



Dana Gas Case Study

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Introduction

Dana Gas started in 2005 as the largest regional private sector natural gas company in the Middle East it had exploration and production assets in Egypt, Kurdistan and UAE that contributed to the high productivity and success of the company. Egypt contributed to the gross revenue in 2016 with 74%, Kurdistan with 20% and UAE 5%.



Dana Gas Sukuk Dilemma

Sukuk Issuance in 2007

Dana Gas Sukuk was issued back in 2007 and it was supposed to mature in October 2012. However, Dana Gas profits were hindered by its operations in Egypt due to the 2011 revolution that affected the Egyptian economy dramatically which resulted in the inability for Egypt to payback its debts toward Dana Gas. Iraq's Kurdistan faced also the same barrier as Egypt and defaulted on its payments due to political conflicts, accordingly the company was not able to payback the sukukholders so Dana Gas decided to restructure its sukuk.

The Restructuring

Dana Gas became the first company in UAE to miss repayment of a maturing bond in October 2012. The restructuring took place in November in 2012 and was finalized in the second quarter of 2013 and the new tranches were set to mature in October 2017. The sukuk was split into two tranches. One exchangeable which gave the sukukholders the option to exchange their sukuk certificates into stocks of a company other than the issuer, which usually a subsidiary or a company which the issuer owns a stake in it, the other tranche is convertible which the sukukholders can exchange their sukuk certificates into shares of the issuers.

Dana Gas Sukuk Dilemma Continued



The Legal Struggle Begins

In May 2017 Dana Gas stated that it would begin discussions to restructure its US\$700 million sukuk maturing in October 2017 due to existing financial issues from its operations in Egypt and Kurdistan and it was supposed to meet with the sukukholders to discuss the restructuring.

In June 2017 Dana Gas stated that they received a legal advice that their US\$700 million sukuk is shariah non compliant due to the evolution and continual development of islamic financial instruments and their interpretation and since the sukuk is non compliant then it had become unlawful according to the governing law of the UAE and accordingly they will halt payments and propose to the sukukholders to exchange their sukuk certificates for a new sukuk offering a periodic distribution rate less than half of the current sukuk. The Sharia advisory board of Dar Al-Sharia have maintained their approval that the Transaction Documents are in their view Sharia compliant.

Dana Gas Sukuk Dilemma Continued



In mid-June 2017 Dana Gas said that it has obtained an interim injunction from London's High Court blocking holders of the sukuk from enforcing claims against the company related to the sukuk.

In July 2017 a High Court judge in UK Court confirmed the injunction until a trial scheduled for September 2017 blocking the sukukholders from enforcing any claims related to the sukuk maturing in October but he also imposed restrictions on asset sales by Dana Gas and its ability to raise more debt or pay dividends.

Dana Gas proposed a solution to the sukukholders to exchange the US\$700 million sukuk for a new sukuk that offers less than half profit distribution rate than the current sukuk but both parties failed to reach an agreement on the restructuring and on July 31 Dana Gas revoked its offer to the sukukholders ending the chance of a consensual resolution.

Dana Gas Sukuk Structure

Sukuk Structure

Dana Gas Sukuk is Based on Mudarabah Structure. Sukukholders enter into Mudarbah Agreement with Dana Gas, where Dana gas will act as Mudarib and Sukukholders as Rub Al-Mal.

Sukukholders will contribute their proceeds to Dana gas to Invest it in its shariah Compliant Business activity. Sukukholders will be entitled to fixed periodic payments during the tenor of the sukuk.

At maturity, Dana gas will undertake to purchase sukukholders shares in its business activities pursuant to Purchase Undertaking agreement with Exercise Price Equal to Sukuk Nominal Value.

IdealRatings Shariah Screening



Ideal ratings Screening

Idealratings has Conducted its intensive shariah screening on the sukuk structure since 2012, and concluded that the Sukuk are Non shariah Compliant due to Two Main Violations:

1. Fixed Periodic Distribution:

Profits rates are fixes rather than tied to the actual revenue generated from the Mudarbah venture. Every periodic payment made the Mudarib Must conduct a constructive liquidation for the mudarbah and ensure that the assets are intact then distribute the excess amount “Profits” Which was not the case in Dana gas.

2. Redemption of Sukuk at Face Value

Sukuk will be redeemed pursuant to Purchase Undertaking with Exercise Price equal to Sukuk nominal value. This is also 2nd main Violation in Mudarabah, as mudarabah must be liquidated based on Actual liquidation and redeemed at its Market Value not Face Value

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