Shari'a Review of Non-standardized Deals

Case Study of Service Agency Sukuk and Murabaha Syndication

Shari'a Paper

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By:

Dr. Yousuf Azim Siddiqi

AVP Shari'a Structuring

Emirates Islamic Bank

YousufSi@Emiratesislamic.ae

siddiqiya@yahoo.com

Table of Contents

Firstly: Parties related to Shari'a Review

While conducting a Shari'a review of documentation pertaining to Service Agency Sukuk or Murabaha Syndication, the Shari'a personnel will be dealing with different parties and departments such as:

1. External Legal Counsel:

It could be any known international law firm which will be entrusted with the job of preparing the first draft of the Sukuk or syndication agreements. Known firms in this field are Allen & Ovary, Clifford Chance, DLA Piper etc.

2. Legal Department:

It is very important to on-board Legal department during the process of reviewing and negotiating the Shari'a requirements with External Legal Counsel. On the other hand, Legal Department plays an important role in highlighting the legal relevance of certain Shari'a requirements as stated in the Fatwa. For example, an action which is, as per Fatwa, a discretionary might be a legally binding obligation.

3. Shari'a Board:

In Service Agency Sukuks, Shari'a Boards of the Obligor and Arrangers play the most important role in endorsing the agreement from Shari'a perspective. Also, no other body, company or department is allowed to deviate from the Shari'a requirements as given in the Fatwa issued by the Shari'a Board. Similarly, Investment Agent's Shari'a Board issues Fatwa in a Murabaha Syndication deal.

4. Risk Department:

In Service Agency Sukuks, it is important to monitor the risk quality of the underlying assets during the life of the Sukuks. On the other hand, in Murabaha Syndication, Risk should be about the Shari'a limitations of rescheduling or restructuring of the outstanding Murabaha amount.

5. Accounting Department:

In Service Agency Sukuks, Shari'a requirements have a direct accounting impact on how the bank will be recording or reflecting sale and purchase of assets to the SPV and this comes under off-balance sheet recording. In Murabaha Syndication, the bank's accountants need to be aware about profit rate fixation during the particular financing period in order to calculate the cost of funding.

6. Corporate Department:

Murabaha Syndications are usually done for clients of the Corporate Department.

7. Investment:

In Service Agency Sukuks, if the underlying assets are sourced from t b k's proprietary investment ,bo k t then Investment Department needs to be coordinated for fulfilling the Shari'a requirements of the Fatwa.

8. FI:

Once Service Agency Sukuks are issued, then other FIs might approach Obligor's FI to inquire about Shari'a grounds of certain points. In Murabaha Syndication, Bank's FI plays an important role in off-loading bank's participation and it should be ensured that it is done through commoditized sale of debt.

Secondly: Purposes of Financing

1. New Financing:

The Obligor might raise financing through Murabaha Syndication or Service Agency Suk as a fresh financing which serves as working capital. In such a case, scope of activities of the Obligor should be closely reviewed to ensure that proceeds of Sukuk will be not non-Shari'a compliant purposes.

2. Restructuring:

In such cases, the Obligor might be an existing Murabaha Syndication customer which is (or might be) facing cash-flow difficulties and require execution of new Murabaha Syndication to settle the existing Murabaha over a longer period. Restructuring of Service Agency Sukuk is more convenient from Shari'a perspective because the Sukukholders (via the SPV) hold the Wakala Assets which can be sold back to the Obligor on an extended date against the agreed date of Sukuk redemption.

3. Refinancing:

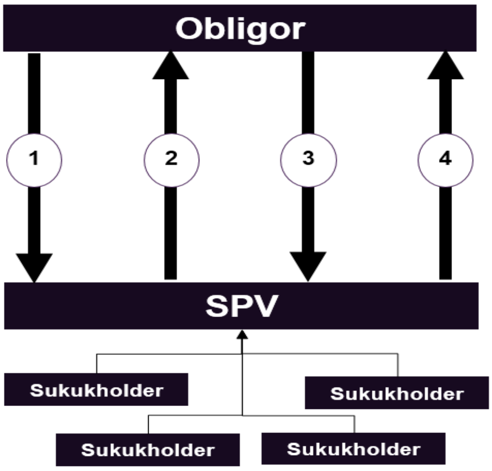
In Murabaha Syndications, sometimes the Obligor might have an existing relationship of Murabaha Syndication and would like to re-enter into Murabaha transaction in order to take up the funds which were already paid as per the previous Murabaha Syndication. In the Service Agency Sukuks, refinancing is possible only through sale of additional assets by the Obligor to the Sukukholders (via SPV).

4. Business Expansion:

In some cases of Service Agency Sukuks issuance or Murabaha Syndication, the Obligor might plan to expand its business or require financing for specific goods. Proceeds of Sukuks or Syndication will be used for CAPEX purposes.

Thirdly: Service Agency Sukuk

Basic Structure:



1. Sale of Wakala Assets**:**
   On the Issuance Date, the Obligor will sell profit-generating Shari'a complaint assets ("**Wakala Assets**") to the SPV.

2. **Service Agency:**
   The Obligor shall be appointed as Service Agent to provide certain services in relation to the Wakala Assets.

3. **Profit Servicing:**
   On periodic basis, the Obligor (as Service Agent) will distribute of profits collected on the Wakala Assets.

4. **Purchase Undertaking:**
   Upon maturity, the Wakala Assets are purchased back by the Obligor against a pre-defined Exercise Price.

Parties Involved:

More than 18 parties are involved to issue Service Agency Sukuks. Some of these parties are as follows:

The Financing Parties:

1. *The Obligor:*
   it's the party which is availing financings through Service Agency Sukuk. It should be ensured, from Shari'a perspective, that the Obligor has sufficient profit generating assets on the Issue Date of Sukuk and throughout the life of the Sukuk.

2. *The Trustee:*

   it's an offshore SPV which is entrusted with the duty of holding the ownership over the Sukuk assets as a trust on behalf of the Sukukholders. In EI Service Agency Sukuk, an SPV was established in Cayman Land. The Trustee is the body which, usually, issues Sukuk certificates so it is called as **The Issuer** as well. Any Sukuk can be differentiated by its Issuer and not by the Obligor. Hence ADIB or DIB might have various Sukuk issuance, but you may trace a particular Sukuk offering (as stated in a Shari'a pronouncement) through the name of the Issuer.

3. *Sukuk holders:*

   The individuals or entities (corporate, government or other) which subscribe to the Sukuk issuance.

4. *SPV Corporate Service Provider:*

   A firm which manages company affairs of the SPV in terms of filling the documents of incorporation and nominating persons who will act as directs of the SPV. In EI Service Agency Sukuk, SPV Corporate Service Provider was Maples.

Parties related to Listing:

1. *Rating Agency:*

   A credit rating agency which rates the Sukuk based on Obligor's financial performance. World's famous rating agencies are S&P and Moody's.

2. *Stock Exchange Agent:*

   The party which assists the Obligor in listing the Sukuk on a foreign stock exchange. In EI Service Agency Sukuk, Walkers acted as Stock Exchange Agent for listing Sukuks in Ireland Stock Exchange.

Parties related to Compliance & Legal:

1. *Shari'a Boards:*

   usually 2 Fatwas are issued on the Sukuk issuance, one is by Obligor's Shari'a Board and the other by one of the Arranger's Shari'a Board.

2. *Auditors:*

   it's an external audit firm which provides an unqualified opinion about Sukuk issuance and also endorses the financial statements of the Obligor. World's famous audit firms are Deloitte, PricewaterhouseCoopers, Ernst & Young and KPMG.

3. *Obligor's Legal Counsel:*

   it's a law firm which drafts the Transaction Documents for the Obligor. In EI Service Agency Sukuk, Clifford Chance did this job.

4. *Dealers' & Arrangers' Counsel:*

   A law firm representing the Dealers and Arrangers and is responsible for reviewing the Transaction Documents drafted by the Obligor's Legal Counsel. In EI Service Agency Sukuk, Allen & Overy did this job.

5. *SPV's Counsel:*

   A law firm which provides legal advice for the SPV. In EI Sukuk Service Agency Sukuk, it was Maple & Calder.

6. *The Delegate:*

   It's a party that takes care of Sukukholders' interest. In EI Service Agency Sukuk it was Deutsche Bank UK.

Parties related to Issuance & Post Issuance:

1. *The Arranger:*

   it's a party which is responsible for arranging investors meeting and promoting the upcoming Sukuk issuance in a pre-launch stage. In EI Service Agency Sukuk, the Arrangers were Standard Chartered, HSBC, Maybank, Bank ABC, Emirates NBD Capital, Noor Bank, Al Hilal Bank and DIB.

2. *Joint Lead Manager:*

   it represents all the parties which are responsible to market and sell the Sukuk to their investors on the Issue Date. Each JLM is supposed to look into his own region or country. For example, a UAE-based JLM might market the Sukuk within UAE, GCC or even MENA region. There might be a commitment from a JLM for a particular amount (referred to as Underwriting Amount) then the JLM will be called as **Underwriter** as well**.** In case Sukuks were under-subscribed, then the balance is subscribed by the Underwriter JLM for the Underwriting Amount. When commitment is non-binding, then it is known as soft commitment.

3. *Global Coordinator:*

   it's a party which carries the job of JLM for global markets. HSBC and SCB are famous Global Coordinators of Sukuks. In EI Service Agency Sukuk, SCB and EI was the Global Coordinators.

4. *The Dealer:*

   At the time of issuance, Sukuks can be bought only from a designated Dealer. Once available in the secondary market, then other banks and financial institutions can offer them for sale.

5. *Book-runner:*

   it's a party which consolidates all the orders placed for subscribing the Sukuks on the Issue Date.

6. *The Agents:*

   There are various parties which perform agency roles during the life of Sukuk, for example:

   a. The **Registrar** is responsible for holding the original Global Certificate.

   b. The **Principal Paying Agent** is responsible for collecting the money raised from Sukuk-subscription and then transferring it to the Obligor, and also it transfers the money back to the Sukukholders on redemption.

   c. The **Calculation Agent** is responsible for calculating the coupon amount.

   d. The **Payment Administrator** is responsible for monitoring payments of coupon.

   e. The **Transfer Agent** is responsible for transferring the coupon amounts to the Sukuk holders.

Documentation:

Financing Documents:

it refers to all the agreements which govern the Shari'a relationship between the Obligor and the SPV.

1. *Master Purchase Agreement:*

   Pursuant to this agreement, Wakala Assets are sold by the Obligor to the SPV. From Shari'a perspective, points to be closely reviewed are:

   (i) Sale & Purchase of Initial Wakala Assets,
   (ii) Duties of the Seller in respect of the Initial Wakala Asset,
   (iii) Representation & Warranties
   (iv) Exercise of Rights.

   Upon the Shari'a review, the answer to the following should be clear:

   (i) What will be the components of the Wakala Asset? Are tangible assets sufficiently more than intangible assets? What is the risk quality of Wakala Assets?
   (ii) What are the warranties extended by the Seller?

2. *Service Agency Agreement:*

Pursuant to this agreement, certain services will be provided by the Obligor to the SPV in relation to the Wakala Assets. From Shari'a perspective, points to be closely reviewed are

(i) Services.
(ii) Accounts.
(iii) Representation & Warranties
(iv) Payments
(v) Indemnity

Upon the Shari'a review, the answer to the following should be clear:

(i) What are the basic and regular duties of the Service Agent? The scope of duties of the Service Agent needs to be different from proactive investment services.
(ii) When the Service Agent stands at default? This will mainly include insurance payment in the case of the total loss of the Wakala Asset.

3. *Sale & Purchase Undertakings:*

Pursuant to these undertakings, the Obligor or the SPV undertake to purchase or sell the underlying assets. From Shari'a perspective, points to be closely reviewed are:

(i) Grant of Rights
(i) Exercise of Rights

Upon the Shari'a review, the answer to the following should be clear:

(i) What does Exercise Price Stand for?
(ii) When can the Obligor or the SPV enforce these undertakings?

Issuance Documents:

It refers to all the agreements which govern the relationship of parties' which issue Sukuk as financial security, such as:

Agency Agreement:

This agreement represents the relationship between the SPV, the Obligor, the Delegates, the Payment Administrator, the Principal Paying Agent, the Calculation Agent, the Registrar and the Transfer Agent. From Shari'a perspective, points to be closely reviewed are:

(i) Duties of Paying Agents, Registrar, Transfer Agent, Principal Paying Agent.
(ii) Non-receipt of Payment Instructions

Upon Shari'a review, the answer to the following should be clear:

(i) What are the duties of all the parties?
(ii) What are the consequences of non-payment by the SPV?

Master Trust Deed Agreement:

This agreement governs the relationship between the SPV, the Obligor and the Delegates. From Shari'a perspective, points to be closely reviewed are:

(i) Declaration of Trust.
(ii) Duties of Trustee
(iii) Undertakings of Obligor & Application of Money.

Upon the Shari'a review, the answer to the following should be clear:

(i) What's the type of ownership? Beneficial or co-ownership.
(ii) What are the duties of the Obligor?

Programme Agreement:

This agreement governs the relationship between the SPV, the Obligor and the Initial Dealers. From Shari'a perspective, points to be closely reviewed are:

(i) Agreement to Issue and Purchase
(ii) Increase in the Aggregate Face Amount
(iii) Undertakings from SPV, Obligor and Dealer

Upon the Shari'a review, the answer to the following should be clear:

(i) would be the impact of the increasing the face amount of the Programme?
(ii) What are the representation and warranties?

Market Document:

It refers to all the documents which are used by the Sukukholders in understanding the structure and risk of the subject Sukuk:

Base Prospectus:

it's a detailed document which includes mainly the following information:

1. Risk Factors:

   it highlights different types of risk which face the performance of the Service Agency Sukuk. From Shari'a perspective, it is important to read: *Risk Factors related to the Wakala Assets*.

2. Form of Trust Certificates:

   it contains the vital details of each Sukuk unit which will be shared with the client upon issuance of Sukuk.

3. Structure and Diagram and Cashflow:

   It gives a brief structure of the Service Agency Sukuk along with a diagram reflecting the movement of Cashflow and transfer of asset ownership based on Shari'a contracts.

4. Terms and Conditions of the Trust Certificates:

   i. It is one of the most important parts of the Base Prospectus because it gives full details of the Programme and how it runs under the Shari'a compliant arrangement.

5. General Description of the Programme:

   it's a quick check of answering all your queries pertaining to Dealers, Arrangers, and Ownership of the Trustee etc.

6. Description of the Trustee:

   it gives details of how SPV is registered and who owns it?

7. Use of Proceeds:

   it gives details of how the funds of the Sale & Purchase Agreement will be used.

8. Summary of the Principal Transaction Documents:

   it gives a summary of all the transaction documents as given in 3.c.(i) and (ii).

Shari'a Fatwa:

It's a pronouncement by the Shari'a Board of the Obligor which will highlight Shari'a features of the Sukuk and opinion about its permissibility.

Fees & Profit:

Amounts related to Financing:

1. Expected Profit:

   it's the amount of profit which is expected to be generated from the Wakala Assets for the Sukukholders. This is referred to in the Service Agency Agreement as Expected Income Revenues Amounts.

2. Agency Fee:

   which is usually USD 100/- payable by the SPV to the Obligor for performing the job of Service Agent.

3. Liquidity Facility:

   in case the actual profit generated on the Wakala Asset was less than the Expected Profit then the Service Agent can extend, on its own discretion, a facility to the SPV for the shortfall amount.

Amounts related to Listing:

1. Listing Fees:

   it includes all the fees which are payable by the Obligor to the Stock Exchange Agent for listing the Sukuk in a foreign exchange. EI Service Agency Sukuks have listed on Irish Stock Exchange as well as Nasdaq Dubai. Since EI (as Obligor of EI Service Agency Sukuk) is incorporated in the UAE, so it does not require a listing agent for Nasdaq Dubai.

2. Central Bank Doc Approval Fee:
   represents a fee paid to the Stock Exchange Agent for obtaining approval of the central bank in a foreign country.

3. Stock Exchange Review Fee:
   Represents a fee paid to the Stock Exchange Agent for getting the Sukuk issuance reviewed by a particular stock exchange.

4. Filling Prospectus & Listing:
   It represents a fee paid to financial regulatory bodies for approving and releasing the Sukuk prospectus. EI Service Agency Sukuks are regulated by the DFSA (Dubai Financial Services Authority).

Amounts related to Compliance & Legal:

1. Tick & Tie Work:
   It is the fee paid to the Auditors for providing approval on the financial statements of the Obligor.

2. Programme Update & Issuance Fee:
   It is the fee paid to the External Legal Counsel for updating or issuing the Sukuk programme.

3. SPV Corporate Service/FATCA
   It is an annual fee paid to the SPV Corporate Service Provider.

4. Change of SPV Name:
   It is a one-time fee paid to the SPV Corporate Service Provider for changing the name of the SPV.

5. Annual Admin Point of Contact:
   It is an annual fee paid to the SPV Corporate Service Provider for carrying services of the SPV.

Amounts related to Issuance:

1. Roadshow Expenses:
   It is the amount borne by the Obligor for carrying roadshows of Sukuk.

2. Arrangement Fee:
   It is the fee paid to the Arranger.

3. Removal of Dealer:

   In case a Dealer has been removed then the External Legal Counsel charges a fee for the same.

Postproduction:

Once Service Agency Sukuks are issued, then Shari'a personnel have the following duties:

Asset Monitoring:

Close monitoring of the Wakala Assets which were selected for Sukuk issuance to ensure that there is no breach of tangibility ratio.

1. *Shari'a Assistance:*

   In case of pre-mature settlement of any asset or need for replacing it then suitable Shari'a guidance is provided to avoid any Shari'a gaps.

2. *Periodic Reporting:*

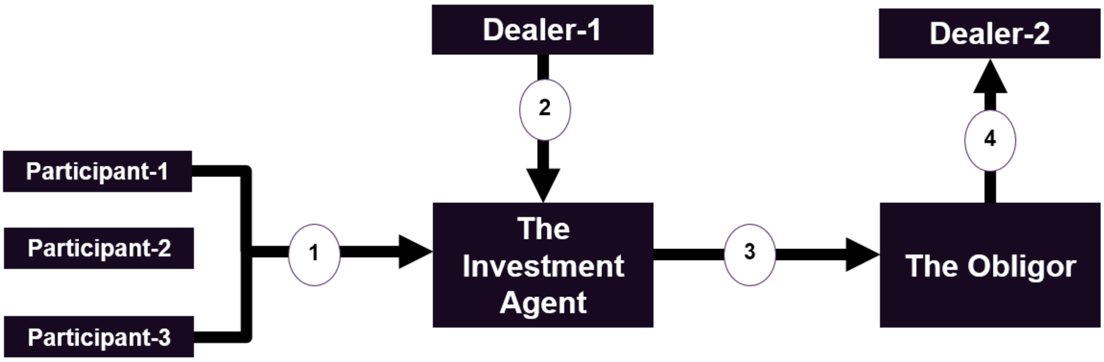
   Prior to profit distribution, a request should be made to the relevant units to provide details of the actual performance of the Wakala Assets. If actual profits were less than the coupon, then a liquidity facility would be extended by the Obligor. Any liquidity facility to the SPV should be profit bearing and correctly documented. Based on actual findings, a report needs to be presented to the Shari'a Board.

3. *Updating Shari'a Board:*

   In case a sudden and unexpected change happened in the composition of Wakala Assets or in the trading or settlement to the Paying Agent then immediately inform the Shari'a Board and seek Shari'a guidance.

Fourthly: Murabaha Syndication

Basic Structure:



1. Investment Agency:

   The Participants appoint a Shari'a compliant bank as their Investment Agent to execute Murabaha transactions on their behalf.

2. **Spot Purchase:**

   The Investment Agent purchases the underlying assets of the Murabaha Syndication from Dealer-1. The underlying has to be Shari'a compliant asset. In EI, Murabaha Syndication is done on Nasdaq certificates.

3. **Murabaha Sale:**

   Once the underlying asset is purchased by the Investment Agent then it is sold to the Obligor on Murabaha basis.

4. **Spot Sale:**

   The Obligor has the right to hold the underlying asset or to sell it to a Dealer-2 which has to be an independent and different from the Investment Agent as well as the Participants.

Parties Involve

there are different parties of involved in the execution syndication which can be classified as follows:

Financing Parties:

These are all such parties which either extending or receiving Murabaha financing such as:

1. *The Obligor:*

   it's a party which is taking financing through Murabaha Syndication. From Shari'a perspective, it should be ensured that the Obligor is not a non-Shari'a compliant entity which could be using the fund for non-Shari'a compliant financings or activities.

2. *The Participants:*

   One or many parties could be acting as the financier for the Obligor. Usually, conventional banks also participate in a Murabaha Syndication provided Investment Agent is a Shari'a compliant entity.

3. *The Investment Agent:*

   A party which is entrusted with the duty of executing the Financing Documents (as given in 4.c.i) with the Obligor. In conventional syndication, it is called a facility agent.

4. *Underwriter:*

   A party which is undertaking to extend financing about the shortfall amount in case Participants did not contribute the full amount of Murabaha Syndication.

Facility Parties:

These are all such parties which are involved in arranging the Murabaha Syndication such as:

1. The Security Agent:

   It's a party which holds (on behalf of the Investment Agent) all the securities provided by the Obligor.

2. The Arranger:

   It is a party which are coordinates with potential participants for Murabaha Syndication to be extended to the Obligor. There is no obligation on the Arranger to extend financing or to underwrite the deal. The party which is leading the discussion (usually the originator of the deal) will be labelled as **Lead Managers**.

3. Global Agent:

   Sometimes syndication is done in 2 or many tranches. For example, a tranche would be based on Murabaha and the other one based on the conventional loan facility. Also, a tranche might be based on commodity Murabaha and the other one based on Nasdaq certificates. In such a case, the Investment Agent, which is managing the syndication is called the Global Agent.

Documentation:

Financing Documents:

It refers to all the agreements which govern the Shari'a relationship between the Obligor and the Investment Agent:

1. *Master Murabaha Agreement:*

   Pursuant to this agreement, certain assets are sold on Murabaha basis by the Investment Agent to the Obligor. From Shari'a perspective, points to be closely reviewed are:

(i) Murabaha Transaction
(ii) Conclusion of the Murabaha
(iii) Murabaha Assets
(iv) Deferred Payment
(v) Late Payment
(vi) Increased Cost
(vii) Events of Default

Upon the Shari'a review, the answer to the following should be clear:

(i) What is the flow of Murabaha execution?
(ii) Is the ownership of Murabaha Asset absolute or revocable?
(iii) How profit is calculated and is it fixed.

Facility Documents:

It refers to all the agreements which state the terms and conditions related to the facility and its settlement:

1. *Commercial Terms Agreement:*

It is a lengthy and detailed agreement (usually over 100 pages) which governs the over-all common terms of the agreement between all the parties involved in the Murabaha Syndication. From Shari'a perspective, points to be closely reviewed are:

(i) Definition,
(ii) Conditions of Utilization
(iii) Cancellation of the Facility
(iv) Prepayment
(v) Increased Cost
(vi) Events of Default

Upon the Shari'a review, the answer to the following should be clear:

(i) Have the Participants the right to cancel the facility post-execution of Murabaha?
(ii) When the Increased Cost is charged and how it is recovered?
(iii) What are the events of default? Whether any conditions of anticipatory default is incorporated.

2. *Inter Creditor Agreement:*

If Murabaha Syndication is part of a multi-tranche syndication deal then a grander commercial terms agreement is prepared which governs the over-all common terms of the agreement between all the parties involved in a multi-tranche syndication deal. If one of the tranches are non-Shari'a compliant, then the reference will be made about payment and settlement of interest due as per the conventional syndication.

3. *Investment Agency Agreement:*

It's an agreement which governs the relationship between the Investment Agent, the Obligor and the Participant Bank. From Shari'a perspective, points to be closely reviewed are:

(i) Payment by the Participant Bank,
(ii) Role of Investment Agent,

(iii) Assignment and Transfer by the Participant Bank.

Upon the Shari'a review, the answer to the following should be clear:

(i) What are the duties of Investment Agent?

(ii) What kind of warranties and guarantees are extended by the Investment Agent?

4. *Agency Fee Letter:*

   It is a document which states the fee payable by the Obligor to the Investment Agent for performing the duties as per the Investment Agency Agreement.

5. *Structuring & Advisory Letter:*

   The document states the fee which is payable to the Investment Agent for performing structuring the deal.

6. *Security Agreement:*

   It's a document which contains details of all the securities extended by the Obligor. Securities included all types of (i) pledges (whether on shares or financial securities); (ii) mortgages (whether on real estate or other assets); (iii) assignments and (iv) guarantees (whether corporate or personal).

   Upon the Shari'a review, the answer to the following should be clear:

   (i) Are all the pledged shares acceptable to Participants' Shari'a Boards?

   (ii) Are mortgaged properties used for non-Shari'a purposes?

   (iii) Does assignment is over non-Shari'a compliant source of income?

Fees & Profit:

Transaction Profit:

Includes all the amounts payable as per the Transaction Documents:

1. *Profit:*

   it's a profit amount to be paid by the Obligor to the Participants (via Investment Agent) pursuant to the Murabaha Agreement.

2. *Brokerage Fee:*

   In case Murabaha Syndication was based on commodities or Nasdaq certificates, then Brokerage Fee is the amount to be paid, respectively, to the metal dealer or the broker.

Facility Fee:

it includes all the fees and amounts which are payable by the Obligor for arranging the facility:

1. *Structuring Fee:*
   It's an amount paid by the Obligor for structuring the Murabaha Syndication deal. It is paid to the Investment Agent and shared with all the Participants.

2. *Agency Fee:*
   It's an amount paid by the Obligor to the Investment Agent on an annual basis for managing the Murabaha Syndication deal.

3. *Global Agency Fee:*
   It's an amount paid by the Obligor to the Global Agent for providing agency service of Murabaha Syndication in a multi-tranche syndication deal.

4. *Commitment Fee:*
   In conventional syndication deals, if a portion of committed facility lines is not used by the Obligor, then the Participants charge a commitment fee. However, this is not accepted as per Shari'a. Hence Participants can include such amounts in the coming Murabaha profits if the Murabaha Syndication was executed on roll-over basis.

5. *Arrangement Fee:*
   It's a one-time amount paid by the Obligor to the Arrangers for arranging the Murabaha Syndication facility. This fee is paid irrespective of actual Murabaha funding happened or not.

6. *Underwriting Fee:*
   It's a one-time amount paid by the Obligor to the Underwriter for committing to subscribe to unfunded portions of the Murabaha Syndication. This amount is taken as part of Agency Fee.

7. *Security Agent Fee:*
   It's an amount paid by the Obligor to the Security Agent on an annual basis for holding the securities provided for availing financing through Murabaha Syndication.

8. *Documentation Fee:*
   It includes all the fees which are payable by the Obligor to External Legal Counsels.

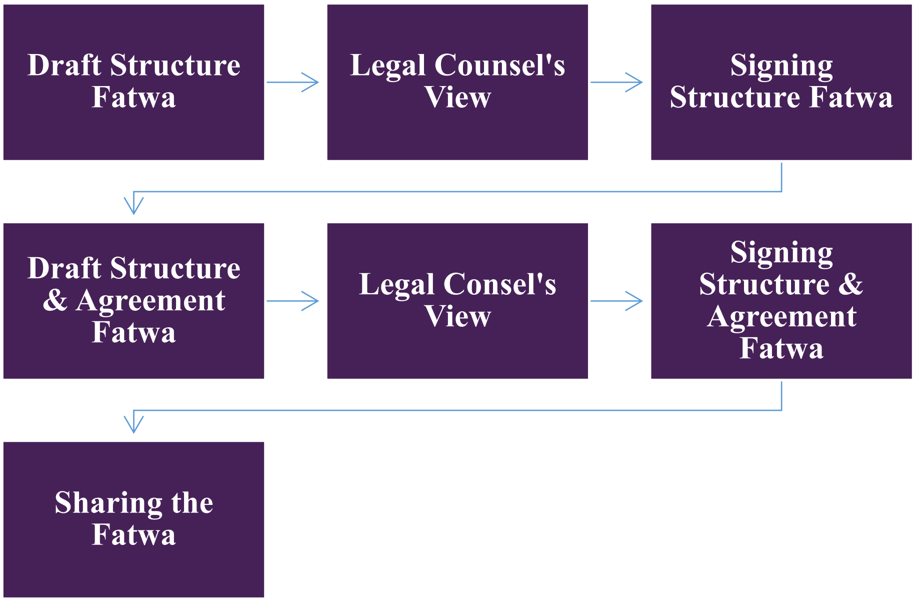
Postproduction:

Once Murabaha Syndication facility is disbursed then Shari'a personnel have the following duties:

1. Restructuring Solutions:
   In case the Obligor fails to honor payments due as per Murabaha Syndication, then there are chances of rescheduling or restructuring the Murabaha Syndication. It should be ensured that Shari'a guidelines of Participant/Investment Agent are dully followed.

2. **Updating Shari'a Board:**
   In case there were a Shari'a audit issues pertaining to ownership of the Murabaha assets at the time of executing schedules of the Master Murabaha Agreement then Shari'a Board of the Investment Agent should be informed on an immediate basis to seek guidance about correcting the fault.

Fifthly: Issuance of Fatwa



1. Draft Structure Fatwa:
   Once Shari'a personnel has a clear understanding about the executional aspects of the proposed Service Agency Sukuk issuance or Murabaha Syndication deal then a Draft Structure Fatwa can be prepared. It is preferable to prepare a bilingual Fatwa (in Arabic and English).

2. Legal Counsel's View:
   Once the Draft of Structure Fatwa is prepared then share it with Legal Counsel to ensure that it reflects the agreements which are under-preparation.

3. **Signing Structure Fatwa:**
   Shari'a personnel is supposed to present the Structure Fatwa to the Executive Member of the Shari'a Board of the Obligor (in case of Service Agency Sukuk) or the Investment Agent (in case of Murabaha Syndication). If no changes are required there, then the Fatwa can be signed by the Shari'a Board member. Share the signed the Structure Fatwa with External Legal Counsel to ensure continue drafting the agreement on the same grounds.

4. **Draft Structure & Agreement Fatwa:**
   once all the relevant documents are reviewed from Shari'a perspective then Draft Structure & Agreement Fatwa is prepared. It is advisable to mention a serial number of all the legal documents which were submitted as the final version by External Legal Counsel.

5. **Legal Counsel's View:**
   once the Draft of Structure & Agreement Fatwa is prepared then share it with Legal Counsel to ensure that it reflects the agreements which have been already prepared.

6. **Signing Structure & Agreement Fatwa:**
   Shari'a personnel is supposed to present the Structure & Agreement Fatwa to the Executive Memo or the Shari'a Board of the Obligor (in case of Service Agency Sukuk) or the Investment Agent (in case of Murabaha Syndication). The closing remark of the Fatwa would be Shari'a Board's acceptance of the structure as well as the agreements.

7. **Sharing the Fatwa:**
   once the Fatwa is signed then share it with the relevant units and keep it handy, so it can be shared when required with FI, Investment and Corporate etc.

Sixthly: Recommendations

1. Shari'a Checklist:

It is suggested that each bank prepares Shari'a Checklist which can be used by other Shari'a Departments of the UAE for conducting Shari'a review of different Sukuk structures (based on Mudaraba, Ijarah, Wakala Investments). Also, such checklists can be used in syndication deals as well (like Ijarah, Musharaka, Mudaraba, etc.).

2. Sharing Latest Development:

It is suggested that Shari'a Departments share with each other any new development related to Shari'a Resolution concerning Sukuk and Syndication. This will reduce the probability of re-presenting the same query to different Shari'a Boards. This will further help in unifying Shari'a stand of UAE Islamic banks.

3. Updating AAOIFI:

It is recommended to submit this paper to AAOIFI Shari'a Board in order to develop Shari'a Standard (17): Investment Sukuk and Shari'a Standard No. (24): Syndicated Financing. The purpose of this initiative would be to cover the standards from relevant and practical aspects like parties related to Sukuk and financing deals and how to charge and treat certain fees.

4. Shari'a Adaption of Conventional Agreements:

Usually external legal counsels use standard agreements as proposed by Loan Market Association (UK). Suggested device this amendment from Shari'a perspective and get them endorsed by the said association as a standard template.

5. Document Arabization:

It is recommended that Shari'a Departments require Arabic translation of, at least, the Financing Documents related to syndication on this. Also, Fatwa should be bilingual even though the English version was the base text.