

SUSTAINABILITY OF SUKUK (ISLAMIC BOND) AS FINANCING INSTRUMENT FOR BRIDGING INFRASTRUCTURAL DEFICITS IN NIGERIA

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Abstract:

Sukuk has become a viable financial instrument to reduce infrastructural deficit or the number of abandoned projects in the global capital market across the whole world. Recent situations reveal that the financial instability and inadequacy of funding at the disposal of the government to provide good facilities and maintain them are the major factors that heavily contributes to the infrastructural deficits in Nigeria. This calls for the pressing need to handle the situations. Adopting a doctrinal method, the paper reviewed and extensively analyzed the existing works on sukuk as being currently practised in Nigeria. The paper addressed the sustainability of sukuk as one of the alternative sources of funding in bridging the infrastructural deficit in Nigeria. The paper examined the challenges in the practice adoption sukuk in Nigeria. The paper recommends, among others, that if sukuk regime gains wider acceptance in Nigeria by tackling all the highlighted challenges, it will enhance the infrastructural development in the country.

Keywords: Sukuk, Infrastructure Deficit, Financial Instrument, Sustainability, Nigeria.

1.0 INTRODUCTION

Infrastructures as the determinant of the economic growth in a country are considered as the basic facilities and services needed in a country aims at the swift development.¹ Without a thriving infrastructure sectors in a country, the impracticability of achieving economic development and growth is certain. In this case, many countries in bridging the infrastructural deficit adopt certain methods to address the infrastructural deficit and improve the economic growth of the country in a sustainable way.²

Owing to the level of poverty ridden Nigeria as a country; the inability of the government to finance some projects has led to the low funds allocated or appropriated to the infrastructures.³ There are varieties of options for tackling infrastructural deficits via different capital channels and different financial structures or instruments such as listed stocks and bonds as well as *sukuk* which is one of Islamic investment schemes introduced into the world capital market to take care of capital mobilization.⁴

The efficient Islamic capital market is very fundamental and useful in aiding the economic growth in the long run as it stands as a link for sourcing funds for the economic development of a country which is carried out through buying and selling of shares and bonds.⁵ However, the contribution of *sukuk* as *Shari'ah* compliant bonds towards reducing the level of infrastructural deficit in Nigeria cannot be overlooked even though there are many policies put in place to enhance the infrastructural development of the country.

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¹ FO Nedozi, JO Obasanmi and JA Ighata, 'Infrastructural Development and Economic Growth in Nigeria: Using Simultaneous Equation' *J Economics*, (2014) 5 (3) 326.

² C Okpalaoka, 'Infrastructural Challenges in Nigeria and the Effect on the Nigerians Economy: A Review of Literature' *Environmental and Earth Sciences Research Journal* (2021) 8 (4), <https://www.researchgate.net/publication> accessed 14 March 2024

³ AB Sani, AK Nasir and TO Bakare, 'Sukuk as a Viable Option Instrument of Financing Infrastructural Development in Nigeria' *Gusau International Journal of Management and Social Sciences*, (2022) 5 (2) <https://www.ajol.info/index.php/gijmss/article/view/> accessed 10 February, 2024

⁴ Ibid

⁵ AA Sa'ad, 'The Islamic Perspective on Debt: Its Relevance to Islamic Capital Market in Nigeria' KI Dandago, *et al*, (eds) *Essentials of Islamic Banking and Finance in Nigeria* (Benchmark Publisher, Kano, 2013) 187

This paper seeks to examine the sustainability of *sukuk* as a financing instrument for bridging the infrastructural deficit in Nigeria. This discussion is organized into five sections. This first section constitutes the introduction. Section two presents the meaning, nature and objective of *sukuk* as Islamic compliant bonds. Section three examines the structures and classes of *sukuk*. Section four deals with legal framework guiding *sukuk* in Nigeria, and five dwells on the sustainability of *sukuk* towards the infrastructural development in Nigeria and finally, section six is the conclusion and recommendation.

2.0 DEFINITION, NATURE AND OBJECTIVE OF SUKUK:

In a bid to discuss the sustainability of *sukuk* as a financial instrument for bridging the infrastructural deficit in Nigeria, it is pertinent to explore the definition of *sukuk* as one of Islamic capital market, its nature and its objective.

2.1 DEFINITION OF SUKUK:

Different authors have made attempts in defining the concept of *sukuk* (Islamic bonds). The word “*sukuk*” is said to be the plural of “*Sakk*” in Arabic language.⁶ Though, *sukuk* as an Islamic bond was not known during the life time of the Prophet but the word “*Sakk*” was used to mean different things, one of which are; a book or document, papers as well as to introduce or issue currency.⁷

According to Abu Huraira’s (R.A) statement to Marwan in putting an end to what did occur during the time of the Prophet’s followers, when they used to sell among themselves some commodities using a “*sakk*” which had previously been exchanged for food to its holder from the Islamic Treasury (*Baital-Mal*): He said: “You permit the sale of (*sikak*) when the Prophet (PBUH) has not allowed the sale of food till it is paid”.⁸ *Sukuk* is also referred to as cheque, and this was the argument of some scholars that the word ‘cheque’ was derived from the word ‘*sakk*’.⁹ This word

⁶ U Idris, *Sukuk: ‘Meaning, Structure and Standards’* in UR Shehu, *et al*, (eds) *Readings in Islamic Banking and Finance* (Benchmark Publisher Ltd. Kano, 2013) 110 – 11.

⁷ Ibid.

⁸ SI Abdullahi, ‘*Sukuk as an Alternative Source of Funds for the Nigeria Government*’ in KI Dandago, *et al*, (eds) *Essentials of Islamic Banking and Finance in Nigeria* (Benchmark Publisher, Kano, 2013) 215

⁹ Ibid

“*sakk*” here equates bonds in modern age as the two serve the same purpose. Therefore, the usage of the word is not new as it was used to issue currency.¹⁰

Technically, the word ‘*sukuk*’ is referred to as ‘to strike one’s seal on a document’.¹¹ *Sukuk* is therefore defined as a certificate of equal value representing undivided shares in ownership of tangible assets, usufructs and services, assets of particular projects or special investment activity.¹² *Sukuk* is also said to mean investment certificates or notes of equal value which evidences undivided interest/ownership of tangible assets, usufructs and services or investment in the assets of particular projects or special investment activity using *Shari’ah* principles and concepts approved by the Securities and Exchange Commission (SEC).¹³

Put differently, *Sukuk* is equally referred to as Islamic Bonds, meaning a financial certificate with *Shari’ah* Compliance. It serves as Islamic bonds or Islamic investment certificate as the case may be, represents the proportional ownership of an existing asset or a pool of diversified assets, and a pledge against existing or future cash flows generated from these assets for a specified period of time.¹⁴

From the above definitions, *sukuk* is therefore, a financial instrument or security with *Shari’ah* compliance issued in form of legal certificate, deed or document represents undivided shares of the *sukuk* holders, i.e.; the investors, in particular assets or projects.

2.2 NATURE AND OBJECTIVE OF SUKUK IN ISLAMIC CAPITAL MARKET:

Islamic law has put in place certain principles to regulate Islamic capital market operations under which *sukuk* falls.¹⁵ These principles are the same with those that guide the Islamic financial system as whole.¹⁶ The Islamic capital market as one of the Islamic products was introduced as an

¹⁰ Ibid

¹¹ MJ T McMillen, ‘Contractual Enforceability Issues: Sukuk and Capital Markets Development’. Chicago Journal of International Law (2007), in U Idris ‘*Sukuk: Meaning, Structure and Standards*’ in *Reading in Islamic Banking and Finance*’ 111

¹² Islamic Finance Annual Guide, IFN, 2024 <https://ceif.iba.edu.pk/ifn-annaul-guide2024> accessed, 20 November, 2024

¹³ R 569 Securities and Exchange Commission Rule and Regulation, 2013

¹⁴ TA Afshar, ‘Compare and Contrast Sukuk (Islamic Bonds) with Conventional Bonds, Are they Compatible’ <https://www.isfin.net/sites/isfin.com> accessed 3 February 2024

¹⁵ A Umar, ‘Principles of Islamic Capital Market’ in UR Shehu, *et al*, (eds) *Readings in Islamic Banking and Finance* (Benchmark Publisher Ltd. Kano, 2013) 100

¹⁶ Ibid

alternative to Conventional Capital Market, which is free from all the prohibited activities as can be seen in conventional one, such as element of *riba* (usury), *maisir* (gambling) and *gharar* (ambiguity).¹⁷ Therefore, Islamic capital markets are mainly set out to carry out all the useful and lawful functions with justice and equitable distribution.¹⁸

The lending activities or loan as the case may be, is ordinarily allowed in Islam to fulfill a short-term financial need of the borrower.¹⁹ The major principle therein is that the amount given out must be equivalent to amount taken in return.²⁰ Therefore, the reason for making an investment instrument or certificate with the *Shari'ah* compliant is that, it should not represent interest-bearing debt as dominant part of the underlying assets.²¹

Sukuk are securities which in compliance with the Islamic principles, and its investment principles clearly declare prohibited the interest-bearing activities either directly or by implication.²² In other words, *sukuk* as Islamic debt securities are financial instruments that are structured as an alternative to the conventional debt securities and free from any elements of prohibited activities in Islam.²³

Sukuk as an instrument in Islamic finance has certain similarities with bond market in the conventional finance, this is because both instruments are usually issued to raise capital particularly for long term investment. However, *sukuk*, unlike conventional bond allows no uncertainty (*gharar*), interest (*Riba*) and gambling (*Maisir*) as it is a *Shari'ah* compliant financial instrument.²⁴ *Sukuk* instruments therefore imply proof of ownership title and are usually utilized by financial institutions and corporate to raise funds.

¹⁷ IA Oladapo, 'Issues and Prospects in Developing an Islamic Capital Market in Nigeria' in KI Dandago, *et al*, (eds) '*Essentials of Islamic Banking and Finance in Nigeria* (Benchmark Publisher, Kano, 2013) 166

¹⁸ Ibid

¹⁹ W Ahmad and R Mat Radzi 'Sustainability of Sukuk and Conventional Bonds during Financial Crisis: Malaysian Capital Markets' *Global Economy and Financial Journal* (2011) 4 (2) 33

²⁰ Ibid

²¹ Ibid

²² SA Shaikh and S Saeed, 'Sukuk Bond: The Global Islamic Financial Instrument' https://www.researchgate.net/publication/47799645_Sukuk_Bond_The_Global_Islamic_Financial_Instrument accessed 21 February, 2024

²³ Y Ibrahim and M Minai, 'Islamic Bonds and the Wealth Effects: Evidence from Malaysia' *Investment Management and Financial Innovations* (2009) 6 (1) https://www.researchgate.net/publication/262494667_Islamic_Bonds_and_the_Wealth_Effects_Evidence_from_Malaysia accessed 25 February 2024

²⁴ AL AbdulRauf, 'Emerging Role for Sukuk in the Capital Market' *South East Asia Journal of Contemporary Business, Economics and Law* (2013) 2 (2) 41

This non-interest bearing instrument stands as financing vehicle to raise fund for infrastructure projects, real estate development, asset acquisition, business expansion and other socio-economic projects.²⁵ In the event of default by the *sukuk* issuer, the *sukuk* generally and reasonably assures *sukuk* holders i.e.; the investors, the ability to recover their investments whether in full or in part, from the liquidation of the assets.²⁶ *Sukuk* therefore backed by tangible and intangible collateral and give undivided ownership of the underlying assets for an agreed period for investors.²⁷

One of objectives of *Shari'ah* is to alleviate hardship and expand human development and well-being.²⁸ *Sukuk* instrument therefore has certain objectives, one of which is that, it serves as an instrument for capital market development and resource mobilization and as an alternative financing tool for economic development of the public and private sectors.²⁹ This instrument also introduced to facilitate the management of assets in the Islamic banking system.³⁰ It is generally understood that unlike conventional bond, Islamic capital market products and services are meant to meet the needs of those who seek to invest in conformance with Islamic principles.³¹

Sukuk, as an alternative source of funding, represents a common share of ownership of assets which purposely made available for investments. These assets may be non-monetary assets, usufructs, a mixture of tangible assets, and it may be usufructs and monetary assets.³² Investment *sukuk* are issued in conformance with the principles that regulate Islamic contracts. Therefore, *sukuk* are governed and regulated in line with the rules and principles of respective contract. The shares and

²⁵ Standing Committee for Economic and Commercial Co-operation of the Organization of Islamic Cooperation (COMCEC), 'The Role of Sukuk in Islamic Capital Markets' (2018) https://sbb.gov.tr/wp-content/uploads/2018/11/The_Role_of_Sukuk_in_Islamic_Capital_Markets accessed 15 February, 2024

²⁶ AA Maiyaki, 'Principles of Islamic Capital Market' *International Journal of Academic Research in Accounting, Finance and Management Sciences* (2013) 3 (4) 280

²⁷ Ibid 281

²⁸ AW Dusuki, 'Do Equity-Based Sukuk Structures in Islamic Capital Markets Manifest the Objectives of Shari'ah' *Journal of Financial Services Marketing* (2010) 15 (3) <https://doi.org/10.1057/fsm.2010.17> accessed 15 January 2025

²⁹ M Bennett and Z Iqbal, 'The Role of Sukuk in Meeting Global Development Challenges' in S Jaffer (ed) 'Global Growth, Opportunities and Challenges in the Sukuk Market' <https://pubdocs.worldbank.org/en/482341507749577391/euromoney-handbook-2011-role-of-sukuk-in-meeting-global-development-challenges> accessed 14 June 2024

³⁰ Ibid

³¹ M Ayub, 'Understanding Islamic Finance' (John Wiley & Sons, Ltd, 2007) 390

³² ³² Standing Committee for Economic and Commercial Co-operation of the Organization of Islamic Cooperation (COMCEC) <https://www.comcec.org/wp-content/> accessed 5 August 2024

losses of the *sukuk* -holder are determined by the type of *sukuk* involved as the certificates display.³³

3.0 STRUCTURES AND CLASS OF SUKUK:

Sukuk as a universally considered instrument in the most active instrument in Islamic debt market, is structured in line with the principles of *Shari'ah* to provide and enhance the development of the activities in the Islamic Capital Market.³⁴ However, different *sukuk* structures determine different parties involved and same depend on the types and the nature of contract under Islamic law. Notwithstanding, the issuance of *sukuk* ordinarily involve the following parties;³⁵

1. The originator: it is a legal entity such as government or corporations which sell the asset (s) to the Special-Purpose Vehicle that issues and at the same time receives the proceeds from the sale of the *sukuk*. It can also be the obligor or related to obligor who uses the realized capital or funds from the investors for a particular project.
2. The Special-Purpose Vehicle (SPV): it is a separate entity set up or designed purposely to manage the issue. It mobilizes funds from the investors, issues *sukuk* instrument, and purchases assets from the originator. The SPV usually at the end, remits any funds collected or realized from the *sukuk* structure to the investors.
3. The *Sukuk*-holders: this is the investors who invest their capital in *sukuk* structure and certificate is issued in their favor.
4. *Shari'ah* Adviser: the formal authority which approves the *sukuk* structures in terms of *Shari'ah* compliance. *Shari'ah* adviser could be a fund manager registered by the Commission to manage an Islamic fund or a bank licensed for non-interest banking at the institutional level issuing the *sukuk* and/or at the central level.³⁶

Based on different contracts recognized under Islamic law, *sukuk* investment can be classified into different models or types such as *Sukuk al-Ijarah*, *sukuk al-Musharakah*, *sukuk al-Murabahah*,

³³ *ibid*

³⁴ M Bennett and Z Iqbal, (n 29).

³⁵ M Ayub, (n 31) 391

³⁶ R 569 SEC Rules.

sukuk al-Mudarabah, sukuk Salam and sukuk Istihna. These classes of *sukuk* would be analyzed one after the other.

3.1 SUKUK AL-IJARAH

The contract of *Ijarah* is known as rental or leasing contract. This contract is used in different ways and in line with the principle of Islamic law, one of which is when a party purchases and leases the equipment to the other party for a rental fee.³⁷ In another words, a landlord giving his house out for rent in which a tenant occupies for certain period or a company leases some of airplanes to airline firms for certain period in return of consideration.³⁸

In respect of the above, *Ijarah* can be applied in *sukuk* investment whereby the underlying assets will be rented by the owner (the landlord) to the user (the tenant) in which the tenant owns the usufruct of the property for certain period as the parties agreed upon. In that event, the certificate of ownership of usufructs will be issued to on stand-alone assets identified on the balance sheet.³⁹

Ijarah sukuk as an alternative tool for the government to replace interest-based borrowing in discharging government functions such as construction of road, classroom, and other infrastructures needed in the country.⁴⁰

3.2: SUKUK MUDARABAH:

Mudarabah as a contract which involves two or more parties where one party is known as investor (*rabal-mal*) who entrusts his capital to the other party called entrepreneur (*Mudarib*) who uses the capital and the profit therein will be shared according to the pre-agreed ratio, and when there is loss, the capital provider bear it.⁴¹

³⁷ ON Olaniyi, A Echchabi and MF Alfarisi, 'Sukuk as an Alternative Mechanism for Infrastructure Development and Improvement of Small Businesses in Nigeria' in KI Dandago, *et al*, (eds) 'Essentials of Islamic Banking and Finance in Nigeria' (Benchmark Publisher, Kano, 2013) 205- 210

³⁸ Ibid, 207

³⁹ U Idris (n 6) 113

⁴⁰ SI Abdullahi (n 8) 218 -219

⁴¹ MI Sa'id and KG Muhammad, 'An Introduction to Islamic Law of Contract' (Usmanu Danfodiyo University Press, Sokoto, 2012) 125

In *Sukuk mudarabah* therefore, the same features of the *mudarabah* structure apply for use as the underlying structure in a *sukuk* issuance as it represents units of equal value in the *mudarabah* capital, and *sukuk* registered in the names of the *sukuk* certificate holders on the basis of undivided ownership of shares in the *mudaraba* capital. The investors according to their contribution get their returns from accrued profit of the *mudaraba* capital in conformance with the pre-agreed ratio between the *Rab al-maal* and the *Mudarib*.⁴²

Therefore, The Special-Purpose Vehicle (SPV) will issues *sukuk* to the investors and the SPV stands as a trustee on behalf of the investors over the *mudarabah* capital. *Mudarab*, the originator who is to spend his skills and efforts on *Mudaraba* enterprise, enters into a *Mudaraba* agreement with the SPV known as *Rab al-maal* who contributes the principal amount to carry out a Sharia compliant *mudaraba* enterprise. Therefore, in the event of loss, SPV would be the one to borne the loss arises from the *mudarabah* enterprise.⁴³

3.3: SUKUK MUSHARAKAH:

Musharakah as the name implies, is a contract involves two or more persons participating in a business venture with the agreement that profit and loss realized therefrom will be distributed based on pre-agreed ratio or capital contribution in the said venture.⁴⁴ Therefore, *sukuk* in *musharakah* contract is a situation whereby huge amounts are needed to carry out a particular project and *Musharakah* certificates of equal value are issued to the investors for mobilization of capital needed for the project on the basis of partnership.⁴⁵ In this situation, the holders of the *Musharakah* certificates, that is, *sukuk* as comes under *Musharakah* contract become owners of the project in question based on their respective shares.⁴⁶ This *sukuk Musharakah* can actually be issued by the companies or even an individual for the construction of hospital, factories and the likes. It must be noted here that the same principles guides *Musharakah*.

3.4 SUKUK MURABAHAH:

⁴² M Ayub (n 31) 391

⁴³ Ibid

⁴⁴ H Hanafi, 'Current Practices of Islamic Home Financing: A Case of Musharakah Mutanaqisah in Malaysia' <https://core.ac.uk> accessed 14 June 2024

⁴⁵ ON Olaniyi, A Echchabi and MF Alfarisi (n 37) 205

⁴⁶ Ibid.

Murabahah otherwise known as cost-plus sale, is the sale of commodity for the price of which the seller has purchased it with addition of a stated profit known to both the seller and the buyer.⁴⁷ In other words, it is a type of the contract where the seller tells the purchaser the amount of profit the seller is making from the business.⁴⁸ This contract as a recognized and valid contract in Islamic banking products can also be used in *sukuk* structure.⁴⁹

Sukuk Murabahah is used also as the underlying structure in a *sukuk* issuance. In this type of *sukuk*, SPV gets capital from the investors by issuing *sukuk* certificates to them, and applies the capital to acquire commodities from the commodity supplier. After, SPV sells the said commodities upon signing an agreement known as a master agreement between SPV and the Originator, to the Originator (company or government) in which the price and profits will be clearly disclosed.⁵⁰ The originator therefore be paying for the commodities on installment basis to the SPV. The commodities thereafter be sold by the originator to another buy on spot basis. The SPV upon receiving deferred price from the originator pays to the investor the proceeds.⁵¹

3.5 SUKUK SALAM:

Bay' salam is known as a contract in which the seller of the goods makes an undertaking or promises to deliver the goods to the buyer in the future date.⁵² This type of contract can equally be used in *sukuk* structure as the contract fit to be used in agricultural activities.⁵³ In this nature of *sukuk*, there will be an agreement between the SPV and the obligor.⁵⁴ The obligor sells assets or commodity to the SPV which will be delivered on the future date. SPV as a trustee issues *sukuk* certificate to raise capital from the investors. SPV thereafter pays for the assets or commodity to the obligor with the capital generated from the investors. The obligor then delivers the commodity

⁴⁷ NA Saleh, '*Unlawful Gain and Legitimate Profit in Islamic Law*' (University Press, Cambridge, 1986) 94

⁴⁸ MI Sa'id and KG Muhammad (n 41) 125

⁴⁹ MI Abdullah, '*A Theoretical Introduction to Islamic Banking and Finance*' in K. I Dandago, *et al*, (eds) '*Essentials of Islamic Banking and Finance in Nigeria*' (Benchmark Publisher, Kano, 2013) 26

⁵⁰ Islamic Markets- '*Sukuk Al-Murabaha*' <https://islamicmarkets.com/education/sukuk-al-murabaha> accessed on 21 February, 2024

⁵¹ *ibid*

⁵² MI Sa'id and KG Muhammad (n 41) 127

⁵³ ON Olaniyi, A Echchabi and Mohamed. F Alfarisi (n 37) '208

⁵⁴ *Ibid*, 209

to the SPV, and the SPV sells the said commodity back to another party from who the SPV receives purchase price. The SPV as a trustee to the investors distributes money to the investors.⁵⁵

3.6 SUKUK ISTISNA:

Ordinarily, *Istisna* is a form of contractual agreement entered into by parties for manufacturing goods that would be delivered in the future with the advance payment.⁵⁶ The price in this kind of contract is fixed. In this contract the purchaser orders the manufacturer the type of the goods he needs.⁵⁷

In practice of *sukuk Istisna*, the SPV issues *sukuk* to mobilize the capital to fund a particular project. Thereafter, the capital realized will be paid to a manufacturer or contractor as the case may be. The originator that is, the contractor or manufacturer agrees to construct the project and delivers same in the future date.⁵⁸ The capital realized from the investors will be given to the originator to carry out the project. The SPV when the project is completed sells the project to a potential buyer and the proceeds will be distributed to the investors.⁵⁹

4.0 LEGAL FRAMEWORK GUIDING SUKUK INVESTMENT IN NIGERIA:

For the rapid growth and development of Islamic banking and finance system with its principles of *Shari'ah* Compliance in Nigeria, there are certain legal frameworks put in place to regulate and guide its operations such as Bank and Others Financial Institution Act, Central Bank of Nigeria (CBN) Act, Investment and Securities Act 2007 and Securities and Exchange Commission Rules.⁶⁰

⁵⁵ M Ayub (n 31) 391

⁵⁶ MI Abdullah (n 49) 27

⁵⁷ N Azurah, M Kamdari and R Yusoff 'The Contract of Bay-al-Salam and Bay-al-Istisna in Islamic Commercial Law: A Comparative and Application Analysis' https://www.researchgate.net/publication/309190034_The_Contract_of_Bay_al_Salam_and_Bay-al-Istisna_in_Islamic_Commercial_Law_A_Comparative_and_Application_Analysis_for_WAQF accessed 2 March 2024

⁵⁸ IA Oladapo (n 17)

⁵⁹ Ibid

⁶⁰ MO Oladunjoye, 'Sukuk as a Tool for Infrastructural Development in Nigeria' <https://kolaawodeinandco.com/assets/di/Published%20Sukuk%20Article> accessed 23 February 2024

Sukuk activity as one of Islamic financing instruments is also regulated by laws in Nigeria. Though, there is no particular law enacted for that purpose.⁶¹ The provision of the Investment and Securities Act, 2007 allows the Securities and Exchange Commission to register and control securities exchanges, corporate and individual capital market operations and collective investment scheme in the country.⁶² Therefore, in 2013, Nigeria Security and Exchange Commission (SEC) approved new rules allowing firms to issue Islamic bonds, *sukuk* to attract Middle Eastern investors and promote Islamic finance as a whole in Nigeria.⁶³

The Security and Exchange Commission Rules applies to any *sukuk* structure which is offered or issued by the local or foreign entities, that is, within the regulatory purview of the commission, any *sukuk* which is denominated in Naira or in foreign currencies; and any *sukuk* structure which is listed, convertible, exchangeable, redeemable or otherwise.⁶⁴ The rules also set out some *Shari'ah* principles which are meant to be complied with in the issuance, offering or invitation of *sukuk* by all issuers.⁶⁵

Public companies which includes Special-Purpose Vehicle, State Government, Local Government, and Government agencies as well as multilateral agencies are eligible to issue, offer or make and invitation, provided that the approval has been sought from the commission.⁶⁶ Not only this, the companies issuing, offering or making an invitation of *sukuk* with the agreement of trustee must appoint a *Shari'ah* adviser who is registered or so recognized by the commission to advise them on all aspects of the *sukuk* including documentation and structuring, to issue a *Shari'ah* certification which set out the basis and rationale of the structure and mechanism of the *sukuk* issue, the applicable *Shari'ah* principles used for the *sukuk* issue and relevant *Shari'ah* matters as relate to the documentation of the *sukuk* issue.⁶⁷ It is also the responsibility of the *Shari'ah* adviser to ensure that the applicable *Shari'ah* principles and any other relevant rulings in that respect are

⁶¹ Ibid

⁶² Islamic Financial Services Industry Stability Report 2018 <https://www.ifsib.org/download.php?id=4811&lang=English&pg=/index.php> accessed 23rd February, 2024

⁶³ U Idris (n 6)57

⁶⁴ R 570 (1) (a)-(c) SEC Rules

⁶⁵ R 570 (2) and (3) SEC Rules

⁶⁶ R 572 SEC Rules

⁶⁷ R 574(1) SEC Rules.

complied with and also apply *ijtihad* as a *Shari'ah* adviser to ensure that all aspects relating to *sukuk* issuance are in compliance with *Shari'ah* principles.⁶⁸

Rule 575 of Securities and Exchange Commission Rule provides that the underlying asset of *sukuk* whether tangible or intangible must be of *Shari'ah* compliant, and any asset which is under encumbrance or asset that is jointly owned with another party cannot be used in *sukuk* except the consent of the charge or joint owner has been sought. Not only this, the asset pricing in *sukuk* contract that involves the sale and purchase of underlying assets must not exceed 1.51 times of the market value of the asset and this usually applicable to *murabahah*, *ijarah* and *istisna* contracts.

Stemming from the above, the available legal frameworks for issuance of *sukuk* in Nigeria can be generally considered adequate. However, apart from the Securities and Exchange Commission (SEC) Rules, the Central Bank of Nigeria (CBN) Act and guidelines which are the Laws of the Federal Republic of Nigeria as well as relevant sections in the Islamic law of commercial transactions that serve as governing laws, there are no precedents on the extent to which these laws would be applied by the courts in Nigeria when it comes to implementation.

5.0: THE SUSTAINABILITY OF SUKUK FOR BRIDGING INFRASTRUCTURAL DEFICIT IN NIGERIA:

Ordinarily, infrastructural development is a backbone of a country as it plays a great role in economic growth and increases the potential development by constructing economic and social infrastructures across the country.⁶⁹ However, infrastructural development of a country is to be financed with public funds appropriated for that purpose.⁷⁰ It is therefore a statutory responsibility of government to look for how that will be achieved and accomplished.⁷¹

Infrastructural development can be financed by adopting different capital channels or mechanisms which may also involve different financial instruments.⁷² In Nigeria, we have some financial

⁶⁸ R 574 (1) SEC Rules.

⁶⁹ IA Abdulkareem, M Mahmud and A Abdulganiyy, 'Sukuk, Infrastructural Development and Economic Growth: A Theoretical Lens for Abandoned Projects in Nigeria-Albukhary Social Business Journal <https://asbj.aiu.edu.my/images/Vol2Issue1Jun2021/3> accessed 5 March 2024

⁷⁰ H Ijaiya, 'Control of Public Finance by The Legislature: A Critical Analysis' in Wahab. O Egbewole (ed) 'The Jurist- Annual Publication of the Law Students' Society, University of Ilorin (2005) 10, 19

⁷¹ *ibid*

⁷² *ibid*

instruments in capital markets such as listed stocks and bonds and they are well established and regulated by regulatory frameworks. For example, banks are some of funds provider in making infrastructure loan available to the government.⁷³ Not long ago there is no doubt that Nigeria due to worry for the growth and development of the nation forced to fall into debt despite the fact that Nigeria's foreign debts has been cancelled in 2005 by the Paris club.⁷⁴ The public pressure as a contributing element forced the government to also consider another medium of mobilizing funds such as short term foreign liquidity facility, long term debt, as well as domestic borrowing, and caused a quick accumulation of another foreign debt.⁷⁵

Islamic finance in Nigeria which includes *sukuk* products, even though still developing, has made a great positive impact on the infrastructural development as it encourages more investors to invest their capitals for construction and rehabilitation of roads, hospitals and the likes.⁷⁶ The Securities Exchange Commission recognizes an Islamic Development Bank which is a bank licensed by the Central Bank of Nigeria (CBN) to operate as non-interest bank to manage in a bid to manage a Shari'ah compliant fund, therefore, *sukuk* is considered as a sustainable investment opportunity within the ecosystem in Nigeria.⁷⁷

Its products grew to N1.09 trillion in 2024 as the year has been a pivotal year for Islamic finance in Nigeria considering notable developments that have bolstered within the Nigeria financial sector.⁷⁸ *Sukuk*, within the Capital Markets space, offers Shari'ah compliant and non-interest bearing investment option to a growing pool of ethical investors.⁷⁹

⁷³ Jackson Etti & Edu, 'Infrastructural Development in Nigeria: Challenges for Private Sector Participation and the way Forward'<https://jee.africa/wp-content/uploads/2021/infrastructural-Development-in-Nigeria-Challenges-for-Private-Sector-Participation-and-the-Way-Forward> accessed 14 February 2024

⁷⁴ *ibid*

⁷⁵ SI Abdullahi (n 8) 218

⁷⁶ A Sunmola and C Okoro, 'Islamic Finance in Nigeria: 2024 Year in Review and 2025 Outlook'<https://uubo.org/wp-content/uploads/2024/12/Islamic-Finance-in-Nigeria-2024-Year-in-Review-and-2025-Outlook> accessed 7 April, 2025

⁷⁷ *Ibid*. See also R 574 (2) (b) of SEC Rules

⁷⁸ *Ibid*

⁷⁹ *Ibid*

Nigeria Federal Government has continuously leveraged *sukuk* to fund essential infrastructural projects through the Federal Government Roads *Sukuk* Company 1 Plc.⁸⁰ For its smooth operation, the government provides regulatory frameworks which includes Securities Exchanges Commission Rules, the Central Bank of Nigeria Act among other laws, to govern the issuance of *sukuk*.⁸¹ This equally assist the application of *sukuk* proceeds to fund the development of major infrastructure projects which include the construction and upgrade of highways and other road networks across the country.⁸²

To ensure the management of *sukuk* proceeds, the *sukuk* issuers are administered by the Debt Management Officers (DMO) and the Delegate Trustees.⁸³ The Trust Deed is prepared in favour and for the absolute benefit of the *Sukuk*-holders as the rights and obligations of the Issuer under the Deed of Declaration of Trust (DOT) which will be performed by the Delegate Trustees appointed by the issuer to ensure that the *sukuk* products are sustainable in Nigeria.⁸⁴

Factors that contributes to the sustainability of *sukuk* products in Nigeria in tackling infrastructural deficits are many but not limited to the followings;

- i. **Appointment of Financial Adviser:** the financial advisers with expertise are appointed in a bid to properly structure an Islamic finance and who are under the guidance of the *Shari'ah* Board, and the issuance of *sukuk* is reviewed and adjudged to be *Shari'ah* compliant by the Financial Regulatory Advisory Council of Experts (FRACE) of the Central Bank of Nigeria.⁸⁵
- ii. **Proper Supervision and Monitoring:** The Federal Government oversees the appointment of contractors for the road projects in respect of which capital is invested and considers

⁸⁰ LA Sulaiman and ID Rabi, 'Impact of Sukuk (Islamic Bond) Finance on Infrastructural Development Financing in Nigeria' International Journal of Humanities and Applied Social Science, (6 (2), 2023 27-35<https://www.researchgate.com> accessed 10 April, 2025

⁸¹ AI Abikan, 'Islamic Banking as Non-Interest Banking Fact or Fiction' Shari'ah Law Reports, 2012<https://www.researchgate.net> accessed 5 April, 2025

⁸² M. O Oladunjoye, (n 60)

⁸³FMDQ- Sukuk Listing Rules- OTC Securities Exchange empowering the Nigerian debt capital & FX markets<https://fmdqgroup.com/greenexchange/wp-content/uploads/2024/05/FMDQ-Sukuk-Rules-SEC-Approved> accessed 9 April, 2025

⁸⁴ Federal Government of Nigeria (FGN) VI 2023 Draft Prospectus<https://www.stanbicibtccapital.com> accessed 7 April, 2025. See Rule 5.3 of FMDQ-Sukuk Rules, 2022

⁸⁵ R 579 SEC Rules, 2013

highly regarded companies or firms to limit the risk which may surface in *sukuk* market.⁸⁶

To prevent default risk, it is under the terms and conditions of the agreement that the obligor would reimburse the principal amount.⁸⁷

- iii. **Enactment of Regulatory Frameworks and Stability of the Nigerian Securities Laws:** Securities Exchange Commission Rules and other laws that regulate the *sukuk* products have not been subjected to changes over the last decade, the change of which may likely affect the *sukuk*.⁸⁸ These regulatory frameworks aimed at proper monitoring of *sukuk* till stage of maturity under the supervision of both the Central Bank of Nigeria *Shari'ah* Council (CSC) and *Shari'ah* Advisory Committee (SAC) of every other banks.⁸⁹
- iv. **Embracing and Discharge of Obligation by The Federal Government:** Just of recent, The Federal Government proposed issuing its first dollar-denominated *sukuk* which valued US\$500 million and this proposal got the approval of the lawmakers as part of President Bola Tinubu's plan to borrow billions from foreign investors to help address the budget deficit.⁹⁰ Government also discharges its direct obligation and debt commitments as relates to *sukuk* once it is matured and never defaulted in any sort of creditor arrangement as relates to infrastructural projects.⁹¹
- v. **Exemption from Taxation:** *Sukuk* (Islamic bonds) and its proceeds from companies income tax (CIT), personal income tax and value-added tax as in the case of conventional bonds.⁹² The tax exemption only applies to *sukuk* issued by the Federal Government.⁹³

There are many factors that led some countries all over the world to opt to various mediums in financing the infrastructures.⁹⁴ These factors have equally forced many countries to embrace the

⁸⁶ B Khanalizadeh, A Rahimzadeh and M Afsharirad, 'Investigating the Impact of Financial, Economic, and Political Risk and Economic Complexity on SUKUK Market Development (NARDL Approach)' Iranian Journal of Finance 8 (2), 2024, 112<https://www.ijfifsa.ir> accessed 10 April, 2025

⁸⁷ R 586 (2) SEC Rules

⁸⁸ AI Abikan (n 81)

⁸⁹ Ibid

⁹⁰ A Sunmola and C Okoro (n 76)

⁹¹ Ibid

⁹² See The Companies Income Tax (Exemption of Bonds and Short-Term Government Securities) Order, 2011, the Personal Income Tax (Amendment) Act 2011 and Value Added Tax (Exemption of Proceeds of the Disposal of Government and Corporate Securities) Order 2011

⁹³ Corporate Income Tax (Exemption of Bonds and Short Term Government Securities) Order, 2011

⁹⁴ MO Oladunjoye (n 60)

Islamic bonds, *sukuk* as an alternative source of funding.⁹⁵ It is also a duty of the government or company that intend to raising funds from other sources to consider the reliable and cheaper one.⁹⁶ Therefore, *sukuk* as non-interest instrument is reliable and cheaper because it is arranged and planned to benefit all the parties involve.⁹⁷ Unlike *sukuk*, the conventional bond which is interest bearing bond has become increasingly costlier and even difficult to assess.⁹⁸ For instance, in UK, the government recognizes *sukuk* as the best alternative source for raising capital and prefers it to the existing interest-based conventional bonds or securities.⁹⁹

Sukuk as *Shari'ah* compliant securities is the latest instrument to come rapidly on the capital market which is open to Muslims and non-Muslims investors with high capital all over the world.¹⁰⁰ For example, a private firm in Kuala Lumpur issued a *sukuk* as an Islamic financing instrument.¹⁰¹ Though, the first sovereign *sukuk* was issued by the Bahrain Monetary Authority for liquidity management purposes after which the first global *sukuk* was issued by Malaysia.¹⁰² Its growth as *Shari'ah* compliant in global capital market has been fueled by strong and consistent demand of different countries.¹⁰³

Nigeria as a country has been regarded as world's junk-yard of abandoned projects that worth billions of Naira and it is very unfortunate that a country with potentials in the construction industry faced magnitude of project abandonment.¹⁰⁴ In December, 2021 there was a report that there are 56,000 abandoned projects in Nigeria which confirmed the backwardness of Nigeria.¹⁰⁵ In August, 2021 The Nigerian Institute of Quantity Surveyors, (NIQS), disclosed the fact that there are large numbers of uncompleted projects, which estimated to cost at N12 trillion if Nigeria Government

⁹⁵ Ibid

⁹⁶ SI Abdullahi (n 8) 219 - 220

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ M Safari, S Mohamad and M Ariff, 'Sukuk Securities, Their Definitions, Classification and Pricing Issues' <https://research.bond.edu.au/en/publications/sukuk-securities-their-definitions-classification-and-pricing-iss> accessed 23 February 2024

¹⁰⁰ A Rahman, H Asma and R Markom, 'The Inevitability and Relevancy of Sukuk in Developing Country: A Case of Bangladesh' -SJHSS https://saudijournals.com/media/articles/SJHSS_611_468477 accessed 14 June 2024

¹⁰¹ Ibid

¹⁰² M Bennett and Z Iqbal (n 29)

¹⁰³ A Rahman, H Asma and R Markom (n 98)

¹⁰⁴ FO Okafor, N N Osadebe and I. J Sylvester, 'Abandoned Projects-implication on the strength of exposed steel and concrete in the Southern region of Nigeria' Nigerian Journal of Technology *NJT* (2028) 37(3) 562

¹⁰⁵ Vanguard Newspaper of 21 December, 2021 <https://www.vanguardngr.com/2021/12/nigerias-56000-abandoned-projects/amp/> accessed 24 February, 2024

intend to carry them out.¹⁰⁶ It was revealed the President of NIQS further said that one of the factors that lead to abandonment of the projects is corruption as a result of poor cost estimate.¹⁰⁷ The lack of transparency and supervision of public offices allows corruption to cause delay or abandonment of projects.

There is no doubt that *sukuk* structure provides better supervision and transparency thereby reduces abandonment and wastages as the assets must be in operation to generate the proceeds that due to the *sukuk*-holders who invested their capital.¹⁰⁸ With the high level of transparency and efficiency in the *sukuk* structure, the Nigeria Government has been advised to invest into *sukuk* as an alternative to mobilize funds for completing the abandoned projects and improve the infrastructure development of the country as every money expended on the projects will be accounted for.¹⁰⁹

The *sukuk* structure which is equally a non-interest based-bearing, is the best way for Nigeria to reduce the level of its indebtedness to the foreign loans through the conventional bonds with interest rates.¹¹⁰ *Sukuk* as instrument is open to all investors irrespective of their faith or belief as same could also be used to finance Nigeria's infrastructure deficits and support economic growth.¹¹¹ It is one suitable instrument for financing infrastructural project with less worry because of provision made available for risk management in *sukuk* structure.¹¹² *Sukuk* instrument in Nigeria embodies two key sustainability features which are infrastructure and financial inclusion as same is considered to be one of the useful products for mobilizing funds. The reason for sustainability attributes of Federal Government of Nigeria *Sukuk* is the dedication of proceeds to tangible road infrastructure projects; financial inclusion for non-interest investors as it is of low risk.¹¹³

¹⁰⁶ Ibid

¹⁰⁷ Ibid

¹⁰⁸ IA Abdulkareem, M Mahmud and A Abdulganiyy (n 69) 24

¹⁰⁹ Ibid

¹¹⁰ JA. Salaudeen, 'Sukuk: Potentials for Infrastructural Development in Nigeria' (2021) 3(7) *Advanced International Journal Banking, Accounting and Finance* <https://www.aijbaf.com/PDF/AIJBAF-2021-07-06-09.pdf> accessed 24 February 2024

¹¹¹ Ibid

¹¹² Ibid

¹¹³ Newsletter Articles-Nigeria scales up its Sukuk issuance policy and capacities with a debut infrastructure linked issuance by the Federal Capital Territory and an international issuance edging closer (March 21, 2022) <https://www.ddcap.com/nigeria-scales-up-its-sukuk-issuance-policy-and-capacities-with-a-debut-infrastructure-linked-issuance-by-the-federal-capital-territory-and-an-international-issuance-edging-closer/> accessed 15 June 2024

In Nigeria, for instance, in 2013, the Osun state government for the first time in Nigeria through it owned Special Purpose Vehicle known as Osun *Sukuk* Company Plc issued the first *sukuk* in Sub-Saharan African to fund the development of the state such as construction of High Schools, Middle Schools and Elementary Schools in Osun State.¹¹⁴ The said *sukuk* was issued at a rate of 14.75% per annum at N1000 per unit and matured on 2020.¹¹⁵

According Mr. Maruf Onike Abdul-azeez, the Chief Missioner of *Nasrul-Lahi-ilFatih* Society of Nigeria, Osun state realized 11.4bn of the proceeds from *Sukuk Ijarah* for bridging of infrastructural deficit in the state, the amount was used to build almost 24 schools after which all *sukuk* holders were given their capital, respectively. Nigeria as a country under which Osun state exists are also in need of *sukuk* to aid the infrastructural development which is of high demand in the country. The Minister of Finance has once opened up that Nigeria, over 30 year ago on its continuous struggle, needs \$3trn to fill up the infrastructure gap due to the fact that the population of Nigeria's citizens increase yearly which has already overstretched the available facilities. As an answer to the need of the government to provide good infrastructure in the country, *sukuk* is regarded as one of the best alternative for financing infrastructures. According to the Minister, the level of people's movement from rural areas to urban areas is increasingly occurs every day and this is one of factor that call for more infrastructure projects in the country. Since the fundamental objectives of Islamic finance are profit and loss sharing, the Federal Government Nigeria can raise or mobilize funding through the Islamic instrument of *sukuk*. In 2017, 2018 and 2020 the Federal Government raised N362.6bn for construction and road rehabilitation. It was also reported that private *sukuk Istisna* were used by Lotus capital to raise N1bn for the construction of houses, taking care of transportation and water resources.¹¹⁶

According to The Minister of finance, budget and National Planning, Zainab Ahmed disclosed during the national workshop on leveraging the financial markets to achieve double-digital economic growth for Nigeria that the Federal Government of Nigeria by using the Debt

¹¹⁴ MO Oladunjoye (n 60)

¹¹⁵ Ibid

¹¹⁶ During the interview on virtual program called Islamic Finance Weekly with the theme: Sukuk as catalyst for National Development Mr. Maruf Onike Abdul-azeez, Chief Imam Missioner of Nasraul-Lahi-il Fatih Society of Nigeria <<https://www.proshareng.com/news/ISLAMIC%20FINANCE/Sukuk-Nigeria-Needs-Standardization-and-Improved-Regulation/58392> accessed on 9 February, 2024

Management Office (DMO) raised N669 billion from the capital market between 2018 and 2020 through three different issuances of *sukuk* bonds. The Government in order to bridge the infrastructural deficit used the financing to construct and rehabilitate more than 44 roads across the six geo-political zones of our country.¹¹⁷

Also Mrs. Adaeze Uzor-Kalu while discussing the important of *sukuk* investment suggested that Nigeria need a standardization and stronger regulatory framework for *sukuk* Shariah compliant in capital market debt issues as to enable the fast growth of the *sukuk* fixed income market and make some improvement in its local scale. It is further stated that Nigeria as one of pioneering nations in establishment of Islamic finance regulatory framework in the West African region, is expected to develop a dynamic non- interest bearing finance market in the country by paying serious attention to some areas, namely; the need for government and regulatory incentives to drive participation in the Islamic finance sector, the need for more market issuances, Islamic friendly products, and Islamic commercial papers, the need for more awareness and market education, the need for capital building in the capital market for people, to understand that it is not only for Muslims but all investors and the need to enhance liquidity in the market¹¹⁸

The report revealed that Federal government launched the FCT *Sukuk* Technical Committee at the Federal Capital Territory Administration (FCTA) Office in Abuja which was regarded as an important milestone in the journey of the issuance of *Sukuk* in Nigeria which will enhance financing the Federal Capital's infrastructure development.¹¹⁹

The Federal government just of recent, in May, 2022 equally approved Three Billion Naira *Sukuk* funds for construction and rehabilitation of the 103 kilometer Numan-Jalingo road in Adamawa and Taraba Highway. According to the Minister of State for Works and Housing, Muazu Sambo,

¹¹⁷ In national workshop held on August 19, 2021 at the chartered Institute of Stockbroker (CIS)2021 national workshop<https://www.premiumtimesng.com/business/business-news/480196-nigeria-raises-n669-billion-from-sukuk-bonds.html>. accessed 10th February, 2024

¹¹⁸A Uzor-Kalu, 'Sukuk: Nigeria needs standardization and improved regulation'<https://www.proshareng.com/news/ISLAMIC%20FINANCE/Sukuk-Nigeria-Needs-Standardization-and-Improved-Regulation/58392>accessed on 9 February, 2024

¹¹⁹ Newsletter Articles (n 111)

lack of construction material and funding are responsible for infrastructure deficit in Nigeria, particularly the project in question.¹²⁰

Sustainability dimensions of *sukuk* does not only provide funds for infrastructural growth, it also preserves wealth for productive purposes, offers many commercial opportunities and creates employment in both rural and urban communities and if it is well programmed and regulated, protect the right and maintain the agreement and trust among the parties involved.¹²¹

1.0 CHALLENGES FACED BY SUKUK ISSUANCE IN NIGERIA:

Despite the fact that the World Bank and Nigerian Banks in issuing *sukuk*, faced different challenges and obstacles, it remains suitable and best alternative source of financing the development of the world.¹²² The followings are some of challenges faced by *sukuk* issuance in Nigeria;

1. COMPLEXITY IN STRUCTURE:

Compare to Conventional bonds, *sukuk* structure is more complex as it mostly requires extra efforts in ensuring its compliance with Islamic ethical consideration.¹²³ The complex structure can easily lead to management risk. According to the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), there are different *Shari'ah* structures in *sukuk* products, and engaging in any of them requires carefulness and expertise.¹²⁴

2. NON-COMPLIANCE WITH SHARI'AH AND IMPLEMENTATION OF SHARI'AH GOVERNANCE SYSTEM:

The primary purpose of introducing Islamic Capital Market is to ensure the free-interest transactions or use the *sukuk* proceeds on lawful projects.¹²⁵ Non-Muslims may find it difficult to comply with the rigorous *Shari'ah* compliance processes all the time.¹²⁶

¹²⁰ News Agency of Nigeria (May 7, 2022)<https://gazettengr.com/fg-approves-n3-billion-sukuk-funds-for-numan-jalingo-road-rehabilitation/> accessed 21 May 2024

¹²¹ H Al-Madani, KO Alotaibi and S Alhammadi 'The Role of Sukuk In Achieving Sustainable Development: Evidence From The Islamic Development Bank' <http://dx.doi.org/10.21511/bbs> accessed 15 January, 2024

¹²² M Bennett and Z Iqbal (n 29)

¹²³ AA Tariq and H Dar, 'Risk of Sukuk Structures: Implications for Resource Mobilization' Thunderbird International Business Review, 49 (2)<https://www.isfin.net/sites/isfin.com> accessed 10 April, 2025

¹²⁴ Sukuk in Emerging East Asia: Trends and Future Challenges <https://asianbondsonline.adb.org/documents/>> accessed 9 April, 2025

¹²⁵ F Omar and M Abdul-Haq, 'Islamic Banking: Theory, Practice and Challenges' (Zed Books, London, 1996) 56

¹²⁶ Ibid |

The Financial Advisers who are experts and qualified in Islamic finance may in some transactions hold divergent views on any type of *sukuk* structure which may delay the implementation of *Shari'ah* principles on the products.¹²⁷ Therefore, in the event of non-compliance with an Islamic financial instrument by any of the parties involved defeats the purpose and automatically invalidates or frustrate the issuance process.¹²⁸

3. LOW LEVEL OF DEMAND AND LACK OF CONFIDENCE IN SUKUK PRODUCTS

The level of exploring the *sukuk* form of financing in Nigeria is low due to unfamiliarity with its benefits.¹²⁹ As a result of this many private companies prefer conventional bonds and have more confidence in its product whose benefits had been explored and tasted by many companies before the introduction of *sukuk*.¹³⁰

4. INFLATION AND DEBT RATE

As a result of increment in inflation rate in the country, *sukuk* market may be negatively affected.¹³¹ This may reduce the demand for *sukuk* products and the investors will therefore refrain from investing in various project in high economic risk.¹³² The high debt hanging on the neck of the country may be calculated to be a factor that may an economic uncertainty in a society and it may increase risk in *sukuk* market.¹³³

5. POLITICAL INSTABILITY:

In Nigeria, many conventional bonds had witnessed and suffered from political instability due to changes in administration that may create geographical or religious tension .¹³⁴ This instability has led to insecurity and insurgency in Nigeria which may have negative effects on investment

¹²⁷ M Duku and AD Muhammad, 'Challenges of Sukuk Issuance in Nigeria: A Case Study of Osun State Sukuk' International Journal of Innovative Science and Research Technology, 6 (3), 2021, 960

¹²⁸ Ibid

¹²⁹ A Sunmola and C Okoro (n76)

¹³⁰ Ibid

¹³¹ AA Tariq and H Dar (n 121)

¹³² B Khanalizadeh, A Rahimzadeh and M Afsharirad (n 87)

¹³³ Ibid

¹³⁴ Ibid

including *sukuk* proceeds.¹³⁵ Investors in *sukuk* markets can be discouraged from investing their capitals into investment products in areas where political powers or government are not stable.¹³⁶

From the foregoing discussion, despite these underlying challenges, Islamic banking offers low-risk and more sustainable liquidity, the federal government of Nigeria, despite the various investment channels, embraces the alternative source of funding developmental projects which is so impactful and helpful in mobilizing capital for the abandoned and slow pace of work which is so rampant as a result of insufficient budgetary provision.

7.0 CONCLUSION AND RECOMMENDATIONS

Undoubtedly, *sukuk* has been regarded as a sustainable financial vehicle in mobilizing fund to reduce the high level of infrastructural deficit in the global world, and same can be utilized to solve the lack of infrastructural development in Nigeria. Though, the *sukuk* structure is not a new instrument in Nigeria but it has not been solely relied on as the Federal Government still engages in conventional loan bonds. Many countries regardless of religious belief, apply *sukuk* structure as an alternative for infrastructural development in mobilizing huge fund to finance abandoned infrastructure projects.

It is crystal clear that inadequate of infrastructures has deprived Nigeria as a country some benefits, such as economic growth and development. *Sukuk* structure will reduce the rate Nigeria government engage in securing a foreign debt facility with high interest. The global debt market and its shortcomings have called for searching an alternative way of getting funds to provide good infrastructural development both in rural and urban areas.

Sukuk gives many Nigerians an opportunity to invest their capital in Islamic products which is very reliable as against the conventional bonds. For sustainability of this *sukuk* structure this paper recommends the following factors;

¹³⁵ Federal Government of Nigeria (FGN) VI 2023 Draft Prospectus

¹³⁶ The International Country Risk Guide (ICRG), 2014<https://www.prsgroup.com/wp-content/uploads/2014/08/icrgmethodology> accessed 10 April, 2025

- (9) To ensure the sustainability of *sukuk*, Nigeria government should with supports of Islamic financing experts look for easier methods to be adopted in reducing the complexity in *sukuk* structures.
- (10) To achieve proper implementation of available legal frameworks and enhance more compliance with *Shari'ah* dictates, the Financial Regulation Advisory Council of Experts (FRACE) of the Central Bank of Nigeria need to have a harmonized view on Islamic commercial jurisprudence, particular those relate to *sukuk*.
- (11) The Central Bank of Nigeria should, in collaboration with other constituted boards for Islamic finance in Nigeria, regularly educate the public and private companies on the advantages of the *sukuk* market to inculcate in them more confidence and bring them closer to it by constant awareness or enlightenment.
- (12) To curb inflation which is one of the factors affecting *sukuk* market and other financial markets in Nigeria, the Central Bank of Nigeria should add to its up and doing by providing at its own end a standard measure and guidelines to control monetary policies in the country.
- (13) The Federal Government of Nigeria should prevent, by all possible means, any persistent criminal activity, political and religious divisions which may create unrest in the country.