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# ***Lease Certificates (Sukuk) As A New Finacial Instrument In Bond Market: A Case Study Of Turkish Capital Market<sup>1</sup>***

*Bono Piyasasında Yeni Bir Finansal Araç Olarak Kiralama Sertifikaları (Sukuk):  
Türk Sermaye Piyasası Vaka Analizi*

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## **ÖZ**

Modern anlamdaki ilk uygulamaları 40 yıl öncesine dayanan İslami finans, İslamiyet'in getirdiği ilke ve kuralların finansal işlemlere uygulanması olarak tanımlanmaktadır. Temel olarak İslami bankacılık, sigortacılık ve sermaye piyasasından oluşan İslami finans sektörü %10-15'lik yıllık büyüme oranı ile son yıllarda önemli bir gelişme kaydetmiş ve alternatif bir finansal aracılık modeli olarak görülmeye başlanmıştır. Bu model, tüm bileşenleri ile tamamlanmış ve olgunlaşmış sayılamasa da, özellikle günümüzde birçok ülke tarafından yürütülen çalışmalar önümüzdeki yıllarda İslami finans sektöründeki büyümenin devam edeceği ve sektörün daha rekabetçi hale geleceği hakkında fikir vermektedir. İslami finans sektörü, her ne kadar dini sebeplerle ortaya çıkmışsa da İslamiyet dininin mensupları dışındaki yatırımcıların da ilgisini çekmeyi başarmıştır. Bu ilgiden en büyük payı alan hiç kuşkusuz Sukuk olmuştur. İslami finans sisteminin günümüzdeki temel enstrümanı sayılabilen "sukuk", bir varlığa sahip olmayı veya ondan yararlanma hakkını gösteren bir menkul kıymettir. Bu çalışmada öncelikle tüm dünyada İslami Finansın gelişimi ele alınacak daha sonra ise İslami Finans uygulaması olarak Sukuk işlemlerinin çeşitleri ve Türkiye'de ki uygulamalarına yer verilecektir.

## **ANAHTAR KELİMELER**

*İslami Finans, Sukuk, Sukuk Türleri*

## **ABSTRACT**

The Islamic finance, whose first modern applications based on 40 years before time, is defined as application of the principles and rules of Islam on the financial operations. The Islamic finance sector that comprises of Islamic banking, insurance and capital market, has recorded an important development with a 10-15% rate of growing and has started to be seen as an alternative financial agency model. Even though this model cannot be accepted as completed and matured together with its all components, especially the studies that are being carried on by many countries are giving us idea about that growing on the Islamic finance sector will continue at the forward years and will be more competitive. Islamic finance sector, even though has appeared because of the religious reasons, it has also been able to take the attention of the investors out of the members of Islam religion. Sukuk, with no doubt, has been the one that has taken the biggest share from this interest. "Sukuk" that can be deemed as today's basic instrument of the Islamic financial system is a securities that shows owning to an entity and right of benefiting from that. At this study, primarily, development of the Islamic Finance all over the world will be handled and then types of the sukuk operations as an Islamic Finance application and its applications at Turkey will be investigated.

## **KEYWORDS**

*Islamic Finance, Sukuk, Sukuk Types*

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## INTRODUCTION

The Islamic finance, whose first modern applications based on 40 years before time, is defined as application of the principles and rules of Islam on the financial operations. The Islamic finance sector that comprises of Islamic banking, insurance and capital market, has recorded an important development with a 10-15% rate of growing and has started to be seen as an alternative financial agency model. Even though this model cannot be accepted as completed and matured together with its all components, especially the studies that are being carried on by many countries are giving us idea about that growing on the Islamic finance sector will continue at the forward years and will be more competitive.

Islamic finance sector, even though has appeared because of the religious reasons, it has also been able to take the attention of the investors out of the members of Islam religion. Because of that, countries have started to announce themselves as a center as Islamic finance and they have started to compete for various encouragements and make structural adjustments for the development of the sector.

Islamic finance market has grown up very fast at the past few years at the leadership of the countries such as Malaysia and Indonesia located at Gulf Area and South East Asia. Petrol and commodity prices that have increased fast within past few years have caused to a serious grow up at the countries located at this area. Brent petrol that was processed as 10 USD for each barrel in 1999 has increased up to 140 USD before the financial crisis lived in America. The increasing petrol prices have also started to increase fast to the energy and construction investments at the Gulf countries. Therefore, development of the Islamic Finance Market that is based on ancient times has also started to get the attention of the entire world. Today, many developed countries such as England, America and Japan have started to the structural and legal adjustments for benefiting this development of Islamic Finance Market (Testa, 2008:115).

## 1.ISLAMIC FINANCE AND BASIC PRINCIPLES

The Islamic economic model has been constructed on the rules that were put on practice on commercial and financial operations by Islamic Law and developed in the time. Islamic finance system is a system based on the performance of the financial operations conforming to the rules and principles of Islam religion and these rules and principles are based on three basic sources as Quran, Sunnah and jurisprudence. Islamic law or the Islamic rules are also known as “Shariah” and at the Islamic financial products and services, the products or services to be conforming to the Islamic rules has a very big importance for the acceptance of that products or services (Ayub, 2009). Operations that are performed as Islamic Finance should conform basically to the following three matters (Tok, 2009:2-3):

- The operation performed not to content any interest,
- The operation performed not to content any inaccuracy (subjects of some insurance policies)
- The operation performed not to content any activity that are accepted as haram (activities such as gamble, bet and consume of alcohol)

### 1.1.Sukuk

Sukuk is the plural form of the word Sak in Arabic and has been defined as the paper (bond, bill) that shows the financial obligations because of the shopping and the other commercial activities at the Muslim publics at the Middle Age. Sukuk is used as synonym with asset backed securitization as a financial concept. Asset backed securitization is a period of transfer of the right of ownership based on an asset to the big mass of investors through certificates (sukuk) or other financial instruments that show its value as rate on the concerning assets (Ayub, 2009: 204). Sukuk is an Islamic finance instrument. These certificates are also called as Islamic bonds. But naming it in such way shall be wrong. Because structure of the bonds that are used at the conventional finance market and the structure of the sukuk operations are different in an important rate. Accounting and Audition Organization for Islamic Financial Institutions (AAOIFI) described the Sukuk that the certificates that have not been divided and in equal value, showing the ownership, usufruct of a tangible and ownership of the services obtained from that tangible or ownership of the assets concerning to a specific project or specific investment activity (Salah, 2010:507). At the classification of the sukuk certificates, then information of which Islamic financing method it is based on (such as share of the profit and loss or forward sales) is have an important place. The Islamic finance method that is used when issued to the sukuk certificates is effecting to the subjects such as cash flow that will be proved from the concerning sukuk certificates and share of the risks.

Issuing of Sukuk resembles with Asset – Based Securities (ABS) at the conventional finance system. The company that owns claim portfolio at the ABS system is selling this portfolio to the special purpose vehicles

(SPV) and SPV is transforming to the portfolio to the security. Meanwhile, investment banks are intermediary to the sales of these securities to the investors. Because securitization of the claims arising from the concrete, real commercial relations (for example, profit – loss sharing) or the claims arising from the financial lease agreements are in question also at sukuk system, sukuk can also be defined as asset-back bond (Tok, 2009:21).

It is possible to classify the sukuk certificates in many ways. However, at this study, sukuk certificates will be handled according to the Islamic financing methods that they are based on. There are five basic agreement types that form the Islamic financing methods. There is a simple financial operation at the base of each type of agreements and meanwhile it is also possible to compare these financial agreements with the present methods within the conventional financial system. These five agreement types that form the Islamic financing methods are Murabaha, Ijara, Istinsa, Mudaraba and Musharaka. At the Murabaha agreements, the basic financial method is similar to the forward sale. The financial institute is selling an asset or commodity that it has bought with advance payment to its own client with forward sales by adding a profit in a specific rate on it. Ijara is similar to the leasing operation at the conventional financial system. Istinsa is an Islamic financing method that is generally used at the financing of long term infrastructure investments and is similar to the financing of the projects at the conventional financial system. Mudaraba is based on the partnership that one side finances the project and the other part take the responsibility of managing project activities. It is similar to the risk capital at the conventional financial system. At the Musharaka, more than one party is providing the capital and at the same time they are being partner to the profit and deficit. It is similar to the joint venture at the classical financial system (Zaher and Hassan, 2001:159-166).

### **1.1.1. Murabaha Sukuk**

Murabaha sukuk are the certificates that is issued on the basis of the forward sales for providing short, middle and long term finance sources. The term Murabaha is an agreement that foreseeing the sales of the assets or commodity adding a rate of profit on the cost of them and all parties at this agreement have already made deal on this sales price previously. One of the most advantageous parts of this model is, it is possible for the additional financiers to participate to the project in case of the financial dimensions of the asset that will be bought to extend the financial power of the financial institutes. At the issue of Murabaha sukuk, the party that is providing to the finance, after performing a purchase operation in value of 10 million \$, can sell this in price of 11 million \$ to the party that uses the finance. In this circumstance, the appearing 1 million \$ of profit is shared by the ones that have provided to the finance. However, it is impossible for the financiers to sell the sukuk certificates that have obtained from this operation at the secondary market. Such sales will only be possible from the nominal value at the term of the concerning lease certificates (Abbas and Ibdal, 2007: 56). Because Murabaha sukuk can only be caused form a monetary debit that will be taken from the client, it represents the claims. At the Murabaha sukuk certificate, it is impossible to alter the price that has been determined at the beginning. Following steps are followed at the issue of Murabaha sukuk (Vishwanath and Azmi, 2009:65):

- A main agreement is signed between the debtor and SPV.
- SPV performs the sukuk issue for the investors and takes the funds from this issue to the cashier.
- SPV buys the commodity or goods from the supplier at the spot market.
- SPV sales the goods or commodity to the debtor together with the profit rate that it has added on the spot price. Debtor has to pay its debit at the terms determined at the main agreement.
- Investors obtain the benefit that has been calculated from the final sales price.

### **1.1.2. Ijara Sukuk**

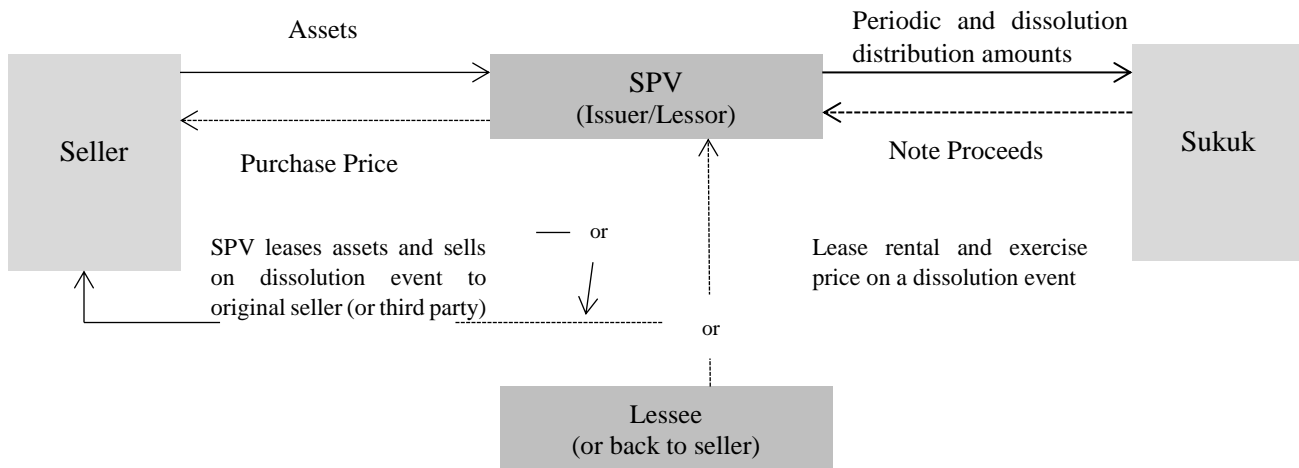
Ijarasukuk is similar to the financial operation named as leasing at the conventional financial system. Today it is the type of the sukuk that has the biggest operation rate at the sukuk market. Together with Ijarasukuk, there is lease of an asset and together with this, there is a transfer of right of use of the concerning asset. Ijarasukuk also gives right of buying the leased asset to the lessee at the end of the lease period. However, owners of the Ijarasukuk can also have the right of getting lease money from the asset besides to the ownership right of the asset. Ijarasukuk can be endorsed, can be processed at the secondary markets and in case of the leased asset to be unusable because of accident or disaster, the lessee even is able to cancel its Ijara contract. Rate of lease income for the entity subject to Ijara sukuk can be stable or unsteady related to the agreement (Buyukakin and Onyılmaz, 2012:4). According to Al-Amine and Al-Bashir (2001:6), Ijarasukuk operations have four characteristic features:

- Ijarasukuk certificates show the right of ownership about the asset that has clearly been defined at the lease agreement. This means that Ijarasukuk certificates can be sold from the prices formed by

the market dynamics. Because of the asset price changes formed at the real market and sustainability of the present activities, there is risk of the lessee not to be able to meet their obligations.

- Because of not being able to determine some insurance and maintenance expenses previously, of the Ijarasukuk certificates may not be able to be determined. In such circumstances, the lease income written at the main lease agreement forms the maximum income.
- Ijarasukuk certificate can be endorsed, can be processed at the secondary markets. This can be shown as reason for it to be more popular than the other Sukuk certificates.
- Ijarasukuk certificate can be issued by both public and private sector.
- Following steps are followed at the issue of Ijarasukuk (Afshar, 2013:50):
- Debtor sells some of its entities to SPV from the previously determined price.
- SPV performs sukuk issue as much as the cost of the assets it has bought.
- SPV transfers the fund it has obtained from sukuk issue to the debtor.
- An agreement is signed between the debtor and SPV about the lease of the assets that have been previously transferred.
- Debtor pays lease periodically to SPV.
- SPV distributes the lease payments to the owners of the Sukuk certificates.
- At the end of the term, it sells the assets in its hand sales back to the debtor from the price that has been determined with the agreement previously. Sales cost should be equal to the minimum amount of the certificates that the sukuk owners have.

**Figure 1: Structure of Ijara Sukuk**



Source: Jobst, 2007:21

### 1.1.3. Istinsa Sukuk

Istinsa'a or Istinsa sukuk commonly used at the financing of the long period and big scale investments. Istinsa sukuk is a method based on the payment performed before the delivery of the asset and then lease of the concerning asset. Istinsa Sukuk is a financing method that is used at the big infrastructure projects and energy investments. Financial institute is the owner of the concerning project and can lease this to the debtor company and besides, it can also sell this to the debtor company with the condition of collecting at the future date determined by adding a certain profit on the cost of the concerning asset (Duran and Lopez, 2012:55). At the Istinsa Sukuk operation, in general, a parallel Istinsa agreement also takes place. The financial institute that provides the financing first of all makes the agreement with the party that will buy the asset. Then one more parallel Istinsa agreement is also signed with the company that will produce the asset together with a second agreement. The public or private company that will buy the asset should approve the timing and technical details about the project. Then, the financial institute can perform the sukuk issue together with the present project. At the parts after that, offers are taken from the subcontractors and the subjects such as delivery date and price of the asset that is produced is taken under agreement. Financial institute also adds the production cost on its profit and collects this from the debtor (Said, 2011:67).

#### **1.1.4.Mudaraba Sukuk**

Mudaraba sukuk is a financial operation in which one of the parties is putting the capital and other is putting the entrepreneurskills and in which profit is distributed between the parties according to the agreement conditions and based on Mudaraba agreement. The person issuing the Mudaraba sukuk certificate is called entrepreneur (mudarib), the person proving the fund is called owner of the capital and the funds that are collected are the Mudaraba capitals. Owners of the certificates are also owners of the entities of the operation and they share the profit and loss according to the conditions determined at the agreement. Mudaraba sukuk can also be issued by a company that is already present within a special project or activity. However, in such circumstances, the new project is accounted separate from the other activities of the company (Abbas and Ibdal, 2007:55). Common features of the Mudaraba sukuk certificates are as follows (Rezaei, 2013:264):

- Reason of Mudaraba sukuk issue should be declared clearly.
- All information of Mudaraba sukuk to be had been given according to the laws is based on an official agreement. The subjects such as subject of the investment and how will the distribution of the profit will be performed are determined at the agreement.
- Investors that have Mudaraba sukuk certificates can sell these certificates in the secondary market.
- Total capital investment shows the cost of the project. This amount should be mentioned clearly on the agreement and should be clear as not causing any conflict between the parties as meaning.
- Neither the entrepreneur not the financial institutionintermediary of the sukuk certificate cannot undertake and stable income at the Mudaraba sukuk agreement. Besides, income of the project cannot be defined as percentage of the assets. Finally, profit, loss and other details about the plan should be explained to the investors that have the Mudaraba sukuk certificate.
- In case of a loss to appear at the project performed this loss causes reduce at the shares of the investors that have put capital to the Mudaraba sukuk certificate.
- Intermediary financial institutes of Mudaraba sukuk certificate cannot be responsible for the project to show weak performance or result with loss.
- Return of the Mudaraba sukuk certificates has a variable structure as being different from the Ijara, Istinsa and Salam sukuk certificates.
- Return of Mudaraba sukuk certificate is also not similar to the return of equities. Investors that have Mudaraba sukuk certificate don't have right to vote at the general board of the company. However, in case of bankrupt of the company, they can ask for their rights on the assets of the company before the shareholders of the company.

#### **1.1.5.Musharaka Sukuk**

Musharaka sukuk is based on Musharaka agreements as a basic financing method and very similar to Mudaraba sukuk. Most important difference is the financial intermediary to be partner with the ones having the Musharaka sukuk certificate. It is similar to the joint venture as financial method. Nearly all of the criteria that are valid for Mudaraba sukuk are also valid for Musharaka sukuk. The most important difference is, when capital comes from one party at Mudaraba sukuk, both of the parties are putting capital at Musharaka sukuk. Financial institution that is issuerof Musharaka sukuk certificate invitesto the investors for a specific project or activity. Investors that have taken the Musharaka sukuk certificates both provide capital to the project and become partners of this project. Investors that have Musharaka sukuk certificates are also owners the assets of partnership and they share the profit andloss (Abbas and Ibdal, 2007:56). Musharaka sukuk is like a company in which different parties are coming together and formed. Therefore, shares from the profit are distributed by taking into consideration to the capital taken by the parties (Said, 2011:67). Musharaka sukuk is used for development of the financing of a present project based on the partnership agreement or financing to a new project. Because Musharaka sukuk certificate can be bought and sold at the secondary market, it has a liquid feature. In other words, Musharaka sukuk certificate is operated as an endorsable instrument and can be bought and sold at the secondary markets (Tok, 2009:19).

#### **1.2.Islamic Finance Market in the World and Sukuk**

Islamic finance has been an important actor of the international financial system as a result of its regular and consistent grows up. Market value of the Islamic finance entities that has been 150 billion \$ in the middle of 1990s, has reached 1.6 trillion \$ at the end of 2012 with the contributions of Islamic banking and Global Sukuk Market. Although to these enormous grow up numbers, Islamic Finance market is still having a small place within the global financial system. Islamic finance market has taken an important place to itself at the

geography of the location of Middle East and Far Southeast Asia Countries. Reasons for this growing of the Islamic finance market of recent years are as follows (Mauro, et al, 2013:18):

- The liquidity abundance formed because of the petrol prices that have been high at the first 10 years of millennium.
- Legal authorities of some countries to play active roles for the development of Islamic Finance market.
- Demands coming from the growing Muslim population.
- Increase of perceive about that Islamic financing is increasing the financial stability.
- The researches on Islamic Finance system that have been started by the multinational organizations such as IMF and some of the central banks.

The Sukuk issue that has been performed all over the world is expect to get over approximately 200 billion \$ by the end of the year 2012. Only the 44 billion \$ part of this was performed in the year 2012. When you have a look at the regional spread of Sukuk issue between the 2009 – 2012 years, Malaysia is taking the first place with 61%. Share of the Middle East countries (except Saudi Arabia) is 19%, Saudi Arabia is 14% and share of the remaining part of the world is about 6%. Total 57% of the nominal values of the Sukuk issues are in type of Malaysia Ringgit. Share of American Dollars is 25%, Saudi Arabia Riyal is 10% and the share of the other currencies is about 8%. The term spread of the sukuk issues that have been performed at this period is formed of issues with shorter than 5 years of issues. When 48% of the sukuk issues have been in shorter than 5 years term, the ones at the 5-7 terms are 10%, and the ones that are in more than 10 years of term form the 20% of the sukuk issue (HSBC Amanah, 2012:7).

### 1.3.Sukuk Market in Turkey

Sukuk that is at the first place of the Islamic finance instruments mentioned above, is known as a bond method based on partnership on incomes (asset back bond) at Turkey and because of their similarities with bridges, barrages, highways, railways, telecommunication systems and sea and air ports, they are accepted as the certificates that are produced against the incomes of the government offices and institutes namely some entities that produce regular incomes and providing legal and real people be partner to this (Tok, 2009:56). Thanks to the participation banks that are in activity in Turkey, meeting of Turkey with sukuk issue happened in 2010 with Kuveyt Turk Participation Bank. At the sukuk issue in which term is performed as three years, Kuveyt Turk has provided 100 million USD of financing. The final income happened as 5.25. In spite of the fact that regulations about the issue of the lease agreement at Turkey were performed in the year 2010, first issue of Turkish Treasure happened at the year 2012. When term was determined as 5.5 years at the sukuk issue, total amount of issue has been 1.5 billion \$. Demand came to the tender has been at the 8 billion \$ level. Treasure has performed the biggest loaning of the history of Republic together with the tender it performed at this time period. Income of the sukuk that was issued has been 185 basic point + MS (Mid-Swap).

**Table 1: Sukuk Issue in Turkey**

Sukuk Issues of the Private Companies Active in Turkey		
2011-09/2015	Amount (Billion Dollars)	Average Term
Abroad	2.669	5.01
Local	1.402	0.78
	4.071	
Sukuk Issues of the Public Sector in Turkey		
2011-09/2015	Amount (Billion Dollars)	Average Term
Abroad	3.75	6.83
Local	3.964	2.14
	7.714	

**Source: IIFM, 2016:148**

The total amount of the sukuk that has been issued by public and private sectors from the year 2011 to the first nine months of 2015 has reached to 11.79 billion \$. Almost half of this issue has been done to the investors abroad. When you think about the bigness of the Islamic finance sector, Turkey is yet at the beginning of the way as both public and private sectors.

## CONCLUSION

The Islamic finance, whose first modern applications based on 40 years before time, has recorded an important development with a 10-15% rate of growing and has started to be seen as an alternative financial agency model. Even though this model cannot be accepted as completed and matured together with its all components, especially the studies that are being carried on by many countries are giving us idea about that growing on the Islamic finance sector will continue at the forward years and will be more competitive.

Islamic finance sector, even though has appeared because of the religious reasons, it has also been able to take the attention of the investors out of the members of Islam religion. Countries have started to announce themselves as a center as Islamic finance and they have started to compete for various encouragements and make structural adjustments for the development of the sector. Today, many developed countries such as England, have started to the structural and legal adjustments for benefiting this development of Islamic Finance market. When we have a look at the first ten banks that performed the most sukuk issue, we will see that more than half of them are the important banks of the global system. This can be accepted as evidence to the interest of the developed countries of Islamic Finance system.

Turkey has close relations with Middle East and South East Asia that is accepted as hearth of the Islamic finance because of both historical and cultural connections. Sukuk is not a new concept for Turkey and sukuk is taking a very small share at both financing of the private sector and public financing methods. When you think about the effect of Turkey at the area, it is possible for it to get over about 3 billion \$ of sukuk issue that is the present annual amount. Besides to the conventional finance markets of Turkey, directing to the Islamic finance market will provide competitive lending rate as both private sector and public sector. Besides, it will help to the development of mutual relations with the mentioned areas.



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