The Monetary and Credit Council Decision (205/M.C.C)

Date: 7 July 2022

The Monetary and Credit Council, pursuant to the provisions of the Central Bank of Syria Law and the Basic Monetary System No. 23 of 2002 and its amendments, the provisions of Legislative Decree No. 35 of 2005 regarding the establishment of Islamic banks, and on the Banking Supervision Department's letter No. 3115/16 dated 23 June 2022, and on its memorandum concluded after its session held on 3 July 2022, **decides the following**:

Article 1: **Definitions:** The following terms, for the purposes of this Decision, shall have the meanings specified alongside each of them:

1. **Sukuk (sharia-compliant bonds):** Investment securities of equal value representing common shares in the ownership of existing assets (properties, benefits, rights, services, or a combination thereof) that are actually existing or will be owned or created. These sukuk establish rights for the holder and obligations on them within the limits arising from their share in the ownership of those assets, after paying the value of the sukuk, closing the underwriting, and commencing their use for the purpose they were issued, according to a sharia-valid contract governed by Islamic principles.
2. **Sukuk Issuing Entity (Issuer):** The Islamic bank operating directly in the Syrian Arab Republic on its own behalf or on behalf of others, which issues sukuk for the purpose of using the underwriting proceeds in a Sharia-compliant manner, distributing their returns, redeeming their value, and amortizing them.
3. **Sharia Supervisory Authority:** The Sharia Supervisory Authority of the bank responsible for supervising and overseeing the issuance of sukuk and all related operations, ensuring their compliance with Islamic Sharia provisions and principles, and whose Decisions are binding.
4. **Sukuk Holders (Investors):** Owners of sukuk, whether natural or legal persons.
5. **Sukuk Holders' Assembly:** A panel whose purpose is to protect the common interests of sukuk holders, with representatives who undertake any necessary measures to protect the common interests of sukuk holders in dealing with third parties or before the judiciary.
6. **Underwriting Prospectus:** A letter addressed to the public for underwriting according to the data in the issuance prospectus. The prospectus constitutes an invitation awaiting explicit acceptance upon underwriting or implicitly by providing funds. It can be public or private.
7. **Issuance Prospectus:** A document containing data and conditions related to the issuance of sukuk and all their provisions in accordance with Islamic Sharia provisions and principles. It serves as an invitation from the issuer to underwrite.

8. **Sukuk Assets (Projects):** Profitable assets, properties, benefits, services, or rights for which the sukuk were issued, with their specifications defined in the issuance prospectus.
9. **Sukuk Trading:** The sale to non-issuers in the stage following underwriting.
10. **Sukuk Redemption:** The redemption of sukuk by the issuer before the amortization date at market value.
11. **Sukuk Amortization:** The retrieval of sukuk at market value, and sukuk expire upon the end of the sale, lease, or specified time for settlement of speculation or participation (if the speculation or participation is temporary).
12. **Sukuk Holders' Register:** A register maintained by the bank in which the following data are recorded: the name of the sukuk holder, the number of sukuk they own, the object of the sukuk, any sales, gifts, reservations, or other legal transactions affecting the sukuk in accordance with the issuer's duties, and any other data the issuer decides to record in the register based on the actual situation.
13. **Par Value:** The value of the sukuk at issuance (initial offering).
14. **Market Value:** The estimated amount for ownership exchange upon evaluation between independent buyer and seller without coercion, with the usual marketing activities providing knowledge to all participating parties.
15. **Governance:** The set of procedures aimed at regulating the relationship between the parties involved in sukuk issuance and the stakeholders, with the goal of achieving effective control over the issuance and achieving the objectives of sukuk issuance.

Article 2: <u>Types of Sukuk Formulas:</u>

For the purposes of this Decision, the investment sukuk contracts are as follows (to name but a few), provided that the issuance is for the purposes of financing investment projects, infrastructure, reconstruction, and achieving added value in the gross domestic product:

A. Financing Sukuk: Divided into two types. The first is <u>sale-based sukuk</u>, which are, Murabaha "cost-plus" sukuk, Musawamah "bargaining/ trading" sukuk, Salam "Forward sale" sukuk, and Istisna` "Manufacturing Sale" sukuk, and the second type is <u>and leas-based sukuk</u>, which are, operating lease, financial lease, forward lease, and service lease.

B. Investment Sukuk: Divided into two types. The first is <u>participation sukuk</u>, and the second is profit sukuk, which are, speculation, partnership in crop "sharecropping", partnership in irrigation, partnership in agriculture.

Article 3: <u>Conditions Required for Projects Funded through Sukuk:</u>

A. A company must have independent legal personality.
B. It must have financial independence separate from the issuer's financial liability.

C. It should maintain independent financial accounts that reflect its financial position and year-end results.
D. It must not conflict with Islamic Sharia provisions and principles.
E. Economic objectives must be achieved without contradicting the declared monetary and financial policy.
F. It should be a profitable project based on an economic feasibility study.
G. It must not cause harm to others or the environment.
H. Each project should be independent of the other projects of the issuer.

Article 4: <u>**The Issuance Prospectus Must Include the Following:**</u>

A. Contract terms, clear and sufficient information about participants in the issuance, their legal qualifications, rights, obligations, and conditions for their appointment or dismissal.
B. Determination of the par value of the sukuk, issuance size, and duration (if possible), as well as the mechanism for profit and loss-bearing distribution.
C. Statement of the underwriting date, duration, allocation mechanism, and related time frame.
D. Specification of the contract type under which the sukuk are issued (e.g., lease, Istisna` “manufacturing sale”, Salam “forward sale” sukuk, etc.).
E. It should not include any condition contrary to Islamic Sharia provisions.
F. Explicit commitment to comply with Islamic Sharia provisions and principles, with the existence of a Sharia supervisory authority that approves the issuance mechanism and monitors its implementation throughout its duration.
G. The statement that the ownership of sukuk assets is, according to the law and Sharia, transferred to the sukuk holders, and they have the right to reclaim these assets and dispose of them as owners.
H. Explicit commitment to invest the proceeds of the sukuk and any resulting assets in a Sharia-compliant financing and investment manner.
I. Explicit commitment to the partnership established with each and every sukuk holder in profits and losses according to the type and formula of the sukuk.
J. No guarantee that the issuer will guarantee the par value of the sukuk to the holder, nor any fixed profit or specific portion of the capital.
K. The issuer’s guarantee of compensating any actual damage in cases of infringement, negligence, or violation of the contract terms or the conditions stated in the issuance prospectus.
L. In the case of a commitment to bear the loss provided by a separate party other than the contracting parties, the guarantor must not be a company owned or controlled by the entity to whom they make guarantees. The commitment must be independent of the sukuk contract, and the guarantee must be unconditional and without the right of recourse except in cases of issuer misconduct, negligence, or violation of conditions.

M. Identification of the guarantees provided by the sukuk issuer (if any), with the addition of the phrase "Guarantees are not enforceable except in cases of proven infringement, negligence, or violation of contract terms," provided that the guarantee is not the object of the sukuk, and the burden of proving infringement and negligence lies with the claimant, following the guidelines issued by the Central Bank of Syria in this regard.

Article 5: <u>**Trading and Redemption:**</u>

A. Trading and redemption of sukuk are subject to the representation of the underlying assets.
B. Sukuk trading occurs after the underwriting is closed, the sukuk are allocated, and activity begins.
C. Trading and redemption terms are subject to policies and procedures approved by the bank, without violating Islamic Sharia provisions.
D. An issuer offers sukuk for underwriting based on the underwriting and issuance prospectuses.
E. An issuer is responsible for the accuracy, precision, and comprehensiveness of the information in the issuance prospectus, and of any other disclosed information or data.
F. Sukuk trading and redemption occur within the bank and in accordance with the terms of the Sharia-compliant contract under which the sukuk were issued, without conflicting with Islamic Sharia provisions.
G. The ownership of sukuk is deposited and registered with the issuing bank.

Article 6: <u>**Disassociation/ Exiting:**</u>

A. Disassociation through redemption or sale from the sukuk holder is subject to the principle of Mubara'a "acquitting", and the exiting party is not entitled to unearned profit or liable for unforeseen losses after their disassociation.
B. The last sukuk holder is entitled to profit.
C. Sukuk are sold from one holder to another through a sale or transfer contract, as evidenced, and the sale is not effective until registered.

Article 7: <u>**Issuer's Responsibilities:**</u>

A. Issuing sukuk and receiving underwriting proceeds directly or on behalf of others.
B. Maintaining a special register for sukuk holders and recording all legal transactions affecting those sukuk.
C. Securely holding sukuk and documents related to the ownership of the underlying assets.
D. Using the underwriting proceeds for the purpose for which the sukuk were issued, in accordance with Islamic Sharia provisions.
E. Taking necessary actions to protect the rights of sukuk holders, defend them, and collect their dues through all legally available means

F. Distributing the profits of the sukuk and the amounts of their redemption and amortization.
G. Granting the Sukuk Holders' Assembly access to all documents and files related to the concerned issuance.

Article 8: <u>The Sukuk Holders' Assembly:</u>

1. **The Formation of the Assembly:**
   The sukuk holders form an assembly that represents them and is accountable to them, called the "Sukuk Holders' Assembly." It consists of a minimum of five members, in addition to the head of the Sharia supervisory authority for the issuance, a representative of the issuer, and the issuance auditor. The following conditions must be met by assembly members:
   a. They must be of legal age and enjoy civil rights, and they must be citizens of the Syrian Arab Republic.
   b. They must not be convicted of any criminal penalty or any crime that undermines honor and trust.
   c. They should hold a university degree in financial, economic, banking, or legal fields.
   d. They must be among the largest shareholders, with their ownership equivalent to at least 5% of the total value of the sukuk.
   e. They must not have received any direct or indirect facilities from the issuing bank during the issuance period.
   f. The contribution of the sukuk holder (if they own shares in the issuer) should not exceed 3% of the issuer's capital.
   g. They should not be employees of the issuing entity or have any kinship with major shareholders or any members of the issuer's board of directors or its general manager up to the fourth degree.
   h. The head and deputy head of the assembly are elected by its members.
   i. The term of the assembly is set at three years, renewable only twice. The term of the assembly is the same as the issuance period if the issuance period is less than three years.
   j. Membership of an assembly member ends if they are absent from two consecutive meetings during the year, regardless of the reason.
   k. In case of a vacancy in the assembly, a replacement must be appointed within a maximum of one month from the date of the vacancy, provided that the replacement meets the above conditions. The replacement completes the predecessor's term, and the appointment is presented for official and proper approval at the first meeting of the sukuk holders.

2. **The Responsibilities of the Assembly:**
   The assembly acts as a custodian for the sukuk holders, retaining documents related to the ownership of sukuk assets and acting on their behalf for the purpose of the issuance.
3. **The Meetings of the Assembly:**
   a. The assembly holds regular (quarterly) and emergency meetings, as needed, to discuss any issues or matters affecting the interests of the sukuk holders. Meetings can also be held in response to an invitation from the issuer.
   b. The sukuk holders elect the issuance auditor during the meeting where assembly members are elected. The auditor is responsible for auditing the project's accounts, taking into account that the issuance auditor and issuer's auditor shall never meet at any time or under any circumstances, and ensuring that the financial data complies with Islamic accounting standards, and in cases not covered by Islamic accounting standards, they shall comply with international accounting standards without conflicting with Islamic Sharia provisions.
   c. Meetings can be conducted through modern communication means, provided they are documented afterward.
   d. The assembly gives confidence to the issuance auditor during its first meeting following the assembly's initial meeting where members were elected. The location of assembly meetings is at the General Administration of the bank. Modern communication means may also be used.
4. **Decision-Making:**
   a. Each assembly member has one vote in meetings. Neither the head of the Sharia supervisory authority for the issuance nor the issuer's representative nor the issuance auditor participates in Decision-making.
   b. An assembly session is valid if attended by two-thirds of the total assembly members eligible to vote, and Decisions are made by a majority of the votes of the present members. In case of a tie, the head of the assembly's vote prevails.
   c. The issuance auditor is responsible for presenting an audit report on the project's accounts and an opinion on the financial statements to the Sukuk Holders' Assembly.
   d. Any reservations by assembly members must be disclosed, and the reason for the reservation is recorded in writing, with the member's signature.
5. To achieve its objectives, the assembly may invite anyone with knowledge of Islamic finance and investment to attend its meetings if it deems.

Article 9: <u>The Responsibilities of the Sharia Supervisory Authority:</u>

In addition to the tasks specified by the relevant Decision of The Monetary and Credit Council regarding its duties, the Sharia supervisory authority performs the following:

a. Expressing opinions and providing advice on matters related to sukuk, including issuing sharia ruling regarding the sukuk to be issued, including the issuance prospectus and the underwriting prospectus.
b. Establishing Sharia control regulations governing sukuk issuance, determining investment controls, and trading conditions based on approved standards, in accordance with the supervisory authorities' discretion, provided it does not conflict with Islamic Sharia provisions and principles.
c. Verifying the continuity of sukuk transactions from the beginning of the issuance phase until amortization, in accordance with Islamic Sharia provisions and principles, based on reports requested from relevant parties.
d. Clarifying the Sharia requirements related to the sukuk issuance mechanism, its documents, and the contracts governing relationships between parties, as well as the underwriting process for these sukuk.
e. Presenting all planned activities and operations to assess compliance with Islamic Sharia provisions and principles for the sukuk issuance process.
f. Overseeing and audits activities, projects, and transactions funded by the proceeds of sukuk issuance to ensure compliance with Islamic Sharia provisions and principles.
g. Addressing complaints related to sukuk.
h. Preparing two detailed semiannual reports that are submitted to the issuer's board of directors, in addition to a final annual report that is submitted to the sukuk holders' assembly.

Article 10: <u>**Zakat (Charitable Almsgiving):**</u>

Sukuk holders are responsible for paying zakat (charitable almsgiving) due to their ownership of sukuk. The issuer estimates the wealth upon which Zakat is due for calculating the sukuk's share of zakat, following the calculation principles approved by the Sharia supervisory authority. Government entities and institutions owned by them are exempt from Zakat obligations related to sukuk.

Article 11: <u>**Adherence to Standards:**</u>

a. An issuer must comply with the Sharia standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions. Additionally, an issuer must adhere to Decisions issued by The Monetary and Credit Council, provided they do not conflict with Islamic Sharia provisions and principles.
b. An issuer must comply with the accounting standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions, and in cases not covered by Islamic accounting standards, they shall comply with international accounting standards without conflicting with Islamic Sharia provisions.
c. An issuer must comply with the supervision standards issued by the Islamic Financial Services Board (IFSB).

Article 12: An issuer is prohibited from engaging in Tawarruq “cash financing” transactions under the scope of this Decision.

Article 13: **Governance:**

a. Each bank shall establish a committee composed as follows:
   - A representative from the executive management.
   - A representative from each of the supervisory departments.
   - Representatives from the internal Sharia audit department, with their representation not less than 50%, and they must have at least three years of experience.

   The committee’s responsibilities include:
   1. Preparing and organizing the necessary requirements for sukuk issuance, including policy and procedure manuals, and submitting them to the board of directors for approval.
   2. Verifying the quality of the sukuk issuance process according to relevant legislation and implementing Decisions issued by The Monetary and Credit Council, in addition to submitting regular reports to the audit and risk committees, arising from the board of directors, with a copy to the Chief Executive Officer/General Manager.

b. The risk management department at the issuer is responsible for taking necessary measures to align bank policies and procedures with the requirements of this Decision and issuing relevant recommendations.
c. The compliance department ensures the issuer’s compliance with the provisions of this Decision.
d. The internal Sharia audit conducts an independent assessment of the executive management and various departments’ compliance with sukuk issuance requirements, approved policies, and procedures by the board of directors. It also evaluates internal control systems related to sukuk issuance.
e. The board of directors of the issuer is responsible for ensuring an appropriate governance structure to implement the requirements of this Decision.
f. The issuer adheres to governance standards and controls issued by the Accounting and Auditing Organization for Islamic Financial Institutions, relevant to the Decisions of The Monetary and Credit Council, without conflicting with Islamic Sharia provisions and principles.

Article 14: **Disclosure and Transparency:**

The requirements for disclosure specified by the standards of the Islamic Financial Services Board and the governance and control standards issued by the Accounting and Auditing Organization for Islamic Financial Institutions must be considered. Banks should enhance transparent and comparable disclosures by providing suitable information in a clear and understandable manner.

Article 15: __**General Provisions:**__

a. Sukuk must be issued exclusively in Syrian pounds and in a manner that does not conflict with Islamic Sharia provisions and principles.
b. A legitimate mechanism must be established to hedge risks or mitigate fluctuations in distributed returns. This mechanism should be disclosed in the issuance prospectus.
c. External auditors (other than the issuer's auditors) are responsible for auditing the project's accounts. The financial data for the projects should be prepared according to Islamic accounting standards and international accounting standards in cases not covered by Islamic accounting standards, provided it does not conflict with Islamic Sharia provisions and principles.
d. In case of disputes among parties, friendly Decision methods should be pursued by submitting a complaint to the Sharia supervisory authority. If the assembly does not resolve the complaint within thirty days, arbitration can be sought to resolve disputes under Syrian Law No. 4 of 2008, without any conflicts with Islamic Sharia provisions and principles, ensuring all relevant parties are notified, and without violating the parties' right to resort to the competent judiciary.

Article 16: This Decision shall be communicated to whom it may concern for implementation and shall be published in the Official Gazette.

Chairperson of The Monetary and Credit Council
Dr. Mhd.Issam Hazime

Accredited by the Prime Minister
Eng. Hussain Arnous