General Council for Islamic
Banks And Financial Institutions

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CIBAFI

المجلس العام للبنوك
والمؤسسات المالية الإسلامية

مؤسسة منتمية لمنظمة التعاون الإسلامي
تأسست بمرسوم ملكي رقم ٢٣ لسنة ٢٠٠١م

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H.E. Shaikh Ebrahim Bin Khalifa Al Khalifa
Chairman of the Board of Trustees
Accounting & Auditing Organization for Islamic Financial Institutions (AAOIFI)
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Your Excellency,

السلام عليكم ورحمة الله وبركاته،،

CIBAFI Comments on the AAOIFI Exposure Draft on the Revised Financial Accounting Standard No. 25: "Investments in Sukuk, shares and similar instruments"

The General Council for Islamic Banks and Financial Institutions (CIBAFI) presents its compliments to the Accounting & Auditing Organization for Islamic Financial Institutions (AAOIFI) and takes this opportunity to express its appreciation of the work that the AAOIFI does to promote and enhance the Islamic financial services industry (IFSI).

CIBAFI is an international body representing Islamic financial institutions globally, who offer financial services and products complying with Islamic rules and principles (Shariah). CIBAFI acts as the voice of the Islamic finance industry, and our members comprise more than 125 Islamic banks and non-bank financial institutions, both large and small, from 33 jurisdictions.

We welcome this opportunity to offer our comments and recommendations on the AAOIFI's Exposure Draft (ED) on the Revised Financial Accounting Standard No. 25: "Investments in Sukuk, shares and similar instruments". The comments contained in this letter represent the views of CIBAFI Secretariat and feedback received from our members.

Firstly, the ED states in para 5 that the investment categories are divided into: equity-type instruments; monetary debt-type instruments; non-monetary debt-type instruments; and other investment instruments. CIBAFI and its members are concerned that it might be difficult to apply these categories to Sukuk in general, especially to hybrid or mixed Sukuk which include equity and debt contracts (e.g. Murabahah/Mudarabah). Not only should the accounting treatment be more clearly laid down for two-fold or three-fold contract based Sukuk structures, but also for hybrid structures that represent convertible, exchangeable or perpetual Sukuk. These structures may mutate over timeline (e.g. some structures may change from purely debt type at the outset to pure equity after a prescribed time), and structures of this kind should be more clearly addressed in the revised standard. Also, other types of instrument may have a defined debt like maturity and repayment mechanism, but dividend like profit streams; this type of instrument should be also addressed more clearly in the ED.

Secondly, on a more technical point, CIBAFI and its members noticed that the definition of "equity-type instruments" (para 4f) makes sense when applied to traditional shares. However, Sukuk are normally issued by an SPV or a similar vehicle. If the definition is interpreted with the term "entity" referring to the SPV, then it seems likely that any Sukuk will be classified as "equity-type", whatever its underlying characteristics are. This may not lead to appropriate treatment.

Thirdly, CIBAFI members noted that, although non-transferable Sukuk fall outside the scope of this ED, there may be some sukuk which are in principle tradable but which in practice represent syndicated financing, and might be better classified as 'loans or

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receivables’ than investment instruments, even ones which will be held-to- maturity investments. This could in principle create a difficult borderline.

Fourthly, CIBAFI and its members noticed that it might be helpful to make it clearer within the scope that this standard also applies when the relevant investments are held on behalf of others (notably investment account holders), but reported in the institution’s financial disclosures (para 2).

Finally, CIBAFI noted that the definition in para 4n of “participatory structure” refers among others to sharing losses. This could be taken to exclude Mudarabah structures, where the losses fall exclusively on the Rabb ul Mal, although in other respects it would be right to treat these as participatory. Some CIBAFI members suggest rewording the definition as follows: “… share the profits and/or losses in addition to the residual interest…”.

We remain at your disposal should you need any further clarifications on the above.

Yours sincerely,

Abdelilah Belatik
Secretary General

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