Global Financial Services Regulatory Guide - Bahrain

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# 1. Who regulates banking and financial services in your jurisdiction?

## Who regulates banking and financial services in your jurisdiction?

The Central Bank of Bahrain (CBB) is a public corporate entity established by the Central Bank of Bahrain and Financial Institutions Law 2006. It was created on 6 September 2006 and is responsible for maintaining monetary and financial stability in the Kingdom of Bahrain. The CBB succeeded the Bahrain Monetary Agency, which had previously carried out central banking and regulatory functions since its establishment in 1973.

The CBB inherits the BMAs 33-year track record and wide range of responsibilities. It implements the Kingdom’s monetary and foreign exchange rate policies, manages the government’s reserves and debt issuance, issues the national currency, and oversees the country’s payments and settlement systems. It is also the sole regulator of Bahrain’s financial sector, covering the full range of banking, insurance, investment business and capital markets activities. Bahrain's banking system consists of both conventional and Islamic banks, and it is the largest component of the country's financial system.

The CBBs wide scope of responsibilities allows a consistent policy approach to be undertaken across the whole of the Kingdom’s financial sector. It also provides a straightforward and efficient regulatory framework for financial services firms operating in Bahrain.

Article 40 of the Central Bank of Bahrain and Financial Institutions Law 2006 prescribes that no person may undertake a Regulated Service in the Kingdom of Bahrain unless licensed by the Central Bank. Persons wishing to undertake a Regulated Service must therefore obtain a license from the CBB prior to undertaking such activity.

# 2. What are the main sources of regulatory laws in your jurisdiction?

## What are the main sources of regulatory laws in your jurisdiction?

**The Constitution of the Kingdom of Bahrain**

Article 2 of the Constitution of Bahrain states that Islamic Shari’a is a principal source for legislation. In one of its key judgments, the Court of Cassation concluded that Article 2 of the constitution represents guidance to the legislative branch that Shari’a shall be considered a principal/main source in respect of the issued laws. In other words, Shari’a is not the only source of legislation.

Islam is the religion of the Kingdom and the legal system is based on the Islamic Shari’a codified systems and the English common law. The Islamic Sharia is the major source of legislation, followed by custom, and natural law or principles of equity and good conscience.

**Law No. (64) of 2006 with Respect to Promulgating the Central Bank of Bahrain and Financial Institutions Law**

The Central Bank of Bahrain and Financial Institutions Law 2006 ("**CBB Law**") was promulgated on 6 September 2006 with the issuance of Decree No. (64) of 2006. Decree No. 64 implemented the CBB Law and repealed the Bahrain Monetary Agency Law of 1973 as well as the Insurance Law of 1987. The CBB Law established the Central Bank of Bahrain as the successor organization of the Bahrain Monetary Agency. It also set out the CBB’s mandate, governance and powers.

**CBB Capital Market Regulations**

OFS – Offering of Securities

CBB Disclosure Standards

MAM – Prohibition of Market Abuse and Manipulation

Collective Investment Undertakings

Ministerial Order – Money Laundering

Resolution No. (59) of 2011 in respect of Procedures for Mortgage of Securities, Seizure, Mortgage Expiration and Lifting of Seizure

Resolution No. (17) of 2012 in respect of rules and procedures for listing and trading of securities in the licensed financial markets

Resolution No. (30) of 2015 in respect of amending Resolution No. (59) of 2011

Resolution No. (54) of 2015 in respect of Dissemination of Listed Companies' Financial Statements and Board of Directors' Meeting

Resolution no. (11) of 2018 in respect of "Procedures and Rules for the implementation of the Self- Regulatory Organization (SRO) model of the Exchanges licensed by the Central Bank of Bahrain in relevance to listing securities and financial instruments post initial public offering"

Resolution No. (23) of 2019 for the Issuance of Regulations in respect of Short Selling and Giving Securities on Loan

Resolution No. 44 of 2014 with respect to Promulgating a Regulation for Close-Out Netting under a Market Contract

**National Action Charter**

The National Action Charter is a national document that represents Bahraini citizens, their aspirations, community, requirements, and their development. The National Action Charter was issued in December 2000. It specifies the essential components of what makes up the Kingdom of Bahrain, as well as its cultural, historical, Arab and Islamic identity. It identifies the main components of state and society, as well as Bahrain’s relationship with the Gulf Cooperation Council (GCC), Arab and other countries.

# 3. What types of activities require a license in your jurisdiction?

## What types of activities require a license in your jurisdiction?

In general, any person wishing to offer regulated financial services to or from the Kingdom of Bahrain on a commercial basis requires a license from the CBB. The CBB Rulebook provides definitions of what constitute regulated financial services in the modules dealing with licensing/authorization. See Modules LR in Volumes 1 and 2 for conventional and Islamic banks, respectively; and Modules AU in Volume 3 and 4 for insurance and investment business firms, respectively. For financing companies, money changers, administrators and representative offices, reference should be made to the relevant specific Module AU under Volume 5 (Specialized licensees).

For Volume 6 licensees from the capital markets sector, reference should be made to the following modules: 1) Module MAE for licensees managing and operating markets and systems for trading in securities and financial instruments; 2) Module MIR for market intermediaries and representatives (i.e., brokers, dealers and broker-dealers); and 3) Module CSD for those licensees managing and operating clearing, settlement and central depository systems. Collective investment undertakings (CIUs) should refer to Volume 7.

**Licensed providers of regulated banking services:**

Conventional bank licensees

Conventional retail bank licensees

Bahraini conventional wholesale bank licensees

Overseas conventional wholesale bank licensees

Overseas conventional retail banks licensees

Overseas conventional wholesale banks licensees

# 4. How do the licensing requirements apply to cross-border business in your jurisdiction?

## How do the licensing requirements apply to cross-border business in your jurisdiction?

Foreign companies may establish branches in Bahrain without the need for a local partner if the activities that will be undertaken are open to foreign ownership. A foreign company that intends to carry out business in Bahrain may do so by establishing a branch, either by way of an operational office or a representative office.

Branches of foreign companies with an operational office may be required to obtain further approvals in Bahrain, depending on their activities. For example, companies seeking to engage in banking and insurance activities must obtain a license from the CBB.

Please note that where a branch is set up to engage in Bahrain activities that necessitate 51% Bahraini or GCC ownership, the following requirements are imposed concerning the foreign parent company:

The foreign parent company must have been in existence for at least three full years.

The foreign parent company must be 100% owned by GCC nationals.

The foreign parent company itself must be established in a GCC jurisdiction.

Meanwhile, representative offices may not carry out any business operations in Bahrain and are restricted to undertaking only marketing and promotional activities.

The liabilities of the branch are guaranteed by the parent company, and it is a requirement under the Commercial Companies Law that the parent company provide a guarantee in relation to its branch and appoint a branch manager.

Under recent amendments to the Commercial Companies Law, companies can be fully or partly owned by non-Bahraini shareholders to practice activities reserved for Bahraini nationals or companies in which Bahrainis must be majority shareholders. The Council of Ministers determines those activities that can be undertaken by foreign ownership companies.. Also, on approval of the Council of Ministers, the Minister of Trade Affairs can allow companies with foreign capital to engage in activities that may have a strategic economic significance or a profitable return for Bahrain’s economy.

Conventional bank licensees that conduct business through a branch or subsidiary in other jurisdictions must go through the Group Compliance Function:

Comply with local laws and regulations

Have in place Group Compliance policy and procedures

Conduct annual compliance testing on overseas operations whose total revenue represents 20% or more of the Group's total revenue, and on every two years' basis for other overseas operations

Conventional bank licensees must have procedures in place to identify and assess the possible increased reputational risk to the bank if it offers products or carries out activities in certain jurisdictions.

Conventional bank licensees with overseas operations must establish a Group Compliance Function that must oversee the compliance activities on a groupwide basis. The Group Compliance Officer must ensure that compliance reviews and checks are carried out at branches and subsidiaries. As legal and regulatory requirements may differ from jurisdiction to jurisdiction, compliance issues specific to each jurisdiction must be coordinated within the structure of the bank's groupwide compliance policy.

It is important to note that licensing requirements may differ based on the type of business. For example, banks, insurance companies and investment firms have specific licensing criteria tailored to their respective sectors.

# 5. What are the requirements to obtain authorization in your jurisdiction?

## What are the requirements to obtain authorization in your jurisdiction?

Licensees seeking an approved person authorization for an individual must satisfy the CBB that the individual concerned is "fit and proper" to undertake the controlled function in question. Financial institutions wishing to be licensed as a representative office to undertake regulated representative office services within or from the Kingdom of Bahrain must apply in writing to the CBB. Such activities will be deemed to be undertaken within or from the Kingdom of Bahrain under either of the following circumstances:

The person concerned uses an address situated in the Kingdom of Bahrain for its correspondence.

The person concerned directly contacts clients residing within the Kingdom of Bahrain.

An application for a license must be in the form prescribed by the CBB (Form 1) and must contain the following:

A business plan specifying the type of business to be conducted

Application forms (Form 2) for all controllers

Application forms (Form 3) for all controlled functions

Each applicant applying for approved person status and individuals occupying approved person positions must comply with the following conditions:

Has not previously been convicted of any felony or crime that relates to their honesty and/or integrity, unless they have subsequently been restored to good standing

Has not been the subject of any adverse finding relating to fraud in a civil action by any court of competent jurisdiction

Has not been adjudged bankrupt by a court unless a period of 10 years has passed, during which the person has been able to meet all their obligations and has achieved economic stability.

Has not been disqualified by a court, regulator or other competent body as a director or as a manager of a corporation

Has not failed to satisfy a judgement debt, under a court order, resulting from a business relationship

Must have personal integrity, good conduct and reputation

Has appropriate professional and other qualifications for the controlled function in question

Has sufficient experience to perform the duties of the controlled function

# 6. What is the process for becoming authorized in your jurisdiction?

## What is the process for becoming authorized in your jurisdiction?

An applicant must complete a formal process to obtain authorization, which involves the completion of required application forms and the submission of supporting information.

The CBB does not charge an application fee for applicants seeking registration. Depending on the type of registration held, an annual registration fee is charged for those appearing on the register.

Under Articles 74 of the CBB Law, actuaries and loss adjusters may not engage in such business without first having their names placed on the register kept for this purpose by the Central Bank, the terms and conditions of which are to be specified by the CBB.

Applicants must not on any account hold themselves out as having been registered, until such time as their formal application has been submitted and approved. A breach of this rule may, of itself, constitute grounds for refusing the application and is subject under the law to penalties, which may include a term of imprisonment and/or a fine (ranging from BHD 10,000 to BHD 50,000).

Where an insurance firm has appointed  a representative or the designated individuals of an incorporated appointed representative and these individuals do not comply with the requirements of Section AU-1.3A and/or Chapter GR-9, a financial penalty of BHD 500 will be imposed to the insurance firm for each individual found in breach of these provisions.

Applicants are advised to review the registration requirements contained in Module AU of Volume 3 of the CBB Rulebook and submit the information required (as specified in the application for registration form). Once a formal, signed application is received by the CBB, with all necessary information, the CBB will endeavour to respond to applications for registration within two weeks of receipt of a Form 4 or Form 5. However, in some cases where referral to an overseas supervisor is required, the response time is likely to be longer. If successful, the CBB will confirm when the applicant will be placed on the register.

# 7. What financial services passporting arrangements does your jurisdiction have with other jurisdiction?

## What financial services passporting arrangements does your jurisdiction have with other jurisdiction?

Authorization in Bahrain does not permit locally licensed banks or financial institutions to passport their authorization into European Economic Area member states. Bahrain does not have any financial services passporting arrangements with any other country. In order to provide financial services / securities activities in Bahrain, an entity must be licensed by the relevant Bahrain authority.

# 8. Authors and contact information

## Authors and contact information

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