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Sukuk Securities

*New Ways of
Debt Contracting*

MOHAMED ARIFF

WILEY



Sukuk **Securities**

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***Sukuk* Securities**

New Ways of Debt Contracting

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As often happens with new topics of investigation, writers benefit from ideas that come from many unexpected sources. So we want to acknowledge the many who, through their discourses with the authors of this book, have provided seminal ideas that are part of the growing literature on Islamic debt instruments. We dedicate this book to all those people first because we owe them all a collective debt. Next, we dedicate this book to the researchers and practitioners who are day by day expanding our understanding of what constitutes Islamic finance.

Contents

Preface	xi
Acknowledgments	xiii
List of Tables	xv
List of Figures	xvii
About the Authors	xix

PART ONE

The Foundation of <i>Sukuk</i> Securities	1
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CHAPTER 1

Introduction to <i>Sukuk</i> Markets	3
Islamic (Participation) Debt Securities	4
The Origin of <i>Sukuk</i> Structures	6
Contemporary <i>Sukuk</i> Securities	9
How <i>Sukuk</i> Securities Are Priced	10
The Structure of This Book	12

CHAPTER 2

<i>Sukuk</i> Securities: Definitions, Classification, and Pricing Issues	13
Fundamental Principles	14
Definitions and Regulations	20
Classification Based on Practices	22
Conclusion	29

CHAPTER 3

Pragmatic and Idealistic Approaches to Structuring <i>Sukuk</i>	31
<i>Shari'ah</i> : The Basic Foundations of Islamic Finance and <i>Sukuk</i>	32
Islamic Financial Principles	35

Three Approaches to Islamic Finance	40
The History of <i>Sukuk</i>	41
<i>Sukuk</i> Structures: Pragmatic and Idealistic Approaches	44
Conclusion	55
CHAPTER 4	
Contract Design and the Structure of Common <i>Sukuk</i> Securities Issued to Date	57
<i>Mudarabah</i> (Partnership)	57
<i>Musharakah</i> (Profit Sharing)	59
<i>Murabahah</i> (Markup)	62
<i>Ijarah</i> (Leasing)	64
<i>Salam</i> (Futures)	67
<i>Istisna</i> (Working Capital)	69
Conclusion	70
CHAPTER 5	
Samples of <i>Sukuk</i> Issued	71
<i>Sukuk Simpanan Rakyat</i> (Malaysia)	71
Central Bank of Bahrain	73
Khazanah Nasional Berhad (Malaysia)	74
Qatar Central Bank	74
<i>Nakheel Sukuk</i> (UAE)	75
Mahan Airline Company (Iran)	75
Conclusion	76
CHAPTER 6	
Contract Design and the Structure of <i>Sukuk</i> Securities Yet Issued	77
<i>Wakalah</i> (Agency)	77
<i>Manfaah</i> (Usufruct)	78
<i>Muzarah</i> (Farmland Leasing)	78
<i>Musaqah</i> (Orchard Leasing)	79
<i>Muqarasah</i> (Tree Leasing)	79
Conclusion	79
CHAPTER 7	
<i>Sukuk</i> Securities and Conventional Bonds	81
Comparison of the Yields of Islamic Securities and Bonds	82
Yield Curves	86
The Granger Causality Test for the Yields of <i>Sukuk</i> and Conventional Bonds	90
Conclusion	94

PART TWO***Sukuk* Securities in Practice 97****CHAPTER 8****Regulations with a Difference 99**Regulating *Sukuk* 99

Conclusion 105

CHAPTER 9**Securitization, Trading, and Rating 107***Sukuk* Trading 107*Sukuk* Rating Methodologies 113

Conclusion 123

CHAPTER 10**Worldwide *Sukuk* Markets 125**The Geographical Location of *Sukuk* Securities 128

The Effect of Geographical Location on

Contract Specifications 137

Conclusion 139

CHAPTER 11**Regulatory Issues for *Sukuk* Financial Products 141**The Current *Sukuk* Market 142Regulation and *Shari'ah* Issues in theCurrent *Sukuk* Market 143Current *Sukuk* Structures 145

Possible Developments and Implications 151

PART THREE**Payoff Structures and *Sukuk* Valuation 161****CHAPTER 12****The Foundation and Principles of Islamic Finance 163**

Foundation 163

Principles 164

Conclusion 167

CHAPTER 13**Cash-Flow Identification and Pattern Recognition for
Theoretical Valuation Models****169**

Zero-Promised Regular-Payment <i>Sukuk</i>	169
Fixed-Promised Regular-Payment <i>Sukuk</i>	171
Variable-Promised Payment <i>Sukuk</i>	172
Undetermined-Promised Payment <i>Sukuk</i>	174
Conclusion	175

CHAPTER 14**A Matter of Choice: *Sukuk* or Bond?****177**

The Economics of Conventional Bond-Based Funding	178
World Markets for Conventional Loans	181
The Case against Interest-Based Debt with No Risk Shared	182
Are <i>Sukuk</i> an Alternative to Bonds?	185
Conclusion	187

CHAPTER 15**Challenges and Future Developments****189**

Valuation	189
Liquidity	190
Market Widening and Market Depth	191
Cost of Issuance	191
Variation in Schools of Thought	192
Educating More Experts in <i>Sukuk</i>	193
Regulatory Sufficiency	194
Conclusion	195

Bibliography**197****Index****209**

Preface

This book is about an emerging financial market that promises to provide effective funding for *production activities* under a set of safe risk-sharing and profit-sharing finance principles built into the design, and trading of a wholly new form of fixed-income securities called *sukuk*. In a speech on October 13, 2013, announcing new laws to get London to join *sukuk* trading, British prime minister David Cameron said that the new investments are possible “because of the unique openness of the city of London and because of our commitment to help London lead the way in Islamic finance across the world, just as it has led the way in global finance across the ages.”

Sukuk contracts are based on an entrepreneur and a financier taking a business risk together and sharing the profits while being prepared to incur losses together if the venture goes bust. The *sukuk* securities market is found in 12 countries, as of 2014. *Sukuk* trading started in 1998 on a small scale and has grown to its present size of close to US\$1.2 trillion. When fully developed, it offers an alternative mode of fund-raising for all users of funds as long as the specific needs are taken into account and a *sukuk* contract is provided that meets those needs.

There is no literature dedicated solely to introducing these revolutionary securities markets to the readers in a comprehensive manner or, equally important, to providing a technical introduction to market players to what is described by the financial press as the Islamic (participation) debt market.

Given the endorsement of the World Bank for this new form of financing for developing countries, the value of new issues has grown 45 percent per year from 2011 to 2013, compared with a 17 percent growth per year from 1998 to 2010. The markets for this new form of debt are becoming more attractive to corporations, which are increasing players in all 12 markets. Governments are substantial players in sourcing infrastructural development funding. Agencies such as central banks and public works and energy firms are also seeking to raise funds in this new form.

This book attempts to answer a number of questions for both novices and experts in these marketplaces: What is a *sukuk* security? How should it be classified vis-à-vis bond markets? How is it designed? What are the different types of *sukuk* contracts that uniquely match the needs of farmers,

on the one hand, and the working capital of a manufacturer, on the other hand? How big is the market? Why is its targeted funding mode superior to the general-purpose borrowing through conventional bond funding? How is this market different from the common bond market?

Commentators have hailed this form of financing with full asset backing as having the potential to reduce the appetite for debt. By design, borrowers could not borrow more than 100 percent of the value of their assets. We look at this new debt instrument in the context of debt overload in both the public and private sectors in the first two decades of the current century. Since 2008, debt has been decreased by governments, corporations, and individuals because the world has taken on too much debt per capita in the last quarter century. According to the World Bank criterion, debt should not be more than 80 percent of the gross domestic product (GDP) for the economy to be sustainable.

Since the onset of the global financial crisis as well as the Eurozone debt crisis, economic agents are quickly limiting debt across the world to make their economies crisis-resistant. The design features explained in this book on *sukuk* offer a better choice than the radical idea of fully backed banks or the idea of returning banks to the same mode as corporations in backing equity at about 30 percent of total assets. These calls are being made by analysts to stabilize the financial system without examining the merits of *sukuk* as an alternative to the same malady.

This new debt instrument locks the producer and the financier to the profit-and-loss outcomes of a project before asking for rewards from a venture. Such a mode of finance, along with the limiting of loans to no more than 100 percent of the asset value of a borrower, is extolled by many scholars and international institutions as a solution to the debt overload at current period. It appears that this debt overload is the servitude of humanity to modern financial corporations predicted by Thomas Jefferson in the 19th century at the birth of fractional banking. Under fractional banking, banks create money with very little asset backing compared to the 100 percent asset backing by the borrower when a *sukuk* contract is made.

In a sermon in August 2013, Pope Benedict XVI commented that modern lending practices are basically faulty in logic and harmful to the world order and natural justice. Could the new form of debt described in this book be a long-term solution to the ills of modern debt practices based on one-sided contracts in which risk is not shared?

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To the numerous others who participated in the making of this book, we owe an intellectual debt for sharing their ideas, time, and expertise.

We owe an intellectual debt to Peter Casey for his permission to reproduce a chapter on regulatory lessons (Chapter 11). He is an experienced regulator of *sukuk* markets with experience in the United Kingdom and United Arab Emirates. Equally important, we thank Abdullah Saeed and Omar Salah for their elucidation in Chapter 3 on the theoretical aspects of *sukuk* structures. They have all added great insights on the regulatory framework.

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List of Tables

Table 5.1	List of Notable <i>Sukuk</i> Issuances in Malaysia
Table 7.1	Paired Sample <i>t</i> -Test Results between Bonds and <i>Sukuk</i> with Similar Features of Issuer and Tenure
Table 7.2	Results of Pairwise Granger Causality Tests
Table 9.1	Summary of Risk Characteristics of <i>Sukuk</i> Structures
Table 9.2	Main Risk Factors Pertaining to <i>Musharakah</i> and <i>Mudarabah Sukuk</i>
Table 10.1	<i>Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.2	<i>Ijarah Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.3	<i>Istisna Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.4	<i>Mudarabah Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.5	<i>Murabahah Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.6	<i>Musharakah Sukuk</i> Securities Issued Based on Country of Domicile
Table 10.7	<i>Sukuk</i> Securities Issued Based on Issuing-Country Risk
Table 10.8	<i>Ijarah Sukuk</i> Securities Issued Based on Issuing-Country Risk
Table 10.9	<i>Istisna Sukuk</i> Securities Issued Based on Issuing-Country Risk
Table 10.10	<i>Mudarabah Sukuk</i> Securities Issued Based on Issuing-Country Risk
Table 10.11	<i>Murabahah Sukuk</i> Securities Based on Issuing-Country Risk
Table 10.12	<i>Musharakah Sukuk</i> Securities Based on Issuing-Country Risk
Table 12.1	Expansion of the Islamic Financial Services Industry

List of Figures

- Figure 2.1 Fundamental Principles of *Sukuk* Security Compared to Conventional Debt Security
- Figure 2.2 Classification Based on Cash-Flow Payoff Patterns of *Sukuk* Securities
- Figure 2.3 A Simple Classification of Long-Term and Short-Term *Sukuk* Securities
- Figure 2.4 Classification of *Sukuk* Contracts Based on Their Financial Characteristics
- Figure 2.5 *Sukuk* Based on Their Underlying Contractual Structure
- Figure 3.1 Structure of *Ijarah Sukuk*
- Figure 3.2 Structure of Hybrid *Sukuk*
- Figure 3.3 Structure of *Mudarabah Sukuk*
- Figure 4.1 Diminishing *Musharakah Sukuk* Structure
- Figure 4.2 *Ijarah Sukuk* Structure
- Figure 4.3 *Salam Sukuk* Structure
- Figure 7.1 Yield Curve of Government-Issued Securities (Conventional Bonds versus *Sukuk*)
- Figure 7.2 Yield Curve of Government Agency-Issued Securities (Conventional Bonds versus *Sukuk*)
- Figure 7.3 Yield Curve of AAA-Rated Financial Institution-Issued Securities (Conventional Bonds versus *Sukuk*)
- Figure 7.4 Yield Curve of AAA-Rated Corporate-Issued Securities (Conventional Bonds versus *Sukuk*)
- Figure 9.1 Formation of an SPC
- Figure 10.1 Number of Worldwide *Sukuk* Issues
- Figure 10.2 *Sukuk* Issuance by Country, 2011
- Figure 10.3 *Sukuk* Securities Issued Based on the Country of Domicile
- Figure 10.4 *Ijarah Sukuk* Securities Issued Based on the Country of Domicile
- Figure 10.5 *Mudarabah Sukuk* Securities Issued Based on the Country of Domicile
- Figure 10.6 *Musharakah Sukuk* Securities Issued Based on the Country of Domicile
- Figure 10.7 *Sukuk* Securities Based on the Issuing-Country Risk

- Figure 10.8 *Ijarah Sukuk* Securities Based on the Issuing-Country Risk
- Figure 10.9 *Mudarabah Sukuk* Securities Based on the Issuing-Country Risk
- Figure 13.1 Zero-Promised Regular-Payment Cash-Flow Pattern of *Sukuk* Securities
- Figure 13.2 Fixed-Promised Regular-Payment Cash-Flow Pattern of *Sukuk* without Promised Maturity Payment
- Figure 13.3 Cash-Flow Pattern for *Sukuk* with Fixed-Promised Regular Payments and Promised Maturity Payment
- Figure 13.4 Growing-Promised Regular-Payment Pattern with Predetermined-Promised Maturity Payment
- Figure 13.5 Declining-Promised Payment Cash-Flow Pattern
- Figure 13.6 Undetermined-Promised Payment Cash-Flow Pattern

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PART

One

The Foundation of *Sukuk* Securities

