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28th March 2024

Dr. Andreas Barckow
IASB Chair
IFRS Foundation
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Canary Wharf
London E14 4HD
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Dear Dr. Barckow,

**CIBAFI Response to the IASB's Exposure Draft on "Financial Instruments with
Characteristics of Equity – Proposed Amendments to IAS 32, IFRS 7 and IAS 1"**

The General Council for Islamic Banks and Financial Institutions (CIBAFI) presents its compliments to the International Accounting Standards Board (IASB) and takes this opportunity to express its appreciation for the work that the IASB is doing in setting out proposals to improve the presentation and disclosure of information about financial liabilities and equity instruments in the IAS 32, IFRS 7 and IAS 1.

CIBAFI is an international body representing Islamic financial institutions globally, that offer financial services and products complying with Islamic rules and principles (Shariah). CIBAFI acts as the voice of the Islamic finance industry, and our members comprise more than 130 Islamic banks and non-bank financial institutions, both large and small, from 34 jurisdictions.

We welcome this opportunity to offer our responses and recommendations on the IASB's Exposure Draft (ED) on "Financial Instruments with Characteristics of Equity – Proposed Amendments to IAS 32, IFRS 7 and IAS 1".

In addition to the proposed amendments contained in the ED, we would like to present the below responses to the raised questions for further enhancement and consideration. The responses contained in this letter represent the views of CIBAFI's Secretariat and feedback received from our members.

Question 1: The effects of relevant laws or regulations (paragraphs 15A and AG24A–AG24B of IAS 32)

Answer/s: The proposed changes include a clarification that only rights and obligations enforceable by laws and regulations are to be taken into account in considering the classification of an instrument. We note that the status of rights and obligations created under Islamic law (Shariah) varies from jurisdiction to jurisdiction and in some jurisdictions may currently be uncertain. For example, unrestricted Profit-Sharing Investment Accounts (uPSIAs) are treated by some in Islamic finance as quasi-equity and are held to involve profit-sharing mechanisms and to create rights over specific assets of the bank, but whether those rights would be upheld by some judicial systems in circumstances such as insolvency is often unclear.

Again, many Sukuk (the nearest Islamic equivalent to bonds) have some features that may argue for them to be treated as quasi-equity (this is particularly the case for some Sukuk issued by Islamic banks for capital adequacy purposes and for which a conventional analogy might be a contingent convertible). Sukuk structures commonly involve multiple contracts and undertakings, often in the law of more than one jurisdiction. Some of these may involve unilateral promises (Wa'd) whose enforceability may vary from jurisdiction to jurisdiction.

While we cannot expect the IASB to resolve all these problems, it would be helpful to have additional guidance on how to cope with complex structures, multiple legal systems, and situations of uncertainty about enforceability.

Question 7: Disclosure (paragraphs 1, 3, 12E, 17A, 20, 30A–30J and B5A–B5L of IFRS 7)

Answer/s: The IASB has proposed amendments to the objective and scope of IFRS 7 Financial Instruments: Disclosures and other amendments to the Standard to improve the information disclosed. In addition to the proposed modifications in the IFRS 7, it would be appropriate to cover the following matters to enhance the disclosure coverage for Islamic financial institutions:

- i. The bases applied by the institution in the allocation of profits between the different stakeholders (in the case of uPSIAs, this would cover the allocation between the bank and PSIA holders);
- ii. The bases applied by the institution for charging expenses to quasi-equity (again, in the case of Islamic finance primarily uPSIAs);
- iii. The basis of giving priority to a party (owners' equity or quasi-equity) while making investments in case the institution is unable to utilise all funds available for investment;
- iv. In the case of investment accounts treated as quasi-equity, the minimum percentage of such accounts that the institution has agreed with the account holders to invest in order to produce returns for them; and
- v. Total administrative expenses charged to quasi-equity instruments along with a brief description of their major components.

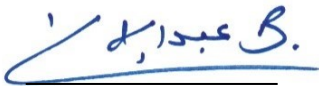
Additionally, the amendments introduce some new disclosures, at least one of which - the nature and priority of claims against the entity in liquidation - may be difficult for the reasons we have explained in our response to Question 1. As we mentioned there, some in Islamic finance treat uPSIAs as quasi-equity, with rights over specific bank assets. However, whether these rights would be upheld by certain judicial systems, particularly in liquidation, remains uncertain. It will, therefore, be helpful to provide further guidance on how firms should report in situations where there may be legal uncertainties of these kinds.

We remain at your disposal should you need any further clarifications on the above.

The General Council for Islamic Banks and Financial Institutions takes this opportunity to renew to the International Accounting Standards Board (IASB) the assurances of its highest respect and consideration.

With kind regards and best wishes.

Yours sincerely,



Dr. Abdelilah Belatik
Secretary General

Glossary

Term	Definition
Shariah	The term Shariah refers to a set of Islamic religious laws that govern aspects of day-to-day life for Muslims in addition to religious rituals.
Wa'd	Wa'd is a traditional Islamic product which, in the context of commercial dealings, is generally accepted to mean unilateral promise.
Sukuk	Sukuk is defined as securities of equal denomination representing individual ownership interests in a portfolio of eligible existing or future assets.
Mudarib	Mudarib is the investment manager who invests the investor's funds in a project or portfolio in exchange for a share of the profits.