TOWARDS A MORE HOLISTIC UNDERSTANDING OF SUKUK

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TOWARDS A MORE HOLISTIC UNDERSTANDING OF SUKUK

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CERTIFICATE OF APPROVAL

The thesis titled "**TOWARDS A MORE HOLISTIC UNDERSTANDING OF SUKUK**" has been accepted in partial fulfillment of the requirements of the degree of MS in Islamic Banking and Finance by the Institute of Islamic Banking, University of Management and Technology, Lahore, Pakistan.

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DECLARATION

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In my capacity as supervisor of the candidate's thesis, I certify that the above statements are true to the best of my knowledge.

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DEDICATION

To my parents who kept reminding me throughout to persevere, and to my wife who arrived late on the stage, yet perhaps made the difference in the end.

ABSTRACT

Sukuk (singular Sakk) are Islamic certificates of investment. They are tied to an underlying physical asset. Depending on select factors (such as legal, jurisdictional concerns and the preference of market participants), this link to the underlying asset may vary in terms of its legal and accounting treatment. While it is true for conventional securitization, the role of Special Purpose Vehicles (SPVs) is equally crucial in Sukuk structuring; other parallels with conventional securitization may be drawn readily. There are, however, defining Shariah characteristics (mainly in the shape of prohibitions), which distinguish Sukuk from securitization. Various ways to classify Sukuk are discussed with the main focus on the bifurcation into Asset-based and Asset-backed Sukuk. The difference between the two is highlighted by the discussion on ownership of the underlying Sukuk asset, ability of the investor to dispose of this asset and right of recourse in the event of default or insolvency. The Shariah validity of equity-based asset-based Sukuk is called into question by renowned scholars such as Sheikh Mufti Taqi Usmani and others. Accordingly, the AAOIFI Sukuk clarification (issued in 2008) and its implication for market participants is elaborated upon. A change is evidenced in the market in the wake of the clarification, with equity-based Sukuk registering a negative growth for a 4 year period hence. Challenges to the overall growth and acceptability of Sukuk are discussed; legal and jurisdictional inadequacies and Shariah ruling heterogeneity are some of the obstacles to be overcome moving forward.

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May this paper add value to the existing literature and may Allah accept my efforts in His Way.

Ameen,

Talha Wiqar

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