

## **The Law on the Issue of Participation Certificates (Musharakah Sukuk)**

**(Ratified on September 21, 1997 by the Islamic Parliament - Islamic Consultative Assembly)**

**Article 1- For the purpose of:** public participation in implementing the government's developmental-profit-making projects as described in the national annual budget laws as well as in the profit-making projects on production, construction and service: **Permission shall be granted to** the government, state corporations, municipalities, non-governmental public entities/institutions, public utilities and the companies affiliated to such establishments as well as the public and private joint-stock companies and production cooperative companies to issue and publicly offer the participation certificates so as to secure parts of their funds required for implementation of the above-mentioned projects including the procurement of raw materials for manufacturing units.

**Note-** A team comprising the representatives from the Ministry of Economic Affairs and Finance, the Plan and Budget Organization and the Central Bank of I.R.I shall identify the profitability of the government's development projects under this article in conformity with the definition legally provided for the "**profit-making Project**". Such projects shall be indicated in the annexes attached to the development projects in the national annual budget bills.

**Article 2-** Participation Certificates are the registered or bearer securities which are issued at the specified nominal price for a stipulated period of time under this law and shall be offered to the investors who have the intention of participating in the implementation of the projects mentioned in article 1. The holders of such securities shall share as partners in the profit gained from these projects in proportion to the nominal value and with a view of the length of their participation. The purchase and sale of these securities shall be allowed directly or through the Stock Exchange.

**Article 3-** The issue of participation certificates by the government shall be permitted only for the purpose of raising the finance required for implementation of the government's developmental-profit-making programs under article 1 up to the level projected in the national annual budget laws. The Ministry of Economic Affairs and Finance shall guarantee

to repay the principal amount, interim and realized profits derived from such securities out of the special credit lines which are allocated under special budget codes for such purposes by the Plan and Budget Organization in the national annual budget laws.

**Note-** The provision of this article shall also be applicable to the issue of participation certificates to raise the funds required for the government's developmental-profit-making projects as provided in the national annual budget laws and are implemented by the state corporations or municipalities.

**Article 4-** Except as provided for the government's developmental-profit-making projects in article 3, the Central Bank of I.R.I shall examine the projects to which this law applies and are presented by the state corporations, municipalities and non-governmental entities and companies under article 1 and shall, insofar as such projects are found to have full economic, financial and technical grounds, grant a license for issuance of the participation certificates for the required limit after the applying company or institution has provided sufficient guarantee with the agent bank.

**Note 1-** The application for issuance of the participation certificates by the state corporations shall have to be approved by the general meetings and/or by the high council of such corporations prior to submitting it to the Central Bank of I.R.I.

**Note 2-** The maximum limit of participation certificates to be issued for the projects under this article shall be annually determined by the Credit and Money Council with regard to the financial and monetary policies adopted in the country.

**Note 3-** The limit of issuable participation certificates as for the projects under this article for each of the applying parties shall be proportionate to their net assets (total assets less total liabilities).

**Article 5-** Where the state corporations, municipalities and non-governmental entities and companies referred to in article 1 intend to issue participation certificates, they shall have to guarantee the repayment of the principal and interest accrued on these certificates on the maturity dates. Failure to meet the obligations on the due dates will require the agent bank to directly act and make payments out of the guarantee funds provided in article 4.

**Note-** Payment of interim profit (interest) shall be allowed in the manner specified in the participation certificates.

**Article 6-** The public joint-stock companies shall be entitled to issue the participation certificates being convertible into or exchangeable for shares in accordance with the present law. The conditions and method of conversion and exchange shall be set forth in the related executive regulations.

**Article 7-** The amounts paid or allocated for the interest on participation certificates shall be liable to final tax at the rate of five percent and no further tax whatsoever shall be levied on the profit from participation certificates as well as on the transactions conducted thereon. The payers of the interest on participation certificates, whether interim or final, shall have to deduct the relevant tax at the said rate upon each payment or allocation and shall deposit the tax in an account established by the Treasury General within ten days as of the date of payment or allocation and further send the receipt to the appropriate Tax Department along with a list reflecting the amount(s) of tax so paid within 30 days a deposit is made. If the payers of the interest on participation certificates fail to perform the assigned functions in this respect, they shall be liable to the provision of article 199 of the Direct Taxation Act ratified in Feb. 1988.

**Note-** The tax levied on the interest paid for or allocated to the participation certificates issued prior the effective date of the present law shall be paid by the issuing authorities of such securities at the rate mentioned in this article.

**Article 8-** In the event that the private joint-stock companies affiliated to the establishments referred to in article 1 of this law are converted to public joint-stock companies, the participation certificates holders of such companies shall be given priority for the shares purchase.

**Article 9-** The interest paid to the holders of participation certificates shall be accounted for the expenses which are acceptable in the tax account pursuant to article 148 of the Direct Taxation Act.

**Article 10-** The spending of the proceeds derived from sale of participation certificates on purposes other than in connection with the assigned projects shall be considered unlawful possession of public funds and property.

**Article 11-** The provisions of articles 2, 5, 7, 8, 9, 10 and 12 of this law and the notes thereof, shall also apply to the participation certificates which had been issued prior to its entry into force.

**Article 12-** All pension funds and those of similar nature including the pension fund of the Armed Forces of I.R.I, Social Security Retirement Fund, pension funds of the Ministries, government agencies/entities, state corporations and the companies affiliated to the government including the companies and institutions to which the application of law will require the mention of their names as well as the municipalities and their affiliates, shall be authorized to convert a certain percentage of the amounts whatsoever they receive in return for the pension or savings and/or enter them in the relevant accounts into the participation certificates issued by the Government. Accordingly, all cooperative companies and private sector companies shall be authorized to convert a certain percentage of their deposits and statutory reserves as determined by the Council of Ministers into participation certificates.<sup>1</sup>

**Note 1-** The funds collected under the law on the formation of savings account for government employees approved on February 15, 1998 shall be excluded from the application of this article.

**Note 2-** The executive by-law of this article shall be drawn up by the Ministry of Economic Affairs and Finance, Central Bank of I.R.I and the State Management and Planning Organization for the approval of the Council of Ministers.

**Article 13-** The executive by-law of the present law containing the specifications of profit-making projects on production, construction and service, conditions, limit and method of issuing and offering participation certificates, the procedure of converting or exchanging such securities into/for shares of public joint-stock companies as well as the method of control over the proper enforcement of the provisions, shall be jointly recommended by the

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<sup>1</sup>Addendum based on the approval dated October 03, 2001

Ministry of Economic Affairs and Finance, Plan and Budget Organization, Central Bank of I.R.I and the Securities and Exchange Organization within the period of six months to be approved by the Council of Ministers.

**Article 14-** The Ministry of Economic Affairs and Finance and the Central Bank of I.R.I shall have to transmit a report containing the size and types of the participation certificates issued in the course of a year along with the comment made on the economic effects of such securities to the Commissions for the Plan and Budget, Economic Affairs and Finance, Cooperative, Budget and Account Tribunal of the Islamic Parliament (Islamic Consultative Assembly) for their information.

The present Law containing 13 articles and 7 notes was passed by the Islamic Parliament at its opening session on Sunday of September 22, 1997 and received the approval of the Council of Guardians on September 25, 1997