

5 **SHARIA FAIR AND OTHER REVENUE PARTICIPATION CONTRACTS AND**
EXCHANGE

BACKGROUND OF THE INVENTION

1. Field of the Invention

10 The present invention relates to establishing a new class of investment instrument, neither equity nor debt, but rather a contractual right to participate in the revenue of a company, and a method for providing investors with liquidity through an exchange system facilitating the trading in said investment instruments.

15 2. Description of the Background

A “security” may be broadly defined as an investment instrument, other than an insurance policy or fixed annuity, issued by a corporation, government, or other organization which offers evidence of debt or equity. There are many different types of securities and many exchanges worldwide for trading in them.

20 Currently, the only way for typical investors to participate in the profitability of a given company is to purchase equity securities in that company. An equity security is an instrument that signifies an ownership position in a corporation, and represents a claim on its proportional share in the corporation's assets and profits. For example, if a company has 100 shares of stock outstanding and a person owns 10 of them, then he/she owns 10% of the company. Most stock
25 also provides voting rights, which give shareholders a proportional vote in certain corporate decisions. In some jurisdictions there are also shares which carry super majority voting rights as to certain corporate actions.

5 The alternative for the investor is to purchase a debt security which represents a promise to repay the face value of the security and plus an additional amount called interest.

 Unfortunately, simple debt and equity securities are not always viable or attractive investment options for all parties. Many entrepreneurs, when considering their fund raising needs, are reluctant to part with any equity. Yet, those interested in investing in such companies
10 want to own a piece of the company to benefit from the progress anticipated. Therefore being a shareholder of a closely held corporation may not be the right or viable structure for either the entrepreneur or the investors.

 On the other hand, without equity (sometimes described as “venture capital”) financing,
15 debt becomes the only option. However, early stage companies are not generally able to borrow unless the loans are guaranteed and the guarantors frequently require a fee as an inducement to accept the risk. For closely owned corporations this usually means personal guarantees, for example, leveraging the family home, credit cards and others. Many budding entrepreneurs are unwilling to compromise their personal or family assets. Moreover, the positive and negative
20 covenants which are a part of most loans severely restrict the actions of the company. What is needed is an investment instrument that more effectively satisfies the entrepreneur’s desire for retaining his equity and the investor’s desire for a business success participation related return on his investment.

 Debt and equity securities are not always acceptable for cultural or religious reasons as
25 well. For example, Sharia law, which derives from the teachings of the Quran and from Sunna (the practice of the Prophet Mohammed), is implemented to varying degrees in different Islamic countries. Sharia law is very clear on a number of financial topics. While trade and investment

5 are encouraged, Sharia rules prohibit involvement in a number of industries. Moreover, Sharia law prohibits the receipt or payment of interest. Thus, capital market limitations in the Middle East are driving institutional Islamic investors to alternative investment products, and this is carrying over internationally. Only financial vehicles that meet strict Sharia criteria will be approved, as is necessary, by internationally recognized Islamic scholars. While some Sharia-
10 compliant financial products exist, they are typically selective mutual funds. Shares in funds are typically not initially distributed or sold on exchanges because it is difficult for sponsors to effectively engage and adequately compensate financial institutions and financial professionals for distributing and selling their products. The consequence is that Sharia-compliant financial products and other non-traditional investment instruments have not been effectively distributed
15 through initial public offerings ("IPO"). Broker-Dealer financial product support, service and coverage is also substantially diminished in the industry because the products are not profitable for financial institutions when compared to other financial instruments and do not fit within the normal operations and economic framework of existing financial products.

No one has yet been able to devise an investment instrument and exchange platform
20 capable of Sharia-compliant certification and yet which takes full advantage of an investment syndicate, and wherein the inclusion of an underwriting discount or commission in the price of the investment instruments does not significantly damage or alter the relationship between the price of the instruments and their face value. This makes it difficult for many emerging and family and privately-owned companies to find growth capital. A system and method that
25 addresses the above concerns is presented herein.

5 SUMMARY OF THE INVENTION

It is, therefore, a primary object of the present invention to provide a new class of investment instrument, neither equity nor debt, but a Sharia Fair Revenue Participation Contract (SFRPC). The SFRPC investment is in a binding contract between a company and an investor, freely assignable by the investor. SFRPCs are designed to be traded in Units, and each may be
10 evidenced by a "Certificate" or may be scriptless to allow trading without a physical certificate. The SFRPC, as a Sharia compliant product, allows investors to participate in revenue rather than profits. The revenue focus is attractive to companies which do not wish to disclose profitability for competitive reasons, and it gives them access to capital without suffering equity dilution, resulting in lessened control or debt. SFRPCs are also attractive to investors because they allow
15 a return based on the operation of a company, and even to a greater extent if the company's revenues increase, rather than a fixed return, and avoids uncertainty of return based on achieved or declared profits. The revenue focus is also attractive to underwriters and brokers since the instruments can be offered at an initial public offering via an investment syndicate, and then traded on an exchange.

20 The Revenue Participation Certificate gives the investor rights to the revenues of the company. It is structured as a promise to pay you X% of revenues for Y number of years. Thus, in a Revenue Participation-based transaction there are three primary things to negotiate. They are the percentage of revenues to be paid to the investor, the length of time that the agreed percentage of revenues is to be paid to the investor, and the amount of capital paid by the
25 investor for the Revenue Participation.

For example, the transaction may be structured to give the investor 5% of revenue over ten years, in return for a \$10.0 million investment. Of course, payment by the issuer of the

5 royalty of 5% of revenues may be difficult if the projected profits do not materialize since the Revenue Participation is a fixed cost of capital (even though there is no equity dilution the royalty payments can be a burden). On the other hand, if an entrepreneur is confident in their projections they will profit from having the additional capital available without having to reduce their equity percentage in the company.

10 The SFRPCs or FRPCs are secured investment instruments. The terms Sharia Fair Revenue Participation Contracts and Fair Revenue Participation Contracts and the related acronyms SFRPC and FRPC are used interchangeably as other than as relating to Sharia compliance they are the same. The SFRPC-issuing company is required to assign critical assets as agreed with the underwriter of the SFRPCs to secure the SFRPC payment obligations.

15 Typically, these assets will be assigned to a trustee, and then licensed back to the revenue participation contract issuing company without cost. In the event of default, the assets will be sold or otherwise used by the trustee to cover the SFRPC obligations to investors. At expiry of the revenue participation period the assets are transferred back to the issuing company, also without cost.

20 BRIEF DESCRIPTION OF THE DRAWINGS

Other objects, features, and advantages of the present invention will become more apparent from the following detailed description of the preferred embodiments and certain modifications thereof when taken together with the accompanying drawings in which:

25 FIG. 1 is a diagram of the exchange format inclusive of the principal participants according to a preferred embodiment of the present invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

The present invention is a Sharia Fair Revenue Participation Contract (SFRPC) that allows investors to participate in revenue rather than profits, a new class of investment instrument that is neither equity nor debt, and which is qualified as a Sharia compliant product. An exchange format for the SFRPC is also disclosed. The SFRPC investment instrument is intended to give fledgling and/or privately-owned companies access to capital without suffering equity dilution or debt, and the revenue focus will allow them to keep their profitability confidential. It also gives larger and possibly already publicly traded companies access to capital specifically focused on designated projects or areas of activities. The SFRPC investment instrument is attractive to investors because it allows a return based on success of a company rather than a fixed interest return, and yet avoids uncertainty of return based on profits. It is possible that better long term management decisions will be made when managers are freed from investor and market pressure of declaring increasing profits in every reporting period. Moreover, the SFRPC lends itself to active trading because the SFRPCs can be offered at an initial public offering via an investment syndicate, and then traded on an exchange. Moreover, the revenue focus being so attractive to investors and therefore to underwriters and brokers, the mobilization of capital will be facilitated.

More specifically, the SFRPC is a contractual right sold to the investor to receive a fixed percentage of a company's revenue for a fixed length of time. The SFRPC is structured as a promise to pay the investor X% of revenues for Y number of years. Thus, in an initial offering there are three things to negotiate: 1) a percentage of revenues to be paid to the investor; 2) a length of time that the agreed percentage of revenues is to be paid to the investor; and 3) the amount of capital paid by the investor for the SFRPC(s). As an example, an exemplary SFRPC

5 may be structured to give an investor 5% of revenue over ten years, in return for a \$10.0 million investment. Of course, 5% of revenues may be a heavy burden for the company if the profits projected by the company in an attempt to attract the investor do not materialize since the SFRPCs represent a fixed cost of capital to the company (even though there is no equity dilution the payments can be a burden). On the other hand, if a company and/or entrepreneur is confident
10 in their revenue projections they can profit from having the capital available without having to reduce their equity percentage in the company.

FIG. 1 is a diagram of the exchange format inclusive of the principal participants, which include the investors (SFRPC Holders 20), Approved Trading Members (ATMs 30), the SFRPC Issuing Company 50, and the Royalty Entitlement Exchange (REE) 40 itself.

15 In operation, each SFRPC-issuing company 50 will negotiate directly with underwriters who must be pre-qualified ATMs 30, qualified in accordance with the regulations promulgated by the Government Regulating Body or be otherwise acceptable to a majority of the REE members. The ATMs 30 will negotiate the percentage of revenues to be paid to the SFRPC Holders 20 for each SFRPC share, the length of time that the agreed percentage of revenues is to
20 be paid to the SFRPC Holders 20, and the amount of capital paid by SFRPC Holders 20 for each SFRPC(s). Initially, each contractual Unit of SFRPC ("Unit") will be assigned a par value based on these negotiations (for example, US\$10,000 in initial face value). The underwriting ATMs 30 will also appraise and negotiate specific critical assets of the issuing company 50 to be pledged as security to a trustee company for the due performance by the Issuer of its payment obligations
25 under the SFRPC, and hence each contractual unit represents a secured obligation. The trustee company will hold the critical assets of the issuing company 50 and license them back to the issuing company at no cost. This way, in an event of default the critical assets can be used or

5 sold to cover the SFRPC obligation. At expiry of the SFRPC revenue participation period the
assets are transferred back to the issuing company 50, again at no cost. The ATM(s) 30 who
underwrite the initial sale of SFRPCs are also responsible for the preparation of an Information
Memorandum similar to securities, and will then procure investors to purchase the issuing
company's 50 underwritten SFRPC contractual units, thereby becoming SFRPC Holders 20.
10 The SFRPC Holders 20 will purchase SFRPC contractual units, each unit representing \$10,000
in initial value. They may be issued SFRPC certificates representing each contractual unit held.
It is noteworthy that the physical SFRPC certificates can be held by a depository in a standard
manner if secondary trading is effected through book entry mechanism. It is also noteworthy
that each "Certificate" may be scriptless to allow trading without the transfer of a physical
15 certificate.

After the initial offering, all SFRPC contractual units will become subject to secondary
trading on the Royalty Entitlement Exchange 40. Toward this end, any qualified ATM 30 may
serve as a buyer's and/or seller's agent. The Royalty Entitlement Exchange 40 employs a screen
based trading (SBT) system for transparency and ease of use, and SFRPC shares may be freely
20 traded between buyer ATMs 30 and seller ATMs 30. Following each trade, the ATM 30 acting
on behalf of the seller must procure a written assignment of the SFRPC from the seller and give
notice of the assignment to the issuing company 50 (or its agent). As will be described, the
SFRPC investment instrument and the exchange platform is readily capable of Sharia-compliant
certification, yet unlike other Sharia-compliant instruments it takes full advantage of an
25 investment syndicate in which the inclusion of an underwriting discount or commission does not
unduly damage the relationship between the price of the instruments and their face value. This
promotes an entirely new form of capital market and makes it much easier for emerging and

5 privately-owned companies to find growth capital. Each component of the SFRPC instrument and exchange is described in more detail below.

1. The Sharia Fair Revenue Participation Contract (SFRPC).

Each SFRPC is a written contract under which an issuing company 50 agrees to pay a
10 specified percentage of its revenue (as distinct from profits) over a specified period of time to investors who have purchased SFRPC revenue participation rights from it, or their assignees (the SFRPC Holders 20). “Revenue” is strictly defined as the gross amount of income received by the issuing company, its subsidiaries, affiliates and related parties (collectively, the Group) for the sale of goods and services in respect of all their commercial activities. The SFRPC
15 investment instrument can be certified as Sharia-compliant provided the following conditions are complied with:

- the Group does not carry on any activities prohibited under Sharia law (such as gambling, liquor, money lending, etc.).
- there is no payment of interest to the SFRPC holders 20.
- there is sharing of risk and reward. This is inherent inasmuch as the more successful the
20 issuing company 50 the greater the benefit to the SFRPC holder 20. Conversely, the SFRPC holder 20 is hurt when the company fails to achieve anticipated revenues. Although a fixed percentage of revenue will be payable, the absolute amount will vary according to the actual revenue achieved in the relevant period.

25 Given the foregoing constraints, the product will be certified as Sharia compliant by an internationally recognized Islamic scholar. Process will also be put in place for regular Sharia audit of the product to ensure its continued Sharia compliance.

5 The following is a general summary of the main terms and conditions of the SFRPC to be issued by the issuing company 50

Issuer	A company incorporated in [•]. The Issuer will be a Sharia-compliant company.
Issue	US\$[•,000,000] [•]% Sharia Fair Revenue Participation Contract expiring [] (the “Issue”).
Form and Denomination	Each contractual Unit of SFRPC (“Unit”) will represent US\$10,000 in initial value. Once traded on the REE, the Unit price will reflect investor assessment. They will be issued in registered form.
Status	The SFRPC will constitute direct and secured obligations of the Issuer.
Revenue Participation	[]% of Revenue for [] years expiring []
Revenue	The gross amount received by the Company, its subsidiaries, affiliates and related parties (“Group”) for the sale of goods and services in respect of all their commercial activities, as attested by the members of the Board of Directors and Senior managers and audited by Approved Auditors
Underwriters/Sponsors	[] will research the Issuer and negotiate the terms of the SFRPC and underwrite the offering
Information Memorandum	Issuer will work on with Underwriters to prepare and distribute an Information Memorandum on the initial launch of the SFRPC. The information contained in it will include the matters set out in Annex A. The Issuer and Underwriters will take responsibility for the accuracy of all information.
Payments	Revenue payments will be made to registered holders of Units on record date, on a quarterly basis.
Security	[Description of Assets], being assets of the Group identified by the Underwriters for transfer to the Trustee as security for the due performance by the Issuer of its payment obligations under the SFRPC
Repurchase of SFRPC	Issuer may repurchase Units by tender or transactions occurring on the REE. All Units repurchased must be cancelled. If more than 80% of the Issue has been repurchased,

	Issuer may acquire the remaining Units at the highest price purchased by it over the last 12 months
Trustee	A Government Regulating Body approved licensed trust company will be appointed and compensated by the Issuing Company to collect the revenue participation payments from the company or designate banks and otherwise protect the interests of SFRPC holders.
Approved Banks	[Name of Banks], being banks approved by the Trustee with which the Issuer has agreed to open banking accounts for all of the Group's revenue deposits The Banks will be irrevocably authorized (i) to deduct the Specified Percentage over the Specified Term for payment to the Trustee for the SFRPC Holders after conversion into the Specified Currency; and (ii) to furnish all information relating to the bank accounts as may be required by the Trustee
Approved Auditors	[] to be appointed by the Issuer and approved by the Trustee for the purpose of certifying the amount of Revenue due to the Trustee, on behalf of the SFRPC Unitholders. Such certification shall be final and conclusive
Sharia Adviser	[] to be appointed by the Issuer and approved by the Trustee for the purpose of certifying that the Issuer continues to be Sharia compliant
Issuer's Undertakings	To include the obligation to remain Sharia compliant, to provide quarterly Revenue attestation, an annual Revenue and Sharia certification and to comply with REE listing rules
5 Events of Default	As specified in Trust Deed. Upon the happening of an Event of Default, the Issuer shall immediately pay the SFRPC Unitholders an amount calculated as follows:- $R \times SP \times Q$ Where:- R is the Revenue in the best performing annual period SP is the Specified Percentage Q is the remaining unexpired term of the SFRPC
Significant Transactions	Transactions involving the acquisition or disposal of 20% or more of assets of the Issuer Group require the approval of the Trustee
Governing Law	A governing law and Process Agent will be agreed between the parties.

Dispute Resolution	By way of arbitration under the relevant International Arbitration Rules
Listing	The SFRPC will be exclusively listed on the Royalty Entitlement Exchange. The Issuer agrees not to list the SFRPC on any other exchange

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2. The Royalty Entitlement Exchange (REE) 40

A salient aspect of the REE 40 is that it is owned and operated by the member ATMs 30, The REE 10 will be established as a company incorporated in the locale of the exchange. It will have as ATMs 30 broking houses and other financial service institutions approved by the

10 Government Regulatory Body (GRB) (they must also be holders of appropriate broker licenses). Each ATM 30 will be accorded a membership or “seat” on the REE 40, represented by their holding of one ownership share in the REE 40. The ownership shares of REE 40 shall be accorded equal votes.

It is envisioned that SFRPC units will be just one class of products that may be traded on

15 the REE Exchange 40, and that only ATMs 30 will be entitled to trade on the REE 40. This way, ATMs 30 will have to comply with all REE 40 trading rules and by-laws, and all such rules must be approved by ATMs 30. The REE 40 will operate trading and clearing facilities for the products traded on it, inclusive of the SFRPCs, and will charge listing and transaction fees. To promote the effective and efficient control of risks to investors and SFRPC holders 50, as well as

20 market integrity and financial stability that may arise from the operation of an exchange-operated, screen-based trading system for derivative products that operate with direct access participants from multiple jurisdictions (‘cross-border markets’), the GRB will adhere to the following additional principles.

5 A. GRB will develop cooperative arrangements and coordinate supervisory responsibilities, consistent with each ATM's 30 responsibilities in a manner that promotes regulatory effectiveness and avoids the imposition of unnecessary regulatory costs.

 B. The GRB and all ATMs 30 will share relevant information in an efficient and timely manner, identifying in advance the information needed, the sources of that information, the
10 manner in which the information can be obtained and the channels through which it can be shared. The presently-envisioned information needed for proper operation is detailed below.

 C. The applicable regulatory requirements in the jurisdiction of the GRB and the ATMs 30 should be transparent.

Functionally, it has been found that a majority of investors and traders prefer a screen
15 based trading (SBT) system for its transparency and ease of use, and this is the platform of choice for the REE 40. There are several screen-based trading applications available on the commercial market, including Microsoft™ software solutions using a Microsoft BackOffice™ , platform including Windows NT, SQL Server and MS exchange with a custom front end interface. For remote computer stations (operated by the ATMs 30) a conventional host adapter
20 card may be installed in conventional workstations likewise running Windows NT to provide any number of communications ports into the host server. This allows ATM 30 members to trade on their own workstations, irrespective of their location, via a simple dial-up or other connection. This ensures fast trading facilities and real-time information sharing which facilitates effective trading.

5 D. The initial listing or quotation on the REE will be subject to approval of no less than 50% of the REE members.

E. A majority of REE members will determine rules regarding the appropriate use of margin and other factors affecting the operation of the REE as acceptable to the GRB.

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3. The Government Regulating Body (GRB)

The GRB will approve a ruleset to be observed by SFRPC issuing companies 50 to ensure prompt disclosure of material information and regulation of related party transactions.

These issuing companies 50 will also have to submit to director annual audit inspection and, 15 annual Sharia inspection to maintain certification. The following information will be made available via the exchange platform to all ATM 30 members of the REE 40, and to a lesser extent other non-members of the public:

A. Non-member information:

20 Name of issuer 50
Country of primary commercial activity
City of issuer 50 company headquarters
Brief description of industry (limited to 3 or 4 words)
Date and total value of initial SFRPC contractual unit issue
Managing underwriter / ATM 30 member of initial offering
25 Date of last and next expected revenue report
Percentage of SFRPC entitlement
SFRPC period termination date
Date and amount of latest trailing 12 month revenue
Date and amount of latest 3 months revenue
30 Unit transaction value of 30 days prior
Number and value of SFRPC units traded in 30 day period ending 30 days prior
Amount of SFRPC paid to single unit holder in latest 12 months
Amount of SFRPC paid to single unit holder in latest 90 days

5 SFRPC yield based upon transaction value of 30 days prior and SFRPC amount received in latest 12 months
 SFRPC yield based upon transaction value of 30 days prior and annualized FRPC amount based on latest 90 days
 Current best bid for single unit with yield based upon SFRPC payment received in last 12 months
 10 Current best offer for single unit with yield based upon SFRPC payments received in last 12 months

B. ATM 30 member information:

15 Name and address of issuer 50
 Contact data for issuing company spokesman
 Company provided description of company (summary limited to 3 or 4 pages) with full required; initial, annual and quarterly reports also available online.
 Date and total value of initial SFRPC contractual unit issue – with full description of
 20 terms of contact
 Managing underwriter / ATM 30 member of initial offering with contact person at ATM 30 member
 Date of last and next expected revenue report – with company and possibly other ATM 30 member projections
 25 Percentage of SFRPC entitlement - full terms of contract including description of performance assuring assets
 SFRPC period termination date – showing amount calculated on basis of trailing 12 months of future SFRPC per unit
 Date and amount of latest trailing 12 month revenue – showing percentage change from
 30 prior 12 month revenue
 Date and amount of latest 3 months revenue – showing percentage change from prior 90 days
 Unit transaction value of 30 days prior – and full transaction history of price and volume to latest trade
 35 Number and value of units traded in 30 day period ending 30 days prior – full transaction history
 Amount of SFRPC paid to single unit holder in latest 12 months – with projections for next 12 months, if any
 Amount of SFRPC paid to single unit holder in latest 90 days – with projections for next
 40 90 days, if any
 SFRPC yield based upon transaction value of 30 days prior and SFRPC amount received in latest 12 months – updated to last trade
 SFRPC yield based upon transaction value of 30 days prior and annualized SFRPC amount based on latest 90 days – updated to last trade

5 Current best bid for single unit with yield based upon SFRPC payments received in last
12 months and ATM 30 member discretionary display of all “open” orders as to amount
and size of bid by ATM 30 member as agent or principal
Current best offer for single unit with yield based upon SFRPC payments received in last
12 months and ATM 30 member discretionary display of all “open” orders as to amount
10 and size of offer by ATM 30 member as agent or principal

It is noteworthy that there may be additional elements of information required to be
available from a server. ATM 30 members must be able to input and receive data
instantaneously. As noted some of the data is fixed, subject to administration initial and updating
15 input, and some dynamic and transaction based.

It should now be apparent that the present invention provides an investment instrument
and exchange platform capable of Sharia-compliant certification and yet which takes full
advantage of an investment syndicate, wherein the inclusion of a commission or underwriting
discount into the price of the investment instruments does not upset the relationship between the
20 price of the instruments and their face value. The new SFRPC and the REE exchange will
encourage new capital markets and make it much easier for emerging companies to find growth
capital.

Having now fully set forth the preferred embodiment and certain modifications of the
concept underlying the present invention, various other embodiments as well as certain
25 variations and modifications of the embodiments herein shown and described will obviously
occur to those skilled in the art upon becoming familiar with said underlying concept. It is to be
understood, therefore, that the invention may be practiced otherwise than as specifically set forth
in the appended claims.

5 We claim:

1. An exchange traded investment instrument comprising:

a Sharia Fair Revenue Participation Contract (SFRPC) for allowing investors to participate in revenue of an issuing company consisting of a transferable contractual right (Units, evidenced by certificates) given to a holder of the SFRPC to receive a fixed percentage of the issuing company's revenue for a fixed length of time.

2. In combination with an investment instrument comprising a Sharia Fair Revenue Participation Contract (SFRPC) for allowing investors to participate in revenue of an issuing company consisting of a transferable contractual right given to a holder of the SFRPC to receive a fixed percentage of the issuing company's revenue for a fixed length of time, an exchange for trading in said SFRPCs comprising:

where necessary, a government regulating body (GRB) for regulating said exchange;
a screen-based trading (SBT) system owned and operated by the Authorized Trading Members (ATMs), said ATMs being pre-qualified by said GRB, said ATMs serving alternately as buyer agents, seller agents, and underwriters for transactions in said SFRPCs.

3. The SFRPC and exchange therefore as in claims 1 or 2, wherein said SFRPCs may be Sharia-compliant instruments.

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