

Terms of Reference

Development of Legal and Regulatory Environment for Sukuk in Uzbekistan (Local consulting company)

I. Job Information	
Project Title/Department:	“Financing for Sustainable Development in Uzbekistan” Project, Inclusive Growth Cluster, UNDP Uzbekistan
Short title of Assignment:	Local vendor – Development of Legal and Regulatory Environment for Sukuk in Uzbekistan
Duty station:	Tashkent, home-based
Duration of the service:	6 months (August 2021 – January 2022)
Reports to:	Inclusive Growth Cluster Leader, Project Manager

A. Background information

Uzbekistan has embarked on an ambitious reform agenda, with the considerable attention being paid to development of sustainable and inclusive society. Clearly, the ability to implement these reforms relies on, among other, identifying optimal approaches to development financing. Uzbekistan’s spending needs are large and will require careful consideration of funding options. The IMF has conducted a needs assessment analysis for Uzbekistan in 2018 with the aim to estimate the additional spending needed to close the funding gap to achieve the sustainable development agenda by 2030¹. The study focuses on a selection of the SDGs, specifically the goals related to education, health (public and private) and infrastructure. According to this analysis annual additional spending on infrastructure and social sector needed to meet SDGs is estimated at 8.7 percent of GDP.

Clearly, development financing will need to be scaled up significantly, which would require thorough analysis of opportunities and constraints presented by various funding sources (state budget, foreign and domestic borrowing, ODA, alternative finance instruments, etc.). This is even more relevant in the backdrop of the COVID-19 crisis and its implications on the national economies, their ability to finance sustainable development in the light of considerable reduction of revenue stream to the state budgets, shrinking foreign and domestic investments, highly volatile ODA).

As the financing systems around the world are becoming more sophisticated and are discovering new operating models, sukuk has emerged as a new promising instrument to attract financing into sustainable development. Globally, sukuk issue totaled more than 979 billion US dollars. The annual market capitalization of stocks meeting the criteria for the Dow Jones Islamic Market Index in Islamic countries is estimated at more than \$ 12 trillion. Sukuk instruments are based on assets or business ownership and gaining recognition not only in the Muslim countries, but also worldwide. Sukuk has been issued over the past seventeen years as an alternative to conventional bonds and has been signed on by a wide base of investors.

¹ <https://www.imf.org/~media/Files/Publications/SDN/2019/SDN1903.ash>

The issuance of green bonds increased globally to an aggregate value of approximately USD 258 billion during 2019 with green sukuk accounting for USD 7.9 billion. The optimism surrounding green finance generally has extended to social financing which is likely to gain greater prominence as part of the COVID-19 recovery².

In Uzbekistan too, the Government is exploring new opportunities presented by various financing solutions. It has identified several innovative financial instruments that can complement existing financing sources to close the gap to achieve the sustainable development agenda with green sukuk being one of them. In Uzbekistan, where more than 90 percent of population comprises Muslims, there is an immense potential for introducing Islamic financial instruments. Introduction of green Islamic Finance could play a crucial role in boosting green economy and ensure green recovery from the COVID-19 pandemic and its consequences. This will help address serious climate change and natural resources management concerns that Uzbekistan faces today with the estimated annual direct economic loss from natural disasters in Uzbekistan is around USD 200 mln., which is 0.3% of GDP³.

However, the rising demand for Islamic finance is inconsistent with the existing legal and regulatory environment in Uzbekistan. Namely, the present legal and regulatory frameworks cannot accommodate the Sharia-compliant financial instruments and are hindering the expansion of Islamic finance in Uzbekistan. To enable the development of Green Sukuk in the country, it is important to formulate a sound legal and regulatory framework, as well as apply “green” qualification of investments facilitates and thereby attract environment-friendly local and international investors.

In this context United Nations Development Program and the Islamic Development Bank has launched a Technical Assistance initiative aimed at assisting the Government of Uzbekistan (Ministry of Finance) in establishing a proper enabling environment in the country, which would foster implementation of green sukuk and develop the capital markets in Uzbekistan.

The goal of the Technical Assistance initiative is to develop the National Green Sukuk Framework for Uzbekistan that will serve as a guidance document for future issuances, both in local and international markets in foreign and local currencies and based on international best practices. The National Green Sukuk Framework, among other things, must include related policies and standards which reflect mechanisms for Sharia and Green certification by nationally and internationally accepted authoritative institutions.

In this regard, the following set of major activities will be implemented under given TA initiative:

1. Comprehensive assessment of existing laws and regulations.
2. Development of relevant legal, regulatory, supervisory and tax regulations for Sukuks, Sharia governance framework, and Green principles.
3. Development and operationalization of the National Green Sukuk Framework including the guidelines on management, monitoring and reporting of the use of proceeds, Standard Operational Procedures for project selection, data collection processes, impact measurement approaches and report writing.
4. Conducting awareness raising and capacity building activities.

B. Objective

The objective of this assignment is to build on the research work carried out so far and 1) to conduct a comprehensive assessment of the existing legislation and 2) to develop relevant legal, regulatory, supervisory and tax regulations for Sukuks, Sharia governance framework, and Green principles in Uzbekistan.

² <https://www.williamfry.com/newsandinsights/news-article/2020/05/20/where-to-next-for-islamic-finance>

³ Cost of climate hazards in Uzbekistan, UNDP, Sep 2020.

For this purpose, UNDP is planning to contract local and international consulting companies/vendors who will work closely towards the delivery of joint outputs.

The assignment will be closely coordinated with relevant national partners and Government institutions including the Ministry of Finance, Ministry of Investments and Foreign Trade, Central Bank, Republican Stock Exchange, State Tax Committee, Muslim Board, national think tanks etc.

C. Scope of Work

The local consulting company will work under the general guidance of the Inclusive Growth Cluster Leader and under direct supervision of the Project Manager and will accomplish the assignment in two stages. The consulting firm is expected to work closely with and under the overall coordination of the international consulting company/vendor to be contracted by UNDP. Detailed specifications of the assignment include the following:

Stage I: Comprehensive assessment of existing legislation in Uzbekistan and development of the Concept note of the legal act on Plain Vanilla and Green Sukuks in Uzbekistan

- Work closely with national partners involved into the development of enabling environment for Plain Vanilla and Green Sukuks in Uzbekistan.
- Review the Pre-feasibility study for Green Sukuk issuance in Republic Uzbekistan prepared by UNDP, international best practices in introducing Green Sukuks, and other relevant research in the area of Islamic Finance and Green Financing.
- Conduct a comprehensive assessment and analysis of capital market readiness, capacity constraints, main obstacles to issuance Sukuks in the country, access and availability of information, legal and tax barriers (e.g. restrictions on how Islamic finance instruments are backed by assets), political constraints (e.g. lack of interest) and etc.
- Analyze the gaps, obstacles and disincentives in issuing or investing in Sukuks in Uzbekistan. Particular attention must be paid to obstacles or disincentives, including but not limited to, VAT applications with multiple transactions typically involved in various sukuk structures, as well as establishment of SPVs (special purpose vehicles), which are legal entities that hold the sukuk assets as agents on behalf of the sukuk holders;
- Develop a Concept note of the legal act on introduction of Plain Vanilla and Green Sukuks Uzbekistan with policy, tax and legal recommendations for creating the enabling environment for Green Sukuk in Uzbekistan. The Concept Note of the legal act will need to be approved by the Government of Uzbekistan and will serve as a baseline for drafting a full package of documents for creating the enabling environment for Sukuks in Uzbekistan. Concept Note of the legal act must aim at ensuring that legislation and taxation in Uzbekistan provide equal treatment of Sukuks with conventional bonds from issuer and investor perspectives;
- Present and facilitate the discussion of the Concept Note of the legal act on Plain Vanilla and Green Sukuks with key stakeholders and partners;

Stage II: Development of Legal and Regulatory Environment for Sukuks in Uzbekistan

- Work closely with an international consulting company/vendor contracted by UNDP who will lead and coordinate the development of the Legal and Regulatory Framework for Sukuks and "Green" Bonds in Uzbekistan;
- Develop and draft relevant legal, regulatory, supervisory and tax regulations for Sukuks and "Green" bonds, Sharia Governance Framework and Green principles;

- Present the draft legislative and regulatory documents elaborated within the scope of the assignment during the discussions with the stakeholders and revise them accordingly based on the feedback and recommendations received from UNDP, national partners and stakeholders;
- Contribute to the development of sukuk Implementation roadmap for regulatory and supervisory authorities of Uzbekistan (including Ministry of Finance, Central Bank, Ministry of Justice, and Board of Muslims) comprising of detailed action plan on tasks, milestones and necessary changes which each regulatory and supervisory authorities need to implement before launching Sukuk;
- Finalize the draft legislative and regulatory documents elaborated within the scope of the assignment based on the feedback and comments received from UNDP and stakeholders/partners;
- Perform other tasks requested by the UNDP Inclusive Growth Cluster leaders and Project Manager.

D. Reporting and Deliverables

Below are reporting arrangements and terms of the contract:

- The Certifying Officer of this assignment from UNDP is Project Manager of Financing for Sustainable Development project.
- All information and reports should be provided in electronic versions in Russian language;
- The Contractor will be submitting the reports and documents based on the results achieved to be approved by UNDP, which will serve as justification for payments.
- All materials produced by the Contractor are the property of UNDP and can be used only upon agreement.

A table 1 below details the indicative schedule of deliverables/reports:

Deliverables/Outputs	Deadline	Installments	(%)
Output 1. <ul style="list-style-type: none"> (i) Comprehensive analysis of the gaps, obstacles, and disincentives in issuing or investing in Sukuks in Uzbekistan developed and submitted; (ii) Comprehensive assessment of existing laws and regulations and policy recommendations for promoting Sukuks in Uzbekistan developed and submitted; (iii) Concept Note of the legal act with policy recommendations on enhancing the enabling environment and legislative framework for introduction of Plain Vanilla and Green Sukuks in Uzbekistan developed and submitted. 	30 Oct 2021	1 st installment	50%
Output 2. <ul style="list-style-type: none"> (i) Full package of documents for the operationalization of Sukuks and addressing legal and tax barriers for the issuance and circulation including the following documents finalized; <ul style="list-style-type: none"> - Relevant draft Legal, Regulatory, Supervisory and Tax regulations for Sukuks and "Green" bonds, Sharia Governance Framework and green principles developed and submitted. - Draft legislative and regulatory documents presented and discussed with the stakeholders, as 	31 Jan 2022	2 nd installment	50%

well as revised and finalized based on feedback received from UNDP and partners/stakeholders. (ii) Sukuk Implementation roadmap for regulatory and supervisory authorities prepared.			
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E. KEY EXPERTISE REQUIREMENTS

All positions under the contract, key as much as non-key experts, must be included and budgeted in the financial proposal in accordance with the person-month allocation required for each as defined by the proposing organization. The curriculum vitae (CV) shall be submitted for each key and non-key expert and included in the proposal. The key experts' CVs will be scored in selecting the technical proposals.

The consulting firm is expected to have a solid experience in law, finance and in high-quality policy advisory roles, including in areas such as capital market, fiscal policy, themed bonds issuance, private and financial sector development, financial analysis and advisory roles, including on issues of political economy, human development;

The contractor is expected to meet the following core requirements:

- A. Duly registered legal entity which is authorized to perform the services as stipulated in the present assignment.
- B. At least 5 years of demonstrated experience in providing legal, tax, and public finance consulting or advisory services to the governments or international organizations.
- C. At least 5 years of demonstrated experience in conducting policy advice and policy recommendations on development of legislature in the area of capital markets development, bond issuances, etc.
- D. At least 5 years of experience in the production and strategic dissemination of quality policy briefs and reports.
- E. Minimum of 5 key dedicated company experts involved in current assignment all having relevant experience and educational background.