

## **NEW RULES/AMENDMENTS TO THE RULES AND REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION**

Pursuant to Section 313(6) of the Investments and Securities Act 2007, the following new rules and amendments to the existing rules are made by the Commission.

### **RULES ON SUKUK ISSUANCE IN NIGERIA**

#### **DEFINITIONS OF TERMS**

In these guidelines, the following words and expressions have the following meanings, unless the context otherwise requires–

<b>Adviser</b>	Shariah adviser registered or recognized by the SEC who reviews and gives rulings on Shariah applicability of the Sukuk transactions or an Islamic development bank recognized to perform such function.  <b>A Sharia Adviser could be a Fund Manager registered by the Commission to manage an Islamic Fund or a bank licensed for non-interest (Islamic) banking or any institution licensed by the relevant regulator to offer Islamic financial products.</b>
<b>Ijtihad</b>	Refers to reasoning by qualified scholars based on rulings on Shariah sources.
<b>Credit Rating Agency</b>	As defined in SEC rules
<b>Sukuk</b>	Refers to investment certificates or notes of equal value which evidences undivided interest/ownership of tangible assets, usufructs and services or investment in the assets of particular projects or special investment activity using Shariah principles and concepts approved by the SEC.
<b>Sukuk, Murabahah</b>	Are certificates of equal value which evidences undivided ownership or interest on the asset including the rights to the receivables arising from the underlying contracts of exchange.
<b>Sukuk Ijarah</b>	Are certificates of equal value which evidences undivided ownership on the leased asset and/or usufruct and/or services and rights to the rental receivables from the said leased asset and/or usufruct and/or services.
<b>Sukuk Mudharabah</b>	Are certificates of equal value which evidence undivided ownership of the certificate holders in the mudharabah venture.

<b>Sukuk Musharakah</b>	Are certificates of equal value which evidence undivided ownership of the certificate holders in the musharakah venture (partnership).
<b>Sukuk programme</b>	Refers to a programme which allows multiple issues, offers or invitations of sukuk, including Islamic Medium Term Notes (MTNs), within a validity period which is specified in the Commission's Rules.
<b>Ijarah (Leasing)</b>	A contract whereby a lessor (owner) leases out an asset to a lessee at an agreed rental for a pre-determined period. The ownership of the leased asset shall always remain with the lessor.
<b>Ijarah thumma bai</b>	<b>(Lease to purchase)</b> A contract which begins with an Ijarah contract for the purpose of renting out a lessor's asset to a lessee. Consequently, at the end of the lease period, the lessee will purchase the asset at an agreed price from the lessor by executing a purchase contract.
<b>Istisna</b>	<b>(Purchase order)</b> A purchase order contract where a buyer requires a seller or a contractor to deliver or construct the asset to be completed in the future according to the specifications given in the sale and purchase contract. The payment term can be as agreed by both parties in the contract.
<b>Mudharabah</b>	<b>(Profit sharing)</b> A contract made between two parties to enter into a business venture. The parties consist of the rabb al-mal (capital provider who shall contribute capital to finance the venture, and the mudharib (entrepreneur) who will manage the venture. If the venture is profitable, the profit will be distributed based on a pre-agreed ratio. In the event of a business loss, the loss shall be borne solely by the provider of the capital.
<b>Murabahah</b>	<b>(Cost-plus sale)</b> A contract that refers to the sale and purchase of assets whereby the cost and profit margin (mark-up) are made known.
<b>Musharakah</b>	<b>(Profit and loss sharing)</b> A partnership arrangement between two or more parties to finance a business venture whereby all parties contribute capital either in the form of cash or in kind for the venture. Any profit derived from the venture will be distributed based on a pre-agreed profit sharing ratio, but a loss will be shared on the basis of capital contribution.
<b>AAOIFI</b>	Accounting and Auditing Organization for Islamic Financial Institution
<b>Kafalah (Guarantee)</b>	A contract of guarantee whereby a guarantor underwrites any claim and obligation that should be fulfilled by an owner of the asset. This concept is also applicable to a guarantee provided on a debt

transaction in the event a debtor fails to fulfill his debt obligation. The same definition can be applied for Dhaman.

**Hibah (Gift)** A gift awarded to a person on voluntary basis.

## **1.0 INTRODUCTION**

1.01 These Rules shall apply to:

- (a) Sukuk which are offered by local or foreign entities that are within the regulatory purview of the Commission;
- (b) Sukuk which are denominated in Naira or in foreign currencies; and
- (c) Sukuk which are listed, convertible, exchangeable, redeemable or otherwise.

1.02 These Rules also set out the relevant Shariah rulings and principles to be complied with by all issuers of sukuk.

1.03 All Shariah principles and concepts applied in structuring an issue, offer or invitation of sukuk under these guidelines shall be consistent with the general Shariah rulings, principles and concepts as approved by AAOIFI or any other standard setter recognized by Commission.

## **2.0 STRUCTURING SUKUK TRANSACTION**

Sukuk shall be structured as follows:

- Sukuk Ijarah – ( leased contract)
- Sukuk Musharakah– (sharing contract)
- Sukuk Istisnah– ( exchange contract)
- Sukuk Murabahah– ( financing contract)
- Any other form of contract approved by the Commission

### **2.1 Requirement for Sukuk issuance:**

Under these Rules, the Commission adopts a disclosure-based regulatory approach on the issue, offer or invitation of sukuk, for which an approval will be granted where the following requirements are met:

- All issues, offers or invitation of sukuk shall comply with rule 40 (B) of the Rules and Regulations of the Commission and any other regulatory requirement as provided by the Commission from time to time.
- An issuer or offeror shall also comply with other regulatory requirements as provided by the Commission from time to time.

Any issue, offer or invitation of sukuk by a public company which is capable of being converted or exchanged into equity with the intention of being listed shall be subjected to the additional requirements stipulated in the Listing Requirements of a securities exchange.

### **3.0 ELIGIBILITY**

Public companies (including SPV's), State Governments, Local Government, and Government Agencies as well as multilateral agencies are eligible to issue, offer or make an invitation of sukuk upon seeking the Commission's approval under these rules.

### **4.0 SUBMISSION OF PROPOSALS**

An issuer must appoint an issuing house to seek an approval of the Commission for the proposed issue, offer or invitation of sukuk under these rules.

### **5.0 APPOINTMENT OF SHARIAH ADVISER**

5.01 The issuer, with the agreement of the Trustee and Issuing House shall appoint a Shariah adviser, registered or recognized by the Commission, to carry out the following primary responsibilities:

- (a) Advise on all aspects of the sukuk including documentation and structuring;
- (b) Issue a Shariah certification which outlines the basis and rationale of the structure and mechanism of the sukuk issue, the applicable Shariah principles used for the sukuk issue and relevant Shariah matters relating to the documentation of the sukuk issue;
- (c) Ensure that the applicable Shariah principles and any relevant resolutions and rulings endorsed are complied with; and
- (d) Apply ijtihad (reasoning) to ensure all aspects relating to sukuk issuance are in compliance with Shariah principles.

5.02

(a) **Qualification for a Shariah Adviser:**

An individual acting as Shariah Adviser shall meet the following criteria;

- i) The person shall not have been convicted for any offence arising from criminal proceedings.
  - ii) The person has never been declared bankrupt
  - iii) The person is of good repute and character
  - iv) The person possesses the necessary qualifications and expertise, particularly on Islamic fiqh/jurisprudence and has experienced exposure in Islamic Finance and Capital Market.
- (b) The Commission shall recognize a sharia adviser such as an Islamic Development Bank, a bank licensed by the Central Bank of Nigeria (CBN) to operate as non-interest bank or a Fund Manager registered by the Commission to manage a Sharia compliant Fund.

## **6.0 SHARIAH PRINCIPLES AS APPLICABLE TO SUKUK ISSUANCE**

### **6.01 Requirement of underlying asset**

Under contracts of exchange (such as murabahah, istisna` and ijarah), an asset, whether tangible or intangible, shall be made available for sukuk to be issued subject to the following:

- (a) The underlying asset and its use shall comply with the requirements of Shariah;
- (b) An encumbered asset, such as an asset charged to a financial institution, or an asset that is jointly-owned with another party, can only be used as underlying asset provided the issuer has obtained the consent of the chargee or joint-owner; and
- (c) Where receivables are used as the underlying asset, they shall be established and certain (mustaqir) and transacted on cash basis (on spot).

### **6.02 Asset pricing**

Sukuk contract that involves the sale and purchase of underlying assets. When the (Issuer/originator) purchase the underlying assets, the purchase price shall comply with the following pricing guidelines:

- (a) The purchase price shall not exceed 1.51 times of the market value of the asset; and
- (b) This shall also be applicable to murabahah, ijarah and istisna contracts.

## **7.0 ISSUES RELATING TO VARIOUS SUKUK CONTRACT**

### **7.01 IJARA CONTRACT**

- (i) A forward lease permissible for the issuance of sukuk. A forward lease is an ijarah contract on an asset that will exist in future. The rate of lease rental, the nature of the leased asset, the lease period and the method of lease payment are to be clearly stated in the contract as agreed between the contracting parties.
- (ii) if upon delivery, the lessor fails to deliver the asset based on the agreed specification, the lessee is entitled to reject the asset and either–
  - demand replacement of the asset that conforms to agreed specifications; or
  - terminate the ijarah contract, and if the lessee has paid the advance rental, the lessor should refund the amount paid.

The rate of lease rental may be based on fixed or variable rates.

### **Transfer of ownership of leased asset**

At the end of the lease period, the ownership of the leased asset may be transferred from the lessor to the lessee or to any third party through any one of the following methods–

- (i) By way of selling the leased asset at an agreed price; or
- (ii) By way of hibah (gift) of the leased asset.

## 7.02 MUSHARAKA CONTRACT (PROFIT AND LOSS CONTRACT)

The following Shariah rulings are applicable to the issuance of sukuk musharakah:

- (a) **Musharakah Capital**  
Capital contributed by each of the musharik (partners) should be in the form of cash, in kind or a combination of both.
- (b) **Kafalah (guarantee) on musharakah capital**  
Kafalah on musharakah capital may be provided by way of a third-party guarantee, with or without imposition of fee.
- (c) **Musharakah partners**  
There should be at least two (2) partners to form a musharakah. However, there is no minimum number of sukuk investors.
- (d) **Profit and loss**  
The profit from musharakah venture will be distributed among the partners according to the pre-agreed profit sharing ratio. However, any loss should be shared among the partners according to their respective capital contribution.
- (e) **Tanazul (Waiver of Right)**  
A partner may waive his right on the profit payment from the musharakah venture, if he so desires.
- (f) **Management of the venture**  
One of the partners or issuer or a third party may be appointed as the manager to manage the venture.

## 7.03 MUDHARABAH SUKUK (PROFIT SHARING CONTRACT)

The following Shariah rulings are applicable to issuance of sukuk mudharabah:

- (a) **Mudharabah Capital**  
Capital contributed by a rabb al-mal (capital provider) shall be in the form of cash, in kind or a combination of both.
- (b) **Kafalah (Guarantee) on mudharabah capital**  
Guarantee (**Kafalah**) on mudharabah capital may be provided by way of a third-party guarantee, with or without imposition of fee.
- (c) **Rahn (Collateral)**  
The rabb al-mal may request entrepreneur (mudharib) to place collateral (rahn) as protection from possibility of loss on capital that may occur as a result of negligence and misconduct by the mudharib(Entrepreneur).

- (d) **Profit and loss**  
The profit from mudharabah venture should be distributed between the rabb al-mal and the mudharib according to the pre-agreed profit sharing ratio. However, any loss should be borne in entirety, solely by the capital provider (rabb al-mal).
- (e) **Tanazul (Waiver of right)**  
A partner may waive his right on the profit payment from the mudharabah venture, if he so desires.
- (f) The management of the venture may be carried out by the mudharib or a third party appointed by the mudharib.

## **8.0 RATING REQUIREMENTS**

Rating shall be provided on all Sukuk issues.

- 8.01 The issuer shall ensure that the issue is rated and made available throughout the tenure of the sukuk issue. The issuer must undertake to provide relevant information on continuous basis to the credit rating agency involved, in accordance with the format and frequency as agreed with the credit rating agency, so that timely dissemination of relevant information and rating analysis can be made available to investors and the Commission.
- 8.02 There shall not be any provision in any transaction documents that allows replacement of the credit rating agency during the tenure of the sukuk issue with recourse to Commission.

## **9.0 DISCLOSURE OF MATERIAL INFORMATION**

In addition to the requirements under these Rules and Regulations, the issuer shall disclose the following information in the offer document (where applicable):

- (a) If the issuer or its board members have been convicted or charged with any offence under the securities laws, corporation laws or other laws involving fraud or dishonesty in a court of law, for the last five years prior to the date of the information memorandum or any document relating to the offer, issue or invitation;
- (b) If the issuer has been subjected to any action by a securities exchange for any breach of listing requirements or rules issued by a securities exchange, for the past five years prior to the date of information memorandum or any document relating to the offer, issue or invitation; and
- (c) Any other information which is material to investors.

## **10.0 UNDERWRITING**

The underwriting of any issue, offer or invitation shall be at the discretion of the issuer.

## **11.0 UTILISATION OF PROCEEDS**

- 11.01 Funds which are raised from any issue, offer or invitation of sukuk shall be Shariah-compliant and shall be utilized by the issuer in accordance with the purpose disclosed in the offer document approved by the Commission.
- 11.02 Where the funds are disbursed to the issuer for a project which will generate cash flows for payments to sukuk holders, the transaction documents shall provide for the relevant parameters, conditions, supporting documents and certificates for the sukuk trustee or facility agent, where applicable, to manage the release of the funds to the issuer.

## **12.0 ADDITIONAL REQUIREMENTS FOR SUKUK PROGRAMMES**

- 12.01 Where a sukuk programme involves an issuance of Islamic Medium Term Notes (MTNs), the tenure for such programmes shall not exceed two years.
- 12.02 The approval from the Commission for a sukuk programme is granted on the basis of continuous compliance by the issuer with all the relevant terms and conditions stated in these rules for shelf filing.

In the event of non-compliance with any requirement in these rules by the issuer of a sukuk programme, the Commission may impose further terms and conditions which could restrict the issuer from making further issues, offers or invitations under the sukuk programme until such non-compliance is remedied to the Commission's satisfaction.

- 12.03 For any sukuk programme approved by the Commission, the issuer must make available the following information and documents to its investors throughout the period of the sukuk programme:
- (a) A pricing supplement which provides the indicative terms (which includes, but not limited to issue date, size, tenure, credit rating, rental payment and utilisation of proceeds) of a specific issue or offer under the programme prior to such issue or offer to its targeted investors.
  - (b) Publish the issuers'/originators latest annual audited financial statements, which shall not be more than nine months old for body Corporate and twelve months for States, Government Agencies and supranational Corporation.

The continuous disclosure requirement for the latest audited financial statements as provided in **paragraphs 13.03** will not apply under the following circumstances:

- a. If the issuer is listed on the NSE on the basis that the disclosure will be made available in the public domain in accordance with the listing requirements of the NSE or any securities exchange which provides for similar disclosure listing requirement; or
- b. If the Sukuk programme is listed on Nigerian Stock Exchange (NSE) and such financial statements are required to be published.



### **13.0 EARLY REDEMPTION OF SUKUK**

Where an issuer decides to make an early redemption or exercise a call option to redeem its outstanding sukuk prior to the maturity date of the sukuk, the trustee must inform the sukuk holders and the Commission, giving relevant details of such redemption (including broad details of the proposed sukuk holders' resolution where appropriate).

### **14.0 IMPLEMENTATION TIME FRAME FOR SUKUK PROGRAMME OR SUKUK ISSUANCE**

14.01 Except in the case of a shelf registration or a sukuk programme, any approval given by the Commission under these rules shall be implemented within three months from the date of the approval of the Commission.

14.02 In the case of a shelf registration or a sukuk programme, the initial issuance must be made within two years from the date of the approval of the Commission.

### **15.0 OTHER REGULATORY APPROVALS AND COMPLIANCE WITH RELEVANT LAWS**

15.01 All the relevant requirements and approvals from other regulatory authorities, including the CBN, in relation to the issue, offer or invitation of sukuk shall be complied with and obtained prior to the submission of a proposal to the Commission.

15.02 Any conditions imposed by such regulatory bodies, if applicable, shall continue to be complied with throughout the tenure of the sukuk as approved under these rules.

15.03 A body who proposes an issue, offer or invitation of sukuk and its issuing house shall ensure that the issue, offer or invitation has complied with all the relevant laws, rules and regulations of the Commission.

### **16.0 REVISION TO TERMS AND CONDITIONS**

16.01 Any revision made to the principal terms and conditions of an issue or offer of sukuk which has been approved by the Commission and has already been issued or implemented will require a prior clearance from the Commission.

16.02 For the provision in paragraph 17.01 to take effect, the Trustees must notify the Commission of such revision.

16.03 Notwithstanding paragraph 17.01, any revision to increase the size of a sukuk issue shall not be allowed after the offer has closed and subscription level ascertained.

16.04 Any other revision made to an issue/offer of sukuk which has been approved by the Commission but not yet issued will require the Commission's prior approval

### **16.05 CONDITION FOR REVISION OF TERMS**

- (a) Consent has been obtained, where applicable, resolution of the sukuk holders and the recertification of the Shariah adviser and the consent of the trustee.
- (b) Due process is to be observed in obtaining sukuk holders' approval for the proposed revision, where applicable.
- (c) All material information pertinent to the revision, including the impact on credit rating and the Shariah adviser's opinion on whether or not such revision complies with the principles of Shariah together with the Shariah basis and rationale, has been communicated and disclosed to sukuk holders.

16.06 Any revision to the principal terms and conditions of a sukuk issue shall not result in non-compliance with any regulatory requirements provided under these rules and other relevant rules.

16.07 During the tenure of a sukuk, any revision to the terms in the sukuk document such as the maturity date and the profit rate can only be implemented after cancellation of the initial contract. Thereafter, a new **`aqd** (contract) stating the new maturity date and profit rate have to be executed to replace the previous contract.

## **17.0 REQUIREMENT FOR SUKUK TRUSTEE**

All issuers of sukuk shall appoint a trustee registered with the Commission.

17.01 In enhancing the role and effectiveness of sukuk trustee in an issue or offer of sukuk, the lead issuing house (as the case may be) shall actively engage the sukuk trustee in the documentation processes of a sukuk programme or an issue or offer of sukuk on a timely basis. The trustee shall actively play its part in this process by providing comments and feedback to the documentation on a timely basis.

## **17.02 EVENT OF DEFAULT**

The Trust Deed for issuance of Sukuk shall provide that the occurrence of an event of default would entitle the sukuk holders to declare the sukuk immediately due and payable without any provision for period of grace, while provision for remedy may be negotiated to the extent appropriate.

## **18.0 OFFERINGS OF SUKUK UNDER A SHELF REGISTRATION**

Where an applicant seeks to issue, offer or make an invitation for sukuk under a shelf programme, such person shall comply with these rules as well as the Commission's rules on shelf registration.

## **APPENDIXES**

### **APPENDIX 1**

#### **A. DOCUMENTS TO BE SUBMITTED FOR THE PURPOSE OF OBTAINING THE APPROVAL OF THE COMMISSION**

- 1.01 Information Memorandum/Prospectus disclosing the following items:
- (a) Background information on the Issuer and/or Originator in the case of an Islamic asset-backed securities (ABS) issue/programme;
  - (b) Profile of Directors of Issuer, including RC numbers;
  - (c) A description of the transaction and structure of the issue/offer or programme (to specify clearly whether it is a one-time issue/offer or a sukuk programme);
  - (d) Details of the utilisation of proceeds, including its Schedule where applicable\*;
  - (e) Primary and secondary sources of repayment;
  - (f) Detailed breakdown of all upfront and recurring fees and expenses for the issue/programme;
  - (g) Waiver(s) from complying with any relevant rules of the Commission obtained for the proposed issue/programme (if any);
  - (h) Specific approval sought and obtained from the Commission in relation to the appointment of an independent Shariah adviser and/or applicable Shariah principle or concept;
  - (i) Conflict-of-interest situations and appropriate mitigating measures;
  - (j) Detailed information of the existing sukuk issue and/or loans to be refinanced by the proposed issue/programme, where applicable;
  - (k) A copy of the letter from credit rating agency(s) pertinent to the credit rating for the issue or offer;
  - (l) Shariah certification issued by Shariah adviser in relation to the sukuk issue;
  - (m) Any other material information in relation to the issue/programme; and
  - (n) Names, telephone numbers, facsimile number and e-mail addresses of the officer(s) -in -charge for the issue.
- 1.02 Principal terms and conditions of the Proposal (as per Part B).
- 1.03 Issuer's declaration (as provided in Appendix 3)
- 1.04 Copies of approval letters from all other relevant regulatory authorities
- 1.05 Latest audited financial statements of the issuer(not less than 9 months old)
- 1.06 Compliance checklist on the Sukuk Guidelines

## **B. PRINCIPAL TERMS AND CONDITIONS OF THE PROPOSAL**

### 2.01 Background Information

- (a) Issuer (where the issuer is a special purpose vehicle and is a conduit to another entity which receives proceeds from the proposed issue or offer, the following information on the said entity shall also be provided):
  - (i) Name
  - (ii) Address
  - (iii) Business registration no.
  - (iv) Date and place of incorporation
  - (v) Date of listing
  - (vi) Status
  - (vii) Principal activities
  - (viii) Board of directors
  - (ix) Structure of shareholdings and names of shareholders or, in the case of a public company, names of all substantial shareholders
  - (x) Authorised and paid-up capital.

### 2.02 Principal Terms and Conditions

- (a) Names of parties involved in the proposed transaction, (where applicable)
  - (i) Sharia adviser
  - (ii) Lead arranger
  - (iii) Co-arranger
  - (iv) Solicitor
  - (v) Financial adviser
  - (vi) Technical adviser
- (b) Facility description (including the description of Islamic principle)
- (c) Issue/programme size
- (d) Tenure of issue/sukuk programme (or facility)
- (e) Availability period of sukuk programme (or facility)
- (f) Profit/coupon/rental rate
- (g) Profit/coupon/rental payment frequency
- (h) Profit/coupon/rental payment basis
- (i) Security/collateral (if any)
- (j) Details on utilisation of proceeds by issuer/obligor and originator (in the case of originator)
  - If proceeds are to be utilised for project or capital expenditure, description of the project or capital expenditure, where applicable
- (k) Sinking fund and designated accounts (if any)
- (l) Rating
  - Credit rating(s) assigned (Please specify if this is an indicative rating or

if the credit rating is not assigned for the full amount in the case of sukuk programme, adequate disclosures to be made)

- Name of rating agency
- (m) Mode of issue
- (n) Selling restriction, including tradability (i.e. tradable or non-tradable)
- (o) Listing status and types of listing
- (p) Other regulatory approvals required in relation to the issue, offer or invitation and whether or not obtained (please specify)
- (q) Conditions precedent
- (r) Representations and warranties
- (s) Events of default (or enforcement event, where applicable)
- (t) Covenants
- (u) Provisions on buy-back and early redemption of sukuk
- (v) Other principal terms and conditions for the issue

## **APPENDIX 2**

### **DECLARATION BY THE ISSUER**

Date

The Director General

Securities and Exchange Commission

**ISSUER ... (Name of Issuer)...**

**Declaration under the Sukuk Guidelines;**

1. We, ...(Name of Issuer).... are proposing to undertake the following proposals--

- (a) .....
- (b) .....
- (c) .....

(hereinafter referred to as "**the Proposal**").

2. We confirm that having made all reasonable enquiries, and to the best of our knowledge and belief, there is no false or misleading statement contained in, or material omission from, the information that is provided to the adviser(s)/expert(s) or to the Commission in relation to the above Proposal.

3. We declare that we are satisfied that after having made all reasonable enquiries that the Proposal is in full compliance with the following:

- (a) The Sukuk Guidelines;
- (b) The SEC rules and regulations;
- (c) The Trust Deeds;

4. (Save as otherwise disclosed in the attachment accompanying this declaration)

the Company has not–

(a) been convicted or charged with any offence under the securities laws, or other laws involving fraud or dishonesty in a court of law, for the last ten years prior to the submission/since incorporation (if less than 10 years);

(b) been subjected to any action by the stock exchange for any breach of the listing requirements or rules issued by the stock exchange, for the past five years prior to the submission.

5. We declare the following in accordance with the Sukuk Guidelines:

(a) The Proposal results/does not result in a significant change in the business direction or policy of the listed company; and

(b) The Proposal is/is not a related-party transaction.

6. We declare that we will ensure continuous compliance with the requirements and conditions imposed by the Commission in relation to the above Proposal and agree that we will continuously submit annual audited financial statements and other documents required by the Commission under the Sukuk Guidelines.

7. We undertake to provide to the Commission all such information as the Commission may require in relation to the Proposal from time to time.

The above Declaration has been signed by me as ... (designation of authorised signatory)... of the Issuer under the authority granted to me by a resolution of ...(the Board of Directors)... on ...(date of resolution)...

Yours faithfully,

.....

Signature

Name :

Name of Issuer :

Date :

### **APPENDIX 3**

#### **FORMAT FOR ELECTRONIC SUBMISSION**

1.01 All correspondences to be submitted to the Commission (except e-mails) must be accompanied by electronic copy in text-searchable format PDF (PDF-text) file in the following manner, unless otherwise stated in these guidelines:

(a) All signed correspondences (including appendices), such as cover letters, declarations, reports, etc, should be scanned with OCR (optical character recognition) and saved as PDF-text files; and

(b) The PDF-text files can be submitted to the Commission via a CD or e-mail (up to 10 MB in size per e-mail). The e-mail address is ***offerapplication@sec.gov.ng***. Please

indicate in the cover letters on how the PDF-text files are to be submitted concurrently, as well as the particulars of the e-mail if relevant (i.e. sender, subject, date and time sent).

- 1.02 The electronic copy of the main applications, including the registerable prospectuses and supporting documents, must be submitted in text-searchable format PDF-text files. Please ensure that the PDF-text files should be in a readable and proper condition.

#### **APPENDIX 4**

#### **DOCUMENTS TO BE SUBMITTED AFTER OBTAINING THE APPROVAL FROM THE COMMISSION**

- 1.01 The principal adviser(s) must submit the following information and documents to the Commission via ***offerapplication@sec.gov.ng*** prior to the issue date of sukuk or the first issue under a programme:

- (a) Date of issue, size of issue and tenure of issue; and
- (b) Soft copy of the following documents (clean version in 'PDF' format):
  - (i) Prospectus information memorandum, where applicable;
  - (ii) Islamic MTN base prospectus, where applicable, if the information memorandum or offering circular is prepared using the base prospectus;
  - (iii) Executed trust deed, where applicable; and
  - (iv) Principal terms and conditions;
- (c) Tenure of issue;
- (d) Mode of issue;
- (e) Profit/coupon rate of the issue;
- (f) Names of the primary subscriber(s)/placee(s)/investor(s) and the respective amounts subscribed, primary subscription rates/yield-to-maturity;
- (g) List of tender panel members, if any;
- (h) Utilisation of the proceeds raised from the issue;
- (i) A certified true copy of the executed trust deed, if applicable;
- (j) A copy of the rating report if the issue is rated or, if the issue is unrated because it is non-transferable and non-tradable and the investor(s) does/do not require a rating, confirmation from the principal adviser(s) that both the criteria have been met; and

- 1.02 Confirmation from the principal adviser(s) that–

- (a) designated account(s), if any, has/have been duly established and the authorised signatory(s) to those accounts has/have undertaken/agreed to administer the designated account(s) in accordance with the provisions stated in the principal terms and conditions of the proposal;
- (b) prospective investors and relevant parties have been informed of any instance where a conflict of interest situation may arise together with the relevant mitigating measures,

including the agreement from the Board of Directors of the issuer to proceed with such arrangements;

(c) the Trustees has notified the Commission of any variation to or substitution/replacement of the underlying assets and confirmed to the Commission that the Shariah adviser has given its approval for the variation or the substitution/replacement;

(d) the Trustee/Sharia Adviser undertakes the necessary internal measures that prior to each issuance/drawdown under the proposed sukuk programme, the issuance/drawdown is in full compliance with Shariah principles;

(e) the principal adviser has fully and clearly disclosed to all prospective investors and relevant parties of the sukuk, the details of the transaction structure, including but not limited to the risk factors of investing in the sukuk, and if any, the profit and loss sharing entitlement ratio between the investors/sukuk holders, the advance payment and purchase undertaking mechanism and the recourse available to the investors/sukuk holders; and

(f) all other conditions of approval that has been/may be imposed by the Commission has been/will be complied with.

1.03 The principal adviser(s) must submit to the Commission confirmation from the Shariah adviser prior to the issue date of sukuk or the first issue under a programme, confirming that:

(a) all documentation for the sukuk issuance have been vetted;

(b) all documentation for the sukuk issuance have been executed in proper sequence; and

(c) all documentation comply with Shariah requirements.

## **APPENDIX 5**

### **DOCUMENTS RELATING TO SHARIAH COMPLIANCE TO BE SUBMITTED PRIOR TO SEEKING DEEMED APPROVAL PROCESS**

1.01 A cover letter addressed to the Commission disclosing the following:

(a) Background information on the Issuer and/or Obligor; and

(b) A description of the transaction and structure diagram of the sukuk.

1.02 Shariah Pronouncement including detailed reasoning/justification.

1.03 Indicative principal terms and conditions of the Proposal (as per Part B of Appendix 1).

1.04 Any other supporting documents/information as may be required by the Commission.

## **APPENDIX 6**

### **DOCUMENTS AND INFORMATION TO BE PROVIDED TO THE COMMISSION FOR THE PROPOSED REVISION OF PRINCIPAL TERMS AND CONDITIONS**



- 1.01 A letter notifying the Commission of the proposed revision and rationale for each revision, accompanied by a confirmation that the relevant requirements (as set out in **paragraph 17** of these rules) have been duly complied with by the issuer. Also, the name, telephone number, facsimile number and e-mail address of the contact person of the principal adviser are to be disclosed in the letter should the Commission require further clarification on the revision;
- 1.02 A marked-up version copy of the revised principal terms and conditions and, where applicable, the supplemental information memorandum, supplemental offering circular, executed supplemental trust deed and other issue documents;
- 1.03 Any other material information in relation to the revision including the Shariah adviser's opinion on whether or not such revision complies with the principles of Shariah together with the Shariah basis and rationale;
- 1.04 A copy of the written consent from the relevant parties in relation to the revision; and
- 1.05 A soft copy (clean version in PDF format) of the following documents to be e-mailed to the Commission
  - (a) Revised principal terms and conditions
  - (b) Where applicable, the supplementary information memorandum, supplementary offering circular, executed supplementary trust deed and other issue documents.

#### **APPENDIX 6(A)**

#### **DOCUMENTS AND INFORMATION ON SHARIAH COMPLIANCE TO BE SUBMITTED PRIOR TO NOTIFICATION**

- 1.01 A cover letter addressed to the Commission disclosing the detailed description of the revised transaction and structure diagram (where applicable) of the sukuk.
- 1.02 Shariah Pronouncement including detailed Reasoning/Justification.
- 1.03 Revised principal terms and conditions of the Proposal.
- 1.04 Any other supporting documents/information as may be required by the Commission.
  - a) Detailed Shariah reasoning/justification is required if the revision involves changes to the structure earlier approved by the Commission.
  - b) For a revision which does not affect the structure of the sukuk, consent from the Shariah Adviser is required to be submitted.

**MADE AT ABUJA THIS 28<sup>th</sup> DAY OF FEBRUARY 2013**