

## Why Thailand still has not issued Sukuk

Since Islamic finance is based on Shariah laws, certain restrictions that normally do not apply to the application of conventional finance transactions are imposed on Islamic financial products which non-Muslim-based countries like Thailand may not be familiar with. Under Shariah, no interest can be charged, no uncertainty contracts can be made, no investment can be done in a prohibited business and transactions must be done in the form of profit-sharing and backed by assets. This results in more complicated transactions and arrangements being involved in each Islamic finance transaction/product to avoid non-compliance of Shariah. Despite its lesser popularity compared to conventional financial products, certain Islamic finance developments in Thailand have occurred in recent years. RUENGRIT POOPRASERT and CHOTIKA LURPONGLUKANA write.



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Even though Islamic finance was introduced in Thailand much earlier, the turning point where it became more familiar among Thais was when the Islamic Bank of Thailand Act BE 2545 (2002) was promulgated with the establishment of the Islamic Bank of Thailand (iBank), which later on became a state-owned Islamic bank. iBank bought existing Islamic financial products from Krungthai Bank which formerly provided Shariah compliant financial products, resulting in iBank becoming the sole financial institution providing Islamic finance in Thailand.

Initially, the purpose of the establishment of iBank was to provide financial activities in accordance with Shariah to Muslims in Thailand, especially in the three southernmost provinces of Thailand where Muslims were densely populated. In 2008, the Bank of Thailand issued a regulation allowing conventional financial institutions to provide Shariah banking services in addition to iBank. New Shariah financial activities and products, based on profit-sharing arrangements rather than interest-based, were introduced since then, resulting in these Shariah products becoming optional investments not only for Muslims but also for others, both Thais and foreigners.

Not only are conventional banking products prohibited under Shariah, general insurance is also restricted as it comprises interest, gambling and uncertainty factors. No specific law

regarding Islamic insurance has been enacted but general insurance companies have issued Takaful based on the general applicable insurance laws. The first Takaful facility was introduced by Finanza Company in 2006. Consequently, Dhipaya Insurance Public Co was the first insurance company to develop Takaful products. In 2011, iBank entered into an MoU with three insurance companies – Thai Life Insurance Public Co, Muang Thai Life Insurance Public Co and South East Insurance Public Co – to increase their services in providing Takaful products while making it easier to take out Takaful through bank branches.

The FTSE SET Shariah Index was first introduced on the 23<sup>rd</sup> April 2009 through the collaboration between the Stock Exchange of Thailand (SET), FTSE Group and Yasaar, a leading global Shariah consultancy firm. Companies engaging in restricted business, for instance, conventional finance, alcohol, pork-related products or non-Halal food production, entertainment, tobacco and weapons manufacturing, shall be filtered out through a screening process, assuring Shariah compliant investment for both Thai and foreign investors. Currently, the mutual funds using the FTSE SET Shariah Index as their benchmark are MFC Islamic Fund (MIF) and MFC Islamic Long Term Equity Fund.

With regards to the capital market field, in 2011, related regulations were promulgated under which Sukuk – Islamic instruments used to raise funds and the equivalent of conventional bonds – were recognized under the law for the first time. The Capital Market Supervisory Board of Thailand issued the Notification of the Capital Market Supervisory Board No TorDor 2/2554 Re: Provisions on Issuance for Sale of Sukuk and Disclosure of Information (Notification 2/2554) and the Office of the Securities and Exchange Commission



issued the Notification of the Office of the Securities and Exchange Commission No SorDor 6/2554 Re: Additional Provisions relating to Issuance and Offer for Sale of Sukuk (Notification 6/2554) to enable Sukuk issuance in Thailand.

Due to Shariah restrictions, Sukuk must be structured in complicated arrangements which fall under many tax liabilities under the Revenue Code, resulting in double taxation and unpersuaded use of Sukuk in the capital market. One year later in 2012, the Royal Decree Issued under the Revenue Code governing Reduction of the Rate and Exemption of Revenue Taxes (No 554) B.E. 2555 was issued in order to reduce and exempt double taxes imposed upon the issuance of Sukuk. Unfortunately, since the issuance of laws facilitating Sukuk issuance, not one Sukuk issuance has emerged.

In 2013, Amanah Leasing Public Co was the first company that tried to raise funds through Sukuk issuance. Despite approval from its shareholders, the issuance of Sukuk never materialized. This may be due to the need to consider a number of components and the involvement of many people, creating a potential obstacle to meet all the requirements in issuing Sukuk. Even though the resolution approving the issuance of Sukuk was passed in 2013, Amanah Leasing Public Co is still figuring out ways to issue Sukuk. ☹️