

[REPUBLIC ACT NO. 11439, August 22, 2019]

**AN ACT PROVIDING FOR THE REGULATION AND ORGANIZATION
OF ISLAMIC BANKS**

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

SECTION 1. *Declaration of Policy.* —The State recognizes the vital role of Islamic banking and finance in creating opportunities for greater financial inclusion especially for the underserved Muslim population, in expanding the funding base for small and medium-sized enterprises as well as large government infrastructure through financial arrangements with risk sharing as their core element, and in contributing to financial stability through the use of financial contracts and services that are founded on risk sharing rather than speculation in compliance with *Shari'ah* principles.

SEC. 2. *Definition of Terms.*—(a) As used in this Act:

(1) *Shari'ah* refers to the practical divine law deduced from its legitimate sources: the Qur'an, Sunnah, consensus of Muslim scholars, analogical deduction and other approved sources of Islamic law;

(2) *Current account* refers to the total deposits at an Islamic bank which are repayable on demand and compliant with *Shari'ah* principles;

(3) *Investment account* refers to the total funds placed by an investor with an Islamic bank for a fixed period of time under an agreement to share the profits and losses on the investment of such funds in accordance with the principles of *Shari'ah*;

(4) *Islamic banking business* refers to a banking business with objectives and operations that do not involve interest (*riba*) as prohibited by the *Shari'ah* and which conducts its business transactions in accordance with *Shari'ah* principles;

(5) *Islamic banking unit* refers to a division, department, office or branch of a conventional bank that conducts business in accordance with the principles of the *Shari'ah*;

(6) *Participation* refers to 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 and which is conducted in accordance with the principles of the *Shari'ah*;

(7) *Riba* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of banking business, the term

refers to the receipt and payment of interest, including in the various types of lending and borrowing and in the exchange of currencies on forward basis; and

(8) *Savings account* refers to an account reflecting the total deposits at an Islamic bank which normally require the presentation of passbooks or in lieu thereof, such other legally acceptable documents approved by the *Bangko Sentral ng Pilipinas* (*Bangko Sentral*) for deposit or withdrawal of money.

(b) The Monetary Board may, by regulation, further define or clarify the terms used in this Act or commonly used in Islamic banking transactions, consistent with the declared State policy and taking into consideration the peculiar characteristics of Islamic banking.

SEC. 3. *Establishment of Islamic Banks.* - (a) The Monetary Board may authorize the establishment of Islamic banks. It may also authorize conventional banks to engage in Islamic banking arrangements, including structures and transactions, through a designated Islamic banking unit within the bank: *Provided*, That the bank shall have a system for segregating the transactions of the Islamic banking unit .from its conventional banking business.

(b) The Monetary Board may, under such rules and regulations as it may prescribe, authorize foreign Islamic banks to establish Islamic banking operations in the Philippines under any of the modes of entry provided for under Republic Act No. 7721, as amended, otherwise known as The Liberalization of Entry and Operations of Foreign Banks. The Monetary Board may regulate the number of participants in the Islamic banking system taking into account the requirements of the economy, the preservation of the stability of the system, and the maintenance of healthy competition.

(c) For purposes of this Act, the Al-Amanah Islamic Investment Bank of the Philippines, other" Islamic banks, designated Islamic banking units of conventional banks, and foreign banks that are authorized to conduct business in accordance with the principles of *Shari'ah* shall be referred to collectively as Islamic Banks¹ or "Islamic banking system".

SEC. 4. *Supervision and Regulation by the Bangko Sentral.* - The *Bangko Sentral* shall exercise regulatory powers and supervision over the operations of Islamic banks. The *Bangko Sentral* shall issue the implementing rules and regulations on Islamic banking.

SEC. 5. *Shari'ah Advisory Councils.* - It shall be' the responsibility of an Islamic bank to comply with *Shari'ah* principles. For this purpose, it shall constitute a *Shari'ah* advisory council composed of persons who are qualified in *Shari'ah* or who have knowledge or experience in *Shari'ah* and in banking, finance, law or such other related disciplines. The council shall render advice and review applications of *Shari'ah* principles, but it shall not involve itself directly in the operations of the Islamic bank or engage in any activity which may give rise to conflict of interest. Nothing contained herein precludes the establishment of a centralized *Shari'ah* Supervisory Board to ensure that the Islamic banking transactions and products comply with *Shari'ah* principles.

SEC. 6. *Powers of Islamic Banks.* - (a) In addition to the general powers granted to corporations, Islamic banks shall have such powers as shall be necessary and prudent to carry out the business of a bank in accordance with *Shari'ah* principles.

(b) Islamic banks may perform the following banking services:

(1) Accept or create current accounts;

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

(3) Accept investment accounts;

(4) Accept foreign currency deposits;

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

(6) Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness: *Provided*, That such financial instruments are in accordance with the principles *oi Shari'ah*;

(7) Act as collection agent insofar as payment orders, bills of exchange or other commercial documents covering *Shari'ah* compliant transactions;

(8) Provide *Shari'ah* compliant financing contracts and structures;

(9) Handle storage operations for goods or commodity financing secured by warehouse receipts presented to the Islamic bank;

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

(11) Undertake various investments in all transactions allowed by *Shari'ah* principles; and

(12) Such other banking services as may be authorized by the Monetary Board.

(c) With prior Monetary Board approval, Islamic banks may issue investment participation certificates, *sukuk*, and other *Shari'ah* compliant funding instruments to be used by the Islamic banks in its operations or capital needs.

(d) Islamic banks may carry out financing and joint investment operations by way of *mudarabah* partnership, *musharakah* joint venture or by decreasing participation, *murabahah* purchasing on a cost-plus financing arrangement, lease (*ijara*) arrangements, construction and manufacture (*istisno'a*) arrangements, and other *Shari'ah* compliant contracts and structures, 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 in accordance with the foregoing arrangements, contracts and structures.