

REGULATORY FRAMEWORK AND INFRASTRUCTURE READINESS FOR DEVELOPMENT OF SUKUK MARKET

Presentation delivered in “The International Workshop
on Sukuk” held in Jakarta on 11 & 12 September 2006

PREAMBLE-transformation-Cont next page....

Process view	Banking	Capital Market
Credit Evaluation	<ul style="list-style-type: none"> ▪Credit Department 	<ul style="list-style-type: none"> ▪Rating agencies & Public disclosure; ▪Market monitoring
Valuation of position & portfolio	<ul style="list-style-type: none"> ▪Internal financial accounting with internal loan provisioning; <div style="border: 1px solid red; padding: 2px; display: inline-block; color: red; text-align: center;">Closed & Institutional driven</div>	<ul style="list-style-type: none"> ▪Market; ▪Mark-to-market <div style="border: 1px solid red; padding: 2px; display: inline-block; color: red; text-align: center;">Open & market driven</div>
Obligor's access to credit	<ul style="list-style-type: none"> ▪Branch; ▪Loan Department (private networks) 	<ul style="list-style-type: none"> ▪Market intermediaries; ▪Market information.
Credit monitoring	<ul style="list-style-type: none"> ▪Credit Department; ▪Loan Administration; ▪Recovery Department. 	<ul style="list-style-type: none"> ▪Rating agencies; ▪Secondary markets; ▪Mark to market or portfolio Accounting

PREAMBLE-transformation

Process view	Banking	Capital Market
Obligor's access to return	<ul style="list-style-type: none"> ▪ Branch network (private network); ▪ Bank deposits; ▪ Investment products. 	<ul style="list-style-type: none"> ▪ Market intermediaries; ▪ Market information; ▪ Indirect investment (mutual funds)
Information disclosure	<ul style="list-style-type: none"> ▪ As confidential as possible; ▪ Internal & private network by banking institutions. 	<ul style="list-style-type: none"> ▪ As open as possible; ▪ Public dissemination.

Closed & Institutional drive

Open & market driven

Source:

D. H. Lee, Bondweb, Malaysia

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ISSUANCE OF GLOBAL SUKUK-FACTORS TO BE CONSIDERED:-

- Identify investors & their appetite-placement issue;
- Rating-which rating agencies;
- Assets-Malaysian asset, Indonesian asset, Bahrain assets etc;
- Identify exchanges-look for most convenience place;
- Secondary or dual- listing; and
- Applicable laws
- Cost to the issuers.

Annual mandates

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REGULATORY FRAMEWORK-Cont. next page...

No.	Jurisdictions	Under Conventional bond issuance	Under Sukuk issuance
1.	<ul style="list-style-type: none"> ▪ Labuan, Malaysia ▪ Issue out of Kuala Lumpur 	<ul style="list-style-type: none"> ▪ Labuan Offshore Securities Industry Act of 1998. (for Islamic banking activities it makes reference to IBA of 1983) ▪ Guidelines on Offering of Private Debt Securities 	<ul style="list-style-type: none"> ▪ Directive on Islamic Financial Business in Labuan IOFC No: 37/2003/ALL; ▪ Guidelines on the Offering of Islamic Securities & Practice Note #1
2.	Bahrain	Authority of BMA; Regulation (Rulebook) applicable to Bahrain' Capital Market; Guidelines on Issuance of Debt Securities, Chap. 2, Paragraph 4.1 & 4.7(4.7 relating to foreign issuers)	Chap 2, Paragraph 4.1 additional requirement for issuance of Islamic private debt securities-independent Shariah C'tte or licensed Islamic banks or licensed financial institutions

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REGULATORY FRAMEWORK-Cont. next page...

These laws make reference only to banking. Most players are Banks/FIs.

No.	Jurisdictions	Under Conventional bond issuance	Under Sukuk issuance
3.	Indonesia	The Law of Capital Market 1996	<ul style="list-style-type: none"> ▪ Most ▪ UU No: 10/1998; ▪ UU No:23/1999; ▪ Operational Regulation in 2000 ▪ UU No:8/3/PBI/2006
4	Brunei	Covered by general authority of the regulatory bodies responsible on financial affairs of the country.	<ul style="list-style-type: none"> ▪ No specific law for Islamic debt securities issuance. ▪ Sukuk issuance- as monetary instrument.

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REGULATORY FRAMEWORK

No.	Jurisdictions	Under Conventional bond issuance	Under Sukuk issuance
5	Luxembourg	Rules & Regulations of Luxembourg Stock Exchange;	<ul style="list-style-type: none"> ▪Apply the rules & regulations for listing of Sukuk.
6	USA	US Securities Act of 1933 & Securities Exchange Act of 1934; Trust Indenture Act of 1939; Sarbanes-Oxley Act of 2002	<ul style="list-style-type: none"> ▪Use of Regulation S for Offshore transaction; ▪Regulation D, for private placement; ▪Rule 144A for Qualified Inst. buyers

Enhance corporate responsibility;
 Enhance financial disclosure; and Combat
 corporate & accounting frauds.



Public Company Accounting
 Oversight Board (PCAOB)

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