

NOTICE

**Subject: SECOND EXPOSURE DRAFT OF THE SEC PROPOSED
GUIDELINES ON THE ISSUANCE AND DISCLOSURE OF
SUKUK**

The public is advised that the Commission En Banc, in its meeting held on 25 November 2025 resolved to expose the draft Memorandum Circular on the *SEC Proposed Guidelines on the Issuance and Disclosure of Sukuk* for another round of comments.

The Commission hereby requests for comments, suggestions and/or inputs from all concerned on the proposed draft Memorandum Circular by submitting written comments on or before 12 December 2025 through email at msrds submission@sec.gov.ph and dlguardian@sec.gov.ph with our proposed subject of **“COMMENTS ON THE PROPOSED GUIDELINES ON THE ISSUANCE AND DISCLOSURE OF SUKUK.”**

Issued on 26 November 2025 in Makati City, Philippines.



SEC MEMORANDUM CIRCULAR NO. _____
Series of 2025

TO : ALL CONCERNED

SUBJECT : GUIDELINES ON THE ISSUANCE AND DISCLOSURE OF SUKUK

WHEREAS, Republic Act No. 8799, also known as the Securities Regulation Code (SRC), mandates the Securities and Exchange Commission (SEC) to regulate the issuance and sale of securities in the Philippines, including bonds and other debt instruments;

WHEREAS, Sukuk represents an important avenue for international fundraising and investment activities generating significant cross-border flows globally, and is the most popular financial instrument in the Islamic Capital Market, structured in compliance with Shari'ah principles;

WHEREAS, Republic Act No. 11439, or the Islamic Banking Act of 2019, and related circulars by the Securities and Exchange Commission (SEC), Bureau of Internal Revenue (BIR) and Bangko Sentral ng Pilipinas (BSP), recognizes sukuk as an essential instrument to further financial inclusion and economic growth in the Philippines;

WHEREAS, the Commission intends to further the Government's agenda to promote the development of Islamic banking and finance in the country, and to create the opportunities for Philippine issuers to access the sukuk market in the future;¹

WHEREAS, most countries looking into the development of the sukuk market, seek to establish a conducive environment that would support sukuk issuance and safeguard investor protection;

NOW, THEREFORE, pursuant to the powers vested in the Commission, the SEC issues the following **Guidelines on the Issuance and Disclosure of Sukuk** to ensure transparency, investor protection, and compliance with Shari'ah principles.

SECTION 1. OBJECTIVE AND SCOPE - This Memorandum Circular provides for the regulatory framework for sukuk issuance in the Philippines, establishing comprehensive guidelines for disclosure, Shari'ah compliance and investor protection. These guidelines apply to all sukuk issuances that are not exempted under Section 9 of the SRC.

SECTION 2. DEFINITION OF SUKUK - Sukuk refers to certificates of equal value representing undivided investment, interest in or rights to the underlying assets, usufructs and services or

¹ The words here reflect elements of the Bureau of the Treasury press release announcing its sukuk issuance, and have been used here in order to provide a consistent reflection of Government policy.

projects undertaken in accordance with Shari'ah principles. Sukuk are generally named after the Shari'ah principle by which they are structured.²

SECTION 3. REGISTRATION - Sukuk intended for public offering shall be registered with the Commission and may be listed, traded, and settled in accordance with the rules of an SEC-registered Exchange for fixed-income market or other registered organized market.

SECTION 4. PARTIES/ENTITIES INVOLVED IN SUKUK ISSUANCE -

- a. Investors/Sukukholders - individuals, institutions, or entities that purchase the Sukuk certificates, providing the funds needed by the issuer.
- b. Issuer - the entity offering sukuk, as specified in Section 7 of these Guidelines, and may be either the originator or the SPE.
- c. Lead Manager/Arranger - typically a financial institution or investment bank responsible for structuring the Sukuk issuance, coordinating the transaction, and underwriting the issuance. This party plays a key role in the origination and execution of the Sukuk issuance.
- d. Obligor - the person responsible for payments on the Sukuk; who may be a juridical or natural person. The obligor may be the originator's operating company or business. The underlying asset itself shall not be deemed the obligor.
- e. Originator - the entity seeking to raise funds through the issuance of Sukuk. This could be a government, a corporation, a financial institution, or another legal entity with financing needs. The Originator may act as the Issuer or may establish an SPE to serve as the Issuer.
- f. Shari'ah Advisor - an individual scholar or an entity of scholars in Shari'ah principles and experts in finance appointed by the Issuer to certify Shari'ah compliance of sukuk.
- g. Shari'ah Committee - comprised of at least three (3) members who are scholars in Shari'ah principles and experts in finance established by the Issuer that provide certification that the Sukuk issuance, its structure and the underlying assets comply with Shari'ah principles.
- h. Special Purpose Entity (SPE)- a separate legal entity established to issue the Sukuk. It holds the underlying assets or business activities related to the Sukuk and serves as the conduit through which investors can participate in the ownership of the underlying assets.
- i. Trustee - a fiduciary appointed to represent the interests of the Sukukholders. The trustee ensures that the rights of the Sukukholders are protected and that the issuer complies with the terms and conditions of the Sukuk. The Trustee and the SPE are separate and distinct entities.
- j. Underwriters - a person who guarantees on a firm commitment and/or declared best effort basis the distribution and sale of securities of any kind by another company.

SECTION 5. PERMISSIBLE STRUCTURES - The SEC permits the issuance of sukuk under the following Shari'ah-compliant structures:

- a. **Sukuk Ijarah:** Lease-based sukuk wherein assets are sold and leased back to the issuer.
- b. **Sukuk Murabahah:** Cost-plus margin (mark-up) financing sukuk for fixed-price sales transactions.

² Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) Shari'ah Standard 17. Investment Sukuk and BSP Circular No. 1139, s. of 2022.

- c. **Sukuk Istisna:** Financing sukuk to raise funds for manufacturing or construction projects.
- d. **Sukuk Wakalah bil Istithmar:** Agency-based sukuk wherein a wakeel (investment agency) is appointed to invest on behalf of holders in specified assets.
- e. **Sukuk Mudarabah:** Profit-sharing sukuk, where one party provides funds and the others expertise.
- f. **Sukuk Musharakah:** Joint venture sukuk representing co-ownership of assets or projects
- g. Other sukuk structures as may be approved by SEC in accordance with Shari'ah principles

Section 6. GENERAL PROHIBITIONS ON SUKUK ISSUANCES - The elements that are strictly prohibited in sukuk issuance include:

- a. **Riba (interest or usury):** Any form of interest-based transactions or unjustified increase in capital is not allowed
- b. **Maysir and Qimar (gambling and games of chances):** Any involvement in speculative activities or games of chance is not allowed
- c. **Gharar (excessive uncertainty, fraud, deception, ambiguity)**
- d. **Jahal (ignorance):** Any lack of transparency or withholding of relevant information among parties in a contract is not allowed
- e. **Rishwah (corruption):** Exploitation or abuse of trust for unlawful gain is not allowed
- f. Investment in non-permissible goods and activities under Shari'ah principles

SECTION 7. ELIGIBLE ISSUERS –

7.1 The following entities may issue sukuk:

- a. Special Purpose Entities (SPEs) created specifically for sukuk issuance, incorporated and registered with the SEC, and compliant with SEC regulations
- b. Publicly Listed Companies (PLCs)
- c. Non-listed Stock corporations

7.2 The following entities are eligible issuers of sukuk but are not required to register under these Guidelines, consistent with the exemptions provided under Section 9 of the SRC and Rule 9.1 of the 2015 SRC Implementing Rules and Regulations (2015 SRC Rules):

- a. National Government, its agency or instrumentality thereof;
- b. Local Government Units (LGUs);
- c. Government-Owned and Controlled Corporations (GOCCs);
- d. Banks supervised by the BSP including Islamic Banks; and
- e. SPEs formed by any of the entities under (a) to (d).

Pursuant to Rule 9.1.4 of the 2015 SRC Rules, the above Issuers of Subsection 7.2 shall notify the Commission of its issuance of sukuk and shall submit disclosures in accordance with these Guidelines. In addition, banks and Islamic banks supervised by the BSP or its SPEs shall submit to the Commission clearance from the BSP of its issuance of sukuk.

SECTION 8. REQUIREMENTS FOR SPE INCORPORATION AS SUKUK ISSUER - The SPE must be incorporated as a separate legal entity, distinct from the originator and established primarily for sukuk issuance and holding the assets for sukukholders. It must adhere to international standards

for sukuk issuance, including Shari'ah principles and comply with the provisions of the Revised Corporation Code of the Philippines (RCC), particularly the following:

- a. The SPE must register with the SEC before sukuk issuance by submitting the following documents:
 - i. Articles of Incorporation of the SPE stating that its primary purpose is to issue sukuk in accordance with Shari'ah principles. It shall further provide that the SPE shall hold, manage, and transfer such assets solely for the benefit of the sukukholders, in compliance with these Guidelines and applicable laws;
 - ii. Bylaws which must include provisions ensuring that the operation of SPE are compliant with Shari'ah principles.
- b. The SPE must comply with the corporate governance standards prescribed by law, rules, and the RCC.

SECTION 9: DISCLOSURE AND REPORTORIAL REQUIREMENTS - In addition to the information and documents required by SEC Form 12-1, issuers of sukuk are required to disclose the following information and submit the following documents to the SEC for review and approval:

1. Purpose of the sukuk issuance
2. A detailed description of the sukuk structure and transaction flow, including but not limited to the following:
 - a. structural diagram identifying the parties to the sukuk structure, their capacities and the principal contractual relationships among them and the movement of funds and assets;
 - b. the sequence of transactions executed by the parties involved, including but not limited to the execution/ entry into each agreement/contract, payments made, transfer of assets, issuance and redemption of sukuk;
 - c. the contracts used in the structure and the relevant information, provisions and arrangements pertaining to the contract; and
3. Summary of the principal contracts and all other relevant agreements
4. Valuation of underlying assets conducted by an independent appraiser accredited by the Commission in accordance with the Philippine Valuation Standards and the requirements under the Asset Valuation Guidelines. At least two (2) valuation methods shall be applied (e.g., comparison, cost, income capitalization), unless the appraiser provides written justification for adopting a single method^{3,4}
5. Roles, responsibilities and obligation of the SPE and the sukuk obligor/originator
6. Role of Shari'ah in the interpretation of the sukuk contracts, and particularly in default, enforcement, amendment or restructuring
7. Certification from the Shari'ah Committee or Advisor that the issuance is aligned with Shari'ah requirements as specified in Section 15 of these Guidelines.
8. Policy and procedures for the regular Shari'ah monitoring and audit, including processes for addressing events impacting Shari'ah compliance and extraordinary matters such as default, enforcement, amendment and restructuring
9. Confirmation that sukuk are tradable/transferable from a Shari'ah compliance standpoint, if applicable

³ SECTION 8.1 of the SRC – Full and fair disclosure in securities registration

⁴ Philippine Valuation Standards (2018) – adopted under BSP Circular No. 855, Series of 2014

10. Process and procedures on the purification payments to be made when non-Shari'ah compliant income arise within the sukuk arrangements such as payments to a charity, not affiliated to the Issuer; and Originator or the SPE, which aims to eliminate income derived from the prohibited activities under Section 6 of these Guidelines.
11. Disclosure should describe any arrangements for zakah⁵ or any other Shari'ah-related payments to be made in relation to the asset or activity underlying the sukuk
12. Disclosure on ta'wid⁶ (other compensation) for overdue amounts
13. Comprehensive disclosures on risks, particularly those related to SPE limitations, asset ownership, operational controls, Shari'ah non-compliance, and legal considerations
14. Evidence of ownership or rights to underlying assets backing the sukuk, particularly ensuring SPV-held assets comply with sukuk requirements
15. For trustee appointed to act for sukukholders, disclosures should describe the following:
 - a. Their rights, obligations and powers
 - b. The circumstances and pre-requisites for them acting on behalf of the sukukholders
 - c. Provisions for change or termination
 - d. Their role in default, acceleration of payments, enforcement or restructuring of the sukuk
 - e. The party responsible for the fees and expenses of the trustee.
16. In the case of a sukuk with an exchangeability or convertibility into shares feature, the following matters should be disclosed:
 - a. On what basis and who determines that the converted shares are Shari'ah-compliant;
 - b. Any risk that the relevant shares might become non-compliant in the future; and
 - c. Any accommodation for sukukholders should the relevant shares become non-compliant.

SECTION 10. ONGOING REPORTING AND CONTINUING DISCLOSURES - The Issuer shall comply with the reportorial and disclosure requirements prescribed by the RCC and SRC. In addition, the Issuer shall file with the Commission a report through SEC Form 17- C on the events enumerated below within five (5) days upon occurrence:

- a. Any amendments to the contracts that would materially affect the Shari'ah aspects of the sukuk
- b. Any changes in the matters in relation to convertible or exchangeable sukuk
- c. Any material changes in the assets, investments and/or activities underlying the sukuk structure
- d. Any material updates submitted to or received from a Credit Rating Agency in relation to the sukuk shall likewise be disclosed to the Commission and sukukholders^{7,8}
- e. Any appointment or replacement of a trustee
- f. Any material changes in the matters disclosed under Use of Proceeds and Source of Payments and Recourse
- g. Details of payments made in respect of purification or compensation, if any, after the issuance of sukuk
- h. Any new fatwa or confirmation relating to the sukuk

⁵ Based on IFSB Glossary, Zakah is an obligatory financial contribution disbursed to specified recipients that is prescribed by the Shari'ah on those who possess wealth reaching a minimum amount that is maintained in their possession for one lunar year.

⁶ Based on IFSB Glossary, Ta'wid is what is paid in compensation for harm resulting from violation of a contract.

⁷ SECTION 8.2 of the SRC – Continuous disclosure obligations of issuers

⁸ SEC Memorandum Circular (MC) No. 7, Series of 2021 – Rules on the Accreditation and Reportorial Requirements of Credit Rating Agencies

- i. Any matters that a reasonable Shari'ah-sensitive investor would consider material to an investment decision as to the sukuk

Any amendment to the terms of the sukuk shall not result in non-compliance with these Guidelines or Shari'ah principles. It shall be made with the requisite consents of relevant parties, and shall be disclosed to investors prior to effectivity.

SECTION 11. USE OF PROCEEDS - Disclosures shall describe the intended and actual use of proceeds, ensuring that all uses remain compliant with Shari'ah principles. If the Issuer is an SPE, disclosure shall extend beyond the initial application to include the actual utilization by the originator.

The Issuer shall monitor and report, as part of its continuing disclosure, the actual utilization of proceeds vis-a-vis the stated purposes in the offering documents.

SECTION 12. SOURCE OF PAYMENTS AND RECOURSE - The disclosure shall clearly and prominently set out the ultimate source(s) of funds used to make distributions to sukukholders. It shall also include the following information:

- a. Any contractual limitations in disposing of or enforcing against those assets
- b. An explanation that the performance of the underlying assets depends entirely on the efforts of the sukuk obligor/originator
- c. Any arrangement for credit enhancement

SECTION 13. UNDERLYING ASSET AND OWNERSHIP RIGHT - The following information in relation to the underlying asset and the ownership right shall be disclosed:

- a. The assets, investments and/or activities underlying the sukuk structure, together with their intended use.
- b. Valuation of the asset in accordance with the requirements provided under Section 9(4) of these Guidelines. Valuation reports shall contain, at a minimum:
 - (i) basis of valuation;
 - (ii) assumptions used;
 - (iii) date and extent of inspection;
 - (iv) acquisition history of the asset within the last two (2) years; and
 - (v) any breaches of applicable land, property, or regulatory laws.
- c. Any arrangements for assets to be varied or substituted during the lifetime of the sukuk, including how substituted assets will be valued.
- d. Any arrangement that transfers or mitigates the ownership risks or price risks relating to assets underlying the sukuk structure, such as takaful.
- e. Any encumbrance on the assets.
- f. The mechanisms for the transfer of the asset into the sukuk structure at the time of issuance and the transfer of the asset out of the sukuk structure at redemption.
- g. The precise legal interests of the issuer and sukukholders in the asset, without solely relying on terms such as "legal ownership", "beneficial ownership" or "usufruct right".
- h. Any limitation of the rights of the Issuer and sukukholders in the asset.
- i. Where the underlying assets are encumbered or co-owned, the disclosure shall include the written consent of lienholders or co-owners prior to transfer into the sukuk structure.

SECTION 14. DEFAULT, ENFORCEMENT, RESTRUCTURING AND INSOLVENCY –

- a. Disclosure should state whether or not the sukuk obligor has existing conventional debt, and if so whether or not its sukuk and conventional debt contain cross-default provisions.
- b. Any arrangements to facilitate a Shari'ah-compliant restructuring should be disclosed.
- c. The disclosure shall indicate whether, in an insolvency proceeding, payment obligations under the sukuk may be treated differently from other unsecured obligations.
- d. If the SPE faces Shari'ah constraints in participating in an insolvency proceeding of the sukuk obligor or accepting distributions from the insolvency estate, this should be disclosed and the constraints described.
- e. The disclosure shall describe the effect of limitations in ownership rights over the underlying asset on enforcement.
- f. The precise mechanisms for pursuing recourse to the obligor and the disposition of assets following default shall be disclosed.
- g. The disclosure shall include a warning on the risk of uncertainty in judicial interpretation of key provisions that are legally untested.
- h. Non-payment of sukuk principal or profit on due date shall constitute an event of default and shall not be subject to any materiality threshold. A remedy period may be allowed but shall not exceed seven (7) business days from the date payment is due.
- i. Other events of default, such as covenant breaches, reasonable materiality thresholds or cure periods may be allowed, provided these are clearly stipulated in the Trust Deed.
- j. Any waiver, amendment, or modification of rights of sukukholders shall require the approval of at least two-thirds (2/3) of the outstanding sukukholders present or represented in a duly constituted meeting, or such higher threshold as may be provided in the Trust Deed.^{9,10,11}

SECTION 15. SHARI'AH GOVERNANCE AND CERTIFICATION - Issuers shall either establish its Shari'ah Committee or appoint a Shari'ah advisor to certify that the sukuk structure and underlying assets comply with Shari'ah principles.

- a. **Qualifications.**
 - i) A Shari'ah Committee shall comprise a panel of not less than three (3) members - two (2) of whom are scholars with recognized expertise in Shari'ah principles and one (1) must be with adequate expertise in finance.
 - ii) A Shari'ah advisor is an individual or an entity with expertise in Shari'ah principles and adequate knowledge in finance.
- b. **Role.** The Shari'ah Committee or Advisor shall provide guidance and oversight to ensure that all aspects of the sukuk transaction, from issuance to maturity, adhere to Shari'ah principles and shall oversee the monitoring and audit of the Shari'ah compliance.
- c. **Independence.** The Shari'ah Committee or the Shari'ah Advisor shall operate independently from the Board of Directors of the Issuer and any potential conflict of interest should be disclosed.
- d. **Annual Reportorial Requirement.** The Issuer must submit to the Commission, as part of the SEC Form 17-A (Annual Report), the Certificate obtained from the Shari'ah Committee or Advisor stating that the sukuk structure is Shari'ah compliant.

⁹ SECTION 39 of the SRC – Trust Indenture requirements, including events of default

¹⁰ SECTIONS 60-63 – Republic Act No. 10142 (Financial Rehabilitation and Insolvency Act of 2010) - Restructuring and enforcement.

¹¹ SECTION 31 of the RCC – Fiduciary duties of directors and officers

SECTION 16. TRUST DEED REQUIREMENTS - Every sukuk issuance shall be supported by a Trust Deed executed between the issuer/SPE and a trustee. The Trust Deed shall, at a minimum, contain the following:

- a. The covenants of the issuer, including an undertaking to comply with Shari'ah principles, these Guidelines, and all relevant laws and regulations;
- b. A description of the powers and duties of the trustee, including the fiduciary duty to protect the interests of sukukholders and to enforce remedies in case of default;
- c. Procedures for meetings of sukukholders, including quorum, voting thresholds, and procedures for passing resolutions;
- d. Provisions on the establishment of a sinking fund or reserve account where applicable, and the agreed period for payments into such fund;
- e. Clear stipulation that no variation or amendment to the Trust Deed, or to the terms and conditions of the sukuk, shall be effective without prior written consent of sukukholders representing at least a majority of the outstanding sukuk, unless a higher threshold is provided under the Trust Deed.^{12,13}

SECTION 17. CREDIT RATING REQUIREMENTS

- a. All publicly offered sukuk must obtain a credit rating either from an SEC-accredited credit rating agency or an international credit rating agency to assess the creditworthiness and risk profile of the sukuk.
 - i. For asset-backed sukuk where the SPE and sukukholders have legal ownership of the underlying asset, the credit rating shall pertain to the sukuk and the underlying asset.
 - ii. For Asset-based sukuk where the obligor/originator still holds the asset and SPE and sukukholders have a beneficial ownership/interest over the underlying asset, the credit rating should pertain not only to the sukuk and the underlying asset but also to the obligor/originator's creditworthiness
- b. The credit rating must be disclosed in the sukuk prospectus and offering materials.
- c. The Issuer shall provide relevant information on a continuous and timely basis at least on an annual basis to the credit rating agency to ensure the latter can continuously make available to investors the rating for the sukuk
- d. The Issuer must ensure that the credit rating report shall be published by the credit rating agency as soon as the rating has been finalized, or at least seven (7) business days prior to the issuance of the sukuk.¹⁴
- e. Any change in credit rating after issuance, whether due to re-evaluation or market conditions, must be reported to the SEC and disclosed to sukukholders in accordance with Section 10 of these Guidelines
- f. The appointed Credit Rating Agency shall not be replaced during the tenure of the sukuk without the prior consent of a majority of sukukholders.¹⁵

SECTION 18. TAX TREATMENT OF SUKUK INSTRUMENTS - The tax treatment of sukuk instruments shall be governed by Revenue Memorandum Circular (RMC) No. 81-2024, Tax Treatment of Sukuk (Islamic Bond) as Islamic Banking Arrangement pursuant to the Tax Neutrality Provision of Republic Act No. 11439 (An Act Providing for the Regulation and

¹² SECTION 39 of the SRC – Trust Indenture

¹³ Title XII of the RCC – Trusts and Trustees

¹⁴ SEC Memorandum Circular No. 7, Series of 2021 – Accreditation and operational rules for Credit Rating Agencies

¹⁵ SECTION 8.1-8.2 – Disclosure of material facts and ongoing obligations

Organization of Islamic Banks) as Implemented by Revenue Regulations No. 17-2020. This ensures neutral tax treatment for Islamic finance transactions and conventional banking transactions.

SECTION 19. PENALTIES - Any violation of the provisions of these Guidelines shall be subject to the appropriate penalties under Section 54 of the SRC, without prejudice to criminal prosecution under Section 55, the imposition of civil liabilities under Section 56, and other penalties provided under other applicable laws, rules, and regulations.

The Commission may issue cease and desist orders, suspend or revoke the registration of sukuk, or disqualify the issuer or its officers in accordance with Rules 5.1.6 and 5.1.9 of the 2015 SRC Rules.

Where a violation relates to Shari'ah non-compliance, the Commission may, after consultation with the BSP and the Shari'ah Advisory Council, direct corrective actions to restore compliance.

SECTION 20. IMPLEMENTATION AND EFFECTIVITY

The Commission may issue supplementary regulations or circulars as may be necessary to implement these Guidelines.

This Circular shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation and posting on the SEC website.

Done this [date], Makati City, Philippines.

For the Commission:

FRANCISCO ED. LIM
Chairperson