

**Shariah Pronouncement of the Shariah Committee
of Bursa Malaysia Islamic Services Sdn Bhd**

In the Name of Allah, the Most Gracious the Most Merciful

11th Sya`ban 1445H – 21st February 2024

Subject: Renewable Energy Certificates (“RECs”)

All praise is due to Allah, prayers and peace be upon the last Prophet Muhammad, and be upon his relatives and all his companions,

On the 9th December 2022, Bursa Carbon Exchange (“**BCX**”) was launched as the world’s first Shariah compliant carbon exchange. The BCX trading platform went live on 25th September 2023, trading high quality carbon credits that are from projects registered with Verra. Bursa Malaysia has also received feedback from Malaysian corporates requesting for BCX to consider offering Renewable Energy Certificates (“**RECs**”) as another environmental product.

A **REC** represents the environmental attribute of the generation of a one-megawatt hour (“**MWh**”) of energy produced by renewable energy (“**RE**”). Used to promote and track the production and consumption of RE, RECs play a crucial role in the global effort to transition from fossil fuels to renewable energy, which are more sustainable energy sources.

The Committee has presented with the followings:

- Description of RECs
- Types of RECs
- RECs Registries, Standards and Operator
- REC operating model on BCX

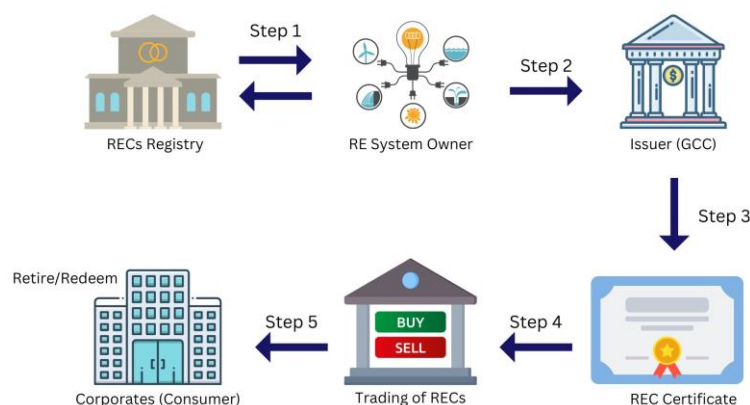


Figure 1: Representation of Key Process Flows in RECs

The following is arrangement on how the RECs system work:

- **Step 1:** RE system owner will register their system with a RECs registry and examples of these RE systems include solar PV, hydropower and bioenergy. Once the RE is generated, the RE system owner must submit the proof of generation to the authorised issuer for verification.
- **Step 2:** The issuer will then verify the proof of generation submitted by the RE system owner through evidence such as meter reading or invoiced bills. Once the generated renewable electricity has been verified, it will be recorded in the operator platform.
- **Step 3:** The RE system owner will be issued RECs for trading purposes. The RECs will be recorded as owned by the RE system owner under the RECs registry.
- **Step 4:** Once the RECs are issued, they can be traded in both primary and secondary markets. BCX can be one such platforms for corporates to trade their unbundled RECs. The benefits of BCX include opportunities for price discovery and transparency for unbundled RECs, and lower trading fee offered by BCX compared to brokers' fee.
- **Step 5:** Once the RECs are sold and ready to be used by corporates to reduce their Scope 2 GHG emissions, they will 'redeem' the RECs. RECs that have been redeemed will not be available for circulation for trading. This is to prevent double counting of RECs in the market.

The following diagram presents a high level trading process in BCX (Figure 2). The BCX platform will manage RECs in similar mode with carbon credits. Key features include:

1. BCX provides three (3) modes of trading: auction, continuous trading and facilitation of off-market transactions.
2. Unit¹ admission application can be submitted by seller or supplier prior to application form submission and participation approval by BCX.
3. Units are admitted to standardized contracts in BCX and each contract comes with its own specification.
4. Omnibus Account is an account manages by Bursa Malaysia Carbon Market Nominees Sdn Bhd that holds the participants' units and cash in custody for trading in BCX.
5. Once there is a match between buyer and seller, settlement is instantaneous.

¹ Refers to either carbon credits or RECs.

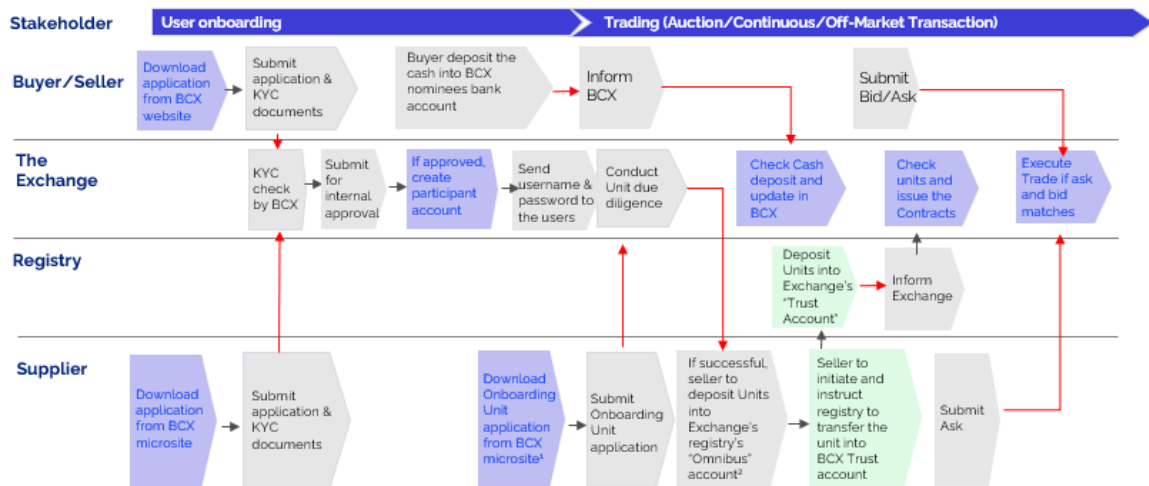


Figure 2: BCX: High Level Trading Process

Based on the nature and the process of issuing RECs, RECs which is a representation of RE generated from a verified RE project and are used by corporations to reduce their GHG emission from their electricity consumption (Scope 2) resulting from business activities.

From a legal perspective, RECs appear to fulfil all elements of the definition of "property" under common law principles as:

1. there is a certificate with a unique serial number and is therefore definable;
2. it is identifiable by third parties as it is recorded on a registry;
3. it is capable of assumption by third parties given that it is tradeable, subject to the rules of the relevant registry; and
4. it has permanence and stability since it continues to exist on the registry until it is retired or redeemed.

Therefore, BCX has taken the view that RECs are likely to be regarded as a form of "property". More specifically, it will likely be regarded as "intangible property" on the basis that the certificates issued on the relevant registries (i.e. Evident I-REC(E) Registry) are digital in nature, with the holder of such "intangible property" being entitled to the relevant rights and subject to the obligations which are prescribed under the rules of the relevant registries. The Evident I-REC(E) Registry is not specific as to the legal form of the RECs as a broad terminology is used.

In that regard, from Shariah perspective, RECs should be considered as intangible assets (*Usul Ma'nawiyah*). The Committee then considered the elements for a property or an asset to be recognised in Shariah. The four elements of an asset that can be recognised in Shariah areas follows:

1. **The asset (whether an item, benefits or rights) must have an attached value² –**
كل عين ، أو حق له قيمة مادية

² Ali Muhyiddin Al-Qaradaghi, *Muqadimat fi al-Mal wa al-Mulkiah wa al-Aqad Dirasat Fiqhiah Qanuniah Iqtisadiyah*, 2010, page 24.

The concept of RECs emerged in response to the growing awareness of climate change and the need to reduce GHG emissions. RECs offer various advantages, including reducing GHG emissions from electricity consumption (Scope 2) for organisations, fostering renewable energy development, and providing revenue streams for renewable energy projects.

The certificate is tradable from electricity producers to consumers, and this helps to create an additional revenue source that bolsters RE generation and development. The accounting system of RECs facilitates transparent trading and cancellation of units by certifying the production of an MWh of electricity and its specific characteristics, including how, where, and when it was generated. Consequently, it allows organisations to make reliable claims about their energy usage.

Similar concept can be deduced from Mufti Taqi Usmani when he commented on the issue of trade license and trademarks in government registries as contemporary assets with value and can be traded³:

“Like electric power or gas, which in previous times was not counted as valuables and valuable objects, because it is not a self-existing thing, and its attainment was not within human capacity, but it is now become one of the dearest and most valuable assets that there is no doubt about the permissibility of buying and selling it, for its huge benefit, and the possibility of acquiring it, and it is known to people for its worth and its value.

Likewise, the trade name or trademark has become very valuable with government registration in the business custom, and it is certified that it is achieved by obtaining its written testimony before the government. The reality in this license is that it is not a physical asset, but rather it is the right to sell the goods in abroad or buying it from them, so what we have mentioned in the trade name is that this right is authentically established.

It is permissible to exchange it with money, and since obtaining this license from the government requires both efforts, time and money, and gives its holder a legal status represented by written certificates and the facilities provided by the government to their holders are deserved by the traders, and this license has become in the business custom the same great value with which to follow the path of other valuables, so it is not unlikely that it will join the physical assets in the permissibility of selling and buying it.”

2. The asset must prove to be beneficial according to prevalent customs⁴ –

منفعة حسب العرف السائد

Similar to carbon credits, there are two types of RECs markets, the compliance and the voluntary markets. Compliance markets drive an increased demand for RECs from large-scale utilities to fulfil mandatory requirements. Simultaneously, there is a growing demand for RECs in the voluntary market from renewable electricity consumers aiming to achieve RE targets, such as companies participating in the RE100 initiative.

³ Taqi Usmani, *Buhuth fi Qadaya Fiqhiyyah Al-Mu’asoroh - Bai’ al-Huquq al-Mujarradah*, page 120.

⁴ Ali Muhyiddin Al-Qaradaghi, *Muqadimat fi al-Mal wa al-Mulkiah wa al-Aqad Dirasat Fiqhiah Qanuniah Iqtisadiyah*, 2010, page 24.

Malaysia's government has been actively promoting renewable energy adoption through various policies and initiatives. This supportive regulatory framework encourages corporations to invest in clean energy and, consequently, boosts the market for RECs as a means of meeting sustainability targets.

In summary, there are three (3) major benefits of RECs offering by BCX:

- i. Supports the national agenda of energy transition which has an aspiration to achieve 70% of installed renewable energy in the power mix by 2050. This is achieved via improving the financial viability of marginal renewable energy projects through the additional revenue received from sales of RECs;
- ii. Provide an avenue for corporates to purchase unbundled RECs to reduce their Scope 2 GHG emissions and enhance their ESG portfolio; and
- iii. Provide a platform that promotes price discovery and transparency of different types of RECs offered by BCX.

3. The asset must be able to be owned and controlled by a party⁵ - تحقق الحيازة

While control and regulation of RECs vary across regions, within the Asia-Pacific region, there are two dominant RECs registry: Evident Registry (I-REC(E)) and TIGR⁶ Registry. The I-REC(E) represents the International REC Standard Foundation which has developed standard for renewable energy certificate and the registry for I-REC(E) is operated by Evident. Both Evident Registry (I-REC(E)) and TIGR Registry provide a fully auditable chain of custody record to support the trading of RECs, enabling the unique identification of ownership by end-users.

4. The asset must be allowed to be utilized by the Shariah⁷ - إباحة الانتفاع به شرعاً

RECs do not fall under the categories of Shariah-prohibited assets both as *Haram Lizatihi* (prohibited in essence) or *Haram Lighairihi* (prohibited based on external factors), hence are considered Shariah-recognized assets.

The Committee are of the opinion based on the legal and Shariah considerations that RECs is to be considered as an **asset recognised by Shariah**. RECs hold immense significance for the companies striving to demonstrate environmental responsibility and meet sustainability targets without directly investing in renewable energy infrastructure.

Simultaneously, RECs hold substantial monetary value for renewable energy generators i.e solar farm owners whereby they could sell the RECs as separate property on the platform, thereby monetising their green energy production and providing an additional revenue stream that further incentivises the expansion of renewable energy projects globally.

⁵ Ali Muhyiddin Al-Qaradaghi, *Muqadimat fi al-Mal wa al-Mulkiah wa al-Aqad Dirasat Fiqhiah Qanuniah Iqtisadiyah*, 2010, page 52.

⁶ Tradable Instrument for Global Renewables.

⁷ Ali Muhyiddin Al-Qaradaghi, *Muqadimat fi al-Mal wa al-Mulkiah wa al-Aqad Dirasat Fiqhiah Qanuniah Iqtisadiyah*, 2010, page 52.

RECs will also be tradeable in the primary and secondary market which will involve the trading of RECs between different entities. Upon the sale of RECs and their availability for corporate use in mitigating Scope 2 GHG emissions, corporations will 'redeem' these certificates which will subsequently enhance their environmental stewardship through the integration of renewable energy into their operations.

Considering the legal opinion of RECs as intangible asset or intangible property due to its digital nature, it can also be recognised in Shariah based on both the International Islamic Fiqh Academy - Organization of Islamic Cooperation (“**IFA-OIC**”) and the Accounting and Auditing Organization for Islamic Financial Institutions (“**AAOIFI**”) which have considered intangible assets as real property:

“Business name, corporate name, trademark, literary production, invention or discovery, are rights belonging to their holders and have in contemporary times, financial value which can be traded. These rights are recognized by Shariah and should not be infringed⁸.”

AAOIFI emphasised on the IFA-OIC resolution by adopting word by word the IFA-OIC Resolution in defining intangible assets.⁹

The Committee hopes that the establishment of the RECs trading will assist various stakeholders in their sustainability objectives by incentivising the adoption of renewable energy sources and facilitating the transition towards a greener, more environmentally responsible future. This initiative also aims to encourage broad engagement in renewable energy endeavours, aligning with Bursa Malaysia's aspiration to evolve into a regional multi-asset exchange. Aside from that, the inclusion of RECs in the platform will actively contributes to the collective global objective in combating climate change and nurturing a more sustainable ecosystem for generations to come.

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

“Calamities have appeared on land and sea because of what the hands of the people have earned, so that He (Allah) makes them taste some of what they did, in order that they may return (to the right way)¹⁰.”

The Committee has reviewed the trading mechanism, legal documentations and Shariah issues of the RECs. We, the members of Shariah Committee of Bursa Malaysia Islamic Services Sdn. Bhd., to the best of our knowledge, do hereby confirm that it is compliant with Shariah principles.

And prayers and peace be upon the last Prophet Muhammad and be upon his relatives and all his companions.

⁸ IFA-OIC Resolution No. 43 (5/5).

⁹ AAOIFI Shari'ah Standards, 2017, Shari'ah Standards No. (42): Financial Rights and How They are Exercised and Transferred, page 1054.

¹⁰ Surah Ar-Rum: 41.