

The AMF approach to Islamic Finance Developments

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- The AMF has jurisdiction over mutual funds and listed securities.
- Unprecedented growth of Islamic finance over the past several years : AMF approached to authorise new Islamic products in France.
- Consequently, the AMF :
 - published a recommendation in July 2007, regarding the regulatory conditions to be met by domestic mutual funds that are declared Sharia compliant ;
 - is about to publish guidelines regarding the admission of sukuk (often called Islamic bonds) to listing on a French regulated market.

Authorisation of Islamic domestic funds by the AMF

- The AMF is not responsible for determining whether or not a fund is compliant with Sharia principles
- Islamic funds may rely on such extra-financial criteria for investment choices, subject to a series of key regulatory principles :
 - autonomy of the asset management company : a separate entity may give an opinion on the preselection process of securities to be invested in. However, final individual choices must be made by the asset management company ;
 - the asset management company is not relieved of its duty to put in place the resources needed to carry on its regular business ;
 - possibility of distribution of some or all of the fund's income to entities that are separate from its unitholders, on condition that :
 - the option is stated in the fund prospectus;
 - the beneficiary is a « State approved » charitable organisation, the name of which is also mentioned in the fund prospectus.

Authorisation of Islamic domestic funds by the AMF

- A first fund, that declared itself compliant with Sharia principles, was authorised in December 2006 by the AMF : it replicates an index composed of « sharia compliant » securities.
- Similar products have been offered to the public in form of certificates.

Admission of sukuk to listing on a French regulated market

- Sukuk is an Islamic financial certificate, similar to a bond, which provides an investor with ownership in an underlying Sharia-compliant asset providing some form of stable income.
- The compliance of the issue with Sharia rules does not fall within the remit of the AMF.
- It is the responsibility of the issuers, with assistance from their advisers, to incorporate into the prospectus the relevant elements, including appropriate details of the Sharia board involved in the transaction, which provide the necessary information to enable investors to make an informed decision.

Admission of sukuk to listing on a French regulated market

- European regulation does not include any specific annexes for Islamic bonds.
- Article 23.2 of this Regulation stipulates that, where a prospectus for a security which is not the same as, but is comparable to, the various types of securities mentioned in the European Regulation, the issuer shall add the relevant information items from another securities note schedule provided for in the annexes of the European Regulation. This addition shall be done in accordance with the main characteristics of the securities being offered to the public or admitted to trading on a regulated market.
- It is therefore the issuer's responsibility to define the precise contents of the prospectus in accordance with article 23.2 of the European Regulation.

Admission of sukuk to listing on a French regulated market

- Two main categories of sukuk are currently listed in Europe :
 - sukuk for which the periodic distributions and reimbursement rely primarily on underlying assets and which therefore, by virtue of their construction, are equivalent to securitisation ;
 - sukuk for which the periodic distributions and reimbursement are based on underlying assets, but for which investors rely primarily on the undertaking of one or more entities for part of or all payments in respect of the sukuk.
- Accordingly, the AMF recommendation suggests various possibilities for using European schedules depending on the type of structure for the projected the sukuk.