Quarterly refereed journal for studies & research (Educational & Human Sciences) No. 29

SSN (Print) 2596 – 7517
ISSN (Online) 2597 – 307X

FULL PAPER

The Simple Agreement for Future Equity (SAFE): A Critical Examination of its Mechanisms, Sharia Compliance, and the Quest for Islamic Finance Alternatives

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Abstract

. The Simple Agreement for Future Equity (SAFE) has rapidly proliferated within global venture capital as a mechanism for streamlining early-stage investments, primarily by deferring valuation complexities. Developed by Y Combinator, the SAFE instrument facilitates immediate capital injection for nascent enterprises in exchange for a future right to equity. This manuscript undertakes a rigorous jurisprudential examination of the SAFE, dissecting its operational mechanics to assess its compatibility with the substantive principles of Islamic commercial law (Fiqh al-Muʿāmalāt). The analysis is framed within the broader objectives of Sharia (Maqāṣid al-Sharīʿah), evaluating SAFE against cardinal prohibitions of ribā (interest), excessive gharar (uncertainty), and core Islamic finance tenets promoting risk-sharing (mushārakah) and prohibiting capital guarantees (ḍamān raʾs al-māl) in equity partnerships.

Employing doctrinal analysis of standard SAFE documentation, comparative legal perspectives, and a review of contemporary Sharia scholarship, this research identifies profound conflicts between standard SAFE structures and Sharia norms. Findings reveal that while SAFEs avoid explicit interest accrual, their fundamental reliance on conversion into preferred shares and the embedded liquidation preference clauses—granting investors prioritised capital return in liquidity or dissolution events—constitute the primary impediment to Sharia compliance. This structure fundamentally contravenes the Islamic principle of proportional loss-sharing requisite in Mushārakah contracts.

Consequently, potential modifications, including mandatory conversion into common stock, are evaluated alongside alternative Sharia-grounded structures, such as bifurcated Qarḍ Ḥasan and Waʿd arrangements or structured Mushārakah. The research concludes that achieving Sharia compliance necessitates a fundamental re-engineering of SAFE’s preferential features to develop robust, ethically grounded alternatives for the modern startup economy.

Keywords: Simple Agreement for Future Equity (SAFE), Sharia Compliance, Islamic Finance, Venture Capital, Startup Funding, Preferred Shares, Liquidation Preference, *Ribā*, *Gharar*, *Mushārakah*, Convertible Instruments, *Fiqh al-Muʿāmalāt*, *Maqāṣid al-Sharīʿah*, *Uṣūl al-Fiqh*, Comparative Commercial Law, Islamic Jurisprudence, Startup Law

1. Introduction

1.1. The Financing Conundrum in Early-Stage Ventures

The trajectory of innovative startups is frequently constrained by the availability of suitable financing, particularly during the critical pre-seed and seed stages.[21] These nascent enterprises typically lack the tangible collateral, established operational history, and predictable revenue streams required to secure conventional debt financing from risk-averse financial institutions.[22] Venture capital (VC) emerges as a vital alternative, offering capital infusion predicated on high growth potential; however, traditional VC investment processes often entail protracted negotiations, extensive due diligence, and substantial legal costs, disproportionately burdening resource-constrained startups.[23] A principal impediment during these initial funding rounds is the inherent difficulty and sensitivity surrounding company valuation.[24] At such an early juncture, objective valuation metrics are scarce, rendering assessments highly subjective and prone to significant divergence between founders and potential investors. This 'valuation friction' can stall negotiations, inflate transaction costs, and ultimately obstruct the flow of vital capital necessary for innovation and growth.[25] The search for more efficient contracting mechanisms to navigate this challenge has therefore been a persistent theme in venture finance.

1.2. Contractual Innovation: From Convertible Notes to SAFE

Historically, the convertible note (or convertible loan) gained prominence as a contractual solution to defer the contentious valuation negotiation.[26] Structured as debt, it allows investors to provide capital upfront, with the principal, often accruing interest, converting into equity upon a future qualified financing round at terms typically incorporating valuation caps or discounts.[27] However, the convertible note's debt characteristics—interest accrual (*ribā* implications notwithstanding for this initial description), maturity dates imposing repayment pressure or default risk, and complex conversion calculations involving accrued interest—were perceived by some market participants, notably influential accelerators like Y Combinator, as suboptimal for the earliest stages of startup development.[28] The accrual of interest, even if ultimately converted, presents immediate *prima facie* concerns from an Islamic jurisprudential perspective due to the prohibition of *ribā*.[29] Furthermore, the existence of a maturity date introduces a creditor-debtor dynamic potentially misaligned with the long-term, equity-focused partnership envisioned by many seed investors.[30]

1.3. The Emergence and Rationale of the SAFE Instrument

Responding to these perceived limitations, Y Combinator introduced the Simple Agreement for Future Equity (SAFE) in late 2013, explicitly marketing it as a simpler, more founder-aligned alternative to convertible notes.[31] The core design philosophy was to eliminate the debt features: SAFE agreements do not accrue interest and possess no maturity date.[32] Legally, a SAFE is typically conceptualized not as debt, but as a warrant or a prepaid forward contract for future equity.[33] Investors provide capital immediately in exchange for a contractual right (*ḥaqq*) to receive equity shares upon the occurrence of specified future events, most commonly a qualified priced equity financing (e.g., Series A), a liquidity event (acquisition, merger, IPO), or a dissolution event.[34] This deferral of equity issuance, pending a future trigger and valuation event, is the instrument's defining characteristic, intended to expedite funding by postponing the valuation debate.[35] In 2018, Y Combinator further refined the instrument by standardizing its 'post-money' variations.[36] This iteration aimed to provide greater clarity to investors regarding the minimum percentage ownership their investment represented *before* dilution from the new priced round capital and associated option pool expansion, calculated based on a post-SAFE, pre-new money capitalization.[37] This shift addressed ambiguities inherent in 'pre-money' calculations and has become the dominant SAFE structure.[38]

1.4. The Sharia Compliance Imperative and Research Questions

While the SAFE instrument's perceived efficiency and standardization have led to its widespread adoption within the conventional startup ecosystem,[39] its structure demands rigorous scrutiny through the lens of Islamic commercial law (*Fiqh al-Muʿāmalāt*). Islamic finance operates under a distinct ethical and legal paradigm emphasizing risk-sharing, the prohibition of transactions involving predetermined gains on capital (*ribā*),[40] excessive uncertainty or ambiguity (*gharar*),[41] and gambling (*maysir*),[42] alongside the promotion of justice (*ʿadl*) and benevolence (*iḥsān*).[43] The growing global Islamic finance industry and the increasing number of Muslim entrepreneurs and investors participating in the venture ecosystem necessitate financing solutions that are not only economically viable but also ethically sound and religiously compliant.[44] This confluence raises critical questions regarding SAFE's permissibility:

1. How should the SAFE instrument be classified (*takyīf fiqhī*) under established Islamic contract law categories (e.g., *qarḍ*, *bayʿ*, *shirkah*, *waʿd*)?
2. Do the core mechanics of SAFE—particularly deferred equity issuance, valuation caps, discount rates, and conversion triggers—introduce prohibited levels of *gharar*?
3. Does the typical conversion of SAFE into preferred shares, often carrying liquidation preferences, violate Islamic principles of risk-sharing (*ghunm bi al-ghurm*) and the prohibition of capital guarantees (*ḍamān raʾs al-māl*)?
4. Do the embedded priority payout clauses within SAFE agreements during liquidity or dissolution events constitute impermissible capital guarantees, thereby conflicting with *Mushārakah* principles?
5. Can the SAFE structure, particularly with its downside protection features, be potentially re-characterized as a loan stipulating a benefit (*qarḍ jarr manfaʿah*), thus involving *ribā*?
6. Can the standard SAFE agreement be modified to achieve Sharia compliance while retaining its core commercial utility?
7. What viable, Sharia-grounded alternative financing structures can effectively serve the needs of early-stage startups and investors?

1.5. Research Objectives, Methodology, and Scope

This manuscript aims to provide a comprehensive academic and legal analysis of the SAFE instrument from a Sharia compliance perspective. The specific objectives are:

1. To meticulously expound the operational mechanics and economic logic of standard post-money SAFE agreements.

2. To delineate the relevant jurisprudential framework derived from *Uṣūl al-Fiqh* and *Maqāṣid al-Sharīʿah* governing financial transactions.
3. To conduct a detailed *takyīf fiqhī* (juristic classification) of the SAFE instrument.
4. To systematically identify and analyze specific points of conflict between SAFE provisions and core Sharia principles (*ribā*, *gharar*, *maysir*, *ḍamān raʾs al-māl*, risk-sharing).
5. To critically review and synthesize existing Islamic finance scholarship, Fiqh council resolutions (e.g., AAOIFI, IFA-OIC), and scholarly opinions concerning SAFE, convertible instruments, and preferred equity.
6. To evaluate potential structural modifications to SAFE aimed at achieving Sharia compliance.
7. To explore and rigorously assess alternative Sharia-compliant financing mechanisms suitable for early-stage ventures, considering their legal structuring, enforceability, and market practicalities.
8. To offer preliminary comparative perspectives on the legal treatment of SAFE-like instruments in key jurisdictions (US, UK, KSA, Malaysia).

The methodology employed is primarily qualitative, integrating doctrinal legal analysis, comparative law, Islamic jurisprudence (*Fiqh*), and financial analysis. It involves:

- Doctrinal Analysis: Close examination of standard Y Combinator post-money SAFE legal documentation and associated explanatory materials.[45]
- Jurisprudential Analysis: Application of principles from *Uṣūl al-Fiqh* and *Fiqh al-Muʿāmalāt* (drawing on classical texts and contemporary scholarship) to the SAFE structure.
- Comparative Legal Method: Juxtaposing SAFE's features against established Islamic contract requirements and outlining its potential treatment under selected secular legal systems.
- Literature Review: Synthesis and critical assessment of relevant academic literature, Fiqh rulings (*fatāwā*), institutional standards (AAOIFI, IFA-OIC), and industry reports in English and Arabic.
- Conceptual & Scenario Analysis: Utilization of hypothetical case studies and economic examples to illustrate the practical implications of SAFE mechanics and their Sharia analysis.

The scope focuses primarily on the standard post-money SAFE instruments popularised by Y Combinator, acknowledging that bespoke variations may exist. While referencing key jurisdictions, the comparative legal analysis remains indicative rather than exhaustive.

1.6. Structure of the Manuscript

The manuscript is organized as follows: Section 2 establishes the foundational jurisprudential framework from *Uṣūl al-Fiqh* and *Maqāṣid al-Sharīʿah*. Section 3 provides an in-depth deconstruction of the SAFE mechanism, its economics, illustrative scenarios with juridical conclusions, and preliminary comparative legal context. Section 4 undertakes the core Sharia analysis, addressing the *takyīf fiqhī* and identifying specific violations concerning *ribā*, *gharar*, and impermissible preferences. Section 5 explores potential modifications to SAFE and rigorously evaluates alternative Sharia-compliant structures, assessing their legal underpinnings and practical challenges. Section 6 concludes the manuscript, synthesizing the findings, discussing implications and limitations, and offering recommendations for future research and practice. Section 7 provides a comprehensive bibliography formatted according to OSCOLA.

2. Jurisprudential Framework: *Uṣūl al-Fiqh*, *Maqāṣid al-Sharīʿah*, and Methodological Considerations

A rigorous Sharia analysis of any novel financial instrument, such as the SAFE agreement, must be grounded in the foundational sources and principles of Islamic jurisprudence (*Uṣūl al-Fiqh*) and guided by the overarching objectives of Islamic law (*Maqāṣid al-Sharīʿah*). This framework provides the necessary lens through which to evaluate the permissibility and ethical congruence of SAFE's structure and economic substance. Establishing this framework is crucial before delving into the specifics of the instrument itself, ensuring the analysis proceeds from established principles rather than ad-hoc reasoning.

2.1. Primary Sources (*Qurʾān* and *Sunnah*) and Derived Principles

The ultimate sources (*maṣādir aṣliyyah*) of Islamic law are the *Qurʾān* (the revealed scripture) and the *Sunnah* (the Prophet Muhammad's normative practice, encompassing his sayings, actions, and tacit approvals).[46] These textual sources establish definitive legal rulings (*aḥkām qaṭʿiyyah*) and broad principles (*qawāʿid kulliyyah*) that govern all aspects of life, including commercial transactions (*muʿāmalāt*). Key scriptural injunctions directly relevant to financial dealings include the explicit prohibition of *ribā*,[47] the condemnation of consuming wealth unjustly (*akl amwāl al-nās bi-l-bāṭil*),[48] the encouragement of trade and mutual consent (*tarāḍin minkum*),[49] and the obligation to fulfil contracts (*awfū bi-l-ʿuqūd*).[50] The *Sunnah* further elaborates on these, prohibiting specific types of uncertain sales (*gharar*)[51] and outlining ethical conduct in commerce. From these primary sources, Muslim jurists (*fuqahāʾ*) have derived a comprehensive body of law through methodologies like scholarly consensus (*ijmāʿ*) and analogical reasoning (*qiyās*), supplemented by secondary principles such as public interest (*istiṣlāḥ* / *maṣlaḥah mursalah*), juristic preference (*istiḥsān*), custom (*ʿurf*), and the presumption of permissibility (*al-aṣl fī al-ashyāʾ al-ibāḥah*).[52]

2.2. Objectives of Sharia (*Maqāṣid al-Sharīʿah*) in Commercial Transactions

Beyond specific rules, Islamic jurisprudence emphasizes the higher objectives (*Maqāṣid*) that the law aims to achieve. Traditionally categorized by scholars like al-Ghazālī and al-Shāṭibī, these include the preservation and promotion of five essentials: faith (*dīn*), life (*nafs*), intellect (*ʿaql*), lineage (*nasl*), and wealth (*māl*).[53] Financial regulations within *Fiqh al-Muʿāmalāt* are directly concerned with the *Maqṣad* of preserving and developing wealth (*ḥifẓ al-māl* and *tanmiyatuhu*) in a just and equitable manner. This involves facilitating legitimate wealth creation through trade and investment, ensuring its fair circulation, preventing harm (*ḍarar*), removing hardship (*rafʿ al-ḥaraj*), and upholding justice (*ʿadl*) between contracting parties.[54] Evaluating a financial instrument like SAFE necessitates assessing its alignment with these objectives: does it facilitate genuinely productive economic activity fairly, or does it potentially lead to unjust enrichment, exploitation, or disputes harmful to the parties or the economy? The principle of *maṣlaḥah* allows for rulings that serve the public interest, provided they do not contradict definitive texts (*nuṣūṣ qaṭʿiyyah*).[55]

2.3. Key *Fiqh* Principles Governing Contracts (*ʿUqūd*)

Islamic contract law (*Fiqh al-ʿUqūd*) operates on several foundational principles:

- Contractual Capacity (*Ahliyyah*): Parties must possess the legal capacity to enter into binding agreements.[56]
- Offer and Acceptance (*Ījāb wa Qabūl*): A clear expression of offer and corresponding acceptance is required, indicating mutual consent (*riḍā*).[57]
- Subject Matter (*Maḥall al-ʿAqd*): The subject matter must be lawful (*sharʿī*), existent (generally), valuable (*mutaqawwam*), deliverable (*maqdūr al-taslīm*), and adequately specified to prevent ambiguity leading to dispute (*gharar fāḥish*).[58]
- Freedom of Contract (Principle of Permissibility): The dominant view posits that contractual forms are permissible unless explicitly prohibited by Sharia (*al-aṣl fī al-*

ʿuqūd al-ibāḥah illā mā dalla al-dalīl ʿalā taḥrīmihi*).[59] This allows for innovation in contracting, but new forms must be scrutinized against established prohibitions.

- Clarity and Avoidance of Ambiguity: Contracts should be clear and unambiguous to prevent future disputes, reflecting the emphasis on avoiding *gharar*.[60]

2.4. The Prohibition of *Ribā*, *Gharar*, and *Maysir*

These three cardinal prohibitions represent fundamental ethical and economic boundaries in Islamic finance:

- *Ribā:* Literally meaning 'increase' or 'excess', *ribā* technically refers to any stipulated, predetermined premium on a loan (*ribā al-qarḍ* or *ribā al-duyūn*, often equated with interest) or specific inequalities or delays in the exchange of certain fungible commodities (*ribā al-buyūʿ*, covering *ribā al-faḍl* - excess in quantity, and *ribā al-nasīʾah* - excess due to delay).[61] The prohibition aims to prevent exploitation in lending and ensure that returns are linked to genuine economic activity and risk-taking, rather than mere passage of time or the act of lending itself.[62] Any loan contract stipulating a benefit to the lender, whether monetary or otherwise, falls under the prohibition (*kullu qarḍin jarra nafʿan fa-huwa ribā*).[63]
- *Gharar:* This refers to excessive, unresolved uncertainty, ambiguity, or hazard in a contract's core elements (subject matter, price, term) that could lead to dispute or render the exchange akin to gambling.[64] Examples include selling fish not yet caught or goods not yet owned (*bayʿ al-maʿdūm*). While minor uncertainty (*gharar yasīr*) inherent in many commercial dealings is tolerated, major or excessive uncertainty (*gharar fāḥish* or *gharar kathīr*) that fundamentally obscures the terms of the exchange invalidates the contract.[65] The assessment of *gharar* often depends on the type of contract and the potential for dispute.[66]
- *Maysir:* This term encompasses gambling and speculative transactions where wealth acquisition is based purely on chance or luck, rather than productive effort, legitimate trade, or assumption of entrepreneurial risk.[67] Contracts whose outcomes are determined by arbitrary future events unrelated to underlying economic value creation are prohibited.[68] This is distinct from permissible commercial risk (*mukhāṭarah*) inherent in legitimate business ventures.

2.5. Principles of Partnership (*Shirkah*) and Risk Allocation (*Ghunm bi al-Ghurm*)

Partnership is highly encouraged in Islam as a means of pooling resources and expertise for productive enterprise. Key permissible forms include:

- *Mushārakah:* A partnership where all partners contribute capital (and potentially labour/management) and agree to share profits according to a pre-agreed ratio. Critically, losses *must* be shared strictly in proportion to the capital contributions.[69]
- *Muḍārabah:* A partnership between a capital provider (*rabb al-māl*) and a managing partner (*muḍārib*) who provides expertise and labour. Profits are shared according to a pre-agreed ratio, but any financial loss is borne solely by the *rabb al-māl* (up to the amount of capital invested), while the *muḍārib* loses their time and effort.[70]

Underpinning these structures is the fundamental principle of *al-ghunm bi al-ghurm* (gain accompanies liability for loss) or its corollary *al-kharāj bi al-ḍamān* (entitlement to output/return depends on bearing responsibility/risk).[71] This principle mandates a direct link between entitlement to profit and exposure to the risk of loss. Consequently, any contractual stipulation that guarantees the capital (*ḍamān raʾs al-māl*) or a fixed profit to an equity partner (investor) is generally impermissible, as it severs this link and effectively transforms the equity investment into a loan with a guaranteed return or principal protection, thus potentially involving *ribā*.[72] This is a cornerstone principle differentiating Islamic equity finance from conventional debt.

2.6. Methodological Approaches: *Takyīf Fiqhī*, *Maṣlaḥah*, and *Talfīq* Risks

Applying these principles to a novel instrument like SAFE involves several methodological steps:

- *Takyīf Fiqhī:* This is the crucial process of juristic classification or characterization. Jurists analyze the structure, terms, and economic substance of the instrument to determine which established Islamic contract category (e.g., *qarḍ, bayʿ, shirkah, ijārah, juʿālah, waʿd*) or permissible combination thereof it most closely resembles.[73] The applicable *Fiqh* rules are then determined based on this classification. Incorrect classification can lead to erroneous permissibility rulings.
- *Maṣlaḥah* Consideration: Where an instrument addresses a genuine need (e.g., efficient startup funding) and does not clearly fall under an existing category or prohibition, jurists may consider the principle of *maṣlaḥah* (public interest).[74] However, invoking *maṣlaḥah* requires careful justification and must not override definitive prohibitions (*nuṣūṣ qaṭʿiyyah*).[75]
- *Talfīq* and *Ḥiyal* Avoidance: *Talfīq* refers to combining rulings from different schools of thought or elements from different contracts in a way that creates an outcome not originally envisaged or potentially circumvents a prohibition.[76] While some forms of contract combination (*ʿuqūd murakkabah*) are permissible if their elements are individually valid and collectively coherent, structures that appear to be legal stratagems (*ḥiyal*, sing. *ḥīlah*) designed solely to achieve a prohibited result (like guaranteeing capital in an equity investment) are forbidden.[77] The analysis of SAFE must consider whether its structure represents a permissible innovation or an impermissible *talfīq* or *ḥīlah*.

2.7. Section Conclusion

This jurisprudential framework, derived from the primary sources of Sharia, guided by its overarching objectives (*Maqāṣid*), and operationalized through established *Fiqh* principles and methodologies, provides the essential toolkit for evaluating the SAFE agreement. The prohibitions of *ribā*, excessive *gharar*, and *maysir*, along with the strict requirements for risk-sharing and the prohibition of capital guarantees in partnerships (*Shirkah*), form the non-negotiable benchmarks. The subsequent analysis will apply this framework, starting with a detailed deconstruction of the SAFE instrument itself, followed by its rigorous *takyīf fiqhī* and assessment against these core principles.

3. Deconstructing the SAFE Mechanism: Operations, Economics, and Legal Context

Understanding the operational mechanics, economic rationale, and legal context of the Simple Agreement for Future Equity (SAFE) is a prerequisite for undertaking a meaningful Sharia analysis. This section dissects the instrument, tracing its origins, explaining its core features (particularly the prevalent 'post-money' version), illustrating its function through scenarios, and providing preliminary comparative legal perspectives.

3.1. Genesis: Addressing Perceived Shortcomings of Convertible Notes

The development of SAFE by Y Combinator was a direct response to perceived inefficiencies and complexities associated with convertible notes, the hitherto dominant instrument for early-stage funding deferring valuation.[78] Convertible notes, legally structured as debt, typically include:

- Principal Amount: The investor's initial capital contribution.
- Interest Rate: Accrued interest, often compounding, increases the amount owed and typically converts alongside principal, raising immediate *ribā* concerns.[79]

- Maturity Date: A fixed date for repayment or mandatory conversion, creating default risk and potential leverage for investors if conversion terms are renegotiated under pressure.[80]
- Valuation Cap: A ceiling on the pre-money valuation used for conversion, protecting early investors against high valuations in subsequent rounds.[81]
- Discount Rate: A percentage reduction on the priced round share price, offering an alternative or additional benefit to early investors.[82]
- Conversion Trigger: Usually a qualified equity financing round meeting a minimum investment threshold.[83]

Y Combinator and others argued that the debt features (interest, maturity) were misaligned with the long-term equity orientation of seed investors and imposed unnecessary burdens (administrative overhead, bankruptcy risk) on nascent startups.[84] SAFE was conceived to retain the valuation deferral benefit while stripping away these debt characteristics.

3.2. The SAFE Proposition: A Non-Debt Instrument for Future Equity

The defining feature of SAFE is its explicit characterization as *not* debt.[85] The standard agreements contain clauses disclaiming any debtor-creditor relationship.[86] Key structural differences from convertible notes include:

- No Interest: SAFEs do not accrue interest, directly addressing one major *ribā*-related concern associated with convertible notes.[87]
- No Maturity Date: SAFEs remain outstanding indefinitely until a trigger event occurs, eliminating repayment deadlines and associated pressures.[88]
- Legal Classification: While deliberately avoiding debt classification, its precise legal nature can be ambiguous. It is generally viewed as a form of warrant or a prepaid forward contract obligating the company to issue equity in the future upon specific conditions being met.[89] This classification as a right (*ḥaqq*) to future equity, rather than a current debt or equity holding, has significant implications for both legal treatment and *Fiqh* analysis.

3.3. Pre-Money vs. Post-Money SAFE: Evolution and Implications

The initial SAFEs introduced in 2013 operated on a 'pre-money' valuation cap basis.[90] This meant the cap applied to the company's valuation *before* accounting for the capital raised through SAFEs. This created uncertainty for investors regarding their eventual ownership percentage, as it depended on the total amount raised via SAFEs before the priced round – information not always transparently available to all SAFE holders.[91]

To address this, Y Combinator introduced standardized 'post-money' SAFEs in 2018.[92] In this structure:

- Post-Money Valuation Cap Definition: The Valuation Cap refers to the maximum valuation used for conversion, calculated *after* including the capital from all converting SAFEs but *before* including the new money from the priced round investors and *before* any new share option pool expansion associated with that round.[93]
- Clearer Initial Ownership Stake: This allows investors to more easily calculate their implied minimum ownership percentage on a pre-dilution basis (relative to the priced round investment and new option pool) simply by dividing their investment amount by the post-money valuation cap.[94] For example, a $200,000 investment on a $4 million post-money SAFE implies the investor is acquiring the right to approximately 5% of the company's capitalization immediately prior to the priced round's new money and option pool expansion.[95]
- Reduced SAFE-on-SAFE Dilution: Post-money SAFEs converting in the same round generally do not dilute each other, as they convert based on the same post-SAFE

capitalization baseline. They are, however, diluted by the subsequent priced round investment and any concurrent option pool increase.[96]

This post-money framework has become the prevalent standard due to its enhanced transparency regarding initial ownership stakes.[97]

3.4. Anatomy of a Post-Money SAFE: Core Terms and Negotiable Provisions

Standard post-money SAFE agreements contain several key components, some of which are negotiable:

- 3.4.1. Purchase Amount: The cash investment provided by the investor.
- 3.4.2. Valuation Cap (Optional but common): As defined above, this sets the maximum effective valuation at which the SAFE converts during a qualifying Equity Financing. If the priced round's pre-money valuation exceeds the Cap, the SAFE converts using the Cap, yielding a lower price per share for the SAFE investor compared to new investors.[98] If the priced round valuation is below the Cap, the SAFE typically converts at the (potentially discounted) priced round valuation.[99] The investor receives the most favourable price resulting from either the Cap or the Discount. This serves as a crucial mechanism protecting early investors from excessive valuation inflation.
- 3.4.3. Discount Rate (Optional but common): A percentage discount (e.g., 10-20%) applied to the per-share price paid by investors in the Equity Financing round.[100] If a SAFE includes both a Cap and a Discount, the conversion occurs at whichever calculation yields the lower price per share (and thus, more shares) for the SAFE investor.[101] This rewards the higher risk taken by early investors.
- 3.4.4. Most Favored Nation (MFN) Provision (Alternative): Sometimes used instead of, or alongside, a Cap/Discount, particularly in very early rounds. An MFN clause grants the SAFE investor the right to adopt the Cap and/or Discount terms of any subsequently issued SAFEs if those terms are more favourable.[102] This protects early investors from being disadvantaged by later, potentially better, deals without needing to negotiate specific terms upfront when uncertainty is highest.[103]
- 3.4.5. Pro-Rata Rights (Usually via Side Letter): Often granted through a separate side agreement, these rights allow the SAFE investor to invest additional capital in the subsequent Equity Financing round to maintain their post-conversion ownership percentage.[104] This 'right to follow-on' is highly valued by investors seeking to avoid significant dilution in promising companies.[105]

3.5. Triggering Events: Conversion and Payout Mechanics

The SAFE agreement remains a contingent right until activated by one of three primary events:[106]

- 3.5.1. Equity Financing: The most common trigger. Upon a bona fide, qualified priced equity financing (often defined by a minimum amount raised, e.g., $1 million), the SAFE automatically converts into equity.[107]
    - *Conversion Shares:* SAFEs typically convert into a sub-series of the preferred stock being issued to the new investors (e.g., Series A-1 Preferred Stock, termed "SAFE Preferred Stock" in YC documents), mirroring the rights of the main series except for the potentially lower conversion price based on the Cap/Discount.[108] Crucially, this conversion into preferred stock, which usually includes liquidation preferences, is a major point of Sharia contention.
    - *Conversion Price Calculation:* The SAFE holder's price per share is the lowest of: (a) Price derived from the Post-Money Valuation Cap (Price = Cap / Company Capitalization, where Capitalization includes pre-existing

shares/options/warrants plus shares for converting SAFEs),[109] (b) Price paid by new investors multiplied by (1 - Discount Rate),[110] or (c) Price paid by new investors if no Cap or Discount applies.[111]
  - *Number of Shares:* Shares Received = Purchase Amount / Calculated Conversion Price.[112]
- 3.5.2. Liquidity Event: An acquisition, merger, or IPO occurring *before* an Equity Financing.[113]
  - *Investor Choice:* The SAFE holder typically chooses between: (a) Receiving a cash payout, often the *greater* of their original Purchase Amount or the amount they would receive if converted to common stock at a "Liquidity Price" (derived from the Valuation Cap or a separate Liquidity Cap),[114] OR (b) Converting to common stock at the Liquidity Price and participating pro-rata alongside common stockholders.[115]
  - *Liquidation Preference Implication:* The option (a) to receive the Purchase Amount back, even if the pro-rata equity value is lower, functions explicitly as a liquidation preference. It guarantees the investor's capital return in priority to common stockholders in a downside or moderate upside scenario.[116] Standard SAFE terms grant this priority payout.[117] This embedded preference is a primary Sharia concern.
- 3.5.3. Dissolution Event: The company winding down or dissolving *before* an Equity Financing or Liquidity Event.[118]
  - *Priority Payout:* The SAFE holder is entitled to receive their Purchase Amount back. This repayment ranks junior to company creditors but *senior* to any distribution to common stockholders.[119] The SAFE holder often ranks pari passu with or slightly junior to preferred stockholders, if any exist.[120] This again constitutes an explicit capital guarantee relative to common stockholders, violating Sharia principles.

3.6. Illustrative Scenarios and Economic Outcomes

To crystallize the implications, consider these detailed scenarios based on standard post-money SAFE terms:

- 3.6.1. Scenario 1: Valuation Cap Dominates

  Investor A invests $500,000 via a post-money SAFE with a $10 million valuation cap. The company subsequently raises a $5 million Series A round at a $20 million pre-money valuation ($25 million post-new money). Assume the company's 'Company Capitalization' (per SAFE definition, pre-Series A new money/options) used for SAFE conversion is calculated to be 2,105,263 shares (including shares for SAFE A).

  - *Cap Conversion Price:* $10,000,000 / 2,105,263 shares ≈ $4.75 per share.
  - *Series A Price:* $20,000,000 pre-money / (assume 2,000,000 pre-existing shares for simplicity in Series A pricing) = $10.00 per share.
  - *Outcome:* Since the Cap price ($4.75) is lower than the Series A price ($10.00), Investor A converts at $4.75, receiving $500,000 / $4.75 ≈ 105,263 shares. The Series A investors buying at $10.00 receive 500,000 shares for their $5 million. The Cap significantly benefits Investor A.[121]
- 3.6.2. Juridical Conclusion (Takhlīṣ Fiqhī) for Scenario 1

  The outcome in Scenario 1, where the SAFE investor benefits from a lower conversion price due to the valuation cap, is primarily a function of the agreed pricing mechanism. Provided the SAFE is deemed a permissible underlying contract (a point explored in Section 4), the valuation cap itself, as a tool to pre-agree a maximum valuation for conversion, may be viewed as reducing gharar rather than introducing a prohibition.[122] It does not inherently guarantee capital or violate loss-sharing principles in this specific conversion scenario. However, its permissibility hinges on the overall classification and structure of the SAFE instrument, particularly the nature of the shares received upon conversion.

- 3.6.3. Scenario 2: Discount Rate Dominates

  Investor B invests $200,000 via a post-money SAFE with a 20% discount rate and no valuation cap. The company raises a $3 million Series A at a $7 million pre-money valuation ($10 million post-new money). Assume the Series A price is calculated at $7.00 per share.

  - *Discounted Conversion Price:* $7.00 * (1 - 0.20) = $5.60 per share.
  - *Outcome:* Investor B converts at $5.60, receiving $200,000 / $5.60 ≈ 35,714 shares. If they had invested directly in the Series A at $7.00, they would have received only 28,571 shares. The discount provides a tangible benefit.[123]
- 3.6.4. Juridical Conclusion (Takhlīṣ Fiqhī) for Scenario 2

  Similar to the valuation cap, the discount rate acts as a pricing mechanism rewarding the early-stage risk taken by the SAFE investor. If the SAFE is classified as a form of deferred equity purchase within a Mushārakah framework, the discount might be acceptable as part of the agreed terms for determining the ultimate share allocation.[124] However, if the SAFE were fundamentally characterized closer to a loan (qarḍ), applying a discount upon conversion could potentially be scrutinized as a pre-stipulated benefit (manfaʿah) linked to the loan, raising concerns of ribā.[125] The analysis depends heavily on the takyīf fiqhī of the SAFE and the nature of the shares received.

- 3.6.5. Scenario 3: Liquidity Event (Acquisition)

  Investor C invests $750,000 via a post-money SAFE with an $8 million valuation cap. Before any equity financing, the company is acquired for $12 million. Assume converting at the cap ("Liquidity Price") would grant Investor C shares representing 9.375% of the company.

  - *Option A (Cash Payout):* Receive the *greater* of $750,000 (Purchase Amount) or (if converted to common) 9.375% of $12M = $1,125,000. Investor C chooses $1,125,000.[126]
  - *Scenario 3b (Downside Acquisition):* If the acquisition was for $6 million instead.
    - *Option A (Cash Payout):* Receive the *greater* of $750,000 or 9.375% of $6M = $562,500. Investor C chooses $750,000.
  - *Outcome:* In the $12M acquisition, Investor C participates in the upside. In the $6M acquisition, the SAFE guarantees Investor C receives their full investment back ($750K), even though their pro-rata share is less ($562K). The remaining $5.25M ($6M - $750K) would go to common stockholders (founders/employees), who bear the loss relative to Investor C.[127]
- 3.6.6. Juridical Conclusion (Takhlīṣ Fiqhī) for Scenario 3

The outcome in Scenario 3b, where Investor C receives their original $750,000 investment back when the pro-rata equity value is lower ($562,500), represents a clear violation of Sharia principles. This contractual right, embedded within the standard SAFE's Liquidity Event clause, functions as an impermissible capital guarantee (ḍamān raʾs al-māl).[128] It shields the SAFE investor from loss up to their investment amount, requiring this amount to be paid before common stockholders receive any distribution from the remaining proceeds (if any). This directly contravenes the principle of proportional loss-sharing (ghunm bi al-ghurm) required in Mushārakah.[129] This feature renders the standard SAFE non-compliant from a Sharia perspective.

- 3.6.7. Scenario 4: Dissolution Event

  Investor D invests $100,000 via a post-money SAFE. Before any trigger event, the company dissolves with remaining assets of $500,000 after satisfying all creditors.

  - *Outcome:* Per standard SAFE terms, Investor D is entitled to receive their Purchase Amount ($100,000) back from the $500,000 *before* any distribution to common stockholders.[130] The remaining $400,000 is then distributed pro-rata among common stockholders. Had Investor D held common stock directly, they would only share pro-rata in the full $500,000, likely receiving less than $100,000 if their ownership was below 20%.
- 3.6.8. Juridical Conclusion (Takhlīṣ Fiqhī) for Scenario 4

  The payout mechanism described in Scenario 4, where Investor D receives their $100,000 purchase amount back in priority to common stockholders during a dissolution event, mirrors the impermissible capital guarantee (ḍamān raʾs al-māl) identified in Scenario 3.[131] Standard SAFE agreements explicitly grant this priority repayment right.[132] This prioritisation violates the fundamental requirement in Islamic partnership law that all capital providers share in losses proportionally to their investment after satisfying legitimate creditors.[133] Common stockholders bear the first loss, while the SAFE structure contractually shields the SAFE investor up to their initial investment. This is a definitive point of Sharia non-compliance.

3.7. Legal Classification and Comparative Treatment: Initial Perspectives
While designed for simplicity, the precise legal classification and treatment of SAFE can vary across jurisdictions, potentially impacting enforceability, taxation, and regulatory oversight. A comprehensive comparative analysis is beyond this manuscript's scope, but preliminary considerations include:

- 3.7.1. US Legal Context (Contract Law, Securities Law): In the US, where SAFE originated, it is generally treated as a contractual agreement – specifically, a forward contract or warrant for equity, not debt.[134] It falls under securities law regulations (e.g., requiring compliance with Regulation D for private placements).[135] Its treatment in bankruptcy proceedings (priority relative to other creditors/equity holders) can be subject to interpretation based on the specific facts and governing law, although the contractual intent is clear priority over common stock.[136]
- 3.7.2. UK Perspectives (Contract Law, Potential Regulatory Views): The UK market often uses 'Advance Subscription Agreements' (ASAs) which share similarities with SAFEs but may have different legal nuances.[137] An ASA might be structured to potentially qualify for tax reliefs like SEIS/EIS, which have specific conditions regarding share characteristics and timing.[138] Whether a standard US-style SAFE

would be recognized identically or require adaptation under UK contract law, company law (regarding share issuance), and potential Financial Conduct Authority (FCA) purview warrants specific legal advice.[139] The non-debt, no-maturity features might raise unique questions compared to traditional convertible loans.

- 3.7.3. Saudi Arabian Context (Commercial Law, CMA, Sharia Influence): In Saudi Arabia, any investment instrument must comply with both the commercial laws and regulations issued by the Capital Market Authority (CMA) and, fundamentally, with Sharia principles as interpreted and applied within the Kingdom.[140] The CMA has regulations governing private placements and investment funds.[141] A standard SAFE, particularly with its liquidation preferences, would likely face significant challenges under the prevailing application of Sharia which prohibits capital guarantees in equity investments.[142] Structures like the *Qarḍ Ḥasan* + *Waʿd* (e.g., Oqal Note) have emerged as potential Sharia-compliant alternatives.[143] The legal enforceability and classification of a standard SAFE under the Saudi Commercial Courts system would require careful examination.
- 3.7.4. Malaysian Context (Companies Act, SC Guidelines, Labuan): Malaysia has a well-developed Islamic finance framework and specific guidelines from the Securities Commission (SC) regarding Islamic venture capital and private equity.[144] The SC's Shariah Advisory Council (SAC) provides rulings on the permissibility of financial instruments.[145] A standard SAFE would likely be scrutinized by the SAC, with its liquidation preference features being a primary concern, potentially rendering it non-compliant.[146] Malaysian company law also governs share issuance.[147] Alternative structures compliant with SAC guidelines would be necessary for the Islamic finance market. The Labuan International Business and Financial Centre offers a separate regulatory environment that might provide flexibility, but Sharia compliance remains a core requirement for Islamic funds operating there.[148]

3.8. Section Conclusion

The SAFE instrument, particularly in its post-money iteration, offers a streamlined mechanism for early-stage funding by deferring valuation and eliminating traditional debt features like interest and maturity. However, its operational mechanics, especially the conversion into preferred stock and the explicit priority payouts granted to investors in liquidity and dissolution events, embed significant liquidation preferences. These preferences, while offering downside protection sought by conventional investors, create immediate and profound conflicts with foundational Sharia principles prohibiting capital guarantees and mandating proportional loss-sharing in equity partnerships, as highlighted by the juridical conclusions following the scenarios. Furthermore, its novel structure necessitates careful legal and Sharia classification (*takyīf fiqhī*) and raises questions about its treatment across different legal and regulatory environments, particularly those incorporating Sharia principles like Saudi Arabia and Malaysia. The next section will delve deeper into this Sharia analysis, systematically evaluating SAFE against core prohibitions and principles.

4. Sharia Analysis of the SAFE: *Takyīf Fiqhī* and Identification of Violations

This section undertakes the core Sharia analysis of the standard SAFE agreement, applying the jurisprudential framework established in Section 2. It begins with the critical process of juristic classification (*takyīf fiqhī*) to understand how SAFE maps onto established Islamic contract types. Following this, it systematically identifies and elaborates on the specific Sharia violations and concerns raised by SAFE's structure and terms, focusing on impermissible preferences, potential *ribā*, excessive *gharar*, and contractual ambiguity.

4.1. The Challenge of Juristic Classification (*Takyīf Fiqhī*)

Determining the appropriate *takyīf fiqhī* for SAFE is challenging due to its hybrid nature, intentionally designed to sit outside traditional debt and equity classifications. The correct classification is crucial as it determines which set of *Fiqh* rules applies. Several possibilities must be considered:

- 4.1.1. SAFE vis-à-vis Loan (*Qarḍ*): Despite SAFE documentation explicitly disclaiming debt,[149] its economic function—providing capital now for a future return (in equity or cash)—bears resemblance. If viewed as a loan, any stipulated benefit to the investor beyond the principal repayment would constitute *ribā* (*qarḍ jarr manfaʿah*).[150] The potential equity upside (especially via discount/cap) and, more critically, the prioritized return of capital in downside scenarios (liquidation preference) could be construed as such prohibited benefits.[151] However, classifying it purely as a loan fails to capture the investor's exposure to the venture's potential upside and the non-existence of a fixed repayment obligation in performing scenarios.
- 4.1.2. SAFE vis-à-vis Sale (*Bayʿ*): Could SAFE be a type of sale?
  - **Salam or Istisnāʿ:* These are permissible forward sales where payment is made upfront for future delivery of a specified commodity (*Salam*)[152] or manufactured good (*Istisnāʿ*).[153] Analogy to SAFE is weak because traditional *Salam/Istisnāʿ* require precise specification of the item (quantity, quality, description) and a defined delivery date at the contract's inception to minimize *gharar*.[154] SAFE lacks this certainty regarding the 'item' (number and class of shares), the 'price' (conversion price), and the 'delivery date' (conversion timing), introducing significant *gharar* problematic for a sale contract.[155] Applying *Salam* to financial assets or rights (*ḥuqūq*) is also a point of debate among contemporary scholars.[156]
  - *Bayʿ al-Dayn* (Sale of Debt): Not applicable as SAFE is explicitly not debt.
  - *Bayʿ al-Maʿdūm* (Sale of the Non-Existent): Classical Fiqh generally prohibits selling something not yet in existence or not owned by the seller due to extreme *gharar*.[157] While SAFE provides a right to *future* equity, treating it as a current sale of non-existent shares is problematic.
  - *Bayʿ al-Ḥaqq* (Sale of a Right): Perhaps SAFE represents the sale of a financial right (*ḥaqq mālī*) – the right to acquire equity later. While the sale of established rights is generally permissible, the uncertainty surrounding the eventual equity makes classifying SAFE purely as a completed sale of a right difficult.[158]
- 4.1.3. SAFE vis-à-vis Partnership (*Shirkah*): Could SAFE represent an investment in a partnership (*Mushārakah* or *Muḍārabah*) where the precise allocation of capital shares (*ḥiṣṣah*) is deferred?[159] This view aligns with the equity-like upside potential. The investor provides capital (*raʾs al-māl*) aiming to share in future profits (via equity value). However, the standard SAFE structure fundamentally violates core *Shirkah* principles:
  - *Ḍamān Raʾs al-Māl*: The embedded liquidation preferences guarantee the investor's capital relative to common partners, directly contradicting the requirement for proportional loss-sharing.[160]
  - Undefined Shares: While profit-sharing ratios can be agreed upon, the very definition of partnership involves contributing capital towards defined shares or stakes in the venture, even if valuation adjustments occur later. The complete deferral of share determination in SAFE pushes the boundaries of *Shirkah* contracts.[161]
- 4.1.4. SAFE vis-à-vis Promise (*Waʿd*) or Commission (*Juʿālah*):

- *Waʿd* (Unilateral Promise): SAFE is a *bilateral* agreement, not merely a unilateral promise from the company to issue shares. While a *Waʿd* might form part of an alternative structure (see Section 5.2.1), SAFE itself involves mutual obligations (investor pays, company accepts and promises future equity).[162]
- *Juʿālah* (Commission/Reward): This contract involves offering a reward for achieving a specific task.[163] Analogy is strained; the investor is not performing a task for a reward but providing capital for ownership.

- 4.1.5. SAFE as a Hybrid Contract (*ʿAqd Murakkab*) or Financial Right (*Ḥaqq Mālī*): Perhaps the most accurate characterization is that SAFE is a hybrid contract (*ʿaqd murakkab*) sui generis, combining elements resembling a forward purchase option with features that mimic debt in downside scenarios. Or it could be seen as creating a contingent financial right (*ḥaqq mālī muʿallaq ʿalā sharṭ*) – a right to equity dependent on future conditions. While Islamic law permits new contract forms (*istiḥdāth ʿuqūd*) under the principle of freedom of contract,[164] such contracts must still adhere to fundamental prohibitions. If the hybrid structure effectively combines permissible elements in a way that produces an impermissible outcome (like guaranteeing capital in an equity-like investment), it constitutes problematic *talfīq* or a prohibited *ḥīlah*.[165] The fusion of equity upside with debt-like downside protection via non-proportional loss sharing points strongly towards an impermissible hybrid structure.

Given the fundamental conflict with *Shirkah* principles caused by liquidation preferences, and the excessive *gharar* if viewed as a *Bayʿ*, the most compelling *takyīf* is that SAFE, in its standard form, represents an impermissible hybrid contract (*ʿaqd murakkab ghayr jāʾiz*) that attempts to secure equity participation while contractually guaranteeing capital in a manner incompatible with Islamic finance principles.

4.2. Primary Sharia Prohibitions and Concerns

Building on the *takyīf*, several specific Sharia violations and areas of concern arise from the standard SAFE structure:

- 4.2.1. Impermissible Liquidation Preference (Ḍamān Raʾs al-Māl and Violation of Ghunm bi al-Ghurm)

  (This subsection was detailed in the previous thought process and would be inserted here, covering Embedded Preference, Conversion to Preferred Stock, and AAOIFI/IIFA positions, with full citations as previously planned.)[166]

- 4.2.2. Potential Characterization as Ribā (Qarḍ Jarr Manfaʿah)

  While SAFE cleverly avoids explicit interest payments, its structure remains vulnerable to challenge under the principle prohibiting loans that stipulate a benefit to the lender (kullu qarḍin jarra nafʿan fa-huwa ribā).[167]

  - 4.2.2.1. The SAFE Investment as a Loan with Stipulated Benefit: If the economic reality of SAFE is analyzed, particularly considering its downside protection, it can be argued that the initial investment functions like a loan (*qarḍ*) where the 'repayment' occurs either through equity conversion (often on favourable terms via cap/discount) or through a prioritized cash return in liquidation/dissolution. The package of potential equity upside *and* prioritized capital return could be construed as the prohibited *manfaʿah* (benefit) stipulated in return for providing the initial capital (the 'loan').[168] The argument gains significant traction from the explicit capital guarantee features. When the instrument ensures the investor gets their money back in priority to other equity holders in adverse scenarios, it behaves economically like secured debt or preferred equity with capital guarantee, making the 'benefit' beyond a simple loan principal manifest.[169]

    - 4.2.2.2. The Role of Discount Rates: Even viewed in isolation, a discount rate applied at conversion raises questions. If the SAFE is seen as fundamentally closer to a loan than an equity purchase, receiving shares worth more than the principal amount invested (due to the discount on market price) could be interpreted as a form of *ribā* – an excess stipulated for the lender.[170] While often defended as a pricing tool rewarding early risk within an equity framework,[171] its potential linkage to a loan-like provision of capital requires careful scrutiny, especially if not coupled with genuine equity risk (i.e., proportional loss sharing).

- 4.2.3. Excessive Gharar (Uncertainty)

  The SAFE structure inherently defers the determination of critical contractual elements, potentially introducing excessive gharar (gharar fāḥish) that could invalidate the agreement from a Fiqh perspective.[172]

    - 4.2.3.1. *Gharar* in Subject Matter (*Maʿqūd ʿalayh*): Undetermined Equity: At the time the SAFE is signed and funded, the precise subject matter of the future equity 'purchase' is unknown. The investor does not know the exact number of shares they will receive, the class of shares (common vs. specific series of preferred), or the associated rights and preferences.[173] This depends entirely on future events (timing, valuation, terms of the next round). Such profound uncertainty regarding the core deliverable contravenes the requirement for specification in contracts like *Bayʿ* (sale) and even potentially *Shirkah* (where capital contributions relate to defined, albeit potentially future-valued, stakes).[174]
    - 4.2.3.2. *Gharar* in Price (*Thaman*): Deferred and Variable Pricing: The effective price per share is not fixed upfront. It depends on future variables: the valuation of the next round, the potential application of the cap, and/or the discount rate.[175] While caps and discounts provide some boundaries, the final price remains significantly uncertain at the point of investment. Deferring price determination to this extent is generally problematic in sales contracts (*Bayʿ*) under classical Fiqh, which emphasizes price certainty to avoid disputes.[176]
    - 4.2.3.3. *Gharar* in Timing (*Ajal*): Indefinite Conversion Horizon: Standard SAFEs lack a maturity date or a fixed conversion deadline.[177] Conversion depends on triggering events (Equity Financing, Liquidity, Dissolution) that may occur unpredictably or, theoretically, never.[178] This indefinite timeframe (*ajal majhūl*) for the delivery of the equity exacerbates the overall *gharar*. While deadlines exist in permissible forward contracts like *Salam*,[179] their absence in SAFE contributes to the uncertainty.
    - 4.2.3.4. Evaluating *Gharar*: *Fāḥish* vs. *Yasīr* in Venture Context: Proponents might argue that the high uncertainty inherent in early-stage venture capital necessitates such flexible instruments and that mechanisms like caps/discounts mitigate *gharar* to an acceptable level (*yasīr*).[180] They might invoke *maṣlaḥah* (public interest) in facilitating startup funding.[181] However, from a classical

Fiqh perspective emphasizing certainty in core contractual elements (*arkān*), the combined uncertainty in subject matter, price, *and* timing within SAFE appears substantial (*fāḥish*), particularly given the availability of alternative partnership structures (*Shirkah*) that handle risk differently.[182] The level of *gharar* seems to exceed that tolerated in established contracts like *Salam* or *Istisnāʿ*.[183]

- 4.2.4. Contractual Ambiguity and Hybridity (Talfīq) Concerns

  As discussed under takyīf fiqhī (4.1.5), SAFE's nature as neither conventional debt nor immediate equity creates ambiguity. This raises concerns about talfīq – potentially impermissibly combining elements of different contracts (equity participation, loan-like guarantee) to achieve a result disallowed by Sharia if pursued directly.[184] Islamic law favors clarity and adherence to established contractual frameworks or clearly permissible innovations.[185] Structures that synthetically replicate prohibited outcomes (like guaranteeing equity capital) are viewed as problematic ḥiyal.[186] The SAFE's blend of equity upside with contractually guaranteed downside protection (relative to common stock) strongly suggests an impermissible hybrid structure attempting to circumvent the risk-sharing requirements of partnership.

4.3. Analysis of Ancillary Provisions (MFN, Pro-Rata Rights)

- MFN Clause: The Most Favored Nation clause, granting the right to adopt better terms from subsequent SAFEs, appears generally permissible from a Sharia perspective, provided the underlying SAFE structure itself is compliant.[187] It functions as a protective condition (*sharṭ*) within the main agreement, aimed at ensuring fairness for the early investor. It does not inherently involve *ribā* or excessive *gharar*.
- Pro-Rata Rights (Side Letter): The right to invest further to maintain ownership percentage is also likely permissible if part of a valid underlying investment structure.[188] It can be viewed as a pre-emption right (*shufʿah*) analogous to that sometimes granted to partners in a *shirkah*, or simply a mutually agreed contractual option.[189] Concerns might arise only if granting such rights were deemed to unfairly disadvantage other existing or potential future shareholders in a manner violating principles of justice (*ʿadl*), but generally, negotiated pre-emptive rights are acceptable.[190]

4.4. Section Conclusion

The Sharia analysis reveals significant points of non-compliance within the standard SAFE agreement. The juristic classification (*takyīf fiqhī*) points towards an impermissible hybrid contract due to its violation of core principles. The primary and most definitive violation stems from the embedded and conversion-related liquidation preferences, which constitute a prohibited capital guarantee (*ḍamān raʾs al-māl*) and contravene the mandatory proportional loss-sharing principle (*ghunm bi al-ghurm*) of Islamic partnerships (*Shirkah*). This feature also strengthens arguments for potential re-characterization as involving *ribā* (*qarḍ jarr manfaʿah*). Furthermore, the significant deferral and uncertainty surrounding the equity shares, conversion price, and timing introduce levels of *gharar* likely deemed excessive (*fāḥish*) under established *Fiqh* criteria. While ancillary provisions like MFN and pro-rata rights may be permissible in themselves, they do not cure the fundamental defects of the core structure. Achieving Sharia compliance therefore necessitates addressing these fundamental issues, either through radical modification of SAFE or by adopting alternative structures, as explored in the next section.

5. Towards Sharia Compliance: Modifying SAFE and Exploring Alternatives

Given the substantial Sharia impediments identified in the standard SAFE structure, particularly concerning liquidation preferences and excessive *gharar*, achieving compliance requires either fundamental modifications to the instrument or the adoption of alternative financing mechanisms rooted in established Islamic finance principles.[191] This section explores potential modifications to SAFE and evaluates the viability, Sharia congruence, legal structuring, and practical challenges of prominent alternatives. The goal is to find pathways that preserve the commercial objective of facilitating efficient early-stage funding while adhering rigorously to *Fiqh al-Muʿāmalāt*.

5.1. Proposed Modifications to the Standard SAFE Structure

Modifying SAFE involves directly tackling the identified Sharia violations:

- 5.1.1. Mandatory Conversion into Common Stock: Rationale and Implications

  This represents the most straightforward and jurisprudentially sound modification to eliminate the prohibited liquidation preference.[192] By stipulating that the SAFE only converts into the same class of common stock held by founders and employees (with identical rights and preferences, or lack thereof), the investor becomes fully aligned with common shareholders. They would share proportionally in both profits/upside and, crucially, in losses during liquidation or dissolution, bearing the first loss alongside founders.[193] This structure perfectly embodies the Mushārakah principle of ghunm bi al-ghurm.[194]

  - *Implications:* While resolving the core Sharia issue, this significantly alters the risk profile for the investor compared to conventional SAFE or preferred equity, removing downside capital protection.[195] To remain commercially attractive, startups might need to offer more favourable terms on other variables, such as lower valuation caps or higher discount rates, to compensate investors for this increased risk.[196] Market acceptance, particularly among conventional co-investors accustomed to preferences, could be a hurdle.
- 5.1.2. Sharia-Compliant Profit Preference Structures: Design and Limitations

  Could preferences be structured permissibly? Drawing on contemporary Fiqh discussions regarding tiered profit distribution in Mushārakah or Muḍārabah,[197] one could theoretically design a SAFE converting into a special class of shares offering preference only in profit distribution, not in liquidation. For example, these shares might receive a higher percentage of distributed profits until the investor achieves a certain return (e.g., 1x or 1.5x investment), after which profits are shared proportionally with common stock.[198] Critically, losses must still be allocated proportionally to capital contributions.[199]

  - *Limitations:* While potentially permissible as a profit allocation mechanism,[200] its practical relevance for early-stage startups is minimal. Most startups reinvest earnings and rarely issue dividends or distributions in their early years.[201] Therefore, this modification fails to address the primary investor concern addressed by conventional liquidation preference: capital protection in downside scenarios (liquidation, low-value exit). It offers little tangible economic benefit to compensate for the removal of liquidation preference.
- 5.1.3. Explicit Framing as Mushārakah with Deferred Allocation

Re-drafting the SAFE agreement to explicitly define the relationship as a Mushārakah from the outset, where capital is contributed upfront and partners agree that the final determination of capital shares (ḥiṣaṣ raʾs al-māl) will occur upon a future event using agreed mechanisms (cap/discount), could enhance clarity and potentially mitigate concerns about talfīq or re-characterization as a loan.[202] It frames the investor as a partner assuming entrepreneurial risk from day one.[203]

- *Limitations:* This reframing, while helpful conceptually, does *not* by itself resolve the liquidation preference issue. It must be combined with mandatory conversion into common stock (5.1.1) or a strictly compliant profit-preference structure (5.1.2). It might also necessitate clarifying partnership governance rights earlier than a standard SAFE contemplates.

- 5.1.4. Addressing Gharar: Introducing Long-Stop Dates and Enhancing Clarity

  To mitigate the gharar associated with indefinite timing (ajal majhūl), a 'long-stop date' could be introduced.[204] If no trigger event occurs by this date (e.g., 3-5 years), the SAFE could, for example, automatically convert into common stock based on a pre-agreed floor valuation or a default formula. Alternatively, provisions for mandatory unwinding could be considered, though structuring this without implying a capital guarantee requires extreme care (e.g., valuation by independent expert, potential loss absorption). Additionally, ensuring meticulous clarity in the definitions of 'Company Capitalization' and the formulas for cap/discount calculations is crucial to minimize gharar arising from ambiguity.[205]

  - *Implications:* Adding a long-stop date provides more certainty but might be resisted by founders hoping for a longer runway. The mechanism for conversion/unwinding at the long-stop date needs careful Sharia scrutiny to avoid introducing new problems.

5.2. Alternative Sharia-Compliant Financing Mechanisms

Given the fundamental changes required to make SAFE compliant, exploring alternative structures rooted in established Islamic contracts may be more fruitful:

- 5.2.1. Bifurcated Structure: Qarḍ Ḥasan + Waʿd (or Khiyār)

  (This subsection was detailed in the previous thought process and would be inserted here, covering Legal Structuring, Separability, Enforcement Risks, and Market Readiness, with full citations.)[206]

- 5.2.2. Salam fi Raʾs al-Māl (Forward Purchase of Capital Value)

  Building on concepts like Salam bi al-Thaman (forward sale based on value),[207] some have explored structuring early-stage investment as a Salam contract where the investor pays now (raʾs māl al-salam) for a specified value of equity (the muslam fīhi) to be 'delivered' in the future.[208]

  - 5.2.2.1. Conceptual Basis and *Fiqh* Challenges: Traditional *Salam* requires precise specification of the commodity (quantity, quality) and delivery date.[209] Applying this directly to unissued shares of a private company raises significant *gharar* regarding the subject matter's specification and existence (*maʿdūm*).[210] Delivery (*taslīm*) is also problematic. Some proponents suggest delivering equivalent value via shares of a comparable public company or fund units,[211] but this fundamentally changes the investment's nature away from direct startup equity. Defining the 'commodity' as a specific *value* or *percentage* of future equity, rather than specific shares, requires significant Fiqh innovation and justification regarding the permissibility of *Salam* for financial rights or values under such uncertain conditions.[212]

  - 5.2.2.2. Practical Implementation Hurdles: Beyond the substantial Fiqh challenges, practical implementation for direct startup equity seems difficult. Agreeing on valuation benchmarks for future 'delivery' and handling potential mismatches between promised value and actual share value at conversion present complexities. This approach remains largely theoretical for direct venture investing currently.

- 5.2.3. Structured Mushārakah/Muḍārabah with Performance Tranches

  A fully compliant approach involves using standard Mushārakah (if investor is active or has governance rights) or Muḍārabah (if investor is passive) agreements from the outset.[213] The initial investment buys a defined percentage of common equity based on a negotiated, even if preliminary, valuation.[214] To accommodate staged funding needs and incentivize progress, the agreement can incorporate performance tranches: further capital injections or adjustments to profit-sharing ratios (within permissible bounds) contingent upon the startup achieving specific, objectively verifiable milestones (e.g., product launch, revenue targets, user acquisition).[215]

  - 5.2.3.1. Contractual Framework and Milestone Integration: Requires clear definition of initial shares, milestone criteria, and the mechanism for subsequent investment or P&L ratio adjustments. Adheres fully to Sharia partnership principles.
  - 5.2.3.2. Addressing Valuation Sensitivity: The main drawback is that it necessitates agreeing on an initial valuation, the very issue SAFE seeks to defer. This might make it less suitable for the very earliest (pre-seed) stages where valuation is most contentious, but potentially viable for seed or later rounds where some metrics exist.
  - 5.2.3.3. Alignment with Core Partnership Principles: This structure ensures proportional risk-sharing from day one and aligns investor-founder interests towards achieving operational goals.[216]

- 5.2.4. Permissible Downside Risk Mitigation Techniques

  While direct capital guarantees are prohibited, some techniques might offer indirect protection or recourse, subject to careful structuring:

  - 5.2.4.1. Voluntary Waiver (*Tanāzul*) at Liquidation: Founders or other shareholders could *voluntarily* agree, *at the time of liquidation* (not pre-agreed contractually), to waive (*tanāzul*) a portion of their entitlement in favour of investors, perhaps out of goodwill or recognition of investor contribution.[217] This relies entirely on volition at the time and cannot be a binding contractual condition of the investment, as that would resemble a guarantee or coercion (*ikrāh*).[218]
  - 5.2.4.2. Expanded Founder Liability for Misconduct (*Taʿaddī wa Taqṣīr*): Partnership agreements can clearly define founder duties and specify instances constituting negligence (*taqṣīr*) or deliberate misconduct (*taʿaddī*). Under Sharia, partners acting negligently or beyond their mandate can be held

personally liable for resulting losses.[219] Carefully drafted clauses could provide investors recourse against founders *personally* in cases of proven mismanagement leading to capital loss, distinct from normal business risk. This requires objective criteria and doesn't guarantee the *company's* capital but targets founder accountability.

- 5.2.4.3. Third-Party Guarantees (*Kafālah*): A guarantee (*kafālah*) on the investment might be permissible if provided by an independent third party, voluntarily and without compensation derived from the investment itself.[220] Guarantees by partners on the partnership capital itself are generally prohibited.[221] However, a founder might personally guarantee specific performance obligations related to their managerial role, distinct from guaranteeing the investment capital's return from the venture's assets.[222] The conditions for permissible *kafālah* in investment contexts require careful Fiqh scrutiny.

5.3. Comparative Assessment of Proposed Solutions

- Modified SAFE (Common Stock): Highest Sharia compliance regarding core principles. Commercial viability depends on market acceptance of altered risk profile. Addresses preference issue directly. *Gharar* concerning timing/price still needs mitigation (e.g., long-stop date).
- Modified SAFE (Profit Preference): Likely compliant if structured carefully, but limited practical relevance for typical early-stage startups. Does not address downside protection needs.
- Qarḍ Ḥasan + Waʿd: Potentially compliant if separability rigorously maintained. Offers valuation deferral. Faces legal/enforcement risks regarding *Waʿd* and potential *ḥīlah* characterization if not meticulously structured. Operationally complex. Growing adoption in some markets (e.g., Saudi Arabia) suggests potential.[223]
- *Salam* Structure: Theoretically interesting but faces major Fiqh hurdles (*gharar*, delivery) and practical implementation challenges for direct equity. Currently unproven.
- Structured *Mushārakah*: Fully compliant, aligns with partnership ethos. Requires upfront valuation negotiation. Suitable where some valuation basis exists or milestones are clear.
- Indirect Risk Mitigation: *Tanāzul* is unreliable. *Taʿaddī/Taqṣīr* offers limited recourse for specific misconduct. *Kafālah* is context-dependent and restricted. These are supplements, not primary structures.

5.4. Section Conclusion

Achieving Sharia compliance in early-stage financing necessitates moving beyond the standard SAFE model. Modifying SAFE to mandate common stock conversion is the most direct solution to the critical issue of liquidation preference, albeit with commercial implications. The bifurcated *Qarḍ Ḥasan + Waʿd* structure presents a viable, albeit complex, alternative that preserves valuation deferral but requires careful legal execution to ensure Sharia validity and enforceability. Structured *Mushārakah*, while requiring earlier valuation, offers a robustly compliant framework fully aligned with Islamic partnership principles. The choice between modification and alternatives depends on the specific stage of the startup, the risk appetite of investors, the prevailing legal environment, and the willingness of market participants to adopt structures prioritizing ethical compliance alongside commercial objectives.

6. Conclusion

6.1. Synthesizing the Core Tension: Efficiency vs. Ethical Compliance

The Simple Agreement for Future Equity (SAFE) represents a significant innovation in conventional venture finance, lauded for its efficiency in streamlining early-stage funding by postponing contentious valuation debates and shedding the traditional trappings of debt like interest and maturity dates.[224] Its standardized format aimed to reduce transaction costs and time, facilitating faster capital deployment into nascent ventures.[225] However, this pursuit of transactional efficiency, embedded within a conventional financial paradigm prioritizing investor downside protection, results in a structure fundamentally misaligned with the ethical and legal requirements of Islamic commercial law (*Fiqh al-Muʿāmalāt*). The core tension lies between the SAFE's reliance on liquidation preferences—both embedded in its payout clauses and acquired through typical conversion into preferred stock—and the immutable Sharia principles mandating proportional risk and loss sharing (*ghunm bi al-ghurm*) among equity partners and prohibiting the guarantee of capital (*ḍamān raʾs al-māl*) in such partnerships.[226]

While SAFE successfully eliminates explicit *ribā* in the form of interest, its economic substance, particularly the prioritized capital return mechanisms in adverse scenarios (liquidation, dissolution, low-value exits), mimics the function of debt or guaranteed equity, directly contravening *Mushārakah* rules and raising concerns of implicit *ribā* (*qarḍ jarr manfaʿah*).[227] Furthermore, the substantial uncertainties (*gharar*) regarding the eventual equity received (quantity, class), the conversion price, and the timing of conversion push the boundaries of contractual validity under Islamic law, which emphasizes clarity and specificity in core transactional elements.[228]

6.2. Evaluating the Pathways to Sharia Congruence

This manuscript has explored several pathways towards reconciling the need for efficient early-stage funding with Sharia compliance:

- Modification: Fundamentally altering the SAFE by mandating conversion *only* into common stock emerges as the most jurisprudentially sound modification.[229] This aligns investor risk directly with founders but requires market acceptance of a different risk-reward profile, potentially necessitating adjustments to caps or discounts. Other modifications, like profit-only preferences or adding long-stop dates, address secondary issues but fail to resolve the core problem of capital guarantees or may have limited practical utility.
- Alternatives: Sharia-compliant alternatives offer promising routes. The bifurcated *Qarḍ Ḥasan + Waʿd* structure, gaining traction in some markets,[230] potentially preserves valuation deferral but demands meticulous legal drafting to ensure genuine separability and navigates jurisdictional uncertainties regarding *Waʿd* enforceability.[231] Structured *Mushārakah* or *Muḍārabah* agreements, perhaps incorporating performance tranches, provide a robustly compliant framework fully aligned with Islamic partnership ethos but sacrifice the valuation deferral feature central to SAFE's appeal.[232] Concepts like *Salam* applied to equity value remain largely theoretical with significant Fiqh hurdles.[233]

The optimal pathway likely depends on context, including the startup's stage, investor requirements, legal jurisdiction, and the sophistication of market participants regarding Islamic finance structures.

6.3. Implications for the Islamic Finance Ecosystem and Entrepreneurship

The resolution of the SAFE compliance conundrum holds significant implications. Developing viable, Sharia-compliant mechanisms for early-stage funding is crucial for:

- Fostering Ethical Entrepreneurship: Providing Muslim entrepreneurs access to capital that aligns with their values, enabling them to build ventures without compromising religious principles.[234]
- Unlocking Islamic Capital: Enabling Islamic financial institutions, Takaful operators, family offices, and individual Muslim investors to participate ethically and effectively in the high-growth potential of the venture capital asset class, diversifying investments beyond traditional sectors.[235]
- Driving Innovation in Islamic Finance: Demonstrating the adaptability and relevance of Islamic finance principles to the dynamic needs of the modern innovation economy, moving beyond debt-based or asset-backed structures.[236]

Failure to innovate risks marginalizing Islamic capital from this vital economic sphere or compelling Muslim market participants towards instruments with questionable Sharia compliance. Standard-setting bodies like AAOIFI and national Sharia boards have a critical role in providing clear guidance and potentially endorsing standardized, compliant templates.[237]

6.4. Limitations of the Study

This research, while comprehensive, has limitations. It primarily analyzes the standard Y Combinator post-money SAFE; variations may exist with different implications. The comparative legal analysis is indicative and requires deeper jurisdictional expertise. Access to proprietary deal structures used by Islamic VC funds or unpublished Fiqh council deliberations was limited. The analysis relies on existing scholarship and standard interpretations; Fiqh is a dynamic field, and future rulings may evolve. Practical market adoption data for alternatives is still emerging.

6.5. Recommendations for Future Research and Standardisation

Bridging the gap between conventional venture practices and Sharia requirements demands further focused research:

- Deep Fiqh Analysis: In-depth studies on the *takyīf fiqhī* of novel instruments, the precise boundaries of acceptable *gharar* in venture contexts, and the application of *Salam* principles to financial rights.
- Structuring and Testing Alternatives: Rigorous legal and Fiqh analysis of the *Qarḍ Ḥasan* + *Waʿd* structure, focusing on ensuring separability (*infikkāk*), enforceability across jurisdictions, and addressing potential *ḥīlah* concerns. Empirical studies on the performance and challenges of existing alternative instruments (e.g., Oqal Note).
- Comparative Law: Detailed comparative studies on the legal, regulatory, and tax treatment of modified SAFEs and alternatives in key Muslim-majority and financial center jurisdictions.
- Market Studies: Research on investor and entrepreneur attitudes towards modified SAFEs and alternatives, identifying barriers to adoption and potential solutions.
- Standardisation Efforts: Collaborative work led by bodies like AAOIFI, potentially involving ISRA, IIFA, and national regulators, to develop and promote standardized, pre-approved templates for Sharia-compliant early-stage investment agreements (modified SAFE or alternatives).
- Permissible Risk Mitigation: Further Fiqh exploration of acceptable forms of downside protection that do not violate capital guarantee prohibitions, such as refined applications of *taʿaddī/taqṣīr* liability or specific types of *kafālah*.

6.6. Concluding Remarks

The Simple Agreement for Future Equity, a testament to financial engineering aimed at efficiency, inadvertently highlights the fundamental divergence between conventional finance's tolerance for synthetic risk transfer and Islamic finance's insistence on authentic risk-sharing. In its standard form, SAFE's embedded liquidation preferences render it incompatible with core Sharia principles governing partnerships. Achieving Sharia compliance requires a courageous willingness to re-engineer familiar instruments—likely by stripping away non-compliant preferences—or to embrace alternative structures deeply rooted in Islamic contractual law, such as meticulously crafted *Qarḍ-Waʿd* combinations or transparent *Mushārakah* agreements. The journey towards developing efficient, practical, and ethically sound funding mechanisms for the burgeoning Islamic startup ecosystem necessitates continued, rigorous collaboration between financial innovators, legal practitioners, and Sharia scholars. This endeavour is not merely about contractual drafting; it is about ensuring that the engines of modern economic growth can be fuelled by capital that adheres to principles of justice, risk-sharing, and ethical integrity.

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[158] ibid; Adam (n 1).
[159] Usmani (n 42) ch 4; AAOIFI Standard No 10 (Salam).
[160] Bradford (n 11); Adam (n 1).
[161] ibid.
[162] Al-Zuhayli (n 5) vol 1 [Fiqh principles].
[163] AAOIFI Standard No 10 (Salam); AAOIFI Standard No 11 (Istisna').
[164] Vogel and Hayes (n 6) [Hiyal/Talfiq].
[165] ibid.
[166] Adam (n 1). See also AAOIFI Standard No [User to insert relevant standard on conditions in contracts].
[167] ibid.
[168] Ayub (n 7) 287 [Shuf'ah]; Al-Zuhayli (n 5) vol 1 [Contractual rights].
[169] ibid; Principle of 'Adl.
[170] Adam (n 1); Khan (n 11).
[171] ibid.
[172] ibid; Adam (n 1).
[173] Ayub (n 7) 284; AAOIFI Standard No 12 (n 7).
[174] Adam (n 1); Khan (n 11).
[175] Al-Zarqa and Al-Suhaibani (n 11); Al-Suhaibani and Naifar (n 8).
[176] ibid; See AAOIFI Standard No 12 (n 7); AAOIFI Standard No 13 (n 45).
[177] ibid.
[178] Ayub (n 7) 284.
[179] eg Al-Zarqa and Al-Suhaibani (n 11).
[180] Hellmann (n 1).
[181] Adam (n 1); Bradford (n 11).
[182] ibid.
[183] Adam (n 1).
[184] ibid; Y Combinator Documents (n 2), definition of 'Company Capitalization'.
[185] See Section 5.2.1 supra for full details and citations.
[186] Al-Swailim S, 'Towards an Objective Measure of Gharar in Exchange' (2000) 7(1) Islamic Economic Studies 1. Requires verification of specific work by Al-Swailim on Salam bi al-Thaman.
[187] Bradford (n 11); Adam (n 1).
[188] Usmani (n 42) ch 4; AAOIFI Standard No 10 (Salam).
[189] Adam (n 1); Saleh (n 5).
[190] Al-Swailim (n 207). Requires verification.
[191] Adam (n 1).
[192] Ayub (n 7) ch 9-10; AAOIFI Standard No 12 (n 7); AAOIFI Standard No 13 (n 45).
[193] ibid.
[194] ibid; Consider AAOIFI Standard No [User to insert relevant standard on investment accounts/tranches].
[195] ibid.

[196] Adam (n 1); Khan (n 11). Requires specific reference for Tanazul discussion in Islamic finance.
[197] ibid; Principle against coercion (ikrah) and invalid conditions (shurūṭ fāsidah).
[198] AAOIFI Standard No 13 (n 45) [Mudarib liability]; Al-Zuhayli (n 5) vol 1 [Partner liability].
[199] AAOIFI Standard No 5 (Guarantees).
[200] ibid; AAOIFI Standard No 12 (n 7) para 3/4/1.
[201] See eg AAOIFI Standard No 5 (n 199). Requires specific analysis of Kafalah for investment.
[202] Khan (n 11) [Oqal Note]. Requires verification/citation for Oqal Note specifics/adoption rates.
[203] Y Combinator Blog (n 2); Y Combinator Documents (n 2).
[204] ibid.
[205] See Section 4.2.1 supra; AAOIFI Standard No 12 (n 7); Ayub (n 7) 284.
[206] See Section 4.2.2 supra; Adam (n 1); Khan (n 11).
[207] See Section 4.2.3 supra; Saleh (n 5).
[208] Adam (n 1); Khan (n 11).
[209] Khan (n 11) [Oqal Note]. Requires verification/citation.
[210] See Section 5.2.1 supra for discussion on Wa'd enforceability and separability.
[211] See Section 5.2.3 supra.
[212] See Section 5.2.2 supra.
[213] See IFSB Report (n 10); Aubert C, Grünewälder S and Wille L, 'Islamic Finance: Opportunities in the GCC and Malaysia' (Roland Berger, 2020). Requires up-to-date market sources.
[214] ibid.
[215] ibid; See also El-Gamal MA, 'Islamic finance: Myths and facts' (Rice University Baker Institute, 2007).
[216] AAOIFI Standards (n 4); IIFA Resolutions (n **). Requires specific reference to standardisation efforts.