

# Shariah Guidelines For Issuing Sukuk

*By*

**Hassan Kaleem**



*Sharia Advisor*  
***AlBaraka Islamic Bank***

**&**

*Sharia Board Member*  
***Pak-Kuwait Takaful***

## **What is Sukuk?**

Certificates of equal value representing proportionate ownership of tangible assets or usufructs or services or (of) the assets of a project or in an investment activity.

This ownership comes in effect after the completion of subscription and with the investment of received funds.

## **Different Kinds Of Sukuk**

- Sukuk representing ownership in tangible assets (mostly based on Sale and Lease back or direct lease).
- Sukuk representing Usufructs or Services (based on sub lease or sale of services).
- Sukuk representing equity share in a particular business or investment portfolio (based on Musharakah/ Mudarabah).
- Sukuk representing receivable or future goods (based on Murabaha or Salam or Istisna').

## **The Relation Between Involved Parties**

- The issuer and the subscribers are the main parties to the underlying contract.
- The SPV is a legal entity for a common representation of the subscribers.
- The underlying contract defines who is who.
- The relation between the issuer and the subscriber is governed by the rules of the original contract.

## **Tradable Sukuk**

Sukuk representing tangible assets or proportionate ownership of a business or investment portfolio are tradable. For e.g. Sukuk of Ijarah or Musharakah / Mudarabah

## **Non-Tradable Sukuk**

Sukuk representing receivables of cash or goods are non-tradable. For e.g. Sukuk of Salam or Murabaha.

## **Basic Shariah Rules**

- All the rules of original contract on the basis of which Sukuk are created should be applied.
- The issuer cannot guarantee the face value of the certificate for the holder except in case of negligence/misconduct.
- In Sukuk based on sale and lease back, the issuer can unilaterally undertake that he will purchase the asset after one year for a certain price.

## **Basic Shariah Rules (Cont..)**

- Different types of reserves (e.g. profit equalization reserve) or takaful pool can be created.
- Only those Sukuk can be traded that represent proportionate ownership of tangible assets, usufructs or services.
- Trading or redemption of Sukuk is allowed after closing subscription, allotment of Sukuk and commencement of activity.
- Sukuk of usufructs can be traded before the assets are sub-leased.
- Sukuk of services can be traded prior to passing the services to the user.
- In Sukuk of Musharakah/Mudarabah, the issuer can redeem the certificates on the market price or the mutually agreed price.