

Analysis of the Application of the *Wa'd* Concept in the Issuance of Project Based *Sukuk* (PBS) in Indonesia

Taufiq Kurniawan¹ & Asmak Ab Rahman²

Abstract: *Analysis of the Application of the Wa'd Concept in the Issuance of Project Based Sukuk (PBS) in Indonesia.* Indonesia, in recent years, has been trying to accelerate economic development, especially in the field of infrastructure development. This effort requires enormous funding, both from abroad and domestically. To expand funding sources from within the country, the government issued Project Based *Sukuk* (PBS) which aims to finance infrastructure development through *sharia*-based financing instruments. PBS is indeed an alternative for Muslim communities who are interested in building the country's economy without being overshadowed by the element of usury. This instrument has the main contract in the form of *ijârah* (lease), supporting contracts, and promises (*wa'd*). The application of these contracts can only be said to be valid from the point of view of the *sharia* if all the rules and conditions are fully complied with. This study tries to analyze the application of the *wa'd* concept in PBS, to find out whether all the rules and conditions set by *Syara'* have been implemented properly. Data were collected through interviews and literature review which were then analyzed using a normative approach. This study concludes that the application of the *al-wa'd* concept to PBS is in line with *sharia* principles, although there are still two issues that still need to be fixed, namely first: the problem of investor ownership of PBS assets which is only for benefits, not accompanied by ownership of the goods; both mechanisms for reselling PBS assets at a price equivalent to the nominal value of PBS, even though according to AAOIFI and *Majma' al-Fiqh al-Islâmî al-Duwali sukuk* assets may not be resold at a price equivalent to the nominal value of the *sukuk*.

Keywords: Project Based *Sukuk* (PBS), the concept of *Wa'd*, *sukuk* contract.

Abstrak: *Analisis Penerapan Konsep Wa'd dalam Penerbitan Project Based Sukuk (PBS) di Indonesia.* Indonesia, dalam beberapa tahun terakhir, sedang berupaya mempercepat pembangunan ekonomi, terutama di bidang pembangunan infrastruktur. Upaya itu membutuhkan pendanaan yang sangat besar baik yang bersumber dari luar negeri maupun dalam negeri. Untuk memperluas sumber pendanaan dari dalam negeri, pemerintah menerbitkan Project Based *Sukuk* (PBS) yang bertujuan untuk membiayai pembangunan infrastruktur melalui instrumen pembiayaan berbasis syariah. PBS memang merupakan alternatif bagi masyarakat muslim yang tertarik untuk membangun perekonomian negara tanpa dibayangi oleh unsur ribâ. Instrumen ini memiliki akad pokok berupa *ijârah*, akad penunjang dan janji-janji (*wa'd*). Penerapan kontrak-kontrak tersebut hanya dapat dikatakan

¹ Temporary Lecturer, Faculty of Education and Teacher Training, State Islamic University of Sultan Syarif Kasim Riau, Indonesia

² Associate Professor, Department of Shariah and Economics, Academy of Islamic Studies, University of Malaya, Kuala Lumpur, Malaysia

E-mail: 'fathony623@yahoo.com, ²asmak@um.edu.my

sah dari sudut pandang syari'ah jika semua aturan dan ketentuan dipenuhi secara menyeluruh. Penelitian ini mencoba menganalisis penerapan konsep *wa'd* di PBS, untuk mengetahui apakah semua aturan dan ketentuan yang telah ditetapkan oleh *Syara'* telah terlaksana dengan baik. Data dikumpulkan melalui kegiatan wawancara dan telaah pustaka yang kemudian dianalisis dengan menggunakan pendekatan normatif. Studi ini menyimpulkan bahwa penerapan konsep *al-wa'd* pada PBS sudah sejalan dengan prinsip syariah, meski masih ada dua isu yang masih harus diperbaiki, yaitu pertama: masalah kepemilikan investor terhadap aset PBS yang hanya sebatas manfaat, bukan disertai dengan kepemilikan barangnya; kedua, mekanisme penjualan kembali aset PBS dengan harga yang setara dengan nilai nominal PBS, padahal menurut AAOIFI dan *Majma' al-Fiqh al-Islâmi al-Duwali* aset *sukuk* tidak boleh dijual kembali dengan harga yang setara dengan nilai nominal *sukuk*.

Kata Kunci: Project Based *Sukuk* (PBS), konsep *wa'd*, kontrak *sukuk*.

Introduction

The discussion of the use of the concept of *al-wa'd* in Islamic financial products and instruments has been around since the 70s, which, at that time, was the beginning of the development of the Islamic financial system. However, its use was still limited to *al-murâbahah li al-amir bi al-shira'* (Deferred Payment Sale) contracts.¹ In subsequent developments, this concept was used as a binding contract in the issuance of sovereign *Sukuk* instruments traded both in rupiah and foreign currencies. Among the *sukuk* instruments that use the *wa'd* concept as a supporting contract is Project Based *Sukuk* (PBS). Project Based *Sukuk* (PBS) is a type of *sukuk* issued by the Government of Indonesia to finance government projects.² This *Sukuk*, firstly issued in 2011, is a type of sovereign *sukuk* in the Indonesian capital market whose purpose is to build the country's infrastructure and launch annual projects as the underlying asset.³ The *sukuk* is aimed at companies as their main investors, including wealthy

¹ Ahmad Suhaimi Bin Yahya, "Penggunaan *Wa'd* dalam Kontrak *Buyu', Ijarah* dan *Syirkah: Implikasi Hukum*" (Workpaper, Muzakarah Cendekiawan Syariah Nusantara 5, Phuket, Thailand, 27-28 Februari 2008).

² Direktorat Pembiayaan Syariah, Direktorat Jenderal Pengelolaan Utang, Kementerian Keuangan Republik Indonesia (RI), *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, ed. Dahlan Siamat (Jakarta: Direktorat Pembiayaan Syariah, Direktorat Jenderal Pengelolaan Utang, Kementerian Keuangan RI, 2014), p. 68;

³ Taufiq Kurniawan & Asmak Ab Rahman, 'Analisis Aplikasi Akad *Bay'* Pada Project Based *Sukuk* (PBS) di Indonesia', *Jurnal Syariah*, vol. 28/3 (2020), pp. 419-420.

Muslim individuals,⁴ who are interested in investing their funds to finance government projects. These projects can be in the field of infrastructure development,⁵ or the construction of public facilities, for example, the construction of roads and flyovers, two-way roads and flyovers for trains, resources water and airports,⁶ hajj dormitories, religious affairs offices, marriage halls, State Islamic University (UIN) campuses.⁷ The basic concept of asset ownership is in the form of beneficial ownership, not tangible.⁸

To issue PBS, several *Sharia* contracts are required, consisting of one main contract, several supporting contracts, plus several promises (*al-wa'd*). The main contract is an *ijârah* (lease contract), while the supporting contracts are generally in the form of *al-bay'* (sale and purchase) and *wakâlah* (representative) contracts.⁹ Apart from that, there must also be a *wa'd* (promise) from the government to be willing to buy back the assets that have been purchased by investors and the SPV's promise to resell the assets to the government. The repurchase price of the asset must be based on the nominal price of the sovereign *sukuk*. If one of the supporting contracts is damaged, the PBS will automatically become imperfect.¹⁰ This means that to make a PBS contract, knowledge and understanding between the investor (*mu'jir*) and the government (*musta'jir*) of the contract and the concept to be applied is necessary to

⁴ Manggiarto D.S (Head of Sharia Compliance and Instrument Development Section, Directorate of Sharia Financing, Ministry of Finance of the Republic of Indonesia), interview on May 4 2015.

⁵ Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, 57-69.

⁶ Ikhsan Rifaldi, S.ST.Ak., M.Si (Head of Legal Document Section), Sub-Directorate of State Sukuk Regulations and Management of State Sukuk Assets, Directorate of Sharia Financing, Directorate General of Debt Management, Ministry of Finance of the Republic of Indonesia), interview on June 4, 2018

⁷ Eri Hariyanto, 'Memahami Project Based Sukuk (PBS),' situs internet *Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko Kementerian Keuangan*, , accessed on October 13, 2017.

⁸ Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, 84.

⁹ Ibid, pp132-133; See also: Yulizar D. Sanrego, 'Aplikasi *Ijârah Mawshûfah fî Dhimmah* dan *Ijârah al-Mawjûdât al-Maw'ûd Bisti'jârihâ* dalam Pengembangan Produk Sukuk di Indonesia,' (Workpaper, Muzakarah Cendekiawan Syariah Nusantara 6, Bandar Seri Begawan, Negara Brunei Darussalam, 16-17 May 2012), 13-15.

¹⁰ Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, pp. 132-134.

avoid misunderstandings between the contracting parties as well as to ensure that the contract is following the regulations of sharia.¹¹

PBS is an interesting issue to study, not only because PBS in Indonesia has developed rapidly but also, most importantly, to maintain compliance with *sharia* provisions. Although there have been many *fatwas* that can be used as a reference in the issuance of *sukuk* in Indonesia, it is still at the stage of its implementation that requires escort and supervision so that its implementation is following the *fatwas*. For this reason, this study was carried out by focusing on the analysis of the suitability of the *wa'd* concept with *Sharia* principles.

Research Methodology

This research is qualitative in nature and was carried out by combining field studies with library studies. The data were obtained through semi-structured interviews with several informants, particularly the staff of the Directorate of Sharia Financing and staff of the Directorate General of Debt Management, Ministry of Finance of the Republic of Indonesia. In addition, the author also uses certain documents that are closely related to the main problem under study. The data, after being collected and processed, is then analyzed using the inductive analysis method. Inductive is a kind of analyses method, commonly used in qualitative research, using specific data to draw a general conclusion.¹²

The Concept of *al-Wa'd bi al-'Aqd* (A Promise to Contract) in Islam

There is a fiqh rule saying: "*al-hukmu 'alâ al-shay'i far'un 'an tasawwurihi*",¹³ which means: the law on something is part of the description

¹¹ Fathul Amin Aziz, 'Mafia Akad dalam Perbankan Syariah', *el-Jizya*, vol. 3/1 (2015): 93; Read also: Iskandar, Ilhaamie Abdul Ghani Azmi & Azian Madun, 'Pemahaman Nasabah Bank Muamalat Indonesia Banda Aceh terhadap Akad Mudharabah', *SHARE*, vol. 1/2 (2012): 164 & 174.; Muhammad Said, *Hukum Bisnis Islam*, ed. Aklia Suslia (Jakarta: Salemba Diniyah, 2019), 179.

¹² Saifuddin, Muhammad Syuhudi Ismail & Ismail Suardi Wekke, *Strategi dan Teknik Penulisan Skripsi* (Yogyakarta: Deepublish, 2018), p. 33.

¹³ Hisham al-Sayyid 'Atiyyah al-Janayini, 'Al-Kuhul wa Istikhdamatuhu (Dirâsah Fiqhiyyah Mu'asarah)', *Majallah Kulliyat al-Shar'iyah wa al-Qanûn bi Tanta*, vol. 34/4 (2019): 1059, 1092 & 1102.

of that thing. Therefore, before discussing in detail the concept of *al-wa'd*, it is necessary to first have an understanding of what is meant by *al-wa'd*, and then enter into a discussion of other matters closely related to it.

Al-Wa'd be linguistically masdar from the verb *wa'ada - ya'idu* the plural is *wu'ud*. *Al-Wa'd* is used both in good and bad cases. *Al-Wa'd* also called *al-'idah* has the meaning of notification of someone's actions in the form of good things in the future.¹⁴ Like the sentence: *wa'adtuhu khayran* (I promised him something good) and *wa'adtuhu sharran* (I promised him something bad).¹⁵ However, when the words *khayran* and *sharran* are not added. For good things the words *al-wa'd* and *al-'idah* is used. For example *wa'adtuhu wa'dan or 'idatan* (I promised him a good promise). As for the bad things, *al-i'ad* and *al-wa'id* are used. For example *wa'adtuhu wa'idan* (I promised him a bad promise).¹⁶ According to the DSN-MUI fatwa promises in *sharia* financial and business transactions are *mulzim* (binding) and must be fulfilled by *wa'id* (the promisors).

In fiqh, there is no dispute among scholars that performing *al-wa'd* is a demanded matter.¹⁷ There is even a consensus of scholars about who makes a promise to someone about something, then he needs to fulfill that promise. On the side of Law, however, scholars disagree whether fulfilling the promise is an obligatory or *sunnah* (strongly recommend) matter. Most of the fuqaha' state that keeping promises is a *sunnah* matter. If a person does not fulfill it then he has left a *fadilat* (nobility) and has done something very *makrûh* (detested), although it is not sinful.¹⁸

¹⁴ Abu 'Abd Allah Muhammad bin Muhammad al-Hattab al-Maliki, *Tahrîr al-Kalam fi Masâ'il al-Iltizâm*, ed. 'Abd al-Salam Muhammad al-Sharif (Beirut: Dar al-Gharb al-Islami, 1984), p. 153.

¹⁵ Ibn Manzur, *Lisân al-'Arab*, ed. ke-6 (Beirut: Dar Sadir, 2008), 15:241-242, entri "وعد".

¹⁶ Muhammad Bin Abû Bakr Bin 'Abd al-Qadir al-Râzi, *Mukhtâr al-Sahbah* (Kaherah: Dar al-Hadith, 2008), 391, entri "وعد". Ahmad bin Muhammad bin 'Ali al-Fayyumi al-Muqri, *al-Misbâh al-Munîr*, (Kaherah: Dar al-Hadith, 2008), p. 418, entri "وعد".

¹⁷ Abû 'Abd Allah Muhammad bin Muhammad al-Hattab al-Maliki, *Tahrîr al-Kalam fi Masâ'il al-Iltizâm*, ed. 'Abd al-Salam Muhammad al-Sharif (Beirut: Dar al-Gharb al-Islami, 1984), p. 153. Al-Hattab stated that there was no dispute about being obligated to fulfill promises, but al-Nawawi stated that there was a dispute about this case. It is possible that what Al-Hattab meant was that there was no dispute within the school he held, namely the Maliki school of thought.

¹⁸ Abû Zakariyya Yahya bin Sharaf al-Nawâwi, *Al-Adhkâr: al-Muntakhab min Kalam Sayyid al-Abrâr*, ed. Taha 'Abd al-Ra'uf Sa'd (Kaherah: Maktabah al-Safa, 2001), p. 354.

While some jurists argue that fulfilling promises is an obligatory matter. Among those who hold this opinion is 'Umar bin 'Abd al-'Aziz.¹⁹

The fuqaha' have also differed in their opinion in determining whether the demands to fulfill the promise are legally binding or not.²⁰ Some jurists argue that promise is binding from a legal perspective. Others argue that it is not. Another group views that it is obligatory if a promise is bound by a cause, as one person says to another: "marry, then this house is for you". But if the promise is not bound then it is not obligatory. Similarly, the promise will be binding if it is based on a cause (factor), even though the promised case has not been included in the case caused by the promise. For example, you say to your friend: "I want to buy a house, so lend me money", then your friend answers: "yes". Then the promise to lend money will bind your friend even though you haven't bought a house while buying a house is the reason your friend promised to lend you money.²¹ The promise is not binding if it is not based on a cause (factor). For example, you say to your friend: "lend me money", then your friend replies: "yes", then this promise to lend money does not bind your friend, because you borrow money for no reason. Thus a promise is binding if it is based on a cause (factor), and the promised case has been included in the case caused by the promise.²²

Contemporary scholars have also discussed similar topics. According to the decision of *Majma' al-Fiqh al-Islâmi al-Duwali* (the International Islamic Fiqh Academy), a promise (*wa'd*) is religiously binding on those who make promises, unless there is a reason. A promise can be legally binding if the promise contains the fulfillment of obligations, and the recipient of the promise has borne the costs of the promise.²³ Similarly, the MUI National Sharia Council has also issued a fatwa related to promise,

¹⁹ Al-Nawâwi, *Al-Adhkâr*, p. 354.

²⁰ Al-Hattab, *Tabrîr al-Kalam fi Masâ'il al-Iltizâm*, p. 154.

²¹ Al-Qarafi, *Kitâb al-Furûq*, 4:1138 & 1141. Al-Hattab, *TTabrîr al-Kalam fi Masâ'il al-Iltizâm*, p. 154.

²² Al-Hattab, *Tabrîr al-Kalam fi Masâ'il al-Iltizâm*, pp.154-155.

²³ Munazzamât al-Ta'awun al-Islâmi Majma' al-Fiqh al-Islâmi al-Duwali (International Islamic Fiqh Academy), "*Qarar bi Sha'n al-Wafa' bi al-Wa'd wa al-Murâbahah li al-Amir bi al-Shira*", <http://www.iifa-aifi.org/1751.html>, accessed on May 20, 2020.

stating that promises (*wa'd*) in sharia financial and business transactions are *mulzim* (binding) and must be fulfilled by *wa'id* (the promisor) by following the provisions contained in this *fatwa*.²⁴ There are two special provisions stated in the *fatwa* statement. The first provision is regarding the party who promises (*wa'id*), which contains three conditions, namely *wa'id* must be competent in law (*ahliyyât al-wujûb wa al-ada'*). If a promise is made by a party who is not yet competent in law, then the effectiveness/legitimacy of the promise depends on the permission of the guardian. *Wa'id* must have the ability and authority to realize *maw'ûd bih* (object of the promise). The second provision is related to the implementation of *wa'd*, which contains five things, namely; 1. *Wa'd* be stated in writing in the deed/contract agreement. 2. *Wa'd* must be related to something (condition) that must be fulfilled or carried out by *maw'ûd* (promisee). 3. *Maw'ûd bih* (object of promise) does not conflict with *sharia*. 4. *Maw'ûd* has fulfilled or applied the conditions referred to in number 2.

Furthermore, regarding the transfer of ownership, *Majma' al-Fiqh al-Islâmî al-Duwali* (International Islamic Fiqh Academy) stated that ownership in sukuk is intrinsic ownership. This is stated in the decree issued by institution Number 178 (4/19).), regarding Islamic sukuk (securitization) and their application as follows:

“*Sukuk* represents the *hissah shai'ah* (the part that cannot be defined) in real possession (*haqîqiyah*).”²⁵

Majma' al-Fiqh al-Islami al-Duwali also made a stipulation that the *sukuk* assets could be resold at a price agreed upon by the contracting parties except for a price equivalent to the nominal value of the *sukuk*. In the decision of *Majma' al-Fiqh al-Islâmî al-Duwali* Number 178 (4/19), regarding Islamic *sukuk* (securitization) and its application, it is stated that:

²⁴ Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia, NO: 85/DSN-MUI/XII/2012 tentang Janji (*wa'd*) dalam Transaksi Keuangan dan Bisnis Syariah, 6-7. Downloaded from <https://drive.google.com/file/d/0BxTl-INihFyzTFVrQUU2SnNfOEE/view>.

²⁵ Munazzamât al-Ta'awun al-Islâmî Majma' al-Fiqh al-Islâmî al-Duwali (International Islamic Fiqh Academy), ‘*Qarâr bi Sha'n al-Shukûk al-Islâmiyyah (al-Tawriq) wa Tathbiqâtiha al-Mu'asarah wa Tadâwuliha.*’ accessed on December 27, 2018, www.iifa-aifi.org/2300.html

“It is not permissible to finish the *sukuk* with the nominal value of the *sukuk*, but finish it at its market value or at the value agreed upon at the time of completion.”²⁶

The decision on the sale back of PBS assets at a price equivalent to the nominal value of PBS is also in line with the decision of the Accounting and Auditing Organization for Islamic Finance Institutions (AAOIFI) in Shariah Standard 2010, standard 17, clause 5 (2/2/5) which states:

“For commercialized *sukuk*, the *sukuk* issuer may promise when issuing the *sukuk* to buy what is offered from this *sukuk* after the issuance is completed, at a market price. But the purchase promise may not be with the nominal value of the *sukuk*.”²⁷

Asset Based *Sukuk* on PBS

Asset-based *sukuk* is *sukuk* in which the investor's ownership of the underlying asset is only in the form of beneficial ownership, and not true ownership. The form of ownership in the underlying asset is only used to structure the transaction to comply with *sharia* principles, not as a source of direct compensation payments, nor a guarantee. The payment of the return and principal of the *sukuk* is guaranteed by the obligor/originator and is not directly related to the income stream of the underlying asset. This type of *sukuk*, therefore, is more like conventional bonds than asset securitization.²⁸

In the Law of the Republic of Indonesia Number 19 of 2008 concerning Sovereign Sharia Securities (*Sukuk*), chapter V article 11, subsection, it is stated that:

“The use of State Property (BMN) as SBSN Asset... is carried out by the

²⁶ Munazzamât al-Ta'awun al-Islâmi Majma' al-Fiqh al-Islâmi al-Duwali (International Islamic Fiqh Academy), 'Qarâr bi Sha'n al-Shukûk al-Islâmiyyah (al-Tawriq) wa Tathbiqâtihâ al-Mu'asarah wa Tadâwulihâ.' accessed on December 27, 2018, www.iifa-aifi.org/2300.html

²⁷ Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, *al-Ma'âyir al-Shar'iyyah: al-Nass al-Kâmil li al-Ma'âyir al-Shar'iyyah al-Lti Tamma l'amâdaba hatta Safar 1439 H – November 2018 M* (Bahrain: Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, 1437 H), p. 480 compare to p. 244.

²⁸ Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, p.80.

Minister (Finance) by selling or renting Benefit Rights on State Property or other means following the Akad used for the issuance of SBSN.”²⁹

The explanation of this article is:

“The transfer of State Property is special.... The nature of the transfer is, among others: (i) the sale and/or lease is carried out only on the Benefit Rights of State-Owned Goods; (ii) there is no transfer of ownership rights (legal title) to State Property; and (iii) no physical transfer of State-Owned Goods is carried out so that it does not interfere with the implementation of the duties of the Government.”³⁰

The definition of benefit rights based on this Sukuk Law is the right to own and obtain full rights to the utilization of an asset without the need for registration of such ownership and rights.³¹ Based on the edict of the law and the explanation, it can be inferred that PBS is classified under the category of asset-based sukuk, in which investors' ownership of the underlying assets is only beneficial, and not true ownership.

Furthermore, the use of State Property (BMN) in PBS, as part of the underlying asset, is not a process of pledging BMN to other parties by the government. Transactions carried out by the government against BMN in the issuance of sukuk are by selling benefit rights or leases (*ijarah* contract) so that there is no transfer of ownership (legal title) to the BMN. The use of BMN as the underlying asset for sukuk is never intended to physically transfer BMN to other parties (or investors) at this time or in the future, either when the sukuk is due or in the event of a default. The *sukuk* law or written provisions in the agreement document (akad) also regulates the government's obligation to buy back the BMN at the time of repayment or when it is due, and, on the other hand, SPV as the BMN buyer will promise to resell the BMN when payment or when it is due (sale undertaking).³²

²⁹ Kementerian Keuangan DJJPR Direktorat Pembiayaan Syariah, *Kumpulan Peraturan Surat Berharga Syariah Negara: Pengaturan Terkait penerbitan dan Underlying Asset* (Indonesia: Direktorat Pembiayaan Syariah, 2017).

³⁰ Ibid, Bab 1, Pasal 1, Ayat 16.

³¹ Ibid,

³² Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, 84.

The Implementation of the Concept of *al-Wa'd bi al-'Aqd* in the PBS Contract

a. Legal Documents for PBS Issuance

In the issuance of PBS using the asset-leased *ijârah* structure, there are at least seven legal documents required, one of which is ordering the *ijârah* object. This document summarizes the ordering of assets leased (*ijârah* objects) by the government to SPV, consisting PBS financing objects and State Property (BMN) with certain types and specifications. The seven documents are as follows:

Table 1: Legal Document for the issuance of PBS

No.	Document name	Explanation
1.	Ordering the object of <i>ijârah</i>	This document includes ordering assets to be leased (objects of <i>ijârah</i>) by the government to the SBSN Issuing Company (PP SBSN) PBS, which consists of PBS financing objects and State Property (BMN) with certain types and specifications.
2.	Power of attorney agreement (<i>wakâlah contract</i>)	This document is an agreement to grant power of attorney from the sukuk issuing company (principal) to the government (<i>wâkil</i>) in the context of a) providing the object of IMMB, which is carried out by building a project with certain specifications that will be the object of <i>ijârah</i> ; b) enter into an engagement with another party; c) using the proceeds from the PBS issuance; d) take notes before the submission of the Handover Minutes (BAST).
3.	Sale and purchase agreement (<i>akad al-bay'</i>) State Property (BMN .)	This document is an agreement between the government (the seller) and the PBS issuing company (the buyer) in the context of buying and selling State-Owned Goods (BMN) which will be used as part of the object of <i>ijarah</i> . This document is required if the object of <i>ijârah</i> consists of projects and tangible assets in the form of BMN.
4.	<i>Jjârah asset to be leased</i> (IMMB)	This document is a lease agreement through an IMMB contract for the object of <i>ijârah</i> , part of which is already available and part of it will be realized in the future. This contract is carried out between the PBS issuing company (the lessor) and the government (the lessee) on the object of <i>ijârah</i> .

No.	Document name	Explanation
5.	<i>Ijârah</i> object maintenance agreement	This document contains an agreement between the PBS issuing company as the lessor and the government as the lessee, in which the government guarantees to carry out the maintenance and management of the <i>ijârah</i> object and is responsible for all obligations that must be fulfilled in the context of maintaining and managing the <i>ijârah</i> object according to its duties and functions as the manager. <i>ijârah</i> object.
6.	Statement to sell PBS assets (sale undertaking)	This document is a unilateral statement or promise stating that the special purpose company (SPV ³³) as the investor's representative promises to resell PBS assets to the government when it matures at an agreed price.
7.	Statement to purchase PBS assets (purchase undertaking)	This is a one-party statement or promise stating that the government promises to buy back PBS assets when they mature at an agreed price.

Source: Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, 2014, p. 141-142,

In addition to the seven documents above, there is also one additional document, namely the sale and purchase agreement (*Akad al-bay'*) of PBS assets. This *al-bay'* contract will occur if the promises to sell and buy PBS assets are kept by both parties when they mature. This document contains an agreement between the PBS issuing company (the seller) and the government for the sale and purchase of PBS assets. This document will materialize when the PBS is due.³⁴

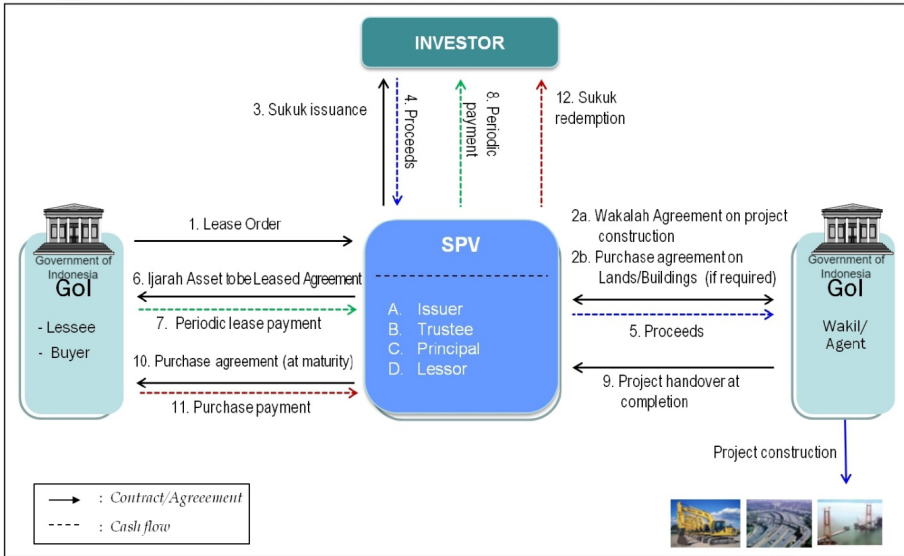
³³ *Special Purpose Vehicle* (SPV) Special Purpose Vehicle (SPV) is a special institution formed to carry out the task of issuing sukuk. Other terms can be used, namely Special Purpose Entity (SPE) or Special Purpose Company (SPC). Refer: Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, p.92.

³⁴ Ikhsan Rifaldi, (Head of Legal Document Section, Sub-Directorate of Sovereign Sukuk Regulations and Management of Sovereign Sukuk Assets, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of Indonesia), interview on June 4, 2018.

b. Ijârah Contracts Scheme in PBS

The PBS structure that uses the main contract in the form of an *ijârah* contract supported by several contracts and the *wa'd* (promise), can be explained through the following figure:

Figure 1: Sharia Contracts Scheme in PBS



Source: Directorate of Sharia Financing, Directorate General of Debt Management, Ministry of Finance Republic of Indonesia (2014).

Explanation:

I. The Process of Issuance of Sovereign *sukuk*, commonly known as Sovereign Sharia Securities (SBSN):

1. Leasing order with certain specifications by the government to special purpose vehicle (SPV) , also known as SBSN Issuing Company (PP SBSN), through asset-leased *ijârah* contract.
- 2a. The granting of power of attorney (*wakâlah* contract) by the SPV (PP SBSN) to the government (*wâkil*) in the context of providing the object of *ijârah* (provision of real assets and project development).
- 2b. Purchase (*akad al-bay'*) State Property (BMN) in the form of

land and buildings (land or buildings) which will be used as part of the object of *ijârah* if needed.

3. Sukuk Issuance by SPV (PP SBSN) as evidence of the investors' share participation in *sukuk*/SBSN assets.
4. SBSN issuance proceeds from investors to the SPV (PP SBSN).
5. Provision of proceeds from the *sukuk* issuing company (Principal) to the government (*wâkil*).

II. Payment of *sukuk*/SBSN rewards

6. Leased asset *ijârah* contract between the government (lessee) and the *sukuk* issuing company (lessor).
7. Periodic Payment of *ujrah* (rent) by the government to SPV (PP SBSN), to be given to investors in return for *sukuk*/SBSN.
8. Periodic payment of *sukuk*/SBSN rewards to investors through paying agents.

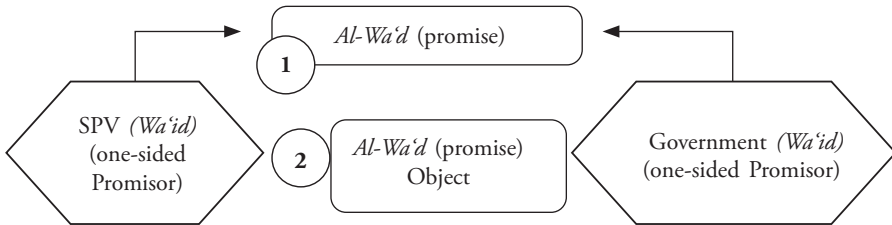
III. *Sukuk* expiration period:

9. The signing of the Minutes of Handover (BAST) of the project between the government (*wâkil*) and the *sukuk* issuing company (principal).
10. Purchase of *sukuk* assets (*akad al-bay'*) by the government from *sukuk*/SBSN holders through the *sukuk* issuing company.
11. Payment for the purchase of *sukuk* assets/SBSN by the government to *sukuk*/SBSN holders through a paying agent as payment of *sukuk*/SBSN.
12. Completion and settlement of *sukuk*/SBSN.

c. *Al-Wa'd* Scheme in PBS

The scheme of *al-wa'd* (promise) in PBS is shown in Figure 2. The scheme is seen from the flow of the *al-wa'd*. concept application

Figure 2: The scheme of *al-wa'd* (promise) in PBS



Source: data obtained during the study (2018)

Explanation:

1. SPV (as a representative of investors) makes unilateral promises and the government also makes unilateral promises. In this case, the SPV and the government are both one-sided *wa'id* (promisor).
2. The *al-wa'd* object (promise object) from SPV is in the form of resale of PBS assets to the government by SPV (as the investor's representative) when it matures at an agreed price. While the object of *al-wa'd* from the government is in the form of repurchasing PBS assets by the government when it matures at an agreed price.

Findings and Discussion

Sharia capital market institutions are financial institutions based on *sharia* principles. Therefore, PBS instruments offered by the government must also use concepts that are following *sharia* principles, both in terms of conditions and procedures carried out in them. If any of the conditions or procedures are not implemented or implemented but are not following *sharia*, then the contract applied to the PBS instrument may become invalid on the *sharia* perspectives. For this reason, some of the main issues that need attention are presented as follows:

a. Promise (*Wa'd*) in PBS Issuance

In the PBS implementation process, there are three statements of promise (*wa'd*). The first promise is stated in the PBS legal document at the time of ordering the object for lease. The second and third promises are realized in the form of (1) a unilateral statement or promise that SPV as the investor's representative promises to resell PBS assets to the government (sale undertaking) when it expires at the agreed price. (2) a unilateral statement or promise stating that the government promises to buy back PBS assets (purchase undertaking) when it matures at the agreed price.

In Figure 1 regarding the contract scheme in PBS, it is explained that the first step taken in the scheme is ordering the object of *ijârah*. Because what is ordered at this time is the object of *ijârah*, it gives the impression that the contract used at this stage is *istisnâ'* (booking).³⁵ But if what is meant is an order for an object aiming at being rented, as explained earlier, then it seems like an order transaction using the *Ijârah Mawsûfah Fi Dhimmah* (IMFD) contract. However, after further investigation, it is found that the purpose of ordering this object was to order a *sukuk* (*ijârah*) object for rent, not an order for the object alone. This shows that the transaction structure used is *al-wa'd* (promise) to rent the object of *ijârah* with certain criteria, and not using the *istisnâ'* contract which is intended to order only certain objects, and not using the *Ijârah Mawsûfah Fi Dhimmah* (IMFD) contract.³⁶ So in the step

³⁵ *Al-Istisnâ'* as defined by al-Kasani, is a contract for goods sold under dependents, in which there are working conditions. Ibn 'Abidin describes *al-Istisnâ'* as the act of asking a handyman to do a certain job with a certain form See: Al-Kasani, *Bada'i' al-Sana'i'*, 6:84. Compare with Ibn 'Abidin, *Radd al-Mukhtar*, 7:474-475. Some Hanafi jurists argue that *al-istisnâ'* is another form of promise (*al-muwâ'adah*), while some other jurists, this is the opinion of the majority, view *al-istisnâ'*, as a sale and purchase contract (*al-bay'*). Refer to: Sami 'Adnan al-'Ajjuri, "Nazariyyat al-'Aqd pepper al-Shaykh Mustafa al-Zarqa: Dirasah Fiqhiyyah Muqaranah" (Master's Thesis in the Field of Fiqh al-Muqarin, Faculty of Tarbiyyah, Dirasah Islamiyyah, al-Azhar University-Gaza, 2013), pp. 106-107

³⁶ Anggoro Pridityo, (Head of Service and Investor Relations Division (2018) and Staff of Sharia Compliance and Instrument Development Section (2015), Sub-Directorate of Sovereign Sukuk Market Development, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of), interview on May, 4, 2015, June 4, 2018, March 1, and 13 May 13, 2020.

of ordering an object to be rented, there is no agreement whatsoever, there is only a promise to rent a certain object. However, according to fiqh law, any type of contract used in a contract as long as it does not conflict with the provisions of the Shari'a, is allowed to be applied.

In ordering the object of *ijârah*, the *wa'id* (promisor) is the representative of the government, namely the Director-General of Debt Management of the Ministry of Finance. By looking at his position, it is certain that he is a competent person in law (*ahliyyât al-wujûb wa al-ada'*) and has the ability and authority to realize *maw'ûd bih*. Meanwhile, from the *wa'd* aspect, it is stated in writing in a legal document, as follows:³⁷

“The government hereby promises to lease the Object of the Order following the provisions of the *ijârah* agreement which will be made separately which is an integral and inseparable part of this Order.”³⁸

Furthermore, it was also found that the *wa'd* made by the government is related to something that must be fulfilled by *maw'ûd*, namely the SPV, who must provide the object of the order, as stated in one of the points contained in the legal document. *Maw'ûd bih* in this case, namely the act of renting the object of the order, does not conflict with the *sharia*. Then when PBS is issued, it means that *maw'ud* (SPV) has provided the object of the order because it is the object of *ijârah* which is used as the basic asset of PBS. Thus, it can be concluded that the promises applied at the object ordering stage are *mulzim* (binding) and must be fulfilled by the government. This is following the DSN-MUI fatwa, *Majma' al-Fiqh al-Islâmî al-Duwali*, and the opinions of some classical jurists as explained previously.

When a *Sukuk* Issuing Company (SPV) wants to issue PBS, it must first receive a mandate from the government as the basis for issuing PBS before issuing it. Therefore, what is used as the basis by SPV to issue PBS is a mandate in the form of ordering *ijârah* objects from the government with certain criteria which will later be leased under

³⁷ The statement is quoted from the PBS document series 007, in which the PBS series is still in circulation and will end on September 15, 2040.

³⁸ Legal Document: Order Letter for Issuing and Selling Sovereign Sharia Securities (Sovereign *Sukuk*) in Rupiah Currency with Fixed Fee, Serial PBS-007-A, Nomor: S-32/PU/2015.

certain rules. After that, SPV can issue PBS. So in the step of ordering the object of *ijârah*, not using *Ijârah Mawsûfah Fi Dhimmah* (IMFD) but in the form of *al-wa'd* (promise) from the government to rent the object of *ijârah* with certain criteria.

From the various explanations above, it can be understood that, in terms of fiqh, the use of *al-wa'd* (promise) in ordering *ijârah* objects for rent with certain criteria applied in PBS is no problem. In other words, its implementation is following the concept of *al-wa'd* which has been discussed by Muslim scholars. The government, unilaterally, promised and committed to renting something with the appropriate criteria. This commitment is carried out without any element of coercion from other parties and is stated in a document that is supported by evidence of a signature from the government. Likewise in its implementation; So far, the government has always fulfilled its promise to rent objects that have been ordered according to the intended criteria, this - namely the fulfillment of promises - is something that is ordered in the *sharia*. Therefore, as the transaction of ordering PBS objects for rent using the *al-wa'd* concept does not conflict with the rules of the *sharia*, PBS can still use the *al-wa'd*.

c. *al-Wa'd bi al-Aqd* on PBS Products

In the context of PBS, the concept of *al-wa'd* is also used in forming sukuk. Therefore, an understanding of the concept of *al-wa'd* as found in the works of scholars is an important matter to provide precise and clear results in analyzing the validity of the *al-wa'd* practices.

In the implementation of PBS, there are three statements of promise (*wa'd*), one of which has been discussed in point (a) when analyzing the first legal document in PBS, namely ordering objects for rent. While the other two are the *wa'd* discussion that is meant here. Namely, first, a statement to sell PBS assets (sale undertaking). This is a statement or promise of one party stating that SPV as the investor's representative promises to resell PBS assets to the government when it matures at an agreed price. Second, a statement to buy PBS assets (purchase undertaking). This is a unilateral statement or promise stating

that the government promises to buy back PBS assets when they mature at an agreed price.³⁹ The price of PBS assets to be sold in the statement is equivalent to the nominal value of the *sukuk*. Likewise, in practice, PBS assets that have matured are sold at par with the nominal value of the *sukuk*.⁴⁰

This purchase undertaking document is not signed by both parties, but only one party states that he or she will buy. Meanwhile, the other party carried out the sale undertaking and stated it as well. In other *wa'd* documents, two parties signed it, while in the *wa'd* document of a purchase undertaking, only one party signed it, namely the government. Likewise, in the *wa'd* document of a sale undertaking it is signed by only one party, namely the SPV (representative of the investor). Even though the existence of the purchase undertaking document is sufficient, the sale undertaking document is still there to strengthen the legal side.⁴¹ However, the combination of these two *wa'd* (purchase undertaking and sale undertaking) seems to be in the term *al-muwâ'adah* compared to the term *al-wa'd*. This is because two parties promise each other to do something with the same intention.⁴²

There is no element of coercion in this *wa'd* statement because one of the functions of the existence of the SPV is to avoid conflicts of interest between the two parties. SPV was formed to defend investors and also for the benefit of the government. So there is no element of coercion in making a purchase undertaking or a sale undertaking because the SPV carries out its duties according to the purpose for which it was formed. From the results of the interview it was stated that the existing documents are allowed for investors if they do not want to resell the *sukuk* assets to the government, but is this possible? and do investors

³⁹ Direktorat Pembiayaan Syariah, *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, p.142.

⁴⁰ Anggoro Pridityo, and Manggiarto D.S (Head of Sharia Compliance and Instrument Development Section, Sub-Directorate of Sovereign Sukuk Market Development, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of Indonesia), interview on May 4, 2015.

⁴¹ *Ibid.*

⁴² Khairun Najmi Saripudin et al., "Application of Promise in *Sukuk Musharakah* Structure," *Middle East Journal Scientific Research*, Vol. 12, No. 2 (2012, 160-167), 163.

want to? In practice, it is difficult to implement. Because, referring back to its original definition, a *sukuk* is proof of ownership of an indivisible asset. So, when there are 20 thousand investors, then there is one investor who doesn't want to sell their assets, then that cannot happen, because the assets cannot be undivided. It would be different if all investors (for example there were about 20 thousand people) agreed together not to resell PBS assets to the government. Theoretically, this is allowed, but in reality, it doesn't seem possible. So far, there are no investors who wish to own *sukuk* assets when they mature. That is why, all the interests of investors are represented by the trust holder, namely the SPV. On the other hand, the SPV also has links with the government, so logically there will be no breach of trust. The position of the purchase undertaking is *wa'd*, which fiqh can or may not make. So if the *wa'd* is canceled then there is no problem. However, to date the government has never violated its commitments; Likewise SPV concerning the sale undertaking.⁴³

However, when the author checked the related documents, no statement was found stating that investors may not resell the *sukuk* assets they already own. On the contrary, it is stated in the document that SPV (as the investor's representative) stated a promise to sell PBS assets only to the government, and the promise may not be canceled:⁴⁴

“..., the Indonesian SBSN Issuing Company hereby provides an irrevocable statement (*wa'ad*) that 1. Upon termination of the *Ijarah* agreement as referred to in the *Ijarah* Agreement, the Indonesian SBSN Issuing Company promises to only sell to the Government all Sukuk Assets. PBS-007 Series State with a price equal to the nominal value of the PBS-007-A Series Sovereign Sukuk.”⁴⁵

Likewise, the government cannot cancel the promise to buy PBS assets from SPV, the following is an excerpt:

“..., the Government hereby provides an irrevocable statement (*wa'ad*), that: 1. At the time of the termination of the *Ijarah* agreement as referred

⁴³ Manggiarto D.S dan Anggoro Pridityo, interview on 04 May 2015.

⁴⁴ PBS document series 007, the PBS series is still in circulation and will end on September 15, 2040.

⁴⁵ Legal Document: Statement (*Wa'ad*) to Sell Sovereign Sharia Securities (*Sukuk* Negara) in Rupiah Currency with Fixed Fee, Series PBS-007-A, Number: PER-3/PP/01/2015.

to in the *Ijârah* Agreement, the Government promises to purchase the entire PBS-007 Series Sovereign *Sukuk* Asset from the Indonesia SBSN Issuing Company at a price equal to the nominal value of the Series PBS-007-A Sovereign *Sukuk*.”⁴⁶

Based on the facts above, it can be concluded that there is no problem regarding the application of the *wa'd* (promise) concept practiced by the government to buy back PBS assets, and also what is practiced by the SPV to resell these assets. This is because there is no element of coercion that pressures one party to make a promise, whether it is a promise to sell or a promise to buy. Although the law of fulfilling a promise for some jurists is *sunnah* or not obligatory, and the law-breaking a promise is *makrûh* (detested), it does not cause the perpetrator to sin. However, in practice, the government and SPV have never violated their promise to buy or resell PBS assets at an agreed price, namely the nominal price. This should indeed apply to every party who makes a promise because keeping a promise is the morals of a Muslim, and also a religious order, following the fatwa of the DSN-MUI, *Majma' al-Fiqh al-Islâmi al-Duwali*, and the views of some classical jurists.

There are two issues, however, related to something that was promised (*wa'd* object). The first issue is about the impossibility of investors wanting to own PBS assets after maturity. Where the reasons for this impossibility have been explained previously, namely because PBS assets cannot be distributed (undivided), as well as the existence of a very large number of investors, and the existence of SPV which has a special function in issuing *sukuk* so that there is no conflict of interest. These reasons are no problem and are acceptable and logical. However, the problem is that there are regulations in Indonesia that make investor ownership of PBS assets intangible ownership, but only beneficial ownership. So, in fact, from the outset, investors could not legally own PBS assets forever, because their ownership was not ownership of goods but only ownership of benefits.

⁴⁶ Legal Document: Statement (*Wa'ad*) to Purchase Sovereign Sharia Securities (*Sukuk* Negara) in Rupiah with Fixed Fee, Series PBS-007-A, Number: S-33/PU/2015.

Likewise, the use of State-Owned Goods (BMN) as part of the underlying asset, is not a process of mortgaging BMN to other parties by the government because the transaction carried out by the government against BMN in the issuance of *sukuk* is by selling benefit rights or leases (*ijârah* contract). So that there is no transfer of ownership (legal title) to the BMN. The use of BMN as the underlying asset for *sukuk* is never intended to physically transfer BMN to other parties (or investors) at this time or in the future, either when the *sukuk* is due or in the event of a payment failure. Thus, in PBS, the transfer of ownership of BMN assets in a sale and purchase contract -between the seller, namely the government and the buyer, namely the SPV as the investor's representative, is not appropriate. This is because the transfer of ownership is not a real (non-essential) transfer. So that it is not following the decision that has been made by *Majma' al-Fiqh al-Islâmî al-Duwali* (International Islamic Fiqh Academy) Number 178 (4/19), regarding Islamic *sukuk* (securitization) and its application to the present and its trade, which states that one of the characteristics of *sukuk* is real ownership (*haqîqiyyah*).

The second issue is the sale of PBS assets at a price equivalent to the nominal value of PBS. This issue when confronted with the results of the decisions of the Accounting and Auditing Organization for Islamic Finance Institutions (AAOIFI) and *Majma' al-Fiqh al-Islâmî al-Duwali*, shows a discrepancy. Because according to AAOIFI's decision in the 2010 Shariah Standard, standard 17, clause 5 (2/2/5), the *sukuk* issuer may promise when issuing the *sukuk* to buy what is offered from this *sukuk* after the issuance is completed, at the market price. But the promise to buy cannot be with the nominal value of the *sukuk*.⁴⁷ Likewise in the decision of *Majma' al-Fiqh al-Islâmî al-Duwali* (International Islamic Fiqh Academy) Number 178 (4/19), regarding Islamic *sukuk* (securitization) and its application in the future, now and its trade, which states: "It is not permissible to finish the *sukuk* with the nominal value of the *sukuk*,

⁴⁷ Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, *al-Ma'âyir al-Shar'iyyah: al-Nass al-Kâmil li al-Ma'âyir al-Shar'iyyah al-Lati Tamma l'amâdah bhatta Safar 1439 H – November 2018 M* (Bahrain: Hay'ah al-Muhasabah wa al-Muraja'ah li al-Mu'assasah al-Maliyyah al-Islamiyyah, 1437 H), 480. Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, *al-Ma'âyir al-Shar'iyyah*, 244.

but finish it at its market value or at the value agreed upon at the time of completion.”⁴⁸

Conclusion

Based on the results of the analysis of the data obtained, it can be concluded that in general, the implementation of PBS is following the principles of *shari'a*. However, there are still two issues that still need to be reviewed, especially related to the promised object (*wa'd* object) in PBS. *First*, the rules governing investor ownership of PBS assets are only limited to their benefit rights, not accompanied by ownership of the goods. That way, there will be no transfer of ownership (legal title) to State Property (BMN) which is one of PBS's assets. *Second*, regarding the resale of PBS assets at a price equivalent to the nominal value of PBS, even though AAOIFI and *Majma' al-Fiqh al-Islâmî al-Duwali* argued that *sukuk* assets should not be resold at a price equivalent to the nominal value of the *sukuk*.

Reference

- Ahmad Suhaimi bin Yahya, “Penggunaan *Wa'd* dalam Kontrak *Buyu'*, *Ijârah* dan *Syirkah*: Implikasi Hukum”. Kertas kerja, Muzakarah Cendekiawan Syariah Nusantara 5, Phuket, Thailand, 27-28 Februari 2008.
- 'Ajjuri, Sami 'Adnan al-. “Nazariyyât al-'Aqd lada al-Shaykh Mustafâ al-Zarqâ: Dirâsah Fiqhiyyah Muqaranah” (Tesis Master dalam Bidang Fiqh al-Muqarin, Fakultas Tarbiyyah, Jabatan Dirasah Islamiyyah, al-Azhar University-Gaza, 2013).
- Aziz, Fathul Amin. ‘Mafia Akad dalam Perbankan Syariah’, *el-Jizya*, vol. 3/1 (2015): 93-103.
- Anggoro Pridityo, (Head of Service and Investor Relations Division (2018) and Staff of Sharia Compliance and Instrument Development Section

⁴⁸ Web site: Munazzamat al-Ta'âwun al-Islâmi Majma' al-Fiqh al-Islâmi al-Duwali (International Islamic Fiqh Academy), “Qarar bi Sha'n al-Sukuk al-Islâmiyyah (al-Tawriq) wa Tatbiqatiha al-Mu'âsarah wa Tadâwuliha”, 27 Dec 2018, www.iifa-aifi.org/2300.html.

(2015), Sub-Directorate of Sovereign Sukuk Market Development, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of Indonesia, interview on May 4, 2015, June 4, 2018, March 1, and 13 May 13, 2020.

Direktorat Pembiayaan Syariah, Direktorat Jenderal Pengelolaan Utang, Kementerian Keuangan Republik Indonesia (RI), *Sukuk Negara: Instrumen Keuangan Berbasis Syariah*, ed. Dahlan Siamat. Jakarta: Direktorat Pembiayaan Syariah, Direktorat Jenderal Pengelolaan Utang, Kementerian Keuangan RI, 2014.

Dokumen Hukum (*Legal Document*): Surat Pemesanan dalam Rangka Penerbitan dan Penjualan Surat Berharga Syariah Negara (Sukuk Negara) dalam Mata Uang Rupiah dengan Imbalan Tetap, Seri PBS-007-A, Nomor: S-32/PU/2015.

Dokumen Hukum (*Legal Document*): Pernyataan (*Wa'ad*) untuk Menjual Aset Surat Berharga Syariah Negara (Sukuk Negara) dalam Mata Uang Rupiah dengan Imbalan Tetap, Seri PBS-007-A, Nomor: PER-3/PP/01/2015.

Dokumen Hukum (*Legal Document*): Pernyataan (*Wa'ad*) untuk Membeli Aset Surat Berharga Syariah Negara (Sukuk Negara) dalam Mata Uang Rupiah dengan Imbalan Tetap, Seri PBS-007-A, Nomor: S-33/PU/2015.

Fatwa Dewan Syariah Nasional - Majelis Ulama Indonesia, NO: 85/DSN-MUI/XII/2012 tentang Janji (*wa'd*) dalam Transaksi Keuangan dan Bisnis Syariah. See <https://drive.google.com/file/d/0BxTl-lNihFyzTFVrQUU2SnNfOEE/view>.

Hariyanto, Eri. 'Memahami Project Based Sukuk (PBS),' laman sesauang *Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko Kementerian Keuangan*, <http://www.djppr.kemenkeu.go.id/page/load/1807>, 13 Oktober 2017.

Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah. *al-Ma'â'ir al-Shar'iyyah 2010M-1431H*. Bahrain: Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, 2010.

- _____. *al-Ma'ayir al-Shar'iyyah: al-Nass al-Kâmil li al-Ma'ayir al-Shar'iyyah al-lati Tamma I'tamâdaha hatta Safar 1439 H – November 2018 M.* Bahrain: Hay'ah al-Muhâsabah wa al-Murâja'ah li al-Mu'assasah al-Mâliyyah al-Islâmiyyah, 1437 H.
- Ibn Manzûr, Abû al-Fadhl Jamâl al-Dîn Muḥammad Ibn Mukarram al-Anshârî, *Lisân al-'Arab*, vol. 15. Bayrût: Dâr Sâdir, 2008.
- Ikhsan Rifaldi, S.ST.Ak., M.Si. (Head of Legal Document Section, Sub-Directorate of Sovereign Sukuk Regulations and Management of Sovereign Sukuk Assets, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of), interview on June 4, 2018.
- Janayini, Hisham al-Sayyid 'Atiyyah al-. 'Al-Kuhul wa Istikhâmatuhu (Dirâsah Fiqhiyyah Mu'âsarah)', *Majallâh Kulliyat al-Shar'iyyah wa al-Qanûn bi Tânta*, vol. 34/4 (2019).
- Kasânî, Abû Bakr Ibn Mas'ûd al-Ḥanâfi Al-, *Badhâ'i' al-Shanâ'i' fî Tartîb al-Sharâ'i'*, vol. 6, ed. 'Alî Muḥammad Mu'awwadh dan 'Âdil Aḥmad 'Abd al-Mawjûd. Bayrût: Dâr al-Kutub al-'Ilmiyyah, 2003.
- Kementerian Keuangan DJJPR Direktorat Pembiayaan Syariah. *Kumpulan Peraturan Surat Berharga Syariah Negara: Pengaturan Terkait Penerbitan dan Underlying Asset.* Indonesia: Direktorat Pembiayaan Syariah, 2017.
- Khairun Najmi Saripudin et al., "Application of Promise in Sukuk Musharakah Structure," *Middle East Journal Scientific Research*, Vol. 12, No. 2 (2012, 160-167).
- Mâlîki, Abû 'Abd Allah Muḥammad bin Muḥammad al-Hattâb al-. *Tahrîr al-Kalam fî Masa'il al-Iltizam*, ed. 'Abd al-Salam Muḥammad al-Sharif. Beirut: Dar al-Gharb al-Islami, 1984.
- Mirah, Hamid bin Hasan bin Muhammad 'Ali . *Sukuk al-Ijârah: Dirâsah Fiqhiyyah Ta'sîliyyah Tatbîqiyyah.* Riyadh: Dar al-Miman dan Bank al-Bilad, 2008.
- Muhammad Amin (Ibn 'Abidin). *Radd al-Mukhtar 'ala al-Durr al-Mukhtar Sharh Tanwir al-Absar*, ed. 'Adil Ahmad 'Abd al-Mawjud dan 'Ali Muhammad Mu'awwad. Riyadh: Dar 'Alam al-Kutub, 2003, Jilid 7.

- Manggiarto Dwi Sadono, Ak., M.com. (Head of Sharia Compliance and Instrument Development Section, Sub-Directorate of Sovereign Sukuk Market Development, Directorate of Sharia Financing, Directorate General of Financing and Risk Management, Ministry of Finance of the Republic of Indonesia), interview on May 4, 2015.
- Munazzamât al-Ta'âwun al-Islâmi Majma' al-Fiqh al-Islâmi al-Duwali (International Islamic Fiqh Academy), "Qarar bi Sha'n al-Sukuk al-Islâmiyyah (al-Tawriq) wa Tatbîqatiha al-Mu'âsarah wa Tadâwuliha", dilihat pada 27 Desember 2018, www.iifa-aifi.org/2300.html.
- _____. "Qarar bi Sha'n al-Wafa' bi al-Wa'd wa al-Murâbahah li al-Amir bi al-Shira", accessed 20 May 2020, <http://www.iifa-aifi.org/1751.html>.
- Muqri, Ahmad bin Muhammad bin 'Ali al-Fayyumi al-. *al-Misbâh al-Munîr*. Kaherah: Dar al-Hadith, 2008.
- Nawâwi, Abû Zakariyya Yahya bin Sharaf al-. *Al-Adhkâr: al-Muntakhab min Kalam Sayyid al-Abrâr*, ed. Taha 'Abd al-Ra'uf Sa'd. Kaherah: Maktabah al-Safa, 2001.
- Printed powerpoint file regarding Project Based Sukuk (PBS) obtained from Manggiarto D.S and Anggoro Pridityo (Head and Staff of Sharia Compliance and Instrument Development Section, Directorate of Sharia Financing, Ministry of Finance of the Republic of Indonesia), interview on May 4 2015.
- Qarafi, Shihab al-Din Ahmad bin Idris al-. *Kitab al-Furûq: Anwar al-Buruq fi Anwa' al-Furûq*, ed. Muhammad Ahmad Sarraj dan 'Ali Jum'ah Muhammad, ed. ke-3. Kaherah: Dar al-Salam, 2007, Jilid 4.
- Razi, Muhammad Bin Abu Bakr Bin 'Abd al-Qadir al-. *Mukhtar al-Sahbah*. Kaherah: Dâr al-Hadith, 2008.
- Saifuddin, Muhammad Syuhudi Ismail dan Ismail Suardi Wekke. *Strategi dan Teknik Penulisan Skripsi*. Yogyakarta: Deepublish, 2018.
- Said, Muhammad. *Hukum Bisnis Islam*, ed. Aklia Suslia. Jakarta: Salemba Diniyah, 2019.
- Sanrego, Yulizar D. 'Aplikasi *Ijârah Mawshûfah fi Dhimmah* dan *Ijârah al-Mawjûdât al-Maw'ûd Bisti'jârihâ* dalam Pengembangan Produk

Sukuk di Indonesia,'. Kertas kerja, Muzakarah Cendekiawan Syariah Nusantara 6, Bandar Seri Begawan, Negara Brunei Darussalam, 16-17 Mei 2012.

Taufiq Kurniawan & Asmak Ab Rahman, 'Analisis Aplikasi Akad Bay' Pada Project Based Sukuk (PBS) di Indonesia', *Jurnal Syariah*, vol. 28/3 (2020).