

FAQs on IFSB-19:

Guiding Principles on Disclosure Requirements for Islamic Capital Market Products (Şukūk and Islamic Collective Investment Schemes)

Q1. Is the standard applicable for regulators from secular countries?

Answer: Yes, the standard is written for all capital market regulators globally which include regulators from secular countries such as Luxembourg, Hong Kong and the Philippines and others. The Application by a particular jurisdiction may depend on whether they regulate the relevant capital market activities in their respective jurisdiction, as well as their approach to regulation of the Islamic capital markets.

Q2. Does the Standard include disclosure requirements for Islamic equities? If no, does the IFSB have plans to address it in the future?

Answer: No, the standard does not provide disclosure for Islamic equities. However, investor protection issues relating to Islamic equities, including disclosures for protection of minority investors as well as disclosures regarding *Shari'ah* screening methodologies will be addressed in the new IFSB Standard on *Investor Protection*, which is expected to be issued by December 2020.

Q3. Does the standard address the disclosure requirements for products that are targeted for retail investors?

Answer: The standard is applicable to all type of investors where relevant. In most cases, the disclosure requirements for retail investors entail greater details relative to the sophisticated or institutional investors. For example, under the general disclosure requirements for both *Şukūk* and Islamic Collective Investment Schemes (ICIS), the disclosure document should be drafted in a way that is easily comprehended and to avoid using difficult terminologies that would lead to confusion.

(Paragraphs 19, 22 and 60)

Q4. What are the differences between “originator” and “obligor” in the standard?

Answer: In case of *Şukūk*, where the issuer is a special purpose vehicle (SPV), the proceeds of the *Şukūk* will typically be received and deployed outside of the *Şukūk* structure to a commercial party referred to as the “**originator**”. The “**obligor**” on the other hand is the commercial party that typically serves as a source of the periodic and final amount expected

(payment obligations) to be paid to *Şukūk* holders, which represent the payment obligation of the SPV¹. The originator and the obligor are often, but not necessarily, the same.

(Paragraph 50)

Q5. What are the differences between the disclosure requirements for purification of tainted assets or income for *Şukūk* and ICIS?

Answer: The disclosure requirements in respect of purification of tainted assets or income for both *Şukūk* and ICIS are alike.

(Paragraphs 72 (*Şukūk*) and 146-147 (ICIS))

Q6. Does the standard include disclosure requirements regarding *Takāful* or insurance arrangement for *Şukūk* issuances?

Answer: Yes it does, any arrangement that transfers or mitigates the ownership risks or price risks relating to assets underlying the *Şukūk* structure, such as *Takāful* or insurance or a purchase undertaking or a sale undertaking, should be disclosed.

(Paragraph 101)

Q7. Does the disclosure requirements in the standard caters for all types of *Şukūk*?

Answer: Yes it applies to all types of *Şukūk*. The standard requires the specific structure, nature and risk characteristics of a particular *Şukūk* to be taken into account within the disclosures for each. The standard covers, among others, specific provisions that are relevant to various *Şukūk* structures including but not limited to *Şukūk ijārah*, *istisnā`*, *murābaḥah*, *muḍārabah*, *wakālah bil istithmār*, and *salam*, etc.

(Paragraphs 90-97)

Q8. What are the *Sharī'ah* related disclosure requirements for arrangements that may arise from post issuance of *Şukūk* (e.g. default, restructuring, etc.)?

Answer: The standard requires a disclosure describing any arrangements in place to provide *Sharī'ah* determination arising from extraordinary matters such as default, enforcement, amendment or restructuring. Moreover, if there are no such arrangements, any potential consequences that would have implication on *Sharī'ah*-compliant investors should be disclosed accordingly.

¹ The SPV usually is a shell company (subsidiary of the obligor) that does not have business operation.

Q9. What is the difference between Property Funds and REITs?

Answer: Property Funds is one of the types of asset classes that typically either invest directly in real estate or in securities related to real estate. This may be either in completed buildings or in properties that are still under development.

As for REITs, it is the subset of Property Funds where its investment is confined only to income-producing real estate (developed/ completed buildings).

(Paragraphs 155 and 159)

Q10. From disclosure perspective, how would the treatment be for a particular *şukūk* that has been endorsed by multiple *Sharī'ah* Advisers?

Answer: In a situation where multiple *fatwās* were issued by more than one *Sharī'ah* Advisers, adequate disclosure should be made for each fatwa in the offering document. Alternatively, the multiple *fatwas* can also be disclosed on website for ease of reference.

(Paragraph 68 and footnote 17)