

House of Representatives  
Quezon City

SEVENTEENTH CONGRESS  
Third Regular Session



COMMITTEE REPORT No. 875

Submitted by the Committee on Banks and Financial Intermediaries and the Committee on Ways and Means on SEP. 24 2018

Re: House Bill No. 8281

Recommending its approval in substitution of House Bills Numbered 492 and 3975

Sponsors: Representatives Henry C. Ong, Ben P. Evardone and Amihilda J. Sangcopan

Madame Speaker:

The Committee on Banks and Financial Intermediaries and the Committee on Ways and Means to which were referred House Bill No. 492, introduced by Representative Sitti Djalía A. Turabin-Hataman and entitled:

“AN ACT

AMENDING REPUBLIC ACT NO. 6848, ALSO KNOWN AS THE ‘CHARTER OF AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES’ AND PROVIDING FOR THE REGULATION AND ORGANIZATION OF AN EXPANDED ISLAMIC BANKING SYSTEM IN THE PHILIPPINES”

and House Bill No. 3975, introduced by Representative Gloria Macapagal-Arroyo and entitled:

“AN ACT

AMENDING REPUBLIC ACT NO. 6848, ALSO KNOWN AS THE “CHARTER OF AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES” AND PROVIDING FOR THE REGULATION AND ORGANIZATION OF AN EXPANDED ISLAMIC BANKING SYSTEM IN THE PHILIPPINES”

have considered the same and hereby recommend the approval of House Bill No. 8281 entitled:

“AN ACT

PROVIDING FOR THE REGULATION AND ORGANIZATION OF ISLAMIC BANKS”

in substitution of House Bills Numbered 492 and 3975 with Representatives Turabin-Hataman, Macapagal-Arroyo, Ong (H.), Evardone, Sangcopan, Tambunting, Oaminal, Almonte, Collantes, Limkaichong, Ferrer (J.), Salon, Cortuna, Caminero, Villarín, Bravo (A.) and Pineda, as authors thereof.

Respectfully submitted,

  
ESTRELLITA B. SUANSING  
Chairperson

Committee on Ways And Means

  
HENRY C. ONG  
Chairperson

Committee on Banks & Financial Intermediaries

THE SPEAKER  
HOUSE OF REPRESENTATIVES

Republic of the Philippines  
**House of Representatives**  
Quezon City

SEVENTEENTH CONGRESS

Third Regular Session

**8281**

HOUSE BILL NO. \_\_\_\_\_

---

Introduced by Representatives Turabin-Hataman, Macapagal-Arroyo, Ong (H.), Evardone, Sangcopan, Tambunting, Oaminal, Almonte, Collantes, Limkaichong, Ferrer (J.), Salon, Cortuna, Caminero, Villarín, Bravo (A.) and Pineda

---

AN ACT  
PROVIDING FOR THE REGULATION AND ORGANIZATION OF ISLAMIC BANKS

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

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

7           *Sec. 2. Definition of Terms.* –

8           a. As used in this Act:

- 9           1. *Shari’ah* refers to the practical divine law deduced from its legitimate sources: the  
10           Qur’an, Sunnah, consensus of Muslim scholars, analogical deduction and other  
11           approved sources of Islamic law ;
- 12           2. *Current account* refers to the total deposits at an Islamic bank which are repayable  
13           on demand and compliant with Shari’ah principles;
- 14           3. *Investment account* refers to the total funds placed by an investor with an Islamic  
15           bank for a fixed period of time under an agreement to share the profits and losses  
16           on the investment of such funds in accordance with the principles of Shari’ah;
- 17           4. *Islamic banking business* refers to a banking business with objectives and operations  
18           that do not involve interest (*riba*) as prohibited by the Shari’ah and which conducts  
19           its business transactions in accordance with Shari’ah principles;
- 20           5. *Islamic banking unit* refers to a division, department, office or branch of a

1 conventional bank that conducts business in accordance with the principles of the  
2 Shari'ah;

3 6. *Participation* refers to any agreement or arrangement under which the mode of  
4 joint investments or specific transactions shall not involve the element of interest  
5 charge other than as percentage share in profits and losses of business and which is  
6 conducted in accordance with the principles of the Shari'ah;

7 7. *Riba* has the meaning assigned to it by Islamic law and jurisprudence as expounded  
8 by authoritative sources; in the context of banking business, the term refers to the  
9 receipt and payment of interest, including in the various types of lending and  
10 borrowing and in the exchange of currencies on forward basis;

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

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

18 Sec. 3. *Establishment of Islamic Banks.* – a. The Monetary Board may authorize the  
19 establishment of Islamic banks. It may also authorize conventional banks to engage in Islamic  
20 banking arrangements, including structures and transactions, through a designated Islamic banking  
21 unit within the bank; *Provided that*, the bank shall have a system for segregating the transactions of  
22 the Islamic banking unit from its conventional banking business.

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

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

34 Sec. 4. *Supervision and Regulation by the Bangko Sentral.* - The *Bangko Sentral* shall

1 exercise regulatory powers and supervision over the operations of Islamic banks. The *Bangko*  
2 *Sentral* shall issue the implementing rules and regulations on Islamic banking.

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

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

14 b. Islamic banks may perform the following banking services:

- 15 1. accept or create current accounts;
- 16 2. accept savings accounts for safekeeping or custody with no participation in profit and  
17 loss except unless otherwise authorized by the account holders to be invested;
- 18 3. accept investment accounts;
- 19 4. accept foreign currency deposits;
- 20 5. act as correspondent of banks and institutions to handle remittances or any fund  
21 transfers;
- 22 6. accept drafts and issue letters of credit or letters of guarantee, negotiate notes and  
23 bills of exchange and other evidence of indebtedness; *Provided that*, such financial  
24 instruments are in accordance with the principles of Shari'ah;
- 25 7. act as collection agent insofar as payment orders, bills of exchange or other  
26 commercial documents covering Shari'ah compliant transactions;
- 27 8. provide Shari'ah compliant financing contracts and structures;
- 28 9. handle storage operations for goods or commodity financing secured by warehouse  
29 receipts presented to the Islamic bank;
- 30 10. issue shares for the account of institutions and companies assisted by the Islamic  
31 Bank in meeting subscription calls or augmenting their capital and/or fund  
32 requirements as may be allowed by law;
- 33 11. undertake various investments in all transactions allowed by Shari'ah principles; and  
34 12. such other banking services as may be authorized by the Monetary Board.

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

4 d. Islamic banks may carry out financing and joint investment operations by way of  
5 *mudarabah* partnership, *musharakah* joint venture or by decreasing participation, *murabahah*  
6 purchasing on a cost-plus financing arrangement, lease (*ijara*) arrangements, construction and  
7 manufacture (*istisna'a*) arrangements, and other Shari'ah compliant contracts and structures, and to  
8 invest funds directly in various projects or through the use of funds whose owners desire to invest  
9 jointly with other resources available to the Islamic bank on a joint *mudarabah* basis in accordance  
10 with the foregoing arrangements, contracts and structures.

11 e. With prior Monetary Board approval, Islamic banks may invest in equities of Shari'ah  
12 compliant undertakings that directly support the delivery of Islamic banking and financing services.

13 f. Islamic banks may exercise the general powers of a universal bank that are consistent  
14 with the principles of Shari'ah.

15 *Sec. 7. Ownership and Legal Existence.* – Islamic banks to be created under this Act shall  
16 comply with pertinent laws, rules and regulations applicable to a private corporation engaged in  
17 banking, such as the Corporation Code of the Philippines (Batas Pambansa Bilang 68), as amended,  
18 and the requirements of the respective regulatory agencies. Islamic banking units shall be operated  
19 and managed pursuant to a management and organizational structure which should be properly  
20 disclosed and segregated from the operations of the parent bank.

21 The capitalization requirements of an Islamic bank shall be equal to that prescribed by the  
22 *Bangko Sentral* for a universal bank. Islamic banks may take the necessary steps to have their shares  
23 of stock listed in any duly registered stock exchange.

24 *Sec. 8. Transfer and Acquisition of Substantial Shareholdings.* – No person shall acquire  
25 shares in an Islamic bank that will result in ownership or control, directly or indirectly, of more than  
26 ten per cent (10%) of the voting stock of such Islamic bank, without obtaining the prior approval of  
27 the Monetary Board. Prior to the Monetary Board approval, no such transfer or acquisition of shares  
28 shall have legal effect nor shall the same be recognized in the stock and transfer books of the Islamic  
29 bank or in the records of any government agency.

30 *Sec. 9. Fit and Proper Rule.* – In order to maintain the quality of bank management and  
31 afford better protection to depositors, investors and the public in general, the Monetary Board shall  
32 prescribe, pass upon and review the qualifications of persons who are elected or appointed as  
33 directors or officers of Islamic banks and disqualify those found unfit. The Monetary Board shall  
34 prescribe the qualifications of bank directors and officers for purposes of this Act.

1           Sec. 10. *Regulatory Standards.* –Islamic banks shall be licensed and regulated in the same  
2 manner as a universal bank. The *Bangko Sentral* shall prescribe prudential regulations and standards  
3 of conduct to promote the sound financial position of Islamic banks and to ensure integrity,  
4 professionalism and expertise in the conduct of their business, affairs and activities. These  
5 standards shall take into consideration international best practices and principles relating to, but not  
6 limited to:

- 7           1. capital adequacy;
- 8           2. liquidity;
- 9           3. corporate governance;
- 10          4. risk management;
- 11          5. related party transactions;
- 12          6. maintenance of reserve funds;
- 13          7. prudential reporting;
- 14          8. investment ceilings and limitations;
- 15          9. prevention of an institution from being used, intentionally or unintentionally, for  
16             unlawful activities; and
- 17          10. consumer protection.

18           Sec. 11. *Current Accounts of Islamic Banks.* – The *Bangko Sentral* is authorized to open  
19 current accounts for Islamic banks for settlement and other purposes under such rules and  
20 regulations as the Monetary Board may prescribe. The *Bangko Sentral* may charge administrative  
21 and other fees for the maintenance of such facilities as may be allowed under Shari'ah principles.

22           Sec. 12. *Financial Facilities for Islamic Banks.* –The *Bangko Sentral* may, taking into  
23 consideration the peculiar characteristics of Islamic banking, formulate rules and regulations for the  
24 extension of financial facilities to Islamic banks for purposes provided under Chapter IV, Articles IV  
25 and V of Republic Act No. 7653, as amended, otherwise known as the New Central Bank Act.

26           Subject to the availability of budgetary support and other funding sources, the Philippine  
27 Deposit Insurance Corporation (PDIC) may extend financial assistance to an Islamic bank determined  
28 by the Monetary Board to be in danger of closing in order to prevent such closing, or when it is  
29 determined by the Monetary Board and the PDIC Board of Directors that the continued operation of  
30 such Islamic bank is essential to the stability of the economy.

31           Sec. 13. *Monetary Stabilization Policy and Tools.* – The *Bangko Sentral*, pursuant to the  
32 authority of the Monetary Board under Section 61 of Republic Act No. 7653, to constantly  
33 assess price developments and outlook, and based on its analysis and evaluation of inflationary  
34 pressures, and its policy instruments to attain and maintain price stability, and taking into

1 consideration the peculiar characteristics of Islamic banking, may require Islamic banks to maintain  
2 reserves against their deposit accounts and funds held in trust or under investment accounts. The  
3 Monetary Board may further identify and authorize the issuance by the *Bangko Sentral* of other  
4 appropriate instruments and measures necessary to implement its monetary policy, including  
5 instances of abnormal movements in the price level, taking into account the peculiar characteristics  
6 of Islamic banking.

7         Sec. 14. *Tax Neutrality*. – The Government shall endeavour to achieve neutral tax treatment  
8 between Islamic banking transactions and equivalent conventional banking transactions within the  
9 provisions of the National Internal Revenue Code of 1997 (Republic Act No. 8424), as amended.

10         Sec. 15. *Sanctions*. - Any director, officer, employee, auditor, or agent of an Islamic bank who  
11 is found guilty of any act or omission in violation of any provision of this Act and its implementing  
12 rules and regulations shall be subject to the sanctions and penalties under Sections 34, 35, 36 and 37  
13 of Republic Act No. 7653, and shall be punished by a fine not exceeding One million pesos  
14 (P1,000,000.00) or by imprisonment of not more than five (5) years, or both, at the discretion of the  
15 court, without prejudice to administrative and criminal sanctions that may be imposed pursuant to  
16 existing banking laws and regulations.

17         Sec. 16. *Consumer Awareness and Capacity Building Program*. - The Government shall  
18 provide programs for increased consumer awareness and capacity building required by the  
19 expanded Islamic banking system.

20         Sec. 17. *Non-Applicability of Selected Acts*. - In order to achieve the international and  
21 domestic objectives of Islamic banking, the provisions of the following laws shall not apply to Islamic  
22 Banks to the extent as herein rendered inoperative :

- 23             1. the provisions of Republic Act No. 7653, and Republic Act No. 8791, otherwise  
24             known as The General Banking Law of 2000, with particular reference to the  
25             determination of bank interest rates, loans and discounts, and interest-bearing  
26             instruments or charge; *Provided that*, nothing contained herein shall be construed to  
27             impair the powers of the *Bangko Sentral* to supervise and regulate the activities of  
28             Islamic Banks and the Islamic banking system;
- 29             2. the provisions of Presidential Decree 1445, otherwise known as The General  
30             Auditing Act and other enactments thereon inconsistent with this Act; *Provided*,  
31             *however, that*, nothing contained herein shall preclude the development of an  
32             appropriate framework for the auditing of Islamic banks and the Islamic banking  
33             system; and
- 34             3. the provisions of Republic Act No. 3591, as amended, otherwise known as the PDIC

1 Charter and all laws, regulating insurance companies; *Provided, however, that,*  
2 nothing contained herein shall preclude Islamic Banks from the establishment of  
3 contemporary Islamic *takaful* (solidarity services) free of *riba*, premiums or  
4 interests.

5 Sec. 18. *Separability Clause.* – If any provision or section of this Act or the application  
6 thereof to any person, association or circumstances is held invalid, the other provisions or sections  
7 and their application to such person, association or circumstances shall not be affected  
8 thereby.

9 Sec. 19. *Repealing Clause.* - All laws, orders, issuances, rules and regulations or parts thereof  
10 inconsistent with this Act are hereby repealed or modified accordingly.

11 Sec. 20. *Effectivity Clause.*- This Act shall take effect fifteen (15) days after its publication in  
12 the Official Gazette or in a newspaper of general circulation.

13 Approved,

2018-09-21



# House of Representatives

Quezon City

## FACT SHEET

HOUSE BILL NO. 8281

### AN ACT

### PROVIDING FOR THE REGULATION AND ORGANIZATION OF ISLAMIC BANKS

*Introduced by:* Representatives TURABIN-HATAMAN, MACAPAGAL-ARROYO, ONG (H.) EVARDONE, SANGCOPAN, TAMBUNTING, OAMINAL, ALMONTE, COLLANTES, LIMKAICHONG, FERRER (J.), SALON, CORTUNA, CAMINERO, VILLARIN, BRAVO (A.) and PINEDA

*Committee Referral:* COMMITTEE ON BANKS AND FINANCIAL INTERMEDIARIES  
COMMITTEE ON WAYS & MEANS

*Chairpersons:* REPRESENTATIVE HENRY C. ONG  
REPRESENTATIVE ESTRELLITA B. SUANSING

### OBJECTIVE

- To provide the regulatory framework for Islamic banking and finance in the Philippines with the end in view of promoting greater financial inclusion, ethical banking, and socio-economic development, expanding the funding base for small and medium enterprises as well as large government infrastructure, and contributing to financial stability through the use of financial contracts and services that are founded in risk sharing.

### KEY PROVISIONS

- Establishes a legal framework for the regulation and organization of Islamic banks;
- Grants the Bangkong Sentral Ng Pilipinas (BSP) supervision and regulatory powers over Islamic banks.
- Mandates Islamic banks to create internal advisory councils to review, advise and generally to ensure their compliance with Shariah banking principles;
- Grants Islamic banks general corporate powers and such other powers as maybe necessary and prudent to carry out the business of banking.

- Mandates that Islamic banks be capitalized, licensed, and regulated as a universal bank.
- Empowers the BSP to prescribe, pass upon and review the qualifications of persons elected or appointed as directors or officers of Islamic banks.
- Mandates the BSP to prescribe regulatory standards promoting sound financial position and ensuring integrity, professionalism, and expertise in the management of Islamic banks.
- Authorizes the BSP to formulate rules and regulations for the extension of financial facilities to Islamic banks pursuant to RA 7653 (The New Central Bank).
- Provides for neutrality in the tax treatment between Islamic banking transactions and equivalent conventional banking transactions.

## **RELATED LAWS**

- RA 7653 (New Central Bank Act)
- RA 8791 (General Banking Law of 2000)
- RA 7721 (Liberalization of Entry of Foreign Banks)
- PD 1445 (General Auditing Act)
- RA 3591 (PDIC Charter)
- Corporation Code of the Philippines
- National Internal Revenue Code of 1997