



# Emphasizing Shariah's Prohibition on *Riba*: A Commentary on the Article '*Are Interest or Coupons in Singapore Government Savings Bond Considered Riba*<sup>1</sup>'

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## SYNOPSIS

This commentary on Ustaz Kamal Mokhtar's article on the ruling of Singapore Government Savings Bonds ("SSB") serves to raise awareness amongst Singaporean *asatizah*<sup>2</sup> and the general public on the topic of *Fiqh Muamalat* as well as providing them with the essential understanding of Shariah rulings on interest earnings pertaining to SSB and any conventional government securities. The commentary will outline Ustaz Kamal's arguments and critically analyse them in the light of Shariah principles and the soundness of its analogy.

## Prelude

The introduction of Shariah law and principles in the modern financial and economic world is relatively new in certain societies (whilst more established in others) of a very diverse community of Muslims globally. Historically, there have been active discussions amongst Shariah scholars, academics, economists, policymakers and practitioners on various topics and challenges to the upholding of Shariah principles in the modern financial and economic world. All these synergies of discussions led to the establishment of internationally recognised Shariah standards which offer necessary guidance on Islamic economics and finance, namely, the International Islamic Fiqh Academy<sup>3</sup> guidelines, the Accounting & Auditing Organization for

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<sup>1</sup> Kamal Mokhtar. *Are Interest or Coupons in Singapore Government Savings Bond (SGSS) Considered Riba?*, <https://blog.pergas.org.sg/wasat/are-interest-or-coupons-in-singapore-government-savings-bond-sgss-considered-riba/>, 31 July 2019. Accessed 01 August 2019.

<sup>2</sup> Islamic religious teachers

<sup>3</sup> The Council of the International Islamic Fiqh Academy of the Organisation of Islamic Cooperation is an international organization that brings together Shariah scholars and thinkers in various fields of knowledge (i.e. jurisprudence, civilization, science, economics) from all over the Islamic world to study contemporary problems and provide effective solutions from the Islamic tradition and principles. See <http://www.iifa-aifi.org/>

Islamic Financial Institutions (“AAOIFI”)<sup>4</sup> Standards, and the Islamic Financial Services Board (“IFSB”)<sup>5</sup> Standards. These institutions play a significant role in ensuring Shariah authenticity and providing Shariah parameters, governance and oversight for Islamic finance to operate in the modern economic and financial world.

Hence, in any assessment of financial products with respect to Shariah compliance, it would be intuitive to refer to their existing standards. Likewise, in any practice of *ijtihad* (legal reasoning), all existing international standards, *fatawa* (expert legal opinions), deliberations should be examined thoroughly and considered before giving one’s own opinion publicly. This has been effective in preventing the spread of misinformation and misinterpretation of relevant sources from the Qur’an and Sunnah<sup>6</sup>. Practically, this will also, in the long-run, actuate Shariah harmonisation, while maintaining local autonomy (based on the concept of *urf*).

AAOIFI standards No. (21), titled ‘Financial Paper (Shares and Bonds)’ provides detailed accounts on Shariah requirements on financial papers. In relation to government bonds, it states under *Item 4: Rules for Issuance of Bonds*:<sup>7</sup>

*“The issuance of **all kinds of bonds is prohibited** when these bonds include stipulations for the return of the amount of loan and excess in any form, whether such excess is paid at the time of the satisfaction of the principal amount of loan, is paid in monthly or yearly instalments or in another manner and whether this excess represents a percentage of the value of the bond, as is the case with most types of bonds, or a part of it, as is the case with zero-coupon bonds. Likewise, prize bonds are also prohibited. This applies irrespective of the bonds **being private, public or governmental**”.*

Under *Item 6: Shariah Substitute for Bonds*, a Shariah-compliant version is mentioned:

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<sup>4</sup> AAOIFI is an Islamic international autonomous non-profit corporate body that prepares accounting, auditing, governance, ethics and Shariah standards for Islamic financial institutions, participants and the overall industry. See <http://aaoifi.com/>

<sup>5</sup> IFSB is an international standard-setting organisation that promotes and enhances the soundness and stability of the Islamic financial services industry by issuing global prudential standards and guiding principles for the industry, broadly defined to include banking, capital markets and insurance sectors. The IFSB also conducts research and coordinates initiatives on industry-related issues, and organises roundtables, seminars and conferences for regulators and industry stakeholders. See <http://www.ifsb.org>

<sup>6</sup> To make a distinction here: Sunnah refers to both the practice and sayings of the Prophet ﷺ while Hadith only refers to the Messenger’s sayings recorded verbatim.

<sup>7</sup> AAOIFI standards No. (21), titled ‘Financial Paper (Shares and Bond)’. Retrieved 4 August 2019, from <http://aaoifi.com/shariaa-standards/?lang=en>

*“The Shariah substitute for bonds are investment Sukuk<sup>8</sup>”.*

Similarly, International Islamic Fiqh Academy resolution No. 60 (6/11)[1] reiterates the prohibition of *riba* in bonds due to its interest payments, regardless if they are government-issued or otherwise:<sup>9</sup>

*“Any bond that represents an obligation to pay a principal amount along with an interest payment or stipulated beneficial conditions is prohibited from being issued, purchased, or traded in Shariah, this is because it is an interest-based loan whether the issuer is private, publicly-linked or the state”.*<sup>10</sup>

In today’s modern world, bonds can be called anything, but this does not change its nature. International Islamic Fiqh Academy further states in the same resolution that “*It (i.e. bonds) does not have the effect of calling them ‘certificates’ or ‘investment’ or ‘savings instruments’ or naming ‘interest’ that is committed to ‘profit’ or ‘rent’ or ‘commission or ‘return’*”.<sup>11</sup>

Such established aforementioned opinion is held by a vast majority of Shariah scholars, such as Sheikh Mustafa al-Zarqa<sup>12</sup>, Dr. Yusuf al-Qardawi<sup>13</sup>, Dr. Abdul Aziz Izzat al-Khayyat<sup>14</sup>, Dr. Ali Ahmed al-Salous<sup>15</sup>, Sheikh Muhammad Uthman Shubair<sup>16</sup>, Dr. Wahbah al-Zuhayli<sup>17</sup>, Dr. Ali al-Quradaghi<sup>18</sup>, Dr. Salleh bin Zabin al-Marzuki<sup>19</sup>, Sheikh Abd al-Majid Salim (previous

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<sup>8</sup> Investment Sukuk are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct an services or (in the ownership of) the assets of particular projects or special investment activity. (AAOIFI standard No. 17)

<sup>9</sup> See The Council of the International Islamic Fiqh Academy resolution No. 60 (6/11)[1]. Retrieved 4 August 2019, from <http://www.iifa-aifi.org/1813.html>

<sup>10</sup> إن السندات التي تمثل التزاماً بدفع مبلغها مع فائدة منسوبة إليه أو نفع مشروط محرمة شرعاً من حيث الإصدار أو الشراء أو التداول، لأنها قروض ربوية سواء أكانت الجهة المصدرة لها خاصة أو عامة ترتبط بالدولة.

<sup>11</sup> ولا أثر لتسميتها شهادات أو صكوكاً استثمارية أو ادخارية أو تسمية الفائدة الربوية الملتزم بها ربحاً أو ربحاً أو عمولة أو عائداً.

<sup>12</sup> *Fatawa Mustafa al-Zarqa*, Pg. 590

<sup>13</sup> *Fiqhul Zakah*, Vol.1, Pg. 526

<sup>14</sup> *As Syarikat Fi As Shariah al Islamiyyah wal Qanun al Wad’i* Vol.2, Pg. 227

<sup>15</sup> *Al Iqtisad al Islami wal Qadaya al Fiqhiyyah al Mu’asirah*, Vol. 2, Pg. 583

<sup>16</sup> *Al Muamalat al Maaliyyah al Mu’aasirah*, Pg. 179

<sup>17</sup> *Majallah Majma’ al Fiqh al Islami*, issue 6, Vol. 2, Pg. 1322

<sup>18</sup> *Majallah Majma’ al Fiqh al Islami*, issue 7, Vol. 1, Pg. 133

<sup>19</sup> *Syarikah al Musahamah fi Nizam al Sa’udi*, Pg. 396

Sheikh of Azhar)<sup>20</sup>, Dr. Nazih Hammad<sup>21</sup>, Dr. Mubarak Sulaiman Al Sulaiman<sup>22</sup>, Dr. Ahmad bin Muhammad al-Khalil<sup>23</sup>, Dr. Sami Hasan Homoud.<sup>24</sup>

Moreover, Shariah scholars consensually agreed (*ijma'*) that *riba* which originated from debt-based transaction is prohibited.<sup>25</sup> Nonetheless, *riba* is a broad concept in Islamic economics and finance that requires adequate guidance, and in this paper, we shall provide the essential Shariah rulings pertaining to *riba* that originated from debt-based transactions.<sup>26</sup>

### EMPHASIZING SHARIAH PROHIBITION ON *RIBA*

Islam and other monotheistic religions (*viz* Judaism and Christianity) alike censure and prohibit usury (*riba*).<sup>27</sup> In Islam, the prohibition of *riba* is based on the Quran, the Sunnah<sup>28</sup>, and *ijma'*<sup>29</sup> (scholarly consensus). The Quran states:

"الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ۗ ذَٰلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا ۗ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا ۗ فَمَنْ جَاءَهُ مَوْعِظَةٌ مِّن رَّبِّهِ فَانْتَهَىٰ فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ ۗ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ ۗ هُمْ فِيهَا خَالِدُونَ" (2:275)

*“Those who take riba (usury or interest) will not stand but as stands the one whom the demon has driven crazy by his touch. That is because they have said: “Sale is but like riba”, while Allah has permitted sale, and prohibited riba. So, whoever receives an advice from his Lord and desists (from indulging in riba), then what has passed is allowed for him, and his matter is up to Allah. As for the*

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<sup>20</sup> *Majallah al Azhar*, eighth edition (1947)

<sup>21</sup> *Qadaya Fiqhiyyah Mu'asirah*, Pg. 208

<sup>22</sup> *Ahkam al Ta'amul fi Aswaq al Maaliyyah al Mu'asirah*, Vol. 1, Pg. 222

<sup>23</sup> *Al Ashum wa as Sanadat wa Ahkamuha*, Pg. 291

<sup>24</sup> *Majallah Majma' al Fiqh al Islami*, issue 7, Vol. 2, Pg. 1394

<sup>25</sup> *Jaami' li ahkam al-Quran li al-Qortubi*, Vol.3, Pg. 241.

<sup>26</sup> This paper focuses on *Riba al-Qard*. *Riba al-Buyu'* and its types will be excluded due to its irrelevance to our discussion.

<sup>27</sup> *Jaami' li ahkam al-Quran li al-Qortubi*, Vol.3, Pg. 366.

<sup>28</sup> Jabir (May Allah be pleased with him) reported that “Allah's Messenger (ﷺ) cursed the acceptor of interest and its payer, and one who records it, and the two witnesses, and he said: they are all equal” (Sahih Muslim 1958)

<sup>29</sup> Imam an-Nawawi, *al-Majmu'*, Vol.9, Pg. 387.

ones who revert back, those are the people of Fire. There, they will remain forever". (2:275)

"يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ (2:278) فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ" (2:279)

"O you who believe, fear Allah and give up what still remains of riba, if you are believers (2:278) But if you do not (give it up), then listen to the declaration of war from Allah and His Messenger. However, If you repent, yours is your principal. Neither wrong, nor be wronged" (2:279)

### **Are Riba and Interest Similar? (Definition of Riba and Interest)**

*Riba* is an Arabic word which means "increase" or "increment".<sup>30</sup> From the aforementioned Quranic verses, we observe that *riba* signifies an increment in a specific transaction which was common and known among Arabs and other nations at the time of revelation. This common transaction, according to Imam Tabari, was either a deferment of an existing due debt to a new maturity with an increase in the repayment amount or giving a loan that is due with an increment after a given period.<sup>31</sup> Verse 279 of Surah Baqarah implies that (i) *riba* is defined as any kind of increment above the principal of a debt or a loan; and (ii) it labels such increment as unjust. In addition, verse 275 of Surah Baqarah clarifies that profit, despite being an excess arising from a sale, is not *riba*.

In this instance, we define *riba* (interest), in regards to financial transactions<sup>32</sup>, "**as any contractual increment in a loan or debt due to the time element**".<sup>33</sup> Similarly, this is how in essence interest is defined both legally and financially, and thus any increment above the

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<sup>30</sup>Ibn Faaris, *Mu'jam maqayis al-lughah*. In Lisanul Arab, the root word of *riba* is "increase" while in the Hans Wehr Dictionary of Modern Written Arabic, *riba* is translated to mean interest, usury, to grow, to exceed, to raise, to rear, to bring up, to practise usury, etc.

<sup>31</sup>Jami' al-Bayan 'an Ayat al-Quran li Imam Tabari (Vol.3, Pg. 101) Ahkam al-Quran li Imam al-Jassas (Vol. 3, Pg. 184).

<sup>32</sup>We exclude from this definition Riba al *Buyu'* and its types because of its irrelevance to our discussion.

<sup>33</sup>Kahf, M. (2006, August). Maqasid al Shari'ah in the Prohibition of Riba and their Implications for Modern Islamic Finance. In *Presented Paper at IIUM International Conference on Maqasid Al-Shari'ah*.

principal of the debt is interest, and that is the “*riba*” that is prohibited according to the terminology of the Quran.

This *riba* which is originated from debt-based transaction can also be found in Singapore Savings Bonds (“SSB”)<sup>34</sup>. This is because, in essence, they are bonds or debt securities backed by the government. The contractual agreement between subscribers and the issuer mirrors the agreement between debtor and creditor.<sup>35</sup> Subscribers to SSB receive interest payments at regular intervals, in addition to the return on the principal amount upon maturity or upon redemption. The stipulated interest payments are fixed and this constitutes an increment over and above the principal amount. This contractual interest payment agreement constitutes the “*riba*” according to Quranic terminology as discussed above.<sup>36</sup>

### **Relooking at *Riba* (Interest) Prohibition**

Knowledge<sup>37</sup> of the methodology and rules of interpretation is essential to derive a proper understanding of the primary sources of Islam (ie. Quran and the Sunnah). Therefore, the methodology and rules which one uses to distinguish texts as speculative (*zhonni*) or definitive (*qat’i*), general (*‘aam*) or specific (*khaas*), literal (*haqiqi*) or metaphorical (*majazi*), how to comprehend the implications (*dalalat*) of a legal text etc. are among the matters which warrant our attention while relooking at *riba*. This is because an adequate grasp of the methodology of interpretation and its rulings will ensure the proper use of human reasoning and analogy (*qiyas*) in a legal system which originates from divine revelation, such as, how analogy should be constructed, what are its limits, and what authority would it command in conjunction, or in conflict, with other recognized legal evidence.

A careful study of *riba* verses in the Quran shows us that these verses are definitive (*qat’ii*) in their evidence of transmission (*thubut*) as well as in their meaning (*dilalah*)<sup>38</sup> without

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<sup>34</sup> Just like the T-Bills and Singapore SGS (collectively called “SGS Products”), SSB can be regarded as a treasury bond issued by the Singapore Government.

<sup>35</sup> *Government Securities Act - Singapore Statutes Online*. (2019). *Sso.agc.gov.sg*. Retrieved 19 August 2019, from <https://sso.agc.gov.sg/Act/GSA1992>

<sup>36</sup> The only increment over a loan that is allowed and *mustahab* (recommended) is when the debtor pays back its loan to the creditor with an extra amount (above its principal) that is not stipulated in the initial contract agreement. This is based on the Hadith “*The best amongst you is the one who pays the rights of others generously*” (Sunan an-Nasa’I, Hadith No. 4693).

<sup>37</sup> This knowledge is known as Usul Fiqh (Principles of Jurisprudence).

<sup>38</sup> Has only one meaning and admits no other interpretation, as previously discussed in the definition of *riba* in Quranic terminology.

specifying injunction to any effective cause/reason (*'illah*) for the prohibition. Moreover, the Quranic word of *'riba'* is absolute (*mutlaq*) that denotes a prohibition which neither qualified nor limited in its application.<sup>39</sup> Thus, the absolute nature of the prohibition of *'riba'* implies that 'any' increment to a loan, whether the loan is from relatives or strangers, for the rich or the poor, or with (or without) mutual agreement etc., is constituted as "*riba*". In addition, principles of jurisprudence (*usul fiqh*) dictate that any exceptions to the original ruling should be based upon definitive and sound evidence.<sup>40</sup> For example, the prohibition to consume carrion, blood, pork, and that upon which a name has been invoked other than Allah in verse 173 of Surah *al-Baqarah* is a definitive verse, however, exception is given for people who are in dire necessity, as the exemption is based on the same definitive degree as the original ruling.

For *riba*, there are no exceptions. In fact, the prohibition of *riba* is emphasised (in bold):

فَإِنْ لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ ۗ وَإِنْ تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

(2:279)

***“But if you do not (give it up), then listen to the declaration of war from Allah and His Messenger. However, if you repent, yours is your principal. Neither wrong, nor be wronged.”***

While FSAC<sup>41</sup> advocates *fiqh* dynamism so that religious scholars (*asatizah*) can re-evaluate and improve the learning of *fiqh* among Muslims in a holistic manner across all levels of society, one needs to understand which rulings based on *al-mutaghayyirat* (rulings that may adapt to change) that can be adapted to suit local context and which rulings based on *tsawabit* (fundamentals principles that are fixed) that must always be maintained and adhered to (*ta'abbud*). For example, the mandating of prayers and fasting, and the prohibition of *riba*, adultery, homosexuality and the consumption of alcohol, are fundamental principles which will not change according to the changes in time and/or place.

### **Not All Interest is *Riba*?**

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<sup>39</sup> For example, a 'book' or a 'pen' is a generic noun which applies to any book or pen without any restriction.

<sup>40</sup> Wahbah al-Zuhayli, *al-Usul al-Fiqh al-Islamiy*, Pg. 209 & 254.

<sup>41</sup> FSAC (Financial Shariah Advisory & Consultancy) is an advisory arm of PERGAS Investment Holdings and was established in 2008.

Ustaz Kamal's article, suggests that an increment in loans between lenders and the government (through the central bank or statutory bodies) is deemed permissible as the relationship between Central banks and SSB holders are unique when compared to the relationship between common debtors and creditors. Ustaz Kamal further argues that the unique relationship between a government and its people makes the hand that gives the loan, pays the interest amount, and receives the guaranteed principal with increment amounts to be of the same hand; hence it is permissible as long as there are no elements of fraud, injustice, or/and exploitation.

Furthermore, it is viewed that such interest is claimed to be permissible because the public and citizens are the ones who gave the loans to the government, hence when the government distributes interest on the loans received, they are in essence giving themselves the interest payments that come from one source of funds. Since the giving hand and the receiving hand are the same, these interest should be deemed permissible per his analysis.

Like the aforementioned opinion, there are may be other *asatizah* who do not see interest (or coupons) in SSB Products as *riba*. However, FSAC would like to state that such an opinion is *shaaz* (aberrant) and groundless and is not accepted by the vast majority of Islamic finance scholars and practitioners in Singapore and around the globe. The original ruling of an absolute text (prohibition of *riba*) shall remain unless those securities can be restructured in line with *muamalat* ruling (i.e. profit-loss-sharing arrangement<sup>42</sup>).

FSAC is aware of the article's quoted opinions of Shaykh Tantawi<sup>43</sup> and Sheikh Ali Jumu'ah, former Grand Mufti of Egypt, who respectively state that the monies placed in banks are not loans and that bank interests are not *riba*. However, such opinions are *shaaz* (aberrant) and holds no bearing in Shariah. Contemporary media has been a platform for scanty religious rulings to surface, among them include permitting interests as a necessity<sup>44</sup> that allows the

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<sup>42</sup> Using concept such as *mudharabah* or *musharakah* which justly distributes risk between issuer and bond-holders.

<sup>43</sup> Ustaz Kamal's view bears resemblance to contents in Shaykh Sayid Tantawi's book "Bank Operations and their Islamic Legal Status" (*Mu'amalat al-Bunuk wa Ahkamuha al-Shar'iyah*), Cairo, Nahdat Misr, 2001 edition. Shaykh Sayid Tantawi quoted Rashid Rida in *Al-Manar*, p.332, vol.9, 1906 which makes reference to Imam Muhammad 'Abduh who said that in general, *riba* which is not forbidden involves a loan transaction that benefits all parties without any element of harm and greed.

<sup>44</sup> There are scholars who rationalize *riba* by arguing that interest payments are intended to compensate the lender for the loss of purchasing power of his money due to inflation. This is not acceptable as prohibition on Interest is definitive, whether the interest is a compensation for the loss of its purchasing power or compensation for the time value of the usage of the loan money.



governments or financial intermediaries to mobilise savings for economic growth, such as building of infrastructure, agricultural and industrial activities.<sup>45</sup>

In this instance, **FSAC, in consultation with scholars, academicians and Islamic finance practitioners, has a differing opinion to Ustaz Kamal’s article on the following basis:**

**First**, the reasoning in Ustaz Kamal’s article is logically fallacious. That article insisted that the permissibility of *riba* is true because of statements made by scholars from Al-Azhar.<sup>46</sup> The analogy used in the article is unsound, hence categorised in *usul fiqh* as *qiyas ma’al faariq* (analogy with discrepancy)<sup>47</sup> which is considered *bathil* (invalid). This is because the relationship between a government and a citizen bears weak resemblance to the relationship between a master and a slave. A master, in Islam, has the full ownership over the slave and his/her property, hence, there is no literal “*riba*” as the owner is one — who is the master. However, the government neither owns the citizens nor their property, and the property of the government and citizen is independent of one another. Moreover, the concept and reality of “ownership” of a master, a slave, government and citizens, in essence, differ from one another. Therefore, it is prohibited in Shariah for either the government or the citizen to transgress on the other party’s property. In other words, both the citizens (as debtor) and the government (as creditor) has the legal right (both in Shariah and conventional law) to seek justice from the judicial system for any breach in the contract agreement – hence how can the debtor (interest payer) and the creditor (interest receiver) be considered the same in the eyes of Shariah. Conversely, to view that the citizen owns the government and its property seems to have inclination towards Marxist theory which suppresses individuals’ rights, and this is against Shariah principles.<sup>48</sup>

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<sup>45</sup> There are scholars who support such view namely, Fahmi Huwaidi (in Al-Arabi, no 341, April 1987) who is a political scholar and Dr Abd al-Munim an-Nimr (in Al-Ahram, June 1, 1989) who is an Islamic thinker and historian. The majority of this view’s supporters are neither Shari’ah nor Usul Fiqh scholars.

<sup>46</sup> This logical fallacy is defined as “appeal to false authority”, which means using an alleged authority as evidence in the argument when the authority is not really an authority on the facts relevant to the argument.

<sup>47</sup> It is when the effective cause of analogy is not applicable to the new case in the same way as to the original case, due to the invalidity of uniformity or substantial equality between them. (i.e the effective cause in the prohibition of wine is intoxication, then a beverage which only causes a lapse of memory would differ with wine in respect of the application of *'illah*, and this would render the analogy invalid)

<sup>48</sup> Imam Al-Shafi’i mentioned that “*the status of a leader vis-à-vis citizens is like the status of a guardian vis-à-vis an orphan*” (Al-Suyuti, Al-Ashbah wa al-Nazair, Surabaya: Al-Hidayah, Pg.83).

**Second**, vast traditional scholars abhor *riba* even between a father and his children.<sup>49</sup> This is because children have complete rights on their property and are free to manage their property as they please - unlike a slave with a master. Additionally, in the hadith narrated by Jabir bin Abdullah (may Allah be pleased with him), the Prophet ﷺ (ﷺ) said that “you and your property are for your father”<sup>50</sup> is interpreted as “for your father to utilize his children’s money where necessary” and it is expounded by the vast majority of scholars that children should be dutiful to their parents financially on top of caring, loving, and respecting them. Furthermore, the hadith needs to be understood in context. Imam Al-Shafi’i said “...Allah has ruled the inheritance of a father from a son, He has made him (the father) like other beneficiaries of inheritance (in terms of ownership over the son’s property), and his (the father) inheritance share may be lesser than the many of the beneficiaries of inheritance; this shows that the son has complete right over his own property”.<sup>51</sup>

**Third**, absence of cheating, fraud, *riba*, injustice and exploitation, does not, in any circumstance, make *riba* permissible to be consumed, as all of these elements are merely general wisdom of the prohibition of *riba* according to Quranic terminology. According to the majority of scholars, Shariah rulings should be established upon effective causes/reasons (*'illah*) and not built on general wisdom (*hikmah*).<sup>52</sup> From this, it would follow that a *hukm shar'i* (Shariah ruling) is present whenever its *'illah* is present even if its *hikmah* is not, and a *hukm shar'i* is absent in the absence of its *'illah* even if its *hikmah* is present. Although SGS products are generally safe, stable and offer attractive returns, the returns is stipulated in the contract and guaranteed, hence making them not aligned to Shariah ruling on debt-based contract.

**Fourth**, the prohibition of *riba* is based on evidence that is definitive (*qat'i*) in meaning (absolute denotation) and transmission.<sup>53</sup> Therefore, based on the principles of jurisprudence (*usul fiqh*), the contestable opinion is built upon unsound analogy and evidently groundless and

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<sup>49</sup> *Kashaaf al-Qannaa' li Imam al-Buhuti*, Vol. 3 Pg. 320. The *Ja'fari* school of *Shi'a*, however, view that there is no *riba* between parents and their children as well as between husband and wife.

<sup>50</sup> Sunan Ibn Majah, Hadith No. 2379.

<sup>51</sup> Imam Al-Shafi'I, *Ar-Risaalah*, Pg. 168.

<sup>52</sup> Wahbah al-Zuhayli, *al-Usul al-Fiqh al-Islamiy*, Pg. 650.

<sup>53</sup> Surah al-Rum, verse 39, Surah al-Nisa', verse 161, Surah Al 'Imran, verses 130-2 and Surah al-Baqarah, verses 275-81

hold no bearing in Shariah so as to permit an exception to the Qur'anic ruling on *riba*. The rule of thumb is that *qiyas* cannot be applied to change the original ruling of a *hukm*.<sup>54</sup>

**Fifth**, the article makes reference about status of interest between a subsidiary to its parent company. FSAC would need to clarify that the treatment of father-son, master-slave and company-subsidary are not the same. The first two groups concerns natural persons (*shakhsiyyah 'adiyah*) while the third group relates to juristic persons / natural entities (*shakhsiyyah i'tibariyyah*).<sup>55</sup> Even the rights and duties of father-son and master-slave are different. Hence, the correlation and analogy used to infer legality and permissibility of interest is incorrect and aberrant.

**Lastly**, FSAC acknowledges the legal maxim which states that a ruling or a religious opinion can only be made after a full and accurate understanding of the subject matter. After a thorough analysis, FSAC views the form and substance of SSB contracts as written in the Government Securities Act <sup>56</sup>, issued by Singapore Government, as definitively similar to the form and substance of prohibited contractual increments (*riba*) in loans or debts according to Quranic terminology. Hence, the return on investment is not aligned to Shariah (i.e. since the Shariah prohibits guaranteed principals and fixed profits in investments).<sup>57</sup> Table 1 below shows the

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<sup>54</sup> Wahbah al-Zuhayli, *al-Usul al-Fiqh al-Islamiy*, Pg. 642.

<sup>55</sup> Details on this are not within scope of this paper.

<sup>56</sup> "Legislation And Guidelines For SGS". 2019. Monetary Authority of Singapore. Accessed September 6 2019. <https://www.mas.gov.sg/bonds-and-bills/investing-in-singapore-government-securities/Legislation-and-Guidelines-for-Singapore-Government-Securities>.

<sup>57</sup> Non-stipulated increment, however, is permissible and recommended, based on the Hadith:

- *Jabir b. 'Abdullah reported: The Prophet of Allah (ﷺ) owed me a debt; and he paid me back and gave me an extra amount* (Sahih Muslim, Book 6, Hadith No. 86)
- "The best amongst you is the one who pays the rights of others generously" (Sunan an-Nasa'i, Hadith no. 4693)

Furthermore:

- In Clause 20 (Arrangement of *hibah* with *qard* contract) of BNM *Hibah* issued on 3 August 2016 (BNM/RH/PD 028-5), it states that "The borrower under a *qard* must not grant *hibah* that is conditional to the *qard* contract to the lender, in the form of cash, in kind or benefit". Other provisions mention that the granting of *hibah* solely based on the borrower's discretion to the lender is allowed. Hence, the borrower must not even disclose, promote or market the indicative rate or prospect of granting of *hibah*. The full version can be found here: <http://www.bnm.gov.my/index.php?ch=57&pg=137&ac=515&bb=file>, accessed 12 September 2019.
- In Clause 14 (Salient features of *qard* contract) of BNM *Qard* issued on 26 February 2018 (BNM/RH/PD 028-7), its states that "The *qard* contract must not contain any contractual benefit to the lender...". Such benefit which is prohibited includes *hibah* granted by the borrower to the lender in the form of cash, in kind or benefit that is conditional to the *qard* contract. However, contractual benefit that is generic in nature, not dependent on the *qard* contract, and not exclusive to the lender, is allowed. The full version can be found here:

difference between investment and bond contracts, and the similarity between bond and loan contracts in contemporary practices.

Table 1:

<b>Basic for Comparison of Financial Products</b>	<b>Investment (Stocks)</b>	<b>Conventional Bond</b>	<b>Debt (Loan)</b>
<b>Meaning</b>	Financial instrument that provides composite ownership of a public limited company in exchange for monetary value	Financial instrument which acts as borrowed capital for the institution issuing them	Loan taken out by consumers or firms
<b>Issued by</b>	Companies	Government institutions, companies, and financial institutions	Most loans are given by banks
<b>What is it?</b>	Equity Instrument	Debt Instrument	Debt Instrument
<b>Term for return earned</b>	Dividend	Interest	Interest
<b>Return earned on principal amount</b>	Not fixed	Fixed	Fixed
<b>Is the return guaranteed?</b>	No	Yes	Yes
<b>Status of Holders</b>	Stockholders are owners of the company in a composite form	Bondholders are lenders to the company	Debtholders are lenders to consumers or firms

Source: Author's own description.

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<http://www.bnm.gov.my/index.php?ch=57&pg=137&ac=517&bb=file>, accessed 12 September 2019.

## USE OF FUNDS

FSAC is aware that all borrowing proceeds from the issuance of SGS Products are invested by the Singapore Government. Despite good governance and proper budgeting, the Singapore Government may need to meet some budget deficit by issuing SGS Products. It is common for governments to issue bonds to finance national obligations.

Pursuant to the Government Securities Act, the monies placed in SGS Products are paid into a Government Securities Fund, and outward payments from this fund are generally limited to the paying of interest and repayment of principal associated with securities issuances. The proceeds paid into the Government Securities Fund are instead utilised for the following purposes:

- Purchase of trustee stocks or any of any other stocks, funds, securities or investments, as mentioned in the Financial Procedure Act.

Surpluses from the Government Securities Fund may be transferred to the Consolidated Fund, which may in turn be utilised for the following purposes:

- Invested on deposit in any bank, in gold or other bullion, in securities of, or guaranteed by, any government or international financial institutions, in any stocks, funds, securities or investments;
- Repayment of principal sums or interest payable on any government securities, where the monies in the Government Securities Fund are insufficient; and
- Otherwise authorised by law<sup>58</sup>

After a comprehensive review, FSAC collectively noted that *khultah* may have taken place (i.e. such proceeds of funds are likely to have intermingled with Shariah non-compliant business/financial activities) and are not typically where the funds would typically be used for national development and/or infrastructural building for the benefit of the general public.

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<sup>58</sup> E.g. part of government funds (for repayment of loans) or Contingencies Fund for payment of costs and expenditure.

## CONCLUSION AND RECOMMENDATIONS

Singapore, being a politically stable and economically healthy country, presents an attractive investment avenue for both local and international investors. With the spirit of a prudent and responsible governance, Singapore adopts the jurisprudence of *fiqh aqalliyat* (Shariah rulings for minorities) in a secular country which protects its citizens regardless of race and religion. The Muslim community is rather special, being the only community in Singapore whose affairs are regulated through the Singapore Constitution. Hence, religious scholars mostly apply *taysir al-fiqh* (simplification in Shariah rulings) to facilitate the lives of the local Muslim community. FSAC takes into consideration *rukhsah* (concession) and *fiqh al-waqi'* (rulings based on contemporary challenges) to enable financial inclusion for the Muslim minority in Singapore. However, after a thorough review of SSB Products, **FSAC views that the SSB Products are not suitable for Muslims as they do not fulfil Shariah parameters of *fiqh muamalat* (jurisprudence on commercial transactions) and *usul fiqh* (principles of jurisprudence). Since SSB has similar structures as the other conventional government securities (including the T-Bills), the same legal opinion for SGS Products will also apply (see Annex 1).**

In line with the legal maxim “*what is prohibited (under Shariah) to take is also prohibited (under Shariah) to give*”<sup>59</sup>, SSB products are not Shariah-compliant for the Muslim community.<sup>60</sup> Hence, they should find alternative solutions where the structures have been formally endorsed by an independent Shariah supervisory board with the relevant expertise or are closer to the spirit of their religious teachings or objectives of the Shariah (*maqasid al-Shariah*). FSAC is of the opinion that there is *riba* considering that there is a guaranteed increment of the principal amount, which contravenes the Shariah, whether the activity is lending or investment.

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<sup>59</sup> Ibn Nujaym, *al-Ashbah wa al-Nazair*, Pg.132; *al-Hamawi, Ghamz Uyun al-Basair fi Sharh al-Ashbah Wa al-Nazair*, 1:449; *Majallat al-Ahkam Al-Adliyyah*, Pg.20, article 341 Muhammad Al-Zuhayli, *al-Qawaid al-Fiqhiyyah*, 1:39; Al-Suyuti, *al-Ashbah wa al-Nazair*, Pg.150.

<sup>60</sup> Refer to another paper published in PERGAS Ar-Risalah Issue 23 [January-April 2017 Edition] (ISSN 2424-8207) and PERGAS Blog. The original title published was “RELIGIOUS GUIDANCE IN THE SUBSCRIPTION OF SINGAPORE SAVINGS BONDS BY MUSLIMS”. The URL is here: [https://www.academia.edu/36489499/SHARIAH\\_REVIEW\\_OF\\_SINGAPORE\\_SAVINGS\\_BONDS](https://www.academia.edu/36489499/SHARIAH_REVIEW_OF_SINGAPORE_SAVINGS_BONDS)

FSAC makes the following recommendations:

- FSAC encourages all Muslims to save and invest prudently for their future. The Muslim community should explore Shariah-compliant savings accounts, as well as other platforms which offer qualified Shariah investment products like ETFs, unit trusts and different types of sukuk.
- Any Shariah alternatives that are commercial viable should be endorsed by qualified Shariah supervisory boards. The monies placed under the Shariah alternatives should also be subject to regulatory oversight by issuing-country's central banks and monetary authorities and under strict Shariah guidelines such as independent Shariah audits and Shariah-compliance monitoring.
- To tap into the investment monies of Muslims, FSAC recommends that, like how MAS Sukuk is a Shariah-compliant version of the T-Bills, the SGS Products should be structured to have Shariah-compliant alternatives in future to include all Singaporean consumers. Shariah-compliance requirements can align fund investments towards socially-responsible and more sustainable (similar to UN SDGs) avenues that are fair to issuers and investors through risk-sharing, and avoids the financially repressive nature of interest and its compounded payments.

### **General Guidelines for the Muslim Community in Singapore**

In cases where some Muslims have already invested in SSB Products, FSAC recommends the immediate redemption of products before the bonds' maturity to get back the principal amount, especially if there is no penalty for early investment exits. Any returns earned previously should be channelled to charity.

وَإِنْ تَابْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ (2:279)

*“However, if you repent, you may have your principal. Neither wrong, nor be wronged.”*

In the absence of an official *fatwa* from MUIS, FSAC recommends that the Singapore Muslim community to practice *ihitiyat* (precaution) towards *shaaz* (aberrant) religious opinions and hold on to classical rulings held by the vast majority of scholars. The Singapore Muslim community must use this guidance to avoid SGS Products, and also refer to more learned religious teachers for a second opinion.

Our Prophet ﷺ once said that "*a time will come when one will not care how one gains one's money, legally or illegally*" (Sahih Bukhari, 275).

In facing this issue, FSAC would also like to call upon the Singapore Muslim community to deepen and strengthen various sciences of knowledge (including religious knowledge<sup>61</sup>) as part of societal expectations and religious obligations as Singapore citizens. Should there be confusion regarding any financial issues, the community should seek clarification from our pool of the ARS-accredited *asatizah* fraternity with an in-depth knowledge in *fiqh muamalat* or *usul fiqh*.

*Wa Allahu A'lam*

(Only Allah Knows Best)

## **FINANCIAL SHARIAH ADVISORY & CONSULTANCY (FSAC)**

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<sup>61</sup> An example is *fiqh muwatanah*, where the Muslim community has to practise religion and be exemplary citizens to society.



## Annex 1 - Detailed Comparison of SGS Products

	Singapore Government Securities bonds (“SGS”)	T-bills	Savings Bonds (“SSB”)
<b>Available tenor</b>	2, 5, 10, 15, 20 or 30 years	6 months or 1 year	Up to 10 years
<b>Method of sale</b>	Uniform price auction - competitive or non-competitive bids	Uniform price auction - competitive or non-competitive bids	Quantity ceiling format
<b>Frequency of issuance</b>	Monthly, according to the issuance calendar	Fortnightly or quarterly, according to the issuance calendar	Monthly, for at least 5 years
<b>Minimum investment amount</b>	S\$1,000, and in multiples of S\$1,000	S\$1,000, and in multiples of S\$1,000	S\$500, and in multiples of S\$500
<b>Maximum investment amount</b>	None; up to allotment limit for auctions	None; up to the allotment limit for auctions	S\$200,000 overall
<b>Buy using SRS and CPF funds?</b>	Yes	Yes	SRS: Yes; CPF: No
<b>Type of interest rate payment</b>	Type of interest rate payment	No coupon; issued and traded at a discount to the face (par) value	Fixed coupon, steps up each year
<b>How often interest is paid</b>	Every 6 months, starting from the month of issue	At maturity	Every 6 months, starting from the month of issue
<b>Secondary market trading</b>	At DBS, OCBC or UOB main branches; on SGX through brokers	At DBS, OCBC or UOB main branches	No
<b>Transferable</b>	Yes	Yes	No
<b>Maturity and redemption</b>	No early redemption. Investors receive the face (par) value at maturity (i.e. price of S\$100).	No early redemption. Investors receive the face (par) value at maturity (i.e. price of S\$100).	Can be redeemed in any month, with no penalty. Investors receive the face (par) value plus accrued interest upon redemption.

Source: Monetary Authority of Singapore, 2019, <https://www.mas.gov.sg/bonds-and-bills/products-for-individuals>. Accessed 12 August 2019