

**Law n° 2013-30 dated 30 July 2013, relating to the Islamic Sukuk.**

In the name of the People,  
The National Constituent Assembly having adopted,  
The President of the Republic enacts the following law :

*Chapter I*

**General provisions**

Article one - The sukuk are negotiable titles which represent common shares of equal value as for the existing properties, beneficial ownership, services, and rights or which will be established or a combination of properties, beneficial ownership, services, money and debts of the subscription product. They have issued within the framework of a contract, in accordance with the Sharia law norms and on the basis of sharing profits and losses.

(1) Preparatory works :

Discussion and adoption by the national constituent assembly during its session held on 17 July 2013.

Art. 2 - The sukuk are considered as real-estate values in the sense of article one of law n° 2000-35 dated 21 March 2000, relating to the dematerialization of shares.

Art. 3 - The sukuk may be issued in Tunisian dinar or in currencies on condition to respect the legislation and the regulation of exchange in force.

Art. 4 - The sukuk may be ensured by personal or real guaranties in accordance with the Sharia law norms and the legislation in force.

Art. 5 - The emission of sukuk shall be carried out for the benefit of :

- The State,
- The public establishments and enterprises and the local collectivities,
- The enterprises of the private sector according to the conditions ordered by decree.

Art. 6 - The sukuk, issued or guaranteed by the State, on international financial markets, are excluded from the implementation of provisions of article 8 to article 24 of the law herein.

## *Chapter II*

### **Conditions of issuing**

Art. 7 - The sukuk, issued or guaranteed by the State, are authorized by appropriations law. Each issuing will be ratified before the use of the resulting product.

The issuing of sukuk, for the benefit of the public establishments and enterprises and local collectivities, is authorized by the Ministry charged of Finance.

Art. 8 - The call for subscription to sukuk shall be done through a "document of sukuk issuing" established and signed by the legal representative of the issuer and relating to the approval of control committee of the Sharia law concerning the issuing.

The public establishments and enterprises as well as the enterprises of private sector shall obtain the certificate from the auditor(s) on the document of the issuing of sukuk and shall publish it through a legal notice in the Official Gazette of the Republic of Tunisia. This publication does not confer the call for subscription to sukuk the characteristic of initial public offering.

The document of the issuing of sukuk shall comprise at least the following data :

- The decision of the issuer to issue sukuk and the approval of the control committee of the Sharia law related to this issuing by précising the list of the members of the aforesaid committee,
- The contract(s) of Sukus issuing,
- The total amount of sukuk, their number, their nominal value, the issuing fees and the payment method,
- The opening and closure date of the subscription,
- The rate of the estimated output,
- The list of the interveners in the subscription operation and the role of each of them,
- The nature of the guarantee and the procedures of its application in case of adoption of the guarantee of sukuk in article 4 of the law herein,

- A detailed description of the appropriation of the issuing product,
- An exposé on economic and social feasibility or the operation of issuing,
- The conditions of negotiability and recuperation of sukuk according to the provisions of the regularizing contract(s),
- Appointment of the party to which will be transferred the property of the underlying assets to sukuk, as well as the party charged of the management and investment of assests,
- The indication of the remuneration asked for in return of the management and investement of undrelilying assests to Sukuk,
- The conditions and methods of extinction of sukuk.

The issuer who resorts to the call for public offering, for the issuing of sukuk, is bound to comply with the provisions of law n° 94-117 dated 14 November 1994, reorganizing financial market and notably article 2 as well as to the regulations issued by the relevant financial market council.

Art. 9 - Shall be considered as invalid, any document of sukuk issuing which does not include the information mentioned in article 8 of the law herein.

## *Chapter III*

### **Common fund of sukuk**

Art. 10 - The operation of issuing the sukuk is carried out through the establishment of a common fund of sukuk, unless if the control committee of the Sharia law does not judge necessary.

Art. 11 - The shares of the common fund of sukuk are considered as sukuk in the sense of article 2 of the law herein.

Art. 12 - The common fund of sukuk is a co - property aiming only to the acquisition of assets subjects of the operation of sukuk issuing.

Art. 13 - The common fund of sukuk does not have a legal entity and the provisions of the real rights code related to the joint possession as well as the provisions ruling the participating companies are not applicable to it.

The holders of sukuk, their heirs , assigns and their debt-holders may not induce the share of the existing common fund of sukuk. Any contrary stipulation is considered non-written.

Art. 14 - The establishment of the common sukuk fund or its anticipated sell-off, in cases other than those provided for by the internal regulation, is submitted to a consent delivered by the council of financial market according to the conditions ordered by decree.

Art. 15 - The common sukuk fund consists in the joint initiative of the company of management and depository.

Art. 16 - The company of management and depository shall establish the internal regulation of the common sukuk fund which shall mention its subject, its attributions and its sell-off system.

Art. 17 - The issuer proceeds to the designation or establishment of an independent management company charged of the management of assets of the common sukuk fund and which provides the following functions :

- The protection of the rights of the holders of sukuk
- The management of the project according to the issuing document of sukuk,
- The management of assets of the common sukuk fund,
- The publication of the information bulletin dedicated to the holders of sukuk on the situation of their properties,
- Any other mission mentioned in the issuing document of sukuk.

The management company shall be an anonymous company aiming only the management of the common sukuk fund. It represents the fund in every legal action, whether in complaint or defense, as well as for any interesting act, their rights and duties.

Art.18 - The practicing of the management activity of the common sukuk fund is submitted to a consent delivered by the financial market council according to the conditions fixed by decree.

Art. 19 - The management company may neither accumulate debts for the benefit of the common sukuk fund nor hypothecate its assets.

Art. 20 - The management company may, after approval from the issuer, appoint a mandatory of investment which will be charged of the achievement of the project.

Art. 21 - The depository is a bank in the sense of law n° 2001-65 dated 10 July 2001, relating to the credit establishments.

The depository provides the responsibility of keeping the shares of the common sukuk fund and its treasury. It makes sure of the conformity of decisions made by the management company to the legislations and regulations in force as well as to the internal regulation of the common sukuk fund. It looks after the collection of revenues coming from the benefits, rents and others, and to the distribution of the net profit of sukuk and their revenues to their holders according to the issuing document of sukuk.

Art. 22 - The management company and the depository are individually or jointly responsables, as the case, may be, towards the third parties and the holders of sukuk, the violations of legislative provisions and regulations applicable to the common sukuk fund, and the violation of its internal regulation or mistakes regarding its interest.

The tribunal may pronounce, at the request of a holder of sukuk, the revocation of the managers of the management company of the common sukuk fund or those of the depository.

In addition, the depository may ask the tribunal, the revocation of the managers of the management company, he shall inform the auditor.

In these two cases, the tribunal shall appoint a temporary administrator till the designation of new managers or in case this designation seems impossible till the sell-off.

Art. 23 - At the extinction of sukuk, the common sukuk fund will be sold-off and the sell-off product will be allocated to the holders of sukuk according to the conditions provided for in the issuing document of sukuk.

We mean by extinction of sukuk, the recuperation by the holders of sukuk from their fund, and this, according to the terms and conditions of extinction provided for in the issuing document of sukuk.

#### *Chapter IV*

##### **Registration and negotiability of sukuk**

Art. 24 - The registration methods of maintaining the sukuk, are ruled by the provisions of law n° 2000-35 dated 21 March 2000, dematerializing the assets and the relating texts of application as long as it has not been derogated by the law herein.

Art. 25 - The sukuk are negotiated and recuperated after the closure of the subscription in accordance with the Shariâa law norms ruling the assets, the debts, currency and exchange and according to the conditions stipulated in the issuing document of sukuk and in the implementation of the decisions of the control committee of the Shariâa law.

Art. 26 - The sukuk are negotiable at the stock exchanges of Tunis in accordance with the provisions of law n° 94-117 dated 14 November 1994 and the regulations issued by the relating financial marker council.

The sukuk issued in currencies may be negotiable on the foreign stock exchanges.

#### *Chapter V*

##### **The control committee of the Shariâa law**

Art. 27 - A control committee of the Shariâa law is appointed by the issuing party and is charged of decreeing concerning the Shariâa law issues related to the operation of issuing the sukuk, the fatwa and the Shariâa law audit.

Art. 28 - The Ministry charged of Finance shall proceed to the designation of a control committee of the Shariâa law which is charged of studying the Shariâa law issues, the fatwa and the Shariâa law audit of the operations of sukuk issued or guaranteed by the State or the local collectivities.

Art. 29 - The decisions of the control committee of the Shariâa law have a mandatory effect.

This committee shall deliver, after request, an annual report and periodical reports to the board of directors or to the supervision council of the management company, in accordance with the Sharia law norms in exercising its activities.

This committee is composed of at least of three members chosen according to their competences and experiences in the field of jurisprudence of Islamic financial practices. They are appointed for a duration of three years renewable only once.

The members of control committee of the Shariâa law are bound by professional secret as regard to the informations and documents that they keep within the framework of practicing their duties. In case of violation, the provisions of article 254 of criminal code are applicable to them.

The law herein shall be published in the Official Gazette of the Republic of Tunisia and enforced as law of the State.

Tunis, 30 July 2013.

*The President of the Republic*  
**Mohamed Moncef Marzougui**