

Legal and Regulatory Framework

This chapter reviews the significant changes or updates to rules and regulations, regulatory processes, and other official prescriptions by regulatory authorities and market institutions in the Indonesian bond and capital markets since the publication of the *ASEAN+3 Bond Market Guide for Indonesia*.

B. English Translation

OJK and market institutions—such as IDX, IDClear, and KSEI—have promulgated and published a large number of new regulations and rules, and revised and augmented existing regulations and rules, since 2017.

OJK and the market institutions continue their work of making available the English translations of all regulations and rules on their websites for the easy reference of market watchers and interested parties. At the same time, law and accounting firms increasingly feature practical English summaries of new regulations and rules on their websites or on portals covering legal subjects.

C. Legislative Structure

Law No. 8 of 1995 on the Capital Market (Capital Market Law) has remained unchanged. To meet market expectations and facilitate market development objectives, OJK addressed subjects not covered in the Capital Market Law through the issuance of new regulations. In addition, OJK has been working toward updating or augmenting rules and regulations originating during the periods of Bapepam and (subsequently) Bapepam-LK supervision.

Table 2.1 has been updated to highlight regulations with a focus or impact on the bond and *sukuk* market that were introduced since the publication of the *ASEAN+3 Bond Market Guide for Indonesia* in 2017. Most of these new regulations will be referenced or reviewed in detail in the relevant chapters and sections of this update note, while preexisting regulations are shown in the table if they are also referenced in this document.

Table 2.1: Examples of Securities Market Legislation or Regulations by Legislative Tier

Legislative Tier	Content or Significant Examples
Constitution of Indonesia	Principles, Rights, and Obligations
Laws (key legislation)	<ul style="list-style-type: none"> • Law No. 11 of 2020 (Omnibus Law on Job Creation) [NEW] • Law No. 21 of 2011 on Otoritas Jasa Keuangan • Law No. 6 of 2009 on Bank Indonesia • Law No. 21 of 2008 on Sharia (Islamic) Banking • Law No. 8 of 1995 on the Capital Market
Regulations	<ul style="list-style-type: none"> • OJK Regulation No. 16/POJK.04/2021 Concerning Amendment of OJK Regulation No. 57/POJK.04/2020 Concerning Offering of Securities through Crowdfunding Services Based on Information Technology (enacted 25 August 2021, promulgated 26 August 2021) [NEW] • OJK Regulation No. 3/POJK.04/2021 Concerning the Implementation of Activities in the Capital Market (enacted and promulgated 22 February 2021) [NEW] • OJK Regulation No. 57/POJK.04/2020 Concerning Offering of Securities through Crowdfunding Services Based on Information Technology (enacted 10 December 2020, promulgated 11 December 2020) [NEW] • OJK Regulation No. 53/POJK.04/2020 Concerning Securities Account at Custodian (enacted 3 December 2020, promulgated 11 December 2020) [NEW] • OJK Regulation No. 49/POJK.04/2020 Concerning Rating of Debt Securities and/or Sukuk (enacted 3 December, promulgated 11 December 2020) [NEW] • OJK Regulation No. 41/POJK.04/2020 Concerning Implementation of Electronic Public Offering Activities of Equity Securities, Debt Securities and/or Sukuk (enacted 1 July 2020, promulgated 2 July 2020) [NEW] • OJK Regulation No. 32/POJK.04/2020 Concerning Securities Derivatives Contracts (enacted 27 April 2020, promulgated 6 May 2020) [NEW] • Minister of Finance Regulation No. 27 of 2020 Concerning the Sale of Retail Government Securities [NEW] • OJK Regulation No. 20/POJK.04/2020 Concerning Trustee Contracts for Debt Securities and/or Sukuk (enacted 22 April 2020, promulgated 23 April 2020) [NEW] • OJK Regulation No. 19/POJK.04/2020 Concerning Commercial Banks Conducting Activities as Trustees (enacted 22 April 2020, promulgated 23 April 2020) [NEW] • OJK Regulation No. 30/POJK.04/2019 Concerning Issuance of Debt Securities and/or Sukuk Not Through a Public Offering (enacted and promulgated on 29 November 2019) [NEW] • OJK Regulation No. 8/POJK.04/2019 Concerning Alternative Market Organizers (enacted 19 February 2019, promulgated 21 February 2021) [NEW] • OJK Regulation No. 11/POJK.04/2018 Concerning Public Offering of Debt Securities and/or Sukuk to Professional Investors (enacted and promulgated 1 August 2018) [NEW] • OJK Regulation No. 7/POJK.04/2018 Concerning Submission of Reports via the Electronic Reporting System for Issuers or Public Companies (enacted and promulgated 25 April 2018) [NEW] • OJK Regulation No. 61/POJK.04/2017 Concerning Registration Statement Documents for Public Offering of Municipal Bonds and/or Municipal Sukuk (enacted 21 December 2017, promulgated 22 December 2017) [NEW]

Legislative Tier	Content or Significant Examples
	<ul style="list-style-type: none"> • OJK Regulation No. 60/POJK.04/2017 Concerning the Issuance and the Terms of Green Bond (enacted 21 December 2017, promulgated 22 December 2017) [NEW] • OJK Regulation No. 58/POJK.04/2017 Concerning Electronic Submission of Registration Statement or Electronic Submission of Corporate Action (enacted 6 December 2017, promulgated 8 December 2017) [NEW] • OJK Regulation No. 9/POJK.04/2017 Concerning Prospectus Form and Content and Brief Prospectus for Debt Securities Public Offering (enacted and promulgated 14 March 2017) • OJK Regulation No. 7/POJK.04/2017 Concerning Document of Registration Statement for Equity and Debt/Sukuk Securities Public Offering (enacted and promulgated 14 March 2017) • OJK Regulation No. 36/POJK.04/2014 Concerning Shelf Registration (enacted and promulgated 8 December 2014)
Circular Letters, Decisions, Instructions	<ul style="list-style-type: none"> • IDX Circular Letter SE-00006/BEI/10-2019 Regarding Procedure for the Submission of Electronic Report by Listed Companies (28 October 2019) [NEW] • Chief Executive of Capital Market Supervisor Decision Number Kep-52/D.04/2019 Regarding Appointment of IDX as a System Provider of Electronic Reporting for Issuer and Public Companies [NEW] • OJK Circular Letter No. 33/SEOJK/04/2015 Concerning Global Master Repurchase Agreement Indonesia (enacted 23 November 2015, effective 1 January 2016)
SRO Regulations	<ul style="list-style-type: none"> • IDX Rule Number I-G Concerning Sukuk Listing (effective 26 March 2021) [NEW] • IDX Rule Number I-E Concerning Obligation to Submit Information (effective 1 February 2021) [NEW] • IDX Decree SE-00004/BEI/01-2021 on Trading Parameters of Debt Securities and Sukuk in the Alternative Trading Platform (19 January 2021, effective 8 February 2021) [NEW] • IDX Rule Number II-E Concerning Futures Contract Trading (effective 7 December 2020) [NEW] • KPEI Regulation Number III-2 on Clearing and Guarantee of Settlement of Securities Futures Contract Transactions (effective 27 November 2020) [NEW] • IDX Decree KEP-000093/BEI/11-2020 Regarding Securities Trading Regulations through the Alternative Trading Platform (9 November 2020) [NEW] • KSEI Regulation Number II-B Regarding Registration of Debt Securities and/or Sukuk at KSEI (15 October 2020) [NEW] • KSEI Regulation Number V-D Regarding Free of Payment Instruction for the Book-Entry of Securities at KSEI (29 July 2020) [NEW] • IDX Decree KEP-00038/BEI/05-2020 on Amendment to Rule Number I-B Concerning Listing of Debt Securities (20 May 2020) [NEW] • IDX Decree SE-00005/BEI/09-2019 on Procedure for the Submission of Report in the Form of Electronic Document and/or Electronic Data by the Securities Exchange Member (effective 2 September 2019) [NEW] • KPEI Regulation Number X-2 Regarding Triparty Repo Facility (effective 28 February 2019) [NEW] • KSEI Regulation Number I-C Regarding Securities Sub-Account (22 December 2017) [NEW] • KPEI Regulation KEP-013/DIR/KPEI/0517 Regarding Retail State Bond Trading Clearing in Electronic Trading Platform (26 May 2017) [NEW]

IDX = Indonesia Stock Exchange, KPEI = Kliring Penjaminan Efek Indonesia (Indonesia Clearing and Guarantee Corporation), KSEI = Kustodian Sentral Efek Indonesia (Indonesia Central Securities Depository), OJK = Otoritas Jasa Keuangan (Financial Services Authority), SRO = self-regulatory organization.
Note: Regulations have been sorted chronologically beginning with the most recent promulgations.
Source: ASEAN+3 Bond Market Forum Sub-Forum 1 team based on publicly available information.

E. Regulatory Framework for Debt Securities

Following the introduction of regulations for the issuance of debt securities and/or *sukuk* via private placement, effective 1 June 2020, all issuance types of corporate bonds and *sukuk*, in the bond market in Indonesia, including green and sustainability instruments, are under the purview of OJK.

While issuance via public offerings and public offerings to professional investors are subject to OJK review and approval, issuance via private placement only requires the filing of the prescribed issuance documentation with OJK prior to issuance.

Pursuant to the new regulations, private placements need to be registered and deposited with KSEI, while debt securities or *sukuk* issued via crowdfunding platforms may be deposited with KSEI (in case of scrippless crowdfunded securities) or a custodian. Listings on IDX now include debt instruments issued via either a public offering or a public offering to professional investors, as well as green and sustainability bonds, municipal bonds, and those issued by small and medium-sized enterprises. IDX also now separates the listing rules between *sukuk* and conventional bonds to better cater to the specifics of each instrument type.

In addition, OJK regulated the concept of Alternative Market Organizers, i.e., the ability to establish and operate formalized alternative trading venues for government and corporate bonds and *sukuk* in the over-the-counter (OTC) market. Promulgated on 19 February 2019, OJK Regulation No. 8/POJK.04/2019 Concerning Alternative Market Organizers contains provisions on the activities, capital, and shareholders of potential Alternative Market Organizers (PPA), and prescribes the licensing and operational practices for PPA.

The role of BI as the setter of regulations for open market operations and Indonesia's foreign exchange regime remains unchanged.

F. Debt Securities Issuance Regulatory Processes

With the introduction of the professional investors concept in 2018, OJK also made available the issuance of a public offering to professional investors, while giving concessions to issuers—please see section F.5.a for an explanation of the terminology used in this document—or those that had previously issued debt securities or *sukuk* via a public offering. At the same time, a public offering to professional investors principally follows the regulatory process previously established for public offerings, including the submission of a Registration Statement and the need for OJK to declare it effective.

In 2020, OJK added a regulatory process for the issuance of debt securities or *sukuk* via private placement, formalizing initial disclosure through the filing of issuance documentation with OJK prior to issuance. A Registration Statement is not required, and OJK will not review the quality of the contents or approve the documentation submitted, but will only check the documents for completeness and compliance with regulations. Depending on the nature of the entity issuing via a private placement, the use of an arranger and monitoring agent may be mandated, with OJK receiving reports on such a private placement during its tenor.

Listing eligibility and approval are determined by IDX on the basis of updated or new listing rules that now distinguish between *sukuk* and conventional debt instruments, and also extend to prescriptions for electronic submission and specific standard formats for disclosure information.

Only the new or adjusted regulatory processes are reviewed in detail in the subsequent sections of this update note.

1. Regulatory Processes by Type of Issuing Entity

The introduction of issuance via a public offering to professional investors did not come with a new regulatory process, as the new issuance type follows the overall prescriptions for public offerings, requiring the submission of a Registration Statement and approval from OJK; however, the process itself contains concessions for eligible issuers (see also new section 9).

While the actual regulatory process for the issuance of debt securities or *sukuk* via a private placement does not differ by offeror type as such—all offerors need only submit their issuance documentation prior to issuance—the nature of an offeror does have implications for the mandatory appointment of service providers and the need to obtain a credit rating. Details of these distinctions are further explained in section 5 of this chapter.

The issuance of a private placement by a nonresident entity (other than a supranational institution) without prior issuance experience (and corresponding disclosure) in Indonesia is not possible.

3. Regulatory Process in Case of a Nonresident Issuer

A nonresident entity may issue debt securities or *sukuk* via a public offering and, in doing so, would be considered an “issuer” and subject to the same obligations and regulatory process as a domestic entity.¹²

Once considered an issuer, a nonresident entity would also be able to offer debt securities or *sukuk* via a private placement, provided that the debt securities previously issued via a public offering remain outstanding (if the issuer had only issued debt securities or *sukuk*) and, hence, represent ongoing disclosure obligations in the Indonesian market. There is no distinction in the regulatory process for private placements between issuers that are resident or nonresident entities.

A nonresident entity without previous debt securities issuances via a public offering in Indonesia will not be able to issue debt securities or *sukuk* via a private placement, with the exception of supranational institutions.

Please also see section K in this chapter for any applicable new limitations on nonresidents, or see section K in Chapter II of the *ASEAN+3 Bond Market Guide for Indonesia* for a complete review of limitations applicable to nonresidents.

4. Regulatory Process for Public Offerings

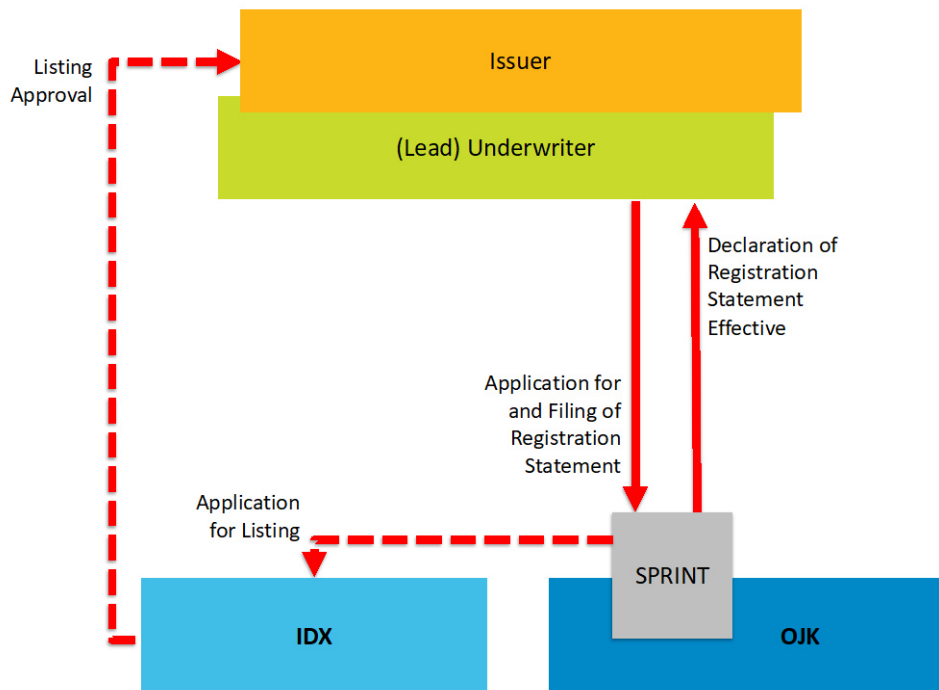
The promulgation of OJK Regulation No. 11/POJK.04/2018 concerning Public Offering of Debt Securities and/or Sukuk to Professional Investors in August 2018 added an issuance type specific to professional investors to bond issuances via a public offering. However, while the new issuance variant comes with some concessions, the regulatory process for public offerings to general or all investors remains unchanged.

¹² In the taxonomy for capital-market-related terms used by OJK, the term “issuer” denotes an entity having issued debt securities or *sukuk* (in fact any securities including equity securities) via a public offering, thereby having been subject to formal disclosure obligations in the capital market.

To highlight and better distinguish the regulatory process for public offerings of debt securities and/or *sukuk* to professional investors, a summary of the differences and concessions is provided in section 9 of this chapter.

The title of and regulatory process flow in Figure 2.1 was adjusted and the figure moved here since it now only represents part of the regulatory processes in the Indonesian bond market. The listing of debt securities or *sukuk* issued via a public offering, including a public offering to professional investors, remains optional; however, if a listing is sought and listing approval cannot be obtained, the entire public offering will be considered null and void.

Figure 2.1: Regulatory Process Map—Issuance via Public Offering in Indonesia



IDX = Indonesia Stock Exchange, OJK = Otoritas Jasa Keuangan (Financial Services Authority), SPRINT = Integrated Licensing and Registration System.
 Notes: The submission of the Registration Statement and supporting documents via SPRINT is presently limited to standard public offerings only. The submission of the listing application and supporting documents to IDX is integrated with SPRINT.
 Source: ASEAN+3 Bond Market Forum Sub-Forum 1 team.

Following the promulgation on 8 December 2017 of OJK Regulation No. 58/POJK.04/2017 Concerning Electronic Submission of Registration Statement or Electronic Submission of Corporate Action, and its effective date of 8 June 2018, the Registration Statement for a public offering of debt securities or *sukuk* and all documents that are an integral part of the Registration Statement need to be submitted to OJK electronically, via upload to OJK’s Integrated Licensing and Registration System (SPRINT). In the event an upload cannot be performed, the Registration Statement needs to be submitted manually, i.e., sent via email or delivered directly to OJK on a data storage device.

Notwithstanding the electronic submission of the Registration Statement to OJK, the issuer will still need to submit up to five printed copies of the prospectus to OJK within 15 working days from the distribution of the issued debt securities or *sukuk* under prevailing regulations for the registration of a public offering of securities.

The electronic submission was further formalized by OJK with a dedicated system in 2018. For details about the reporting system implemented by OJK, the electronic submission process, as well as data practices, please refer to section 6 in this chapter.

5. Regulatory Process for Private Placements [NEW]

The introduction of OJK Regulation No. 30/POJK.04/2019 Concerning Issuance of Debt Securities and/or Sukuk Not Through a Public Offering brought private placements under the regulatory coverage of OJK. This regulation is also referred to as the private placement regulation and became effective on 1 June 2020.

The private placement regulation was not intended to impede private placement activities in the Indonesian bond market or change market practice; instead, OJK focused on creating legal certainty for issuing entities and investors by ensuring a regulatory basis for private placements as a form of issuance and formalizing a type of minimum disclosure obligation for greater transparency given regulatory trends in the region and elsewhere. This update note describes the resulting regulatory process for the issuance of debt securities and/or *sukuk* via a private placement.

Private placements need to (i) meet certain criteria for tenor and issuance value (see Chapter III.E for details), (ii) be issued in scripless form, and (iii) be deposited with KSEI. The number of investors into or holders of a private placement cannot exceed 49 during the tenure of the private placement.

A listing of a private placement on IDX is presently not possible (see also Chapter III.I for information on potential upcoming developments with regard to listing).

a. Relevance of the Nature of the Entity Issuing a Private Placement

The private placement regulation also introduced a distinction of terms for entities aiming to issue a private placement, based on their nature and—chiefly—their ability to fulfill continuous disclosure obligations. While the terms used are not new—they are based on terminology employed in the Capital Market Law and previous OJK regulations and their official translations—their distinction appears in a regulation for the first time. The ASEAN+3 Bond Market Forum supports the taxonomy maintained by OJK and strives to use the terms as they were intended.

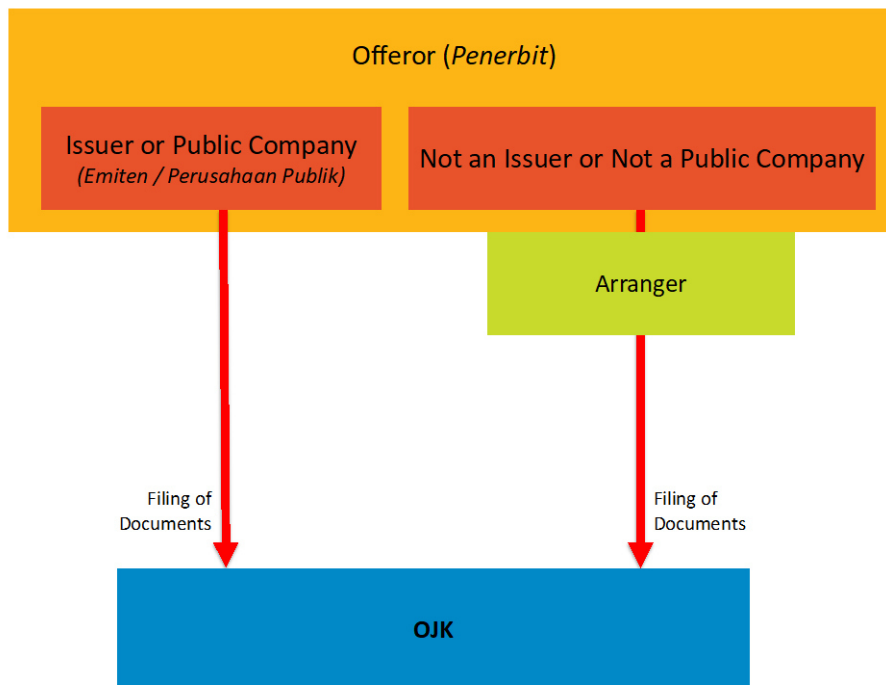
The English term “issuer” (Bahasa Indonesia: *emiten*) as used in law and regulations is associated with an entity issuing a public offering of (any) securities since the Capital Market Law was promulgated in 1995. The term “public company” refers to a company that, without having done a public offering, has at least 300 shareholders and paid-in capital of at least IDR3 billion, or such other number of shareholders and paid-in capital that may be stipulated in OJK regulations.

The term “offeror” (Bahasa Indonesia: *penerbit*) is used in the private placement regulation to represent the issuing entity of a private placement. The types of offeror in a private placement consist of (i) an issuer or a public company, (ii) a legal entity that is not an issuer or a public company, (iii) supranational institutions, and (iv) certain collective investment schemes (CIS). An offeror who does not presently have continuous disclosure obligations in the Indonesian market will have to obtain a credit rating, appoint an arranger to support its offering, and appoint a monitoring agent to review its activities and financial position throughout the lifecycle of the debt securities or *sukuk*. A nonresident entity who has not previously issued (any) securities in Indonesia or who does

not have publicly offered debt securities outstanding will not be able to issue a private placement (see also section K in this chapter).

For the purpose of referencing distinctions between the different eligible entities issuing a private placement, this update note will classify the offerors of a private placement into those who have continuous disclosure obligations in the Indonesian market (issuers or public companies) and those who do not have such continuous disclosure obligations in the Indonesian market (not an issuer or a public company).

Figure 2.2: Regulatory Process Map—Private Placement Issuance in Indonesia



OJK = Otoritas Jasa Keuangan (Financial Services Authority).
 Source: ASEAN+3 Bond Market Forum Sub-Forum 1 team.

The individual steps and requirements of the regulatory process for a private placement are detailed hereafter; the process reflects the concessions compared to the process for public offerings, as shown in section F.4 of Chapter II of the *ASEAN+3 Bond Market Guide for Indonesia* and in Figure 2.2 above.

Step 1—Filing of Issuance Documentation with the Financial Services Authority

The entity planning to offer a private placement needs to file the issuance documentation with OJK prior to the issuance for the purpose of illustrating the necessary activities. If the approval of an industry regulator is required, such approval should be obtained prior to submitting issuance documentation to OJK.

Depending on the nature of the entity planning to offer the private placement, the issuance documentation will need to be submitted by the offeror itself or an arranger on behalf of an offeror. If an arranger is required or appointed, the arranger will have to be a securities company with an underwriting license granted by OJK. An offeror that is classified as an issuer or a public company submits its documents via SPRINT,

while other types of offerors are presently required to have documents submitted to OJK in physical form or in electronic form via a data storage device.¹³ The submission of information to OJK must be in Bahasa Indonesia; documents may be in more than one language as long as one of the languages is Bahasa Indonesia (see Chapter III.G for details). In practice, draft documents in English are often also submitted to OJK.

The provisions for issuance documentation and their contents are contained in Chapter VI of the private placement regulation. The key documents include a cover letter, the format of which is prescribed in the appendix of the private placement regulation and in the information memorandum.

The information memorandum is expected to contain all material information that investors are required to know to make an informed investment decision. The regulation prohibits the information memorandum from containing false or misleading information and requires the contents to be clear and well structured. Information must be provided in the order stipulated by the regulation and no sections may be skipped, even if they are not applicable to a particular issuance.

The components of the prescribed information (below) are further explained in individual articles of the private placement regulation and detailed hereafter. Market practice in the private placement market previously already included much of the information detailed here:

- i. issue date or distribution date,
- ii. a statement regarding the issuance,
- iii. information regarding the offeror,
- iv. information regarding the sponsoring company in the event that the offeror is a new legal entity formed by the sponsoring company,
- v. information on the issuance,
- vi. the use of proceeds,
- vii. summary of important financial data,
- viii. analysis and discussion by management,
- ix. risk factors,
- x. parties involved in the issuance, and
- xi. procedures for subscribing to the private placement.

Specific statements regarding the issuance—such as identifying the issuance as a private placement—need to be placed prominently at the front of the information memorandum and provided in capital letters. The statements, here translated into English for convenience, need to read as follows:

The Financial Services Authority Does Not Approve Or Agree To These Securities, Does Not Declare The Truth Or Adequacy Of The Content Of This Information Memorandum. Any Contradicting Statement Is Unlawful.

The Offeror Is Fully Responsible For The Truth Of All Information, Facts, Data, Or Reports And Opinions Stated In This Information Memorandum.

Issuance Of [These] Securities Is Not A Public Offering As Intended In The Capital Market Law And Issued Through A Private Placement Mechanism To Professional Investors.

This Security Is Only For Sale To Professional Investors.

¹³ While the submission of documents for issuances to professional investors does not yet occur via SPRINT, OJK envisages the acceptance of issuance documentation for public offerings of bonds or *sukuk* to professional investors and for private placements as a future development of SPRINT.

Information on the offeror of the private placement must contain the following details:

- i. name, address, telephone, electronic mail address, and/or fax number;
- ii. authorization and date of establishment;
- iii. main business activities currently being carried out, including a description of products and/or services offered, as well as business prospects;
- iv. capital structure and ownership structure or its equivalent if the offeror is not a limited liability company;
- v. major shareholders (if applicable);
- vi. offeror business group information, if the offeror is part of a business group, which is made in the form of a structure;
- vii. management and supervision arrangements; and
- viii. the name of the party that can be contacted at the offeror.

Information on the sponsoring company needs to contain the following details:

- i. name, address, telephone, electronic mail address, and/or fax number;
- ii. main business activities currently being carried out;
- iii. capital structure and ownership structure or its equivalent in the event that the sponsoring company is not a limited liability company;
- iv. arrangement of management and supervision;
- v. summary of important financial data for the last 3 years;
- vi. analysis and discussion by management; and
- vii. risk factors.

The required details on the issuance of the private placement need to include at least the following information:

- i. type and maximum amount of issuance and number of issuances (if applicable);
- ii. the transfer mechanism of the private placement and whether it can be traded;
- iii. the book-entry unit and/or trading unit, including restrictions on book-entry, in the event that the private placement can be traded;
- iv. summary of the rights of the holders of the private placement;
- v. a summary of the nature of the private placement that allows for earlier payment of the choice of the offeror or holder of the private placement;
- vi. requirements and/or restrictions on early payment of the private placement (if applicable);
- vii. the bid (offering) price;
- viii. interest rate, yield, or other means in the form of value or in the form of a range of interest rates, yields, or compensation by other means;
- ix. date of payment of principal amount or principal amount due on that date;
- x. the date of payment of interest, yield, or compensation by other means;
- xi. for securities that can be converted into shares, including at least:
 - a. a description of the terms of conversion including whether conversion rights will be lost if not exercised before the date disclosed in the repurchase announcement; and
 - b. the start date and end date of conversion;
- xii. summary of requirements regarding debt settlement funds in the event that there are requirements for debt settlement funds; and
- xiii. the currency in which the private placement is denominated.

The offeror also needs to describe the reasons and procedures for holding a general meeting of bondholders, including provisions on attendance, quorum, and decision-making. Similarly, a description of instances of negligence that could lead to default and how such instances could be resolved will need to be included.

Should the private placement be rated, the rating information will need to be included, as would any approvals from a competent authority that the offeror required prior to filing issuance documents with OJK. If the private placement features a buyback option, provisions for the same need to be included.

Additional information is required if the issuance is guaranteed or secured. The offeror must also indicate any prohibitions or restrictions affecting the bondholders, and the offeror needs to declare any conflict of interest between itself and the parties involved in the issuance.

Should the offeror have outstanding debt securities, these need to be indicated in the information memorandum. In addition, the offeror will need to declare the seniority or primacy of the private placement in relation to existing debt securities and other potential liabilities that the offeror may acquire.

Information on the use of proceeds must include an estimation of the costs of the issuance to the offeror and be expressed as either a percentage of the issuance amount or an absolute value in the denomination currency.

The summary of important financial data is prescribed to include data at least for the last 2 financial years, or since the establishment of the offeror if the company has not yet been established for 2 years, as well as interim financial data if available. Financial data refer to a financial statement, a statement of profit or loss or other income statement, and significant ratios relevant for the industry of the offeror. Financial reports for the issuance need to be consistent in numbers and descriptions with those in the offeror's official financial report.

Management analysis and discussion information is expected to contain brief analysis of the financial reports and other information in the information memorandum, including the financial statement and income statement and applicable financial ratios. Risk factors need to describe material risk factors that could affect the offeror's condition.

The information memorandum also needs to include detailed information on the parties involved in the issuance:

- i. their name, address, and description of the duties and responsibilities in the issuance; and
- ii. details of their business registration and/or business activity license from OJK, as applicable.

Procedures for the subscription to the private placement must at least include the following information:

- i. the offering period;
- ii. the procedure for submitting a purchase order;
- iii. the minimum quantity that can be ordered for each order;
- iv. payment terms including confirmation of purchase and payment deadline;
- v. electronic distribution; and
- vi. registration with KSEI.

If the private placement is in the form of *sukuk*, the following additional information will need to be contained in the information memorandum:

- i. a schedule or plan and procedures for the distribution and/or payment of profit sharing, margin, or service fee in accordance with the characteristics of the Sharia-compliant contract;

- ii. confirmation that the assets that form the basis of the *sukuk* do not conflict with Sharia principles and the offeror guarantees that during its tenor the assets on which the *sukuk* is based will not conflict with Sharia principles;
- iii. the types of Sharia-compliant contracts and transaction schemes as well as explanations of Sharia-compliant transaction schemes used in the issuance of the *sukuk*;
- iv. a summary of the Sharia-compliant agreements made by the parties involved;
- v. the source of income that becomes the basis for calculating the payment for profit sharing, margin, or service fee in accordance with the characteristics of the Sharia-compliant contract;
- vi. the amount of the profit-sharing ratio, margin, or service fee in accordance with the characteristics of the Sharia-compliant contract;
- vii. source of funds used to make payments for the results, margin, or service fee in accordance with the characteristics of the Sharia-compliant contract;
- viii. replacement of the assets on which the *sukuk* is based if something happens that causes the value to no longer match the value of the *sukuk* issued, if and as necessary according to the characteristics of the Sharia-compliant contract;
- ix. plans for the use of funds from the issuance of the *sukuk* in accordance with the characteristics of the Sharia-compliant agreements;
- x. provisions for when the offeror fails to fulfill its obligations;
- xi. the mechanism of handling situations should the offeror fail to fulfill its obligations;
- xii. terms and conditions in case the offeror will change the type of Sharia-compliant contract, the content of the Sharia-compliant contract, and/or assets that form the basis of the *sukuk*;
- xiii. a Sharia-compliant conformity statement for the *sukuk* from the National Sharia Board or a Sharia capital market expert; and
- xiv. whether or not there is a deduction of *zakat* (charity) on the profit sharing, margin, or service fee, which is to be disclosed at the beginning of the offering information.

Step 2—Actual Issuance

The private placement regulation does not require OJK to approve the issuance documentation, nor will OJK comment on the contents or information accuracy. However, OJK will check the completeness of information for compliance with the regulation.

The issuance of debt securities and/or *sukuk* must be carried out within 30 days after the issuance documentation has been filed with OJK.

In the event that an offeror makes changes to the issuance documentation prior to the actual issuance but after the filing of said documentation to OJK, a resubmission of all issuance documentation to OJK is required prior to the actual issuance. Noncompliance may attract administrative sanctions including warnings, fines, or suspension of business activities.

6. Obligations after Approval and after Issuance

The requirement for the submission of application documents and statutory reporting via an electronic system is detailed here, as this is the section dedicated to reporting in this update note. Other sections containing the description of reporting obligations will make reference to this section for necessary details.

OJK Regulation No. 7/POJK.04/2018 on Submission of Reports via the Electronic Reporting System for Issuers or Public Companies was promulgated on 25 April 2018, requiring the submission by issuers of public offerings and public companies of reports

prescribed in capital market regulations through the electronic system provided by OJK, called Reporting System for Issuers and Public Companies (SPE). The submission of reports through SPE became mandatory 6 months after the promulgation of OJK Regulation No. 7/POJK.04/2018, with issuers and public companies needing to obtain login details by that time. The regulation superseded previous OJK prescriptions on the electronic submission of reporting requirements.

It should be noted that SPE represents a different system with different underlying requirements than SPRINT (mentioned in section 4 of this chapter), which is used for the submission of Registration Statements and supporting documents prior to issuance as well as for listing applications to IDX.

OJK Regulation No. 7/POJK.04/2018 prescribes the use of SPE and its dedicated website for all reports to be submitted by issuers and public companies to OJK under capital market regulations, whether periodical or if requested by OJK; these include financial statements, material events, use-of-proceeds reports, sustainable finance reporting, bond issuance related announcements, and credit rating reports. The issuer or public company is deemed to have submitted a report through SPE if it has received an electronic receipt such as an email notification. Following the introduction of SPE, issuers and public companies did not need to continue submitting printed copies of reports or those via electronic storage media.

SPE is operated by IDX as a system provider on behalf of OJK and has been integrated with the IDXNet platform for disclosure information maintained by IDX (see also section J in this chapter for background information on this integration). The integration of the two systems (now known as SPE-IDXNet) allows an issuer or public company to submit relevant disclosure information or reporting once, with the system routing the document to the appropriate user.

Reporting deadlines, as well as form and contents of such reports, continue to follow the stipulations in the underlying capital market regulations for the type of reporting. Parties submitting reports still need to retain these reports in their own books and records according to applicable statutory retention periods, and data submitted via SPE must be the same as that in company records. Should discrepancies between the information submitted into SPE and the company records occur, SPE data would be treated as reference data.

The submission of reports via either SPE or an alternative method is detailed according to bond issuance types below.

a. Public Offerings

At the time of the compilation of this update note, the submission processes for public offerings and public companies were integrated through the electronic systems used by OJK and IDX.

To the Financial Services Authority

While the reporting requirements for public offerings have not changed, the submission of regulatory reporting by issuers of public offerings was changed in April 2018 to be via the dedicated OJK reporting portal, SPE (now SPE-IDXNet). Please see the lead-in text in this section for detailed information on SPE and the establishment of SPE-IDXNet. Following submission, OJK issues a confirmation of receipt via automatic email notification.

Reporting obligations for public offerings to professional investors are not yet submitted via SPE-IDXNet, with reporting continuing via physical submission or the submission of electronic copies on storage media directly to OJK.

To the Indonesia Stock Exchange

Public companies and issuers of public offerings of debt securities that have been listed on IDX are able to submit their continuous disclosure information and relevant documents to IDX via IDXNet, which has since been integrated with SPE to form SPE-IDXNet. IDX issues a confirmation of receipt of documentation required under IDX rules via SPE-IDXNet as well as by automatic email notification.

b. Private Placements

Reporting requirements to OJK in relation to private placements were introduced following the effective date of the private placement regulation in June 2020 (see Chapter III.E for details on the regulation).

To the Financial Services Authority

Offerors of private placements are required to submit the result of the issuance of a private placement to OJK. If the offeror is not an issuer, a public company, a certain type of CIS, or an entity issuing a private placement solely to limited-investment CIS, the report on the issuance result will need to be submitted by the arranger, otherwise the offeror may submit the report directly.

The report on the issuance result must be submitted in both hardcopy and electronic form, with the same information in both versions, and reach OJK no later than 5 working days after the issuance. The form and contents of the report are stipulated by OJK in the appendix to the private placement regulation. If OJK provides an electronic system for the submission of the issuance result, the report only needs to be submitted electronically.

In the case of a gradual issuance of the private placement, reports on the result of the issuance of individual tranches will need to be submitted within 5 working days after each tranche is issued.

At the time of the compilation of this update note, reports needed to still be submitted in hardcopy form and on electronic storage media directly to OJK.

To Investors

Customized reporting obligations agreed between the offeror (as the case may be), capital-market-supporting institutions and professionals, and investors involved in a private placement need to be fulfilled on a contractual basis.

9. Regulatory Process for Public Offerings to Professional Investors

OJK Regulation No. 11/POJK.04/2018 concerning Public Offering of Debt Securities and/or Sukuk to Professional Investors, referred to as the Public Offering to Professional Investors Regulation, became effective on 1 August 2018 and introduced the professional investors concept in the Indonesian bond market. In addition, the regulation enabled the additional issuance type of a public offering to professional investors.

The prescriptions for the new public offering type build on the general requirements for public offerings regulated in the Capital Market Law and subsidiary regulations, such

as the submission of a Registration Statement and the use of a prospectus, their respective contents, the OJK regulatory process (see section 4 of this chapter for details) and other obligations, including disclosure, unless otherwise regulated in the professional investors regulation. As such, the professional investors regulation will have to be considered in conjunction with underlying prescriptions for public offerings in law and regulations.

While, for all intents and purposes, this issuance type represents a public offering to specific types of investors, the professional investors regulation does offer concessions to issuers compared with standard public offerings:

- the credit rating of the instrument is voluntary in principle but mandatory for multiple issuances under a shelf-registration (for the first issuance),
- audited financial statements need only be submitted for the last 2 financial years and may not need to be submitted for issuers (public companies) or those with debt securities outstanding,
- legal opinions required may cover fewer subjects, and
- selected sections in the prospectus may be omitted.

A listing of debt securities or *sukuk* publicly offered to professional investors remains at the discretion of the issuer (see also Chapter III.I for details on the listing process).

At present, reporting obligations for a public offering to professional investors set by OJK still require the submission of information in hardcopy form or via electronic copy on a storage media (see section 6 of this section for details).

G. Continuous Disclosure Requirements in the Indonesian Bond Market

1. Where a Public Offering of Debt Securities Was Made

Continuous disclosure obligations for public offerings of debt securities or *sukuk* to professional investors follow the general continuous disclosure requirements for public offerings prescribed by OJK and IDX for listed debt securities and *sukuk*, respectively, as detailed in the *ASEAN+3 Bond Market Guide for Indonesia*.

As a result of the introduction of its electronic reporting system in 2018 (see section F.6 in this chapter), reporting obligations to OJK are to be submitted via SPE for standard public offerings instead of in hardcopy form or via electronic files as was described in the *ASEAN+3 Bond Market Guide for Indonesia*. Reporting for public offerings to professional investors continues to be carried out via hardcopy or electronic copies on storage media. Reporting deadlines and the form and contents of reports continue to follow the prescriptions in individual capital market regulations issued by OJK.

Pursuant to OJK regulations, IDX mandated the submission of disclosure information in electronic form via IDXNet; all disclosure documents prescribed in regulations and aimed at the public can be submitted via IDXNet. IDX issues a confirmation of receipt for documentation submitted via IDXNet and sends an automatic email notification, which is also received by OJK.

2. Where a Private Placement Was Made

OJK Regulation No. 30/2018 introduced post-issuance and continuous reporting requirements in relation to private placements with effect from June 2020. The reporting requirements differ depending on the type of offeror (see section F.5 of this

chapter or Chapter III.E for the distinction) and for market intermediaries in the secondary market.

Applicable reports for private placements are not yet to be submitted via SPRINT (see section F.6 of this chapter for details) but instead continue to be filed directly with OJK via hardcopy or in electronic format on storage media.

a. Private Placement by an Issuer or Public Company [NEW]

If the party carrying out the private placement is an issuer or public company (or a supranational institution or one of the eligible CIS), OJK does not impose any continuous disclosure requirements specific to the private placement. The issuer will still be subject to any continuous disclosure obligations stemming from its public issuances (see section 1 of this chapter), its underlying disclosure obligations (e.g., as a CIS), or those potentially agreed with the investors in the private placement.

If an issuer has obtained a credit rating for the private placement, the annual update of the credit rating follows the prescriptions in OJK Regulation No. 49/POJK04/2020 Regarding Rating of Debt Securities and/or Sukuk (see Chapter III.O for details).

b. Private Placement by an Offeror [NEW]

If the private placement was carried out by an offeror who is not an issuer or a public company, OJK requires the submission of a material information report by the monitoring agent or bond trustee (see Chapter III.M for details on this role) in the event of the following:

- i. if the offeror has been negligent or violated provisions in the issuance documentation; or
- ii. if evidence is received and generally accepted that the offeror can be deemed unable to carry out their obligations under the private placement, or the offeror is no longer able to manage or control most of its assets.

The offeror must also report to OJK any changes to the terms and conditions of the private placement. Any such changes must first be approved by the bondholders. The report to OJK is due within 5 working days after the bondholders' approval and needs to be submitted in hardcopy form or via electronic media.

The offeror or its arranger also has to report to OJK—again in hardcopy form or via electronic media—the result of the annual credit rating review, pursuant to provisions in OJK Regulation No. 49/2020 Regarding Rating of Debt Securities and/or Sukuk (please see Chapter III.O for details).

c. Market Intermediaries [NEW]

The private placement regulation requires securities companies that trade in private placements to report any such transactions to OJK by submitting a hardcopy report. At the same time, custodian banks carrying out the settlement and transfer of private placements in KSEI are required to submit details of these transactions to OJK; this is typically done by uploading transaction data into PLTE, the dedicated securities transaction reporting platform operated by IDX on behalf of OJK.

Additional requirements for continuous disclosure may be agreed between the offeror, market intermediaries, and investors; in such instances, additional requirements should be stated in the information memorandum for the private placement and need to be adhered to by the parties assuming any such commitment.

J. Indonesia Stock Exchange Rules Related to Listing, Disclosure, and Trading of Debt Securities

Since 2017, IDX has issued or amended listing and trading rules—affecting application and disclosure practices for bonds and *sukuk* listed on its market—as a result of the introduction of green bonds and *sukuk*, bond-related derivatives, the revision of OJK regulations, and as part of market-wide initiatives in response to the COVID-19 pandemic.

While IDX was licensed as a PPA for the Alternative Trading Platform (SPPA) and issued new regulations for trading, market conduct, and participants, these regulations are not covered in this section, as SPPA represents an organized trading platform for government and corporate bonds and *sukuk* in the OTC market. In addition, IDX did not act in its role as a market institution or SRO. Participation on SPPA is separate from that on the exchange market or any other trading platform currently in use. For detailed information on SPPA and the regulations issued for that marketplace, please refer to Chapter IV.B.6.

While the listing and disclosure rules of IDX have been amended, the IDX system used to receive and store listing applications and disclosure information has seen an integration with the respective systems of OJK. As a result, for example, the submission of a listing application to IDX and a Registration Statement for a public offering of debt securities to OJK can be done in one parallel submission to OJK and IDX.

1. Debt Securities Listing Rules and Related Disclosure

In light of the strong growth and increasing breadth of Islamic finance instruments, IDX decided to distinguish between listing rules for debt instruments and those for *sukuk*. Details on the new or revised rules are provided in the following subsections.

a. Rule Number I-B Concerning List of Debt Securities

IDX issued its Amendment to Rule Number I-B Concerning Listing of Debt Securities on 20 May 2020 to provide incentives for the listing of green bonds and *sukuk*, as well as the bonds and *sukuk* of small and medium-sized enterprises or municipal issuers. The amended rule supersedes a number of rules that had been in place since 2004 including IDX Decree SK-024/LGL/BES/XI/2004-I.F.1: Debt Securities Listing (for Listing Bonds and Sukuk), which had been referenced in the *ASEAN+3 Bond Market Guide for Indonesia*.

The purpose of the amendment was to bring the listing rule in line with recent OJK regulations introducing a more diversified issuer classification. The amendment also aligned the listing rule with the concept of electronic submission of the Registration Statement and supporting documents introduced by OJK not long prior. The draft listing rule amendment was approved by OJK on 3 March 2020.

In the listing rule amendment, incentives for regional (municipal) bonds and *sukuk* include a 50% discount on the annual listing fee in the official IDX fee

schedule for a period of up to 5 years from the effective date of the amendment, as well as transitional arrangements for the submission of issuance documentation and continuous disclosure information via an electronic system (to be) provided by IDX. The amendment also sets new listing fees for corporate *sukuk* based on a scale of the nominal value of a *sukuk* issuance, recognizes multiple listings by the same issuer, and provides for a capped annual listing fee for issuances by small and medium-sized enterprises.

The amended listing rule also includes definitions for green bond and business activities considered green, pursuant to the OJK green bond regulations issued in 2017 (see Chapter III.B for details).

The text of the listing rule amendment is presently only available in Bahasa Indonesia.¹⁴

b. Rule Number I-E Concerning Obligation to Submit Information

IDX published the Amendment to Rule Number I-E Concerning Obligation to Submit Information (information disclosure rule) on 29 January 2021, with an effective date of 1 February 2021. The rule amendment had been approved by OJK on 22 December 2020. The amendment superseded the original Rule Number I-E (dating back to 2004) and selected provisions in other IDX rules. It also augmented the requirements detailed in IDX Circular Letter SE-00006/BEI/10-2019.

The purpose of the revision was to bring information disclosure for issuers or listed companies in line with a number of recent OJK regulations, specifically in relation to prescribed issuance documentation and the specified timelines for the submission of disclosure and reports. The rule also prescribed that financial statements are to be submitted in the Extensible Business Reporting Language (XBRL) format.¹⁵

Rule Number I-E is principally applicable to all issuers and listed companies, and it commits them to the submission of all disclosure information, documents, and reports required by OJK regulations and IDX rules in electronic form, using the IDXNet platform provided by IDX. IDXNet has since been integrated with SPE (see section F.6 in this chapter for details), with OJK appointing IDX as the system provider for the combined reporting system through the Chief Executive of Capital Market Supervisor Decision Number Kep-52/D.04/2019 Regarding Appointment of IDX as a System Provider of Electronic Reporting for Issuer and Public Companies.

The issuer or public company will at all times remain responsible for all of its information submitted and contained in the electronic reporting system, including the use and misuse of such information.

At present, the text of the information disclosure rule is available in Bahasa Indonesia only.¹⁶

¹⁴ See https://www.idx.co.id/media/8680/peraturan_i_b_pencatatan_efek_bersifat_utang.pdf.

¹⁵ The XBRL is the open international standard for digital business reporting managed by a global not-for-profit consortium, XBRL International. XBRL is typically used for the digital reporting of financial, performance, risk, and compliance information in financial and capital markets. For more information, please refer to <https://www.xbrl.org>.

¹⁶ See https://www.idx.co.id/media/9622/peraturan_i_e_kewajiban_penyerahan_informasi.pdf.

c. IDX Rule Number I-G Concerning Sukuk Listing [NEW]

IDX Rule Number I-G Concerning Sukuk Listing was published on 26 March 2021. The new rule was intended to further encourage the development of the *sukuk* market and recognized the need for special listing arrangements for *sukuk*. As such, the provisions for the listing of *sukuk* had been lifted from the general debt securities listing rules and given new form through IDX Rule Number I-G. The *sukuk* listing rule was also meant to align listing requirements with the relevant provisions on *sukuk* in OJK regulations such as Regulation No. 3/POJK.04/2021 Concerning the Implementation of Activities in the Capital Market.

IDX Rule Number I-G also contains listing fee concessions and transitional arrangements for the submission of issuance documentation and continuous disclosure information through electronic means first published in the Amendment to IDX Rule Number I-B in May 2020; the corresponding provisions in IDX Rule Number I-B have thus been revoked.

The text of the *sukuk* listing rule is presently only available in Bahasa Indonesia.¹⁷

K. Market Entry Requirements (Nonresidents)

The *ASEAN+3 Bond Market Guide for Indonesia* focused on the market entry requirements for nonresidents in relation to foreign exchange transactions and the Single Investor Identification (SID). The inclusion of the issuance of debt securities or *sukuk* via private placement under the remit of OJK resulted in a possible limitation for nonresident issuers, which is further explained in this section.

1. Nonresident Entities

The promulgation of OJK Regulation No. 30/POJK.04/2019, effective in June 2020, also referred to as the private placement regulation, introduced distinctions between parties able to issue debt securities or *sukuk* via a private placement.

While these distinctions primarily center on an entity's ability to fulfill continuous disclosure obligations in the interest of investor protection, OJK clarified the application to these regulations for nonresident entities who had not previously issued debt securities or *sukuk* in Indonesia, or who do not have publicly offered debt securities outstanding at the time of a proposed issuance of a private placement.

According to OJK, a nonresident entity without ongoing continuous disclosure obligations in the bond market in Indonesia is not able to issue debt securities or *sukuk* via a private placement. However, the nonresident entity may issue debt securities or *sukuk* via a public offering. Such a public offering of debt securities or *sukuk* would also enable the nonresident entities (now classified as an issuer) to subsequently issue debt securities or *sukuk* via a private placement, as the public offering would have allowed OJK to assess disclosure and other information from the nonresident issuer.

¹⁷ See https://www.idx.co.id/media/9739/peraturan_i_g_pencatatan_sukuk.pdf.