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## ADMINISTRATION OF MUSLIM LAW ACT

(CHAPTER 3, SECTION 32)

FATWA ISSUED

BY

FATWA (LEGAL) COMMITTEE, ISLAMIC RELIGIOUS COUNCIL OF SINGAPORE

*The Fatwa Committee has discussed the issue of Revocable Insurance Nomination in its 10<sup>th</sup> meeting of 15<sup>th</sup> September 2011, 11<sup>th</sup> meeting of 17 November 2011, 12<sup>th</sup> meeting of 5<sup>th</sup> January 2012 and 13<sup>th</sup> meeting of 2<sup>nd</sup> Feb 2012.*

### FATWA

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله رب العالمين ، والصلاة والسلام على سيد المرسلين وإمام المتقين نبينا محمد وعلى آله وأصحابه أجمعين. اللهم أرنا الحق حقا وارزقنا اتباعه، وأرنا الباطل باطلا وارزقنا اجتنابه . وبعد ،

#### Background

1 The Fatwa Committee has received some questions from members of the Muslim community on the ruling of making a revocable nomination for their insurance policies. This matter was also reported in Berita Harian on 7 April 2011.

2 This issue rose following the amendments to the Insurance Act in September 2009. This amendment allows insurance policy holders in general to make a revocable nomination<sup>[1]</sup>. A consequential amendment was subsequently made to section 111(1) <sup>[2]</sup> of the Administration of Muslim Law Act (AMLA). The consequential amendment disallows Muslims from making a revocable nomination except when it is in accordance to Islamic law.

#### General Explanation

3 The Fatwa Committee acknowledges that Muslim scholars/jurists differ in their opinions on purchasing insurance. While some view it as permissible in Islam on the basis of protecting the welfare of Muslims<sup>[3]</sup>, others view it as prohibited due to the aspects of *syub hah*<sup>[4]</sup> and *ghara'*<sup>[5]</sup>, whether in the process of how the fund is accumulated, or how it is invested<sup>[6]</sup>.

4 In its discussion, the Fatwa Committee takes into consideration the changes to the economic and demographic aspects that lead someone to plan for his/her finances, in preparation for old age, or his/her family's future needs. With limited investment options for low and middle income members of the community, some of them may choose to undertake financial planning in the form of insurance.

5 The Fatwa Committee opines that each individual Muslim who intends to participate in any insurance scheme is responsible in choosing a scheme which best fulfills the requirements of the Shariah, based on the views of the Muslim jurists that he/she is most convinced with.

#### Necessity of a nomination

6 The Fatwa Committee is of the opinion that a nomination for insurance is an instrument which can fulfill the needs of those who plan for their insurance monies to be benefited by those in need. On this basis, a fatwa was issued by the Fatwa Committee in 2007 which allows insurance nomination for Muslims. However, only irrevocable nominations were allowed in the 2007 fatwa as this form of nomination was seen as fulfilling the description and requirement of *hibah*<sup>[7]</sup> as described in Islamic Fiqh (jurisprudence) literature.

7 Based on Fatwa Committee's observation of the application of irrevocable nomination since the issuance of the 2007 fatwa, the Committee found that there are a number of limitations with irrevocable nomination which could pose difficulties to the insurance policyholder. Some of the limitations are:

- ▶ The requirement that only a spouse or children can be made nominees (beneficiaries) for an irrevocable nomination.
- ▶ An irrevocable nomination cannot be revoked or amended even after a divorce has taken place (except with the consent of the nominee(s)).

- ▶ Any payout from the life benefits of the insurance policy (if any) is payable only to the nominee(s). This means that if the policy holder is involved in an accident, he/she will not benefit from the insurance payout.
- ▶ If the nominee passes on before the insurance policy holder, the nominee's portion from the nomination is considered as part of his/her estate, and does not return to the insurance policy holder.

#### Comparison between CPF nomination and revocable insurance nomination

8 In reviewing the fatwa position on revocable nomination, the Fatwa Committee studied the fatwa regarding CPF nomination issued in 2010 to analyze the characteristics of both types of nomination. Based on this study, the Fatwa Committee found that there are similarities between the two as follow:

- ▶ The returns from both types of accounts becomes the right of the nominees upon the death of the CPF account holder or the insurance policy holder.
- ▶ The nomination is invalidated/revoked upon the death of the nominee, and the monies remain within the rights of the CPF account holder or the insurance policy holder.
- ▶ The CPF account holder and insurance policy holder has the right to amend his/her nomination without seeking prior consent from any nominee.

#### The concept of hibah and nomination

9 The Fatwa Committee also finds similarities between *hibah* and nomination in more than one aspect. Amongst them is that a *wahib* or gifter has the right to revoke or change his/her hibah provided no *qabadh*<sup>[8]</sup> has taken place. In the instance of revocable insurance nomination, similar to CPF nomination, *qabadh* has not yet taken place before the death of the policy holder according to the provisions of the civil law.

10 The Fatwa Committee is of the view that such form of nomination can be regarded as a form of *hibah* as it is completed while the CPF account holder or insurance policy holder is still alive. Further, when the insurance policy holder makes an official nomination, it becomes a clear testimony of his/her commitment to give away his/her monies to the nominee(s). It is mentioned in Al-Qur'an:

[ يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ]

Which means: *Oh you who believe! fulfil (all) your indentures.* [Al-Maidah : Verse 1].

Al-Qur'an also says:

[ وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ]

Which means: *And keep the covenant. Lo! Of the covenant it will be asked.* [Al-Isra' : Verse 34].

#### Decision of the Fatwa Committee

11 The Fatwa Committee has decided that revocable insurance nomination is a contemporary form of hibah. It is a new form of financial planning which is in accordance to Islamic principles. Although it is not found in classical Islamic writing, it can be accepted. This is based on the legal maxim that allows novel *ijtihad* in matters of financial transactions, especially in contemporary issues which were not previously discussed in detail in our Islamic literature. This is mentioned by Ibn Qayim Al-Jauzi :

[9] الأصل في العقود والشروط الصحة إلا ما أبطله الشارع أو نهى عنه.

*The original status of a contract is permissible, unless what is declared as prohibited by the Shariah.*

12 The Fatwa Committee is of the opinion that revocable insurance nomination is the same as CPF nomination, and both are accepted as valid forms of hibah.

13 The Fatwa Committee further advises the Muslim community against making a nomination with the intention of causing injustice towards beneficiaries. At the same time, every Muslim is responsible to ensure that all the debts of a deceased Muslim are settled before using any of his/her monies that he/she leaves behind, whether by way of *Faraidh*, will or nomination.

والله أعلم ، وبالله التوفيق ، وصلى الله على سيدنا محمد وعلى آله وصحبه وسلّم.

DR MOHAMED FATRIS BAKARAM  
MUFTHI OF REPUBLIC OF SINGAPORE  
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**[1] Revocable Nomination:** It is a form of nomination where the policy holder still retain full rights to amend or revoke the nomination, All life benefits will be payable to him/her, and only death benefits are payable to the nominee(s).

**Irrevocable Nomination:** Is a form of nomination where the policy holder loses all rights over the payouts of the policy, because all benefits are payable to the nominee(s). If a policy holder wishes to revoke or amend the nomination, he/she requires consent from each nominee or a trustee. (Please refer to Insurance Act, 49L & 49M).

**[2]** Section 111(1) of AMLA is as follows:

111. —(1) *Notwithstanding anything in the provisions of the English law or in any other written law, no Muslim domiciled in Singapore shall, after 1st July 1968, dispose of his property by will, or by any nomination under section 49M(2) of the Insurance Act (Cap. 142), except in accordance with the provisions of and subject to the restrictions imposed by the school of Muslim law professed by him.*

**[3]** Among Muslim scholars who view insurance as permissible are Dr. Mustafa Zarqa', Dr. Ali Jumaah, the *Mufti* or Egypt and House of Fatwa of Egypt (*Dar Al-Ifta' Al-Misriyah*)

**[4] Syubhah :** Dubious nature of the Shariah compliancy of a transaction

**[5] Gharar :** Uncertainty which could lead to the prohibition of a transaction.

**[6]** Among Muslim scholars who prohibit all forms of insurance are Sheikh Ibn Abidin Al-Hanafi, Sheikh Jadal Haq Ali Jadal Haq, and the Fiqh Academy for the Organization of the Islamic Conference (OIC).

**[7] Hibah :** A form of life-time gift (*inter-vivos*) with no expectation of anything in return.

**[8] Qabadh:** Delivery and physical acceptance of a gift.

**[9]** Ibn Qayim al-Jauziyy, *I'lam al-Muwaqqi'in*, Beirut, Dar al-Jil, 1973, vol 1, pg 470; al-Shatibi, *al-Muwafaqat*, Beirut, Dar al-Kutub al-'Ilmiyah, 1st Print, 1425H- 2004, pg 399.

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