



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 1069

Series of 2019

Subject: Guidelines on the Establishment of Islamic Banks and Islamic Banking Units

The Monetary Board, in its Resolution No. 1945 dated 13 December 2019, approved the guidelines on the establishment of Islamic banks and Islamic banking units.

Section 1. Section 102 of the Manual of Regulations for Banks (MORB) is hereby amended to read as follows:

Section 102 BASIC GUIDELINES IN ESTABLISHING DOMESTIC BANKS

x x x

Establishment of new domestic banks. x x x

x x x

Establishment of Islamic banks and Islamic banking units.

Policy Statement. The Bangko Sentral recognizes the importance of Islamic banking as an alternative business model to promote its financial inclusion agenda. In this respect, the Bangko Sentral aims to promote an Islamic banking system that can operate alongside the conventional banking system, and an open approach where conventional banks operate Islamic banking units.

The following minimum prudential requirements and the guidelines under Appendix 139 (Annex A of this Circular) are hereby adopted:

- a. *Organizational Structure.* With prior approval of the Bangko Sentral, the establishment of the following entities or units may be allowed:
 - (1) Domestic Islamic banks;
 - (2) Foreign Islamic banks¹; and
 - (3) Islamic banking units (IBU) in the form of a division, department, office, or branch of a conventional bank.
- b. *Stockholding limits.* The stockholdings limits prescribed for the establishment of a universal bank (UB) under Section 122 shall apply to an Islamic bank (IB).
- c. *Capitalization.* The minimum capitalization requirements for a UB shall apply to an IB or conventional bank with IBU. IBs may take the necessary steps to have their shares of stock listed in any duly registered stock exchange.

¹ Although this pertains to the establishment of new domestic banks, foreign Islamic banks are mentioned because the establishment thereof is subject to the same requirements as that of domestic Islamic banks.

- d. *Governance.* A Shari'ah governance framework must be in place to ensure that the IB or IBU adheres to Shari'ah principles. The said framework must include a Shari'ah Advisory Council composed of persons who are competent in the field of Shari'ah and banking, finance, law or such other related disciplines.

Establishment of microfinance-oriented banks. x x x

x x x

Section 2. Section 101 of the MORB is hereby amended as follows:

Sec 101 CLASSIFICATION, POWERS AND SCOPE OF AUTHORITIES OF BANKS

The following are the classification, powers and scope of authorities of banks, as well as the prerequisites for the grant of banking authorities.

- a. *Classification of banks.* x x x

x x x

(6) Islamic banks (IBs)

- b. *Powers and scope of authorities.* x x x

x x x

(6) *IBs.* In addition to the general powers granted to corporations, IBs shall have such powers as shall be necessary to carry out the business of a bank in accordance with Shari'ah principles. IBs may perform the following services:

- (a) accept or create current accounts;
- (b) 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;
- (c) accept investment accounts;
- (d) accept foreign currency deposits;
- (e) act as correspondent of banks and institutions to handle remittances or any fund transfers;
- (f) accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness;
- (g) act as collection agent insofar as the payment orders, bills of exchange or other commercial documents;
- (h) provide financing contracts and structures;
- (i) handle storage operations for goods or commodity financing secured by warehouse receipts presented to the Islamic bank;

- (j) 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;
- (k) 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;
- (l) undertake various investments in all transactions allowed by Shari'ah principles;
- (m) subject to the guidelines as may be prescribed by the BSP, Islamic banks may invest in equities of Shari'ah compliant undertakings that directly support the delivery of Islamic banking and financing services;
- (n) 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 IB 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.

In addition to the powers granted to IBs, the powers granted to the Al-Amanah Islamic Investment Bank of the Philippines under R.A. No. 6848 shall remain in force.

Finally, the foregoing powers of an IB shall also be applicable to IBUs.

Section 3. Effectivity. This Circular shall take effect fifteen (15) calendar days following its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:


CHUCHI G. FONACIER
Officer-in-Charge

27 December 2019

PRUDENTIAL REGULATIONS FOR ISLAMIC BANKS AND ISLAMIC BANKING UNITS
(Appendix to Section 102 of the Manual of Regulations for Banks)

Following are the minimum prudential rules and regulations governing the establishment and organization of an Islamic bank (IB) and an Islamic banking unit (IBU):

Sec. 1 Licensing of an IB. Applicants which intend to engage in Islamic banking business (IBB) shall comply with the prudential and documentary requirements provided under Sections 102 and 103 as well as Appendices 2 and 33 of the Manual of Regulations for Banks (MORB), as may be applicable, including the supplemental requirements contained herein.

The establishment of an IB shall also be subject to the payment of appropriate application and license fees for universal banks (UBs) as prescribed under Section 102 and Appendix 2 of the MORB, as applicable.

Supplemental Requirement for an IB. The applicant shall submit a deed of undertaking to establish a Shari'ah Governance Framework (SGF) as prescribed by the *Bangko Sentral* appropriate to the risk profile of the IB.

The authority to establish an IB shall be automatically revoked if the IB is not organized and opened for business within one year after receipt by the organizers of the notice of approval by the Monetary Board of their application in accordance with Appendix 33 of the MORB.

Sec. 2 Licensing of an IBU. Applicants which intend to engage in 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 Islamic banking transactions of the IBU from its conventional banking business; and
 - (ii) it commits to establish an appropriate SGF as prescribed by the *Bangko Sentral*.
- b. The applicant shall submit a corporate plan which describes the organizational and business model to be used in delivering Islamic banking products and services to its clients.

The establishment of an IBU shall also be subject to the payment of appropriate processing fees applicable to UBs as prescribed under Section 105 of the MORB.

The authority to establish an IBU shall be automatically revoked if the IBU is not commenced for business within one year after receipt by the bank of the notice of approval by the Monetary Board of their application.

Sec. 3 Commencement of Operations. The IB or IBU are expected to ensure that the following are in place on the first day of operations:

- a. **Appropriate Shari'ah Governance Framework.** An IB or IBU shall constitute a Shari'ah Advisory Council as prescribed by the Bangko Sentral;
- b. Adequate risk management systems and internal controls; and
- c. Necessary policies and procedures, information system and documentation that support the offering of Islamic banking products and services. The products and services should be duly certified as Shari'ah compliant by the IB/IBU's Shari'ah Advisory Council.

Sec. 4 Definitions of Terms. The following terms shall apply in relation to Islamic banking:

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. Shari'ah defines a set of rules and principles governing the overall Islamic financial system.

Current account refers to the total deposits at an Islamic bank which are repayable on demand and compliant with Shari'ah principles.

Investment account refers to the total funds placed by an investor with an Islamic bank or Islamic banking unit 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.

Islamic banking system refers to the Al-Amanah Islamic Investment Bank of the Philippines, Islamic banks, either domestic or foreign, and designated Islamic banking units of conventional banks that are authorized to conduct business in accordance with the principles of Shari'ah.

Islamic banks (IBs) refers to the Al-Amanah Islamic Investment Bank of the Philippines and Islamic banks, either domestic or foreign.

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

Islamic banking business (IBB) 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.

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.

Riba generally 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.