

**FINANCIAL SUPERVISION SUB-SECTOR III**  
Islamic Banking Supervision Group

**Summary Guide for Islamic Bank License Applicants**

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**B. OVERVIEW ON ISLAMIC BANKING IN THE PHILIPPINES**

The BSP adopts a single regulatory framework for both conventional and Islamic banks. Under this approach, Islamic banks or windows are required to comply with the same set of regulations as any other conventional bank in the Philippines, as applicable. Meanwhile, current regulations are being reviewed to support the issuance of supplemental guidelines to cover areas that are unique to Islamic banking operations.

This aims to provide an enabling regulatory environment where Islamic banks can operate alongside the conventional banking system. It should be highlighted, that the development of Islamic finance in the country is driven by the benefits envision for all Filipinos, whether Muslims or Non-Muslims, in particular, on the area of financial inclusion.

**C. ISLAMIC BANKING BUSINESS DEFINITION**

As provided under Republic Act No. 11439, **Islamic banking business** refers to a banking business with objectives and operations that do not involve interest (*ribā*) as prohibited by the *Shari'ah* and which conducts its business transactions in accordance with the principles of the *Shari'ah*.

Meanwhile, an **Islamic banking unit (IBU)** refers to a division, department, office or branch of a conventional branch that conducts business in accordance with the *Shari'ah*.

IB is one of the seven (7) distinct bank classifications in the Philippines. Other bank categories are: 1) universal banks; 2) commercial banks; 3) thrift banks; 4) rural banks; 5) cooperative banks; and 6) digital banks.

#### D. POWERS AND AUTHORITY

In addition to the general powers granted to corporations in the Philippines, Section 6 of the Islamic Banking Law, as implemented by Circular No. 1069 dated 27 December 2019 (codified under Section 101 of the Manual of Regulations for Banks (MORB)), provides that an IB shall have such powers necessary to carry out the business of a bank in accordance with Shari'ah principles. IBs may perform the following services:

- Accept or create current accounts;
- 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;
- Accept investment accounts;
- Accept foreign currency deposits;
- Act as correspondent of banks and institutions to handle remittances or any fund transfers;
- Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness;
- Act as a collection agent insofar as the payment orders, bills of exchange and other commercial documents;
- Provide financing contracts and structures;
- Handle storage operations for goods or commodity financing secured by warehouse receipts presented to the IB;
- Issue shares for the account of institutions and companies assisted by the IB in meeting subscription calls or augmenting their capital and/or fund requirements as may be allowed by law;
- 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 (istisna'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 IB on a joint mudarabah basis in accordance with the foregoing arrangements, contracts and structures;
- Undertake various investments in all transactions allowed by Shari'ah principles;
- Subject to the guidelines as may be prescribed by the BSP, IBs may invest in equities of Shari'ah-compliant undertakings that directly support the delivery of Islamic banking and financing services;
- Such other banking services as may be authorized by the Monetary Board.

With prior Monetary Board approval, an IB may issue investment participation certificates, sukuk, and other Shari'ah-compliant funding instruments to be used by the IBs in its operations or capital needs.

The IB may exercise the general powers of a UB that are consistent with the principles of Shari'ah.

## E. MINIMUM CAPITAL REQUIREMENT

As provided under Section 102 of the MORB, the minimum capitalization requirements for a universal bank shall apply to an IB or conventional bank with IBU.<sup>1</sup> IBs may take necessary steps to have their shares of stock listed in any duly registered stock exchange.

	In Bn PHP	In Mn USD*
Head Office (HO) Only	3.0	54.01
HO with up to 10 branches	6.0	108.03
HO with up to 100 branches	15.0	270.07
HO with more than 100 branches	20.0	360.09

*\*Based on exchange rate of 1 USD = 55.542 PHP, as of 10 August 2022*

## F. MODES OF ENTRY

The modes of entry for foreign banks are reflected under Section 103 of the MORB. It states that with prior approval of the Monetary Board, foreign banks may operate in the Philippines through any one (1) of the following modes:

- Mode 1: By acquiring, purchasing, or owning up to 100% of the voting stock of an existing domestic bank.
- Mode 2: By investing in up to 100% of the voting stock of a new banking subsidiary incorporated in the Philippines.
- Mode 3: By establishing branches with full banking authority.

## G. STOCKHOLDING LIMITS

As reflected in Section 122 of the MORB, any foreign individual or non-bank corporation may each own or control up to forty percent (40%) only of the voting stock of the bank: Provided, that the aggregate foreign-owned voting stock owned by foreign individuals and non-bank corporations shall not exceed forty percent (40%) of the voting stock of the bank. The stockholding limit of forty percent (40%) shall likewise apply to Filipinos and domestic non-bank corporations.

Meanwhile, qualified foreign banks may own or control 100 percent (100%) of an IB pursuant to Republic Act (R.A.) No. 10641<sup>2</sup>.

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<sup>1</sup> Minimum capital requirements per bank category is provided under Sec. 121 of the MORB.

<sup>2</sup> *An Act Allowing the Full Entry of Foreign Banks in the Philippines*, Amending for the purpose R. A. No. 7721.

## H. SHARI'AH GOVERNANCE FRAMEWORK (SGF) FOR ISLAMIC BANKS AND ISLAMIC BANKING UNITS

The SGF is a comprehensive system that defines a set of appropriate institutional measures, arrangements, requirements, structure and policies of an IB or IBU to ensure that there is effective and independent oversight of Shari'ah compliance of its Islamic banking business. The SGF complements the existing regulatory corporate governance framework.

As codified under Section 139 of the MORB, Circular No. 1070 dated 27 December 2019 provides guidance on the minimum expectations of the BSP on the SGF required for an IB or IBU. These include:

- a. The SGF shall be commensurate with the size, complexity and risk profile of an IB or IBU. The SGF shall ensure an effective independent oversight of Shari'ah compliance over various structures and processes within the IB or IBU.
- b. The essential components of the SGF are:
  - (1) Effective Board of Directors (BOD) and management oversight over Shari'ah compliance;
  - (2) An independent and effective Shari'ah Advisory Council (SAC); and
  - (3) Independent and effective compliance and internal audit functions.

An IB or IBU may engage a competent Shari'ah adviser or consultant during the three (3) year period from the BSP's approval of its application in lieu of an SAC. The Shari'ah adviser or consultant shall have the same functions and responsibilities of an SAC as prescribed in Section 139 of the MORB.

Meanwhile, the IB or IBU may outsource the Shari'ah compliance and audit functions during the first three (3) years of Islamic banking business upon approval thereon by the BOD and with prior notice to the appropriate supervising department of the BSP.

## I. BANK LICENSE APPLICATION GUIDE

### ➤ Application for Grant of Authority to Establish a **New Bank**

There are three stages in the processing of bank license applications that applies to all applicants regardless of the type of bank category being applied for.

- Stage 1 refers to the application for BSP approval to establish a bank with processing time of 20 working days.
- Stage 2 refers to the application for the issuance of Certificate of Authority to Register with the Securities and Exchange Commission (SEC) its Articles of Incorporation (AOI) and/or By-Laws (BL) indicating its purpose to establish a bank with processing time of 15 working days; and
- Stage 3 refers to the application for the issuance of Certificate of Authority to Operate a bank with processing time of 5 working days.

Guidance on the establishment of new banks and documentary requirements are provided in Section 102 and Appending 33 of the MORB.

Meanwhile, the application requirements for foreign bank applicants are listed in *Appendix 2* of the Manual of Regulations for Banks (MORB).

➤ **Application for Grant of Authority to Establish a New Foreign Bank Branch**

The application for grant of Authority to Establish a Foreign Bank Branch constitutes a 2-stage process.

- Stage 1 refers to the application for BSP approval to establish a foreign bank branch with processing time of 20 working days.
- Stage 2 refers to the application for the issuance of Certificate of Authority to Operate a foreign bank branch with processing time of 5 working days.

***Supplemental Requirement for an IB.*** The applicant shall submit a deed of undertaking to establish an SGF as prescribed by the BSP appropriate to the risk profile of the IB.

Applications for Authority to Establish an IB/Foreign Bank Branch are subject to processing fee of P0.5 million upon submission of the application (Stage 1) and license fee of P25.0 million (under Stage 2).

A comprehensive guide on the licensing process of new banks and foreign bank branches is found in the BSP Citizens Charter.

Meanwhile, applicants who intend to engage in an **IBU** are required to comply with the following minimum requirements:

- a. The applicant must be compliant with the prudential criteria prescribed under Section 111 of the MORB; and

The applicant shall submit a certification stating that:

- (i) it has a system for segregating the IB transactions of the IBU from its conventional banking business; and
- (ii) it commits to establish an appropriate SGF as prescribed by the BSP.

- b. The applicant shall submit a corporate plan which describes the organizational and business model to be used in delivering IB products and services to its clients.

## J. REFERENCE MATERIALS

1. R.A. No. 11439, An Act Providing for the Regulation and Organization of Islamic Banks  
<https://www.bsp.gov.ph/Regulations/Banking%20Laws/RA11439.pdf>
2. Manual of Regulations for Banks  
<https://www.bsp.gov.ph/Regulations/MORB/2020MORB.pdf>
3. BSP Citizens Charter  
<https://www.bsp.gov.ph/CitizensCharter/bspcitizenscharter.pdf>
4. BSP Circular No. 1069 dated 27 December 2019  
<https://www.bsp.gov.ph/Regulations/Issuances/2019/c1069.pdf>
5. BSP Circular No. 1070 dated 27 December 2019  
<https://www.bsp.gov.ph/Regulations/Issuances/2019/c1070.pdf>
6. BSP Circular No. 1105 dated 2 December 2020  
<https://www.bsp.gov.ph/Regulations/Issuances/2020/c1105.pdf>