

# **Evaluation of Research Developments on the Islamic Securities (*Sukuk*)**

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**Abstract.** Islamic securities ( *Sukuk*), is one of the fastest growing tools in the Islamic capital market that triggered the desire of research and writings of many researchers and scholars, as a result of which is the existence of many academic writings and publications. This paper is going to browse through the trends in the development of the academic researches on the Islamic securities by looking into six areas. First; The historical emergence and the spread of the Islamic securities in the Islamic capital market. Second; Classifications of the research work conducted into different focus areas i.e. Economic base, legal base, banking perspective. Third; Methodological perspective: individual base, group base, quantitative research, qualitative research. Forth; Contextual and conceptual aspects of the research papers, where the critical and the developmental aspects of the research papers are main concern of this study. Fifth; The paper looks at the findings, outcomes, conclusions, and recommendations of the research papers. Sixth; The study will classify the research papers into three groups, based on the languages used i.e. Arabic, English, Malay. The study then gives an overall view and concludes with recommendations.

## **Core of the Evaluation Study:**

The core of this research is focused on the academic research written on the Islamic *sukuk* since the emergence of this concept in the Muslim world, by gathering some of the outstanding papers written on the topic, looking at the problems raised, the solutions given, and the recommendation suggested by the scholars for further development. The study then assesses and evaluates these research works in order to achieve the objectives of the evaluation.

## **Objectives of the Evaluation Study:**

This evaluation study is trying to achieve the following objectives:

- To provide basic understanding of the concept of *sukuk* and its emergence.
- To assess and evaluate the level of research achievement on the topic of *sukuk*.
- To assess effects of the research works on the theoretical and practical applications of the *sukuk* concept.
- To explore some of the most significant research work in the area of *sukuk*.
- To provide an academic work that could be used as framework for further research in the area.
- To provide useful feedback to the different groups of stakeholders that have direct or indirect interest in this *sukuk*.

### **Significance of the Evaluation Study:**

This evaluation exercise could be a helpful note for academicians who need to have some background on the level of research in the sukuk area. It is also helpful for government, private Islamic financial institutions, and investors who are willing to take steps forward in dealing with sukuk. Such feedback is also very important and useful for the fact that it aids in decision-making and policy formulation.

### **Scope of the Evaluation Study:**

This study is going to evaluate some of the most significant academic work on the topic of sukuk from the year 2000 until 2007. Although the main time scope of the study is 2000-2007 when majority of the research work was done, the study may use the few research conducted earlier. The data sources of this evaluation study come from four main areas as follows:

- 1- Islamic Financial Institutions:
  - IRTI.
  - IFSB.
  - AAOIFI.
  - SC of Malaysia.
  - IIFM.
- 2- Conference and Seminar papers
- 3- Academic research papers:
  - Journals.
  - Thesis.

### **Introduction**

The Shariah compliant bond best defined as “*sukuk*” has become one of the most dynamic tools for capital mobilization in both the Islamic and conventional capital markets. Long since its first emergence faced a number of legal and shariah challenges along with other operational challenges which naturally necessitated individual and group efforts by the governments, academic institutions, and corporate bodies to find solutions and also to explore the best approach towards dealing with this new product.

Although there were issues of riba free certificates by the Islamic Bank of Malaysia in the 1990s, sukuk was recognized as an important Islamic capital market instrument in the 2000s when it began in a dynamic way and soon started a rapid growth and spread with a widely acceptance not by the Muslim investors but also by the non-Muslim around the globe. This rapid development in the sukuk issue was accompanied and supported with another development in the academic research which in a way or another was one of the most important factors that pushed the sukuk issuance exercise forward, and made the success of the sukuk possible. This study is going to look into, assess, and evaluate these research development on the topic of sukuk through the following steps:

## **First: The historical emergence and spread of the Islamic securities in the Islamic capital market:**

Before talking about the emergence and spread of the sukuk concept in the Muslim world, it is important to understand the source and origin of the practice.

Securitization emerged in the USA, in the 1970s<sup>(1)</sup>, when Ginnie Mae issued Pass-through securities collateralized by a pool of mortgage-Backed loans which were guaranteed by the U.S.A. government, and then these papers were sold to the investors. Since then this phenomena continued spreading in the U.S. and Europe through 1980s. In the 1990s Securitization became a very important product in the international capital market not only confined to Mortgaged-Backed Securities, but other types of asset-backed securities also were issued. As a result the total asset-backed securities in the mid-nineties reached US\$. 400 billions despite the weak economy of the world at that time.

## **Emergence of securitization in the Muslim world:**

With the exception of few shariah compliant products, the Islamic capital market before the 1990s has been operating in a similar manner with the conventional western capital market. In the year 1983 the central bank of Malaysia has tried to issue investment papers that involve riba free instruments. That could be said to be the first attempt of issuing shariah compliant certificates. In the 1990s other financial institutions in the Muslim countries including Malaysia such as Pakistan and Egypt issued securities which were more or less similar to the conventional securities with a little bit of improvement. These Muslim countries in the beginning of the year 2000 started issuing completely shariah compliant certificates. The first sukuk issuance was by Malaysia in the year 2000 followed by Bahrain in 2001 and then Indonesia in 2002, later other Muslim and non Muslim country joined the exercise. As per the year 2007 there are 13 major countries where sukuk were issued, 9 of which are Muslim countries.

## **Definition of the concept:**

“Sukuk” or “صكوك” is the plural of “sakk” or “صك”, which means "legal instrument, deed, check<sup>2</sup>" is the Arabic name for a financial certificate but can be seen as an Islamic equivalent of bond. However, fixed income, interest bearing bonds are not permissible in Islam, hence sukuk are securities that comply with Shariah and its investment principles, which prohibits the charging, or paying of interest. Financial assets that comply with the Islamic law can be classified in accordance with their tradability and non-tradability in the secondary markets<sup>3</sup>. The concept has been used during the medieval Islam and related to recording of financial and other obligations.<sup>4</sup>

The word sakk in its meaning had also been used by western Europe, and later became what is presently known in the Latin word as “cheque”.

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(1) N. Hoi-Bertrand, *Asset Securitization in Canada as compared to the U.S. Opportunities and Challenge*, Essay presented to Professor D. Stevens. McGill University, April 25, 1997.

(3) <http://en.wikipedia.org/wiki/Sukuk>.

(4) Al- Muajam al- wasit, academy of Arabic language, vol 1, Qatar, p. 519.

In the modern Islamic financial terms sukuk is defined as the Islamic or the Shariah compliant bond. Other Arabic terms of sukuk is Islamic investment certificate. According to the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) in its standard 17, investment sukuk are certificates of equal value representing after closing subscription, receipt of the value of the certificates and putting it to use as planned, thus it represents a common shares and rights in the underlined assets or their usufructs and services<sup>5</sup>. AAOIFI has classified sukuk into 14 types depending on the contracts used, among these, sukuk Al- Ijarah (lease based certificates) is the most widely used type of sukuk.

## **Second: Classifications of the research work conducted into different focus areas:**

Based on the samples of this evaluation study which was taken from the three main sources mentioned earlier, the study made a classifications of the research works into three fundamental periods:

- (1) Early research: Research conducted before the year 2000.
- (2) Middle research: Research conducted from 2000-2003.
- (3) Latest research: Research conducted from 2004-2007.

Although research conducted throughout the study period might have discussed similar issues, these issues have been addressed in more depth in the later research works compared to the earlier ones.

The following is a brief description of the focus areas of the research conducted through the study period. In addition to what has been briefly mentioned earlier, generally all the research in the sample have discussed some the following issues briefly or in details. For the purpose of clarification I have categorized these issues into some main headings and are discussed in more detail:

### **(a) Economic perspective:**

In this part the evaluation study the research work from the sample collected discussed the economic perspectives of the sukuk issue, focusing on the growth in various aspects of the sukuk issues as follows:

#### **1- Growth in the scope:**

Some research conducted discussed the quick spread and expansion of Sukuk issues in the Muslim countries through the engagement of a number of financial institutions in issuing Shariah compliant securities, these research work focused on different issues in that aspect, such as the increasing number of sukuk issues through a range of years appeared tremendously increasing since the first issue by Malaysia. sukuk issuance grew and spread in many of the Muslim country particularly the middle east countries, such growth is driven according to the studies by two factors:

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(5) Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), *Investment sukuk*, standard No. 17, , 2004 .

- Religious motive: Where Muslim investors viewed it as an opportunity to invest in a Shariah compliant capital market product which was basically not in existence and would definitely be an alternative of the conventional interest bearing capital market products.
- Profit driven motives: Issuers and investors are also driven by the financial gain that sukuk generate to them. Issuers would like to issue sukuk to raise funding for their project and other economic activities, while investors invest in sukuk in order to generate a constant profit return through the sukuk tenure.

## **2- Growth in terms of diversification in asset types and classes:**

Other research work conducted focused on the necessity of choosing additional potential asset types and classes in order to meet the suitability of those asset types with the market demand and acceptability, as well as the Shariah compliance. Sukuk ijarah was the first shariah compliant sukuk issued, but in fact that would not constitute a competitive advantage in the future, therefore, more research was made to arrive at more asset types to be potential ground for future sukuk issues. As a result of such research activities, more other asset classes have been introduced and used to issue shariah compliant sukuk. At the present time there are 14 asset classes used for the sukuk issuance.

## **3- Growth in terms of monetary volume:**

Research work which discussed the increase trends in the in volume of the issues in a specific period of time and reasons for the rapid growth in local and international capital market, in the year 2000 the total of sovereign and corporate issuance for both domestic and international sukuk was estimated to be US\$ 336 billions, with 15% - 20% annual rate of increase by the year 2007 the total value of issues reached US\$ 88698 billions (Numeric statistics, charts are provided).

### **(b) Banking perspectives:**

In this section the research work conducted concentrated on the important role banks play right from the initial stages of the sukuk issuance process by structuring, originating and marketing of the sukuk. The research also stressed that sukuk is one of the instruments that can enhance Islamic inter-bank or short-term Islamic finance market development and is necessary vehicle in the development of Islamic Banking and Finance Industry for its unique features and characteristics. Some writers raised some critical questions such as:

1- Profit driven objectives of the sukuk issuing banks rather than the religious obligations which gives a negative connotation to the sukuk concept .

2- Non replicability: Due to the differences in views of the Shariah boards of different Islamic banks in some modes of sukuk issuances by those Islamic banks, made it difficult for other Islamic banks to copy those product, and consequently that will negatively affect the development of such product in the Islamic capital market.

3- Other factor that slows product development in the sukuk market is cost of the structuring. Islamic banks do away with complex sukuk structures because they involve high legal advisory cost and risk.

- For further improvement in the role of the Islamic banks in the enhancement and development of the sukuk market many writers put the following as key factors:
  - Central banks should take initiatives in the standardization of modes of issuances of the different types of sukuk.
  - Collaboration and coordination between central banks and AAOIFI, IFSB is important to strengthen the Islamic Capital Market.
  - Central banks borrowing through sukuk is an important factor that contributes to the development of the sukuk market.
  - Coordination and understanding between the Shariah boards of different Islamic banks can create a better harmonization and existence of standardization.
  - Shariah views, in particular controversial modes of sukuk issues, can also contribute to the sukuk market development.

#### **(c)Legal / Shariah Perspectives:**

- **Legal issues:** Many research have been done in order to see how legislations both local and international affect the sukuk issues showing need for flexibility in legal structure to encourage more issuance and investment. Such legal issues include taxation and ownership laws. Complex sukuk structure always raise challenging procedures which requires high cost legal formalities. In addition, there are other legal issues such as the fact of most of the sukuk issued in Muslim countries are subject to the British law, and therefore, can cause a major difficulties when the law is amended or when any problem related to the sukuk asset arises, because in many cases the sukuk asset may not be located in Britain and that has a great implication.
- **Shariah issues:** Most of the research on sukuk have touched directly or indirectly some Shariah issues, and that is for the following reasons: To find suitable Shariah views to those issues, to find suitable and Shariah compliant ways of sukuk issuance, to find suitable sukuk assets, to bridge gaps and differences between different jurisdictions and schools of Shariah laws. For these purposes several bodies were engaged in extensive research in that regard. The major shariah issues addressed are related to the sukuk lifespan which include the following:
  - a. Process of issuing the sukuk which include selection of the underlined assets, rating process, position and role of the SPV and, pricing of the sukuk.
  - b. Tradability of the sukuk.
  - c. Determinant of the negotiability of the sukuk.

- d. Redemption of the sukuk.
- e. Shariah rulings on the purchase undertake.

These researches show that there are lots of violations of shariah principles which have to be strictly followed in order to come up a complete shariah compliant sukuk, among these violations is none existence of the sukuk assets, non suitability of the asset for sukuk issuance, lack of clear definition of the position of the SPV, violations in the rule of the tradability of the sukuk where non tradable sukuk is traded in the secondary market, guarantee of capital by repurchase undertaking.

### **Third: Methodologies:**

As mentioned above, the sample of this evaluation is collected from three major sources and according to the nature of the research in the sample it is found that both of quantitative and qualitative methods were used, while some research adopted a single method but most of the research in the sample have used both quantitative and qualitative methods.

**Quantitative research:** Data collection on number of issues: Some research in the evaluation sample collected and used the quantitative method by looking at the sukuk issuance size, number, geographical distribution, international, local, currencies of issues, expected volume of issues.

**Qualitative research:** On the other hand, the qualitative method was applied to collect and analyze data in regards to the sukuk issuance acceptability, Shariah and legal issues, types of contracts used, social effects of the issue.

### **Fourth: Conceptual focuses of research papers:**

The research work included in this evaluation exercise which is based according to the early classification of time (2000-2007), have also discussed several general issues in regards to the sukuk concept. Some of these issues are highlighted in the following:

1- Early research focused on the explanation of the basic concept of Islamic securitization and relationship with the concept of sukuk, the process and the parties involved as well as the initial views of the scholars in that regard. Further more the research focused on innovation and engineering of new ways, products, and tools. meanwhile some research focus on how to introduce new product, in fact on how to make conventional product into shariah compliant. For example, how to make conventional bonds into more shariah compliant product, such research came up with studies on how some shariah based contracts such as Mudharabah, Musharakah, Istisnah etc., are applied for issuing Islamic bonds so that they become issues based on certain shariah based contracts and not debt based issues. There are other research in this period which focused on the factors that may be of great help in the process of developing new products, these factors include government policy support which gives players more freedom in choosing there business products and services.

2- Research in the middle focused more on the Shariah and legal issues, although issues related to shariah have been discussed in the early stage of sukuk issues, but more and more writings came up especially after the tremendous development in the sukuk

market where many products have come into existence and different contracts have been used. In this stage research have mostly addressed issues in depth, these include issues such as the process involved in the sukuk issuance, applicability of such shariah based contracts in some of the sukuk issuance, issues related to the nature of relationship between the parties involved and, issues on the identity and positions of the parties involved.

3- Recent research focused on standardization/ harmonization/globalization.

The new trend of recent research focused more on how to create standardized sukuk products by providing standardized shariah views on issues. Some shariah issues related to sukuk products, the process of the issuance, nature of the underlined assets and, other controversial issues in that regard. Research in this stage also stressed importance of the role played by the central banks, shariah regulatory institutions, as well as the auditing and advisory bodies of the Islamic Financial institutions.

#### **Fifth: Findings and recommendations of these research papers:**

The collective and overall findings of the research work included in this evaluation study is understood through the conclusions of these works that sukuk has become a very important Islamic capital market instrument over the past decade and has been accepted not only by Muslim investors but also by many non Muslim investors in many parts of the world, that was because of the unique characteristics sukuk has which enabled it to give a competitive advantages over other instruments in the Islamic capital market compared to the conventional bonds sukuk has also a tremendous competitive advantage in the capital market. Acceptance and growth of the sukuk market is expected to continue which necessitates a continuous improvement in many of its aspects. Therefore, these research came up with some major findings and suggested number of recommendations which can be summarized in the following:

#### **Findings:**

- (a) Competitive advantages: Issues of sukuk especially to Islamic capital market players give competitive advantages, since Islamic capital market players cannot issue conventional bonds, the alternative is Shariah compliant bond which is sukuk.
- (b) Sukuk is a very important tool for the mobilization of the Islamic funds, since a big amount of the Islamic funds is inactive in the economy.
- (c) Sukuk issuance has greatly contributed in the enhancement of more infrastructural developments in many of the Muslim countries by issuing sukuk that provide capital for mega projects.
- (d) By sukuk issuance a great achievement has been made in meeting demands of the Muslim communities especially those living in none Islamic countries where the banking system and the capital market instruments operate entirely in a pure conventional *riba*-base a system.

### **Recommendations:**

- 1- There is great need for expertise in the field of Islamic finance and therefore, increased and continuous effort in educating and training more human resources by establishing more educational and training centres can be a key factor in the understanding and development of the Islamic capital market instrument such as sukuk.
- 2- The need for innovation and development of new shariah compliant products in the Islamic capital market especially the structuring of more shariah compliant sukuk products is a very important factor the enhancement of the local and global sukuk market.
- 3- Role of the shariah board of advisers should be viewed as vital in decision making in regards to a particular product. Therefore, the process of selecting a member of the Shariah board should be purely based on academic outstanding, knowledge of Shariah, experience in the field and, contribution of the member to insure consideration of the right shariah opinion on that matter and consequently take the right decision.
- 4- The opinion given by the Shariah board of advisers should be the major consideration when it comes to organizational decision making on the particular matter of concern.
- 5- When rating sukuk, the issue of shariah compliance in all the process has to be one of the major issues rather than looking at other credit worthiness of the sukuk issuance.
- 6- To ensure continuous and efficient growth of the Islamic finance industry, move forward and capitalize on the enormous growth potentials, there should be better coordination to address the issue of Shari'ah harmonization and creation of international sukuk fund.
- 7- Transparency in knowledge sharing among different Islamic financial institutions is one of the factors that can assist in the creation of better understanding and harmonization in product development.
- 8- Development of the sukuk market in any region depends on the political and legal flexibility towards sukuk issues. Therefore, government initiatives in this regard especially by easing laws related to ownership and taxation is very important.

### **Sixth: Classifications of research work in terms of the languages used:**

Based on the available reading materials in the sample collected for this evaluation exercise most of research work done on sukuk were in English language, the reason for that was maybe because the concept of sukuk was originally copied from the conventional practice of bonds and securitization, and the initial efforts to implement the concept and issue sukuk was also done by non Arab Muslim countries such as Malaysia and Pakistan. It is also observed that most of those work were short research papers such as conference and seminar papers. There are also a lot of work done in the Arabic language. The study also found that there are only very few books written on the topic of sukuk.

### **Conclusion and recommendations:**

Through reading the much possible number of available research, this evaluation work found that the trends of the research conducted have generally addressed most of the necessary issues in regards to the sukuk concept and issues which include economic, shariah and legal issues. It is also observed that the later research have addressed most the questions raised by the earlier research, especially the recommendations given by the earlier research have positively guided later researchers in finding solutions to many of the problems raised. Nevertheless, there are some issues which relate to Islamic social responsibilities which have not been critically addressed. In addition, there are other fundamental issues which have been raised by some research and still need to be solved and made clear. These issues include the following:

- 1- Initial process of issuing sukuk which involve several contracts such as:
  - a. Role of the corporate banks, i.e. wakeel/owner, who also make profit out of the sukuk sell. The shariah ruling which governs the position of a wakeel need to be clarified in order to determine the scope of the wakeel roles.
  - b. Process of pricing the sukuk, i.e. by way of bidding.
  - c. Appointment and position of.
  - d. the Repurchase undertaking.

More research is needed in these areas to clearly, address and find the appropriate Shariah rulings on each and everyone of these issues.

2- Aim of the Shariah is the welfare of the society; we observe that despite the tremendous amount of money raised and the many investment involved are not meant for the well being of the majority poor people, and no serious plan was made to solve or even address the issue of poverty, the money is rather raised in most cases for luxury purposes. Therefore, it is recommended that these issues should be given more consideration.

3- Most of the research mainly address issues of how to make the existing products in the conventional capital market into shariah compliant by either amending some of their features or putting them under some underlined shariah based contracts such as Musharakah, Ijarah, Istisna and so forth, which in some cases raised questions on their suitability and validity. On the other hand, compared to the replication efforts

made, less research and efforts were made on how to innovate and develop purely shariah based products which are supposed to be the main concern of any research made on product innovation and development.

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## تقييم تطورات البحث في الأوراق الإسلامية (الصكوك)

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المركز العالمي لتعليم المالية الإسلامية

**المستخلص:** تعتبر الأوراق الإسلامية (الصكوك) أحد أسرع الأدوات تطوراً في سوق المال الإسلامية، نتيجة لذلك فقد أثار هذا التطور رغبة العديد من الباحثين والكتاب لاستجلاء حقيقة هذه الظاهرة الأمر الذي أفرز العديد من الكتابات والمطبوعات الأكاديمية. هذه الورقة تحاول الوقوف على اتجاهات تطور الأبحاث الأكاديمية في هذا المجال، وذلك من خلال النظر في ستة محاور: الأول يتناول الظهور التاريخي وانتشار هذه الأوراق في سوق المال الإسلامي، والثاني يحاول تصنيف الأعمال البحثية بالتركيز على الجوانب التي تعرضت لها: الجانب الاقتصادي، والجانب القانوني، والمنظور المصرفي. والثالث المنظور المنهجي: جانب الفرد، والجماعة، والبحث الكمي والكيفي. الرابع نواحي المحتوى والمفهوم لأوراق البحث، والتي تمثل الجانب النقدي والتطور الهام لهذه الأوراق في هذه الدراسة. الخامس تمحيص النتائج والخلاصات والتوصيات لأوراق البحث. السادس: تصنيف الأبحاث قيد الدراسة إلى ثلاثة أقسام بناء على اللغات المستخدمة: العربية والإنجليزية والماليزية. وفي النهاية تقدم الدراسة نظرة إجمالية لتختم البحث بالتوصيات.