

April 24, 1996

**BSP CIRCULAR NO. 105-96**

**IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 6848 (THE ISLAMIC BANK CHARTER)**

Pursuant to Section 43 of R.A. No. 6848, otherwise known as "The Charter of the Al-Amanah Islamic Investment Bank of the Philippines", the Monetary Board, in its Resolution Nos. 161 and 244 dated February 14 and March 6, 1996, respectively, approved the following Implementing Rules and Regulations:

**SECTION 1. Domicile and Place of Business**

The principal domicile and place of business of the Al-Amanah Islamic Investment Bank of the Philippines, hereinafter called the Islamic Bank, shall be in Zamboanga City. It may establish branches, agencies or other officer at such places in the Philippines or abroad subject to applicable laws, rules and regulations of the Bangko Sentral ng Pilipinas.

**SECTION 2. 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 "tithe" paid by the Islamic Bank on behalf of its shareholders and depositors shall be considered as part of compliance by the Islamic Bank with 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 3. Shari'a Advisory Council**

The Shari'a Advisory Council of the Islamic Bank shall be composed of at least three (3) but 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 4. 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.

**SECTION 5. 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 by-laws 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 to 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 branches, agencies and correspondent offices in provinces and cities in the Philippines, particularly where Muslims are predominantly located, or in other areas in the country or abroad as may be necessary to carry on its Islamic banking business, subject to the rules and regulations of the Bangko Sentral;
- 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 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 Al-Ijarah (leasing), Al-Bai ul Takjiri (sale and leaseback), or Al-Murabahah (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 the 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 depository of the government 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 Bangko Sentral, 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 the equity of allied undertakings, financial or non-financial, as well as in the equity of enterprises engaged in non-allied activities, as the Monetary Board has declared or may declare as appropriate from time to time, subject to the limitations and conditions provided for under the Manual of Regulations for Banks and Other Financial Intermediaries — Book I (MRBOFI); and
- 12) To exercise the powers granted under R.A. No. 6848 and such incidental powers as may be necessary to carry on its business, and to exercise further the general powers mentioned in the Cooperation Law and the General Banking Act, insofar as they are not inconsistent or incompatible with the provisions of R.A. No. 6848.

## **SECTION 6. Authorized Capital Stock**

The authorized capital stock of the Islamic Bank shall be One billion pesos (P1,000,000,000) divided into ten million (10,000,000) common shares with par value of One hundred pesos (P100.00) 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 7. Classification of Shares**

The Islamic Bank's authorized capital stock shall have the following classifications and features in relation to its Islamic banking operations:

- 1) Series "A" shares shall comprise five million one hundred thousand (5,100,000) 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 (900,000) 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 (4,000,000) 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:

Any shareholder may exercise his pre-emptive 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, provided, it has sufficient surplus and/or accumulated earnings for the purpose.

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

#### **SECTION 8. Sale or Transfer of Shares**

The Islamic Bank shall make a report to the Bangko Sentral whenever a change is about to take place in relation to the ownership or control of the 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 of management of the Islamic Bank in the following cases:
  - a) Any sale or transfer of ownership or control of more than twenty percent (20%) of the voting stock of the Bank to any person whether natural or juridical; and
  - b) Any sale or transfer or a series of sales or transfers which will effect a change in the majority ownership or control of the voting stock of the Bank from one group of person to another group.
- 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 of the property of the Islamic Bank is to be transferred to another corporation.

Acquisition by foreign banking institutions, including their wholly or majority-owned subsidiaries and their holding companies having majority holdings in such foreign banking institutions.

#### **SECTION 9. Privatization**

The Islamic Bank may privatize 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.

Transactions affecting the shares of stocks of the Islamic Bank shall be subject to existing rules and regulations governing transfer of shares and ceilings on stockholdings, insofar as they are not in conflict with any provisions of R.A. No. 6848 and other pertinent laws, rules and regulations.

#### **SECTION 10. Board of Arbitration**

The Board of Directors of the Islamic Bank, 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 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 which shall 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 R.A. No. 876 otherwise known as the Arbitration Law.

#### **SECTION 11. Incentives to Islamic Banking**

Subject to the provisions of Section 72 of the New 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 12. Grants and Donations**

The Islamic Bank shall accept grants, donations, endowments, and subsidies, or funds and/or property offered by individuals and organization 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 R.A. No. 6848.

#### **SECTION 13. 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) Savings 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 account and savings account, as the case may be, and may be withdrawn wholly or partly at any time, under the principle of Al-Wadiah (Safe Custody). The Islamic Bank shall provide check books for its current account depositors and savings passbook for savings account depositors and other usual services connected therewith.

The Islamic Bank, at its absolute discretion, may reward the customers for the use of their funds. The Board of Directors shall formulate rules and guidelines which should be consistent with the Shari'a principle, in the giving of rewards to the customers.

All deposits received with authorization to invest for a given period of time shall form part of the general pool of placements allocated for the 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. These deposits shall be called as "Investment Participation Accounts" in which under the principle of Al-Mudarabah, the Islamic Bank acts as the "entrepreneur" and the customers as the "Provider of Capital", and both shall agree through negotiation on the ratio of distribution of the profits generated from the investment of the funds. In the event of loss, the customers shall bear all the losses.

#### **SECTION 14. 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 commingled deposits without prejudice to the following sections 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 Bangko Sentral. 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 15. 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 R.A. No. 6848.

#### **SECTION 16. Allocation of Resources**

The Islamic Bank may allocate part of its own investible 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 R.A. No. 6848.

#### **SECTION 17. Authorized Banking Services**

The Islamic Bank shall exercise all the powers enumerated under Section 6 of R.A. No. 6848 and perform all the services of a bank, except as otherwise prohibited by R.A. No. 6848: Provided, That no transactions with any customer, company, corporation or firm shall be permitted for discounts by the Bangko Sentral.

#### **SECTION 18. Acceptance of Government Funds**

Pursuant to Sec. 6(8) of R.A. No. 6848, the Islamic Bank shall act as an official depository of the government or its branches, subdivisions and instrumentalities and of government-owned or controlled corporations, particularly those doing business in the autonomous region. Government funds placed with the Islamic Bank shall be limited to working balances. All government deposits in excess of working balances shall be placed with the Bangko Sentral.

Once privatized, acceptance by the Islamic Bank of government funds or deposits shall be subject to existing laws and regulations governing the acceptance of such funds by private commercial banks which include prior Monetary Board approval.

The government deposits held by the Islamic Bank shall be subject to reserve and liquidity floor requirements as the Monetary Board may prescribe.

#### **SECTION 19. Authorized Commercial Operations**

The Islamic Bank may operate as 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.

The Islamic Bank may likewise perform the functions of an investment house either directly or indirectly through a subsidiary investment house; in either case, the underwriting of equity securities and securities dealing shall be subject to pertinent laws and rules and regulations of the Securities and Exchange Commission: Provided, That the Islamic Bank cannot perform such functions both directly and indirectly through a subsidiary: Provided, further, That if the investment house functions are performed directly by the Islamic Bank, such functions shall be undertaken by a separate and distinct department or other similar unit in the bank: Provided, finally, That if the bank avails of the option of exercising the powers of an investment house indirectly through its subsidiary investment house, it may not directly exercise the powers which are exclusively reserved to investment houses.

## **SECTION 20. 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 Bank or by its affiliate companies 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 Board of Directors of the Islamic Bank shall then constitute the trustee of the 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. The terms of the approved scheme shall be prescribed by the Board of Directors and embodied in a deed of instrument. The adoption of and any change in the employee profit sharing scheme shall be reported to the appropriate supervising and examining department of the Bangko Sentral within thirty (30) calendar days from the date of approval.

## **SECTION 21. 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 percent (15%) of the unimpaired capital and surplus of the Bank.

For purposes of determining compliance with this regulation, credit facilities shall refer to:

- a) Interbank Receivable
- b) Financing and Investment
- c) Trade Financing
- d) Agrarian Reform/Other Agricultural Financing — P. D. No. 717
- e) Bills Purchased



- f) Customers' Liability on Bills/Drafts under Letters of Credit and/or Trust Receipts
- g) Customers' Liability for this Bank's Acceptances Outstanding
- h) Trading Account Securities — Financing
- i) Underwriting Accounts — Debt Securities
- j) Stand-by Letters of Credit
- k) Such other facilities as may be determined by the Monetary Board

Credit facilities granted by the Islamic Bank to any other bank, as well as deposits maintained by it in any bank, shall be subject to the credit facility limit to any single borrower as herein prescribed.

- 2) The aggregate amount of investment portfolios for any single industry (following the major industry groupings in the 1977 Philippine Standard Industrial Classification) shall at no time exceed thirty percent (30%) of the Islamic Bank's investment capacity. Investment capacity shall mean the total unimpaired capital and surplus plus deposits and borrowings minus the investment in bank premises.
- 3) The Islamic Bank shall not grant unsecured loans except qardhasan (benevolent loans). Such 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.
- 4) A credit facility granted to any person for the purpose of financing the acquisition of shares in any company, corporation or firm shall not exceed fifty percent (50%) of the appraised value of the shares at the time the credit facility is granted. Appraised value, in the case of listed shares, shall mean the weighted average price in the stock exchange. For unlisted shares, the appraised value shall mean the book value of the shares.

## **SECTION 22. Loans and Credit Facilities to Directors, Officers, Employees and Stockholders**

- 1) **General Policy.** — Except as otherwise provided in these regulations, the Islamic Bank shall not directly or indirectly grant an advance, loan or credit facility to any of its directors, officers, employees or stockholders, or to any other person for whom any of them is a guarantor, or in any manner be an obligor for money granted by the Islamic Bank.
- 2) **Direct Loans to Officers, Employees and Stockholders.** — Whenever the Islamic Bank is satisfied that special circumstances exist, a loan not exceeding at any one time an amount equivalent to six months remuneration, may be granted to an officer or employee on such terms and conditions as the Islamic Bank deems fit: Provided, however, That loans and advances to officers and employees in the form of fringe benefits granted in accordance with the rules and regulations prescribed under Section 1337 of the MRBOFI shall not be subject to the preceding limitation, nor to the ceiling on unsecured loans prescribed in Section 21.

The Islamic Bank may extend credit facilities to stockholders owning two percent (2%) or more of the subscribed capital stock up to an amount equivalent to the outstanding deposits or the book value of his paid-in capital in the Bank, whichever is higher.

3. Indirect Credit Facilities to Directors and Auditors. — No 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 an shareholder, partner, manager, agent or employee in any manner, except with the written approval of and by unanimous vote of not less than two-thirds of all the members of the Board of Directors, excluding the director concerned: Provided, That the total liabilities of such company, corporation, partnership or firm to the Islamic Bank shall be limited to the director's or auditor's outstanding deposits or the book value of his paid-in capital in the Bank, whichever is higher.
4. Aggregate Ceiling. — Except with the prior approval of the Monetary Board, the total outstanding credit facilities of directors, officers, auditors and stockholders, whether direct or indirect, shall not exceed fifteen percent (15%) of the total credit facilities of the Bank or one hundred percent (100%) of combined capital accounts, net of deferred income tax and such unbooked valuation reserves and other capital adjustments as may be required by the Bangko Sentral, whichever is lower.
5. Procedural Requirements. — The following provisions shall apply to direct loans to officers and indirect credit facilities to directors and auditors, allowed under these regulations.
  - a) Approval of the Board; when to obtain. — Direct loans to officers shall require the prior written approval of the majority of the directors.

Indirect loans to directors and auditors shall be allowed subject to the prior written approval, and by unanimous vote, of not less than two-thirds (2/3) of all the members of the Board of Directors, excluding the director concerned.
  - b) Approval by the Board; how manifested. — The approval as required in item a above shall be manifested in a resolution passed by the Board of Directors duly assembled during a regular or special meeting for that purpose and made of record.
  - c) Determination of compliance with the required number of votes. — The determination of the majority or two-thirds (2/3) of the directors, excluding the director concerned, shall be based on the total number of directors of the Bank as provided in its Charter and By-Laws.
  - d) Contents of the resolution. — The resolution of the Board of Directors shall contain the following information:
    - i) Name of the director, officer or auditor concerned and his relationship as regards the credit facility, such as principal, endorser, guarantor, etc.;
    - ii) Nature of the loan or credit facility, purpose, amount, credit basis for such loan or credit facility, security and appraisal thereof, maturity, schedule of repayment, and other terms of the loan or credit facility;
    - iii) Date of the resolution;
    - iv) Names of the directors who were present and who participated in the deliberations of the meeting;
    - v) Names in print and signatures of the directors approving the resolution: Provided, That the corporate secretary may sign, under a power-of-attorney, in behalf of a director who was present in the board meeting and who approved such resolution, in instances where such signature is necessary to indicate that such resolution was approved by a majority or two-thirds of the directors; and

- vi) Such other information as may be required by the appropriate supervising and examining department of the Bangko Sentral.
- e) Transmittal of copy of board approval; contents thereof . — A copy of the written approval of the Board of Directors, as herein required, shall be submitted to the appropriate supervising and examining department of the Bangko Sentral within twenty (20) banking days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors; provided, That if a reproduction copy is to be submitted, it shall contain on its face or reverse side a signed certification by the Secretary that it is a reproduction of the original written approval.

**SECTION 23. Past Due Accounts**

Accounts considered past due. — The following shall be considered as past due:

- 1) Loans or receivables payable on demand — if not paid on the date indicated on the demand letter, or within six (6) months from date of grant, whichever comes earlier;
- 2) Financing and investment accounts not paid at maturity/expiry date or not paid in accordance with the terms of payments stipulated in the agreement/contract;
- 3) Customers' liability on drafts under LC/TR
  - a) Sight Bills — if dishonored upon presentment for payment or not paid within thirty (30) days from date of original entry, whichever comes earlier;
  - b) Usance Bills — if dishonored upon presentment for acceptance or not paid on due date, whichever comes earlier; and
  - c) Trust Receipts — if not paid on due date;
- 4) Bills and other negotiable instruments purchased — if dishonored upon presentment for acceptance/payment or not paid on maturity date, whichever comes earlier: Provided, however, That an out-of-town check and a foreign check shall be considered as past due if outstanding for thirty (30) days and forty-five (45) days, respectively, unless earlier dishonored;
- 5) Credit facilities or receivables payable in installments — the total outstanding balance thereof shall be considered past due in accordance with the following schedule:

Mode of Payment	Minimum Number of Installments in Arrears
Monthly	6
Quarterly	2
Semestrally	1
Annually	1

Provided, however, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the credit facility/receivable, the total outstanding balance of the credit facility/receivable shall be considered as past due, notwithstanding the number of installments in arrears: Provided, further, That for modes of payment other than those listed above (e.g., daily, weekly or semi-monthly), the entire outstanding balance of the loan/receivable shall be considered as past due when the total amount of arrearages reaches ten percent (10%) of the total receivable balance;

- 6) Credit card receivables — if the amount due is not paid within ten (10) days from the deadline indicated in the billing statement; and
- 7) All items in litigation as defined in the Islamic Bank's Manual of Accounts.

For the purpose of determining delinquency in the payment of obligations as a ground for disqualification of bank directors and officers, any due and unpaid loan/financing installment or portion thereof, from the time the obligor defaults, shall be considered as past due.

## **SECTION 24. Equity Investments**

1. Financial Allied Undertakings. — With prior approval of the Monetary Board, the Islamic Bank may invest in the equity of the following financial allied undertakings:
  - a) Leasing Companies;
  - b) Banks;
  - c) Investment houses;
  - d) Financing companies;
  - e) Credit card operations;
  - f) Financial institutions addressed/catering to small and medium-scale industries;
  - g) Companies engaged in stock brokerage/security dealership/brokerage;
  - h) Foreign exchange dealers/brokers; and
  - i) Insurance companies

Provided, That any such undertaking is the primary purpose for which a particular enterprise was established and the volume of its business indicates that it is principally engaged in such undertaking.

The equity investment of the Islamic Bank in a single financial allied undertaking shall be, in relation to the total subscribed capital stock and in relation to the total voting stock of the allied undertaking, within the following ratios:

Allied Undertaking	Limit
Commercial banks	Up to 49%
Thrift banks and rural banks	Up to 100%
other financial allied undertakings	Up to 100% without prejudice to the limitations prescribed in Subsec. 1378.1 of the MRBOFI

Provided, That the equity investment in an insurance company of the Islamic Bank, any of its wholly or majority-owned subsidiaries, its directors, officers and stockholders owning two percent (2%) or more of the bank's subscribed capital stock, shall not exceed fifty-one percent (51%) of the total subscribed capital stock and the total voting stock of such insurance company.

The equity investment of the Islamic Bank in a bank pursuant to R.A. No. 7721 shall be governed by the rules and regulations implementing said law.

2. Non-Financial Allied Undertakings. — The Islamic Bank may invest in the equity of the following non-financial allied undertakings:
  - a) Warehousing companies;
  - b) Storage companies;
  - c) Safe deposit box companies;

- d) Companies engaged in the management of mutual funds but not in the mutual funds themselves;
- e) Management corporations engaged or to be engaged in activity similar to the management of mutual funds;
- f) Companies engaged in the provision of computer services;
- g) Insurance agencies: Provided, That no director, officer or stockholder of the bank and their related interests hold/own more than twenty percent (20%) of the subscribed capital stock or equity of the insurance company for which the affiliate insurance acts as agent;
- h) Companies engaged in home building and home development;
- i) Companies providing drying and/or milling facilities for agricultural crops such as rice and corn;
- j) Companies engaged in insurance brokerage: Provided, That no director, officer, stockholder of the Islamic Bank or its related interests shall have financial interests in the insurance company/companies for which the affiliate insurance brokerage company acts as broker;
- k) Bank service corporations all of the capital of which is owned by one or more banks and organized to perform for and in behalf of banks the following services:
  - i) data processing systems development and maintenance;
  - ii) deposit and withdrawal recording;
  - iii) computation and recording of interests, service charges, penalties and other fees;
  - iv) check-clearing processing, such as the transmission and receipt of check-clearing processing, such as the transmission and receipt of check-clearing items/tapes to and from the Bangko Sentral, collection and delivery of checks not included in the Philippine Clearing House System, as well as the recording of the same; and
  - v) printing and delivery of bank statements.
- l) Clearing house companies such as the Philippine Clearing House Corporation and the Philippine Central Depository, Inc.

Provided further, That any such undertaking is the primary purpose for which a particular enterprise was established and the volume of its business indicates that it is principally engaged in such undertaking.

The Islamic Bank may acquire up to one hundred percent (100%) of the equity of a non-financial allied undertaking. However, prior Monetary Board approval is required if the investment is in excess of forty percent (40%) of the total subscribed capital stock or forty percent (40%) of the total voting stock of such allied undertaking.

3. Investments in Non-Allied or Non-Related Enterprises. — The broad category of undertakings in which the Islamic Bank may invest in directly or through its wholly or majority-owned subsidiary shall be subject to prior approval of the Monetary Board. Investments shall be allowed in enterprises engaged in certain activities in agriculture, mining and quarrying, manufacturing, public utilities, construction, wholesale trade and community and social services following the industrial groupings in the 1977 Philippine Standard Industrial Classification (PSIC) as enumerated in

Annex I of Subsection 1380.1 of the MRBOFI, as amended. Individual equity investment in undertakings within these enumerated activities shall not require prior approval: Provided, however, That within thirty (30) days after the investment, the Bank shall furnish the appropriate supervising and examining department of the Bangko Sentral such relevant information on the investments made as amount invested, name of investee company, and nature of business, accompanied by such pertinent documents as Articles of Incorporation, Articles of Partnership or Registration Certificate, whichever may be applicable, and such other information which may be required: Provide, further, That said investment is within the limits and restrictions set forth in the succeeding paragraphs of this section.

The equity investment of the Islamic Bank or if its wholly or majority-owned subsidiary, in any single non-allied enterprise shall not exceed thirty-five percent (35%) of the total subscribed capital stock nor shall it exceed thirty-five percent (35%) of the voting stock in the enterprise.

For the purpose of determining compliance with the ceiling prescribed in the preceding paragraph, (i) the equity investment of the Bank; (ii) the equity investment of the Bank's wholly or majority-owned subsidiaries; and (iii) the equity investment of directors, officers and stockholders owning two percent (2%) or more of the subscribed capital stock of the Bank or of the Bank's wholly or majority-owned subsidiaries, shall be combined.

In no case shall the total equity investments in a single non-allied enterprise of the Islamic Bank, together with the investments of other expanded commercial banks, non-bank financial intermediaries performing quasi-banking functions, and their wholly or majority-owned subsidiaries, whether or not the parent financial intermediaries have equity investments in the enterprise, amount to fifty percent (50%) or more of the voting stock of that enterprise.

4. Other Limitations and Restrictions on Equity Investments. — The following limitations and restrictions shall also apply regarding equity investments of the Islamic Bank:
  - a) The total equity investments of the Islamic Bank in any single enterprise, whether allied or non-allied, shall not at any time exceed fifteen percent (15%) of the Bank's net worth.
  - b) The total amount of investment in equities made by the Islamic Bank in all enterprises, whether allied or non-allied, shall not exceed fifty percent (50%) of its net worth.
5. Investments Abroad. — The ceiling provided for in the preceding paragraph shall apply to equity investments in and/or credit facilities to any enterprise abroad.

For purposes hereof, the phrase "equity investments in and/or credit facilities to" shall include any accommodation that gives rise to a creditor/debtor relationship such as deposits, money market placements, loans or any advances or any amount of funds granted or remitted by the Islamic Bank to its subsidiary/affiliate abroad including letters of comfort and deposits/placements abroad of the Bank which are hypothecated.

6. Exclusion of Underwriting Exposure from Ceiling. — The exposure of the Islamic Bank arising from the firm underwriting of equity securities of enterprises shall not be counted in determining compliance with the ceilings prescribed for equity investments for a period of two (2) years from the acquisition of such equity securities.

## **SECTION 25. Special Cash Account**

The Islamic Bank shall open a special cash account with the Bangko Sentral in which the liquid funds shall be deposited. Any transfer of funds from this account to other accounts shall be made only upon prior consultation with the Islamic Bank.

The Bank's Board of Directors shall make such representations with the Bangko Sentral as may be necessary to facilitate the opening of said account.

## **SECTION 26. Capital Funds Requirements**

The Islamic Bank shall maintain its combined capital accounts in proportion to its assets as prescribed by the General Banking Act and subject to the rules and Regulations of the Bangko Sentral.

## **SECTION 27. Investment Risk Fund**

1. Creation. — A reserve account, known as the Investment Risk Fund, shall be created in the books of the Islamic Bank, by annually setting aside an amount equal to ten percent (10%) of the profits realized during the financial year from the investment of the customers' deposits in the following operations:
  - a) Financing & Investment
  - b) Foreign Exchange Transactions
  - c) Investment in Bonds & Other Islamic Financial Instruments
  - d) Trading Account Securities
  - e) Investments in Stocks
  - f) Equity Investments
  - g) Placements with Treasury Department
  - h) Others

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 deduction shall cease to accrue to the reserve account.

2. Determination of Profits and Losses. — At the close of each financial year, the Islamic Bank shall determine the results of its operation. The Board of Directors shall, after deducting the general and administrative expenses including remunerations of the Board of Directors and 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 separate from the accounts of the other banking activities and services offered by the Islamic Bank. The same rule with respect to the accounts of specific investments shall apply where such specific projects may have a separate 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 the year may be deducted from the Investment Risk Fund opened for covering the risks of investments: Provided, That should the total profits realized in the 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 the market rates, from operations which are financed by the mudarabah funds and which have not reached the stage of final settlement by the end of the financial year.

3. Utilization. — The investment Risk Fund shall be invested for the benefit of the Islamic Bank in safe non-interest bearing transactions only, as authorized by the Board of Directors.

The Board of Directors shall adopt policies on the creation and utilization of the Investment Risk Fund and the determination of profits and losses, within one (1) year from date of this Circular.

#### **SECTION 28. Periodic Reports**

The Islamic Bank shall submit to the appropriate department/offices of the Bangko Sentral the periodic reports enumerated under Annex "A" and such other reports as may be prescribed by the Monetary Board.

#### **SECTION 29. Manual of Accounts**

The Islamic Bank shall adopt/implement the Manual of Accounts for Al-Amanah Islamic Investment Bank of the Philippines as approved by the Monetary Board in its Resolution No. 335 dated March 15, 1991.

#### **SECTION 30. Board of Directors**

The Board of Directors shall be composed of nine (9) members duly elected by the shareholders. The Board of Directors shall choose from among themselves the Chairman. The Board 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. The Board may convene outside the Islamic Bank's principals office as the members shall determine in the by-laws of the Bank.

#### **SECTION 31. 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 shareholders. The board shall adopt policy guidelines necessary to carry out effectively the provisions of R.A. No. 6848, as well as internal rules and regulations necessary for the conduct of its Islamic banking business and all matters related to:

- 1) credit and investment;
- 2) discretionary and delegated authorities
- 3) risk management;
- 4) investment risk fund;
- 5) qardhasan (benevolent loans); and
- 6) personnel policies

The Board of Directors shall have the power to appoint managers, authorized agents or legal representatives and shall best 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 directors own report shall be provided to the shareholders before the date of the general meeting.

The Board shall also cause the preparation of the annual revenue and expenditures budget as well as the annual business plan



### **SECTION 32. Chief Executive Officer; Other Officers and Employees**

The Chairman of the Board of the Islamic Bank shall be the Chief Executive Officer of the Bank. He must have experience and training in Islamic banking. All other officers and employees of the Islamic Bank shall, upon recommendation of the Chief Executive Officer, be appointed and removed by the Board 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, to enter into all necessary obligations required or permitted under R.A No. 6848, to report weekly to the Board of Directors the main facts concerning the operations of the Bank during the preceding week, and to suggest changes in policy or policies which will serve the best interest of the Bank.

### **SECTION 33. Qualifications and Disqualifications of Directors and Officers**

The provisions of the MRBOFI — Book I regarding the qualifications and disqualifications of directors and officers shall be applicable to the directors and officers of the Islamic Bank.

### **SECTION 34. 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 35. General Shareholders' Meeting**

The shareholders shall convene in a general meeting 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. The attendance of shareholders representing at least sixty percent (60%) of the capital of the Islamic Bank shall constitute a quorum to do business and voting shall be by shares of stocks.

For purposes of this section, "Capital" shall refer to the Total Subscribed Capital, whether paid or unpaid.

No delinquent stock shall be voted for or be entitled to vote or to representation at any stockholders' meeting, nor shall the holder thereof be entitled to any of the rights of a stockholder except the right to dividends until and unless he pays the amount due on his subscription, including the cost and expenses incurred thereon, if any.

Holders of subscribed shares not fully paid which are not delinquent shall have all the rights of a stockholder.

### **SECTION 36. Purpose of General Meeting**

The general shareholders' meeting shall be convened 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 Board of Directors and the Shari'a Advisory Council.

### **SECTION 37. 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 R.A. No. 6848. Resolutions of the extraordinary general meeting shall be deemed adopted when a majority vote of at least sixty-six and two-third plus one percent ( $66 \frac{2}{3} + 1\%$ ) 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 38. Bank Auditor; Reports**

Subject to the approval by the shareholders, the Islamic Bank shall appoint an external auditor, whose qualifications and remunerations shall be fixed by the Board of Directors. The external auditor 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 who shall serve until the next general shareholders' meeting.

The external auditor shall conduct an annual financial audit not later than thirty (30) days after the close of the calendar year. Reports on such audit shall be made and submitted to the Board of Directors and the appropriate supervising and examining department of the Bangko Sentral not later than ninety (90) days after the start of the audit.

For purposes hereof, an independent external auditor who may be engaged by the Bank shall refer to one who does not hold or own two percent (2%) or more of equity in the Bank.

The Board of Directors, in a regular or special meeting, shall consider and act on the financial audit report and shall submit, within thirty (30) days after receipt of the report, a copy of its resolution to the appropriate supervising and examining department of the Bangko Sentral. The resolution shall show, among other things, the names of the directors present and absent, and the action(s) taken on the findings and recommendations.

In the exercise of his auditing functions, all books, accounts and documents of the Bank shall be made available to the auditor for inspection to ascertain its assets and liabilities.

### **SECTION 39. Confidential Information**

Banking transactions of the Islamic Bank 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 Sec. 38, 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 Directors 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.

#### **SECTION 40. 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 on the first day of January and close on the last day of December each year.

#### **SECTION 41. Sharing between the Bank and the Investors**

Not later than the 31st day of January 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 allocated 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 (interest free) bonds.

All zakat due on 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.

The Board of Directors shall adopt a policy on the sharing between the Bank and its investors which should be consistent with the Shari'a principle.

#### **SECTION 42. 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 may 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.

#### **SECTION 43. Definition of Terms**

For purposes of these Rules and Regulations, the following definition of terms shall apply:

- 1) Islamic banking business means banking business whose aims and operations do not involve interest (riba) which is prohibited by the Islamic Shari'a principles.
- 2) Shari'a has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of R.A. No. 6848, it is construed by reference to pertinent Quranic ordinances and applicable rules in Islamic Jurisprudence on business transactions.

- 3) 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.
- 4) Zakat has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of R.A. No. 6848, it represents an annual "tithe" payable by the Bank on behalf of its shareholders and investors in compliance with Islamic Shari'a principles.
- 5) 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.
- 6) Current account liabilities in relation to Islamic banking services mean the total deposits at the Bank which are repayable on demand.
- 7) Savings account liabilities in relation to Islamic banking services mean 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 Bangko Sentral for the deposit or withdrawal of money;
- 8) Investment account liabilities in relation to Islamic banking services mean the total deposit liabilities at the Islamic Bank in respect of funds placed by a depositor with the 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.
- 9) Other deposit liabilities in relation to an Islamic Bank mean the deposit liabilities at the Bank other than savings account, investment account, current account liabilities and deposit liabilities from any Islamic Bank or any other licensed bank.
- 10) 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.
- 11) 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.
- 12) Muquaradah Bonds represent long-term non-interest bearing bonds of definite denomination issued and floated by the bank on the basis of participation under the Mudarabah principle to be used in financing projects for economic development.

#### **SECTION 44. Statement of Principles**

For purposes of implementing these Rules and Regulations, the following Shari'a principles shall be observed:

- 1) Al-Bai Bithaman Ajil (Deferred Payment Sale) — principle under which one sells to another by passing the ownership and delivery immediately but collects the payment later, usually by installments. This principle is applied in financing fixed asset acquisition, such as buying of houses, properties, plant and machinery, etc.
- 2) Al-Bai ul Takjiri (Leasing ending with ownership) — principle under which the fund-owner may purchase the asset required by the fund-user with the right to use the

services of the asset, but subsequently to own the asset. Thus, the fund-owner first purchased the asset required by the fund-user and subsequently lease the asset to the fund-user with the stipulation that at a point in time the fund-user will purchase from the fund-owner the asset concerned at an agreed price with all the lease rental previously paid constituting part of the purchase price.

- 3) Al-Ijarah (Leasing) — principle under which the fund-owner purchases the asset required by the fund-user who acquires the right to use the services of said asset. The transaction is covered by a contract whereby the fund-owner first purchases the asset and subsequently leases the same to the beneficiary (fund-user) for a fixed, obligatory period, subject to lease rentals and other terms and conditions as may be agreed by both parties.
- 4) Al-Kafalah (Guarantee) — principle under which one can provide guarantee to another on behalf of a third person. This principle is applied by Islamic banks to issue Letters of Guarantee in respect of the performance of a task, or the settlement of a loan, etc. Where a security deposit is required, it is taken under the principle of Al-Wadiah. This principle also enables the Islamic banks to take guarantees from others for the credit facilities granted.
- 5) Al-Mudarabah (Trust Financing) — principle under which a fund-owner provides full financing to the fund-user who provides only entrepreneurship and labor. The fund-owner is not involved in the management of the funds at all. The return to the fund-owner and the fund-user is a share of profit at a rate or ratio agreed in advance. In case of a failure, the fund-owner bears the financial losses. This principle is applied by the Islamic banks in both deposit taking and financing. It is mostly applied to support the investment (fixed) deposit accounts.
- 6) Al-Murabahah (Purchase and Sale or Cost-plus) — principle under which the fund-owner purchases the goods or assets required by the fund-user and sells at an agreed mark-up to the fund-users. This principle is applied in Bills Receivable financing. If full financing is not to be given, the fund-user would be requested to place a margin deposit which will be used to pay for a portion of the cost of the goods or assets.
- 7) Al-Musharaka (Partnership Profit Sharing) — principle under which a fund-owner and an entrepreneur can jointly contribute to the finance and the management of a business. Profits or losses from the joint venture are shared between them in the rate or ratio agreed in advance. This principle is applicable in both the areas of funding and financing. It is mostly applied by Islamic banks to raise capital, to finance projects on a joint venture basis, and in Trust Receipt financing.
- 8) Al-Qardhasan (Benevolent Loan) — principle under which one provides a direct loan, free of any charges, to another in need. Payment of dividend for the use of the loan is at the discretion of the user of the funds. Financing economic and business activities of the poor is sometimes extended under this principle.
- 9) Al-Rahan (Security) — principle under which security can be given and taken for an outstanding obligation. Although Islamic banks extend financing through partnership and trading assets, security is also taken as a precaution under this principle.
- 10) Al-Wadiah (Safe Custody) — principle under which a trustee will safeguard the funds entrusted without any obligation to pay any dividend to the owners of the fund (depositors) as long as a guarantee is given to ensure the full refund of the money upon request of withdrawal. The trustee can have full discretion over the use of the funds.

- 11) Al-Wakalah (Agency) — principle under which one acts as an agent for another for a fee. This principle is applied in the Letters of Credit (LCs) operations in which the Islamic banks issue LCs on behalf of their importing customers when only LC service is required. A 100% margin deposit is collected under the principle of Al-Wadiah. The deposit will be used ultimately to meet the full value of the inward bills.

#### **SECTION 45. Sanctions**

Any director, officer, employee, auditor or agent of the Islamic Bank who violates or permits the violation of any provision of these Rules and Regulations shall be subject to the criminal and administrative sanctions provided under Sections 36 and 37 of R.A. No. 7653 (The New Central Bank Act).

#### **SECTION 46. Supervision; Applicability of Banking Laws, Rules and Regulations**

The Islamic Bank shall be under the supervision of the Bank Sentral. The provisions of other banking laws, MRBOFI, as well as the existing Rules and Regulations of the Bangko Sentral, particularly those enumerated under Annex "B", and other pertinent laws insofar as they are not in conflict with any provision of R.A. No. 6848 and these Rules and Regulations shall be applicable to the Islamic Bank.

#### **SECTION 47. Transformation to Islamic Banking Business**

The Islamic Bank shall transform its investment portfolios, accounts or assets for the conduct of full Islamic banking business within two (2) years from date of this Circular. The Monetary Board may allow extension of the period as circumstances may warrant. If 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.

The Board of Directors of the Islamic Bank shall formulate policies to transform the business of the Bank into an Islamic concept, and shall submit the same to the appropriate department of the Bangko Sentral within six (6) months from date of this Circular.

During the transformation period, the Bank may continue to perform conventional banking activities under R.A. No. 337, as amended, insofar as they are not in conflict with R.A. No. 6848, and the applicable rules and regulations of the Bangko Sentral.

This Circular shall take effect immediately.

#### **FOR THE MONETARY BOARD:**

**ALBERTO V. REYES**  
**Officer-in-Charge**