



The Use of *Ijarah* Structure Asset to be Leased by Using Underlying Assets in SBSN Project Based Sukuk (PBS) Funding the Infrastructure Development of UIN Sayyid Ali Rahmatullah Tulungagung, Indonesia

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ABSTRACT

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The purpose of this study is to analyze the use of the PBS (Project Based Sukuk) series of State Sukuk by using the *Ijarah* Asset to be Leased contract, this contract is created in a structure that allows the government to lease assets that will be realized in the future, but the government can pay the project lease. since the start of the construction period. Sukuk investors will receive compensation from the agreed rental value. In an *ijarah* contract, the returns received by investors are fixed. Rental fees are also known as *ujrah*. But because the projects built do not generate revenue streams and are a service to the community, the compensation given to State Sukuk investors does not come from the performance of the infrastructure, but the government pays *ujrah* from other revenue sources. The focus of this research is how the use of the *Ijarah* Asset Structure to Be Leased by Using Underlying Assets in SBSN Project Based Sukuk (PBS) Funds the Infrastructure Development of UIN Sayyid Ali Rahmatullah Tulungagung.

This study is qualitative research with a descriptive method, namely by making systematic, factual, and accurate descriptions, drawings, or drawings regarding the facts, characteristics, and relationships between the phenomena studied. Data collection techniques were carried out by in-depth interviews, observation, and data documentation on the research object. Data analysis was carried out according to Miles and Huberman's instructions, namely data reduction, data presentation, and drawing conclusions based on the analysis carried out. Testing the validity and validity of the data was carried out using a triangulation technique, namely by examining data from different sources for measurement and comparison purposes. The research concluded that the use of the asset to be leased *ijarah* structure is carried out by using the underlying asset, namely the built infrastructure.

KEYWORDS:

Structure *Ijarah* Asset To Be Leased, Underlying Asset, SBSN Project Based Sukuk (PBS)

BACKGROUND OF THE STUDY

The emergence of sukuk was motivated by efforts to avoid usury practices that occur in conventional bonds and seek alternative financing instruments for entrepreneurs or countries that are in accordance with sharia. Some of the main principles of sharia-based financial transactions include prioritizing fair

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deals, recommending a profit-sharing system, and prohibiting *usury*, *gharar* and *maysir*. Supported by the emergence of a fatwa of scholars which forbids conventional bonds. Such as the fatwa Majma' al Fiqh Al-Islami March 20, 1990 and the fatwa of the National Sharia Council of the Indonesian Ulema Council No. 32/DSN-MUI/IX/2002 and long-term investment needs, experts and practitioners of Islamic economics make *ijtihad* to create a new financial product or instrument called sharia bonds or sukuk. In several countries, sukuk has become an important instrument for financing the State budget to finance certain projects. The first issuance of sukuk in Indonesia was carried out by PT. Indosat Tbk (ISAT) in 2002. The issuance of the

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SBSN Law itself was only carried out in 2008, and until now the issuance of State Sukuk is carried out regularly both in the domestic and international markets. State sukuk are issued for the purpose of financing infrastructure projects.

The contract used in the issuance of the sukuk uses an *ijarah* contract, and for *ujrah* or returns from the *ijarah* contract on the sukuk it is certain. This is widely discussed among the public, as if SBSN or sukuk are equated with bonds (Muhammad Kholid, 2019). Sukuk are not classified as debt instruments but are equity participation or investment which essentially has a profit-sharing principle. This statement makes the legal basis between issuers or issuers (*mudharib*) and investors (*shohibul maal* or owners of funds), not including accounts payable but forms of participation. Many people think that sukuk is a debt transaction. This is what makes people think wrongly about sukuk and on the other hand, many people equate sukuk with bonds (Lastuti Abubakar, and Tri Handayani, 2017). Bonds are securities whose nature is debt, by providing benefits to their owners in the form of agreed interest.

Furthermore, regarding sukuk, which are sharia securities with proof of ownership of a tangible asset, rights to benefits, the system is based on sharia, avoiding the interest system of bonds. The above statement is in accordance with the purpose of issuing sukuk, which is to replace debt bonds and pay them based on an interest system. Bonds indicate that the issuer is indebted to investors, whereas sukuk are regulated to transfer ownership of one or more underlying assets.

Infrastructure development is very important in supporting economic growth and development in a country. If the infrastructure is inadequate, of course it will hinder the country's progress and competition compared to other countries. The need for infrastructure financing in Indonesia is very large and continues to increase from year to year. In Indonesia, the Islamic financial market, including sukuk, is growing rapidly, although its portion compared to the conventional market is still relatively very small. For the purposes of developing a source base for financing the state budget and in the context of developing domestic Islamic financial markets, the government has passed a Draft Law (RUU) on State Sharia Securities (SBSN) or tribes (Fatah, 2011).

APBN financing through debt is part of the management of state finances that is commonly carried out by a country. Debt is the main instrument for financing the APBN to cover the APBN deficit and to repay debts that are due. The government is currently trying to increase state spending that is productive, such as infrastructure development, construction of public facilities and infrastructure, development of inter-regional connectivity, construction of dams and irrigation

networks, housing for low-income people (MBR), housing loans (KPR) for Prosperous and flats (Anisa Ilmia. 2020).

One alternative to fulfill this financing is the government issuing State Sharia Securities (SBSN), as mandated by Law Number 19 of 2009 concerning State Sharia Securities (SBSN) in article 4 it states that SBSN is issued with the aim of financing the Revenue and Expenditure Budget. The state budget (APBN) includes financing project development. (Law Number 19 of 2008 concerning State Sharia Securities). In the State Islamic Religious College (PTKIN), Sukuk play an important role in infrastructure development. One of the PTKINs in Tulungagung, namely Sayyid Ali Rahmatullah University, is a State Islamic Religious College that used sukuk funds to build several buildings, namely the K.H. Syaifuddin Zuhri, Arief Mustaqim Building, Library Building, and Religion Laboratory.

THEORETICAL REVIEW

1. *Ijarah* Asset to be Leased

In practice, the *ijarah* contract can be realized into three forms (MUI DSN Fatwa No. 112/DSN-MUI/IX/2017 concerning *Ijarah*), which is the first is the *Ijarah Tasygil Iyyah* contract. The *Ijarah* Agreement is the benefit of an item by not being accompanied by a promise of transferring property rights for the rental item to the tenant. Second, *Ijarah Muntahia Bi At-Tamlik* (IMBT), where the *ijarah* contract of the benefits of an item is accompanied by a promise of transferring property rights to the lease to the tenant after completion or the end of the *ijarah* contract. Then the third is *Mausufah fi az-amzah mausufah*, which is the *ijarah* contract for the benefits of an item or service that, at the time of the contract, only mentioned its properties and specifications (quality and quantity). The *Ijarah Maushufah Fi Az-amzah* agreement is the *Ijarah* Asset to Be Leased contract.

The DSN MUI Fatwa No. 76 of 2010 states that *Ijarah* Asset to Be Leased is an *ijarah* agreement whose specifications have been determined. Some of the objects of *ijarah* already existed when the contract was carried out. However, the surrender of the object *Ijarah* was carried out in the future according to the agreement (Association of Sharia Financial Fatwa MUI National Sharia Council, 2014). In its development, the *Ijarah* Asset to Be Leased contract is used as a contract structure in the Sukuk State of the PBS (Project Based Sukuk) State of 2011. Then the structure of this contract was used for the issuance of retail state sukuk starting in 2012, replacing the structure of the *Ijarah* Sale and Lease Sukuk contract. (Directorate of Sharia Financing, 2015). Referring to Aaoifi Shariah Standards Number 17 (Directorate of

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Sharia Financing, 2015) (Accounting and Auditing Organizations for Islamic Financial Institutions), Sukuk *Ijarah* Asset to Be Leased Structure is grouped into a type of sukuk that presents ownership of the tangible assets promised Sukuk *Milkiyyah Al-Maadisat Al Mau'ud Bisti Jariha*). The object of *ijarah* is divided into two types: benefit and work (services). *Ijarah* is beneficial for renting a house, shop, vehicle, clothing, and jewelry. For its benefits, it allowed *Syara'* to be used, according to *fiqh* scholars, to be used as an object of rent.

2. PBS (Project Based Sukuk) Sukuk Pattern with *Ijarah* Asset to Be Leased contract

The *Ijarah* Asset to Be Leased contract was used by the PBS series Sukuk in making a structure that allows the government to rent assets (infrastructure projects) that will be realized in the future (according to the construction period). However, the government can pay the project lease from the start of the construction period. Sukuk investors will receive renewal rewards (*Ujrah*) from the agreed rental value because it uses the *ijarah* (lease) contract. The rewards received by investors are permanent. However, because the project built does not produce the flow of revenue and is a service to the community, the rewards given to state sukuk investors come from the performance of the infrastructure. The government can pay *Ujrah* from other sources, such as Tax or PNBP (Non-Tax State Revenue) (Eri Hariyanto, 2016).

The PBS series SBSN is divided into two types—first, the type of underlying sukuk project. Underlying assets are generally selected for projects financed with pure rupiah derived from tax revenue and are used for physical development (generally classified in the type of capital expenditure). Generally, the project concerned is carried out in advance with a source of pure rupiah funds. After the sukuk is issued, the fund results from the issuance are used as a substitute for the pure rupiah, with the term issued (proceeds) used to replace the funds that have been spent (revolving) (Eri Hariyanto, 2016).

The second type of SBSN PBS is the Sukuk Financing Project. This type of state sukuk is used for infrastructure projects financed through the issuance of the state sukuk proposed by the ministry or institution. It is called the process of proposing the project following the APBN mechanism, namely through Bappenas (National Development Planning Agency) and proposed by the Ministry of Finance and then proposed in the APBN Law. After the project is listed in the APBN document, the infrastructure project can be financed through the issuance of the State Sukuk. In the Sukuk Financing Project (PFS), the source of project financing is only the State Sukuk

(Earmarked), in contrast to the Underlying Asset Sukuk, which uses (Revolving) (Eri Hariyanto, 2016).

3. Features and Schemes of SBSN Transactions *Ijarah* Assets to be Leased

a. Feature

The *Ijarah* Asset to Be Leased structure has excellent features under the preferences of the publisher and investor. These advantages include coupons or fixed rewards (fixed) or floating (floating), tradable, medium-term, or long-term, and issued at premium prices, at par, or discounts. In addition, the structure also has a simple transaction flow to provide the efficiency of the legal document publishing used by the government. (DJPPR, Ministry of Finance of the Republic of Indonesia, Sukuk Negara, 2015).

b. Issuing

The government, as the originator, makes an order to the SBSN Publisher (SPV) company for assets with certain specifications to be rented through the *Ijarah* Asset to Be Leased (*Ijarah* Object) contract. The object of *ijarah* is also the basis for issuing the state sukuk (underlying assets). It consists of two types: the project to be built and tangible assets that can be part of the project that is already in the form of state property in the form of land or buildings. Based on the order and in the framework of the *Ijarah* Object Provider, SPV gives the government's authority (representative) through the *Wakalah* contract. In this position, the published sukuk presents investor ownership of SBSN assets in the form of assets that will be used as an object of *ijarah*, both existing (BMN or project section that has been realized), or there will be (project), (DJPPR, Ministry of Finance of the Republic of Indonesia, Sukuk Country, 2015)

c. Return

Based on the SBSN asset rental, the government as a tenant will pay periodic leases (*Ujrah*) to investors through paying agents, namely Bank Indonesia. The rent is a coupon or reward investors receive until the due period. Sukuk Negara then presents ownership of SBSN assets that are being rented to the government (DJPPR, Ministry of Finance of the Republic of Indonesia, Sukuk Negara, 2015)

d. Due Date

At the due date, through *Ba'i*, the government will buy back BMN assets from investors at previously agreed prices. The purchase is based

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on the promise of purchase (purchase undertaking) by the government and the Sale Undertaking promise by SPV. The purchase price of SBSN assets is equivalent to the nominal value of the state sukuk. The payment fund for the purchase will then be paid to investors as the repayment of Sukuk (DJPPR, Ministry of Finance of the Republic of Indonesia, Sukuk Negara, 2015)

RESEARCH METHOD

This research is a study that uses qualitative research. The data used is not in the form of numbers, but the data is sourced from or obtained through interviews, field notes, personal notes, and other official documents. *Qualitative research* is a study that intends to understand the phenomenon of what is experienced by the research subjects, such as behavior, perceptions, motivations, actions, etc., holistically and with a certain natural context that is natural and by utilizing various natural methods, (Lexy J. Moleong, 2015).

Creswell stated that qualitative research methods are an approach or search to explore and understand a main symptom. To understand these main symptoms, researchers interview research participants or participants by asking common and rather broad questions (Creswell. W. John, 2018). Qualitative research has characteristics: (a) data sources are obtained from natural flat, (b) researchers are key instruments, (c) very descriptive reports, (d) inductive analysis, (e) data verification is carried out through triangulation, (f) participant carried out parallel to the researcher, (g) the sample is purposive, and (h) the research design develops in the field, (W. Mantja, Ethnography, 2005) following the type and approach of research that researchers do, in obtaining data as much as possible and in-depth during the activity Research in the field needs to be done, (Lexy J. Moleong, 2000).

Data sources are subjects from which data is obtained (Suharsimi Arikunto, 2002). The acquisition of data sources must be obtained appropriately if the data source needs to be more appropriate, resulting in the data collected is irrelevant to the problem under study. The research data source in this study is divided into two types, namely primary and secondary data sources. Primary data sources are data obtained directly from the field (S. Nasution, 1988)

Data collection techniques or relevant, accurate, and reliable materials aimed at creating research results that are under the research objectives of data collection, researchers use the following techniques in-depth interviews, namely data collection methods used to obtain information directly from the source, (Rachmat Kriyantono, 2020). As information

seekers, researchers make direct contact or face-to-face with information sources (Lexy J. Moleong, 2000).

Observation is a data collection method defined as an activity directly observing without a mediator according to the object to closely observe the activities carried out by the object (Rachmat Kriyantono, 2020). Documentation, namely data collection techniques documentation that aims to explore data in the past systematically and objectively. (Rachmat Kriyantono, 2020), Data functions derived from the documentation are more widely used as supporting and complementary data to primary data obtained from the results of in-depth interviews (Basrowi & Suwandi, 2008). As a complementary material, some information is needed, including geographical location, history of its establishment, organizational structure, facilities, and infrastructure at UIN Sayyid Ali Rahmatullah Tulungagung, Tulungagung.

Data Analysis Techniques Efforts to find and record systematically the results of interviews, observations, and documentation to sharpen researchers regarding the problems studied and present as findings to others (Noeng Muhajir, 1998). Then the data that has been collected is analyzed into several types. First, use description analysis, namely by presenting data systematically and logically in every aspect under study. Second, analyze data carried out inductively with interactive models, which include the stage of data collection, stage of data reduction, data presentation phase, and drawing stages of conclusions (MB. Miles and Huberman, 1972)

DISCUSSION

A. *Ijarah* Asset to Be Leased Structure in SBSN Project Based Sukuk (PBS)

In issuing SBSN for infrastructure development financing, the government contributed by issuing Project Based Sukuk (PBS). SBSN with the PBS series is a state sukuk published in the context of project financing, in domestic securities in the primary market, with a fixed reward level, and can be traded. In the Project Based Sukuk (PBS) using the *Ijarah* Asset to Be Leased structure that uses underlying assets in the form of government projects in the APBN, this refers to the DSN MUI Fatwa Number 76/DSN-MUI/VI/2011 related to SBSN *Ijarah* Asset to Be Leased. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

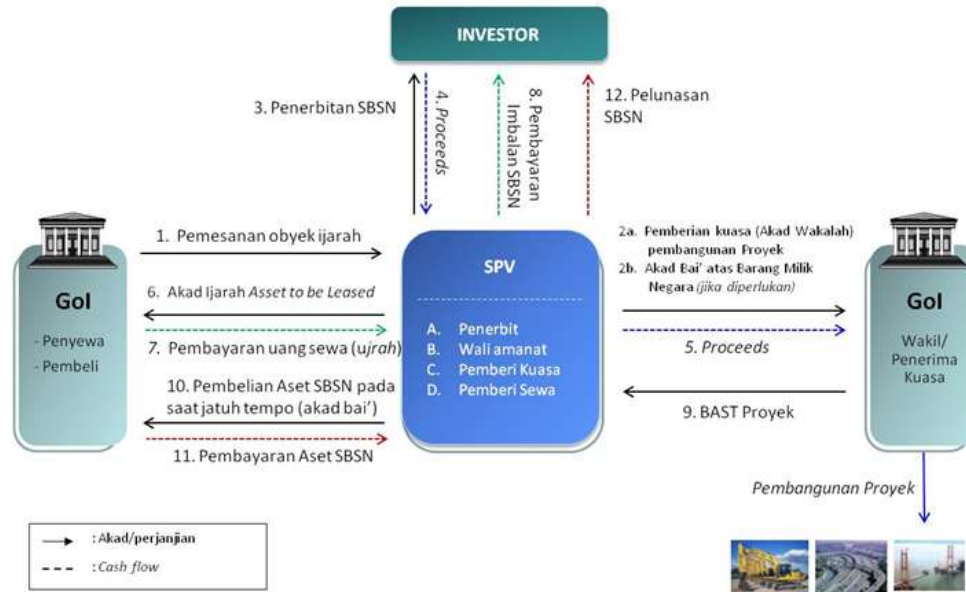
Financing with state sukuk will encourage the management of infrastructure projects to become more orderly and better in planning, implementing, and withdrawing funds as planned. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam) In the use of the Sukuk State of the PBS (Project Based Sukuk) Series using the *Ijarah* Asset to Be Leased agreement, in

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this contract a structure was made that allows the government to rent assets (infrastructure projects) that will be realized in the future (according to the construction period). However, the government can pay the project lease from the start of the construction period. Sukuk Investors (Sukuk Holders) will receive rewards from the agreed rental value. Because it uses the *ijarah* contract (rent), investors' rewards are fixed (fixed return). Rental

rewards are also called *Ujrah*. The built project does not produce a flow of revenue and is a service to the community. The rewards provided to the state sukuk investor only originate from the performance of the infrastructure. However, the government pays *Ujrah* from other sources of revenue, for example, taxes or PNBP. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

Figure 1. SBSN Ijarah Asset to be Leased Structure (Ministry of Finance, 2018)



Source: Directorate of Sharia Financing DJPPR (Directorate General of Financing and Risk Management) Structure Information in SBSN Issuing. (Sharia Investment Through State Sharia Securities (Sukuk Negara, 2017)

B. Contract in the State Sharia Securities (SBSN) PBS

In the current era of SBSN, PBS (Project Based Sukuk) is one of the most modern sukuk products. In contrast, this product uses the *Al-Ijarah* contract, with the structure of *Ijarah Asset to be Leased (Ijarah Al Maustaat Al Mau'ud Bisti'jariha)*. The definition of IMMB following the fatwa DSN-MUI Number 76/DSN-MUI/VI/2010 is the *Ijarah* Agreement whose object has been determined, and some of the objects of *ijarah* already existed when the contract was carried out, but for the surrender of the *Ijarah* object was carried out in the future. The contract that underlies the SBSN PBS is only the *ijarah* contract. In terms of implementing SBSN PBS, several contract processes must be met and require the role of several parties who run the contract between the contract must be carried out the *Al-Bai* contract (buying and selling), *Wakalah* (Representative), *Ijarah* (Rent). There is an agreement for sale and buy back. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

C. Procedure for Implementing Project Based Sukuk Products (PBS)

In the procedure for implementing SBSN PBS, investors if they want to buy the product issued by SPV (Special Purpose Vehicle) and assisted by the Directorate of Sharia Financing must follow the procedures of the government including namely

- 1) Special Purpose Vehicle (SPV), which as the party that issued the state sukuk, will announce a week before that next week (usually on Tuesday) will issue sukuk and sell it in the auction that can only be followed by bidders (agents). Auction time is open from 10 to 12 am on the same day;
- 2) Investors attend the auction participants (agents) to buy PBS Sukuk through the auction method. Some investors buy PBS Sukuk directly from the Directorate of Sharia Financing (Government Work Unit that helps SPV in the issuance of Sukuk) with a private placement method;

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- 3) Investors provide a copy of a self-identity card or KTP, be it a company representative if investors are in the form of a company or individual if personal investors.
- 4) The clerk directs the investor to fill out the Sukuk booking form online with the choice of Sukuk PBS;
- 5) Investors negotiate with bidders for prices offered to the State Sukuk Publisher (SPV assisted by the Directorate of Sharia Financing).
- 6) After that, investors receive regular rewards every 6 (six) months, which will be transferred directly by Bank Indonesia into the investor account.

D. Objects in Underlying Assets in Publishing SBSN PBS (Project Based Sukuk)

The object here is an asset needed in issuing SBSN PBS whose ownership is not from waqf or assets in the case of a dispute. Objects or assets are categorized as State Property (BMN) and are government projects and have been determined in the State Budget (APBN). Underlying assets in the form of BMN are used in issuing SBSN on condition that they are clean, free from ownership disputes, and have complete documents (proof of ownership in the form of certificates). These requirements encourage ministries or institutions to provide complete files for administration on the assets owned. The use of BMN encourages the Ministry of Finance to reassess state assets so that the country's assets exist. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

The project mechanism using the SBSN PBS project is first funded by state revenues sourced from taxes or commonly called pure rupiah. If the SBSN PBS has been issued, funds generated from its issuance will replace those sourced from the tax. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

E. In Return for the Structure of *Ijarah* Asset to be Leased using Underlying Assets on SBSN Project Based Sukuk (PBS)

Ujrah is a reward submitted instead of the benefits of the contract object used as a service reply. Ujrah is a reward given to those who need the benefits of *ijarah* objects of *ijarah* to those who have the object. In the SBSN PBS Instrument, Ujrah was handed over to the tenant government through Bank Indonesia as an agent to the investor in the form of cash whose payment was made through transfer into an investor account. Ujrah was handed over to the government to investors as many as the number of endeavors, and Ujrah belongs to investors every month but will be transferred every six months.

(SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Khoirul Anam)

Ujrah must be known by those who contract in terms of their nature and type. In SBSN PBS, the Ujrah is in the form of a rupiah in an exact amount and is known by parties who come from pure rupiah. (Widyaiswara Main Expert, Budget Training Center, and Treasure, Ministry of Finance of the Republic of Indonesia Mr. Achmad Subekan). In IMMB (*Ijarah Al Maucuat Al Mau'ud Bisti'jariha*), Ujrah is given by the tenant to the leaser, the same number, both before the object of the *ijarah* is handed over to the tenant or afterward. *Ijarah* objects will be utilized if this object has been submitted as a whole, but for payment of history, it must be paid in installments since the contract is carried out. The Ujrah total value is the same as the utilization price, but then from the Ujrah total price is divided as much as the number of months since the sukuk issuance to the maturity of the Sukuk PBS. This division is the monthly Ujrah paid to Mu'jir without distinguishing when the *Ijarah* object has been handed over. (SBSN UIN Development Team Sayyid Ali Rahmatullah Mr. Mashudi)

In the case of development financing sourced from SBSN, the Satker (Work Unit) receives some funds in how many billion, then it will be approved. Then the construction can be carried out, and after completion, the building will be handed over, after which it can be utilized.

CLOSING

Conclusion

Based on the research and discussion that has been conducted by the author in the previous chapters, the authors conclude as follows.

1. The use of the *Ijarah* Asset to Be Leased structure using underlying assets at SBSN PBS finances development at UIN Sayyid Ali Rahmatullah Tulungagung in issuing SBSN for financing infrastructure development, the government contributes by issuing Project Based Sukuk (PBS). SBSN with the PBS series is a state sukuk published in the context of project financing, in domestic securities in the primary market, with a fixed reward level, and can be traded. In the Sukuk Project Based (PBS) using the *Ijarah* Asset to Be Leased structure that uses underlying assets in the form of government projects in the APBN, this refers to the DSN MUI Fatwa Number 76/DSN-MUI/VI/2011 related to SBSN *Ijarah* Asset to Be Leased.

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