodian* of

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hereby certify that I have read and understood the provisions of the Mutual Funds Order, 2001 and all regulations and circulars issued thereunder.

I certify that the information given in the application is complete and accurate to the best of my knowledge, information and belief and that there are no other facts relevant to this application 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. I further undertake that, in the event that the mutual fund 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 application above as soon as possible, but in any event no later than 21 days from the day that the changes come to my attention.

Name:

Position:

Signature:

Lodged in the office of the Authority in Brunei Darussalam by:	For Registry's Use
Name :	Date of Registration :
Address :	Receipt No.:
Telephone No. :	Checked by :
Fax No. :	

*delete as applicable

Form 4

**MUTUAL FUNDS ORDER, 2001
(Section 11)**

**APPLICATION BY A PERSON OTHER THAN AN INDIVIDUAL FOR AN
OPERATOR'S LICENCE OR PERMISSION**

1. Name of Mutual Fund in respect of which this application is being completed.
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2. Name of Applicant. .
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3. Nature of licence/permission sought.
4. Registered Office.
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5. Address in Brunei Darussalam.
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6. Date of Incorporation.

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7. Place of Incorporation. ..

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8. Names and addresses of present Directors/Managers/5% or more shareholders, positions held and time in office.

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9. Are you operating any other mutual fund or similar activities? If so, give particulars of when and where the activity is being carried out (including details of contact persons at relevant authorities).

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10. State your authorised and paid-up capital and number and types of shares held.

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11. Has the mutual fund with which you are or have been associated, at any time been charged with and/or convicted of any offence? If so, give particulars of the court by which the mutual fund were convicted, the offence charged and the penalty imposed and the date of conviction.

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12. Have you at any time been a Fund Manager, Fund Administrator, Trustee/ Custodian or any other similar position of any mutual fund whose licence has been cancelled, or whose legal authority to operate a mutual fund 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).

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13. 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).

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14. Have you, or any body corporate, partnership or unincorporated institution with which you are, or have been associated as a Fund Manager, Fund Administrator, Trustee/ Custodian or any other similar position of any mutual fund, 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).

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15. Have you at any time suspended payment to your creditors or entered into an arrangement with your creditors? If so, give particulars.

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16. 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.

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17. Have you, in connection with the management of any mutual fund or similar activity been adjudged by a civil court liable for any fraud, misfeasance or other misconduct by you towards such a fund, or towards any members thereof? If so, give particulars.

.....
.....

18. Has any mutual fund with which you were associated as a Fund Manager, Fund Administrator, Trustee/Custodian or any other similar position of any mutual fund 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.

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19. In carrying out duties will you be acting on the direction or instructions of any other person? If so, give particulars.

.....
.....

20. Does any individual or corporate body with which you are associated with, undertake or intend to undertake business with the mutual fund? If so, give particulars.

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21. Does any individual or corporate body with which you are associated with, hold any (present or future) beneficial interest in the voting power of the mutual fund, or hold any voting power? If so, give particulars.

.....
.....

22. 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

We, being a proposed Fund Manager/Fund Administrator/Trustee/Custodian* of

.....
..... on

..... hereby certify that we have read and understood the provisions of the Mutual Funds Order, 2001 and all regulations and circulars issued thereunder.

We certify that the information given in the application is complete and accurate to the best of our knowledge, information and belief and that there are no other facts relevant to this application of which the Authority should be aware.

We undertake to inform the Authority of any changes material to the application which arise while the Authority is considering the application. We further undertake that, in the event that the mutual fund is granted the licence for which is hereby sought. We will notify the Authority of any material changes to, or affecting the completeness or accuracy of, the application above as soon as possible, but in any event no later than 21 days from the day that the changes come to our attention.

Name:

Position:

Signature:

Lodged in the office of the Authority in Brunei Darus-salam by:	For Registry's Use
Name :	Date of Registration :
Address :	Receipt No.:
Telephone No. :	Checked by :
Fax No. :	

*delete as applicable

Form 5

MUTUAL FUNDS ORDER, 2001 (Section 1(1))

INFORMATION TO BE INCLUDED IN STATEMENT BY MANAGER

1. The date of the statement.
2. A summary of the provisions of the mutual fund regulating the retirement, removal, and replacement of the manager and where applicable the trustee.
3. The name and address of the auditor of the mutual fund.
4. The period of the duration of the mutual fund, if applicable.
5. The method of calculation (if any) of the price at which the manager may sell any fund interest.
6. Whether or not the mutual fund imposes upon the manager any obligation to buy back a fund interest.
7. A summary of the investments and property and classes of investments and property that may be held or acquired under the mutual fund.
8. A summary of information regarding the remuneration of the trustee (if any) and the manager.
9. Whether or not an interest in the mutual fund is transferable by the holder thereof.

Lodged in the office of the Authority in Brunei Darussalam by:	For Registry's Use
Name :	Date of Registration :
Address :	Receipt No.:
Telephone No. :	Checked by :
Fax No. :	

Made this 24th. day of Syawal, 1421 Hijrah corresponding to the 20th. day of January, 2001.

DATO PADUKA HAJI YAKUB BIN ABU BAKAR
Permanent Secretary,
Ministry of Finance,
Brunei Darussalam