

Law No. 33-06 on the securitisation of receivables

Reference: Dahir No. 1-08-95 of 20 Chaoual 1429 (20 October 2008) promulgating Law No. 33-06 on the securitisation of receivables, as amended and supplemented in particular by Laws No. 119-12 and No. 69-17

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Practice areas: Business law, Commercial law and debt recovery

Law 33-06 allows an originator to assign receivables to a securitisation mutual fund (FPCT), which finances the acquisition by issuing securities. It has been extended to sukuk certificates and organises the protection of securities holders and supervision by the AMMC.

Mechanism

- A securitisation mutual fund, which has no legal personality, acquires present or future receivables and issues securities representing them.
- The receivables are assigned simply by delivery of a transfer slip (bordereau), which makes the assignment enforceable against third parties without any further formality.
- A management company and a custodian are appointed for each fund.

Protection of holders and sukuk

- The fund's assets are allocated exclusively to paying the securities holders; they are shielded from proceedings brought against the originator.
- The law has been extended to sukuk certificates, which must comply with the opinions of the Higher Council of Ulema.
- The AMMC approves the information document and supervises the transactions.

Points to watch

- The quality of the transaction depends first and foremost on the quality of the receivables assigned: auditing the portfolio is decisive.
- Assignment by transfer slip is enforceable without formal notice, but the assigned debtors must be informed in the manner agreed.
- Sukuk structures require a prior conformity opinion, which must be factored into the transaction timetable.

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