



Implementation *Bulletin*



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RA 11439: AN ACT PROVIDING FOR THE REGULATION AND ORGANIZATION OF ISLAMIC BANKS

Under this law, the Monetary Board is authorized to establish Islamic banks or Islamic banking units in conventional banks whose objectives and operations do not involve interest (riba), and which conducts business transactions in accordance with Shari'ah principles. The Bangko Sentral ng Pilipinas (BSP) shall exercise regulatory powers and supervision over Islamic banking operations. This law was approved on August 22, 2019.

BSP Governor Benjamin E. Diokno informed the Senate that before the declaration of a Public Health Emergency due to the Covid 19 pandemic, the central bank has received numerous inquiries and has held exploratory discussions with foreign and domestic investors on establishing Islamic banks or Islamic banking units. However, it has not yet received a formal application from these potential investors.

In the meantime, BSP oversees the implementation of this law by issuing relevant Circulars, performing policy studies, and conducting training/education programs.

Implementing rules and regulations (IRR)

Governor Diokno reported that BSP has so far issued two Circulars to implement this law. Circular No. 1069¹ on the Guidelines on the Establishment of Islamic Banks and Islamic Banking Units specifies licensing requirements, while Circular No. 1070² on the Shari'ah Governance Framework outlines the rules and



*BSP Governor Benjamin E. Diokno, PhD
(BSP photo)*

¹ <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/c1069.pdf> (accessed September 30, 2020)

² <http://www.bsp.gov.ph/downloads/regulations/attachments/2019/c1070.pdf> (accessed September 30, 2020)

regulations to implement Section 5 (Shari'ah Advisory Councils) of the law. Both Circulars were issued on December 27, 2019. BSP is expected to issue other Memoranda or Circulars in the future, particularly on Reporting, Capital Adequacy, and Liquidity Framework for Islamic banks and Islamic banking units.

Tax neutrality

Section 14 of this law calls on the government to "achieve tax neutral treatment between Islamic banking transactions and equivalent conventional banking transactions within the provisions of the National Internal Revenue Code of 1997 (RA 8424), as amended". However, the government has yet to issue the required rules and regulations to implement this provision. Governor Diokno believes that the lack of tax neutrality hinders the growth of Islamic banking in the Philippines. "For Islamic banking and finance to be sustainable, it is important that the tax neutrality provision of the law be implemented accordingly. This important component should be addressed by the Bureau of Internal Revenue (BIR) in its revenue regulations (RR) so that Islamic finance transactions are taxed no more heavily (and no more lightly) than conventional finance transactions," he said.

Governor Diokno reported that a draft RR on tax neutrality has been endorsed to the Department of Finance (DOF) by the BSP-led Inter-Agency Technical Working Group on Islamic Banking. The other members of the group are: Securities and Exchange Commission, BIR, Philippine Deposit Insurance Corporation, Insurance Commission, Philippines Financial Reporting Standards Council, DOF, Bureau of Treasury, and National Commission on Muslim Filipinos.

"The approval of the BIR's RR on Tax Neutrality will create a level-playing field for Islamic banking products and services. Lack of tax neutrality is considered a primary hurdle that must be addressed to ensure a sustainable Islamic banking industry. The said RR, once approved, will convey to the market that the Philippines fosters an open and competitive financial system and an industry that will not only promote financial stability, but also one which will meet the needs of the financially underserved population, create better opportunities, and promote a high quality of life for all Filipinos," he noted.

Policy studies, training, and education

BSP has formed a Task Force on Islamic Banking to support the implementation of this law. According to the Governor, the task force is currently conducting a series of policy studies "to implement the provisions covering prudential reporting, liquidity and capital adequacy framework for Islamic banks and/or Islamic banking units." He noted that BSP may establish a dedicated Islamic banking unit in the future "if and when more Islamic banking players operate in the Philippines". In the meantime, the task force serves as the BSP's main instrument in drafting rules and regulations, and in coordinating efforts on Islamic banking matters.



The 47-year-old Al-Amanah Islamic Investment Bank is the only Islamic bank in the country. It operates branches in Cagayan de Oro City, Cotabato City, Davao City, Iligan City, General Santos City, Marawi City, Makati City, Zamboanga City and Jolo, Sulu

BSP has sent four personnel to a capacity building seminar organized by the Asian Development Bank (ADB) on Islamic banking and finance. The said personnel are currently leading efforts to conduct research and benchmarking with other jurisdictions to ensure that financial facilities to be offered to Islamic banks in the Philippines are at par with international standards. The end goal of their activities is to generate a framework/structure

of financial facilities for Islamic banks. Such framework/structure will form part of the IRR to be issued by BSP to implement this law, which will be in the form of either Memorandum to All Authorized Banks or Circular.

The Governor acknowledged that “the lack of awareness on Islamic banking and finance among regulators and stakeholders is a significant challenge in the implementation of RA 11439”. In response, BSP conducted a series of capacity building activities on Islamic banking for representatives of regulatory agencies, the banking industry, and other stakeholders through an ADB-funded technical assistance (TA) project. Launched in September 2019 and completed in July 2020, the TA benefited 1,320 participants from different regulatory agencies and banking institutions.

Another challenge that can be addressed by training and education is the shortage of Shari’ah Scholars who are qualified in banking and finance. The Governor observed that this problem is not necessarily unique to the Philippines. To help address this, BSP hosted a workshop on Islamic finance in Arabic on February 3 to 7, 2020. Moreover, the ADB TA mentioned above also included one module specifically intended for potential Shari’ah scholars. “We note that under existing rules, Islamic banks or Islamic banking units are given the flexibility to engage international Shari’ah consultants. BSP will continue to maintain flexibility in its approach to allow industry players to thrive in this new environment,” added Governor Diokno.

Moreover, BSP has issued a set of Frequently Asked Questions (“FAQs”) on Islamic Banking through Memorandum No. 2020-052³ on June 18, 2020.

Attracting investors

The Covid 19 pandemic has made attracting potential foreign and domestic investors more challenging. The BSP Governor called for support initiatives of government agencies such as Department of Trade

³ <http://www.bsp.gov.ph/downloads/regulations/attachments/2020/m052.pdf> (accessed September 30, 2020)

Industry and Philippine Economic Zone Authority to promote Islamic banking and engage potential investors.

“It bears emphasis that around 92.4% (109 out of 118) of cities and municipalities in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) remains unbanked. Moreover, at present, the Al-Amanah Islamic Investment Bank is the only Islamic bank in the country. Clearly, there is a great need for government cooperation/coordination in developing the Islamic banking and finance industry in the Philippines. The development of the said industry will create opportunities for greater financial inclusion especially for the underserved areas in southern Philippines, including BARMM,” he said.

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