



**UNIVERSITI PUTRA MALAYSIA**

**COMPARATIVE STUDY OF LEGAL AND REGULATORY FRAMEWORK  
OF SUKUK ISSUANCE IN SAUDI ARABIA, MALAYSIA AND THE  
UNITED ARAB EMIRATES**

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**IPPH 2019 5**



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By

**ALHARBI ABDULLAH DHAIDAN S**

**Thesis Submitted to the School of Graduate Studies, Universiti Putra  
Malaysia, in Fulfilment of the Requirements for the Degree of  
Doctor of Philosophy**

**August 2019**

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Abstract of thesis presented to the Senate of Universiti Putra Malaysia in fulfilment of the requirement for the degree of Doctor of Philosophy

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**August 2019**

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**Institute : Halal Products Research**

Saudi government planners have recognized, as is shown by the CMA Strategic Plan "Financial Leadership Program" (2019-2021), that the sukuk market in Saudi Arabia is relatively small when compared to emerging markets; they represent a small percentage of bank financing and GDP. The development of this market requires concerted efforts and cooperation between various parties to enhance its attractiveness to exporters and investors. The main aim of this present study is to provide suggestions for the development of the current framework of Sukuk regulation and laws in Saudi Arabia, compare it with Sukuk issuance in Malaysia and the United Arab Emirates, and examine the conclusions that follow from this comparison for the Sukuk issuance in Saudi Arabia.

This study employed a qualitative research design where the inquiry is aimed at building a holistic description of the area of study. The study used the comparative approach to analyse Sukuk regulations in Saudi Arabia, Malaysia, and the United Arab Emirates. The weaknesses and strengths can be easily calculated and determined. Moreover, semi-structured interviews were conducted with important individuals from entities that issue Sukuk from Malaysia, the United Arab Emirates and Saudi Arabia and they are included in the study. The insights of issuers of sukuk were discovered in the present study, strong points of legal and regulatory framework of Sukuk in the United Arab Emirates and Malaysia and the weak points of legal and regulatory framework of sukuk in Saudi Arabia. Research findings show that Sukuk does not have specific laws and regulations and is treated in Saudi Arabia under the same regulations as capital markets and their tools. Moreover, there is no independent central Sharia board in Saudi Arabia to regulate and

oversee Sukuk. The regulations of Sukuk needs to be properly modified to provide a clear understanding of Sukuk in Saudi Arabia take a usefull example from the Malaysian and the United Arab Emirates experience to help to enhance the legal and regulatory structure of Sukuk in Saudi Arabia.

Keywords: Legal framework, Regulation, Sukuk, Saudi Arabia, Malaysia, United Arab Emirates.



Abstrak tesis yang dikemukakan kepada Senat Universiti Putra Malaysia  
sebagai memenuhi keperluan untuk ijazah Doktor Falsafah

**KAJIAN PERBANDINGAN KERANGKA UNDANG-UNDANG DAN  
REGULATORI TERBITAN SUKUK DI ARAB SAUDI, MALAYSIA DAN  
EMIRIYAH ARAB BERSATU**

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**Institut : Penyelidikan Produk Halal**

Perancang kerajaan Arab Saudi telah mengenal pasti, seperti yang ditunjukkan oleh Rancangan Strategik CMA "Program Kepimpinan Kewangan" (2019-2021), bahawa pasaran sukuk di Arab Saudi secara relatif adalah kecil jika dibandingkan dengan pasaran memuncuk; mereka mewakili peratusan kecil kewangan bank dan GDP. Perkembangan pasaran tersebut memerlukan usaha dan kerjasama yang bersepadu antara pelbagai parti bagi mempertingkatkan daya tarikkannya kepada pengeksport dan pelabur. Tujuan utama kajian ini adalah untuk menyediakan syor bagi pembangunan kerangka terkini peraturan dan undang-undang Sukuk di Arab Saudi, membandingkannya dengan terbitan Sukuk di Malaysia dan di Emiriyah Arab Bersatu, dan meneliti kesimpulan yang mengikutinya daripada perbandingan tersebut bagi terbitan di Arab Saudi.

Kajian ini menggunakan reka bentuk penyelidikan kualitatif, iaitu inquiri bertujuan untuk pembinaan suatu deskripsi yang holistik mengenai bidang kajian. Kajian ini menggunakan pendekatan komparatif bagi menganalisis peraturan Sukuk di Arab Saudi, Malaysia, dan Emiriyah Arab Bersatu. Kelemahan dan kekuatan dengan mudah dapat dihitung dan ditentukan. Tambahan pula, temu bual separa berstruktur telah dijalankan dengan individu penting dari entiti yang menerbitkan Sukuk dari Malaysia, Emiriyah Arab Bersatu dan Arab Saudi dan mereka termasuk dalam kajian ini. Pandangan penerbit Sukuk telah ditemui dalam kajian ini, isi kerangka legal dan regulatori Sukuk yang kukuh di Emiriyah Arab Bersatu dan Malaysia dan isi kerangka legal dan regulatori Sukuk yang lemah di Arab Saudi. Dapatan penyelidikan menunjukkan bahawa Sukuk tidak mempunyai undang-undang dan peraturan yang khusus dan telah diolah di Arab Saudi di bawah

peraturan yang sama sebagaimana pasaran kapital dan peralatan mereka. Tambahan pula, tidak terdapat lembaga Syariah pusat yang bebas di Arab Saudi bagi mengawal selia dan menyelia Sukuk. Bagi membantu mempertingkatkan struktur legal dan regulatori Sukuk di Arab Saudi, peraturan perlu diubah suai dengan betul dengan mengambil contoh yang berguna daripada pengalaman Malaysia dan Emiriyah Arab Bersatu dalam bidang terbitan Sukuk.

Kata kunci: Kerangka Legal, Peraturan, Sukuk, Arab Saudi, Malaysia, Emiriyah Arab Bersatu



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## LIST OF ABBREVIATIONS

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institution
ADGM	Abu Dhabi Global Market
ADX	Abu Dhabi Securities Exchange
BCL	Banking Control Law
BNM	Bank Negara Malaysia
CMA	Capital Market Authority
CML	Capital Market Law
CMSA	Capital Markets and Service Act
DFSA	Dubai Financial Services Authority
DMO	Debt Management Office
G20	Group of Twenty
GCC	Gulf Cooperation Council
GIEI	Global Islamic Economy Indicator
IIFM	International Islamic Financial Market
IFSB	Islamic Financial Services Board
IFIs	International Financial Institutions
IPDS	Islamic Private Debt Securities
LFSA	LABUAN FINANCIAL SERVICES AUTHORITY
OPEC	Organization of the Petroleum Exporting Countries
SAC	Sharia Advisory council
SAMA	Saudi Arabian Monetary Authority
SAR	Saudi Arabian Riyal
SC	Securities Commission Malaysia
SCA	Securities and Commodities Commission

SPV	Special Purpose Vehicle
TRA	Telecommunication Regulatory Authorities
UAE	United Arab Emirates
WTO	World Trade Organisation





# CHAPTER 1

## INTRODUCTION

In the field of Islamic finance, the Sukuk industry has high potential for development. It plays a vital role in promoting the Islamic market and the banking system. The most significant advantage of Sukuk is that it adheres to Islamic law while strengthening the standard of living in the Muslim community and seeks to develop the economies of these societies. Sukuk is an ideal financial instrument that avoids falling into debt based on usury. This makes instruments an essential means of restoring social justice and distributing wealth (Naveed, 2014). In this regard, although there is tremendous potential in Saudi Arabia in the field of Islamic finance, the Sukuk issuance is not at its highest potential.

This chapter has eight sections that present the background of the study followed by the statement of the problem. Next, questions of research and objectives of research. The fifth section discusses the significance of the study. Then, explains the scope of the study section which addresses the limitations of the study and finally, ends with the outline of the research.

### 1.1 Background of the Study

The Saudi economy is undoubtedly at the forefront because it is the biggest in the Arab world and one of the world's 20 biggest economies (Malik & Awadallah, 2013). It has been the world's biggest manufacturer of crude oil since the 1970s. It has reserves of crude oil in the world (estimated at 20% of the total reservoir of crude oil globally). Saudi Arabia's unique energy refers to the Saudi having the most substantial volumes of crude oil production (or even exports). The Saudi Arabia is considered the most significant oil exporter in the world and is regarded to be the second biggest reservoir of oil in the world. It is also the fifth country with the largest reserves of natural gas. Therefore, Saudi Arabia is a "superpower". It has the highest estimated total natural resource value and it occupies third place, worth USD 34.4 trillion in 2016 (Goldthau et al., 2017).

However, recent economic events such as the economic crisis of 2008 indicate that relying on crude oil does not encourage a sustainable economy. The Global Competitiveness Report 2016-2017 gave Saudi Arabia the 29th ranking in the rank of the Organization of the Petroleum Exporting Countries (OPEC), where it has fallen from the 25th place it occupied in 2015-2016. Undoubtedly, the drop-in oil prices are the major challenge threatening the economy of Saudi Arabia. This has led the government to take different initiatives aimed at preserving the sustainability of both the financial sector and economic growth (Wilson & Graham, 2015).

To continue pursuing the different initiatives, in 25 April 2016, Saudi Arabia announced its Vision 2030 for the future based on robust and genuine pillars, well expressed in the country's national development plan (Vision, 2030). These pillars placed the country's status as the core of the Arab and Islamic worlds. Second, the vision stated the determination of the country to diversify its economy and become a global investment powerhouse, thereby transforming the country's key strengths into tools for a fully diversified future. Third, another initiative is to transform the unique strategic location of the country into a global hub connecting three continents, i.e. Asia, Africa and Europe (Vision, 2030).

This blueprint will allow transforming the unique strategic position of the Saudi into a global hub that will stimulate the local economy and diversify its revenues. The practical and first steps are to include domestic oil companies into a large industrial group that may convert the Public Investment Fund into one of the biggest sovereign wealth funds in the world. Also, encourage the major domestic corporations to expand across borders and take their rightful place in the global markets. In addition, to thrive in the nation's economy, these tools will provide opportunities for all Saudi Arabian citizens to build an efficient education system that fits the market needs and creates economic opportunities for entrepreneurs, small businesses and big business.

**Table 1.1 : Budget Deficits in Saudi Arabia, Malaysia and United Arab Emirates (2014-2017f/ USD billion)**

Country	2014	2015	2016	2017f
Saudi Arabia	(25.9)	(102.9)	(84.5)	(56.4)
Malaysia	(38.5)	(38.7)	(39.5)	(41.1)
United Arab Emirates	(19.7)	(7.7)	(14.4)	(7.8)

(Source: RAM and Ministry of Finance, Malaysia 2018)

This vision encompasses several targets, strategic objectives, commitments and outcome-oriented indicators that are to be achieved by the non-profit, private, and public sectors in the country. Some of the most important targets mentioned in the Saudi Arabia Vision 2030 include (Almasoud, 2016).

- i - Promoting the country's share of non-oil exports in non-oil GDP from the actual 16% up to 50%.
- ii - Expanding the private sector 's contribution from 40% to 65% of the GDP.
- iii - Expanding the country's overall non-oil government revenue from SR163bn (\$ 43.5bn) to SR600bn by 2020, then increasing it to SR1tn by 2030.
- iv. Stopping the Saudi Arabia reliance on hydrocarbon sales by 2020 through non-oil sector development.

The core function of the financial system is to make it possible, at the same time and in a spatially unstable environment, to allocate and deploy economic resources. Included is the fundamental payment scheme, which clears nearly all transactions, including the cash, fixed income, equity, futures and options markets and economic intermediaries (Merton 1990).

The financial market types include the money market and the capital market. Money markets are normally kept for one year or less for short-term lending or borrowing, whereas for long-term securities Capital Markets have a direct or indirect influence on equity. The equity and debt markets comprise the capital markets (Sheffrin 2003).

Funding from the excess units (price lenders) to the deficit units of the economy is of primary significance for financial markets (borrowers). In the financial markets, the prevalent practice is to differentiate between the capital market and the money market. While the capital market deals with financial instruments in the long run, the monetary market usually means short-term lending and borrowing for one year or less (Timothy & Robert, 1998).

Although Islam is equally responsible for the social welfare of the society, it also has a full and progressive and vibrant economic system made up of systematically controlled manufacturing operations (Mohd Dali, 2008). The word 'Halal' relates to everything permitted and permitted under the Islamic Law. Haram ' relates to anything forbidden through decisive means, in the reverse sense of 'halal' (Laldin, 2006). The halal sector is a vast sector of the food, pharmaceutical, cosmetics, services (for transport and logistics) and banking and financial (Nurul et al. 2014). The Halal sector comprises several industries.

The Islamic Capital Market (ICM) is characterized perfectly by the lack of transactions based on interests, doubted transactions and trade in shares in businesses or products dealing in Islamic Law (Sharia) (Alhabshi, 1994). In addition to Islamic and takaful (Islamic Insurance), the ICM is one of Islamic Finance's significant and increasing sections. These sections receive more attention from investors, as they receive money inflows and creative economic goods (Syed Ali, 2008).

Theoretically, Sukuk has equal-value certificates that represent the unbiased possession of real property, usufructs or services. Although Sukuk is generally non-recourse-backed instruments, the source usually undertakes to purchase the underlying assets at a fixed or a referenced price, making the asset-based Sukuk and providing certificate-holders with exposure to the originator's credit risk (Simmons & Simmons, 2010).

### 1.1.1 Sukuk in Saudi Arabia

Compared to regional countries, the capital market of Saudi Arabia is comparatively young. Development of the capital market for Saudi Arabia was also slow, with most companies in the Saudi Arabia either owned by the state or by family, most of them financed by the state budget. This decreased the funding requirement of Saudi Arabia. Nevertheless, Saudi Arabia has adopted in the recent past some closely calibrated structural and regulatory modifications, accelerating growth and boosting the country's capital markets' future opportunities. The historical growth of the capital stock market of the Saudi Arabia may be divided into three wide stages: a) pre-industrialisation; b) post-industrialisation (1984-2001); and c) growth (since 2001) which has stimulated major changes (Aljazeera Capitals, 2010).

**Table 1.2 : Evolution of Saudi Arabia Capital Market**

<b>Phase I</b>	
<b>Pre-1984</b>	Saudi Arabia Capital Markets were highly informal
<b>1984</b>	Ministerial Committee was formed to regulate and develop the market
<b>Phase II</b>	
<b>Post-1984</b>	Rapid industrialization urged need for efficient allocation of capital
<b>1990</b>	First Electronic Share Trading system ESIS was introduced
<b>Phase III</b>	
<b>2001</b>	Tadawul was established to provide trading, clearing and settlement platform
<b>2003</b>	CMA was established to regulate and supervise the Capital Market
<b>2006</b>	First (Sukuk) issuance SABIC and upgrading of electronic trading platform
<b>2007</b>	Tadawul was re-introduced as joint stock company
<b>2008</b>	Market opened up to foreign investors through swap agreement
<b>2009</b>	Establishing the Sukuk market

(Source: Aljazeera Capital 21010).

The importance of the Sukuk market lies in finding alternative financing methods for the public and private sector projects, complementing the investment products of different segments of investors and enabling them to diversify their investments. There is a lack of long-term usual instruments of finance which can be fulfilled by Sukuk. The gaps are- treasury bills and bonds. Sharia law prohibits treasury bills and bonds as they produce returns from interest (usury) (Al- Saed, 2012).

The Sukuk market has been severely weakened since its inception, with its value traded since its inception in nine years equalling only liquidity in the Saudi stock market in one session. The market started in mid-2009, during which it traded about 27 million riyals through 55 transactions, 70 deals worth

434 million riyals in 2010 and 49 transactions worth 1.8 billion riyals in 2011 while 20 transactions worth SAR 446 million were executed in 2012, six deals worth 166 million riyals in 2013, nine deals worth 453 million riyals in 2014, seven deals worth 108 million riyals in 2015, four deals in 2016 worth 450 million riyals and eight deals worth about 28 million riyals during the last year, 2017.

**Table 1.3 : Number of Sukuk Transactions and Traded Amount in Saudi Arabia between 2009-2017**

Year	Number of Transactions	Amount (RS million)
2009	55	27
2010	70	434
2011	49	1.8 billion
2012	20	446
2013	6	166
2014	9	453
2015	7	108
2016	4	450
2017	8	28

(Source: Tadawl 2018)

The volume of corporate issues in the market is currently 26.4 billion riyals distributed in five versions of four companies, the top of "7.5 billion riyals," Saudi Electricity 3 "seven billion riyals," Saudi Electricity 4 "4.5 billion riyals, Riyal, and Saudi Aramco's total SR 3.5 billion. The last Sukuk issuance by a public company in 2015 is as shown in table 1.3 (Tadawl, 2019).

**Table 1.4 : The volume of corporate Sukuk issues in the Saudi market currently**

THE ISSUER	STRUCTURE	SIZE OF ISSUE	ISSUE DATE	PROFIT RATE	FACE VALUE OF SUK
<b>Sadara Basic Services Company</b>	combination of Istisna and Ijara with a Musharaka	(SAR) 7,177,500,000	2013-04-02	6 months SAIBOR plus 0.95 percent	47,850
<b>National Shipping Company of Saudi Arabia</b>	Murabaha/Mudaraba	(SAR) 3,900,000,000	2015-07-30	6M SAIBOR + 0.80%	1,000,000
<b>Arabian Aramco Total Services Company</b>	combination of Istisna and Ijara with a Musharaka	(SAR) 2,817,674,860	2011-10-09	6 month SAIBOR plus 0.95 per cent	75,140
<b>Saudi Electricity Co.</b>	Sukuk Al-Istithmar	(SAR) 5,730,690,000	2010-05-10	3m SAIBOR + 135 bps	10,000
<b>Saudi Electricity Company</b>	Sukuk Al-Istithmar	(SAR) 4,500,000,000	2014-01-30	3 Month SIBOR + 0.7%	1,000,000

(Source: Tadawl 2019)

Through the Financial Leadership program (2019-2021), the Capital Market Authority seeks to make the Saudi capital market the main market in the Middle East and one of the most important financial markets in the world. In order to reach this main objective, four segments should receive higher attention, and these are, namely, facilitating the financing, encouraging the investments, strengthening confidence, and developing skills of the human capital. The first segment has much to do with developing the Sukuk market. Indeed, one of the strategic tools for facilitating the financing system in vision 2030, is to develop the Sukuk issuing market. The CMA Strategic Plan "Financial Leadership Program" (2019-2021) explains thoroughly how the Sukuk market in the Saudi Arabia is relatively small when compared to emerging markets; they represent a small percentage of bank financing and GDP. Thus, developing this sector is a priority in the strategic vision of the Saudi Arabia, which requires concerted efforts and cooperation between multiple parties and institutions that may affect its growth, expansion, and its attractiveness to exporters and investors.

Hence, in order to achieve this strategic objective, the Strategic Plan urges the implementation of four strategic initiatives for the development of the stagnating Sukuk market. Firstly, working with the relevant authorities to support the growth and development of the Sukuk market. Secondly, improving the actual procedures for issuing Sukuk. Thirdly, working with the government agencies to deal with the mechanism of Zakat utilization in order to stimulate the issuance and circulation. Finally, contributing to the development of a strategy for the regulation and development of Islamic financial services.

The current supervision of Sukuk in Saudi Arabia lacks proper monitoring and supervision (Alshammrani, 2014). Hence, authorities must identify this problem and take steps to improve the system of issuing the instrument. Al Saeed (2012) believes that issuing Sukuk in Saudi Arabia has two significant drawbacks, both regulatory and supervisory. One of the main obstacles is the inadequate structure of regulations and laws that are issuing Sukuk in Saudi Arabia. According to Al-Elsheikh & Tanega (2011), Saudi Arabia's regulation of financial has no special rules on the issue of Sukuk. Sometimes debt instruments (bonds) and shares are also mentioned as part of that category. They also point out that Saudi Arabia does not have an appropriate framework that considers the unique nature of Sukuk. It means that Saudi Arabia's Sukuk was issued as a debt instrument.

### **1.1.2 Sukuk in Malaysia**

Malaysia is renowned for their best practices in attracting investors due to a strong legal and regulatory frameowrks. In that regards, Malaysia is a pioneer in terms of forming an Islamic capital market through its Islamic Private Debt Securities (IPDS). The country initiated the necessary

developments for such an infrastructure in the 1990s by implementing both Islamic and conventional system of bank, where Islamic banks can work in parallel to the conventional sector. This conducive situation allowed the creation and the evolution of an Islamic Inter-bank Money Market (Abdul-Majid et al., 2011).

This background in Islamic finance makes Malaysia one of the largest Sukuk markets holding more than 60% of the world's outstanding instruments. Apparently, the Malaysian Sukuk market consists of 96% (US \$ 431, 65 bill) of local currency issues and 4% of foreign currency (US \$ 17.44) (IFSISR, 2017). The non-disputable supremacy of Malaysia in the Sukuk issuance market is the outcome of deep reflections on the strategic government planning. Apart from the strong government will for leading the global Islamic finance since the mid-1980s, the government of Malaysia had conceptualized numerous incentives for institutions. The regulatory limits have been revised to make Sharia-compliant transactions easy and cost-competitive. These initiatives are included in two primary plans. In addition to building the capital markets, the corresponding Master Plans I & II had the aim of bringing Malaysia to the forefront as a hub of Islamic finance. A series of special incentives have been developed as part of a programme to highlight Malaysia's reputation and its attractiveness to Islamic finance institutions. The function of these incentives is to deduct local taxes, multi-currency transactions, and ownership.

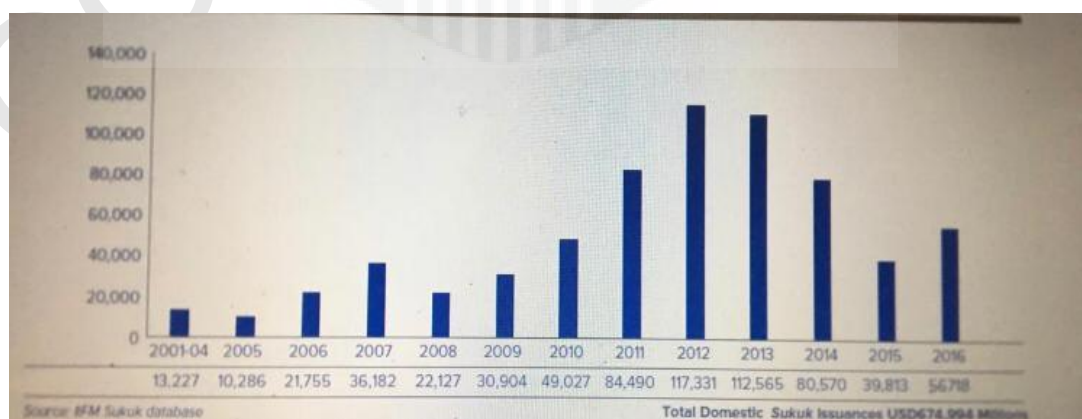
It was reported by the Sukuk market and the Malaysian corporate bonds that the total issuance in 2018 was RM 105.45 billion. It indicated that it decreased from RM 124.88 billion which is around 15.56% under the framework of Lodge and Launch (LOLA). The past year received 3 applications and 79 lodgements and this year, there was only 2 applications of issuance (Annual Report SC, 2018). The country has issued total worldwide sovereign Sukuk issuance from January 2001 to October 2016- All currencies, all tenors, in USD million (IIFM, 2017).



**Table 1.5 : Domestic Sukuk Issuances (2001-2016)**

NO	THE COUNTRY	NUMBER OF ISSUES	AMOUNT USD MILLIONS	% OF TOTAL VALUE
1	Malaysia	5,106	515,662	76.40%
2	Saudi Arabia	52	37,179	5.51%
3	Indonesia	195	31,822	4.71%
4	Sudan	27	19,248	2.85%
5	Bahrain	265	14,748	2.18%
6	Qatar	16	14,416	2.14%
7	Pakistan	71	12,006	1.78%
8	Brunei Darussalam	137	8,829	1.31%
9	Turkey	96	8,635	1.28%
10	United Arab Emirates	14	8,251	1.22%
11	Oman	3	825	0.12%
12	Singapore	12	788	0.12%
13	Ivory Coast	2	460	0.07%
14	Senegal	2	445	0.07%
15	Kuwait	1	332	0.05%
16	Jordan	3	272	0.04%
17	Yemen	2	253	0.04%
18	Togo	1	245	0.04%
19	Iran	1	144	0.02%
20	Gambia	210	136	0.02%
21	Nigeria	2	133	0.02%
22	Germany	1	123	0.02%
23	Bangladesh	4	37	0.01%
24	Sri Lanka	1	3	0.00%
25	Maldives	1	3	0.00%
<b>Grand Total</b>		<b>6,225</b>	<b>674,994</b>	<b>100%</b>

(Source: IIFM 2017)

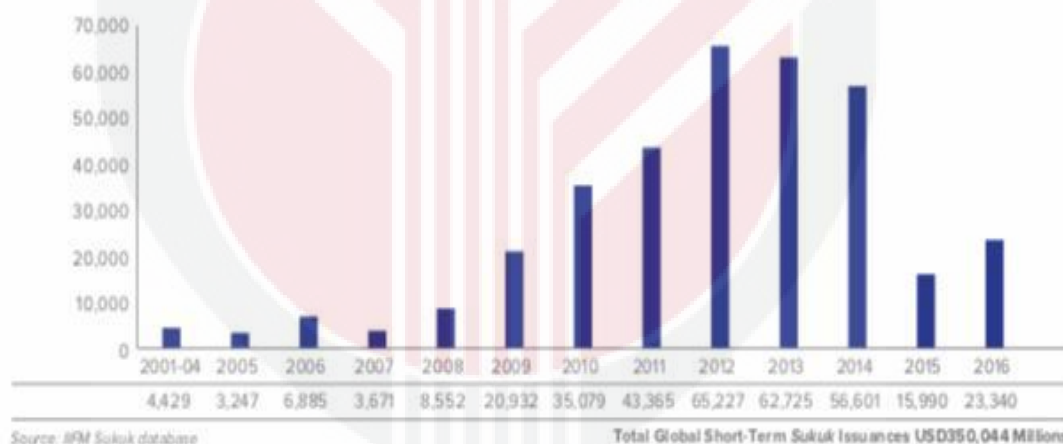


**Figure 1.1 : Domestic Sukuk Issuances (2001-2016)**

**Table 1.6 : Global Short-term Sukuk Issuance (JAN 2001 – DEC 2016)**

NO	THE COUNTRY	NUMBER OF ISSUES	AMOUNT USD MILLIONS	% OF TOTAL VALUE
1	Malaysia	2,434	303,075	86.58%
2	Sudan	14	16,254	4.64%
3	Bahrain	299	12,934	3.69%
4	Brunei Darussalam	135	8,547	2.44%
5	Indonesia	40	3,964	1.13%
6	Turkey	84	2,971	0.85%
7	Saudi Arabia	6	1,301	0.37%
8	Bangladesh	4	37	0.011%
9	Yemen	1	234	0.07%
10	Singapore	3	221	0.06%
11	Pakistan	8	141	0.04%
12	Gambia	210	136	0.04%
13	Oman	1	130	0.04%
14	United Arab Emirates	1	100	0.03%
<b>Grand Total</b>		<b>3,240</b>	<b>350,044</b>	<b>100%</b>

(Source: IIFM 2017)

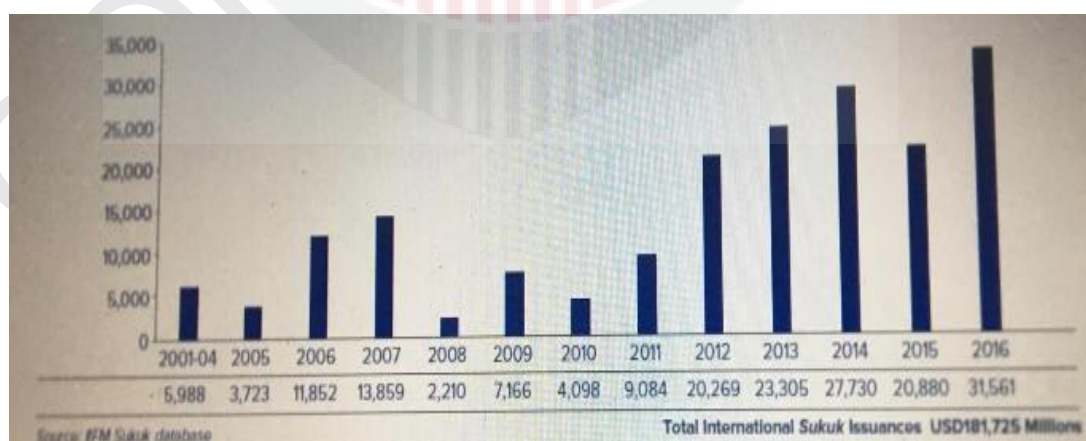


**Figure 1.2 : Global Short – Term Sukuk Issuance (JAN 2001 – DEC 2016)**

**Table 1.7 : International Sukuk Issuances (2001-2016)**

NO	THE COUNTRY	NUMBER OF ISSUES	AMOUNT USD MILLIONS	% OF TOTAL VALUE
1	United Arab Emirates	90	60,244	33.15%
2	Malaysia	73	44,854	24.68%
3	Saudi Arabia	43	26,305	14.48%
4	Indonesia	13	10,503	5.78%
5	Qatar	12	10,185	5.60%
6	Bahrain	101	9,310	5.12%
7	Turkey	20	7,566	4.16%
8	Pakistan	3	2,600	1.43%
9	Kuwait	15	2,577	1.42%
10	Hong Kong	4	2,196	1.21%
11	United Kingdom	9	1,368	0.75%
12	USA	5	1,367	0.75%
13	Singapore	4	711	0.39%
14	Oman	2	582	0.32%
15	South Africa	1	500	0.28%
16	Luxembourg	3	280	0.15%
17	Japan	3	190	0.10%
18	Sudan	1	130	0.07%
19	China	1	97	0.05%
20	Germany	2	83	0.05%
21	Kazakhstan	1	77	0.04%
22	France	1	1	0.00%
<b>Grand Total</b>		<b>407</b>	<b>181,725</b>	<b>100%</b>

(Source: IIFM 2017)



**Figure 1.3 : International Sukuk Issuances (2001-2016)**

Moody's said that between 2015 and 2018, Sukuk issues filled nearly 80% of Malaysia's fiscal deficit financing needs, whereas they covered around 14% of Saudi Arabia's. According to the MIFC, as at the end of April 2018, Malaysia accounted for 51.7 per cent of global Sukuk outstanding compared to other jurisdictions such as Saudi Arabia (19.1 per cent), the UAE (8.1 per cent), Indonesia (7.5 per cent), Qatar (4.1 per cent) and others (9.5 per cent).

Malaysia's strategic vision in the Sukuk market is not a haphazard occurrence. It is a result of the collective and coordinated efforts of the Government of Malaysia (GoM), the regulators as well as market players to spur national economic growth through the strategic development of the financial services industry, including Islamic finance. The economic transformation program (ETP) has the financial services industry as one of its national key economic areas (NKEAs) among the other 11 areas. Its goal is to enrich the country and change its status into a developed nation by 2020. The country has successfully improved because it added the Islamic finance as a policy tool in the economic agenda.

Based on the Malaysia's Securities Commission (SC) data, the size of the ICM as a percentage of Malaysia's capital market has already surpassed 60 per cent as of May 2018. The growth of the ICM has been supported by an active corporate Sukuk market as well as regular issuance of sovereign Sukuk to fund GoM expenditure. The progressive expansion of the ICM is also an outcome of the strategic vision embedded in the SC's Capital Market Master Plans (CMP), i.e. CMP (2001- 2010) and CMP2 (2011-2020) (Salma, 2008).

### **1.1.3 Sukuk in the United Arab Emirates**

The United Arab Emirates has strengthened more and more its financial development in the past few years and has made rapid progress in the expansion of Islamic finance, which currently ranks the second in the Global Islamic Economy Indicator (GIEI). This situation reflects the tremendous development and the good health of the UAE Islamic economy ecosystem and makes this a good benchmark to emulate for the Gulf region. Also, it is a clear and pragmatic success that proposes the Islamic finance industry both in Islamic and non-Islamic countries in terms of Sukuk market as an alternative source of funding both for governments and corporations. In this regard, both the UAE and Malaysian experiences in terms of overtaking a matured financial market, and as the world's leading centre for international Sukuk listings, with Nasdaq Dubai emerging as the world's largest single exchange at \$33.96 billion, according to data compiled by the financial exchange, are worthy of inspiration for the Saudi Arabia vision 2030 in terms of improving its Sukuk issuance market (GIES, 2016).

After GCC economies' attempts to decrease their over-dependency on oil and hydrocarbon income and to pursue other investment policies, including fixed-income tools, the UAE Islamic debt capital markets extended considerably in 2005. Growth continued to spur Dubai to become Islamic Economics' capital, as Islamic finances became the first seven main strategic pillars in its creation in 2013, following the establishment of the Dubai Islamic Economic Development Center. In March 2017, DIEDC initiated a refreshed five-year plan for Islamic economy (2017-2021), focused on development in three key industries, including Islamic finance. The Dubai plan for seven years, known as the Dubai 2021 Plan, has already been introduced in 2014 to strengthen and accelerate its status as a key hub in the worldwide economy (COMCEC, 2018).

When Dubai established its ambitious development objective in 2013, in terms of becoming the heart of the world Islamic economy, it was not expected that the following years would represent a rough and difficult reality portrayed by a severe fall down in the price of crude oil. The sad reality of crash in oil price has continued its decline to collapse from the high price of \$114 in 2014 to the present levels of \$50 per barrel. However, the crash in oil price did not hinder the participants' confidence who participated in the Global Islamic Economic Summit in Dubai held recently, which was organised by the Dubai Chamber of Commerce & Industry and the Dubai Islamic Economy Development Centre in October 2016. The outcome highlighted the considerable progress the UAE and Dubai has made in order to fulfill its vision to become the global capital of an industry with total assets estimated at \$2.1 trillion (GIES, 2016).

**Table 1.8 : Composition of Saudi Arabia, Malaysia and United Arab Emirates Financial Markets as a Percentage of GDP**

Historical data			Data based on latest available date			
Country	Outstanding bond	Outstanding loan	Market Capitalization	Outstanding bond	Outstanding loan	Market Capitalization
<b>Saudi Arabia</b>	1.7% (2012)	24.7% (1988)	74.2% (2009)	10.8% (2016)	55.8% (2014)	69.4% (2016)
<b>Malaysia</b>	51% (1997)	75.9% (1980)	61.2% (1981)	102.0% (2016)	135.0% (2014)	121.4% (2016)
<b>UAE</b>	9.7% (2012)	18.4% (1980)	20.4% (2003)	29.6% (2016)	90.3% (2014)	61.1% (2016)

(Source: COMCEC,2018 )

The value of Sukuk issued by the Sharjah Islamic Bank amounted to AED266.8 million and the value of those issued by Sharjah Cement and Industrial Development amounted to around AED55.3 million. The total value of both issues amounted to AED322.1 million (Annual Report SCA, 2017).

## 1.2 Problem Statement

Saudi Arabia is one of the members of G20, with 75% of international trade, and 85% of global economic output (G20, 2018). However, the drop-in oil prices are the major challenge threatening the economy of Saudi Arabia. This has led the government to take different initiatives aimed at preserving the sustainability of both the financial sector and economic growth (Wilson & Graham, 2015).

Saudi Arabia's 2030 vision plans to reduce the dependence of Saudi Arabia on oil, diversify its economy, and develop public service sectors such as education, health, infrastructure, recreation, and tourism. Included in the objectives are strengthening increased non-oil trade between nations by means of commodities and consumer goods. Therefore, the financial market plays a vital and important role in economic development because it is an important channel and a main channel for the flow of savings from economic units and sectors that generate cash surpluses to the units and sectors that need to meet their financing requirements.

However, as is shown by the CMA Strategic Plan "Financial Leadership Program" (2019-2021), Saudi government planners have recognised that the Sukuk market in Saudi Arabia is relatively small when compared to emerging markets; they represent a small percentage of bank financing and GDP. The development of this market requires concerted efforts and cooperation between various parties to enhance its attractiveness to exporters and investors.

The importance of the Sukuk market lies in finding alternative financing methods for the public and private sector projects, complementing the investment products of different segments of investors and enabling them to diversify their investments. Moody's said that between 2015 and 2018, Sukuk issues filled nearly 80% of Malaysia's fiscal deficit financing needs, whereas they covered around 14% of Saudi Arabia's. Moreover, there are currently only five publicly listed corporate Sukuk on the Tadawul stock exchange and the last Sukuk issuance by a public company was in 2015 (Tadawul, 2019).

With the expansion of the Islamic finance industry, the demand for an independent legal and regulatory framework is increasing. Best practices require the production of legal infrastructure and high-quality operations. The

market performance of stable government instruments can be assessed in terms of market efficiency, regulatory transparency and governance arrangements through international Islamic finance standards. The reform of the regulatory and legal framework can improve the contractual aspects of Sukuk specially to produce tangible and commercial assets or to add value to the real economy (IMF, 2016).

So far, most studies on Sukuk have focused on the Sukuk issuances and the practices and traits that shape Islamic finance. In this study the researcher has tried to shift the focus to the legal framework of Sukuk in Saudi Arabia, Malaysia, and the UAE, Alshamrani (2014) has pointed out that the Sukuk market in Saudi Arabia suffers due to the lack of independent Sukuk laws. In other words, there are no specific laws to govern Sukuk. The Sukuk supervision is carried out side-by-side with the debt instruments could lead to decreasing public trust in Sukuk. According to Al Elsheikh & Tanega (2011), the supervision issue is one of the significant obstacles of Sukuk issuance in Saudi Arabia, especially in the absence of a regulatory and legislative structure. Al Saeed (2012) believes that issuing Sukuk in Saudi Arabia has two significant drawbacks, both regulatory and supervisory. One of the main obstacles is the inadequate structure of regulations and laws that are issuing Sukuk in Saudi Arabia.

### **1.3 Research Questions**

The main research question is formulated for this study is: How to develop the current structure of regulations and laws for issuing Sukuk in Saudi Arabia. Additional research questions were cautiously chosen to suggest developments to Sukuk's current release in Saudi Arabia. The following research questions were formulated to achieve the research objectives:

- 1- What are the current weaknesses of the legal and regulatory framework that governs the Sukuk industry in Saudi Arabia?
- 2- What are the current strengths of the legal and regulatory framework of Sukuk in Malaysia?
- 3- What are the current strengths of the legal and regulatory framework of Sukuk in the United Arab Emirates?
- 4- How can the Malaysian and the United Arab Emirates' experience help to enhance the legal and regulatory structure of Sukuk issuance in Saudi Arabia?

### **1.4 Research Objectives**

The main objective of the present study was to provide suggestions for the development of the current framework of Sukuk regulation and laws in Saudi Arabia, and compare it with Sukuk issuance in Malaysia and the United Arab



Emirates, and to examine what conclusions follow from this comparison for the Sukuk issuance in Saudi Arabia. The extra objectives of the research are:

- 1- To explore the current weaknesses of the legal and regulatory framework for Sukuk in Saudi Arabia.
- 2- To examine the current strengths of the legal and regulatory frameworks for Sukuk in Malaysia.
- 3- To examine the current strengths of the legal and regulatory frameworks for Sukuk in UAE.
- 4- To recommend applicable legal and regulatory based on Malaysia and the UAE practice in order to improve Sukuk implementation in Saudi Arabia.

### **1.5 Significance of the Research**

The significant contribution of this thesis is to provide suggestions for the development of the current framework of Sukuk regulation and laws in Saudi Arabia, and compare it with Sukuk issuance in Malaysia and the UAE, and to examine what conclusions follow from this comparison for the Sukuk issuance in Saudi Arabia. The experiences of Malaysia and the United Arab Emirates have been selected as they are among the major countries in the Sukuk system. Malaysia and the UAE are renowned for their best practices in attracting investors.

The study contributes to attaining the objectives that have been highlighted in the strategic Vision 2030 to mitigate its dependence on the oil market by encouraging the private sector through the sustainable development of the financial sector. However, as is shown by the CMA Strategic Plan "Financial Leadership Program" (2019-2021), a crucial strategic element mentioned in the programme is the development of the stagnant and slow Sukuk issuance market in Saudi Arabia.

The study is considered significant since its result can be used to improve a comprehensive legal and regulatory framework of Sukuk in Saudi Arabia. The country does not have particular laws to resolve the issue of Sukuk in Saudi Arabia, and also there is a lack of an independent central Sharia board as the highest Islamic banking and finance authority in Saudi Arabia to regulate and oversee the issue of Sukuk.

This provides basic and necessary legal information necessary to understand and strengthen the instruments to attract potential investors and generate more competitive instrument. Thus, the results of this study will be useful In Saudi Arabia, the Monetary Agency for Saudi Arabia (SAMA) and

the Capital Market Authority (CMA) will create Islamic banking and economic operations. Moreover, the study is considered significant since its result can help the researchers to conduct further research on Sukuk regulations in Saudi Arabia.

## **1.6 Scope and Limitations of the Research**

The scope of this research covers the current legal uses of Sukuk regulatory frameworks of Sukuk in Saudi Arabia, Malaysia and the UAE. This research analysed and compared the different legal and regulatory frameworks of instruments in Saudi Arabia, Malaysia, and the UAE.

This research was based on the limits of the discussion and analysis the laws and regulations of Sukuk in Saudi Arabia, Malaysia and United Arab Emirates that regulate and supervise Islamic financial activities. It only focused on different kinds of important financial institutions in these countries that offer Islamic banking and financial products and services. Besides, the data applied in this study were limited to the work of literary libraries, both primary and secondary sources such as laws, legislations, articles of guidance, published data, dissertations, books and other relevant academic publications.

## **1.7 Outline of the Research**

The five chapters are described as follows:

### **Chapter one: Introduction**

The first chapter provides an overview of the Sukuk in Saudi Arabia, the importance of Sukuk and the researcher's motivations for the study. It emphasizes the background of the study, the study's objectives, and questions, purpose of the study, scope and limitations of the study.

### **Chapter two: Literature Review**

This chapter highlights the literature review on the concept of Sukuk in Islamic finance. There are four main areas of studies depending on the existing literature; studies on the concept of Sukuk in Islamic finance, studies on the nature and theoretical principles of Sukuk, discussions on the operational matters associated with Sukuk structure and issuance in practice and the importance of Sukuk in economic development.

### **Chapter three: Research Methodology**

The third chapter describes the philosophy and the methodology of the research used throughout the study. The methodologies used to achieve the study's objectives include interviews and secondary data study.

### **Chapter four: Results and Discussions**

This chapter presents the findings from the analysis of the secondary data and interviews. Subsequently it also describes the detailed findings on the Sukuk in Saudi Arabia, Malaysia and the United Arab Emirates.

### **Chapter five: Conclusion**

After the results of the research, the summary and the conclusion of the research findings are presented in the last chapter. This chapter subsequently emphasizes the development of Sukuk's legal and regulatory framework in Saudi Arabia. This chapter also presents the study's implications and some recommendations for future research. Finally, the concluding section of this chapter discusses the entire research findings and recommendations.

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## LIST OF PUBLICATIONS

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