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THE IMPORTANCE OF SUKUK IN THE DEVELOPMENT OF THE LEASING MARKET

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Abstract. The need to diversify funding sources with the inflow of new investment capital into the country's economy requires a search for alternative financing methods. In this regard, an increased interest in Islamic financial products has appeared, which has shown significant resistance to negative changes in the world economy. The article examines the essence of sukuk and its role in leasing activities as the equivalent of Islamic bonds, one of the most popular and developing instruments of the Islamic financial market from the point of view of foreign economists. The features of traditional and Islamic leasing, the principles based on Sharia, and their various aspects are reflected. The article examines the views of foreign economists on the role of sukuk as an equivalent of a financial instrument and its essence in leasing, the emerging and growing demand for Islamic bonds in the financial market. The features of the process of securitization of leased assets and sukuk are described.

In the final part of the article, the existing problems of introducing Islamic finance are presented and ways of overcoming and mitigating the impact of negative factors on the introduction of sukuk as the basis of leasing are proposed.

Keywords. Islamic finance, sukuk, leasing, bond, issue, securitization, beneficiary.

I. Introduction.

One of the main tasks of the Action Strategy is to lay the foundation for long-term sustainable growth through deep structural reforms in the economy of our country. Additionally, proper way to attract financial and investment resources in the implementation of this task is the usage of Islamic banking instruments, Islamic capital markets, Islamic non-banks and microfinance institutions. It also plays an important role in the development of financial services, capital and insurance markets.

Currently, the Islamic financial sector is one of the fastest growing sectors in the world and includes innovative financing mechanisms. In this regard, in the Address of the President of the Republic of Uzbekistan to the chambers of the Oliy Majlis on December 29, 2020, he said: "It is time to create a legal framework for the introduction of Islamic financial services in our country. Experts from the Islamic Development Bank and other

international financial institutions will be involved in this regard." [1]

The widespread introduction of Islamic financial services in our country can open the following opportunities for our economy:

- increase and diversify the volume of foreign investment in our national economy;
- creation of an environment of fair and transparent competition in the banking system, the formation of opportunities for diversification of system assets;
- ensuring the maximum participation of free funds of economic entities and the population in the development of the economy;
- development and diversification of the capital market in the country;
- creating new jobs;
- increase the financial literacy of the population and, as a result, increase their activity in the capital market;
- regulation of financial infrastructure and establishment of new financial institutions through the development

of Islamic financial services in the national financial market;

— organizing training in a new direction, which is in demand in the market, and many others.

In recent years, there has been a growing interest in Islamic bonds, known as sukuk, as an alternative source of financing for infrastructure and investment projects in many foreign countries. In fact, the use of this financial instrument does not require significant changes in the legislation on the issuance of securities. That is why it has received special attention not only in countries based on traditional Islamic economies, but also in other developed economies. The main purpose of the article is to develop the market by introducing sukuk in the capital market and providing additional financial resources to lessors operating in the national leasing services market.

Literature Review

According to experts, the total asset of Islamic financial institutions are \$ 2.5 trillion and is growing by 15-20% per year [2, p. 3]. The role of commercial banks (or credit institutions) in ensuring the integration of Islamic bonds into the country's economy should be significant. By participating as a leading organization in the issuance of sukuk, they will be able to provide local businesses with information about the possibilities of the new financial instrument and the procedure for its application, as well as attract foreign investment in the national economy.

According to the definition given by the Organization of Accounting and Auditing Services for Islamic Financial Institutions, sukuk refers to equivalent certificates (certificates of ownership) representing indivisible shares in the ownership of tangible assets or services, the profitability of which depends directly on the return on underlying assets [3]. It can be said based on the standards of this organization, there are five main types of sukuk particularly, one of them is leasing-based sukuk.

Faiza Husnayani Nahar and others[4] refer that sukuk is a tool that has a major

impact on economic growth and is widely used in project finance in Islamic science. Leasing-based sukuk is issued under a lease agreement in which one party (the owner or agent) sells the profits from the asset to the other party at the price specified in the lease agreement.

The interpretations given by economists to sukuk are given in below Table 1.

Table 1

Author	Explanation of definition of author
M. Usmani	It is a tool for the fair distribution of wealth because it allows investors to benefit from the real benefits of participating in an enterprise. One of the best ways to finance large businesses that is beyond the power of an investor. An excellent liquidity management tool for Islamic financial institutions and banks
H. Visser	Medium-term securities secured and traded by the property. Sukuk is primarily intended for institutional investors
I. Warde	Sukuk is a certificate that allows owning the underlying assets of the sukuk fund or the useful properties (usufruct) of these assets, which give the sukuk holders (owners) the right to earn income from the lease or sale of these assets.

As can be seen from the definitions given in the table, sukuk reflects the economic relations inherent in leasing, rent, syndicated lending, and securities. Currently, there are many forms of sukuk, depending on the asset and contract structure that form the basis of it. This means that there is no single approach to the essence of sukuk and no single standards for its circulation, regulation and control [5].

In particular, the secured form of sukuk provides for the transfer of ownership of fixed assets to the investor for subsequent registration of a new owner [6]. In this case, investors accept the borrower's risks, and the assets are used as collateral rather than as collateral.

Unsecured sukuk does not provide for state registration of changes in property rights, and the main asset is recorded in the balance sheet of the issuer of the issue [6]. Investors accept risks on assets, and the borrower does not provide additional collateral. This type of sukuk can be explained by asset securitization. In most cases, investors translate sukuk as an "Islamic bond," but there is enough difference between traditional bonds and sukuk securities. When a bond is a debt relationship, sukuk represents the share of the allocated tangible assets in the project being financed [7].

Main Part

Conducted researches revealed that sukuk lease securities (sukuk al ijara) are securities issued by a private financial company in accordance with the principles of Islamic financing, the owners of which have the right to receive income under the lease agreement (financial leasing) [2,p. 55]. These operations are based on the following principles:

— prohibition of interest in financial transactions: Islamic lease (leasing) structures should not be based on interest, but rather paid at the expense of rent (usufruct).

— prohibition of uncertainties, i.e., to avoid any speculation or uncertainty in the lease agreement. Information on the lease agreement, its subject and value must be disclosed;

— the distribution of risks, i.e., adherence to the theory of risk and return in order to encourage investment, should be separated;

— property and possession must be in accordance with the Shari'ah;

— the lessor (lessor) must bear all risks related to the subject of the contract (loss, loss of property, obsolescence, insurance, maintenance, taxes, etc.), and others.

It is revealed that leasing-based sukuk (or sukuk lease) is the most common form of financing and involves periodic and fixed payments. The basis of this agreement is a contract for the sale of a particular asset and a repayable lease.

Studies showed that leasing operations in our country are carried out by traditional leasing companies and commercial banks. At the same time, it is necessary to consider the different aspects of the operations carried out by leasing companies and Islamic financial institutions. This distinction is as follows:

- firstly, traditional leasing operations often do not comply with Sharia law;
- secondly, traditional leasing agreements are prohibited in Islamic finance, as these agreements require the borrower to issue and receive (interest) not only the principal amount received, but also additional interest payments, interest payments, which

are considered to be based on the loan (interest);

- thirdly, there may be some degree of uncertainty or assumption in traditional lease agreements, even if one of the parties does not benefit;
- fourthly, traditional leasing operations disrupt the risk and return allocation process.

Thus, the lessee is liable for losses, depreciation, insurance, maintenance, taxes, and others related to the subject of the lease (Table 2).

Table 2

Comparison of Classic and Islamic Leasing

Features	Classic Leasing	Islamic Leasing
Based on the leasing payments	It is done at the time of financing during the term of the contract	It is done depending on how the asset is actually presented. No payments are made when the leased asset is depreciated
Risk of loss / damage	It is often the responsibility of the lessee	It is the responsibility of the lessor, except in cases of negligence or illegal actions
Cost of insurance and maintenance	Payments for both services are often made by the lessee	Except for periodic maintenance, all payments must be made by the lessor
Price formation	Variable or fixed	Variable or fixed
Fine for delayed fee	Applied and serves the benefit of the lessor	If the fine is used as a preventive mechanism, it is paid in the form of charity.

It can be stated that in Islamic finance, the concept of lease or lessor is defined by Muslim jurists as the transfer of a particular asset (or right to use a property) in accordance with Sharia by one legal entity to another in exchange for rent (lease). In other words, it includes an agreement to lease, hire, or transfer the right of ownership to a service for a specified period of time at the expense of an agreed and legal fee.

The basic principles of sukuk-based leasing in Islamic finance are followings:

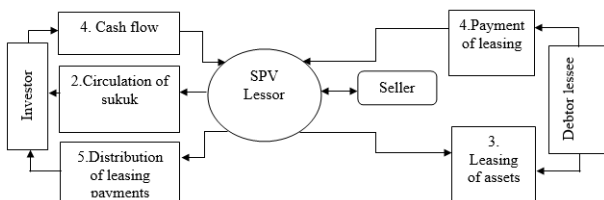
- the profit (margin) from the lease agreement must be realized;
- the substance of any lease agreement, including the underlying assets that are the subject of the lease, must be in accordance with Sharia law;
- the object of the lease, i.e. the subject of the lease agreement, must be clearly identified and specified, and they must not give rise to a dispute;
- the lessor fully bears the risk of damage (unless the damage is caused by the fault of the lessee);

- all risks, depreciation, insurance, maintenance costs on the asset during the lease period shall be borne by the lessor, i.e. the owner of the asset;

- penalties for late payment based on interest are Ribo and are not charged.

In leasing-based sukuk, investors' income is generated from rent payments and depends on the quality of the underlying asset. An example of this is Aras Sejagat sukuk [8]. Malaysia's Air Asia was the initiator in the issue of this sukuk. In order to achieve the goal of issuing Sukuk, a specially appointed company (SPV), a subsidiary of 100% Air Asia, was established. The sukuk was also secured by a bank guarantee. SPV Air Asian bought the asset money on behalf of investors. All assets were then returned to the issuer who issued them on a lease basis to generate investment income. Upon expiration of the lease, the assets were repurchased by the airline. As a rule, the sale agreement between the issuer acting as the seller and the SPV as the buyer, the lease agreement between the initiator as the lessee and the SPV as the lessor, the agency between the originator as the service agent and the SPV as the lessor on the basis of the sale of sukuk services and repurchase agreements as a guarantor by the originator (Figure 1).

Figure 1. A traditional scheme of implementing sukuk based on leasing

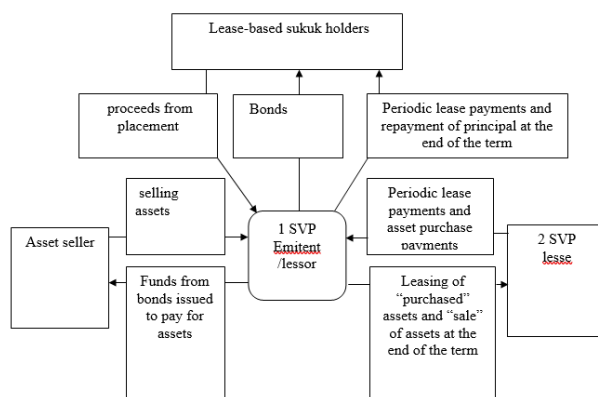


As can be seen from the above given figure, sukuk securities represent participation in a project or lease, and the name itself indicates the essence of the project (sukuk al-muzaraba, sukuk al-musharaka, sukuk al-ijara, etc.). In terms of the scale of the projects and the attraction of European investors to them, the most popular are sukuk leasing agreements securitization projects (sukuk al-ijara) [2, p. 67]. The basis for this is that a security is

related to an asset, i.e. sukuk is not just a simple bond, but it documents the rights of sukuk owners to a particular asset, such as real estate, rental income, financial flows from trading operations, and so on.

In a lease-based sukuk, the lease agreement is used as the basis for making payments to investors. Investors benefit from leasing a fixed asset and sharing the risk [9]. It can also be seen in Figure 2.

Figure 2. The process of issuing traditional bonds in leasing-based sukuk



As can be seen from the Figure 2, a number of "special purpose companies" (SVPs) of different legal status are established as a rule to issue sukuk bonds. The purpose of establishing such legal entities is to enable all participants to avoid fees and interest prohibited in Islam on the basis of agreements permitted by Islamic law.

The process begins with the establishment by the beneficiary (corporation, bank or sovereign state) of a "company of special importance" acting as the issuer. The beneficiary then enters into a contract to sell its assets to this legal entity. In turn, the SVP enters into a 5-year contract to re-lease the assets purchased to the beneficiary, for example, and becomes the lessor, and the beneficiary becomes the lessee. Lease payments must be made periodically (for example, every 6 months) and their value is determined by the amount of the premium, which is determined by adding to the LIBOR rate depending on the creditworthiness of the beneficiary. It is the beneficiary who uses the borrowed funds and as a result forms the

source of repayment of the bonds, as well as the payment of interest on them.

To make payments on the purchase of assets, the SVP issues sukuk bonds at face value and, as the issuer, places them among investors at a fixed face value. Investors acquire sukuk on the basis of a primary subscription in accordance with the European standard for the issuance of Eurobonds. After that, the proceeds from the placement of bonds are transferred from the SVP to the beneficiary.

Another ingredient that is common to sukuk and securitization is SPV - a specialized project company. It is this legal entity that issues sukuk certificates, holds them accountable to sukuk holders, invests funds received from certificate holders according to emission documents, and distributes financial flows between them.

The application of the securitization mechanism to the leasing portfolio can now be found in the experience of countries that have entered a qualitatively new stage of the leasing market. In particular, the process of securitization of leasing assets has been widely used in the United States and Western Europe since the early 1980s, with a volume of \$ 1.5 trillion U.S. dollars over the past 20 years. At this stage, the change in the volume of transactions by sectors of the economy and types of assets is gradual and, most importantly, is characterized by the development of secondary market infrastructure that allows predicting the sale value of leased property during the lease agreement.

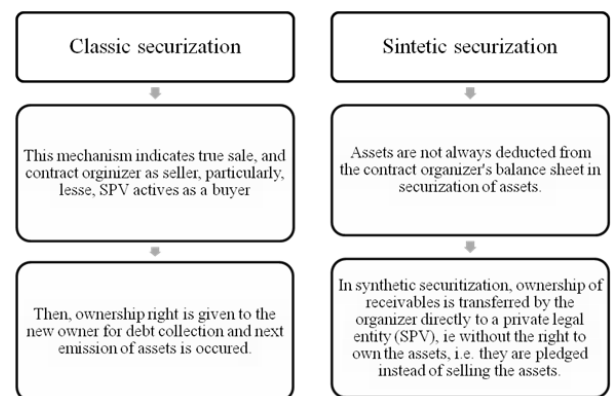
Securitization of leasing assets is the process of forming a portfolio of lease agreements based on the future cash flows of one or more lessors, which is used as collateral for the issuance of securities, as well as the sale of these securities to a specific group of investors for further refinancing.

When analyzing the opportunities for securitization of the leasing portfolio, special attention is paid to the following, exactly, securitized assets:

- geographically, the shape and size of the lessees, as well as the sectors of the economy should be well balanced and diversified;
- must be legally freely convertible and marketable;
- must be able to provide a constant and stable flow of cash, the composition of which should be consistent with the composition of payments on liabilities.

In international practice, the following mechanisms for securitization of leasing assets are used (Figure 3):

Figure 3. Types and peculiarities of leasing asset securitization



Hence, based on the above considerations, it can be said that in Islamic finance, a lease (rent) agreement can be securitized by subsequently circulating sukuk on the secondary market. From the point of view of the scale of the projects and the attraction of European investors to them, the securitization of leasing agreements can be attributed to the recognition of the most popular sukuk as the connection of the underlying security to any asset. Clearly, sukuk is not only a simple bond, it would also be against Sharia law - it would also document the right of sukuk owners to a particular asset, such as real estate, rental income, and financial flows from trading practices, and so on. LARIBA - American House of Finance has a special place in the Islamic financial system. Exactly, this organization launched the rental product to finance housing. The company began using the private investment capital of the Muslim community and in 2001 increased

its existing 1 million dollars and became the first company to securitize its assets in Islamic mortgages by selling dollar contracts under a contract with Freddie Mecca [2, p. 296].

Conclusion

The introduction of Islamic finance in the financial system of our country, in particular, the use of Islamic financial instruments in the leasing market, should deeply analyze the practice of foreign countries and this can directly serve to make changes to the leasing, securities and tax legislation. It can be concluded based on the above conducted researches and studies that our country has the following problems with the introduction of Islamic finance:

- lack of regulatory framework for the industry;
- shortage of qualified personnel in Islamic finance;
- the existence of risks that do not comply with the principles of Sharia;
- the existence of financial grounds limiting the issuance of large amounts of sukuk, and others.

In order to overcome these problems, mitigate the effects of negative factors and introduce leasing-based sukuk in our national economy, we consider that the following should be done:

- Formation of a structure regulating the activities of Islamic institutions under the Central Bank;
- Creating a legislative framework for the introduction of leasing-based sukuk (amendments);
- Providing clear guarantees to investors;
- Establishing close, strong ties with regulatory Islamic organizations;
- Training of qualified personnel in Islamic finance, and others.

By implementing these proposals, it will be possible to attract both short-term and long-term financial resources required to finance programs and infrastructure projects that are a priority in the economic development of the country.

In our opinion, the implementation of the above proposals in practice will provide high economic efficiency, starting a qualitatively new stage not only in the stock market, but also in the leasing market.

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