

Republic of the Philippines
Congress of the Philippines
Metro Manila

Eighth Congress

Republic Act No. 6848

January 26, 1990

AN ACT PROVIDING FOR THE 1989 CHARTER OF THE AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES, AUTHORIZING ITS CONDUCT OF ISLAMIC BANKING BUSINESS, AND REPEALING FOR THIS PURPOSE PRESIDENTIAL DECREE NUMBERED TWO HUNDRED AND SIXTY-FOUR AS AMENDED BY PRESIDENTIAL DECREE NUMBERED FIVE HUNDRED AND FORTY-TWO (CREATING THE PHILIPPINE AMANAH BANK)

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled::

WHEREAS, the State, in Section 20, Article II of the Constitution, encourages private enterprise and provides incentives to needed investments;

WHEREAS, under the Constitution, the use of property bears a social function so that the consequences in law also must be defined by policy objectives related to property rights in productive enterprises;

WHEREAS, toward this end, the Government has committed itself to the establishment of an Islamic bank that operates within a legal framework permitting the investors or participants the rights to equitable or beneficial share in the profits realized from financing productive activities and other operations: Now, therefore.

THE CHARTER OF THE AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES

Section 1. Title. - This Act shall be known as "***The Charter of the Al-Amanah Islamic Investment Bank of the Philippines.***"

ESTABLISHMENT AND FUNCTIONS

Section 2. Name, Domicile and Place of Business. - There is hereby created the Al-Amanah Islamic Investment Bank of the Philippines, which shall be hereinafter called the Islamic Bank. Its principal domicile and place of business shall be in Zamboanga City. It may establish branches, agencies or other offices at such places in the Philippines or abroad subject to the laws, rules and regulations of the Central Bank.

Section 3. Purpose and Basis. - The primary purpose of the Islamic Bank shall be to promote and accelerate the socio-economic development of the Autonomous Region by performing banking, financing and investment operations and to establish and participate in agricultural, commercial and industrial ventures based on the Islamic concept of banking.

All business dealings and activities of the Islamic Bank shall be subject to the basic principles and rulings of Islamic Shari'a within the purview of the aforementioned declared policy. Any zakat or

"ithe" paid by the Islamic Bank on behalf of its shareholders and depositors shall be its obligation to appropriate said zakat fund and to disburse it in legitimate channels to be ascertained first by the Shari'a Advisory Council.

Section 4. *Shari'a Advisory Council.* - There is hereby created a Shari'a Advisory Council of the Islamic Bank which shall be composed of not more than five (5) members, selected from among Islamic scholars and jurists of comparative law.

The members shall be elected at a general shareholders meeting of the Islamic Bank every three (3) years from a list of nominees prepared by the Board of Directors of the Islamic Bank. The Board is hereby authorized to select the members of the first Shari'a Advisory Council and to determine their remunerations.

Section 5. *Functions of the Shari'a Advisory Council.* - The functions of the Shari'a Advisory Council shall be to offer advice and undertake reviews pertaining to the application of the principles and rulings of the Islamic Shari'a to the Islamic Bank's transactions, but it shall not directly involve itself in the operations of the Bank.

Any member of the Shari'a Advisory Council may be invited to sit in the regular or special meetings of the Board of Directors of the Islamic Bank to expound his views on matters of the Islamic Shari'a affecting a particular transaction but he shall not be entitled to vote on the question presented before the board meetings.

CORPORATE POWERS

Section 6. *Islamic Bank's Powers.* - The Al-Amanah Islamic Investment Bank of the Philippines, upon its organization, shall be a body corporate and shall have the power:

- (1) To prescribe its bylaws and its operating policies;
- (2) To adopt, alter and use a corporate seal;
- (3) To make contracts, to sue and be sued;
- (4) To borrow money; to own real or personal property and introduce improvements thereon, and to sell, mortgage or otherwise dispose of the same;
- (5) To employ such officers and personnel, preferably from the qualified Muslim sector, as may be necessary to carry Islamic banking business;
- (6) To establish such branches and agencies in provinces and cities in the Philippines, particularly where Muslims are predominantly located, and such correspondent offices in other areas in the country or abroad as may be necessary to carry on its Islamic banking business, subject to the provisions of Section 2 hereof;
- (7) To perform the following banking services:
 - (a) Open current or checking accounts;

(b) Open savings accounts for safekeeping or custody with no participation in profit and losses except unless otherwise authorized by the account holders to be invested;

(c) Accept investment account placements and invest the same for a term with the Islamic Bank's funds in Islamically permissible transactions on participation basis;

(d) Accept foreign currency deposits from banks, companies, organizations and individuals, including foreign governments;

(e) Buy and sell foreign exchange;

(f) Act as correspondent of banks and institutions to handle remittances or any fund transfers;

(g) Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness under the universally accepted Islamic financial instruments;

(h) Act as collection agent insofar as the payment orders, bills of exchange or other commercial documents are exclusive of riba or interest prohibitions;

(i) Provide financing with or without collateral by way of leasing, sale and leaseback, or cost plus profit sales arrangement;

(j) Handle storage operations for goods or commodity financing secured by warehouse receipts presented to the Bank;

(k) Issue shares for the account of institutions and companies assisted by the Bank in meeting subscription calls or augmenting their capital and/or fund requirements as may be allowed by law;

(l) Undertake various investments in all transactions allowed by Islamic Shari'a in such a way that shall not permit the haram (forbidden), nor forbid the halal (permissible);

(8) To act as an official government depository, or its branches, subdivisions and instrumentalities and of government-owned or controlled corporations, particularly those doing business in the autonomous region;

(9) To issue investment participation certificates, muqaradah (non-interest-bearing bonds), debentures, collaterals and/or the renewal or refinancing of the same, with the approval of the Monetary Board of the Central Bank of the Philippines, to be used by the Bank in its financing operations for projects that will promote the economic development primarily of the Autonomous Region;

(10) To carry out financing and joint investment operations by way of mudarabah partnership, musharaka joint venture or by decreasing participation, murabaha purchasing for others on a cost-plus financing arrangement, and to invest funds directly in various projects or through the use of funds whose owners desire to invest jointly with other resources available to the Islamic Bank on a joint mudarabah basis;

(11) To invest in equities of the following allied undertakings:

- (a) Warehousing companies;
- (b) Leasing companies;
- (c) Storage companies;
- (d) Safe deposit box companies;
- (e) Companies engaged in the management of mutual funds but not in the mutual funds themselves; and
- (f) Such other similar activities as the Monetary Board of the Central Bank of the Philippines has declared or may declare as appropriate from time to time, subject to existing limitations imposed by law;

(12) To exercise the powers granted under this Charter and such incidental powers as may be necessary to carry on its business, and to exercise further the general powers mentioned in the Corporation Law and the General Banking Act, insofar as they are not inconsistent or incompatible with the provisions of this Charter.

CAPITAL RESOURCES OF THE BANK

Section 7. Authorized Capital Stock. - The authorized capital stock of the Islamic Bank shall be One billion pesos (P1,000,000,000) divided into ten million par value shares of One hundred pesos each. All shares are nominative and indivisible. The subscription to and ownership of such shares, including the transfer thereof to third parties, shall be limited to persons and entities who subscribe to the concept of Islamic banking.

Section 8. Classification of Shares:s Features. - The Islamic Bank's authorized capital stock shall have the following classifications and features in relation to its Islamic banking operation:

(1) Series "A" shares shall comprise five million one hundred thousand shares equivalent to Five hundred ten million pesos (P510,000,000) to be made available for subscription by the present stockholders of the Philippine Amanah Bank namely: the National Government, and such other financial entities as it may designate.

(2) Series "B" shares shall comprise nine hundred thousand shares equivalent to Ninety million pesos (P90,000,000) to be made available for subscription by the Filipino individuals and institutions.

(3) Series "C" shares shall comprise four million shares equivalent to Four hundred million pesos (P400,000,000) to be made available for subscription by Filipino and foreign individuals and/or institutions or entities.

Anyone of the shareholders may exercise its preemptive right to consolidate ownership of the outstanding shares as hereinafter increased: provided, that the common shares of the Philippine Amanah Bank which have been issued and outstanding shall form part of the increased capitalization of the Islamic Bank, subject to the concurrence of the existing shareholders of the Philippine Amanah Bank.

The Islamic Bank is authorized to reacquire its common shares that are held privately.

The Islamic Bank may take the necessary steps to have its series "B" shares listed in any duly registered stock exchange.

Section 9. Board of Arbitration. - The Board of Directors, acting as an arbitrator, shall settle by the majority decision of its members any dispute between and among shareholders of the Islamic Bank, whether individuals or entities, where such dispute arises from their relations as shareholders in the Islamic Bank. The Board shall not be bound in this respect to the procedures of laws on civil and commercial pleadings, except in regard to the basic principles of due process.

If the dispute is between the Islamic Bank and any of the investors or the shareholders, a Board of Arbitration shall settle such dispute. In this case, the Board of Arbitration, consisting of three (3) members, shall be formed by two (2) parties to the dispute within forty-five (45) days from receipt of written notice by either party to the dispute. The three (3) members shall be selected as follows: one (1) arbitrator from each party who shall then select a casting arbitrator as the third member of the board. The three (3) shall select one of them to preside over the Board of Arbitration. The selection by each party of its arbitrator shall be deemed as an acceptance of the arbitrator's decision and of its finality.

In the event that one of the two parties shall fail to select its arbitrator or in the case of nonagreement on the selection of the casting arbitrator or the presiding member of the Board of Arbitration within the period specified in the preceding paragraph, the matter shall be submitted to the Shari'a Advisory Council to select the arbitrator, the casting arbitrator or the presiding member, as the case may be.

The Board of Arbitration shall meet at the Islamic Bank's principal office and shall set up the procedure of arbitration which it shall follow in hearing and deciding the dispute. The decision shall include the method of its execution and the party that shall incur the costs of arbitration. The final judgment shall be deposited with the office of the Corporate Secretary of the Bank and the Securities and Exchange Commission.

The Board of Arbitration's decision, shall in all cases, be final and executory. It shall be valid for execution in the same manner as final judgments are effected under Republic Act No. 876 otherwise known as the Arbitration Law.

Section 10. Incentives to Islamic Banking. - Subject to the provisions of Section 74 of the Central Bank Act, the provisions of the Omnibus Investment Code on the basic rights and guarantees of investors are made applicable to the commercial operations of the Islamic Bank in respect to repatriation or remittance of profits from investments, and to protection against nationalization, sequestrations, or expropriation proceedings. Any proceedings of judicial or administrative seizure may not be taken against the said property or investment except upon a final court judgment.

Section 11. Grants and Donations. - The Islamic Bank shall accept grants, donations, endowments, and subsidies, or funds and/or property offered by individuals and organizations, who may earmark such grants for a specific purpose or for such other purposes beneficial to the Muslim communities, without prejudice to the general objectives of the Islamic Bank.

The financial statement and books of accounts of such funds shall be maintained separately but may be supplemented to the Islamic Bank's balance sheet.

Under special circumstances in which the Board of Directors considers it advisable to promote or facilitate Islamic banking business and commercial operations, the Islamic Bank may seek financing from governments, organizations, individuals or banks always without prejudice to the provisions of Section 43 of this Charter.

PLACEMENTS AND INVESTMENTS OF FUNDS

Section 12. *Non-Interest Bearing Placements.* - The Islamic Bank is authorized to accept deposits from governments, banks, organizations or other entities and individuals from within the Philippines or abroad which shall form under any of the following non-interest bearing placements:

- (1) Saving accounts
- (2) Investment participation accounts
- (3) Current accounts and other deposit liabilities.

Any deposit received by the Islamic Bank without authorization to invest shall be treated as current accounts and savings accounts and may be withdrawn wholly or partly at any time.

All deposits received with authorization to invest for a given period of time shall form part of the general pool of placements allocated for investment portfolios of the Islamic Bank and may be added to its working capital to be invested in any special projects or in general areas of investments or commercial operations of the Bank.

Section 13. *Investment of Funds.* - The Islamic Bank shall have the capacity of agent or attorney and shall act with full authority on behalf of the group of depositors in general in investing their co-mingled deposits without prejudice to the following section and shall ensure a degree of liquidity to be determined by the Board of Directors to meet the current obligations of the Islamic Bank including drawings from savings accounts and current accounts: provided, that such degree of liquidity shall be subject to the reserve requirement as may be determined by the Central Bank. The Board of Directors shall determine the period for an investment participation account. Investment of funds shall be undertaken by the Islamic Bank acting on behalf of the group of depositors or investors in selected areas of investment under such terms and conditions as the Board of Directors may determine by way of mudarabah or other forms of joint investment permitted by Islamic Shari'a principle.

Section 14. *Return on Investment Funds.* - The depositors or investors in joint investment participation accounts shall be entitled to a portion of the return on investment according to the deposit balances and its period. The profits on participation account with authorization to invest in specific transaction shall be calculated on the same basis as on the capital funds invested as determined by the Board of Directors pursuant to Section 35 of this Act.

Section 15. *Allocation of Resources.* - Any provision of law to the contrary notwithstanding, the Islamic Bank may allocate part of its own investable funds or of the deposits on hand to finance investment projects and carry on its Islamic banking business directly or indirectly under its own supervision. For this purpose, it may create and finance investment companies or affiliates which shall manage investment projects on behalf of and under the supervision of the Islamic Bank and for its own account.

The Islamic Bank shall ascertain the viability and soundness of investment projects which it may directly supervise and those in which it may participate with part of its own funds, with the general pool of investors funds with authorization. The Islamic Bank shall have the right to inspect and supervise the projects which it shall finance or in which it is the majority shareholder. The original capital and related profits shall be remitted in the same currency it was originally contributed or in one of the convertible currencies, as the Board of Directors shall determine in accordance with this Charter.

ISLAMIC BANK OPERATIONS IN GENERAL

Section 16. *Authorized Banking Services.* - The Islamic Bank shall exercise all the powers and perform all the services of a bank, except as otherwise prohibited by this Act: provided, that no transactions by any customer, company, corporation or firm with the said Islamic Bank shall be permitted for discounts by the Central Bank of the Philippines.

Section 17. *Authorized Commercial Operations.* - Notwithstanding the provisions of any law to the contrary, the Islamic Bank is hereby authorized to operate an Investment House pursuant to Presidential Decree No. 129, as amended, and as a Venture Capital Corporation pursuant to Presidential Decree No. 1688 and, by virtue thereof, carry on the following types of commercial operations:

(1) The Islamic Bank may have a direct interest as a shareholder, partner, owner or any other capacity in any commercial, industrial, agricultural, real estate or development project under mudarabah form of partnership or musharaka joint venture agreement or by decreasing participation, or otherwise invest under any of the various contemporary Islamic financing techniques or modes of investment for profit sharing;

(2) The Islamic Bank may carry on commercial operations for the purpose of realizing its investment banking objectives by establishing enterprises or financing existing enterprises, or otherwise by participating in any way with other companies, institutions or banks performing activities similar to its own or which may help accomplish its objectives in the Philippines or abroad, under any of the contemporary Islamic financing techniques or modes of investment for profit sharing; and

(3) The Islamic Bank may perform all business ventures and transactions as may be necessary to carry out the objectives of its charter within the framework of the Islamic Bank's financial capabilities and technical considerations prescribed by law and convention: provided, that these shall not involve any riba or other activities prohibited by the Islamic Shari'a principles.

Section 18. *Employee Share Schemes.* - The Board of Directors may adopt an employee profit sharing scheme under any of the following ways:

(1) Any arrangement under which the directors, officers and employees of the Islamic Bank receive in addition to their salaries and wages a share, fixed beforehand, in the profits realized by the Islamic Bank or by affiliate companies of the Islamic Bank to which the profit sharing scheme relates; and

(2) Any arrangement under which the Islamic Bank facilitates the acquisition by its directors, officers and employees of common shares of stock either as share-incentives, share-bonus options, or any other share-saving schemes as the Board of Directors may determine.

No scheme shall be approved by the Board of Directors under this section unless it is satisfied that the participant in the profit sharing scheme is bound by a contract with the Islamic Bank by virtue of which an appropriation of shares has been made for the purpose. The shares so purchased or appropriated shall be deposited in escrow with the Bank.

The Islamic Bank shall then constitute the trustees of an approved scheme, whose functions with respect to the common shares held by them are regulated by Chapter VII of the General Banking Act and other pertinent laws, and terms of which are embodied in a deed of instrument as the Board may require.

Section 19. *Investment Ceilings; Business Limits.* - The Islamic Bank shall observe the following investment ceilings and business limits in its operations:

(1) The aggregate credit facilities or any other liabilities of any customer of the Islamic Bank shall not exceed at all times fifteen per centum (15%) of the unimpaired capital and surplus of the Bank;

(2) The aggregate amount of investment portfolios for any single industry shall at no time exceed thirty per centum (30%) of the Islamic Bank's investment capacity. Investment capacity of the Islamic Bank being the Islamic equivalent of commercial lending and overall credit ceilings shall be defined as the maximum expansion for investments and credits that the Islamic Bank is authorized to grant or extend as may be determined and computed by the Central Bank in relation to the unimpaired capital and surplus of the bank;

(3) The outstanding unsecured loans or credit accommodations which the Islamic Bank may extend at any time without security, or in respect of any advance, loan or credit facility made with the security wholly or partly, whenever at any time it exceeds the aggregate market value of the assets constituting the security, shall be limited to Fifty thousand pesos (P50,000.00) to any person, company, corporation or firm. The term loan whenever used in this paragraph shall represent qard hasan benevolent loan; and

(4) The Islamic Bank shall not grant any credit facility to any person for the purpose of financing the acquisition of the holding of shares in any company, corporation or firm in excess of fifty percent (50%) of the appraised value of the shares at the time the credit facility is granted.

Section 20. *Loans to Directors, Officers or Employees Restrictions.* - Subject to the limitations provided herein, the Islamic Bank may grant to any of its officers or employees a loan as provided under its scheme of service and, whenever the Islamic Bank is satisfied that special circumstances exist, a loan not exceeding at any one time an amount equivalent to six (6) months remuneration of each officer or employee on such terms and conditions as the Islamic Bank deem fit. The Islamic Bank shall not, directly or indirectly, grant an advance loan or credit facility to any of its directors, officers or employees, or any other person for whom any of them is a guarantor or in any manner to be an obligor for money granted by the Islamic Bank. No loan or credit facility shall be granted by the Islamic Bank to a company, corporation, partnership or firm wherein any member of the Board of Directors or auditors is a shareholder, partner, manager, agent or employee in any manner, except with the written approval of and by the unanimous vote of no less than two-thirds (2/3) of all the members of the Board of the Directors excluding the director concerned: provided, that the total liabilities to the Islamic Bank shall be limited to the director or auditor's outstanding deposits or the book value of his or her paid-in capital in the Islamic Bank. Any such approval shall be entered upon the records of the Islamic Bank and a copy of such entry shall be transmitted forthwith to the appropriate supervising department of the Central Bank of the Philippines.

The office of any director, officer or auditor of the Islamic Bank who violates the provisions of this section shall automatically become vacant and the persons who acted in contravention thereof shall be subject to criminal prosecution and suffer the penalties provided by law.

Section 21. *Special Cash Account.* - The Islamic Bank shall open a special cash account with the Central Bank in which its liquid funds shall be deposited. Any transfer of funds from this account to the other accounts shall be made only upon prior consultation with the Islamic Bank.

Section 22. *Capital Funds Requirement.* - The Islamic Bank shall maintain its combined capital accounts in proportion to its assets as prescribed by the Central Banking Act and subject to the rules and regulations of the Central Bank.

Section 23. *Investment Risk Fund.* - The Islamic Bank shall maintain general reserves appropriations pursuant to the profit and loss distributions made under Section 35 of this Act. All amounts appropriated for the Investment Risk Fund out of the net profits of each year shall be invested for the benefit of the Islamic Bank only in safe non-interest-bearing transactions by authority of the Board of Directors.

Section 24. *Periodic Reports.* - The Islamic Bank shall, in addition to periodic reports which may be required pursuant to the provisions of any other law, be required to submit to the Central Bank a report of any changes relating to the Islamic Bank's employee profit sharing scheme approved by the Board of Directors.

The Islamic Bank shall likewise make a report to the Central Bank whenever a change is about to take place in relation to the ownership or control of the Islamic Bank. The approval of the Monetary Board shall be required in the following changes:

- (1) Any proposal for the sale or disposal of its share or business, or other matters related thereto, which will result in a change of the control or management of the Islamic Bank; and
- (2) Any scheme for reconstruction or for consolidation or merger, or otherwise, between the Islamic Bank and any other company wherein the whole or any part of the undertaking or the property of the Islamic Bank is to be transferred to another corporation.

BANK MANAGEMENT AND GENERAL MEETING

Section 25. *Board of Directors.* - The Board of Directors composed of nine (9) members duly elected by the General Shareholders Meeting, as provided for in this Act, shall convene at the principal office once every three (3) months at the most upon due notice by the Chairman or, whenever the need arises, upon the request of three (3) members of the Board of Directors. The Board may convene outside the Islamic Bank's principal office as the members shall determine in the bylaws of the Islamic Bank.

Section 26. *Powers of the Board.* - The Board of Directors shall have the broadest powers to manage the Islamic Bank, except such matters as are explicitly reserved for the general shareholders meeting. The Board shall adopt policy guidelines necessary to carry out effectively the provisions of this Charter as well as internal rules and regulations necessary for the conduct of its Islamic banking business and all matters related to personnel organization, office functions and salary administration.

The Board of Directors shall have the power to appoint managers, authorize agents or legal representatives and shall vest them with signing authority on behalf of the Bank either severally or jointly in accordance with the operational procedures of the Bank.

The Board shall cause the preparation of the Islamic Bank's balance sheet for each financial year within three (3) months at the latest from the end of each accounting period as well as the profit and loss statement according to accounting rules established and based on Islamic criteria. Copies of the audited annual balance sheet, profit and loss account, together with any note thereon, and the report of the auditor and the director's own report shall be provided to the shareholders before the date of the general meeting.

Section 27. Chief Executive Officer; Other Officers and Employees. - The Chief Executive Officer of the Islamic Bank shall be the Chairman who shall be chosen by the Board of Directors from among themselves. All other officers and employees of the Islamic Bank shall be appointed and removed by the Board upon recommendation of the Chief Executive Officer which shall not be subject to Civil Service Law.

The Chief Executive Officer of the Islamic Bank shall, among others, execute and administer the policies, measures, orders and resolutions approved by the Board of Directors. In particular, he shall have the power and duty: to execute all contracts in behalf of the Islamic Bank and to enter into all necessary obligations by this Charter required or permitted; to report weekly to the Board of Directors the main facts concerning the operations of the Islamic Bank during the proceeding week and suggest changes in policy or policies which will serve the best interest of the Islamic Bank.

Section 28. Business Development Office. - The Islamic Bank shall have a Business Development Office which shall be responsible for the following:

- (1) To conduct periodic economic surveys and studies of the investment climate and opportunities in the Islamic Bank's sphere of operations and identify the viable projects which may be sponsored by the people of the Autonomous Region;
- (2) To offer technical consultancy services in the preparation of project studies and in meeting other technical credit requirements of the Islamic Bank, including the provision of the management consultants at rates to be determined by the Board of Directors to projects financially assisted by the Islamic Bank; and
- (3) To perform such other functions as may be directed by the Board of Directors.

Section 29. General Shareholders Meeting. - The general shareholders meeting shall convene annually at the latest within six (6) months following the end of the financial year of the Bank at the place, date and time fixed in the notice for the meeting. The attendance of shareholders representing at least sixty per centum (60%) of the capital of the Islamic Bank shall constitute a quorum to do business.

Section 30. Purpose of General Meeting. - The general shareholders meeting shall convene purposely to hear the Board of Directors' report on the activities of the Islamic Bank, its financial condition, the auditor's report and to approve the balance sheet for the financial year ended and the profit and loss statement, to determine the portion of dividends to be distributed to the shareholders and the method of distribution, to appoint the auditors, and to elect the members of the Shari'a Advisory Council.

Section 31. Ordinary and Extraordinary Sessions. - The general shareholders meeting shall be presided over by the Chairman of the Board of Directors. All resolutions adopted by the general meeting in ordinary session assembled shall be taken by a vote of majority of the shareholders represented therein and in case of votes being equal, the Chairman shall cast his vote to break the tie. The resolutions of the general meeting adopted in accordance therewith shall be binding on all shareholders including those not in attendance or opposing the resolution.

An extraordinary general meeting shall be required to pass resolutions related to the increase or decrease of capital of the Bank, the extension of its legal existence or matters affecting amendment of the Charter. Resolutions of the extraordinary general meeting shall be deemed adopted when a majority vote of at least sixty-six and two-thirds plus one per centum (66 & 2/3 + 1%) of the capital shares shall have been cast.

In no case shall the general meeting resolve to modify the object of the Bank as an Islamic Investment Bank.

Section 32. Bank Auditor: Reports. - Notwithstanding the provisions of any existing law to the contrary, the Islamic Bank is hereby authorized to appoint an external auditor approved by the general shareholders meeting whose qualification and remunerations shall be fixed by the Board of Directors. The external auditor appointed under this section shall assume his functions from the date of his appointment until the date of the next general shareholders meeting. In case a vacancy occurs at any time during the year for any reason, the Board of Directors shall immediately appoint a replacement.

The duties of the auditor shall be to conduct an audit of the accounts of the Bank and to make a report to the Board of Directors.

In the exercise of his auditing functions, all Bank books, accounts and documents shall be made available to the auditor for inspection to ascertain the Bank's assets and obligations. Copies of the latest audited balance sheet, profit and loss statement, together with any note thereon, and the reports of the auditor to the Board of Directors shall be forwarded by the Islamic Bank, within the prescribed time to the Central Bank.

CONFIDENTIAL INFORMATION

Section 33. Confidential Information. - Banking transactions relating to all deposits of whatever nature are confidential and may not be examined, inquired or looked into by any person, government official, bureau or office except as provided in the preceding section, or upon written permission by the depositor, or in cases where the money deposited or the transaction concerned is the subject of a court order.

It shall be unlawful for any official or employee of the Islamic Bank or any person as may be designated by the Board of Director to examine or audit the books of the Bank to disclose or reveal to any person any confidential information except under the circumstances mentioned in the preceding paragraph.

PROFIT AND LOSS POLICY

Section 34. Accounting Period. - The Financial Year of the Islamic Bank shall be based on the Gregorian calendar, but the corresponding Islamic Hijra date shall be mentioned on all correspondence, contracts, printed materials, forms and records of the Islamic Bank. The accounting period shall commence from the first day of January and close at the end of December each year.

Section 35. Determination of Profits and Losses. - At the close of each financial year, the Islamic Bank shall determine the results of its operation, in the determination of which the portion of profits due to the Islamic Bank and the investors shall be allocated pursuant to the provisions of this Act.

The Board of Directors shall, after deducting the general and administrative expenses of the Bank and all its operating expenses including remunerations of the Board of Directors and the Shari'a Advisory Council, determine annually what part of the income shall be appropriated to reserves, investors and shareholders.

All accounts relating to financing and joint investment operations shall be kept separately from the accounts from that of the other banking activities and services offered by the Islamic Bank. The same rule in respect to the accounts of specific investments shall apply where such specific projects may have a separate account.

Allocation of joint investment profits shall be made after deducting an amount equal to ten per centum (10%) of the profits realized from various operations during the financial year to be transferred to a reserve account known as Investment Risk Fund for the purpose of meeting any losses exceeding the total profits derived from investments of that year: provided, however, that should the accumulated reserves equal the authorized capital of the Islamic Bank, the Board of Directors may reduce the amount of the annual deduction to a minimal percentage until the aggregate reserves become double the amount of the capital after which the herein authorized deductions shall cease to accrue to the reserve account.

Losses incurred, if any shall be deducted from the total profits realized for the financial year in which such losses are incurred but any excess of losses over the profits which have been actually realized during that year may be deducted from the Investment Risk Fund opened for covering the risks of investment: provided, that should the total profits realized in the year together with the reserves accumulated from previous year be insufficient to cover the losses incurred, the Islamic Bank shall carry out a comprehensive assessment to arrive at estimated profit and loss based on market rates, from operations which are financed by mudarabah funds and which have not reached the stage of final settlement by the end of the financial year.

Section 36. Sharing Between the Bank and the Investors. - Not later than the end of the first month of each financial year, the Board of Directors shall determine and publish the general percentages of profit to be allocated to the total funds participating in joint investments of the Islamic Bank.

The Islamic Bank as a joint venturer (mudarib) shall be entitled to certain percentage after deducting the amount allotted to investors. The Bank shall likewise be entitled to a share in the profits of joint investments in proportion to its own invested funds.

For the purpose of calculating funds employed in financing operations priority shall be given to joint investment accounts and the holders of muqaradah bonds.

All zakat due the shareholder's capital and reserves represented by the pecuniary value of shares and the zakat due on the investor's funds or profits accruing to every depositor shall be paid to the zakat fund, subject to their instructions.

Section 37. Tax Exemption. - The Islamic Bank assets, profits distributions and all contracts, deeds documents and transactions related to the conduct of business of the Islamic Bank shall be exempted from all taxes under the National Internal Revenue Code to commence from the first

taxable year, following its actual Islamic banking operation as certified by the Central Bank, to the extent as herein made allowable:

- (1) One hundred per centum (100%) for the first five (5) years; and
- (2) Seventy-five per centum (75%) for the sixth through the eighth year: provided, however, that said exemption shall apply only to such taxes, fees, charges and assessments for which the Islamic Bank would otherwise be liable, and shall not apply to the taxes, fees, charges or assessments payable by persons or other entities doing business with the Islamic Bank.

An investment in Islamic banking business to the extent of actual participation in profit and loss sharing scheme, paid in cash or property, shall be granted an exemption from all taxes under the National Internal Revenue Code, except income tax: provided, that an investment tax allowance shall be permitted as a deduction from taxable income under such transactions to the extent that the Islamic Bank pays out zakat on the income of investors capital and surplus reserves for the duration of the joint investment period.

Section 38. Exemption from Customs Duties. - Within the first five (5) years of operation of the Islamic Bank, all importations by the Bank of machinery, equipment, calculators and computers and accompanying spare parts, as may be necessary for its operation, shall be exempted from customs duties and compensating taxes payable thereon: provided, however, that same shall not be disposed of domestically unless payment is made of all duties thereof at the tariff rates and according to their condition at the time of disposal and upon compliance with all import and exchange procedures.

Section 39. Non-Applicability of Selected Acts. - In order to achieve the international and domestic objectives of Islamic banking business, the provisions of the following acts and laws shall not apply to the Islamic Bank to the extent as herein rendered inoperative:

- (1) The provisions of the Central Bank Act and the General Banking Act with particular reference to the determination of bank interest rates, loans and discounts, and any interest-bearing instruments or charge: provided, that nothing contained herein shall be construed to impair the powers of the Central Bank to supervise and regulate the activities of the Islamic Bank;
- (2) The General Auditing Act and any other enactments thereon inconsistent with this Act; and
- (3) The provision of Republic Act Numbered Three thousand five hundred ninety-one, as amended, and all laws, regulating insurance companies: provided, however, that nothing contained herein shall preclude the Islamic Bank from the establishment of contemporary Islamic tafakul (solidarity services) free of riba premiums or interests.

Section 40. Employment of Foreign Nationals. - Subject to the provisions of Section 29 of Commonwealth Act No. 613, and the Anti-Dummy Law, as amended, the Islamic Bank may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years extendible for limited periods upon the recommendation of the Governor of the Central Bank.

Foreign nationals under employment contract within the purview of this Act, their spouses and unmarried children under twenty-one (21) years of age, who are not excluded by Section 29 of Commonwealth Act No. 613, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

Section 41. *Training of Technical Personnel.* - The Islamic Bank shall promote and sponsor the training of technical personnel in the field of Islamic banking, finance and insurance. Towards this end, the Islamic Bank is hereby authorized to defray the costs of study, at home or abroad of outstanding employees of the Islamic Bank, of promising university graduates or of any other qualified persons who shall be determined by proper competitive examinations. The Board of Directors shall prescribe rules and regulations to govern the training program of the Islamic Bank.

LEGAL EXISTENCE

Section 42. *Terms of Legal Existence.* - The legal existence of the Islamic Bank shall be for a period of fifty (50) years, from and after the date of the approval of this Act, renewable upon resolution of the general shareholders meeting called for said purpose.

At the expiration of the Islamic Bank's corporate existence or in the event of its dissolution before this date, the general shareholders meeting shall, upon the request of the Board of Directors, define the method of dissolution as provided for in its bylaws.

GENERAL PROVISIONS

Section 43. *Application of the Islamic Shari'a.* - The Monetary Board of the Central Bank of the Philippines shall formulate the necessary rules and regulations to carry out the provisions of this Charter for the purpose of providing adequate credit facilities primarily to the people of the Autonomous Region, and supervise the operation of the Islamic Bank in accordance with the universal principle of the Islamic Shari'a.

Section 44. *Definition of Terms.* - For the purposes of this Act, the following definition of terms is hereby adopted:

- (1) *Islamic Bank* means the bank created under this Act;
- (2) *Islamic banking business* means banking business whose aims and operations do not involve interest (riba) which is prohibited by the Islamic Shari'a principles;
- (3) *Shari'a* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of this Act, it is construed by reference to pertinent Quranic ordinances and applicable rules in Islamic jurisprudence on business transactions;
- (4) *Riba* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of banking activities, the term includes the receipt and payment of interest in the various types of lending and borrowing and in the exchange of currencies on forward basis;
- (5) *Zakat* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of this Act, it represents an annual "ithe" payable by the Bank on behalf of its shareholders and investors in compliance with Islamic Shari'a principles;
- (6) *Depositor* means a person or entity who has an account at an Islamic Bank, whether the account is a current account, a savings account, an investment account or any other deposit account; unless the context requires another meaning, a depositor corresponds to an investor in joint investment of the Islamic Bank;

(7) *Current account liabilities* in relation to Islamic banking services means the total deposits at the bank which are repayable on demand;

(8) *Savings account liabilities* in relation to Islamic banking services means the total deposits at the Islamic Bank which normally require the presentation of passbooks or such other legally acceptable documents in lieu of passbooks as approved by the Central Bank for deposit or withdrawal of money;

(9) *Investment account liabilities* in relation to Islamic banking services means the total deposit liabilities at the Islamic Bank in respect of funds placed by a depositor with that bank for a fixed period of time under an agreement to share the profits and losses of that bank on the investment of such funds;

(10) *Other deposit liabilities* in relation to an Islamic Bank means the deposit liabilities at that bank other than savings account, investment account, current account liabilities and deposit liabilities from any Islamic Bank or any other licensed bank; (11) *Participation* in relation to Islamic banking and commercial operations means any agreement or arrangement under which the mode of joint investments or specific transactions shall not involve the element of interest charge other than as percentage share in profits and losses of business;

(12) *Share* means share in the capital of the Bank or a corporation and includes a stock, except where a distinction between stock and share is expressed or implied.

PENALTIES

Section 45. Penalties for Violation. - Any director, officer, employee, auditor, or agent of the Islamic Bank who violates or permits the violation of any provision of this Act shall be punished by a fine not exceeding Ten thousand pesos (P10,000.00) or an imprisonment of not more than five (5) years, or both at the discretion of the court.

TRANSITORY AND MISCELLANEOUS PROVISIONS

Section 46. Supervision and Regulation by the Central Bank. - The Islamic Bank shall be under the supervision and regulation of the Central Bank. All provisions of this Act, except those which pertain to the principles of Islamic Shari'a, shall be subject to all banking and pertinent laws of the Philippines and Central Bank Rules and Regulations which shall include proper safeguards to depositors and investors in the investments, partnerships, agencies and other operation of the bank.

Section 47. Privatization. - Nothing in this Act shall be construed to preclude the Islamic Bank from privatizing its ownership. For this purpose, any limitation on the transfer of shares shall not be applicable with respect to the shareholdings of the National Government, Social Security System, Government Service Insurance System, Philippine National Bank and Development Bank of the Philippines.

Section 48. Transformation to Islamic Banking Business. - Upon approval of this Act, all the assets, liabilities and capital accounts of the Philippine Amanah Bank are hereby transferred to the Al-Amanah Islamic Investment Bank.

Nothing in this Act be construed to preclude the Islamic Bank from transforming its investment portfolios, accounts or assets for the conduct of Islamic banking business.f, for any reason, such portfolios, accounts or assets granted under the authority of the Philippine Amanah Bank Charter are

not eligible for this purpose, the same may be transferred, swapped, sold or otherwise disposed of in any manner deemed feasible following the effectivity of this Act.

Section 49. *Reorganization of the Bank.* - The Islamic Bank shall commence its reorganization within six (6) months from the date this Act takes effect. The present personnel complement of the Philippine Amanah Bank shall in the interim continue to discharge their respective functions. Officials and personnel whose services may be dispensed with as a result of this reorganization shall be paid the usual gratuities to which they may be entitled under the existing laws.

Section 50. *Statutory Articles of Incorporation.* - This Act, upon its effectivity, shall be deemed accepted for all legal intents and purposes as the Statutory Articles of Incorporation of the Al-Amanah Islamic Investments Bank of the Philippines; and that notwithstanding the provisions of any existing law to the contrary, said Islamic Bank shall be deemed registered and duly authorized to do business and operate as an Islamic Bank as of the date of approval of this Act.

Section 51. *By-laws.* - Within sixty (60) days upon effectivity of this Act, the by-laws of the Islamic Bank for its organizational, functional and operational government and procedure shall be adopted by affirmative vote at the general shareholders meeting representing a majority of all subscribed capital stock entitled to vote, whether paid or unpaid, subject to certification by the Monetary Board pursuant to Section Ten of the General Banking Act.

The by-laws, duly certified by the Monetary Board as aforesaid, shall be signed by the shareholders voting for them and shall be kept in the principal office of the Islamic Bank, subject to the inspection of the shareholders during office hours, and a copy thereof, duly certified by a majority of the directors and countersigned by the Corporate Secretary of the Islamic Bank, shall be filed and registered with the Securities and Exchange Commission.

Section 52. *Repealing and Separability Clauses.* - Presidential Decree No. 264, as amended by Presidential Decree No. 542, creating the Philippine Amanah Bank is hereby repealed.

All acts, executive orders, administrative orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed or modified accordingly.

If any provision or section of this Act or the application thereof to any person, association or circumstances is held invalid, the other pertinent provisions or section of this Act and their application to such person, association or circumstances shall not be affected thereby.

Section 53. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved: **January 26, 1990.**