

Islamic Bank Charter, Annotated

By Abdel Aziz Dimapunong

Founding Chairman, Al Amanah Islamic Investment Bank of the Philippines
Chancellor, Islamic Banking Research Institute

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ISLAMIC BANK (Private)

بنك الاماناه اسلامي

Al Amanah Islamic Investment Bank of the Philippines

Incorporated by the Congress of the Philippines with a special law, Republic Act No. 6848

Officially organized in the Philippines on April 28, 1992

Original_iib@yahoo.com

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Foreword

On January 26, 1990, President Corazon C. Aquino signed into law R. A. No. 6848, otherwise known as the Charter of the Al Amanah Islamic Investment Bank of the Philippines. On June 25, 1991, I was designated by the office of the President of the Philippines to organize this bank pursuant to the provisions of its charter.

Republic Act No. 6848 repealed Presidential Decree No. 264, the charter of the Philippine Amanah Bank. Hence, this old bank was abolished. The services of its board of directors and all its employees were not terminated outright but they were reclassified by section 49 of the new law, RA 6848, to continue as personnel compliment "in the interim" until the Islamic Bank shall have been properly organized.

On January 16, 1992, an audience with former President Corazon C Aquino was granted by Malacanang Palace. Then Senator Mamintal A Tamano, then chairman of the Committee on Banks and Currencies attended the meeting with Her Excellency in the Palace, with myself as the sole government representative to the Islamic Bank. The senator and myself briefed Her Excellency on the legal manner of organizing the Al Amanah Islamic Investment Bank of the Philippines, or Islamic Bank, for short. The senator and myself were glad to have the blessing of her Excellency.

After coordinating with concerned government agencies and the private stockholders, the Islamic Bank was officially organized by a general shareholders meeting on April 28, 1992 in accordance with its charter. The chairman and president of the abolished Philippine Amanah Bank were disqualified and therefore not elected nor appointed to any position of the new Islamic Bank. They in turn filed so many baseless and malicious cases, which are also found in this book.

At the time the Islamic Bank was organized in 1992, the national government was the controlling stockholder and there were very few private stockholders with minimal investments. However, when the provisions of RA 6848 were implemented, the number of private stockholders rose to several hundreds in 1993, and more in 1994. So the equation on ownership was reversed gradually owing to the failure of the government to put up its share (Series "A") of investments. Only the private stockholders were able to put up investments by subscribing to Series "B" and "C" shares. And so from 1994, the private stockholders held the controlling interest.

Since the passage of R.A. 6848 and after its formal organization of the Islamic Bank on April 28, 1992, the old Central Bank Act and the old General Banking Law were repealed by new laws. The new banking laws had the effect of amendments to R.A 6848. As will be seen in this book, the said amendments were all for the greater benefit of the Islamic Bank. On the other hand, the new banking laws were all unfavorable to the Central Bank. Most of its powers were

truncated. The new laws also greatly diminished the powers of the Monetary Board. Most of these powers were transferred to the Securities and Exchange Commission and the Department of Finance. Details of the diminishing power of the Monetary Board are also found in this book.

The ouster of some directors and officers of the abolished Philippine Amanah Bank was the reason behind the filing of baseless and malicious cases against the leadership of Dimapunong in the new Islamic Bank. Because of these cases, there were Court Orders, and eventually a Decision of the Hon Court of Appeals, and finally some Resolutions of the Hon. Supreme Court, as well as a Motion and Manifestation of the Office of the Solicitor General. These Decision, Court Orders, and Court Resolutions reinforced the legality of the Dimapunong group in the Islamic Bank. They also served directly as clarifications to some provisions of R.A. 6848. These are all taken into account in my commentaries and annotations to the charter of the Islamic Bank.

This booklet, "The Islamic Bank Charter, Annotated" is actually Part One of a bigger book, "Islamic Banking In the Philippines" by the same author.

Abdel Aziz Dimapunong
Manila, (March 25, 2006)

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Translations

The official documentation is published in English only. Even where the author has exceptionally permitted the translation of the documentation, only the English version is valid.

Relation with the Islamic Bank

The Islamic Banking Research Institute, Incorporated (IBRI) was officially registered with the Philippines' Securities and Exchange Commission in 1991. Since 1992, it has been the official Consultant/Advisor of the Al Amanah Islamic Investment Bank of the Philippines (Private) on all matters of Management Information System. It is also a stockholder of the Islamic Bank.

The author, Mr. Abdel Aziz Dimapunong, was the founding chairman and chief executive officer of the original Al Amanah Islamic Investment Bank of the Philippines from 1992 to 1998. He is also a major stockholder of the bank. There were legal controversies on this matter but all of them had been resolved in the Philippine's court of law. All of the results were in favor of the Dimapunong group. Details of these controversies are also contained in this booklet. All related legal documents may be supplied by the author and or IBRI upon request and fees for due diligence. These include a Decision of the Hon. Court of Appeals, Resolutions of the Hon. Supreme Court, Resolutions of the Department of Justice, Manifestation of the Office of the Solicitor General, and documents issued by the Securities and Commission, all in the Philippines. Some of the

documents were authenticated by no less than the Office of the President of the Philippines and the Department of Foreign Affairs.

References

All legal references mentioned in this booklet and involving the Islamic Bank may be supplied upon arrangement and payment of reasonable due diligence charges with the Islamic Banking Research Institute, Inc.

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Introduction

Today, we face challenges that are rapidly expanding in the age of information technology. In order to capture the opportunities presented by this changing environment, we need to review and refresh so we can act and respond positively with global reach. The changes that we face today are so pervasive in the way they are taking place. It is driven by a force of extraordinary advances that reverberates globally through the World Wide Web. This is a force in Cyberspace that is transforming banking and commerce from conventional to e-commerce. The wind of change is blowing upon every business entity and regulatory agencies including Central Banks in some countries.

It is for this reason that we in the Islamic Banking Research Institute, and the Islamic Bank (Private) itself have decided to review and refresh the charter of the Al Amanah Islamic Investment Bank of the Philippines.

By way of review we recall that as early as 1993, we had to provide some footnotes to some provisions of Republic Act No. 6848, the charter of the Al Amanah Islamic Investment Bank of the Philippines. The first occasion presented itself when on June 2, 1992; a court order was erroneously issued by then Judge Zosimo Angeles of the Regional Trial Court of Makati, Branch No. 58. This was a Temporary Restraining Order (TRO) in civil case No. 92-1487, a result of a baseless complaint filed by directors of the abolished Philippine Amanah Bank who permanently lost their jobs.

The court order enjoined both parties to the case as cited above to observe the status quo then prevailing. At that point in time, there existed two banks in that legal controversy. They were as follows:

1. One was the defunct Philippine Amanah Bank created under Presidential Decree No. 264 as amended which a board consisting of six (6) members who were to serve until the new Islamic Bank shall have been organized was then managing. The Philippine Amanah Bank was abolished and its charter, PD 264, was repealed entirely by Republic Act 6848, the charter of the new Islamic Bank.
2. The other one was the newly organized Al Amanah Islamic Investment Bank of the Philippines created under Republic Act No. 6848. This bank was organized on April 28, 1992, just one month before the court order. It was being managed by a Board of Directors under the leadership of Abdel Aziz Dimapunong, founding chairman and chief executive officer, and Macapanton Abbas, Jr, Ali Malambut, Grande Mitmug Dianaton who were elected pursuant to the provisions of Republic Act No. 6848.

The court order was wrongfully issued by then Judge Zosimo Angeles. It was ordered lifted by the High Court of Appeals in its Decision in Case No. CA-GR No. SP No. 28445, Abdel Aziz Dimapunong vs. Judge Zosimo Angeles. The Decision was promulgated January 13, 1993. The Judgment was made final and

executory on June 16, 1993. Farouk Carpizo appealed it to the Supreme Court in UKD-11290 but the highest court ordered it TERMINATED, there being no merit in the appeal.

Although the court order was issued in error and was lifted one year later by another court order in the form of a Decision, both the lower court order and the high court order had some effects on some provisions of RA 6848. For one, the lower court order that enjoined a status quo prevented a turnover of the assets and liabilities of the abolished Philippine Amanah Bank to the Islamic Bank.

The Decision of the Court of Appeals also clarified the fact that there are private stockholders in the Islamic Bank. Among those named in the Decision were: Macapanton Abbas Jr., Ali Malambut and Grande M. Dianaton. These stockholders were in the minority in 1992. But a few years later, they became the majority and controlling stockholders. On the other hand, the National Government of the Philippines, owing to its mounting deficits, failed to invest subscribe to any shares of stocks of the Islamic Bank.

There were other major occasions when annotations and commentaries on Republic Act 6848 became so necessary. Footnotes were not enough when the Philippine legislature put an end to the Old Central Act, Republic Act No. 267. Needless to say, the end of the Old Central Bank Act washed all the powers of the old Monetary Board away. Congress enacted a new Central Bank Act, Republic Act No. RA 7653. This new law created the Bangko Sentral Ng Pilipinas to replace the old Central Bank of the Philippines. Under this new Central Bank Act, the powers of the Monetary Board were diminished.

On May 23, 2000, the Philippine legislature also put an end to the General Banking Law, Republic Act No. 337. Needless to say, all the powers of the Monetary Board that were derived from the General Banking Law were also washed overboard. Congress enacted a New General Banking Law of 2000; Republic Act No. 8791 which greatly enhanced the powers of the Islamic Bank. Section 71 provides that:

“The organization, ownership and capital requirements, powers, supervision and general conduct of business of Islamic banks shall be governed by special laws.”

So, today, the General Banking Law of 2000 no longer governs the Islamic Bank. The general banking law governed other banks. This means that the Islamic Bank is an autonomous bank, in the same way that its area of responsibility that is the Autonomous Region in Muslim Mindanao (ARMM) is also autonomous by provision of law.

Since the organization of the Islamic Bank in 1992, the Monetary Board, which never had a Muslim member, had been very much remiss in fulfilling its duties to the Islamic Bank. However, since 1992, the Islamic Bank has been gaining powers and exemptions by newly enacted laws in the Philippines.

It is with hope that this writing will shed light to some still lingering issues about the Islamic Bank. And, after we are refreshed with the implementation and development of Islamic banking in the Philippines, we hope to stir more awareness and further interest on the concept of Islamic banking in general.

THE ISLAMIC BANK CHARTER, ANNOTATED

REPUBLIC ACT NO. 6848

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

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

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

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

Now, therefore, Be it enacted by the Senate and House of Representatives of the Philippines in Congress Assembled.

Notes on the Preamble

Preamble Note 1. Doing business in the Philippines by Westerners is relatively comfortable because most of the laws were adopted from Western sources, especially the U.S.A. Here in the Philippines and the United States, Islamic banking finds justifications in their respective Constitutions. As seen from the above citations, Islamic banking in the Philippines is founded upon the Constitutional provisions that "encourage private enterprise" and the "social function" of the use of property.

In the United States, Islamic banking is also justified in their Constitution. Thomas C. Baxter, Jr. Executive Vice President and General Counsel of the Federal Reserve Bank of New York, in his "Remarks Before the Seminar on Legal Issues in the Islamic Financial Services Industry, entitled: Regulation of Islamic Financial Services in the United States" had this to say:

"... one of the most fundamental principles in American law is enshrined in the First Amendment to the U.S. Constitution. The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise

thereof..." In the two centuries since its ratification, our courts have expounded on the meaning of this amendment, which Thomas Jefferson once described as having erected " a wall of separation between church and state." While extending its reach to cover conduct by the state as well as the federal government, the courts have recognized that this separation is not absolute. Indeed, as Chief Justice Warren Burger observed some 20 years ago, the Constitution "affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility towards any." In other words, a corollary of the principle of religious freedom enshrined in the Constitution is that the secular law should adapt, as much as possible, to accommodate differing religious practices."

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

TITLE

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

Comments on Section 1.

Note 1-1. The meaning of "charter" and "franchise".

There are frequently asked questions (FAQ) about the charter of this bank. What is the meaning of "charter"?

If charter means to be a franchise, what is the meaning of "franchise"? Because the Philippines Government through Republic Act No. 6848 created the Islamic Bank, does it fully belong to the government or does it belongs to the private stockholders?

The WordWeb (3.01), a WordNet database (copyright 2003 by Princeton University) defines "charter" as follows:

"1. A document incorporating an institution and specifying its rights, includes the articles of incorporation."

"2. A contract to hire or lease transportation"

In ordinary parlance, the word "charter" connotes a very special meaning. Thus when one charters a commercial flight or a vessel for travel, it means that the hired transportation is for an exclusive use, and not for general patronage - unless provided for in the charter. That charter provides a franchise, an authorization to use the said commercial flight or vessel.

The WordNet also defines a "franchise" as follows:

"1. An authorization to sell a company's goods or services in a particular place."

"2. A statutory right or privilege granted to a person or group by a government (especially the rights of citizenship and the right to vote)"

But what is the legal meaning of a franchise? The Islamic Banking Research Institute opines that the primary franchise of the Islamic Bank, that is, the right to exist as such, belongs to the individual stockholders who composed the Islamic Bank as a corporation. And the secondary franchise of the Islamic Bank, that is the right to operate as Islamic Bank, belong to the Islamic Bank as a corporation.

The following notes are the basis of our opinion, and these notes attempt to answer the most frequently asked questions as above cited:

Note 1-2. Republic Act No. 6848 clearly described itself under its Title that it is "The Charter of the Al Amanah Islamic Investment Bank of the Philippines." This law reflexively described by no less than itself as an "AN ACT PROVIDING FOR THE 1989 CHARTER OF THE AL AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES," and "AUTHORIZING ITS CONDUCT OF ISLAMIC BANKING BUSINESS". This is a law in the Philippines. However, the Bangko Sentral Ng Pilipinas requires the organizers of the original Islamic Bank to apply for a license in order to be recognized. The organizer, however, maintains and insists that there was never any need for the Islamic Bank to obtain a license from the Bangko Sentral as Republic Act No. 6848, a congressional Act, already authorized it.

It is of utmost important to the stockholders, officers, and employees of the Islamic Bank to understand the very special meaning of a "charter" and the very special meaning of "franchise".

Note 1-3. Under Philippine jurisprudence, a charter is a primary franchise. On what is meant by primary franchise, the Supreme Court held in *J.R.S. Business Corp., et. al., v. Ofilada, et al.*, 120 Phils 618, 628:

The primary franchise of a corporation, that is, the right to exist as such is vested "in the individuals who composed the corporation, and not in the corporation itself" xxx (Citing *Gulf Refining Co., v. Clevealand Trust Co.*, 108 So., 158)

In the case of Abdel Aziz Dimapunong, et al., v. Hon Judge Zosimo Angeles, et. al., CA GR SP No. 28445, A Manifestation and Motion of the Office of the Solicitor General had this to say:

“In our jurisdiction, the primary franchise of a corporation may either be the certificate of incorporation issued by the SEC or a special law which creates and serves as the corporation’s charter. AIIBP (Al Amanah Islamic Investment Bank of the Philippines) is a corporation created by special law, RA 6848. Its primary franchise is RA 6848 itself. It cannot, therefore, be denied, that the AIIBP, like other corporations organized under the Corporation Code, is under the jurisdiction and subject to the control and supervision of the SEC. [emphasis mine].

In the same case as above, the Hon. Court of Appeals ruled:

“We agree with the petitioners and the Solicitor General that it is the Securities and Exchange Commission which has jurisdiction over the controversy subject of the proceedings before the respondent court.

“ Presidential Decree No. 902-A provides that the SEC is vested with absolute jurisdiction, supervision and control over all corporations, partnership or associations, who are the grantees of primary franchise and/or a license or permit issued, by the government to operate in the Philippines (Section 3). The primary franchise of a corporation may either be its certificate of incorporation issued by the SEC or a special law, which creates a corporation and serves as its charter. There is no question that the AIIBP is a corporation created by RA No. 6848 to replace the former Philippine Amanah Bank and is therefore under the jurisdiction and subject to the control and supervision of the SEC. (Abdel Dimapunong, et al., v. Hon Judge Zosimo Angeles, et. al., CA GR SP No. 28445)

The Decision of the Court of Appeals in the case cited above was promulgated on January 13, 1993. It was appealed to the Hon. Supreme Court but the DECISION was upheld and the case was declared TERMINATED (Supreme Court, UDK, 11290, 1993)

Note 1-4. On May 23, 2000, the New General Banking Law of 2000, Republic Act No. 8791 was enacted into law. Section 71 provides that:

“The organization, ownership and capital requirements, powers, supervision and general conduct of business of Islamic banks shall be governed by special laws.”

Note 1-5. On July 19, 2000, the Securities and Regulation Code, Republic Act No. 8799 was enacted into law. Section 5.2 of this law repealed Sec. 5 of P.D. No 902-A, which states that the SEC shall have original and exclusive jurisdiction to hear and decide cases” involving intra-corporate controversies. Section 5.2 of RA 8799 provides:

The Commission’s jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases.”

ESTABLISHMENT AND FUNCTIONS

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

Comments on Section 2

Note 2-1. The Central Bank referred to in Section 2 was the old Central Bank under RA 267. The new Central Bank Act, RA 7653 has repealed RA 267. Under RA 7653, the Bangko Sentral was created.

Note 2-2. The Bangko Sentral had promulgated Bangko Sentral Circular No. 105, Series of 1996. This circular is otherwise known as “The Implementing Rules and Regulations of Republic Act No. 6848, the Charter of the Al Amanah Islamic Investment Bank of the Philippines.

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

All business dealings and activities of the Islamic Bank shall be subject to the basic principles and rulings of Islamic Shari’a within the purview of the aforementioned declared policy. Any *zakat* or “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 obligations to appropriate said *zakat* fund and to disburse it in legitimate channels to be ascertained first by the Shari'a Advisory Council.

Comments on Section 3.

Note 3-1. R.A. No. 6848 was signed into law by President Corazon C. Aquino on January 26, 1990 in order to appease the Muslims in the Autonomous Region of Muslim Mindanao (ARMM) who, for decades, were fighting for Independence. Following this program of peace with the Muslims, the former President also signed Executive Order No. 425 on October 12, 1990. Under this EO, the President of the Philippines placed under the control and supervision of the Autonomous Regional Government of the ARMM the line agencies and offices of the National Government within the Autonomous Region in Muslim Mindanao dealing with labor and employment, local government, tourism, environment and natural resources, social welfare and development, and science and technology. With this Executive Order, certain development projects within the ARMM do not have to be processed and approved by the National Government in Manila. The Executive Order was issued by the President pursuant to Republic Act 6734, otherwise known as the Organic Act for the Autonomous Region In Muslim Mindanao (ARMM).

Note 3-2. The establishment of the ARMM is provided for under the Philippine Constitution. The ARMM is composed of the provinces of (1) Lanao Del Sur, (2) Maguindanao, (3) Marawi City, (4) Jolo, (5) Basilan and (6) Tawi Tawi. As of year 2000, the population is 2.876 million. Nine in every ten persons were Muslims, followed by Roman Catholic (five percent) and Philippine Episcopal Church with more than a single percent.

SEC. 4. Shari'a Advisory Council. - There is hereby created a Shari'a Advisory Council of the Islamic Bank which shall be composed of not more than five (5) members, selected from among Islamic scholars and jurists of comparative law. The members shall be elected at a general shareholders meeting of the Islamic Bank every three (3) years from a list of nominees prepared by the Board of Directors of the Islamic Bank. The Board is hereby authorized to select the members of the first Shari'a Advisory Council and to determine their remunerations.

Comments on Section 4

Note 4-1. The first members of the Shari'a Advisory Council were duly selected by the Board of Directors and duly elected by the General Shareholders meetings of 1992. They were: (2) Ex-Commissioner Lugum Uka (2) of Cotabato, Ibrahim Idjirani of Jolo (3) and Datu Berua Mucsin of Lanao del Sur.

SEC. 5. Functions of the Shari'a Advisory Council. - The functions of the Shari'a Advisory Council shall be to offer advice and undertake reviews pertaining to the application of the principles and rulings of the Islamic Shari'a to the Islamic Bank's transactions, but it shall not directly involve itself in the operations of the Bank. Any member of the Shari'a Advisory Council may be invited to sit in the regular or special meetings of the Board of Directors of the Islamic Bank to expound his views on matters of the Islamic Shari'a affecting a particular transaction but he shall not be entitled to vote on the question presented before the board meetings.

Comments on Section 5.

Note 5-1. There is another function of the Shari'a Advisory Council in arbitration that is provided in Section 9, which states that:

"In the event that one of the two parties (in conflict) shall fail to select its arbitrator or in the case of non-agreement on the selection of the casting arbitrator or the presiding member of the Board of Arbitration within the period..." "The matter shall be submitted to the Shari'a Advisory Council to select the Arbitrator, the casting arbitrator or the presiding member, as the case may be."

Note 5-2. Yet another additional function of the Shari'a Advisory Council is to sit as **Shari'a Arbitration Council** to settle conflict matters on a limited scale involving principal original amounts not exceeding US Dollar One Hundred Thousand (US\$ 100,000) excluding profits, premiums, and other bank charges. This additional function is contained in the Policy Guidelines of the Islamic Bank that was adopted by the Board of Directors pursuant to the powers of the Board cited in Section 26 of the Islamic Bank charter.

Note 5-3. Pursuant to the Policy Guidelines concerning arbitration by the Shari'a Council, all contracts, including bank guarantees, bonds, safekeeping receipts (SKR) and certificates of participations (CPs) and any investment agreements with the Islamic Bank shall state a provision that: "On the occasion any dispute arises, the matter shall be referred exclusively to the duly constituted Shari'a' Council subsisting from time to time pursuant to RA 6848 and its relevant implementing rules and regulations and having authority set out thereon over the affairs of the Bank." Thereafter, the dispute shall be deemed to have been submitted to the exclusive jurisdiction of said Shari'a Council for disposition.

CORPORATE POWERS

SEC. 6. Islamic Bank's Power. - 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 on its Islamic banking business;
- (6) To establish such branches and agencies in provinces and cities in the Philippines, particularly where Muslims are predominantly located, and such correspondent offices in other areas in the country or abroad as may be necessary to carry on its Islamic banking business, subject to the provisions of Section 2, hereof.
- (7) To perform the following banking services:
 - (a) Open current or checking accounts;
 - (b) Open savings accounts for safekeeping or custody with no participation in profit and losses except unless otherwise authorized by the account holders to be invested;
 - (c) Accept investment account placements and invest the same for a term with the Islamic Bank's funds in Islamically permissible transactions on participation basis;
 - (d) Accept foreign currency deposits from banks, companies, organizations and individuals, including foreign governments;
 - (e) Buy and sell foreign exchange;
 - (f) Act as correspondent of banks and institutions to handle remittances or any fund transfers;
 - (g) Accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness under the universally accepted Islamic financial instruments;
 - (h) Act as collection agent insofar as the payment orders, bills of exchange or other commercial documents are exclusive of *riba* or interest prohibitions;
 - (i) Provide financing with or without collateral by way of leasing, sale and leaseback, or cost plus profit sales arrangement;
 - (j) Handle storage operations for goods or commodity financing secured by warehouse receipts presented to the Bank;
 - (k) Issue shares for the account of institutions and companies assisted by the Bank in meeting subscription calls or augmenting their capital and or fund requirements as may be allowed by law;
 - (l) Undertake various investments in all transaction 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 government depository, or its branches, subdivisions and instrumentalities and of government owned or controlled corporations, particularly those doing business in the autonomous region;
- (9) To issue investment participation certificates, muqaradah (non-interest bearing bonds), debentures, collaterals and/or the renewal or refinancing of the same, with the approval of the Monetary Board of the Central Bank of the Philippines, to be used by the Bank in its financing operations for projects that will promote the economic development primarily of the Autonomous Region;
- (10) To carry out financing and joint investment operations by way of mudarabah purchasing for others on a cost-plus financing arrangement, and to invest funds directly in various projects or through the use of funds whose owners desire to invest jointly with other resources available to the Islamic Bank on a joint mudarabah basis;
- (11) To invest in equities of the following allied undertakings:
- (a) Warehousing companies;
 - (b) Leasing companies;
 - (c) Storage companies;
 - (d) Safe deposit box companies;
 - (e) Companies engaged in the management of mutual funds but not in the mutual funds themselves; and
 - (f) Such other similar activities as the Monetary Board of the Central Bank of the Philippines has declared or may declare appropriate from time to time, subject to existing limitations imposed by law;
- (12) To exercise the powers granted under this Charter and such incidental powers as may be necessary to carry on its business, and to exercise further the general powers mentioned in the Corporation Law and the General Banking Act, insofar as they are not inconsistent or incompatible with the provisions of this Charter.

Comments on Section 6

Note 6-1. Actually, the Islamic Bank is authorized to " exercise all the powers and perform all the services of a bank", The powers and services of a conventional bank are defined under the General Banking Law of 2000 although the Islamic Bank is not governed by this law. Please refer to Section 16 (Authorized Banking Services).

Note 6-2. The Islamic Bank is also authorized to operate an Investment House pursuant to Presidential Decree No. 129, as amended, and as a Venture Capital Corporation pursuant to Presidential Decree No. 1688. Please refer to Section 17 (Authorized Commercial Operations).

CAPITAL RESOURCES OF THE BANK

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

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

- (1) **Series "A" shares** shall comprise five million one hundred thousand shares equivalent to Five hundred ten million pesos (P510, 000,000) to be made available for subscription by the present stockholders of the Philippine Amanah Bank namely: the National Government, and such other financial entities as it may designate.
- (2) **Series "B" shares** shall comprise nine hundred thousand shares equivalent to Ninety million pesos (P90, 000,000) to be made available for subscription by the Filipino individuals and institutions.
- (3) **Series "C" shares** shall comprise four million shares equivalent to Four hundred million pesos (P400, 000,000) to be made available for subscription by Filipino and foreign individuals and/or institutions or entities.

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

The Islamic Bank is authorized to reacquire its common shares that are held privately. The Islamic Bank may take the necessary steps to have its series "B" shares listed in any duly registered stock exchange.

Comments on Section 8

Note 8-1. Since the time the Islamic Bank was organized on April 28, 1992, the government has never put up a single dollar to the bank. There was never any subscription to Series "A" shares. Not a single share of stock was added to the common shares that were transferred from the abolished PAB.

Note 8-2. On the other hand, Series "B" shares were fully subscribed by private Filipino stockholders. And all of Series "C" shares were also fully subscribed by Filipinos and foreigners as provided by RA 6848.

Note 8-3. In year 2001, the government was declared in default, and the private stockholders exercised their pre-emptive rights to subscribe to Series "A" shares.

Note 8-4. Since the formal organization of the Islamic Bank, only 51,092 shares had been appropriated for the Government. These represent the adjusted book value of the net worth of the abolished Philippine Amanah Bank. The government shares originally appeared in the December 31, 1992 Balance Sheet. At that time, the national government shares represent ninety percent (90%) of voting shares. Since then, the shares have been gradually diluted by private shares. By the end of year 2004, the national government shares represent less than one percent.

SEC. 9. Board of Arbitration. - The Board of Directors, acting as an arbitrator, shall settle by the majority decision of its members any dispute between and among shareholders of the Islamic Bank, whether individuals or entities, where such dispute arises from their relations as shareholders in the Islamic Bank. The Board shall not be bound in this respect to the procedures of laws on civil and commercial pleadings, except in regard to the basic principles of due process. If the dispute is between the Islamic Bank and any of the investors or the shareholders, a Board of Arbitration shall settle such dispute. In this case, the Board of Arbitration, consisting of three (3) members, shall be formed by two (2) parties to the dispute within forty-five (45) days from receipt of written notice by either party to the dispute. The three (3) members shall be selected as follows: one (1) arbitrator from each party who shall then select a casting arbitrator as the third member of the board. The three (3) shall select one of them to preside over the Board of Arbitration. The selection by each party of its arbitrator shall be deemed as an acceptance of the arbitrator's decision and of its finality. In the event that one of the two parties shall fail to select its arbitrator or in the case of nonagreement on the selection of the casting arbitrator or the presiding member of the Board of Arbitration within the period specified in the preceding paragraph, the matter shall be submitted to the Shari'a Advisory Council to select the Arbitrator, the casting arbitrator or the presiding member, as the case may be.

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

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

Comments on Section 9

Note 9-1. In September of 1993, the Bangko Sentral prodded the Securities and Exchange Commission to rule on intra-corporate controversies then prevailing in the Islamic Bank between the group of Abdel Dimapunong and the group of Roberto De Ocampo (former Secretary of Finance). In response, the SEC (ruling en banc on October 1993) passed the responsibilities to the authority of the Islamic Bank Board of Arbitration to settle any controversy the bank might sustain.

Note 9-2. In a letter of inquiry from the Islamic Bank Board of Directors concerning the jurisdiction of the SEC over corporate relations in the Islamic Bank, then SEC chairman Rosario N. Lopes responded by citing "the SEC ruling in Alfredo C. Gray, Sr. vs. Augustine Marketing et. al., (SEC Case No. 2102 dated March 9, 1992) wherein it was held that the Commission has no jurisdiction over corporations created by special law".

Note 9-3. Section 9 provides for a Board of Arbitration and specified that: "The final judgment shall be deposited with the office of the Corporate Secretary of the Bank and the Securities and Exchange Commission." Pursuant to this law, the Board of Directors adopted on March 30, 1993 its RULES OF PRACTICE AND PROCEDURE.

Note 9-4. In year 2001, the Philippine legislature enacted "The Law On Alternative Dispute (ADR) Resolution", RA 9285. Immediately, the Supreme Court introduced this new legal program in a bid to unclog the dockets of the courts. Arbitration and ADR are being encouraged by the Supreme Court in order to decongest the courts which had a backlog of more than 800,000 cases as of December 2004, excluding those in the Supreme Court. Aside from this backlog, the Philippine courts also have a problem on vacancies in judicial positions numbering 677 of the total 2,130. It is hope that arbitration and the ADR could become another venue to prevent disputes from lingering too much in courts.

Note 9-5. Pursuant to its mandated power under Section 26 of its charter, the Board of Directors adopted a Policy Guidelines where certain function of arbitration was delegated to the Shari'a Advisory Council. (See Comments on Section 5).

SEC. 10. Incentives to Islamic Banking. - Subject to the provisions of Section 74 of the Central Bank Act, the provisions of the 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.

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

The financial statement and books of accounts of such funds shall be maintained separately but may be supplemented to the Islamic Bank's balance sheet. Under special circumstances in which the Board of Directors considers it advisable to promote or facilitate Islamic banking business and commercial operations, the Islamic Bank may seek financing from governments, organizations, individuals or banks always without prejudice to the provisions of Section 43 of this Charter.

PLACEMENTS AND INVESTMENTS OF FUNDS

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

- (1) 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 accounts and savings accounts and may be withdrawn wholly or partly at any time.

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

SEC. 13. Investment of Funds. - The Islamic Bank shall have the capacity of agent or attorney and shall act with full authority on behalf of the group of depositors in general in investing their co-mingled deposits without prejudice to the following 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 requirements as may be determined by the Central Bank. The Board of Directors shall determine the

period for an investment participation account. Investment of funds shall be undertaken by the Islamic Bank acting on behalf of the group of depositors or investors in selected areas of investment under such terms and conditions as the Board of Directors may determine by way of *mudarabah* or other forms of joint investment permitted by Islamic Shari'a principle.

Comments on Section 13.

Note 13-1. The New Central Bank Act, Republic Act 7653, has repealed the Central Bank Act, R.A. 265.

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

SEC. 15. Allocation of Resources. - Any provision of law to the contrary notwithstanding, 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 investor's funds with authorization. The Islamic Bank shall have the right to inspect and supervise the projects which it shall finance or in which it is the majority shareholder. The original capital and related profits shall be remitted in the same currency it was originally contributed or in one of the convertible currencies, as the Board of Directors shall determine in accordance with this Charter.

ISLAMIC BANK OPERATIONS IN GENERAL

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

SEC. 17. Authorized Commercial Operations. - Notwithstanding the provisions of any law to the contrary, the Islamic Bank is hereby authorized to operate an Investment House pursuant to Presidential Decree No. 129, as amended, and as a Venture Capital Corporation pursuant to Presidential Decree

No. 1688 and, by virtue thereof, carry on the following types of commercial operations:

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

(2) The Islamic Bank may carry on commercial operations for the purpose of realizing its investment banking objectives by establishing enterprises or financing existing enterprises, or otherwise by participating in any way with other companies, institution 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.

Comments on Section 17

Note 17-1. The Islamic Bank is: (1) a bank pursuant to its charter, (2) an Investment House pursuant to Presidential Decree No. 129, and (3) a Venture Capital Corporation pursuant to Presidential Decree No. 1688. Whenever the Islamic operates as an Investment House and or as a Venture Capital Corporation, it is under the control and supervision of the Securities and Exchange Commission - rather than the Bangko Sentral.

Note 17-2. The General Banking Act of 2000, RA. 8791, classified the Islamic Bank in a category of its own as "Islamic Bank" as defined in Republic Act No. 6848. (Sec. 3, RA 8791)

Note 17-3. On the contemporary Islamic financing techniques or modes of investment for profit sharing; the Bangko Sentral promulgated the following Shari'a principles under Sec. 44 of the Implementing Rules and Regulations of the Islamic Bank: The following are being observed by the Islamic Bank:

- 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 be installments. This principle is applied in financing fixed assets 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 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-user. This principle is applied in Bills Receivable financing. If full financing were 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 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.

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

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

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

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

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

Comments on Section 18

Note 18-1. The General Banking Law of 2000, RA No. 8791, has repealed the General Banking Act, R.A. 337.

Note 18-2. All of Series "B" and Series "C" shares have been issued and outstanding as of this writing.

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

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

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

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

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

SEC. 20. Loans to Directors, Officers or Employees Restrictions. - Subject to the limitations provided herein, the Islamic Bank may grant to any of its officers or employees a loan as provided under its scheme of service and, whenever, the Islamic Bank is satisfied that special circumstances exist, a loan not exceeding at any one time an amount equivalent to six months remuneration of each officer or employee on such terms and conditions as the Islamic Bank deems fit. The Islamic Bank shall not, directly or indirectly, grant an advance loan or credit facility to any of its directors, officers, or employees, or any other person for whom any of them is a guarantor or in any manner to be an obligor for money granted by the Islamic Bank. No loan or credit facility shall be granted by the Islamic Bank to a company, corporation, partnership or firm wherein any member of the Board of Directors or auditors is a shareholder, partner, manager, agent or employee in any manner, except with the written approval of and by the unanimous vote of no less than two-thirds of all the members of the Board of

Directors, excluding the director concerned: Provided, that the total liabilities to the Islamic Bank shall be limited to the director or auditor's outstanding deposits or the book value of his or her paid in capital in the Islamic Bank and such approval shall be entered upon the records of the Islamic Bank and a copy of such entry shall be transmitted forthwith to the appropriate supervising department of the Central Bank of the Philippines.

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

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

SEC. 22. 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 Central Bank.

Comments on Section 22

Note 22-1. The General Banking Act, Republic Act No. 265 is not an existing law. The New General Banking Law of 2000, Republic Act No. 8791 has repealed R.A. 265.

Note 22-2. The General Banking Law does not govern the Islamic Bank. It is rather governed by special laws. (Section 71, R.A. 8791)

Note 22-3. The Islamic Bank is not covered by the general Rules and Regulations of the Central Bank. Rather, the Islamic Bank is specially covered by the Implementing Rules and Regulations of Republic Act No. 6848, effective April 24, 1996 as embodied in Bangko Sentral Circular 105, Series of 1996.

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

SEC. 24. Periodic Reports. - The Islamic Bank shall, in addition to periodic reports which may be required pursuant to the provisions of any other law, be

required to submit to the Central Bank a report of any changes relating to the Islamic Bank's employee profit sharing scheme approved by the Board of Directors.

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

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

Comments on Section 24

Note 24-1. Pursuant to the powers of the Board of Directors to adopt policy guidelines as well as internal rules and regulations under Section 26 of its charter, the Board of Directors has adopted Resolution No. 2001-A-1-15, Series of 2001 to declare as a matter of policy that "THE ISLAMIC BANK SHALL NOT APPROVE:

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

Note 24-2. Pursuant to the powers of the Board as mandated by Section 42, the Board first adopted The Islamic Bank Policy Guidelines (IB-PG) on June 15, 1993. Since then, it has been gathering yearly sequel.

Note 24-3. Pursuant to the powers of the Board as mandated by Section 42, the Board first adopted The Islamic Bank Internal Rules and Regulations (IB-IRR) on June 30, 1994. Since then, it has been gathering yearly sequel.

BANK MANAGEMENT AND GENERAL MEETING

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

Comments on Section 25

Note 25-1. The founding members of the Board of Directors of the Islamic Bank were duly elected by the general stockholders meeting of April 28, 1992. Those elected were the following:

1. Abdel Aziz Dimapunong, Chairman
Sole Representative of the National Government
2. Victor Santos, director
Nominee of the Government Service Insurance System (GSIS)
3. Andres Bautista director
4. Nominee of the Government Service Insurance System (GSIS)
5. Reynaldo Palmiery, director
Representing the Social Security System
6. Bernice Syquia, director
Representing the Asset Privatization Trust
7. Macapanton Abbas, Jr., director, private stockholder
8. Grande M. Dianaton, director, private stockholder
9. Ali Malambut, director, private stockholder

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

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

The Board shall cause the preparation of the Islamic Bank's balance sheet for each financial year within three (3) months at the latest from the end of each accounting period as well as the profit and loss statement according to accounting rules established and based on Islamic criteria. Copies of the audited

annual balance sheet, profit and loss account, together with any note thereon, and the report of the auditor and the directors own report shall be provided to the shareholders before the date of the general meeting.

Comments on Section 26.

Note 26.1. Pursuant to the powers of the Board under Section 26, RA 6848, the Board of Directors and the general shareholders meetings adopted the following Policy Guidelines throughout the years since the inception of the Islamic Bank in 1992.

MAJOR POLICY GUIDELINES

- **POLICY OF ACCESSIBILITY** (adopted 1992) - Until the authorized shares of stocks are fully subscribed, such shares shall be made available and affordable to the general public, Muslims or Christians, government (Series "A" shares) or private, Filipinos (Series "B" and "C" shares) or foreigners (Series "C" only). However, the subscription to and ownership of such shares, including the transfer thereof to third parties, shall be limited to persons and entities that subscribe to the concept of Islamic banking. [Pursuant to Section 26, R.A. 6848, the board of directors adopted this policy in 1992 in order to carry out the provisions of Sections 7 and 8 of the Charter of the Islamic Bank.]

- **POLICY OF REPRESENTATION** (adopted 1993) - Every stockholder has the right to vote and be voted upon. Conversely, every nominee for directorship, and for any elective or appointive position in the Islamic Bank should be a stockholder first before such election or appointment. To carry out this policy, every nominee to directorship should have the number of qualifying shares as determined by the board of directors from time to time. The bank shall make available certain shares to carry out this policy. [Pursuant to Section 26, of RA 6848, the board adopted this policy in 1993. To implement this policy, resolutions were later adopted to fix the number of directors qualifying shares.]

- **POLICY OF PRIVACY AND CONFIDENTIALITY** (adopted 1994) - All directors, officers, and personnel of the Islamic Bank, including its authorized agents and representatives shall observe the privacy and confidentiality of every banking transactions of whatever nature, including those that are still on the drawing board, and all plans and programs. No press releases concerning the Islamic Bank and those relating to its banking affairs is allowed unless approved by the board of directors. Only the chairman and or the president of the bank may call for a press conference. The Board may, however, appoint a professional relations officer as its spokesperson or hire a duly registered entity as its 'image builder' for advertising purposes. [Pursuant to Section 26 of RA 6848, the board adopted this policy in 1994 to carry out the provision 33, RA 6848]

- **POLICY OF EQUITY PARTICIPATION** (adopted 1995) - The stockholders wants their directors and managers to think like and operate the Islamic Bank business as owners. As such, the stockholders assist every member of

management in obtaining equity stakes in the Islamic Bank, its joint venture projects, and any company that may be organized by the bank. The stockholders believe equity participation provides the best incentive for profit and growth, and it aligns both parties' objectives. Consequently, the stockholders adopted the policy of management equity participation in the Islamic Bank, in the joint ventures entered into by the Islamic Bank, and in any company that might be organized by the Islamic Bank. [A general shareholders meeting in 1995 adopted this policy]

- **POLICY ON AUTONOMY AND RESPONSIBILITY** (adopted 1996)– To think and operate as owners and entrepreneurs, the Islamic Bank managers are given a high degree of operating autonomy – and responsibility. There are Task Forces that are specifically assigned to certain operations of the Islamic Bank. These Task Forces are independent of each other. They operate within their respective areas of responsibilities without encroaching on others. Similarly, there are authorized regional representatives who are specifically assigned to certain regions independent of others. Under this policy "all accounts relating to financing and joint investment operations shall be kept separately from that of other banking activities and services offered by the Islamic Bank as provided for under Sec. 35, R.A. 6848. Consequently, profits and losses for every separate account under separate ventures are determined and are used as basis for compensation of the various Task Forces. [Pursuant to Section 26, R.A. 6848, the board of directors adopted this policy in 1996]

- **POLICY ON MAINTING THE ISLAMIC BANK CULTURE** (adopted 1997) - The Islamic Bank prides itself on maintaining its unique Islamic cultures and operating policies that are Sharia' compliant. Under this policy, the function of the members of the Sharia Advisory Council was expanded to include arbitration. In the case of arbitration, the members sit as Sharia' Arbitration Council to settle conflict on matters on a limited scale involving principal original amounts not exceeding US Dollar One Hundred Thousand (US\$100,000) excluding profits, premiums, and other bank charges. (See Note 5-2 - Additional Function of the Sharia' Advisory Council). [Pursuant to Section 6, R.A. 6848, the board of directors adopted this policy in 1997]

- **POLICY ON CONTINUING OWNERSHIP** (adopted 2001) - Anyone of the shareholders may exercise its preemptive right to consolidate ownership of the outstanding shares of the bank as provided in Sec. 8, R.A. 6848. A preemptive right must also recognize a "priority preemptive right". For purposes of this Policy a "priority preemptive right" shall refer to "first-subscriber-first-serve" policy. For this purpose the original founding stockholders shall always have a "priority preemptive right" to consolidate ownership. To carry out this policy, the board of directors is prohibited to approve any proposal or scheme for reconstruction or merger, or otherwise, between the Islamic Bank and any

other company wherein the whole or any part of the undertaking or the property of the Islamic Bank is to be transferred to another corporation.

- **POLICY ON CONTINUING MANAGEMENT** (adopted 2003) The entire membership of the board of directors or any majority of them in numbers shall not be replaced at any one time by a general shareholders meeting. For this purpose, the board of directors is prohibited to approve any proposal or scheme for the sale or disposal of its shares or business, or other matters related thereto, which will result in a change of the control or management of the Islamic Bank. Any member of the board who duly possessed the number of directors qualifying shares shall be afforded the privilege to develop a banking career in the bank. This policy was adopted by the General shareholders meeting of 2003.

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

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

Comments of Section 27

Note 27-1. The Chief Executive Officer, who is also the chairman, and other officers and employees of the Islamic Bank are **not government employees**. They are private officers and employees. **They are “not persons in authority” as defined under the Revised Penal Code.** This has been demonstrated by the Department of Justice in the Case of Al Amanah Islamic Investment Bank of the Philippines vs. Abdel Aziz Dimapunong.

CASE 1. Al Amanah Islamic Investment Bank of the Philippines vs. Abdel Aziz Dimapunong Case No. IS No. 95-012 MKT, for usurpation of authority or official function.

Facts of the case.

On April 6, 1995, Complainant Farouk Carpizo filed a complaint with the Department of Justice in the City Prosecution Office of Makati. The complainant charged that respondent Abdel Aziz Dimapunong “misrepresented himself and acted himself out to the General Public including alleged foreign investors that he is the duly elected chairman and chief executive officer of the aforementioned Bank when he knew fully well that such is not true.”

As stated in the Memorandum of the Prosecutor, complainant then submitted the following documents (among others) which allegedly show respondent’s actual misrepresentation:

a) Respondents memorandum dated 12 December 1994 to Deputy Executive Secretary Leonardo Quisumbing where he stated:

“In the last three (3) years, I had been acting as National Government Representative and member of the Board of Directors after having been elected as Chairman and C.E.O. after having been elected by the Board on even date”

b) Memorandum dated 22 May 1992 to the COA Auditors Islamic Bank where respondent represented himself as the duly elected Chairman and C.E.O. of the Islamic Bank;

c) Respondents memorandum for Secretary Leonardo Quisumbing dated 12 December 1994 showing his negotiations with foreign investors;

d) Respondents letter dated 23 February 1995 to Secretary Leonardo A. Quisumbing where he signed up as Chairman and CEO of the Islamic Bank
Xxxx

Respondent did not submit any counter-affidavit.

“A close examination of complainant’s statement and evidence, though uncontroverted, fail to show that respondent’s acts allegedly done in this case pertain to the 1. Government or 2. any person in authority or 3. to any public officer. **Acts performed by officers of the Bank in this case, though the same has been established by law, do not necessarily pertain to any government function nor are they persons in authority nor public officers. Without any of these elements, the offense of Usurpation of Authority under Art. 177 of the Revised Penal Code cannot be said to have been committed. [Underscoring ours]**

There is likewise no showing by competent evidence that the shares of stocks referred to in par. 5, (e) of the complaint are in fact fake or spurious.

WHEREFORE, finding insufficient evidence to indict respondents of the offenses charged in this case, **it is respectfully recommended that this case be dismissed.**

Respectfully submitted.
City of Makati, June 7, 1995

(Sgd) CARLOS M FLORES
4th Assistant Prosecutor

APPROVED:
July 4, 1995

(Sgd) HON. FELICIANO ASPI
City Prosecutor

Case 2. Al Amanah Islamic Investment Bank of the Philippines vs. Abdel Aziz Dimapunong, et. al. IS No. 92-8557 (1992)

The case (Case 1) as above described was actually preceded by an earlier complaint of the same nature and the same complainant, who later came to be known in the Islamic Bank as “the perennial complainant”, Mr. Farouk Carpizo. The earlier case was also filed in the Department of Justice, in the City of Makati, titled as above captioned.

Fact of the case

On November 6, 1992, complainant Farouk Carpizo filed a complaint with the Department of Justice. The complainant charged the respondent Abdel Aziz Dimapunong and the members of the Board of Directors of the Islamic Bank for Usurpation of Authority or Official Functions in violation of Article 177 of the Revised Penal Code.

In reply, the respondents submitted their documentary evidences of legality as constituting the legitimate Board of Directors of the Islamic Bank, together with documents pertaining to the respondents Petition for Review and Certiorari in the Hon. Court of Appeals (Case No. CA GR SP No. 28445). The case was filed for a review of another case for Injunction that was also filed by “Mr. Perennial Complainant” before the Makati Regional Trial Court Branch 58, Civil Case No. 92-1487 (Never mind the prohibition on Forum Shopping).

After review the Prosecutor recommended the case for dismissal in the following legalese mind:

“On the basis of the facts and the evidences adduced, there is no need of further reflections, study or analysis, to conclude that the case, having reference to the controversy over positions in the government entity and having reference to a pending civil case, does not come within the provision of Article 177 of the Revised Penal Code. Art. 177 of the RPC penalize the usurper or one who acts under false pretenses and not the occupant under color of title.

Accordingly, it is respectfully recommended that the case be dismissed.”

**(Sgd.) RODRIGO BAUTISTA
3RD Assistant Prosecutor
February 26, 1993**

**APPROVED:
August 4, 1993**

**MAURO M CASTRO
Provincial Prosecutor**

**By: HERMINIO T. UBANA, Sr.
2nd Assistant Prosecutor**

Note 27-2. The directors and other employees of the Islamic Bank are not appointees of the President of the Philippines or any other government authority. The President of the Philippines merely nominates for as long as the National Government holds a share of voting stock and outstanding – not merely based on the unpaid authorized capital stock that are to be made available to the government, as claimed by some people like Farouk Carpizo. The stockholders’ election is the final operative act to make nominations to elective positions finally binding and executory, election being the voice of the stockholders. Should anyone ceased to be a stockholder by sale, transfer of shares, or otherwise, the right to nominate, vote and be voted upon is lost.

Note 27-3. Section 27 provides that “All other officers and employees of the Islamic Bank shall be appointed and removed by the Board upon recommendation of the Chief Executive Officer, **which shall not be subject to Civil Service Law.**” This clearly shows **that the labor laws govern the relations of the Islamic Bank and its employees. In particular, the applicable law is the Labor Code – rather than the Civil Service Law.**

The Supreme Court has had the occasion to clarify relations of a bank and its employees when they are not subject to the Civil Service Law. In the case of Philippine Veterans Employees Union vs. Philippine Veterans Bank (G.R. No. 67125, April 24, 1990), the Supreme Court ruled:

“As the Bank is not owned or controlled by the Government, although it does have an original charter in the form of Republic Act. 3518, it clearly does not fall under the Civil Service and should be regarded as an ordinary commercial corporation. Section 28 of the said law said so. The consequence is that the relations of the Bank with its employees should be governed by the labor laws ...”

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

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

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

Comments on Section 29

Note 29-1. The first general shareholders meeting was an organizational stockholders meeting. It was held on April 28, 1992 at the Army And Navy Club of Manila, Rizal Park, Roxas Boulevard, City of Manila, as shown in Plate 1 below. The organizational meeting was presided over by Abdel Dimapunong, the sole National Government Representative. Victor Santos, the representative of the Government Service Insurance System (GSIS), assisted him. Private stockholders, notably, Macapanton Abbas, Jr. Grande M. Dianaton, Ali Malambut, and a host of others, also attended the meeting.

Photo 1 as above, April 28, 1992 Organizational Stockholders Meeting of the Islamic Bank, Army and Navy Club of Manila, Rizal Park, Roxas Blvd., Manila

Photo 2, as above, June 30, 1995 First International Stockholders Meeting of the Islamic Bank, Hotel Intercontinental, Ayala Avenue, Makati City

Photo 3 as above, June 30, 1999 International Stockholders Meeting of the Islamic Bank, Richmond Hotel, Ortigas Complex, Mandaluyong City.

Note 29-2. The first international general shareholders meeting was held on June 30, 1995 at the Hotel Intercontinental Manila at Ayala Avenue, Makati City as shown in Photo 2 above. It was the first to be attended by foreign shareholder; the Pacific Asia Ltd. of Hong Kong. The meeting was presided over by Abdel Dimapunong. Grande Dianaton who has been a major private stockholder of the Islamic Bank assisted him

Note 29-3. Another international general shareholders meeting was held on June 30, 1999 at the Richmond Hotel at Ortigas Complex, Mandaluyong City as shown in Photo 3 above. Foreign attendance was the ERA Assets Ltd. Of Hong Kong and Three Seas Ltd. of the New Hebrides Islands.

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

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

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

SEC. 32. Bank Auditor's Reports. - Notwithstanding the provisions of any law to the contrary, the Islamic Bank is hereby authorized to appoint an external auditor approved by the general shareholders meeting whose qualifications and remunerations shall be fixed by the Board of Directors. The external auditor appointed under this Section shall assume his functions from the date of his appointment until the date of the next general shareholders meeting. In case a vacancy occurs at any time during the year for any reason, the Board of Directors shall immediately appoint a replacement. The duties of the auditor shall be to conduct an audit of the accounts of the Bank and to make a report to the Board of Directors. In the exercise of his auditing functions, all Bank books, accounts and documents shall be made available to the auditor for inspection to ascertain the Bank's assets and obligations. Copies of the latest audited balance sheet, profit and loss statement, together with any note thereon, and the reports of the auditor to the Board of Directors shall be forwarded by the Islamic Bank, within the prescribed time, to the Central Bank.

CONFIDENTIAL INFORMATION

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

Comments on Section 33

Note 33-1. Section 33 reverberates the provisions of Republic Act No. 1405, otherwise known as the Law On Secrecy of Bank Deposits, as amended. R.A. 1405 prohibits disclosure of or inquiry into deposits with any banking institution. For a long period of time, the Philippine banking industry enjoys this protective shield on deposits and investments. This law was actually adopted on its approval on September 9, 1955.

Note 33-2. When compared to Section 2 of R.A. 1405, as amended Section 33 of R.A. 6848 provides a rhythmic echo, if banking laws were music. The original secrecy law follows:

“Section 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential in

nature and may not be examined, inquired or looked into by any person, government official, bureau or office except when the examination of a special or general examination of a bank and is specifically authorized by the Monetary Board after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity, has been or is being committed and that it is necessary to look into the deposit to establish such fraud or irregularity, or when the examination is made by an independent auditor hired by the bank to conduct its regular audit purposes only and the results thereof shall be for the exclusive use of the bank, or upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials or in cases where the money deposited or invested is the subject matter of the litigation. (As amended by PD No. 1792.)

Note 33-3. Secrecy and confidentiality of banking transactions are essential elements of Islamic banking as it is also in conventional banking. Under RA 1405, as amended, there are two objectives of secrecy in bank deposits as a matter of banking policy. They are as follows:

1. To give encouragement to the people to deposit their money in banking institutions; and (2) To discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country.

(Sec. 1, R. A. No. 1405, as amended,)

Note 33-4. Hoarding is condemned in Islamic banking in the strongest term. Consider the following verses in the Holy Qur'an:

1. Woe to every scandalmonger and backbiter!
2. Who pileth up wealth and layeth it by,
3. Thinking that his wealth will make him last forever!
4. By no means! He will be sure to be thrown into that which breaks to pieces.
5. And what will explain to thee that which breaks to pieces?
6. (It is) the Fire of God kindled (to a blaze).

Al Qur'an: 104:1-6

Hoarding prevents the use and service of wealth by those who need it. It is an act of a miser. Instead of hoarding, Muslims are called to have traffic and trade using money, goods and services, and goodwill too. The Noble Qur'an speaks of this:

O Ye who believe!
 Eat not up your property
 among yourselves in vanities:
 But let there be amongst you

Traffic and trade by mutual goodwill.

Al Qur'an: 4:29

Note 33-5. Section 33 of R.A 6848, and even the Law on Secrecy of Deposits has been amended by the Anti-Money Laundering Act of 2001, as amended by R.A. 9194. This law provides as follows:

“Sec. 11. Authority to Inquire Into Bank Deposits. – Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the AMLC (Anti-Money Laundering Council) may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments are related to an unlawful activity as defined in Section 3 (i) hereof or a money laundering offense under Section 4 hereof; except that no court order shall be required in cases involving unlawful activities defined in Sections 3 (i), (1), (2) and (12).

To insure compliance with this Act, the Bangko Sentral ng Pilipinas may inquire into or examine any deposit or investment with any banking institution or non-bank financial institution when the examination is made in the course of a periodic or special examination of the BSP.”

PROFIT AND LOSS POLICY

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

SEC. 35. Determination of Profits and Losses. - At the close of each financial year, the Islamic Bank shall determine the results of its operations, in the determination of which the portion of profits due to the Islamic Bank and the investors shall be allocated pursuant to the provisions of this Act. The Board of Directors shall, after deducting the general and administrative expenses of the Bank and all its operating expenses including remunerations of the Board of Directors and the Shari’a Advisory Council, determine annually what part of the income shall be appropriated to reserves, investors and shareholders. All accounts relating to financing and joint investment operations shall be kept separately from the accounts from that of other banking activities and services offered by the Islamic Bank. The same rule in respect to the accounts of specific

investments shall apply where such specific projects may have a separate account. Allocation of joint investment profits shall be made after deducting an amount equal to ten per centum (10%) of the profits realized from various operations during the financial year to be transferred to a reserve account known as Investment Risk Fund for the purpose of meeting any losses exceeding the total profits derived from investments of that year: Provided, however, That should the accumulated reserves equal the authorized capital of the Islamic Bank, the Board of Directors may reduce the amount of the annual deduction to a minimal percentage until the aggregate reserves become double the amount of paid up capital after which the herein authorized deduction shall cease to accrue to the reserve account. Losses incurred, if any, shall be deducted from the total profits realized for the financial year in which such losses are incurred but any excess of losses over the profits which have been actually realized during that year may be deducted from the Investment Risk Fund opened for covering the risks of investment: Provided, That should the total profits realized in the year together with the reserves accumulated from the previous years be insufficient to cover the losses incurred, the Islamic Bank shall carry out a comprehensive assessment to arrive at estimated profit and loss based on market rates, from operations which are financed by mudarabah funds and which have not reached the stage of final settlement by the end of the financial year.

SEC. 36. Sharing Between the Bank and the Investors. - Not later than the end of the first month of each financial year, the Board of Directors shall determine and publish the general percentages of profit to be allocated to the total funds participating in joint investments of the Islamic Bank. The Islamic Bank as a joint venturer (Mudarib) shall be entitled to certain percentage after deducting the amount 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 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.

SEC. 37. Tax Exemption. - The Islamic Bank assets, profits, distributions and all contracts, deeds, documents and transactions related to the conduct of business of the Islamic Bank shall be exempted from all taxes under the National Internal Revenue Code to commence from the first taxable year, following its actual Islamic banking operation as certified by the Central Bank, to the extent as herein made allowable:

- (1) One hundred per centum (100%) for the first five years; and
- (2) Seventy-five per centum (75%) for the sixth through the eight years; Provided, however, That said exemption shall apply only to such taxes, fees, charges and assessments for which the Islamic Bank would otherwise be liable, and shall not apply to the taxes, fees, charges or

assessments payable by persons or other entities doing business with the Islamic Bank.

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

Comments on Section 37

Note 37-1. Section 37, par. 1(1) had been overtaken by time. The five-year tax exemption of 100% had already lapsed.

Note 37-2. Section 37, par. 1(2) had also lapsed. The 75% tax exemption for the sixth through eight years had also lapsed.

Note 37-3. The Islamic Bank still enjoys “exemption from all taxes under the National Internal Revenue Code, except income tax” under paragraph 2 of section 37.

Note 37-4. All zakat (Islamic tithe), paid by the Islamic Bank on the income of investor’s capital surplus reserves for the entire duration of the joint venture under any profit sharing scheme, are tax deductible.

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

Comments on Section 38

Note 38-1. Section 38 had already been overtaken by time. The exemptions from Customs Duties had already lapsed. Section 38 is entirely moot and academic.

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

(1) The provisions of the Central Bank Act and the General Banking Act with particular reference to the determination of bank interest rates, loans and discounts, and any interest-bearing instruments or charge: Provided, that nothing contained herein shall be construed to impair the powers of the Central Bank to supervise and regulate the activities of the Islamic Bank;

(2) The General Auditing Act and any other enactments thereon inconsistent with this Act; and

(3) The provisions of Republic Act Numbered Three-thousand five hundred ninety-one, as amended, and all laws regulating insurance companies: Provided, however, That nothing contained herein shall preclude the Islamic Bank from the establishment of contemporary Islamic takaful (solidarity services) free of riba premiums or interests.

Comments on Section 39

Note 39-1. The Central Bank Act (RA 265, as amended) does no longer exist, having been repealed by the New Central Bank Act, RA 7653. However, the New Central Bank Act provides that:

“All references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the Bangko Sentral.”
(Sec 136, RA 7653)

Note 39-2. The General Banking Act (RA 337) does no longer exist, having been repealed by the General Banking Law of 2000, RA 8791.

Note 39-3. The Islamic Bank is even freer today under the new General Banking Law of 2000 than in the old banking law.

Note 39-4. Whereas, under the old law, the provisions of the General Banking Act were not applicable to the Islamic Bank – only with particular reference to the determination of bank interest rates, loans and discounts, and any interest-bearing instruments or charge. Under the new General Banking Law of 2000, only special laws govern the Islamic Bank. This means that the General Banking Law of 2000 does not cover the Islamic Bank, except on two provisions where the Islamic Bank was particularly mentioned. These are:

- 1) Section 3 (3.2)(f) where the Islamic Bank is classified under “Islamic banks as defined in Republic Act No. 6848, otherwise known as the charter of the Al Amanah Islamic Investment Bank of the Philippines....”
- 2) Section 71 par. 2 which provides:

“The organization, ownership and capital requirements, powers, supervision and general conduct of business of Islamic banks shall be governed by special laws.” [Emphasis ours]

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

Comments on Section 40

Note 40-1. The Islamic Bank has employed the following foreigners who were stockholders of the bank at the time of their elections and appointments as indicated

1. Philip Newson (stockholder), British. He was elected member of the Board in 1995. He represented Pacific Asia Group Ltd. of Hong Kong.
2. Mr. Steve Chik (stockholder), Hong Kong national. He was elected member of the Board 1995. He represented Pacific Asia Ltd. of Hong Kong.
3. Abdul Gaffoor Ashroof (stockholder), Sri Lankan. He was elected member of the Board in 1999, representing ERA Assets Ltd. of Hong Kong. He was re-elected in 2000 and 2001. The Board appointed him as president of the Bank in 2000 to 2001. Then he was re-appointed in 2005.
4. Dr. David Satinover (stockholder), a citizen of U.S.A. He represented the Three Seas Ltd. of Vanuatu. He was elected member of the Board in 1999. The Board appointed him as Executive Vice President in 2000. After serving for a year, he left for the United States.
5. Tammy Chun Ying (stockholder). She is a citizen of Australia of Chinese origin. A chartered Accountant in Australia, she was elected member of the Board in 1999. The Board appointed her on the same year as Vice President. She was a non-resident officer. She only served for one year.
6. Mr. Bernardo Roque, a citizen of U.S.A. He was elected as member of the Board in year 2000. The Board then appointed him as Vice President on the same year. He only served for one year.
7. Manuel Maliwanag (stockholder) is a citizen of U.S.A. of Filipino origin. He was appointed by the Board as the Representative of the Islamic Bank in the United States of America. His appointment was classified as non-resident. In the year 2005, Mr. Maliwanag was elected member of the Board of Directors.

8. Mr. Peter Wong, a Chinese national based in Beijing. He was appointed in 2000 as the Islamic Bank Representative in China. He served the bank for two years.

9. Mr. Daniel Caher O'Doherty (stockholder). A citizen of the U.S.A. based in Texas. He was elected as member of the Board in 2002. He had a short stint as president of the bank in the same year.

Since 1993, there were many other non-resident confidential consultants appointed by the Board of Directors as Consulting Representatives in various countries in Europe, Asia and U.S.A.

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

LEGAL EXISTENCE

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

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

Comments on Section 42.

Note 42-1. R.A. 6848 was approved on January 26, 1990. Reckoned from this date, the bank will be on its 50th year on January 25, 2040.

GENERAL PROVISIONS

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

Comments on Section 43

Note 43-1. The Monetary Board of the Central Bank that is referred to in Section 43 was the old Monetary Board under Republic Act No. 265 (the old Central Bank Act). This must be distinguished from the present (new) Monetary Board whose powers and duties are defined under a new law that is Republic Act No. 7653 (the new Central Bank Act). The distinction is important because the new Monetary Board (under RA 7653) does not carry all the legal mandate and powers of the old Monetary Board (under RA 265). For example, “all fiscal agency functions of the old Central Bank as provided for in Sections 117, 118, 119, and 120 in the old Central Bank Act, had been phased out and transferred to the Department of Finance. Also the regulatory powers of the old Monetary Board concerning the operations of finance corporations and other institutions performing similar functions had been phased out under the new law.

Note 43-2. The Monetary Board referred to in Section 43 failed to perform its duty to” formulate the necessary rules and regulations to carry out the provisions of RA 6848.” From the time RA 6848 was approved on January 26, 1990 until the old Central Bank was abolished by a new Central Bank Act on June 14, 1993, the Monetary Board had been unmindful about the Islamic Bank.

Note 43-3. On June 14, 1993, the New Central Bank Act was signed into law, and with it the Bangko Sentral Ng Pilipinas was created as well as a new Monetary Board. For a long time, even this new Monetary Board sit on the job that it was required of them to do under Section 43 of RA 6848.

Note 43-4. After a delay of six years, the Monetary Board, in its Resolution Nos. 161 and 244 dated February 14 and March 6, 1996, respectively, approved the Implementing Rules and Regulations for the Islamic Bank pursuant to Section 43 of R.A. 6848.

Note 43-5. On April 24, 1996, the Monetary Board issued Bangko Sentral Circular No. 105, Series of 1996 proclaiming the special Rules and Regulations for Islamic banking in the Philippines.

Note 43-6. On May 23, 2000, Republic Act No. 8791, otherwise known as the New General Banking Act of 2000, was enacted into law. Like a wild storm, this new law partly demolished the Rules and Regulation on Islamic Banking under Bangko Sentral Circular 105.

The old General Banking Law (RA 265) was the first to have been demolished by the New General Banking Law. Consequently all rules and regulations in pursuance of the old General Banking Law were repealed. But this is another story. Suffice it to say that the Bangko Sentral and the Monetary Board have only insignificant legal mandate that they can

enforce in their supervision of the Islamic Bank. All that is left is ministerial in nature.

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

- (1) Islamic Bank means the bank created under this Act.
- (2) Islamic banking business means banking business whose aims and operations do not involve interest (*riba*) which is prohibited by the Islamic Shari'a principles;
- (3) Shari'a has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of this Act, it is construed by reference to pertinent Qur'anic ordinances and applicable rules in Islamic jurisprudence or business transactions;
- (4) *Riba* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of banking activities, the term include the receipt and payment of interest in the various types of lending and borrowing and in the exchange of currencies on forward basis;
- (5) Zakat has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of this Act, it represents and annual "tithe" payable by the Bank on behalf of its shareholders and investors in compliance with Islamic Shari'a principles;
- (6) Depositor means a person or entity who has an account at an Islamic Bank, whether the account is a current account, a savings account, an investment account or any other deposit account; unless the context requires another meaning, a depositor corresponds to an investor in joint investment of the Islamic Bank;
- (7) Current account liabilities in relation to Islamic banking services means the total deposits at the bank which are repayable on demand;
- (8) Savings account liabilities in relation to Islamic banking services means the total deposits at the Islamic Bank which normally require the presentation of passbooks or such other legally acceptable documents in lieu of passbooks as approved by the Central Bank for the deposit or withdrawal of money;
- (9) Investment account liabilities in relation to Islamic banking services means the total deposit liabilities at the Islamic Bank in respect of funds placed by a depositor with that bank for a fixed period of time under an agreement to share the profits and losses of that bank on the investment of such funds;
- (10) Other deposit liabilities in relation to an Islamic Bank means the deposit liabilities at that bank other than savings account, investment account, current account liabilities and deposit liabilities from any Islamic Bank or any other licensed bank;
- (11) Participation in relation to Islamic banking and commercial operations means any agreement or arrangement under which the mode of joint investments or specific transactions shall not involve the element of interest charge other than as percentage share in profits and losses of business;

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

PENALTIES

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

TRANSITORY AND MISCELLANEOUS PROVISIONS

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

Comments on Section 46

Note 46-1. The New General Banking Act of 2000 has amended section 46. This law provides that special laws shall govern the Islamic Bank. This means that the Islamic Bank is no longer subject to all banking laws of the Philippines.

Note 46-2. See **Notes 43-1 to 43-6** on Section 43.

Note 46-3. Compare this provision to Section 39 where it states that: **“the provisions of the Central Bank Act (now the new Central Bank Act) and the General Banking Act (now the new General Banking Act) ” “ shall not apply to the Islamic Bank”**.

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

Comments on Section 47

Note 47-1. The Islamic Bank was privatized by normal process of capitalization through subscription of shares pursuant to the provisions of RA 6848.

Note 47-2. Only Series “A” shares were authorized for subscription by the National Government of the Philippines – but the government opted not to subscribe until it was declared in default after thirteen years.

Note 47-3. The shareholdings of the National Government in the Islamic Bank pertains to the government shares in the abolished Philippine Amanah Bank, which were transferred by RA 6848 to the Islamic Bank. (See all Comments on Section 8)

Note 47-4. Only private Series “B” and Series “C” shares were subscribed, paid up, and outstanding.

SEC. 48. Transformation to Islamic Banking Business. -- Upon approval of this Act, all the assets, liabilities and capital accounts of the Philippine Amanah Bank are hereby transferred to the Al Amanah Islamic Investment Bank. Nothing in this Act shall be construed to preclude the Islamic Bank from transforming its investment portfolios, accounts or assets granted under the authority of the Philippine Amanah Bank Charter (that) are not eligible for this purpose, the same may be transferred, swapped, sold or otherwise disposed of in any manner deemed feasible following the effectivity of this Act.

Comments on Section 48

Note 48-1. A Restraining Court Order in June of 1992 prevented the actual transfer of assets and liabilities of the abolished Philippine Amanah Bank to the Al Amanah Islamic Investment Bank of the Philippines. The Temporary Restraining Order (TRO) was issued by the Regional Trial Court of Makati, Branch 58 in Civil Case No. 92-1487. This was the first case filed by Farouk Carpizo (see Cases 1 and 2 in Comments on Section 27)

Note 48-2. What was actually accounted for was the transfer of capital accounts from the PAB to the AIIBP. The TRO was order lifted by the Hon. Court of Appeals on January 13, 1993, in Abdel Aziz Dimapunong vs. Hon. Judge Zosimo Angeles as Judge RTC of Makati, MM Br. 58, Case No. CA-GR SP No. 28445.

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

Comments on Section 49

Note 49-1. The bank was reorganized from Philippine Amanah Bank to Al Amanah Islamic Investment Bank of the Philippines on April 28, 1992 pursuant to the provisions of RA 6848. (See Comments on Section 29)

Note 49-2. The services of officials and personnel of the abolished PAB were dispensed with, and a new organization emerged as a result of the reorganization.

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

Comments on Section 50

Note 50-1. On July 29, 1993, the Securities and Exchange Commission officially issued a Letter of Confirmation that the Al Amanah Islamic Investment Bank of the Philippines is deemed registered and authorized to operate as an Islamic Bank effective upon approval of RA 6848.

Note 50-2. The provision of Section 50 simply means that the Islamic Bank is deemed registered with the Securities and Exchange Commission. It also means that the Islamic Bank is “under the jurisdiction and subject to the control and supervision of the SEC”. The Hon. Court of Appeals had made this very clear in the case of Abdel Aziz Dimapunong, et. Al. v, Hon. Judge Zosimo Angeles, et. al. Case No. CA-GR SP No. 28446. In this case the Court of Appeals ruled thus:

“WE agree with the petitioners and the Solicitor General that it is the Securities and Exchange Commission which has jurisdiction over the controversy subject of the proceedings before the respondent court”

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“The primary franchise of a corporation may either be its certificate of incorporation issued by the SEC or a special law which creates a

corporation and serves as its charter. There is no question that the AIIBP is a corporation created by RA 6848 to replace the former Philippine Amanah Bank and is therefore under the jurisdiction and subject to the control and supervision of the SEC.”

Note 50-2. In the same case as described in Note 50-2 above, the Office of the Solicitor General had submitted to the Hon. Court of Appeals a Motion and Manifestation stating the following:

“On what is meant by primary franchise, the Supreme Court held in *J.R.S. Business Corp. et. al v. Ofilada, et. al.*, 120 Phils 618, 628:

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The primary franchise of a corporation, that is, the right to exist as such is vested “in the individuals who compose the corporation, and not in the corporation itself. *Xxx* (Citing *Gulf Mining Refining Co., v. Cleveland Trust Co.*, 108 So., 158)

“In our jurisdiction, the primary franchise of a corporation may either be the certificate of incorporation issued by the SEC or a special law which creates and serves as the corporation’s charter. AIIBP (Al Amanah Islamic Investment Bank of the Philippines) is a corporation created by special law, R.A. 6848. Its primary franchise is RA 6848 itself. It cannot, therefore, be denied, that the AIIBP, like other corporations organized under the Corporation Code, is under the jurisdiction and subject to the control and supervision of the SEC (emphasis mine).

SEC. 51. By-Laws. - Within sixty (60) days upon effectivity of this Act, the By-Laws of the Islamic Bank for its organizational, functional and operational government and procedure shall be adopted by affirmative vote at the general shareholders meeting representing a majority of all the subscribed capital stock entitled to vote, whether paid or unpaid, subject to certification by the Monetary Board pursuant to Section Ten of the General Banking Act. The By-Laws, duly certified by the Monetary Board as aforesaid, shall be signed by the shareholders, voting for them and shall be kept in the principal office of the Islamic Bank, subject to the inspection of the shareholders during office hours, and a copy thereof, duly certified by a majority of the directors and countersigned by the Corporate Secretary of the Islamic Bank, shall be filed and registered with the Securities and Exchange Commission.

Comments on Section 51.

Note 51-1. Section 51 provides that the By-Laws of the Islamic Bank, which may include its future amendments, is “subject to certification by the Monetary Board pursuant to Section 10 of the General Banking Act.” This provision has already been amended on May 23, 2000 when Republic Act

No. 8791 was signed into law. This new law is otherwise known as the New General Banking Act of 2000. This law replaced the obsolete General Banking Act, Republic Act No. 337 that was enacted in 1948. Under the New General Banking Act of 2000, the Monetary Board is no longer mandated to certify by-laws of any bank. The authority and mandate to review and register by-laws of any bank, or any amendments thereto were transferred from the Monetary Board to the Securities and Exchange Commission (Sec.14, R.A. 8791.)

SEC. 52. Repealing and Separability Clauses. - Presidential Decree No. 264, as amended by Presidential Decree No. 542, creating the Philippine Amanah Bank is hereby repealed. All Acts, executive orders, administrative orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed or modified accordingly. If any provision or section of this Act or the application thereof to any person, association or circumstances is held invalid, the other pertinent provisions or section of this Act and their application to such person, association or circumstances shall not be affected thereby.

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

**Approved: January 26, 1990
(Sgd.) CORAZON C. AQUINO
President of the Philippines**

APPENDIX A

The Islamic Bank Culture

What is the Islamic Bank business culture? This culture is an actual practice of adherence to the principles of Islamic banking worldwide.

The basic principle of Islamic banking is the prohibition of Riba- (Usury - or interest). Hereunder is a view from Islamic Finance, A Euromoney Publication, 1997:

"While a basic tenant of Islamic banking - the outlawing of riba, a term that encompasses not only the concept of usury, but also that of interest - has seldom been recognized as applicable beyond the Islamic world, many of its guiding principles have. The majority of these principles are based on simple morality and common sense, which form the bases of many religions, including Islam.

"The universal nature of these principles is immediately apparent even at a cursory glance of non-Muslim literature. Usury was prohibited in both the Old and New Testaments of the Bible, while Shakespeare and many other writers, particularly those writing in the 19th century, have attacked the barbarity of the practice. Much of the morality championed by Victorian writers such as Dickens - ranging from the equitable distribution of wealth through to man's fundamental right to work - is clearly present in modern Islamic society. (Islamic Finance: A Euromoney Publication, 1997)

Islamic finance was practiced in the Muslim world throughout the Middle Ages. Even in Spain and the Mediterranean, Islamic finance was applied by Muslim who were engaged in trading. European businessmen later adopted some of the concepts of Islamic banking and finance.

Islamic banking and finance today are just the revival of old Muslim practices in trade and commerce that were governed by the Shari'a. Islam not only prohibits dealing in interest but also in liquor, pork, gambling, pornography and anything immoral which the Shariah deems Haram (unlawful).

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 4. The Investment House Law, P.D. 129
 5. The old Central Bank Act, R.A. 267
 6. The Law on Venture Capital Corporation, P.D. 1688
The new Central Bank Act, RA 7653
 7. The old General Banking Act, RA 337
 8. The new General Banking Act of 2000, RA 8791
 9. The Law on Secrecy of Deposit, RA No. 1405, as Amended
 10. The Securities and Exchange Commission, P. D. No. 902-A
 11. The Revised Securities Act
 12. The Securities Regulation Code, RA 8799
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 14. An Act Providing For An Organic Act For The Autonomous Region Of Muslim Mindanao, RA 6734.
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- CASE 1. Al Amanah Islamic Investment Bank of the Philippines vs. Abdel Aziz Dimapunong
Case No. IS No. 95-012 MKT, for usurpation of authority
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- Case 2. Al Amanah Islamic Investment Bank of the Philippines
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