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SUKUK AS AN ISLAMIC FINANCE ALTERNATIVE FOR INVESTMENT IN INFRASTRUCTURE IN KAZAKHSTAN: INSTITUTIONAL PERSPECTIVES

Abstract

In recent years due to the international economic crisis, the most complex and long-term problems have aggravated in the Republic of Kazakhstan, the resolution of which is strategic importance for the economic well-being of the country and its resilience to external influences. The main goal of further economic development is not only the stabilization and growth of industry, but also the development of industrial and social infrastructure. Nevertheless, issue of infrastructure funding is still open and struggling. As a developing country it takes big deal to borrow from foreign banks. Moreover, the additional leverage appears in a face of currency volatility which is highly distress country economic growth. This paper unveils the actual issues of infrastructure development, adopting Islamic finance in Kazakhstan with legal perspectives and the solution for them in the form of Sukuk issuance model. In this regard, legal perspective should be addressed since regulation on Sukuk is not well accommodated in the existing regulation by both AIFC (Astana International Financial Center) as well as Kazakhstan jurisdiction. Sukuk can expand financial services, assist to develop domestic capital market and provide infrastructure funding without government budget support. Therefore, this paper implies to domestic regulation as set by both AIFC and Kazakhstan mainland jurisdiction.

Key words: Sukuk, institutional perspective, Islamic finance, infrastructure, SDG.

Introduction

Islamic finance is an integral part of the Islamic economic management system, based on the rules and principles of Muslim Law. Islamic finance is an aggregate of mechanisms and methods as an alternative to rate financing, which can follow Shariah law.

Furthermore, the Islamic financial market has become one of the most rapidly growing modern financial markets. Despite the adverse economic effects of the COVID-19 pandemic, which decelerated the growth of Islamic funds' Assets and Management (AuM) from 35.1 percent in 2019 to 13.7 percent in 2020, the global Islamic funds market showed a positive recovery of 17.1 percent as of the third quarter of 2021. This exceptional growth over the years is a natural outcome of the growing demand for Shariah-compliant investments, backed by an expanding range of Islamic funds available in various jurisdictions.

In the Islamic social finance sphere, commercial financing includes all the financing instruments that generate a return in compliance with Shariah principles and that target a social impact. Involving these instruments in the Islamic social finance ecosystem would attract more funds to the initiatives and ensure effectiveness and continuity for the whole ecosystem [1].

Islamic finance products are oriented not only toward investors seeking Sharia rules but also toward those who follow the moral aspects of the business. It has been found that the principles of Islamic finance and Environmental, Social, and Governance (ESG) investment have touchpoints. As far as the modern world focuses on ESG Investment principles, there is an opportunity for the tremendous growth of Islamic Finance funds [2].

Moreover, there is no doubt of huge role took by sustainable investments through Islamic finance investment, with the outcome of Islamic finance and sustainability are extremely assembling. The United Nations Agenda for Sustainable Development includes 17 Sustainable Development Goals (SDGs) built on the principle of “leaving no one behind” and focused on 169 targets. Many studies have been made linking economic growth and social inequality. Over time, high stability of the inequality level was found in most countries, especially in the most developed. The United Nations SDGs cover all aspects of human life and well-being. At the same time, Islamic finance’s philosophy is to protect humans’ most important aspects: life, faith, mind, wealth and progeny [3].

Currently, the Islamic Finance fund market covers 29 countries. Figure-1 shows the top 10 countries by Islamic fund domiciles by number (2021). Moreover, by diagram, we can see not only Muslim countries, such as the United Kingdom, where London is the center of Islamic Finance Development. Therefore, Islamic Finance goes beyond the Muslim world.

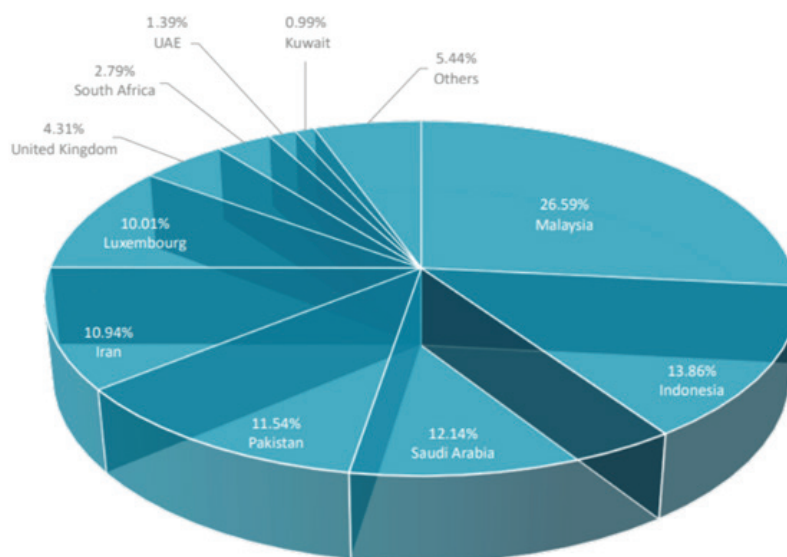


Figure 1 – Top 10 Countries by Islamic Funds Domiciles by Number (2021)

Note: Compiled by the authors based on [4].

Regarding CIS countries, Kazakhstan was the first to adopt a unique legal framework for Islamic finance. Unfortunately, the level of growth did not achieve the expected achievements, and not all the instruments currently have their place in the local financial market for several reasons. Primarily, it is a tax and a legislative issue.

“I invite all participants of the global Islamic financial services industry to join our efforts in revival of the silk road, by exploring possible ways of partnership, in order to commemorate the twenty-first century as the age of progress of the Islamic financial system” – The First President of the Republic of Kazakhstan, Nursultan Nazarbayev.

The beginning of Islamic Finance in Kazakhstan began in 2010 with the operation of “Al Hilal” Islamic Bank and “Takaful,” the first Islamic insurance company in Kazakhstan. However, the second one encountered legal difficulty, as currently, in the country, the legislation on insurance activities does

not allow mutual insurance companies to transfer their risks to reinsurance companies. The company could not fully realize the potential of Takaful services and provided the population with a limited set. From 2010 to 2016, it provided health, auto, and personal insurance services to more than 3,000 Hajj clients. Perhaps the company had plans to attract a significant Islamic investor; however, after seven years, the work was closed [5].

Currently, there are only two Islamic banks in the financial market of Kazakhstan, namely: Al Hilal and Zaman Bank, as of the 1st of 2021, the total assets of both are nearly 87 billion KZT which is 0,25 % of the total banking industry of the country. Nevertheless, this sector keeps rising: from the last three years, the average growth of Islamic Banks is 30,3% [14]. Likewise, two Islamic leasing companies are operating in the market, JSC “Kazakhstan Ijara Company” and JSC “Al Saqr Finance” [6].

According to Refinitiv Islamic Finance Development Report 2022, Kazakhstan has been noted as one of the fastest growing assets among “other Islamic financial institutions (OIFIs),” namely in Fintech. Moreover, the source predicts good indicators of rising Islamic Finance because of several facts. First, Kazakhstan has an existing Islamic Finance Master Plan with a clear target, and Kazakhstan’s majority population is Muslim and rising [7].

It is crucial to note the presence and role of the Astana International Financial Centre (AIFC) because it is a specially defined zone with a regulatory framework that consents Islamic Finance market players to enter and do business there. Due to AIFC representatives, all minimum requirements for Islamic financial institutions’ authorized capital have been reduced until November 2023. In addition, new opportunities are available for Takaful players from the outside.

Additionally, the Roadmap was initiated by the first President of the Republic of Kazakhstan, Nursultan Nazarbayev, for Islamic finance development by 2020 and updated by 2025. One of the actions under the roadmap was to establish the Astana International Financial Center [8].

Currently, the AIFC is a special territory with legislative norms for faster and more dynamic growth of investment activities, including Islam. Thus, foreign investors can enter the local financial markets.

The AIFC is geographically located in Kazakhstan, although the legislation norms that can act on the territory of the AIFC cannot remain in force. For instance:

The current AIFC Law is based on the Constitution of the Republic of Kazakhstan, and consists of the following:

- 1) Constitutional Law;
- 2) Acts of the AIFC that do not contradict the specified Constitutional Law and may be based on the principles, legislation, and precedents of English and Welsh Law, as well as on the standards of the world’s leading financial centers used by the AIFC bodies in the exercise of their powers granted to them by the specified Constitutional Law;
- 3) The current Law of the Republic of Kazakhstan applies to issues not covered by the Constitutional Law and the AIFC Acts [8].

Investigating the legal aspects of the Islamic finance framework yielded several results. For instance, it was observed that Kazakhstan adheres to the Roman-Germanic Law system, while the AIFC adopts the English Common Law, which expands the boundaries of possibilities. In addition, it was found that there are different treatment and operating models for Islamic banking. Just as in the territory of the AIFC, the potential for working full-fledged banks and their windows in Kazakhstan forbidden the operation of Islamic windows.

Additionally, Kazakhstan’s territory did not take into consideration the special legal treatment for Islamic finance products besides banks. This has led to the limited development of general Islamic finance in the country.

As a developing country, Kazakhstan needs to expand its infrastructure sector because the level of infrastructure growth is an indicator of modern national economic development and its integration into the global economy. However, today, the infrastructure level is shallow. As shown in figure 2 (p. 393), only a few segments show satisfactory indicators.

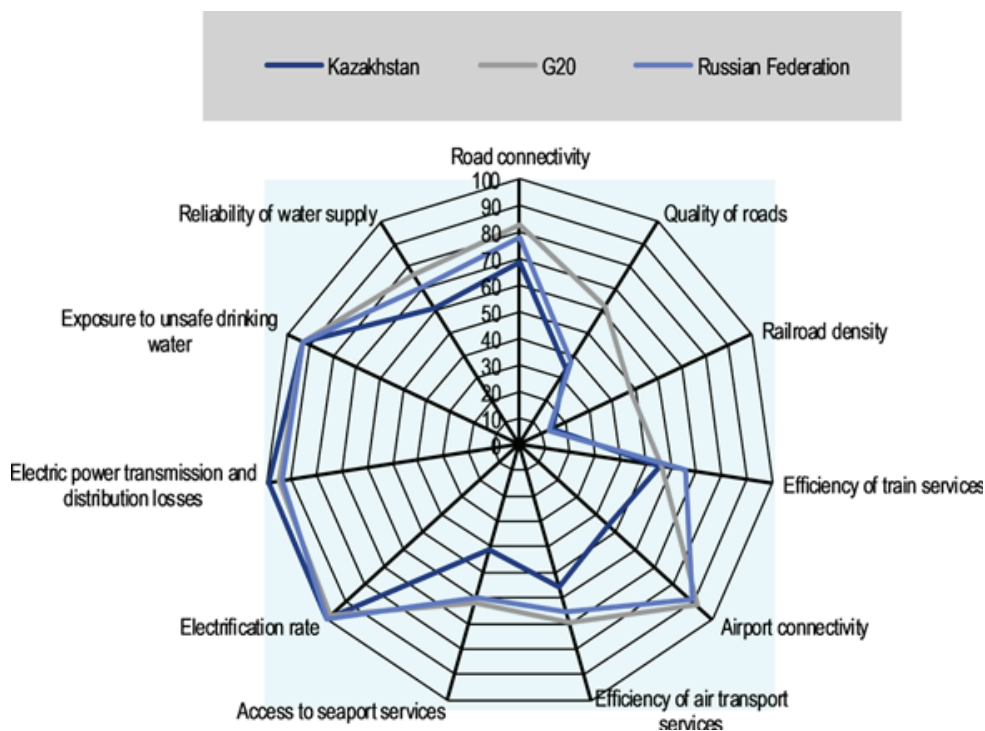


Figure 2 – Quality of infrastructure in Kazakhstan. On a scale from 0 (worst) to 100 (best)

Note: Compiled by the authors based on [9].

Kazakhstan's infrastructure needs are increasing, in line with its expanding economy and growing population. Assuming its GDP grows at 4.3% per year, Kazakhstan will need to spend an average of USD 292 billion (or 3.93% of GDP) on infrastructure by 2040 (see figure 2). Compared to current spending levels, this translates into an investment gap of USD 84 billion (1.11 % of GDP) across all sectors. However, it is more prevalent in cross-border infrastructure, energy, and road transportation (Global Infrastructure Hub (n.d.), Kazakhstan - Global Infrastructure Outlook, n.d.). New infrastructure is needed, and proper maintenance and quality control of existing assets are necessary. Approximately 75% of existing infrastructure requires replacement or rehabilitation [9].

In light of the above, the purpose of the current study is to define the opportunity to find alternative funding through sukuk for infrastructure projects in Kazakhstan, by which two big challenges can be accepted, since both points are the hot points of the country.

This paper contains relevant data on the infrastructure environment, Islamic banks, and their regulations, mostly regarding legal prospects, compared to other countries. Consequently, a sukuk model for infrastructure projects was presented. In conclusion, several recommendations are provided.

Materials and methods

The paper research was conducted based on a systematic approach using the following qualitative methods: generalization, systematization, comparison, historical and logical methods – to study the economic essence of the concept of the Islamic finance. Moreover, the study represents the review of the current indicators and situation of infrastructure and Islamic finance development level in Kazakhstan. Furthermore, the cross-country analysis and comparison based on banking regulation is considered through several countries such a neighbor countries as Kyrgyzstan and Russia. Additionally, the case of Indonesia has been reviewed due their positive dynamic in implementation of Islamic finance instruments into the market.

Furthermore, based on made content review also the new model as Sukuk with Ijara Contract for Infrastructural project was introduced in this paper.

Legal perspective should be addressed since regulation on Sukuk is not well accommodated in the existing regulation by both AIFC (Astana International Financial Center) as well as Kazakhstan jurisdiction. Sukuk can expand financial services, assist to develop domestic capital market and provide infrastructure funding without government budget support. Therefore, this paper implies to domestic regulation as set by both AIFC and Kazakhstan mainland legal jurisdiction.

Main provisions

Infrastructure is the lifeline of a region and forms its nexus with the quality of life of individuals and society [10]. Infrastructure development performance can indicate economic stability and growth. Due to the McKinsey Global Institute, infrastructure financing is lacking. As a matter of fact, by 2030 year the need will reach nearly \$57 trillion. Infrastructure has become a significant factor in the development of modern national economies and their integration into global economies. At the same time, the level of development of infrastructure sectors not only determines the competitiveness of the country's economy as a whole, but also provides a material basis for the development of other areas; at the same time, the degree of development of a particular national economy directly affects the quality of its infrastructure.

As a result of the overall research, it must be noted that Kazakhstan has an extremely high need for infrastructure financing, primarily because of the deterioration of infrastructure equipment in most sectors. Figure 3 illustrates the level of need for different infrastructure segments by indicating the percentage of GDP.

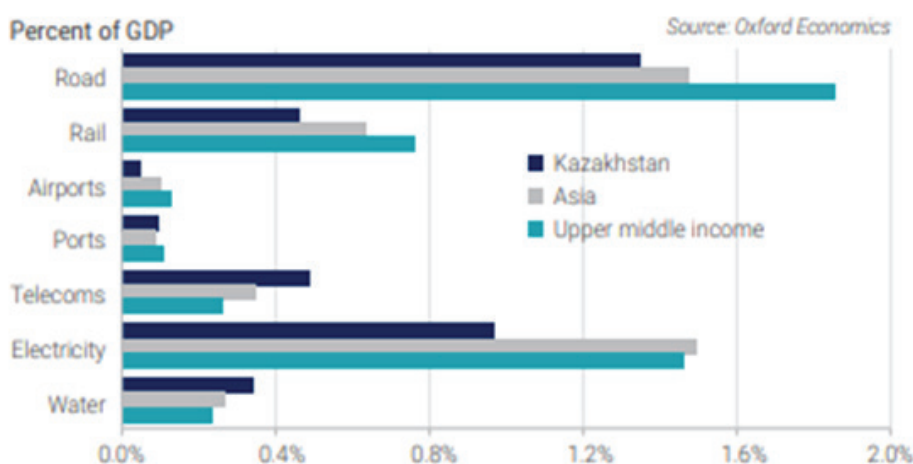


Figure 3 – Infrastructure investment need, 2016–2040

Note: Compiled by the authors based on [9].

Currently, Kazakhstan is focused on the most large-scale state infrastructure development program named “Nurly Zhol for 2020–2025.” According to the Program, the following tasks were settled:

Task 1. Infrastructural provision of territories and transport links between them.

Task 2. Facilitate the attraction of “Great Transit” and the implementation of export policies through the development of an efficient transit, export and logistics infrastructure.

Task 3. Increasing the technological, scientific, methodological and resource provision of the infrastructure complex.

Task 4. Increasing the economic efficiency and competitiveness of transport infrastructure entities and carriers.

Task 5. Improving the operational and environmental safety of transport infrastructure.

Unfortunately, programs such as Nurly Zhol still did not cover the majority of aims have been targeted. Furthermore, maturity is postponing every time, and the budget is not mastered.

For instance, according to parliament speakers, more than half a million Kazakhs are out of drinking water, despite the number of programs that have been launched. Most experts have concluded

that the working scheme of infrastructure project financing is no longer efficient. Several points accrue during its realization, such as weak management, wrong strategy, and lack of interest due to the long-term payback period [11]. Therefore, a new approach is required.

This new reality shows that countries will have to compete among themselves to attract investment in infrastructure, which will be determined by their states' ability to implement policies favorable for long-term investments and develop financial technologies.

The typical structure of the underlying sukuk is lease (Ijara). The originator sells an asset to a special-purpose vehicle (SPV), the sukuk issuer, and receives the initial cash flow. The SPV leases the asset back to the originator, who pays SPV rentals. Upon expiration of the agreed term, the originator, calling on the purchase and sale undertakings previously signed, buys the asset back at a fixed price. The rent of the asset may comprise the principal, rate of return, and any charges incurred to maintain the asset. The originator thus acts as a seller, lessee, obligor, and servicing agent (Dubai International Financial Centre). A key point in a sukuk structure is whether a true sale has taken place between the originator and sukuk issuer. If there is a valid sale, assets are indeed owned by the SPV, returns are derived from the assets, and sukuk holders do not have recourse to the originator in the case of a payment shortfall. These true-sale sukuk are known as asset-backed sukuk, and those without the true sale are known as asset-based sukuk. Asset-backed sukuk are, in essence, the securitization of primarily tangible assets, whereas asset-based sukuk are closer to conventional bonds. Sukuk is supposed to be based on real assets or a pool of real and financial assets, whereas asset-backed securities may use only financial assets such as loans and receivables.

Sukuk can be structured in various ways, even when using the same underlying nominate contract. For example, one can structure sukuk using investment management contracts that behave much like conventional debt instruments, collective investment funds, or equity instruments. Sukuk can be structured as a single asset or pool of tangible assets. Structures that involve a mix of tangible and financial assets in a pool of assets are also allowed. Currently, there is no fixed minimum proportion of tangible assets in a portfolio that can be securitized through sukuk, although the underlying views diverge [12]. Hence, implementing a sukuk structure can be one of the ways to solve this issue.

Literature review

Islamic Bank and Banking activity Regulation in the Light of Sukuk.

Kazakhstan's financial system mainly comprises banks and has a two-tier system. Currently, the country's territory operates 22 second-tier banks, with the central bank of the National Bank of Kazakhstan representing the first-tier bank. Since 2016, the number of secondary banks has decreased from 35 to 22. Additionally, of the 22 banks mentioned, only two full-fledged Islamic banks were operating. As mentioned in the introduction, conventional banks are not allowed to open Islamic windows. Despite this, as foreign countries' experiences show, introducing Islamic windows in large operating conventional banks can open new opportunities for Islamic finance instruments among the population and SMEs [12].

As the Islamic Banking sector has experienced substantial worldwide growth, the Islamic Financial Market performance of sukuk is also steadily increasing. Moreover, both achieved notable increases. Sukuk markets and IBs are also experiencing an interaction between them, resulting in a fresh debate among scholars about the effect of sukuk markets on the Islamic banking sector [13].

Since Islamic Finance was introduced in Kazakhstan, notable amendments were made to the Law on Banks and banking activities in 2009, which greatly impacted further development. The main amendments are as follows.

(i) Establishing basic requirements for Islamic banking activity based on Islamic financing principles (prohibition of interest, guaranteed return on investment deposits or any income thereon, and financing activity that contradicts the norms of Islam).

(ii) Prohibiting an Islamic branch or window in a commercial bank. According to the legal.

Provisions, an Islamic bank, must operate as a fully-fledged Islamic financial institution and must contain the word combination "Islamic Bank" in its name.

(iii) Appointing the Council on Islamic Finance Principles at the General Shareholders Meeting of an Islamic bank is analogous to establishing a Shariah Supervisory Board (SBB). This body determines the compliance of operations and transactions of an Islamic bank to Shariah principles.

(iv) Specifying the list of Islamic banking operations. It should be pointed out that under the Bank Law of 2009, the commodity Murabahah was not recognized as one of the operations of Islamic banks [14].

Additionally, in 2015, another amendment was made to the rule on deposits:

(v) Islamic banks are excluded from the compulsory deposit guarantee system.

This amendment is due to the true nature of Islamic deposits. Moreover, this action makes Islamic products less attractive.

To determine the compliance of the activities, operations, and transactions of the Islamic bank with the requirements, the bank creates a council on the principles of Islamic finance. The presence of the council on the principles of Islamic finance significantly distinguishes the organizational structure of such banks from the traditional secular structure [15].

In the case of the Council on the Principles of Islamic Finance, a transaction at the conclusion stage that does not meet the requirements for the activities of an Islamic bank cannot be concluded and executed. If such a transaction has already been concluded, but is not executed or partially executed, it is terminated prematurely. The income of an Islamic bank under such a transaction should be directed towards charity. The presented norms are more important for civil turnover because they allow courts to make decisions based on law, which includes religious principles. The operations of an Islamic Bank in the Republic of Kazakhstan include the following:

- ◆ Acceptance of interest-free deposits on the demand of individuals and legal entities, opening and maintaining bank accounts of individuals and legal entities;

- ◆ Acceptance of investment deposits of individuals and legal entities

- ◆ bank credit operations: provision of cash loans by an Islamic bank in terms of urgency, repayment, and without charging remuneration;

- ◆ financing of individuals and legal entities as a trade intermediary by providing a commercial loan without the condition of the subsequent sale of goods to a third party or on the terms of a subsequent sale of goods to a third party;

- ◆ financing of production and trading activities by participating in the authorized capitals of legal entities and (or) on the terms of partnership, investment activities on the terms of leasing (lessee), and agency activity in the conduct of banking operations of an Islamic bank.

While comparing the list of operations in the conventional bank and Islamic banks, the second can offer less because of religious principles and prohibitions.

In the last few years, the need for Islamic finance and banking development in the territory of EAEU countries has increased, especially among the majority of Muslim people. In fact, the Russian Federation, the Kyrgyz Republic, and Kazakhstan are below the current performance of Islamic finance implementation.

Additionally, the countries mentioned above, as developing countries, are struggling with external investment for more strategic and long-term projects. It is supposed that sukuk can be one of the possibilities for attracting more investors for such projects. Indeed, infrastructural projects are supposed to be sustainable and sharia-compliant.

The majority of the Muslim population in the Kyrgyz Republic has greatly impacted Islamic banks' development and interest in them. Attraction to Islamic financing is considered an indicator that contributes to the development of the country's economy. A number of projects, such as the construction of hospitals, highway reconstructions, and medical equipment purchases, were launched with the support of the Islamic Development Bank. In 2016, the law "On the National Bank of the Kyrgyz Republic, Banks, and Banking Activities" (Law No. 206) was adopted. This Law specifies that Islamic principles of banking and financing, along with traditional banking and lending, are applicable in the Kyrgyz Republic. The Islamic Principles of Banking and Finance are the principles and rules for conducting banking operations and transactions in accordance with Sharia standards developed and approved by international organizations that establish standards for conducting Islamic banking (Article 4 of Law No. 206). An Islamic bank or a bank with an Islamic window carries out its activities in accordance with the Islamic principles of banking and financing based on the relevant license of the National Bank. A Sharia Council should operate in a bank in accordance with the Islamic principles of banking and finance. This norm is similar to the one in force in the Republic of Kazakhstan. In accordance with Article 8 of Law No. 206, contracts concluded with clients in accordance with the

Islamic principles of banking and finance must also comply with the Sharia standards. Simultaneously, a bank that carries out transactions in accordance with the Islamic principles of banking and financing has the right to independently establish the conditions for transactions in accordance with the requirements of the Kyrgyz Republic's banking legislation. A comparison of the legislation norms of the Republic of Kazakhstan and the Kyrgyz Republic allowed us to arrive at the following conclusions:

- ♦ the legislation of the Republic of Kazakhstan regulates the activities of Islamic banks in much more detail and clearly, which will help reduce collisions and litigation;
- ♦ in the Republic of Kyrgyzstan, legislative norms are mainly of a framework, descriptive nature. To regulate the activities of Islamic banks, it is necessary to adopt a large number of by-laws;
- ♦ many products of Islamic banks are already available to residents of Kazakhstan, while in Kyrgyzstan this activity started only in 2019.

Prospects for the organization of Islamic banks in Russia have been repeatedly raised. I.A. Zaripov (a member of the Russian Association of Experts on Islamic Finance) proposed “to develop and adopt a comprehensive federal law and by-laws, which will contain a legal interpretation of a number of concepts: “alternative finance,” “risk and profit sharing,” “financial means, secured by tangible assets”, “partnership”, “limitation of risk and uncertainty”, “ and “investment accounts [16]. Comparing the existing Law of the Republic of Kazakhstan, it can be pointed out that Russian partners in the EAEU have chosen the strategy of including norms on Islamic banks in the main industry law. In 2015, Deputy D.I. Savelyev submitted to the State Duma a draft of federal law No. 746023-6 “On Amendments to Article 5 of the Federal Law “On Banks and Banking Activities”. The bill proposed lifting the current ban on credit organizations engaging in trading activities. As follows from the explanatory note to the draft law, it is aimed at creating conditions in the Russian Federation to provide services based on the principles of “Islamic banking.” The State Duma Committee on the Financial Market, in its conclusion, noted that “the fundamental provision of the Russian civil and banking legislation, confirmed by the decisions of the higher courts, is the presence of special legal capacity of credit institutions.” According to the Committee, “the authors of the bill did not present convincing legal and economic grounds for the projected expansion of the legal capacity of credit institutions” [16]. The analysis of the draft law and its comparison with the regulatory framework of the Republic of Kazakhstan show that Islamic banks' activities should be regulated comprehensively and in more detail. Under the conditions of a legal vacuum and the simultaneous growth of demand in the Russian Federation, organizations that announced their work as Islamic banks “began to arise. For example, the financial house “Amal” offers customers a product based on “Islamic mortgage” principles. In order to do this, the financial house buys the property from the developer and then sells it in installments for three years at a rate of 24%. However, from a legal perspective, Amal Financial houses are not banks, do not have licenses from the Bank of Russia, and do not have the right to perform banking operations. The Russian Federation announced that in 2023, a year would be an experimental legal regime for Islamic Banking operations.

Unfortunately, none of them above did not have an experience of financing big projects or investing through Islamic finance instruments. For more narrow study of conception was chosen one more country for overview – Indonesia. Since Indonesia is one of the most economic perspective countries among developing countries we can use as direction model. Moreover, Indonesia as Kazakhstan had “resource curse” phenomena but they fortunately could escape it.

Indonesia also had successful story of Islamic finance implementation. If in 2002 year the first Islamic bank opened past 4 years there were 23 new ones. Comparison to Kazakhstan from 2010-year country has just two Islamic banks. Additionally, mentioned above countries as developing ones are struggling from external investment for more strategic and long-term projects. It is supposed, the sukuk can be one of the possibilities to attract more investors for such projects, indeed infrastructural project are the projects supposed to be sustainable and sharia compliant.

Indonesia has a dual banking system which allows both conventional and Islamic banks to operate. According to Indonesian Law No. 21 of 2008 about Islamic Banking (or Sharia Banking), “Islamic Banks are banks that carry out business activities based on Islamic law (Sharia) principles, or Islamic legal principles regulated in the Islamic legal opinion (fatwa) of the Indonesian Ulema Council (Indonesian: Majelis Ulama Indonesia a.k.a. MUI) such as the principles of justice and balance (‘adl wa tawazun), benefit (maslahah), universalism (alamiyah), and does not involve excessive speculation

(gharar), gambling (maysir), usury (riba), exploitation (zalim) and unlawful (haram) objects.” . Regulation and supervision of Islamic banking from the implementation prudential norms and good governance is carried out by Financial Service Authority or Indonesian Otoritas Jasa Keuangan (OJK). OJK categorizes institutions in Islamic financial industry into three subsectors, namely Islamic banks, Islamic non-banking financial institutions (Islamic NBFIs), and Islamic capital market with a total capitalization of assets for IDR 1801.40 trillion or USD 127,71 billion (excluding Islamic stocks) in 2020.

Considering all these studies, the following conclusions can be drawn. The harmonization of the legislation of the countries of the Eurasian Economic Union requires careful study of the accumulated experience. The Republic of Kazakhstan has established a regulatory framework for Islamic bank activities. The regulatory framework is also developing in the Kyrgyz Republic but with some lag. In the Russian Federation, the possibility of creating Islamic banks is being actively discussed, but thus far, there is no regulatory framework for the activities of such organizations. Belarus and Armenia have not yet developed appropriate prerequisites for Islamic banking. It seems possible for the Russian Federation to conduct a legal experiment on the creation of Islamic banks in regions where the proportion of the Muslim population is high. The development potential of the Islamic banking system deserves attention not only in technical and quantitative terms but also as a new philosophy of the global community involving the introduction of ethical restrictions in human activity [17].

Results and discussion

Sukuk Model for Infrastructure Project in Kazakhstan.

As observed, Sukuk for Infrastructure could become one of the most suitable sources of funding. Although the government budget is a major part of financing for infrastructure realization, it should become more diversified. Moreover, as mentioned previously, many initiatives have been undertaken in the Islamic financial world. A possible general scheme of Sukuk with the Ijara Contract for the Infrastructural project is presented below (Figure 4). Moreover, there are several reasons for choosing the Ijara contract. First, due to fixed payment amounts, investors need more certainty to be involved in a long-term project, such as an infrastructural project. Then, in terms of Ijara investors, there is a guarantee that an asset has its value. None of these can be connected to the other contract types. Considering that Kazakhstan’s infrastructural projects are new to the Islamic world, initial investors can be more accurate and risk-averse.

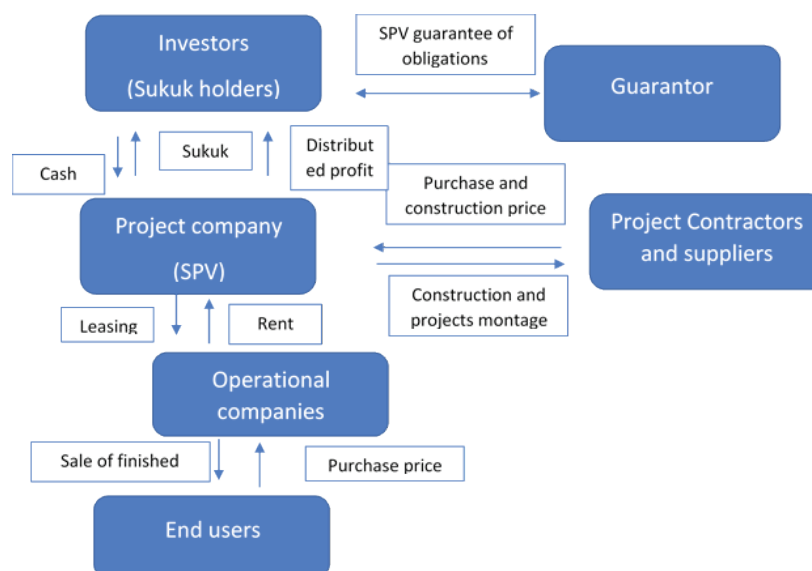


Figure 4 – Sukuk with Ijara Contract for Infrastructural project

Note: Compiled by the authors.

First, the issuer turns into a financial advisor. The financial consultant will facilitate the execution of the transaction, including the distribution of financing amounts between the parties, the agreement of the terms of the sukuk, due diligence in choosing the parties to the transaction, participation in obtaining the borrower's rating, marketing for investors, and issuing sukuk.

Sukuk is structured based on Sharia contracts to create financial obligations and relationships between borrowers and investors. As a rule, such relationships in structuring sukuk are based on rent, sales, and partnerships.

Sukuk can be issued for activities of great socioeconomic importance and a long implementation period, as well as the late start of a positive financial flow for settlements with investors and relatively low profitability: construction of solar and wind power plants, affordable housing, water supply and water treatment, transport infrastructure, agriculture (restoration of land fertility, land reclamation), etc.

According to Fitch Ratings, in 2019, sukuk securities worth 42.2 billion US dollars were issued worldwide, while the total volume of sukuk in circulation amounted to 491.7 billion US dollars.

Conclusion

Sukuk have never been issued in Kazakhstan. Therefore, Kazakhstan is now suffering from a lack of funding for infrastructure. Since moving to the manufacturing and service sectors, infrastructure and connectivity have become the major focus of national development strategies and economic growth. However, Kazakhstan has an excellent perspective for being an attractive country for foreign investors. Likewise, new approaches to investment structures as Islamic finance instruments can help achieve strategic plans' goals. Moreover, Islamic financing has the opportunity to provide a reliable possible solution for infrastructure financing because of its principles and structure, since another does not work today.

Kazakhstan has been trying to develop Islamic financial products in the local financial market for more than 10 years. Unfortunately, there are several issues that the government must resolve to apply it. The author's recommendation is to revise the legal perspectives applied to Kazakhstan's territory and try to find the possibility of using the same opportunity active in the AIFC territory. For instance, Islamic windows can help embrace a wider number of customers and introduce Islamic finance. Additionally, financing through Sukuk based on the Ijara Contract could expand the potential of small and medium business players, which is the novelty of this study.

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СУКУК КАК АЛЬТЕРНАТИВА ИСЛАМСКОГО ФИНАНСИРОВАНИЯ ДЛЯ ИНВЕСТИЦИЙ В ИНФРАСТРУКТУРУ В КАЗАХСТАНЕ: ИНСТИТУЦИОНАЛЬНЫЕ ПЕРСПЕКТИВЫ

Аннотация

В последние годы вследствие международного экономического кризиса на территории Республики Казахстан усугубились сложные и долгосрочные проблемы, решение которых имеет стратегическое значение для экономического благополучия страны и ее устойчивости к внешним воздействиям. Основной целью дальнейшего экономического развития является не только стабилизация и рост промышленности, но и развитие промышленной и социальной инфраструктуры. Тем не менее вопрос финансирования инфраструктуры остается открытым и требует решения. Для развивающейся страны займы у иностранных банков являются значительным вызовом. Кроме того, дополнительное давление возникает вследствие волатильности валюты, что серьезно влияет на экономический рост страны. В работе раскрываются актуальные вопросы развития инфраструктуры с применением исламского финансирования в Казахстане с юридической точки зрения и предлагается решение в виде модели выпуска сукук. В этом контексте следует обратить внимание на юридические аспекты, поскольку регулирование сукук недостаточно учтено как в существующем законодательстве Международного финансового центра Астаны (МФЦА), так и в юрисдикции Казахстана. Сукук может расширить финансовые услуги, способствовать развитию внутреннего рынка капитала и обеспечивать финансирование инфраструктуры без поддержки правительственного бюджета. Поэтому данная работа предлагает уделить внимание внутреннему регулированию, установленному как в МФЦА, так и в основных юрисдикциях Казахстана.

Ключевые слова: сукук, институциональная перспектива, исламское финансирование, инфраструктура, устойчивое развитие, внутренний рынок, капитал.

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СУКУК ҚАЗАҚСТАНДАҒЫ ИНФРАҚҰРЫЛЫМҒА ИНВЕСТИЦИЯЛАР ҮШІН ИСЛАМДЫҚ ҚАРЖЫЛАНДЫРУДЫҢ БАЛАМАСЫ РЕТІНДЕ: ИНСТИТУЦИОНАЛДЫҚ ПЕРСПЕКТИВАЛАР

Андатпа

Соңғы жылдары Қазақстан Республикасында халықаралық экономикалық дағдарысқа байланысты ең күрделі және ұзақ мерзімді мәселелер шиеленісе түсті, оларды шешу елдің экономикалық әл-ауқаты мен оның сыртқы әсерлерге тұрақтылығы үшін стратегиялық тұрғыда маңызды. Экономикалық дамуды одан әрі дамытудың негізгі мақсаты өнеркәсіпті тұрақтандыру мен өсіру ғана емес, сонымен қатар өндірістік және әлеуметтік инфрақұрылымды дамыту. Дегенмен инфрақұрылымды қаржыландыру мәселесі әлі де ашық және мәселеге толы болып қала береді. Дамушы ел үшін шетелдік банктерден қарыз қаражатын тарту маңызды мәселе. Сонымен қатар валюталардың құбылмалылығы жағдайында қосымша левередж пайда болады, бұл елдің экономикалық өсуіне қатты әсер етеді. Бұл мақалада инфрақұрылымды дамытудың, Қазақстанда Исламдық қаржыны заң тұрғысынан қабылдаудың өзекті мәселелері мен оларды сукук шығару моделі түрінде шешу жолдары айқындалды. Осыған байланысты құқықтық аспектілерді қарастыру қажет, өйткені Сукук реттеуі AIFC (Astana International Financial Center) қазақстандық юрисдикцияның қолданыстағы реттеуіне сәйкес келмейді. Сукук қаржылық қызметтердің ауқымын кеңейте алады, ішкі капитал нарығын дамытуға көмектеседі және мемлекеттік бюджеттің қолдауынсыз инфрақұрылымды қаржыландыруды қамтамасыз етеді. Сондықтан бұл жұмыс AIFC және Қазақстанның материктік юрисдикциясында белгіленген ішкі реттеуді білдіреді.

Тірек сөздер: сукук, институционалдық перспектива, исламдық қаржы, инфрақұрылым, ТДМ.