

FATAWA ON SHARES AND STOCKS

I. BUYING SHARE, STOCKS AND MUTUAL FUNDS

Subject: can we buy stocks?

From Islam on line

Date: 10/4/00

Dear Sister Umulkheir

Assalamu Alaikum,

your question is about buying shares from your company...

My reply:

Alhamdu li Allah wa al Salatu ala Rasuli Allah, buying share from a company you work for has the same general rules of shares transactions.

if the company's main line of business is permissible, and it is not loaded with debts that exceed one third of its assets, and its receivables do not make high percentage of its assets that they produce interest as a important form of its income, interest does not make more that 10 to 15% of its net income, the company is not involved in selling military technology to countries that fight Muslims or occupy parts of their land and it does not lend outright support to immoral practices such as homosexuality, and if you buy through a contract that includes no prohibited clause such as buying on an interest bearing loan, then buying and selling and profiting from such shares is permissible according to the view of a respected minority among contemporary Muslim scholars.

wa Allahu A'lam,

sincerely

Monzer Kahf

Subject: what stocks can Muslims buy?

From Islam on line

Date: 10/4/00

Dear Br. Fadi

Assalamu Alaikum,

your question is about stocks

my reply is:

Alhamdu li Allah wa al Salatu ala Rasuli Allah,

According to all contemporary Muslim Shari'ah scholars, stocks represents shares in the ownership of companies, and a stock holder is an owner of a percentage in the company equals to the number of stocks she owns divided by the total number of shares.

Establishment of common stock companies is permissible, and it must be announced to public, i.e., that it is a common stock company and it has limited liability (see OIC Fiqh

Academy resolutions)

Preferred stocks are not permissible to issue and own if the preference is in the rate of profit, its guarantee, guarantee of principal or in the distribution of proceedings at liquidation.

Owning a stock and trading it is subject to the general principles of sale and ownership. The business of the company must be permissible in Shari'ah (this rules out stocks of banks, western entertainment business, etc.) as well as permissible businesses in which the management make un-permissible transactions such as getting loans against interest or depositing funds in banks for interest, or any other illegitimate kind of transaction. Additionally there is an important rule in Shari'ah, it is as follows: you can sell any owned asset, mobile, fixed or abstract (e.g., publication right) for an agreed price, which is essentially based on the market price. BUT you cannot sell money or debt except for their nominal amount, regardless of the date of maturity (for a debt). This implies that stocks of companies at the inception stage when all their assets are either cash on hand or cash deposited in bank accounts must sell only at the face value of the stock, BUT once other assets exist including intangible assets, and the total of physical and abstract assets becomes more than the total of debts and cash, the stock may sell at any price regardless of the face value.

Otherwise such a sale involves Riba as it is obvious.

All the above quote the majority's or unanimous views.

minority opinion: because there is great inconvenience in the above rules, a few, but still very respected scholars argue that inconvenience must be removed, hence one may buy and own stocks of companies that deal with prohibited products or have un-permitted transaction within certain conditions. these are: the main and predominant business of the company must be permissible and the prohibited products and transactions must be marginal and accidental. interest earning must not make more than 15% of net earning, total borrowed loan to total asset must not exceed one third, the company must not be an outright supporter of enemies of Muslims/immoral causes such as homosexuality or arms sales to aggressors, ADDITIONASLLY, ONE MUST ALWAYS CLEAN ONE'S EARNING FROM SUCH STOCKS BY ESTIMATING, IN AN EDUCATED MANNER, THE PERCENTAGE OF UNPERMITTED EARNING AND GIVE IT AWAY FOR CHARITABLE CAUSES. Where the numbers came from? from analogy to similar numbers and ratios used in Fiqh for several other issues, there is nothing so great about them, the principle is the lowest un-permissible thing is always the better. IMPORTANT NOTE: even if we take this relaxing opinion, which is an exception anyway, a Muslim is forbidden to run the business of such company herself because it is completely Haram to produce any thing forbidden or to be part of any forbidden transaction.

Wa Allahu A'lam

Monzer Kahf

Subject: Buying stocks

From Dr. shahida

Date: 2/29/00

My Answer

CC: Dr S.

Dear Dr. Shahida

Assalamu Alaikum,

The OIC (Organization of Islamic Conference) Fiqh Academy that includes Fiqh Scholars representing the 53 Muslim countries in addition to others experts selected on their scholarly reputation, in several resolutions and recommendations dealt with purchasing stocks. This can be summarized as follows:

1 - Stocks of companies whose products are not permitted in Shari'ah are prohibited to own, purchase, sell etc. Examples: interest-based banks and insurance companies, entertainment buz, etc.

2 - Stocks of companies that abide by the rules of Shari'ah, such as Islamic banks and Islamic Insurance companies are permissible.

3- Stocks of companies whose products are permissible but the company indulges in non-allowed transactions such as getting interest based financing, depositing in banks for interest, making contracts that include prohibited conditions, e.g., selling gold and/or silver and/or currencies in other than spot , or giving donations or selling arms to aggressors such as Israel. Also companies that produce permissible products but also produce non permissible products as a minor line of production, and this category 3 includes most companies in the world such as Microsoft and IBM. All these stocks are not permissible, in principle according to the Fiqh Academy. And this is a decision that actually represents a majority.

A group of respected scholars disagrees and consider this resolution too Idealistic to a degree that creates hardship for Muslims all over. This group suggest that stocks of such companies (category 3) may be permissible within a few conditions that are mainly:

a - N more than 15%of the company's net income comes prom interest and other prohibited transactions

b - Borrowing / equity ratio must not exceed 33%

c - Companies of category 1 must be avoided totally

d -Companies must not be a producer of aggressive and/or harmful products such as military industries and environment violating industries

e - When you invest in such companies, you MUST ESTIMATE THE PERCENTAGE OF TOTAL INCOME YOU GET (capital gain and dividends) THAT RESULTS FROM INAPPROPRIATE ACTIVITIES AND TRANSACTIONS AND DONATE THAT TO A CHARITY OR THE POOR AND NEEDY , FOR the purpose of preserving your investment clean and pure.

Dow Jones crated an index based on these criteria that includes more than six hundred companies. It is called DJ Islamic Market Index, you can find it and the list of companies on the internet.

Mutual funds are companies that buy and sell stocks and bonds. Apply the same criterea on them and select mutual funds that do not deal with stocks of prohibited companies, i.e., category 1 and that you can estimate their problematic area to be less than 15% and make your charitable contribution a bit on the safest side.....

Sincerely,

Monzer Kahf

Subject: Investment in stocks and Zakah on stocks

From Islam on line

Date: 10/25/2000

Question

Dear Sister Razan:

Assalamu Alaikum,

You have several questions, they are, as I understand them, as follows:

- 1 - Is it permissible to invest in stocks within the Dow Jones Islamic market, and/or FTSE Islamic index listing? And if the listing is not updated soon enough, is it still permissible?
- 2 - Are dividends of companies in these indices Halal? And if the rise in price of the stock affected by dividends (and I add or by any Shari'ah un-remitted action by the management such as borrowing for interest, etc.), is the gain from price rise permissible?
- 3 - What is the Zakah on stocks and how is it calculated, whether I keep the stock for a short period or a long period?

The answers:

Alhamdu li Allah WA al Salatu wa al Salamu ala Rasuli Allah,

1&2 - You know that Islam prohibits interest and certain other practices that contain any immoral or unfair ingredients such as gambling, unbalanced transactions, ambiguous contracts, etc. This prohibition includes that a Muslim must abstain from such practices as an individual as well as a partner in a company, meaning that if a Muslim enters in a company with others, Muslims/non-Muslims, a Muslim must always be keen that other partners do not indulge in any non-permitted transaction, because the management of a company acts on behalf of its owners.

Accordingly, many Fuqaha argue that it is prohibited to buy, own/hold or sell stocks of companies that makes any prohibited transaction what so ever. But a group of Fuqaha, whose opinion is respected, argue that this ruling poses a great deal of inconvenience and hardship on many Muslims, especially in the West and other non-Muslim countries, because there are only a few stocks that comply with it such as stocks of Islamic banks and a few other small companies, even these are not available for the greatest majority of Muslims. And since hardship always calls for relaxation, they argue for exceptionality at this time and until a time when there will be reasonable number of Halal stocks available to absorb the investments of Muslims, which may be even theoretically a long time..., Yet this exception has certain conditions that can be summarized in three groups: a) the company main line of activity must not be itself Haram, such as interest based banks and insurance companies and Las Vegas type entertainment business, etc., b) the degree of involvement in prohibited transaction must not be high, and here they argue that depending on interest-based loans, maintaining high percentage on receivables that in most of the times carry interest and having high percentage of interest in the company's net income or giving donations to prohibited causes, etc. may be indications that should be considered, obviously the ideal is zero on all these, but one may say that 5%, 10%, 25%, 33% or the like may not be a high to induce the prohibition on any or some of these points, c) there always must be active process of cleaning your investment, i.e., to do away with the income that results from prohibited transactions by giving it to charity

since according to Shari'ah you really do not own it, and remember you are, God willing, rewarded for this action of cleaning but not as a Sadaqah nor Zakah.

On the basis of these conditions the Dow Jones is make market index came about and the same they s t s e is that make index bought

This means that investing according to these indices or stocks in them must keep in mind that this is on one hand an exception of the basic principle and on the other hand always calls for cleaning your income, both from dividend and price increment, that may have resulted from Shari'ah unlawful activity of the company.

To my knowledge, the listing in these indices is updated every three or six months, and if you have old information on a specific stock you may look in the web of that company and see if there was any substantial change in its fundamentals, balance sheet and income statement from the previous period when it was listed, if the change is not substantial, you may work on the assumption that it has not changed since during the period of comparison, this is not easy, is it?

3 -Zakah on stocks: the opinion of the majority of the contemporary Fuqaha is that if stocks are purchased for the purpose of capital gains, i.e., watching prices and get an opportunity to sell, even after split, at higher prices, especially if the idea is done in the short run, stocks are then objects of trade and they are subject to Zakah at the market value on the day a Hijri Hawl is complete from the day a Nisab is owned. This market value is added to your other Zakatable assets, like cash and bank accounts, and Zakah is due at 2.5% of the total if it is Nisab or above. This means whatever dividend you got during the year is actually included (when it is either used for new stocks or other Zakatable assets) unless was used for consumption (whether used up like food or durable like a refrigerator and both are exempt from Zakah).

Wa Allahu A'lam,

Sincerely,

Monzer Kahf

Subject: Zakah on stocks-continue

From Islam on line

Date: 10/25/2000

To: scitech@islam-online.net

Sister Razan

Sorry, the answer of Zakah was sent incomplete. Here is the rest of it.

Continue the majority's opinion:

But if stocks are used for income (their dividends), the Zakah is due only on a percentage of the stocks' value that equals the percentage of the net mobile assets (inventory + cash on hand and in banks + receivables and similar - payables) to total equity of the company. In all cases if it is difficult to calculate the Zakatable amount at the Hijri Hawl, you may take the figures from the Gregorian (solar) year and compensate for the difference by adjusting the rate of zakah from 2.5% to 2.577% (= 2.5% + 2.4%multiplied by 354/365). Besides this opinion, there is a view that only the income (dividends) of stocks held for their income is subject to zakah at a rate of 10% in similarity with agricultural land and products. I believe that this view is weak and cannot be substantiated by the rules of Usul

al Fiqh or by the Fiqh rules.
wa Allahu A'lam,
Sincerely,
Dr. Monzer Kahf

Subject: Day trading in stocks

From Islam on line
Date: 10/25/2000
To: scitech@islam-online.net

Dear Br. B A al Rawi

Assalamu Alaikum,

Your question: I have an account in bank through which I buy and sell shares (Stocks). The Bank is getting commission when I sell or buy. I could get facility from Bank as follows: I can buy shares (stocks) even if I have no cash to cover that but I have to sell them before the closing time for that day, regardless the price. So I might gain or lose depending on the price. Bank is getting its commission also. Is this deal Halal or Haram and why? Thanks,
Wassalam.

My answer: Alhamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah.

Buying stocks (that are permissible to buy) electronically is permissible. Their receipt is also done electronically, by the records of the broker's and the bank's computers, selling them within the day is thus also permissible and the loss or profit is yours. All that provided this daily arrangement with the bank does not involve any interest as in leveraging which has interest.

Wa Allahu A'lam,
Sincerely, Monzer Kahf

Subject: Buying and selling stocks

From Islam on line
Date: 12/6/00

My Answer

Dear Brother/sister

Assalamu Alaikum,

I wish you gave your name so I can address you in a more respectful way.

Your question is whether it is permissible to buy and sell stocks in the stock exchanges, knowing that it is a market that involves a lot of manipulation by the many traders, market makers, insiders, managers, etc. Who always exists in the market and always try to make the best out of it for their own benefit.

My reply: Al Hamdu li Allah wa al Salatu wa la Salamu ala Rasuli Allah, Yes it is still permissible to trade stocks, within the known conditions even with the knowledge you revealed, which is also known to me and to most people who are familiar with the stock exchanges. The reason is that it is not prohibited to buy from a manipulator or to sell

him/her. The manipulator is prohibited to make any thing that contains mischief, fraud, etc. Even when a manipulator makes fraud you still can make transaction with him as long as you are satisfied, and when you are not satisfied you can go to court and prove the fraudulent action and get either compensated or the contract annulled. Additionally, you, like many others, got this information so you know how to perceive it and react to it, and may be make a lot of benefit from it as long as any transaction is clear, parties know their mutual obligations and nothing is prohibited in the object of sale or the conditions of the contract.

On the other hand, the exchange markets need a lot of reform from Islamic point of view to minimize the opportunity of any fraudulent activity and to make all transactions in such a way that a person with less information is not likely to be taken advantage of, the matter that came in the Hadith of "La Khilabah." The Islamic stock exchange must fulfill the condition of La Khilabah {no advantage is taken of the person with less information or less power of bargain}. The existing stock markets reveal a lot of information and whoever deal in these markets should first be acquainted with it if he/she does not want to be a loser, and that, in the final analysis applies to any market even potato selling on a street in any Muslim city.

Wa Allahu A'lam,
Monzer Kahf

Subject: What is better than trading stocks?

From Islam on line

Date: 12/8/00 10:17:04 AM Pacific Standard Time

My Answer

Dear Sister Laila

Assalamu Alaikum,

Yours is exactly the million dollar question. You ask about a better investment than the stock market at a downturn of the economy and especially of the financial market. I really have no answer and if I have one I would have applied it myself. It may be a good time to invest more in the market now, it either already bottomed out or about to. It also may be a good time to stay aside for sometime. The conventional answer of bonds does not come from a Muslim because, as you said, interest is prohibited.

One other thing, all experts and part experience assure that the long term is brighter, think more on a long term, the stock market averaged in the past 12%+ even with all the terrible recessions included, It will pick up InShaAllah, and you will be happier, and Ramadan Mubarak and Happy Eid to you and your family.

WA Allahu A'lam,
Monzer Kahf

Subject: Investment in stocks

From Islam on line

Date: 12/22/2000

Name of Questioner: SYED
Education: Graduate
Ref. No: X8B9GC

Gender: Male
Date Submitted: 12/6/2000

Age: 21-30
EmailUser

Question

Is it Halal to do Shares/Stocks Business/Investment?

Dear Br. Syed

Assalamu Alaikum,

My Answer:

Al Hamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah,

Stocks/ shares are basically of two kinds: common and preferred. If the preference in preferred shares in financial such as guaranteed minimum return, priority in payment at time of liquidation and the like, preferred stocks/shares are then prohibited because equal owners of the companies principal must be treated equally. They are forbidden to issue, buy, own and sell. If the preference is managerial they may be permissible.

Common stocks are not prohibited from this point of view.

From another angle, stocks/shares may belong to companies that are fully compatible with Shari'ah in establishment and all activities such as Islamic Banks, to companies whose main and major business is forbidden such as conventional banks or Las Vegas type entertainment companies, or to companies whose main/major business is permissible but their articles of incorporation allow them to undertake activities that are prohibited in Shari'ah and their management actually do such activities, this category covers most companies on the stock exchanges such as Microsoft, Intel, Sony, General Motors, etc. because they are involved in at least one kind of unpermissible transaction, i.e., Riba-based borrowing and/or lending.

Obviously, the Shari'ah ruling on issuing, buying, owning and selling the first category is permissible while prohibited on the second.

The third category is troublesome and needs certain details. It is prohibited for a Muslim to establish a company that indulged in prohibited activity and consequently, it is also prohibited to issue its stocks and offer them to the public for sale. The principle must be that it is also prohibited to buy and own such a stock because by doing so the owner becomes in fact a partner in the company whose management take up prohibited activities on behalf of all its owners as their deputed officers. In other words, the management acts as your agent, this means, you are doing this prohibited activity.

In this regards, two points are important. If one buys such stocks with the intention (that is coupled with ability) to convert such a company into all Halal activities through having a majority in its board and general assembly, such a purchase is certainly permissible because it reduces the Haram in the world, although the process may take a few month or may be a year or two.

The second point (that may be more relevant to the questioner) is buying and owning such stocks as small investor and a small minority holder to get benefit from expected capital gains and from dividends. A small group of Muslim scholars argue that this category of stocks may be purchased and owned for investment within certain conditions that can be summarized in being sure that the prohibited activities do not make a high percentage of the total activity of the company. these include that the company does not

have high rate of liability/ asset, i.e., it does not live on loans, it does not earn a lot on interest it is not involved in activities that basically Hurt the interests of Muslims such as producing and selling arms attackers of Muslim people (Ummah), etc. Based on these conditions Dow Jones, in cooperation with a group of Muslim Scholar, studied the registered stocks and made a list that is issued under the name of Islamic Market Dow Jones Index.

Wa Allahu A'lam,
Dr. Monzer Kahf

Subject: Buying technology shares

From Islam on line

Date: 2/14/2001

Name of Questioner: Said

Gender: Male

Age: 31-45

Education: Post Graduate

Date Submitted: 12/26/2000

Email

User Ref. No.: EC7HAK

Question

Assalamu Alaikum, Is it lawful to buy shares in a technology mutual fund? Although the companies themselves do not deal in anything Haram, some of them (I do not know) may borrow money from banks with interest to finance their activities. Would this make them Haram? Jazakum Allahu Khairan

My Answer:

Dear Br. Said

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Buying, owning and selling stocks: As long as we avoid companies whose main business is prohibited, like conventional banks, the matter becomes controversial. There is a group of Scholars that argue it is permissible with certain conditions, mainly that the percentage of non permissible transactions to total activities of the company must be little. This group of Ulama made certain criteria that are implemented in the Islamic Market Dow Jones index. You find it on the Internet. Mainly that earning from interest must be low, no more than 10%, percentage of loans from others to equity should not exceed 33%, percentage of receivable (suspect of being interest earning) to total asset should not exceed 50%, and the company activities is not in the area that hurt the Muslim Ummah, like arm producers at this age we live in (they are mostly providers of arms to enemies of the Ummah). the Most important condition is that you are required to CLEAN YOUR EARNING FROM BUYING HOLDING AND SELLING SUCH Stocks, by giving away to charity a percentage of the earning that you calculate as being related to the Haram activities of the company you hold its stocks.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying technology stocks

From Islam on line

Date: dated 2/14/2001

Name of Questioner suad

Gender Female

Age 21-30

Education Graduate

Date Submitted 1/6/2001

Email

User Ref. No. XIQPS8

Question

Is it permissible to buy/sell stocks of companies that deal in Technology and manufacturing or biotech, but that has debt and borrow money from Banks for their research and development? Thus, if the company deals in permissible things but borrows money with interest and has debt is it OK for me to buy their stocks

My Answer:

Dear Sr. Suad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Buying, owning and selling stocks: As long as we avoid companies whose main business is prohibited, like conventional banks, the matter becomes controversial. There is a group of Scholars that argue it is permissible with certain conditions, mainly that the percentage of non permissible transactions to total activities of the company must be little. This group of Ulama made certain criteria that are implemented in the Islamic Market Dow Jones index. You find it on the Internet. Mainly that earning from interest must be low, no more than 10%, percentage of loans from others to equity should not exceed 33%, percentage of receivable (suspect of being interest earning) to total asset should not exceed 50%, and the company activities is not in the area that hurt the Muslim Ummah, like arm producers at this age we live in (they are mostly providers of arms to enemies of the Ummah). the Most important condition is that you are required to CLEAN YOUR EARNING FROM BUYING HOLDING AND SELLING SUCH Stocks, by giving away to charity a percentage of the earning that you calculate as being related to the Haram activities of the company you hold its stocks.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in stocks and mutual bonds

From Siddiga

Date: 2/20/2001

Question

What is considered Halal investment given that there are different areas of investment such as mutual fund, stocks, bonds?

I truly appreciate your response as soon as possible.

My Answer:

Dear, Sr. Siddiga

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Since your question begins general on Halal investment, I will start from the general too. The best investment most rewarding is to give a loan to Allah [using the Qur'anic expression] because the rate of return is seven hundred times and more, and your principal and return are both guaranteed. There are many areas for this investment including the Waqf that aims at building the infrastructure necessary for religious and social uplifting.

There are several types of investment that are Halal and some of them are even encouraged in Shari'ah. Investment in projects that help improving the welfare of the Muslim Ummah anywhere in the world especially in your own community where you live or belong, Projects of development of energy, water supply, health, education, etc., have priority over others for almost all Muslim countries.

Even promoting and supporting individual and personal projects of friends and family members is a lot better than other kinds of investment.

In general investment in real markets is better than investment in the financial and capital market. This means that investment in establishing a company is better than in buying its stocks second hand.

In Exchange markets, one may buy and hold stocks of companies that avoid all Shari'ah-non-permissible commodities and transactions. The example of these stocks is Islamic banks and Islamic insurance companies. None of these is on any American or European Stock Exchange.

The OIC Fiqh Academy in a couple of its resolutions declared that:

1 - It is prohibited to buy, hold or sell treasury bonds and similar bond (interest-based) whether issued by governments or companies.

2 - It is forbidden to invest in stocks of companies whose main line of business is forbidden in Shari'ah such as conventional banks, tobacco companies, breweries, etc.

3 - It is permissible to invest in Shari'ah abiding companies such as Islamic Banks.

4 - In principles it is forbidden to invest in stocks of companies that, although their main line of business is permissible, deal sometimes with prohibited transactions such as Riba-based borrowing and lending or depositing. The basis for this prohibition is that a shareholder in a company is a partner and she/he is morally and religiously responsible for all transactions made in her/his name and on his/her behalf by the management. This means that a shareholder is indulging in prohibited transactions.

This last point practically covers all companies on the stock Exchanges in America and Europe. But there is a group of Shari'ah scholars who argue that because this kind of prohibition makes it very difficult and very inconvenient for many individual Muslims to invest their savings, This group argues that because of such hardship there must be a little relaxation of the rules and they went on to suggest that with the following conditions, a Muslim may buy, hold and sell stocks of companies that deal sometimes in Riba and other prohibited transactions. The conditions are:

1 - The main line of the company must be permissible.

2 - The ratio of loans to equity must not exceed one third.

3 - The ration of receivable to assets must not exceed 50%.

4 - The ratio of interest earning to net profit must not exceed 10% .

5 - The company must not be dealing with commodities that are mostly used to harm the Muslim Ummah, such as American (and obviously Israeli) military industries.

6- AND MOST IMPORTANT THAT THE INVESTOR MUST ALWAYS CALCULATE THE PERCENTAGE OF EARNING FROM FORBIDDEN SOURCES TO TOTAL GAIN SHE/HE MADE (CAPITAL GAIN + DIVIDENDS) AND GIVE THAT AWAY IN A MANNER THAT KEEPS HER/HIS INVESTMENT CLEAN.

Based on these criteria, the Dow Jones company issued its Islamic Market Dow Jones Index of companies that fulfill the first 5 conditions.

Finally, with these conditions a Muslim may invest in stocks, and what applies on stocks applies to Mutual funds.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: What is the problem with trading options and futures?

From Islam on line

Date: 3/2/2001

Name of Questioner Hani

Gender Male

Age 21-30

Education Graduate

Date Submitted 12/15/2000

Email

User Ref. No. 22KMWU

Question:

What is the issue in trading options that you already own? What is the issue regarding trading futures and options? Is there anything in Islamic transactions that is like trading futures and commodities?

Notes: Salam I would like to thank the scholars and the people on this for having such a Wonderful place for a person to go and ask regarding their personal issues!!! Its a good place to get the information that you need with qualified Ulama. I thank you again and may Allah reward you for the great work that you have done!!! I would also like to thank Monzer Kahf for taking his time in answering my question!!

Wassalam

My Answer:

Dear Br. M Hani

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The real and final issue is that Shari'ah wants us to be real not assumptive. What is real in options? And how do you own it? And how do you deliver it? If we come to be truthful with ourselves and look at the reality, would option be any thing more than a fantasy we create by our imagination? Futures are very close to that too.... Are they really true? What is the percentage of future contracts that end in actual delivery? Didn't we create these kinds of transactions by our own fantasies to get people come in and speculate and then

we created a role for and benefits of this new class, the speculators?! Let us for a moment liberate our minds from the nuance of these organized markets and see what is factually real, realistic and true of it?? Only very little... There is a real need, I recognize, for transactions on future delivery and future payment. This is needed for planning our economic activities: production, transportation, wholesale and retail sale. We need futures for that only. But do we need future so you and I find a price to watch on a screen and call that investment? What are we investing our time in and what are we investing our money in? What do I and you produce to the rest of the world by this kind of "investment"?

Shari'ah is realistic and wants investment to be real activities real contracts real and transactions real. And Shari'ah still tolerates a transaction as long as it maintains certain relations to reality, even a very thin hair. That is why trading stocks, within conditions is permitted and trading mutual funds in also permitted, they have certain link or touch with reality, stocks symbolize certain real tangible and intangible assets and mutual funds are collections of stocks.

By the way trading indices is also not permitted for the same reason.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Trading stocks without knowing the financial statements of their companies

From: Islam on line

Date: 3/24/2001

Name of Questioner Ms. M.

Gender Male

Age 21-30

Education Graduate

Date Submitted 3/13/2001

Email

country of Origin Egypt

User Ref. No. ID8SXV

country of Res. Egypt

Question:

Assalamu Alaykum wa Rahmatullahi wa Barakatuh 1. I am an investor in the Egyptian Stock Market and I want to ask if it's permissible to invest in stocks where their financial results are unavailable also I do lack the technical experience to analyze these results properly from an Islamic point of view to exclude non-permissible stocks (e.g. high leverage & large amount of non Halal income)? 2. I want to ask if I bought an amount of a certain stock for which I got dividends then I sold the stocks at a price less than the price of their purchase so that the net result was loss, do I still have to get rid of the percentage of money representing the non-Halal income of the company by giving them to the needy? Jazaka ALLAH Khairan.

My Answer:

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

A - Buying stocks makes you a partner/owner in the company and in Shari'ah it is forbidden for a Muslim to make decisions that involve Haram transactions, even if these transactions are done, on his behalf, by his partners. This is the reason for the OIC Fiqh Academy resolution that: In principle, it is forbidden to buy, own and sell stocks of companies that do sometimes forbidden transactions although their main line of business may be within permissible limits.

The exception a handful of Ulama took is essentially based on removing a substantial Haraj (inconvenience) in relation to those Muslims, like you who deal in stocks and have not much of other expertise to use their savings.

You see that we can sort stocks into three categories: 1) permissible, the example of which is stocks of Islamic banks; 2) forbidden; where the main line of business is Haram, such as conventional banks and alcohol, tobacco, and Pig producers and distributors; and 3) the majority of companies, where the main line of business is permissible, but the management undertakes some transactions that are forbidden, such as Riba-based contracts, sale of certain goods before they take possession of them, make parties for guests and employees with alcohol and cigarettes offered, etc.

Those Ulama who attempt to remove the inconvenience came up with a few criteria to test the permissibility. These criteria are:

1- Main line of business must be permissible;

2- Percentage of dependence of loans (leverage) must be not high, and they considered one-third to be a limit for what is high (we have several use of the one-third in Fiqh as a criteria of what is high: Last Will, Gharar, Jahalah, etc.) Leverage is measured as percentage of loans to total assets;

3- Indulging in prohibited transaction must not be high. as an example they take Riba and assumed that a company that has too much cash in banks and too much receivables to mean that it has too many Riba-based use of their assets, considering one half is a limit here, that is one half of their assets is a limit for total of cash and receivables;

4- Income from prohibited transactions, such as Riba, must be low, no more than 5% to 10%.

5- The main line of business must not be in an Area that is harmful to the Muslim Ummah, such as American military industry that usually cooperate with Israel and other aggressors against Muslims.

6- Once these criteria are applied, you still need to calculate, or at least make an educated estimation of, the proportion of Haram in the income you get from a stock (this covers both dividends and capital gain) and exclude that proportion from your own wealth or property by giving it to charity or similar disbursements for the general welfare of the Ummah, you may not use this part of income to make up a loss you otherwise incur or to pay taxes the law requires you to pay, etc.

'Umar, may Allah be pleased with him, has a relevant statement: He who does not know the Fiqh needed to play in our market must stay away from it. My dear Brother you need to either acquire the technical know-how to apply these points or to hire someone to do it for you or quit that market.

B - You cannot use an income you know it is Haram for you to compensate a loss of any asset of yours, stocks or otherwise, because that Haram income is not yours. I belong to whoever paid it to you and if you do not know the payer, or it is in contradiction with rational behavior to return it to the payer (as is the case here because the payer is a Riba

player) , You have to exclude it from your own property by giving it to charity. Yes, you still have to give that amount away.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Shares are speculative, is it permissible to trade them?

From: Islam on line

Date: 4/13/2001

Name of Questioner ait

Gender Male

Age 21-30

Education Post Graduate

Date Submitted 4/12/2001

Email

country of Origin Algeria

User Ref. No. 4SBRG1

country of Res. Algeria

Question:

Assalamu Alaykum, My question is in two parts: First it is well known that any dealing with interests as in banks is considered "Riba" hence Haram, however much confusion arises when we speak about shares (stocks). What does Shari'ah say about them given that their value is not intrinsic but the result of much speculation (this is true for many traded stokes if not all). So I would like an answer on this. Jazaka Allah Khairan Second, I am a university graduate in finance and banking and in an English university, and considering to do a Ph.D. in Finance. Since about 90% of the knowledge acquired is about innovation on Haram.... Then is there any merit in seeking this knowledge.

Notes: Jazaka Allah Khairan

My Answer:

Dear Br. Ait

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - Trading (and issuing stocks) was discussed in several Seminars and meetings, the most dignified of them are the plenary meetings of the OIC Fiqh Academy. A summary of the resolution of the OIC Fiqh Academy is given in the following: a) trading shares of companies whose line of business is permissible in Shari'ah such as Islamic banks, is permissible; b) Trading shares of companies whose business is Haram such as conventional banks, is forbidden; c) trading shares of companies whose main line is permissible but the management may sometime make prohibited transactions, such as interest-based borrowing and lending is, in principle forbidden; d) certain kinds of share are forbidden for issuance and trade, specifically preferred shares if the preference is financial, and shares of a company whose majority of its assets are still in the form of cash and /or debts unless the trade is done at exactly the nominal (face) value of the assets.

In commenting on (c) above, several Shari'ah experts argue that since it applies to the predominant majority of shares in today's markets, this creates a great inconvenience for Muslim savers, especially small ones. Hence these Ulama believe that shares of many of these companies may be traded if certain conditions are fulfilled. These conditions aim at

assuring that total non-permissible transaction are only a small proportion of the grand total of the activities of the company.

Please notice that the point that the market price of a share, compared to its book price is irrelevant to the Shari'ah ruling. In other words, a share may be traded at any price determined by the forces of supply and demand. These forces include many speculative elements.

2- Studying finance at a higher level is certainly permissible, even if you study many aspects of Islamically non-permissible financing activities. WHAT MATTERS IS WHEN YOU TAKE A JOB YOU MUST NOT DO ANY THING THE SHARI'AH PROHIBITS.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in stocks

From: JUMA, UK

Date: June 20, 2001:

Question

Assalamu Alaikum. As a Muslim, am I allowed to invest my money in a stock market and if not why? And am I allowed to bank with non Islamic banks and if not why?

My Answer

Assalamu Alaikum wa Rahmatu Allah

Al Hamdu li Allah wa al Salatu 'ala Rasuli Allah

First, investment in the stock market: Stocks are documents that represent shared ownership in a company. It means you are a partner in that company. If the management produces anything that is forbidden, it is producing it on behalf of you the owner because. The implications of this are:

- 1) A Muslim must not produce anything (commodity or services) that is prohibited.
- 2) Any income generated to the owner that mingled with prohibited earnings needs to be purified by giving away to charity that part that is not permitted in Shari'ah.

Based on that, companies are classified into three categories:

- a) Companies whose main business is prohibited in the Islamic Shari'ah such as interest based banks, casinos, and porno or alcoholics production.
- b) Companies whose main function are permitted and at the same time their management abide by the rules of Shari'ah. The example of this category is Islamic banks and Islamic Insurance companies. Buying their stocks and trading them are permissible within the known rules of sales contracts in Shari'ah.
- c) The third category covers the very large majority whose main business is permissible such as computer or technology, but its management makes some prohibited transactions such as taking loans from banks or depositing cash against interest. Buying stocks in these companies may be considered forbidden because it is forbidden for any muslim to do any prohibited transaction, no matter how little it would be in relation to the total

amount of transactions he/she makes. This is the opinion of many Muslim scholars. However, there is a group of very learned scholars that consider this opinion very restrictive and very difficult to implement in our contemporary time. This group is led Shiekh Taqi Uthmani from Pakistan and by Abd al Sattar Abu Ghuddah of Syria. These group argues that if you buy the stock for investment (with the objective of looking at profit in dividend and growth) and you have no way of imposing on the management to abide by the Shari'ah rules, it is permissible within certain criteria to invest in the stocks of this third category of companies. The criteria are that the percentage of non-permissible transactions to total business of the company must be small and they suggest a small is not to reach, with regard to interest transactions, 10 to 15 percent. They put a few criteria around that idea of small percentage. These criteria are implanted by the Dow Jones Islamic Market Index under the supervision of a group of Learned Islamic scholars. This is available via the Internet.

The second criterion is the necessity of cleansing ones income the stacks of these category of companies. One must give for charity a portion of ones gains from investment that equals the estimated percentage of returns generated from prohibited transactions made by the management. The objective of these cleansing criteria is to keep ones own money pure from the prohibited and unlawful income according to Shari'ah.

Dealing with banks in UK: It has become very cumbersome and inconvenient to stay away from dealing with banks in our contemporary world especially for the Muslims living in the west. The rule is that where there are no Islamic banks it is permissibly to deal with non-Islamic banks or Riba based bank as long as the transaction is not forbidden in Shari'ah. This means you may have a checking account; you may change currency, do transfer, and other non-interest related transaction with a conventional bank. If it happens that interest is generated to your account, you have to give away that amount of interest to charity.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Are stock companies permitted in Shari'ah? And what justifies little interest?

From: Islam on line

Date: 8/1/2001

Name of Questioner mohammad

Gender

Age

Education

Date Submitted 6/28/2001

Email

country of Origin

User Ref. No. 22TCLH

country of Residence

Question:

Assalamu Alaykum: I have read few Fatwas in the site about the stock market. And I would like someone to clarify few points for me. When we talk about the stock market, we should look into how the company was established, meaning look at the contract of buying and selling stocks, and then judge it according to Islam. It was mentioned that

when you buy stocks you become a partner in that company that with the percentage of your stocks to the total stocks issues. Well the question comes, what kind of partnerships is that from an Islamic point of view? Is it OK in Islam to force yourself to be a partner in a company just because you have money? I know that in Islam the partner has the right to be involved in the decision of the company "al Shareek Motasarref", so how can we not look into that when we study the fact that the whole stock market is built upon? Money partnership, is it justified in Islam? 2. The second point is, it was mentioned that it is ok to deal with companies that has less than 50% of loan in their balance sheet? How can that be justified? And based on what? I have never heard of anything justifying the percentage of Riba....what I know is a dollar Riba is like a 100, there is no amount of Riba that is right and that is not. I would appreciate it if you answer my wondering about the structure of the company and all the points I have mentioned.

My Answer:

Dear Br. Mohammad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Take it easy my dear Brother, your concerns are really justified but we should also look into a few important points.....

1- No doubt that common stock companies are an invention of Western Europe and North America. They were not known in the third and fourth centuries of Hijrah when the rules of Sharikat in our Fiqh were developed. By the way all the terms and definitions of the kinds of partnerships came only in the late second and third centuries of Hijrah, they were not known at the time of the Prophet and his companions, pbut all. So al Sharik Mutasarraf came only at those centuries....

2- Muslim Fuqaha studied the new company and had different opinions, from Haram to permissible. The issue, however, was finally settled in a collective Ijtihad, in 1412 H by the OIC Fiqh Academy. Its resolution considered common stock companies permissible, issuance of shares and stocks permissible, and dealing in them is also permissible. It is a new kind of companies that does not have to abide by all the old rules. Yet, the Sharik (stock holder) still has some kind of tasarruf through the collective decision of the general assembly and delegation of power to the executive board. By the way both principles are recognized in Shari'ah with regard to partnerships, all partners have to take decisions together, and some may delegate authority to others.....

3- Yes there is difference between one Dollar Riba and a thousand Dollar Riba, as one is more Haram than the other. This does not mean that a small amount of Riba is tolerable. It is Haram too.

4- The idea of those Fuqaha, who took the stand of permissibility of stocks' transactions of companies that deal sometimes in Haram while their main business is permissible, is based on the principle of Hajah 'Ammah. That is a second best solution because otherwise there will be great hardship on Muslims, and unfortunately, as we live today the fact is that it is true there is a great deal of hardship. This is felt by the haves, not by the have-nots, and the rich ones among us need to be relived of hardship too. Hence the 50% or 33% or any thing else is an exception not a rule, and we live a life of many exceptions as one can easily realize.

Wa Allahu A'lam

Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Investment techniques in stock trading

From: Islam on line
Date: Aug. 8, 2001
Name Sharif - Egypt
Profession Student
Question Assalamu Alycom Warahmato'ALLAH

Dear Sir....

I am a Muslim Egyptian and I have a question for you please. I am an investor in the Egyptian stock market where there are some rules; price changes have a 5% limit for up and down movements, also we have three days for settlement before which we cannot sell any purchased stock...BUT the market is full of speculators and there are large price swings mainly attributed to the economic disturbances in the last year, but these price changes are more or less predictable so some investors usually follow this technique...they buy a special amount of a certain stock and keep it (I do follow Islamic restrictions on buying stocks acc. to Dow Jones Criteria).....during market rises they buy another amount of the same stock (this technique allows them to sell the older amount before the settlement of the newer one. so they profit even if the market rise ends before the three days).....Is that permissible from the Islamic point of view?
Thank you and jasakom ALLAH khairan for your patience and precious time.

Answer

Bismillah wa al Salatu wa Salaam ala Muhammad

The question is on buying a quantity of stocks that with the hope that the three days restricted period of sales that the owner may sell from the former batch of stocks. Certainly this practice is allowed, it is intelligent to take this opportunity of the market while one doesn't violate any of the regulations, nor of interest rulings of Shari'a. And Allah knows best.

Subject: Investment in stocks and gambling

From: Islam on line
Date: 1/9/2002
Name of Questioner Ehsan Gender Male Age 15-20
Education High School Date Submitted 12/29/2001 Email
country of Origin Pakistan User Ref. No. 5IVJHD country of Res. Pakistan

Question

Why is investing in the Stock Exchange allowed in Islam but Gambling is not?

My Answer:

Dear Br. Ehsan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

In one word, gambling has no real base, it is completely vain. Flipping a coin or turning a wheel or running a horse. In the stock markets, you are buying a share that represents a piece of a company. A company is a real thing that consists of organization, equipment and other assets, good will etc. It is like buying any goods for the purpose of reselling them when the price becomes in your favor. This is the essence of all trades. You buy goods at a certain price for the purpose of selling them at a higher price. All trades have that much of speculation and this is within the permissible limits in Shari'ah. In other words speculating on prices going up or down is not bad itself rather it is part of life and the basis of trading. Yet certain transactions in stock markets are not permissible (from the point of view of being closer to gambling) such as indices trading, e. g., buying and selling Dow Jones index. Because the index is just a calculation, it does not represent a share of any company.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Limited mutual funds choice of 401K

From: Fiqh Council of North America

Date: 1/14/2002

Question

Assalamu Alaikum

I work for a corporation which offers a 401k. I only have 9 mutual funds to choose from and one option which pays a fixed rate of interest.

1. If I put money into the fixed account, could I just give the interest earnings away to make my savings Halal?
2. None of the mutual fund options are Halal, but some are better than others. For example, I would not choose a bond fund, but do have money in a growth equity fund because it is all stocks. The problem is that some of those stocks are financial, e.g., Bank of America. I have no control over the actual stocks in a fund.
3. The only reason I use the 401k is because of the tax savings and because my company matches my contribution up to \$150 per month. If I do not contribute then I do not get that extra \$1800 per year. My concern is that the choices are not Halal so would I be better off passing on the \$1800 and saving on my own.
4. Is there anyway to be within the confines of Halal activity when the stock market and the way of doing business in the US is Haram?

I appreciate your answers and Hadith. I know the basic tenets of Halal investing, but I cannot see how to make them work in the reality of this country. If I cannot invest Halal should I not invest at all or just invest and not worry about whether the choice is "less Haram" than another choice?

My Answer

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

This is not really a matter of giving fatwa. the questioner seems to be acquainted with the basic principles, his evaluation of the market as "the stock market and the way of doing business in the US is Haram" is inaccurate and he wants a personal judgment that is not fair to be given by anyone since he is the only one who can make such a personal judgment.

1- Placing funds in interest earning accounts, in non-Muslim countries is permissible when there are no other alternatives to achieve the same objective, of security, easy access, etc. This is an exception of the rule, and not to be used for long term, as a pattern of placement, or without adequate justification. Certainly, giving away all earned interest for the general services of Islam and Muslims is a must.

2- Applying the same criteria established by the Shari'ah committee of the Islamic Dow Jones seems to be reasonable. These criteria are only "pointers" in a sense that going around them a few percentage points remains in line as long as an "estimated" Haram-caused income is given away to the cause of general services of Islam and Muslims. This argument can be applied to mutual funds by the concerned person.

3- This question is too judgmental and I think the questioner needs to make a little more homework in comparing the funds available to her/his 401K and come up with a compromise, if any.

4- The stock market and businesses are not our right Haram, One has always search for the best on a scale between the mixed [Mashbuh] and the Halal.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investing in the stock market

From: Islam on line

Date: 2/6/2002

Name of Questioner Alvin

Gender Male

Age 21-30

Education Graduate

Date Submitted 1/24/2002

Email

country of Origin Australia User Ref. No. 6CFKD8

country of Res. Indonesia

Question

In the Name of Allah, Most Gracious, Most Merciful. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger. Dear Brother in Islam, I wish to ask a few questions: 1. I want to buy a house in Sydney, but all the banks in Australia are involved with charging interest on the term of the loan. My question is, is it considered Riba in Islam if I buy a house and paying interests for 25 years? 2. What is Islam's view on the stock market? I am interested in investing in financial markets, but wish to find out more from Islam's perspective. I thank you for the answers. All praise and thanks are due to Allah, and peace and blessings be upon His Messenger.

My Answer:

Dear Br. Alvin

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - The quick answer: yes it is Riba, no doubt about it. Riba is certainly Haram and a very gross sin. The Shari'ah rules call for relaxation of prohibition if there are pressing needs, are therein your personal situation being living in Indonesia. I personally don't know your family size nor circumstances of neighborhoods Sidney and other conditions of rent/buy Houses in Australia?

2 - Also the quick answer is according to reasonably acceptable opinion it is permissible to invest in stocks of companies whose main line of business is permissible and do not have much of activities in forbidden areas such as interest-based transactions. The matter in stocks is that owning a stock makes you a co-owner of the company and whatever the management does is done on your behalf by virtue of delegation of authority, in other words it is as if you made these transactions. Yet little relaxation is due because of the common hardship especially on small investors a blanket prohibition creates.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investing in non-Islamic companies that deals with Riba

From: Islam on line

Date: 5,2002.

Marriam

Question:

Is it allowed to invest in Non-Islamic companies who deal with Riba?

Answer:

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

All praise and thanks are due to Allah and peace and blessings be upon His Messenger.

Dear Marriam:

Muslims are prohibited to take any Riba based transactions whether they work as individuals or in partnership (companies included). That is why the Muslim jurists discussed partnerships that involve Muslim partners and non-Muslim partners who may undertake Riba transactions. The debate of the Muslim jurists goes as follows: if a Muslim partner has sufficient assurances that her/his non-Muslim partner would not take any Riba based transaction on behave of the partnership; then becoming a partner with non-Muslims under these circumstances is permitted. If the Muslim partner is the sole authorized person to undertake transactions on behave of the partnership (because Muslims do not deal in Riba) then he can guarantee that no Riba transactions will take place. It becomes obvious then, that such a partnership is permissible regardless of the

activities of the non-Muslim partner because she/he has no authority in transaction making anyway.

Share holding companies are considered permitted in Shari'ah on the basis of being an extended form of partnership, where the owner through their general assembly elect directors and delegate decision-making authority to them. Hence, directors act on behalf of shareholders (owners).

If we apply these rules that are stated above, the immediate conclusion we come to is the one OIC (Organization of Islamic Conference) Fiqh Academy came to on this matter, which reads: It is forbidden to buy stock from companies who deal in interest or other prohibited transactions, although their main line of business is considered permissible (Halal) by the Shari'ah.

But a group of jurists argue that such a prohibition places hardships on a large group of Muslims, especially small investors who do not have many other options for investment in our world today. While the Shari'ah calls for removal of hardship at any time especially when hardship affects a large group of Muslims, the argument of this group of jurists goes on to distinguish between companies whose Riba based transaction makes a high proportion of their activities and those companies in which such transactions are a very small percentage. The matter becomes for these jurists, what is considered tolerable in such transactions and what indicators we should adopt to make this distinction.

Several contemporary jurists suggest 10- 15% interest earning/net-profit is a maximum that may be tolerated. They also added certain other indicators including a company leverage (rate of total liability to network), percentage of account receivable to total assets, and cash plus bank deposits/total assets.

Based on these criteria, the Islamic Market Dow Jones Index was created in February 1999. You can find this index and the companies that are listed in it on the Internet.

The conclusion is that if you want to take the opinion of this minority group of contemporary jurists, which is a respected opinion, one may follow the criterion on whose basis the Islamic Market Dow Jones Index is calculated and you may apply the same to other companies.

Almighty Allah knows best.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying shares as a tax shelter

From: Islam on line

Date: April 14, 2002 4:50 PM

Name of Questioner Abdulla

Gender

Age

Education

Date Submitted 4/8/2002

Email

country of Origin India

User Ref. No. QP1XAL

country of Res. India

Question

What is the rule of Islam about taking shares of companies and organizations like ICCI. Please shed a light on my question. May Allah assemble us in his Jannathul-Firdaus.

What is the Shari'ah rule about taking insurance? We need to take this type of savings to get relief from tax. Please reply for this too.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Abdulla

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

1- You will need to explain what is ICCI. Until then my answer about it is I don't know...

2- It is permissible to buy shares of companies whose activities are permissible and

whose management does not undertake any prohibited contracts, such as Riba, etc.

Companies that may indulge in Riba and other prohibited contracts while their products/

services are permissible are disputed. Some Ulama argue that while the principle is that

owning their shares is forbidden because what the management does is done in the name

and on behalf of shareholders, such a prohibition cause hardship to individual Muslims

especially those like you who live as Minorities in their countries. those Ulama call for

relaxation based on the Shari'ah principle that hardship always should be removed. they

design a few criteria that seem reasonable, you can find these criteria in the web of the

Islamic market Dow Jones.

3- Cooperative/ mutual insurance is permissible provided premiums are paid on

contributory basis. Insurance offered by profit seeking companies is considered, by a

large group of Ulama, as containing Gharar (ambiguity regarding the number of

premiums and date due of compensation. Other Ulama find insurance offered by

commercial companies permissible on the ground that once we look at the large number

and the theory of probability the Gharar becomes much smaller than thought of, and

consequently tolerable in Shari'ah. I subscribe to the latter view. There are two conditions

here: 1) the insurance contract must not contain any Riba element such as an investment

clause at fixed interest and 2) the object of insurance must be permissible, e.g., one

cannot insure a wine shipment.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: buying shares

From: Islam on line

Date: April 15, 2002 10:34 PM

Name of Questioner Mohamed

Gender Male

Age 46-60

Education Graduate

Date Submitted 3/27/2002

Email

country of Origin India

User Ref. No. C8TKQ4

country of Res. India

Question

I hope you clarify that doubts. Nowadays stock exchanges in all countries including Islamic Countries are available in plenty. The companies which are dealing with Halal

business such as Computer Software, Steel etc. are also available in the Exchange's list. If I wish to buy certain shares from that type of companies expecting the capital appreciation would that be Halal or Haram? Eg. I buy 100 shares of one company with a price of 10 Rupees. In one or two months the price becomes 20, 30 etc. This means that I will get a good profit if I sell the shares. In this case I want to know such a profit is it Halal or Haram? Hoping to hear from you. Jazakumullahu Khairal Jaza. Wa Ila Iliqa.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohamed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

It is permissible to buy and sell shares of companies whose business activities are permissible provided the management does not undertake any Haram activity or deal in a forbidden contract such as borrowing on interest or depositing funds in banks for interest, etc. Most companies do that.

A group of Muslim scholars argue that in order to avoid putting small Muslim investors in great hardship, buying and selling shares of such companies that may deal, occasionally, in interest and other prohibited matters (and the main activity is Halal), may be permissible if the forbidden transaction do not make big part of their transactions. and you then need to define what is big. Some of them take 10% of the company's income as a maximum. in all cases, when one invests in such companies, one has to donate to Muslim charity a percentage of the gain (capital gain and dividend) equal the estimated percentage of Haram activities of the company.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in Mutual funds

From: Islam on line

Date: May 05, 2002

Name of Questioner Farooq

Gender Male

Age 31-45

Education Post Graduate

Date Submitted 4/17/2002

Email

country of Origin Pakistan

User Ref. No. 8BQYBK

country of Res. Pakistan

Question

First of all I would like to tell you that I currently live in Canada. My question is regarding mutual funds. Here almost all of the mutual funds have some portion (from 1 - 15%) of their portfolio invested in cash or bonds, even though they might be focused at high tech industry or petroleum sector. For eg royal bank of Canada's Royal energy fund has portfolio distribution like this 79.8% Canadian equities, 10.8% US equities, 9.4% cash. So this 9.4% could be invested in bonds (which gives out interest). In this situation although the primary focus of this fund is not interest based companies but a portion of its

profit (9.4%) comes from interest based investment. So in this situation it is allowed for a Muslim to invest in such kind of mutual fund. Thanks for your time in advance Salam

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Farooq

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Investment in mutual funds is like investment in individual stocks from the point of view of the criteria of permissibility of owning and trading. The principle is that a Muslim must not own any stock in a company whose management, because it acts on the basis of authorization from shareholders, may do any forbidden action for the company. BUT since this poses considerable hardship on many Muslim savers, who have small amounts of money to invest, a few Ulama argues that such hardships call for relaxation. They suggest certain criteria, essentially: main activity must be permissible (i.e., conventional banks, weapon industry in the Western countries and environmental damaging industries are ruled out), interest and other prohibited income must not make more than 10%, of net income of the company, use of assets in interest based activities must not exceed 33%, leverage, i.e., dependence on loans must not exceed 50% of total net worth, and that one must always estimate the percentage of gains that arises from those prohibited minor activities and give an equivalent amount to Muslim charities and Islamic general causes such as helping occupation resistance in occupied Muslim land. The same criterion applies to mutual funds. the percentage of cash you mentioned is within acceptable limits, but you must add to it the percentage of non permitted activities of the companies that make the 90.6% of the assets of the funds, if the total does not exceed one third, you are OK provided you designate and actually give away an equal amount to Muslim charity and general Islamic causes because this minor gain is not lawful to you from Shari'ah point of view.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying shares

From: Islam on line

Date: May 05, 2002 12:01 PM

Name of Questioner Lubna

Gender Female

Age 46-60

Education Diploma

Date Submitted 4/19/2002

Email

country of Origin Pakistan

User Ref. No. T8RGD6

country of Res. UK

Question

Assalamu Alaykum. What is the Islamic ruling on buying and selling of shares?

Notes

REQUEST AN URGENT REPLY MAY ALLAH SUBHANA WA TA ALA REWARD YOU THE BEST. WASSALAMU ALAYKUM

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Lubna

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Investment in stocks: The principle is that a Muslim must not own any stock in a company whose management may does any forbidden action for the company; this is because such actions are taken on the basis of authorization from shareholders by virtue of the articles of incorporation, bylaws and the corporation laws. BUT since this poses considerable hardship on many Muslim savers, who have small amounts of money to invest, a few Ulama argues that such hardships call for relaxation. They suggest certain criteria, essentially: main activity of the company must be permissible (i.e., conventional banks, weapon industry in the Western countries and environmental damaging industries are ruled out), interest and other prohibited income must not make more that 10%, of net income of the company, use of assets in interest based activities must not exceed 33%, leverage, i. e., dependence on loans must not exceed 50% of total net worth, and that one must always estimate the percentage of gains that arises from those prohibited minor activities and give an equivalent amount to Muslim charities and Islamic general causes such as helping occupation resistance in occupied Muslim land.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in a mutual fund for children college education

From: Yusuf

Date: May 24, 2002 8:47 AM

Question

Assalamu Alaikum Brother,

My name is Yusuf and I saw you when you visited us at the ISB Masjid in Cambridge, Massachusetts. I am sorry I can't remember your name.

Brother I have a question regarding making investment for college for your kids. Here in Massachusetts we have UFUND (Investing for College) which fidelity investment handles and it is a really a good way to invest for your kids for college tuition. I am really interesting to do this but I am not sure it is permissible in ISLAM.

Can you please give me a quick fatwa about this issue. Jazaakallah khayran, Thank you.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Yusuf

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Investment in any Mutual fund must follow the same rules of investment in stocks. There are stocks that a Muslim must not invest in such as stocks of conventional banks and insurance companies and Israeli companies and companies that produce weapons used for aggression in the world and casinos, liquor, tobacco, etc. A few Ulama made an effort to develop certain criteria for other companies whose main line of business is permissible but they undertake sometimes certain prohibited transactions such as dealing with interest. These criteria are found on the internet under Dow Jones Company, in Islamic Market Dow Jones Index. Please see them there and apply these criteria on the stocks that are in the Mutual fund you are asking about, because each fund has its own structure of stocks they deal with.

Besides, there is also a need to estimate the percentage of income that is generated from these Shari'ah-disapproved transactions and donate a similar percentage from the income of your investment in the fund to Muslim charity because that much is not permitted to be mingled with your own Halal money.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Trading Mutual Funds

From: Islam on line

Date: September 30, 2002 3:59 PM

Name of Questioner

Gender

Age

Education

Date Submitted 9/20/2002

Email

country of Origin Canada

User Ref. No. NJPAXW country of Residence

Question

As-Salamu `Alaykum, I want to ask you can we buy or sell mutual funds in North America when you do not know these big companies get loans or dealing with other companies are interest based but their main stream business in Halal. Second can a Muslim work for an investment company to invest money in mutual funds. Thank you.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Working for investment companies that deal with mutual funds is easier and the answer is yes, because not all their transactions are forbidden, they have a mixture of Halal and Haram. The answer is yes, one can work in such companies.

Investment in mixed mutual funds is not permissible in principles. But we can apply here the same rules of individual companies, and see if the mutual fund, as a pool of fund, can pass. many specialized mutual companies may in fact pass the criteria for individual stocks and can be invested in. one must remember that one has to estimate the amount of the gain realized for the forbidden transactions, as a proportion of the total gain, and give it away for Muslim charity to keep one's own asset within the Halal limit.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying shares

From: Islam on line

Date: November 10, 2002 6:23 AM

Name of Questioner idris

Gender Male

Age 21-30

Education Graduate

Date Submitted 11/8/2002

Email

country of Origin Nigeria

User Ref. No. 3HTBB5

country of Residence

Question

Can I buy the shares of a company that engages in business that is not Haram even if the company gets loans from non Islamic banks. Examples of such companies are construction and food companies. Then what of banks?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. idris

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

There is a resolution of the OIC Fiqh Academy adopted in its Seventh annual plenary meeting (9-14 May 1992) that reads: In principle, it is prohibited to buy stocks in companies that deal sometimes with prohibited matters such as Riba Some scholars argue that although this is the principle, there are hardships that affect a great number of Muslims in today's world. Since hardships always call for relaxation of the rule of prohibition, stocks of companies whose main business is permissible but they have little dealing in Riba and similar prohibited matters may be bought and owned by Muslims provided that we estimate the amount of gain (capital and dividends) that results from these prohibited transactions and give it away to Muslim charities. the definition of what is little is not a matter of easy agreement as you notice but a group of Muslim scholars attempted such definitions and put a few criteria to test stocks of such companies. these criteria include the following: income from interest must not exceed 10% of gross income of the company, bank deposits and receivables must not exceed one third of total assets, leverage must not exceed 50% of the company's market value, the company must not be in the area of mass destruction and weaponry industry not in porno and other morally

condemned entertainments, etc. you can find a listing of company's on whom these criteria apply on the internet in the website of the Dow Jones Islamic Market Index. stocks of conventional banks are prohibited for Muslim to buy unless a Muslim buys a majority stock for the purpose of converting the bank into an Islamic bank.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

II. BOYCOTTING AMERICAN STOCKS

Subject: Does the call to boycott the aggressors cover the American stocks?

From Islam on line

Date: 12/11/00

My Answer

Dear Br. Dr. Mohammed

Assalamu Alaikum,

Your question is about dealing in American stocks after the Fatwa of boycotting American goods because of the support the American government give to the Aggression of Israel on the innocent Palestinians in the occupied land of Palestine.

My answer: Al Hamdu li Allah wa al Salatu ala Rasuli Allah, if you live in America, application of the spirit of new Fatwa requires you to boycott those products and businesses that support, by any means, the aggression against the Palestinians and Muslims and Arab in general in the Middle East. You cannot avoid American products because you live here. If you live outside America I think that the Fatwa implies avoiding anything that do with America, including its stocks and its brokerage houses, even if their local agent may be an Arab or Muslim. Still you do not have to sell at loss the stocks you bought before the Fatwa if you expect their prices will go up, wait until you break-even or make some profit so you can donate to relief some of the agony suffered by fellow Muslims in Palestine.

Wa Allahu A'lam,

Monzer Kahf

Subject: The Fatwa of boycotting, do I sell the stocks at a loss?

From Islam on line

Date: 12/17/2000

Question

Assalamu Alaykum, I currently own some stocks on US markets. After the Fatwas on

boycotting US products, I feel guilty about having these stocks. However, the prices of the stocks are very low now and if I sell them I will lose over 50%. Should I still sell them and just stop dealing with these people, or should I wait till the prices go up again?

My Answer:

Dear Br. Hany

Assalamu Alaikum,

Al Hamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah,

No, Brother, do not sell now, the intent of the boycott is not to lose but not to give brokers any more commission, you better wait until you sell at a better price and perhaps at a time when the American Government becomes better even handed.

Wa Allahu A'lam,

Your Brother,

Dr. Monzer Kahf

III. OPTIONS IN STOCKS, COMMODITIES AND CURRENCIES

Subject: buying options

From Islam on line

Date: 6/6/00

Dear Br. Al Shaikh Muhammad

Assalamu Alaikum

My answer to this letter regarding the fatwa on options is as follows:

1- The views attributed to Shaikh Yaqubi are generally correct. There is no unanimity on the subject, and the OIC Fiqh Academy takes its resolutions by consent not by specific vote counting. It does not usually leave room for dissent. Its resolution on options is not any exception, it came within resolution no. 63 (1/7) by its plenary session of 1412H 1992.

2- An option is a right, rightly as stated by Shaikh Yaqubi; yet it is a right formulated in an independent contract, as rightly stated by the questioner. The right, which is a financial right, is the subject matter of the contract, and the Chicago Board of Exchange mentions this fact as quoted by the questioner.

3- The problem of this financial right is that it is not a right that represents a value, abstract or material. The fact is that it is a right that is created solely for the purpose of making transactions. The Fiqh Academy stated that it is not a kind of financial right that can be "substituted" for other assets, cash or otherwise.

All the description mentioned in the questions was known and detailed to the Fiqh Academy, in several papers extended on two annual meetings and a special seminar held in Rabat 1410. All papers are published in the Journal of the Fiqh Academy, Vol. Seven. I was present in all those meetings

4- Call and put options, both American and European styles, are all the same from the point of the Shari'ah ruling.

5- Finally, please trade real things. Trading indices have the same problem as trading options.

6- An option to increase quantity in a sale contract is permissible as long as it is part of the sale contract, not separated alone. And as such it may have an influence on the price, i.e., I may pay more for a sale contract of two cars with an option to add a third one for a given stated price, than without this option.

Wa Allahu A'lam

Salam with respect

Monzer Kahf

Subject: Currency options

From Islam on line

Date: 2/1/2001

Name of Questioner: Hassan

Gender: Male

Age: 21-30

Education: Graduate

Date Submitted: 12/23/2000

EmailUser

Ref. No: Y8F9GC

Question

Assalamu Alaikum, My question is about the ruling in Islam on currency options (a kind of investment).

Dear Br. Hassan

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

My Answer: Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah

Options on stocks, commodities and currencies are forbidden according to the OIC Fiqh Academy resolutions. The reason is that options are not true things. they are contracts created for trading them (Derivatives). So the resolution says: they are not the kind of financial right that can be sold (or bought) according to Shari'ah.

More than that, trading currencies and gold and silver (currencies at the time of the Prophet, pbuh, named in His Respected Sayings) in not permitted on future basis, or better except on spot basis. Because the Prophet, pbuh, said in an authentic and correct saying that exchanging gold and silver must be Yadan be Yad, i. e, hand to hand that is an emphatic word for spot.

Now if futures are not allowed in currencies, then option futures are more not allowed. If there is any spot options on currencies or commodities, please let me know and educate me about them and I will find out, InShaAllah, the Fiqh ruling on them.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Trading options

job.

2. 401 K program: In this program I have the choice to participate or not. A percentage of money is taken from my payroll (before taxation). Matched (each Dollars the company will add 50 cents to certain limits). I can't use this money till I am 59 years old or if I leave the company. The money will be invested in one of the following funds (I can choose).

EuroPacific Growth Fund (Class A Shares)

Fremont Institutional U.S. Micro-Cap Fund (Class A Shares)

KLA-Tencor Common Stock Fund

New Perspective Fund (Class A Shares)

PIMCO Total Return Fund (Institutional Shares)

Seligman Communications and Information Fund (Class A Shares)

The Growth Fund of America (Class A Shares)

The Income Fund of America (Class A Shares)

Van Kampen Emerging Growth Fund (Class A Shares)

Washington Mutual Investors Fund (Class A Shares)

Wells Fargo S&P 500 Stock Fund

Wells Fargo Stable Asset Fund 3.

Employee Stock Purchase Plan: I have the choice to participate in this plan. The company keeps a percentage of my payroll (up to 10%). By the end of the period (6 months), the company buys me with that money shares at 85% of the lowest price between the beginning and the end of the period.

Example: I saved \$1700 during the 6 months. In the beginning of the period the share was \$120 and in the end dropped to \$100. I will have $1700 / (.85 * 100) = 20$ shares. I can sell those shares straight with $100 * 20 = \$2000$.

4. Life insurance: The Company is buying me the basic of life insurance (I have no choice). I have the choice to buy more. What is the ruling?

5. You may not answer this question (it is kind of financial advice). I want to start dealing in stock in future. Can you give me a list of symbols that are permissible by Islamic rulings. I have no idea about the numbers and percentages that are conditions to deal in a company stock.

Jazaaka Allah Khairan. The answer to these questions will not help only me. I have many brothers that have the same questions and they avoid to deal with many things just because they don't know. I am sure that we missing many Khair by avoiding it that way. Salaam Alaikum. Sincerely Ali.

My answer:

Dear Br. Ali

Assalamu Alaikum,

Al Hamdu li Allah wa al Salatu ala Rasuli Allah,

1) A company's option granted to employees as a fringe benefit to buy its stocks at fixed price is permissible to exercise as long as there is no interest involved in the transaction and the stock itself is permissible to buy at least according to the opinion of a few Muslim scholars as expressed in the list of the Islamic Market Dow Jones index, i.e., the main business of the company is permissible and its interest income is a small percentage of its total net income and it is not over-leveraged (to more than 30%) and it is

not involved in donating to causes that participate in killing Muslims, nor in armament sale to countries that attack Muslims.

2) It is also permissible to participate in the 401K plan. Select the fund(s) that have least percentage of investment in shares outside the list mentioned above. You can get information about stocks they invest in from their respective annual reports. And calculate the percentage invested of each fund in non-permitted stocks. Keep in mind that you have to clean your own money from the return that results from non-permitted stocks when you start withdraw from the 401K. For instance if you find that the global percentage of undesired investment you estimated came to be 12%, add one or two percentage points just to be on the save side and at the time of withdrawal you should give away that percentage of the return (not of the principal paid by you and for you by the company) for charity or to the Islamic center (better to inform the management what is it that you are giving to I C not to individuals, though not necessary).

3) I didn't find question No. 3.

4) Life insurance, in brief: The opinion of the late Shaikh Mustafa al Zarka is very much worth contemplating. I personally follow it. Insurance offered by profit-seeking companies as well as by mutual companies is permissible provided the contract does not have any interest element and the insured is permissible. What is ruled out is regular life insurance with fixed policy amount at the end of the policy period and insuring say production or transportation of alcoholic drinks. The implication of this opinion is that term life insurance is permissible, whether its premium is paid by the employer as a fringe benefit or by you personally, i.e., in case of term life insurance you are permitted to increase the policy value if you so choose. Most likely what your company offers its employees is a term life although you didn't specify. Also permissible is the variable equity regular life insurance that invest in stocks rather than treasury bonds, and you need to apply the same cleansing procedure mentioned above because the insurance company invest in similar funds.

5) Consult the list of the Islamic Market Dow Jones index under Dow Jones on the Internet.

Finally, please do not hesitate to write me for any help you may think I may be able to serve you with.

wa Allahu A'lam,
Your Brother,
Dr. Monzer Kahf

V. TRADING CURRENCIES

Subject: Currency spot trading on margins

From Islam on line

Date: 2/1/2001

Name of Questioner: MOHAMMED

Gender: Male

Age: 21-30

Education: Post Graduate

Date Submitted: 12/23/2000 EmailUser

Ref. No: XWE5VF

Question

I just join a new company which is working some like investment but difference is that we ask people to invest their money in our company but their is no limit profit they have to accept profit & loss, in details we do trading with people's money we buy & sell currencies, stocks and oil on the spot we buy them and sell on the same day different is that if they are investing 20,000\$ and when he wants to buy a contract in international market we deposit from his account 1,000\$ as security when he sold a contract we return his security with his profit or loss against all this procedure we charge him 40.00\$ as our service charges , please remember the contract sizes are like this 100.000\$ = 1.000\$ my question is that is this is Haram or Halal because some of my colleagues says that buy & sell is Halal. I am so confused please guide me that working in this company is ok or not and please remember that al Baraka investment company is doing same things but in that company they fixed the profit rate and that is 3% . please send me answer in details.

My Answer:

Dear Br. Mohammad

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah

1) To give you a detailed answer, I need more details about the way you trade and the contracts you have with depositors and those you make in the Market.

2) I think al Baraka does not do fixing of the rate of profit at 3% as you mentioned, Are you sure?

2) Spot trades in currencies and commodities is permissible, even on margins as it is in commodities exchanges that I know. If the commodities and currencies are traded spot in the exchanges your company deal in, in the way that you buy (or sell) a contract and put a margin in the escrow account and you have the right to immediate delivery with a maximum of three days and you receive the receipt of delivery before you sell the same contract. or you are issued the delivery note for the short contract (Salam) and you transfer the delivery note when you buy a contract to cover your short, This is to my knowledge is consistent with the OIC Fiqh Academy resolution on commodities exchanges (Seventh Meeting 1410/1990).

Brokerage on above mentioned contract is permissible and it is permissible to work in that company. It is also permissible to work in that company, even if it does some contracts that are not allowed in Shari'ah as long as you personally do not broker a forbidden contract because most of the disallowed elements in these contracts relate to Riba and the Prophet, pbuh, puts the wrath of Allah on the writer of a Riba contract and in a narration on its two witnesses too.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Long and Short currency contracts

From Islam on line

Date: 2/14/2001

Name of Questioner Masoud

Gender Male

Age 31-45

Education Graduate

Date Submitted 1/28/2001

Email

Question

Salamu Alaykum From the Fatwa bank, I read that Dealing in Foreign Currency is Halal. The question is about a more specific action in this deal. Where we have two action: (1) Long Deal: Where you buy now and sell later (\$ against a major currency) (2) Short Deal: Where you sell now & buy later The first one is clear, where you buy something & sell later on, but the 2nd one you sell what you don't own, so what is the Fatwa about this. Wassalam Alaykum Masoud

My Answer:

Dear Br. Masoud

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Currency transactions are used very often as a vehicle for Riba-based borrowing/lending. Therefore the rules currency exchange are not the same in Shari'ah as the rules of other commodities (very similar to currencies the exchange of what we call cash crops, and at the time of the Prophet Muhammad, pbuh, the cash crops were wheat, barley, date and dried grape). Currency exchange is called in Arabic and in the Fiqh literature "Sarf" and the rules of Sarf are basically derived from a correct Saying of the Prophet, pbuh, that introduces Two Conditions: 1) the transaction must be completed with delivery at the time of the contract; and 2) if you exchange the same currency (or any of the other four commodities), the quantity must be the same regardless of differences in qualities. This Hadith then requires that any Sarf must have immediate delivery at the time of contract of both currencies exchanged. Hence, in currencies both long and short are not permissible because both do not fulfill the condition of immediate delivery, "yadan bi yad " as the Prophet, pbuh, expressed it.

Spot currency transactions in the NY exchange are executed (delivered) within three days. But although this is not literally "Yadan bi Yad" the OIC Fiqh academy rightly considered delivery as immediate because this is the normal time the no-delayed-delivery transaction takes and the Malikites argue that a very short period for delivery does not matter as long as the transaction is not meant to be deferred one.

Be careful my dear Brother, you were incorrect in thinking that s long currency is clear. Rather LONG CURRENCY TRANSACTION IS AS FORBIDDEN AS THE SHORT BECAUSE BOTH OF THEM HAVE A PERIOD OF TIME FOR DELIVERY.

One more problem in both the long and the short seems to me in need of some clarification. In Shari'ah sale contract may delay either delivery or payment but not both; while in the long and short transactions both are delayed and only a margin is paid by both the seller and the buyer. The OIC Fiqh academy issued a famous resolution on commodity exchange in which it considered both the long and the short in violation of the Shari'ah conditions and it called for taking the Shari'ah known contract of Salam (that requires full payment at the time of the contract) as a basis for any delivery-deferred transaction in commodities. You may notice that the heat of the market is reduced

drastically if you eliminate contracting on margins only and this is one of the objectives of the Islamic Fiqh: to bring transactions down to earth and keep them in close ties with reality or actuality.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Future foreign currencies

From: Islam on line

Date: 3/2/2001

Name of Questioner Shamsuddoha Gender Male Age 31-45

Education Post Graduate Date Submitted 2/25/2001 Email

User Ref. No. 51ZB16

Question:

Is 'forward booking' in foreign exchange transaction permissible in Islamic Shari'ah?

My Answer:

Dear Br. Shamsuddoha

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Please explain what do you mean by forward booking? Is it forward buying and selling on a margin at it is practiced in the currency exchange in America? If so, yes it is forbidden because the Prophet, pbuh, made a condition for all currency transaction that their must be mutual delivery of both currencies at the time of the contract and considered any delay in one or both a forbidden Riba.

We know that in today's economics that that difference represents the difference in the interest rate s between the two currencies.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Trading currencies, futures and shares

From: Islam on line

Date: 3/29/2001

Name of Questioner abdelmouiz Gender Male Age 21-30

Education Graduate Date Submitted 3/29/2001 Email

country of Origin Morocco User Ref. No. XX98UR country of Res. Morocco

Question:

what is the opinion of Islam in trading in financial markets (currencies & futures & shares) in order to make profits in small time (speculation Halal or Haram?)

My Answer:

Dear Br. abdelmouiz

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The answer of your question is two folds:

1- It is very important to notice that the application of Shari'ah itself tames, to a certain extent speculative behavior and reduces excessive speculation. You have several areas some of them are: prohibition of sale before possession, prohibition of sale on margin, prohibition of sale before you own except as Salam which requires full advance payment of the price, prohibition of all currencies except spot, and the prohibition of interest.

Hence several of the practices that encourage speculation in the present Western markets are done away with from the beginning if the Shari'ah is applied. These matters also govern the behavior of Muslim transactors even in the present market. This means that a Muslim's behavior is less speculative in the existing markets than the behavior of a person who does not abide by these rules.

2- Any purchase for the purpose of sale is speculative, i.e., any trader is a speculator, whether a trader gets a quick or slow, a high or low profit. The examples from the market of Madinah at the time of the prophet, pbuh, and the behavior of the companions are plenty.

Speculation in capital, money, financial and commodity markets must be governed by the Maslahah, and there is tremendous evidence that hot or high speculative behavior in these markets hurts economic stability and negatively affects the pace of growth in the economy. This means that although buying for the purpose of watching prices and then selling when the price is lucrative cannot be prohibited, the Government, that is the care taker of the economic welfare of the society, has the right to organize and regulate any and all speculative market for the purpose of reducing their heat. Such regulations may include requiring certain period of holding stocks, and other assets before you can sell them, limiting the financing that goes into such markets, etc.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

VI. TRADING FUTURES, COMMODITES AND INDEXES

Subject: Index futures and short contracts

From Ebrahim

Date: 1/31/2001

My Answer

Dear Br. Dr. Ebrahim

Assalamu Alaykum Wa Rahmatullahi Wa Barakatuh

You asked about the Fiqh position on index futures and trading short, or taking short positions.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah

1- trading indices was discussed by the OIC Fiqh Academy in its seventh session held in Jeddah 1410/1990. Its resolution, papers and discussion are published in the Academy's Journal V. 7, part one. The OIC Fiqh Academy resolves that trading indices in not permitted in Shari'ah. This applies to all indices whether stocks, or commodities or any other index because indices are mere abstract things that exist in the mind only. They do not any commodity, goods, Asset or financial right that is recognized in Shari'ah. I was in the meeting and I fully agree with this resolution.

2- Commodity Futures were also discussed in the same meeting and there was a lot of heat against them because of their over-speculative nature. The Adopted resolution took a conservative position judging futures on the basis of the Salam contract, and Allowing it if the conditions of Salam are fulfilled. 'Aqd al Tawrid, which was discussed and postponed in the 12th meeting, Sept. 2000 relates to some aspects of commodity futures. You may take a look at the papers presented on it in the 12th issue of the OIC Fiqh Academy journal which is not yet published, or ask the Academy's office in Jeddah to send you a copy of these papers, One of them is mine. The relation between 'Aqd al Tawrid and commodity futures lies in the fact that any sale contract in which both delivery and payment are determined in future date is a Tawrid contract, futures are thus only standardized toward! And the Toward is indispensable part of life, Especially in a world of Production for the market and more especially a world of mass production.

3- Short stocks contracts were also referred to in the same seventh meeting of the OIC Fiqh Academy. In short stocks the seller borrows the stocks from the broker for interest (pl. correct me if I am wrong) and because of that it is not permissible. Short commodity futures (except for currencies, gold and silver) are part of the issue of futures mentioned above. However, there are cases of short commodity spots that do not pose any problem from Shari'ah Point of view especially if we take into account the Maliki view on accepting a few days delay in the payment of the price in Salam.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Futures, indexes and options

From: Islam on line

Date: 4/30/2001

Name of Questioner mia

Gender Male

Age 31-45

Education Diploma

Date Submitted 4/22/2001

Email

country of Origin Jordan

User Ref. No. BI6LE8

country of Res. U S

Question:

Assalamu Alaikum, Is it Halal to trade what is called (futures contracts) and (Options contracts), like the NASDAQ futures contracts (NQs)...or is it Haram? and why? Mind

you I'm only interested in the NASDAQ index futures contracts trading. Jazaka Allah Khairan

My Answer:

Dear Br. M I A

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1 - Trading indices is Haram because they are conceptual not real. You cannot sell a concept you calculate mathematically? What is it that is traded in an index? any other than thin air! Shari'ah goes with real life and does not allow non-real contracts. this is the reason why it is Haram to trade indices. And the OIC Fiqh Academy studied this matter and resolves that it is forbidden to trade indices because there in no reality to them.

2 - Futures of currencies and gold and silver are also prohibited because they are "Ribawi item." The Prophet, pbuh, made a condition for currency trading that it must be with immediate delivery of both currencies, Yadan bi Yad, otherwise it falls in the Riba area.

3 – Futures of commodities are resolved by the OIC Fiqh Academy as prohibited unless they are reformulated on the basis of Salam contract, which is known in Shari'ah. It requires immediate payment of the price in the sitting of the contract. I personally believe that a genuine future contracting by parties who relate to a commodity, like its producers and users cannot be Haram, because it is genuine and necessary. However that does not include trading futures in the commodity market for speculation on prices.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Spot and future palm oil contracts

From: Islam on line

Date: 8/6/2001

Name of Questioner Hasam

Gender Male

Age 31-45

Education Post Graduate

Date Submitted 7/15/2001

Email

country of Origin Malaysia

User Ref. No. C8YAU1

country of Res. Malaysia

Question:

My previous question is being regarded as vague. My ref. no. is ctv337. In a Commodity future market one can trade in various month such as 1st.month (spot month), 2nd month and so on (future month). In palm oil future market one can either sell or buy a contract from any month one wishes. For your information the palm tree only bear full fruits in the spot month only whereas the future month the seeds has not being ripe or fully grown yet. So my question is can I trade (buy or sell a contract) only for the spot month being fully aware that Islam forbids entering a contract for something that is not sure in the future such as fruits in trees which is not fully grown yet. Thank you

My Answer:

Dear Sr. Hasam

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I am sorry, Sister, for not understanding your first version of the question.

1 - Spot trading, if defined as trading for the present month, with the condition that you have the right to ask for delivery at any time during the month, as is the case with US commodity markets in Philadelphia, Chicago and other cities, is permissible. It involves paying a margin at the time of the contract (i.e., executing a trade on the board) and delivery on demand within the month (usually in three days from the time of serving a note of delivery). It is so although we know that many people take it as a means for hoping to make profit from buying and selling without delivery or aiming at it, as long as the contract itself is formulated in such a way that gives the choice of delivery. This is the essence of a resolution of the OIC Fiqh Academy.

2 - Spot trading does not have to be in the month of harvest of palm oil. It can be in any month as long as the choice and possibility (from warehouses) of delivery are there. Is palm oil harvested every month?

3 - Sale of things that are not sure is prohibited as you mentioned and the example you mentioned is correct, i.e., unripe fruits on trees. But you can sell things that do not exist at all at the time of contract. That is called Salam contract. Its main conditions are: full payment at the time of contract, the commodity must be such that is available in markets at the time of delivery, and commodity and price must be permitted for sale with lagging delivery according to the rules of Riba al Fadl.

4 - The OIC Fiqh Academy ruled against commodity futures on the ground that they almost are not intended for any actual delivery at the time that they violate the rules of both regular sale and Salam sale contracts.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: investment in the commodity futures

From: Islam on line

Date: March 11, 2002

Name of Questioner

Gender

Age

Education

Date Submitted 2/12/2002

Email

country of Origin

User Ref. No. DGQ2G4

country of Residence

Question

Is there anything objectionable in Shari'ah to investing in the commodities or futures market? I am particularly wondering if there is any room for entering into a contract that involves both buying in advance (Salam) AND paying initially only a deposit (Damman)

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br./Sr. questioner

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Commodity markets were discussed in the OIC Fiqh Academy, in its seventh annual session May 9-14, 1992. Its decision is that all commodity futures are not permissible in Shari'ah. The reason is that all futures include delaying both price and delivery of commodity and this is not permissible. Underlying this decision were two points: 1) these are very speculative and only a small percentage, 3-4% ends implemented; 2) the classical Fiqh position of the prohibition against delaying both items in a sale contract.

On the latter Ibn Taymiyyah was very strong.

I personally go along with the Fiqh Academy and I have one reservation that I wrote about to the Fiqh Academy that relates to real life contracts that require delaying both items exchanged. All businesses require planning in advance and all have to contract their products and their inputs in advance regardless of the idea of financing (remember Salam is only a financing contract). The simplest example is the letter of credit. It always includes sale with postponement of both delivery and price and they both are effected in a future date at the same time. I believe that the evidence from Sunnah against postponement of the two items is very weak and there is no claimed Ijma' on this issue that I find one of the necessities of life to the extent that it is impossible that our complete Shari'ah would make it unlawful.

Yet this is not to say that futures are permissible because I think only genuine trade with postponement of the two exchanged items (price and goods) is permissible not the speculative practice on price change only as it is normally in commodity futures. I always advise against getting into it.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

VII. TRADING BONDS

Subject: Investment in bonds

From: Islam on line

Date: 4/11/2001

Name of Questioner yusri

Gender Male

Age 21-30

Education Graduate

Date Submitted 4/9/2001

Email

country of Origin Malaysia

User Ref. No. SS11V8

country of Res. Malaysia

Question:

Assalamu Alaikum, I'm interested to know about Bond...as far as I know it looks like an investment for us with bank or government. Someone said bond can't be invested in stock market (because it is not a share) but another said that we could do that... Wassalam yusri

Notes: I hope DR Monzer Kahf would answer my question

My Answer:

Dear Br. Yusri

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Bonds are documents of indebtedness. A bond represents a loan given to a government or a corporation for interest. This interest is Riba, it is forbidden. In Malaysia they issued bonds that they called Islamic bonds. These bonds give interest that is determined only at the end of each year by the government. Also the Housing Corporation issued Bonds for the housing loans given to consumers/house purchasers. These bonds also represent debts that are discounted. Both kinds of bonds violate the opinion of the OIC Fiqh Academy. It has decided that it is not permissible in Shari'ah to discount a debt. A debt can only be transferred to another person for its face value only and a loan does not earn any increment. Any increment in a loan, fixed or variable is Riba. Riba is clearly forbidden in the Qur'an.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Muqaradah bonds and investment and development certificates

From: Islam on line

Date: 4/13/2001

Name of Questioner Mitrim

Gender Male

Age 21-30

Education Diploma

Date Submitted 4/11/2001

Email

country of Origin Malaysia

User Ref. No. 45SV5J

country of Res. Malaysia

Question:

Can you tell me about Mu'amalat with Muqaradah bonds and development and investment certificates? What is Islamic view of these Mu'amalat?

My Answer:

Dear Br. Mitrim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

I need complete details and descriptions of these bonds and certificate before I can give you an answer. These terms are used in different meaning in different countries.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Prize bonds

From: Islam on line

Date: 5/9/2001

Name of Questioner ashraf Gender Male Age 31-45
Education Post Graduate Date Submitted 4/30/2001 Email
country of Origin Egypt User Ref. No. U7GC3Q country of Res. Egypt

Question:

al Salam Alaikum. I want to ask about a new type of investment in one Egyptian bank, which includes a monthly prize for "shehadat" whose original value is 100 LE, and the prize is up to 1500000 LE. Do you consider it Halal or not? Thanks...

My Answer:

Dear Br. ashraf

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Prize giving bonds are specifically mentioned in the resolution of the OIC Fiqh Academy of 1412H. All bonds are interest bearing, whether in the form of prizes or in the form of fixed or variable amount. They all are Haram.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Government issued income certificates in Pakistan

From: Islam on line

Date: 8/1/2001

Name of Questioner Khalil Gender Male Age 31-45
Education Post Graduate Date Submitted 7/1/2001 Email
country of Origin Pakistan User Ref. No. ZU2B67 country of Res. Pakistan

Question:

I belong to Pakistan. Our Government has issued Regular income Certificates which means that on one lac rupees, the Government will give some money as profit. They claim to deduct Zakah and tax from the profit. Is this money is HALAL to use? Moreover, one of my friends wants to do business but he is short of money. I, by the grace of Allah, belong to a well-to-do family. I want to give him some money as a loan but he does not agree to it. He has given me an option that he will give some money per month for one Lac rupees. Is it HALAL to take this money? Please guide me.

My Answer:

Dear Br. Khalil

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

1- Any increment given above the amount of a loan is Haram. It is Riba, whether it is paid periodically or not. You may give him the money on Mudarabah, a capital contribution to his business subject to profit and loss, that is permissible, and he may

give you regular payment on the account that is subject to adjustment at the end of the year when final accounting statements are done.

2- The same for government bonds. If they are given to a specific profit making project, like railroad, the return of it is permissible, even if regular periodical payment are made on the account as long as they are subject to adjustment at the end of the year.

3- Government bonds provide money to the government for its general budget that have any return to lenders, are forbidden to issue and forbidden to buy whatever the name they may take, and the return of them is Haram, Riba, even if Zakah is deducted from it.

Actually, Zakah is not due on the return because it has to be, all, given away to charity as being Mal Haram, Yet Zakah is due on the principal itself.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Certificate with income guaranteed to be between 10 and 15%

From: Islam on line

Date: March 04, 2002

Name of Questioner Asif

Gender Male

Age 31-45

Education Graduate

Date Submitted 2/9/2002

Email

country of Origin Pakistan

User Ref. No. 1DIKPH

country of Res. Pakistan

Question

One Textile mill is offering Investment Certificates and offers profit between 10-15% per annum. It means they will give profit on year end not less then 10% and not more then 15%. It means profit is not fixed. My question is this that this kind of profit is allowed in Islam or not.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi Ajma'in

Dear Br. Asif

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You should notice that all opinions on Musharakah and Mudarabah certificates are derived from the Fiqh chapter on partnership. Hence, imposing an upper limit on the share in profit of some parties in a partnership or company is permissible because it amount to that party surrendering what is above that limit to the other party.

On the other hand, there is symmetry with imposing a minimum. Imposing a minimum amount to guaranteeing a fixed return and this may end up, under certain assumptions, to give all the profit or more to one party and depriving the other from any part of realized profit or even letting him down in the red. This is called interrupting the principle of sharing in partnership. And it is not permitted in Shari'ah, being a form of interest.

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

Subject: Zero coupon bonds

From: Islam on line
Date: March 15, 2002 12:19 PM
Name of Questioner Jamal Gender Male Age Above 60
Education Graduate Date Submitted 3/9/2002 Email
country of Origin US User Ref. No. 2VVU16 country of Res. US

Question

Is investing in zero coupon bonds Halal? Unlike conventional bonds, zero coupon bonds do not pay periodic interest. Instead the bond is purchased at a discount from face value - at maturity the face value is paid to the investor.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Jamal

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Zero coupon bands are interest based the same way paying coupon bonds are. No difference that affects the Shari'ah ruling. This is confirmed by a resolution of the OIC Fiqh Academy No. 60 (11/6) dated in the sixth annual session March 14-20, 1990.

Wa Allahu A'lam

Wassalam

Sincerely,
Dr. Monzer Kahf

Subject: Saving certificates

From: Islam on line
Date: June 19, 2002 4:23 PM
Name of Questioner zohaib Gender Male Age 31-45
Education High School and Below Date Submitted 6/6/2002 Email
country of Origin Pakistan User Ref. No. 3ZC9RU country of Res. Pakistan

Question

I would like to know about saving certificates. The profit we gain monthly through these certificates are HALAL or HARAM.

My Answer:

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. syed zohaib hussain

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I can't give you an answer unless you give detail description of your saving certificates. What they are?, who issues them?, what kind of contract is behind them?, what is the money used for? How are they invested? What is the gain that is distributed and what are its sources?

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Are there any Shari'ah compatible bonds?

From: Islam on line

Date: November 10, 2002 5:51 AM

Name of Questioner Muslim

Gender

Age

Education

Date Submitted 11/7/2002

Email

country of Origin Malaysia

User Ref. No. 3JSBLE

country of Res. Malaysia

Question

Assalamu Alaikum, Dear Muslim scholars, My country have instituted a system of bonds which follow the principles of the Shari'ah. I am however confused since I've heard that there is disagreement on the legality of bonds in Islam. Is it Halal as Islamic-regulated stocks and shares? Or is it Haram as Riba'? Thank you for your time and effort.

Wassalam.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br.

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Let us focus on the content rather than the name. Names do not necessarily define the substance. Bonds as defined in the USA system, including treasury and corporate bonds are Riba-based loans. Such bonds are forbidden to issue by any Muslim government and forbidden to buy, own and use as investment vehicle by any Muslim. If some financial instruments are issued that are equity or assets-based (in contrast with loan basis) they are permitted even if they were to be called bonds. Interest is prohibited and interest is defined as a conditioned increment in a loan. It doesn't matter whether interest is determined at the beginning of the loan contract or any time later and it doesn't matter on what criteria such an increment is determined. If describe exactly the basis of these bonds issued in your country and how they operate I will give my opinion on it.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,
Dr. Monzer Kahf

VIII. MIXCELLANIOUS FATWAS ON INVESTMENT MARKETS

Subject: Splitting stocks and dividends, are they Haram?

From Islam on line

Date: 20/2000

Question

If a person owns stock and the stock splits does that make it Haram? Are dividends Haram? If so, then what exactly do you mean by dividends? Jazzaka Allahu Khayr

My Answer:

Dear Br./Sr.

Assalamu Alaikum and Ramadan Mubarak

Al Hamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah,

Stocks/ shares are basically of two kinds: common and preferred. If the preference in preferred shares in financial such as guaranteed minimum return, priority in payment at time of liquidation and the like, preferred stocks/shares are then prohibited because equal owners of the companies principal must be treated equally. They are forbidden to issue, buy, own and sell. If the preference is only managerial they may be permissible.

Common stocks are not prohibited from this point of view.

From another angle, stocks/shares may belong to companies that are fully compatible with Shari'ah in establishment and all activities such as Islamic Banks, to companies whose main and major business is forbidden such as conventional banks or Las Vegas type entertainment companies, or to companies whose main/major business is permissible but their articles of incorporation allow them to undertake activities that are prohibited in Shari'ah and their management actually do such activities, this category covers most companies on the stock exchanges such as Microsoft, Intel, Sony, General Motors, etc. because they are involved in at least one kind of unpermissible transaction, i.e., Riba-based borrowing and/or lending.

Obviously, the Shari'ah ruling on issuing, buying, owning and selling the first category is permissible while prohibited on the second.

The third category is troublesome and needs certain details. It is prohibited for a Muslim to establish a company that indulged in prohibited activity and consequently, it is also prohibited to issue its stocks and offer them to the public for sale. The principle must be that it is also prohibited to buy and own such a stock because by doing so the owner becomes in fact a partner in the company whose management takes up prohibited activities on behalf of all its owners as their deputed officers. In other words, the management acts as your agent, this means, you are doing this prohibited activity.

In this regards, two points are important. If one buys such stocks with the intention (that

is coupled with ability) to convert such a company into all Halal activities through having a majority in its board and general assembly, such a purchase is certainly permissible because it reduces the Haram in the world, although the process may take a few month or may be a year or two.

The second point (that may be more relevant to the questioner) is buying and owning such stocks as small investor and a small minority holder to get benefit from expected capital gains and from dividends. A small group of Muslim scholars argue that this category of stocks may be purchased and owned for investment within certain conditions that can be summarized in being sure that the prohibited activities do not make a high percentage of the total activity of the company. these include that the company does not have high rate of liability/ asset, i.e., it does not live on loans, it does not earn a lot on interest it is not involved in activities that basically Hurt the interests of Muslims such as producing and selling arms attackers of Muslim people (Ummah), etc. Based on these conditions Dow Jones, in cooperation with a group of Muslim Scholar, studied the registered stocks and made a list that is issued under the name of Islamic Market Dow Jones Index.

Wa Allahu A'lam,
Dr. Monzer Kahf

Subject: Becoming a small partner in a private company

From Islam on line

Date: 2/19/2001

Question

Salam Alaikum, Subject: Business Transaction Question No. 1 I am an engineer working for a private American consulting engineering firm which is owned by 6 partners. The company designs construction plans for projects such as highways for public clients and residential developments for private clients. The company does not do construction. The company pays me a salary like other employees. As part of the benefits of advancement in this type of company, the company gives bonus money to the good employees. The company can keep a portion of my bonus money and put it towards ownership of the company to allow me to become a small partner. Since this is an American company, sometimes they buy equipment like computers or cars with loans and pay interest. The company also has a line of credit with a bank. This means when the company does not have enough cash flow to pay the salaries of the employees in a certain month or week, they borrow from the bank and pay it back with interest. Is it HALAL for me to become a partner in this company with the bonuses they save for me? Question 2 Is it Halal to become a partner in this company if I purchased a portion of it with my own money and without the bonuses they save for me? Please provide me with the DALEEL for your answer and the qualifications of the MUFTI. Jazak Allah Khair

My Answer:

Dear Br. Mr. engineer

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Your question is intelligent and deserves a better Mufti. Since I am only a makes hift Mufti with a Ph. D. in Economics and over forty years of study at Ulama and intensive drilling and rehearsals in Fiqh, I will only give you the detailed argument on this issue and leave it to your own heart to reach the Fatwa.

The discussion is detailed and the opinion is clear, in all schools of Fiqh that in partnerships, a partner/manager's act or decision is done on behalf of all the partners, i.e., as if it were done by each and every partner. There is no dispute about this at all between all Fuqaha. That is why they say for instance that it is incorrect to enter into a partnership with any unbeliever unless the Muslim is the manager because the other does not mind making Riba-based transactions.

In recent years, there were discussion in several seminars, about the issue of common stock companies and the OIC Fiqh Academy passed a resolution a few years back that says: in principle, it is forbidden to buy stocks in a company that deals sometimes in Riba or any other prohibited contracts, although its main line of business is perfectly permissible. The basis of this resolution is exactly that when the management of a common stock company undertakes a prohibited transaction, it does that in the name and on behalf of all stock holders.

There were two qualifications of this resolutions, that came in some side meetings of Ulama and there was an interpretation that actually takes a form of a descent:

Qualification one: if you buy stocks in a company with the intention of transforming it to Shari'ah compatible company, your action falls within a permissible limits provided that you have the voting (and other kinds of) power to make such a change and that you put a reasonable time limit for this attempt such as one or two years.

Qualification two: It is permissible to buy and own stocks in companies in Muslim countries whose main business is basic infrastructures, such as energy, utilities, basic communication, etc., and make the backbone of the economy, especially in countries where such companies cannot be cleansed of Riba and other prohibited transactions because they must not be left in the hands of non-Muslim minorities and/or crooked Muslims who do not mind dealing with Riba.

The dissenting interpretation of the basic resolution argues that:

- 1 - the principle is true and correct,
- 2 - it create a great hardship for Muslim investors, those who have no accessibility to investing their savings directly or with friends and relatives,
- 3- the intention of such investors is really only to get some dividend/capital gain from buying/owning a given stock , with no interest in the management and the company itself,
- 4 -Yet it is understood that buying stocks in a company means you are a partner and supporter of it.

All that calls for accepting the principle and making an exception for those common stock companies that have only LITTLE prohibited transactions....

The minority of Ulama who adopts this interpretation/dissent put a few criteria to what is little, or tolerable stock, provided you are not in a position of decision making nor founder in such a company and that you give away to charity a percentage of realized income from such stocks that is equal to what came from prohibited transactions. These criteria aim at putting a definition of the degree of tolerance. They are: receivable/assets must be low, debts and loans/equity must also be low, income from interest/net profit must be low, no dealing in prohibited commodities/services such as tobacco companies

and conventional banks, no essential contribution to industries whose products are used against Muslims such as American military industry, etc. I intended not to mention percentages because the Ulama do not agree on what is little and the only thing agreed upon for sure is that when a percentage is zero that is the littlest a thing can be!

Finally allow me please to touch on your specific question. There is a difference between receiving a bonus (shares) and buying shares in you partnership based company that has only six partners. Bonus is given to you without a specific effort on your part to acquire them, and if someone gives you something that contains a bad part and a good part you don't have to throw it away, you are required to give-up the bad part only, in this I don't see a problem in keeping these shares and periodically give to charity the part of income that you think results from prohibited transactions.

In buying stocks you are seeking to become a partner in a partnership (it doesn't matter call it corporation, it is the same) whose management makes prohibited transaction in your name and on your behalf. The case of common stock companies does not apply to you.

Wa Allahu A'lam
Wassalam
Sincerely,
Dr. Monzer Kahf

Subject: Investment in debt funds to reduce tax liability

From: Islam on line

Date: May 01, 2002

Name of Questioner Naseh

Gender Male

Age 21-30

Education Graduate

Date Submitted 4/11/2002

Email

country of Origin India

User Ref. No. 632187

country of Res. India

Question

I am living in India and working in a European Company. I have some questions dealing with economic issues a) Can a take interest based loan to buy a car? b) Can I invest in equity funds? These funds invest in shares. However some part of the funds may be debt or if not in debt than invested in Companies dealing with tobacco, alcohol movies etc. c) Can I invest in Index Funds? d) Can I take medical insurance cover for myself and my family? e) Can I invest in debt funds to reduce my tax liability ? Please help me.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Naseh

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

1- Buying a car on interest basis is forbidden unless having a car is a necessity in the area where you live for going around for handling personal and family matters and for going to work. Even under such conditions you can buy on interest basis only the car that satisfies the needs, no higher.

2- Investment in equity funds has the same criteria as investment in stocks. Please find the conditions in the Dow Jones Islamic market index website. Under all circumstance one has to give to Muslim charity an amount equal to the estimated gain generated by interest based actions of the stocks/fund.

3- If the interest only is exempt from taxable income, you will not be better off because you have to give away all interest to Muslim charity as the Shari'ah decrees that you do not own it. Do you get exemption on the principal? I have never heard of such a thing?

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Accepting company's shares as its contribution to 401K

From: Islam on line

Date: **September 30, 2002 9:51 PM**

Name of Questioner RC

Gender

Age

Education Post Graduate

Date Submitted 9/13/2002

Email

country of Origin

User Ref. No. BV99TM

country of Res. USA

Question

Dear respected Brother(s): Assalamu Alaikum. I work for an automotive company. As part of employee benefits for retirement, they offer 401(k) program. As part of 401K the company will give us some of their shares. For several years, I have been investing in my company and three other mutual funds that deal with technology companies. I noticed these mutual funds are recently keeping 0.4% of total money in bank to generate Riba and they also invest about 5% in companies that they deal with cigarettes manufactures and other Haram products. My questions are: 1. Is it Haram to accept the shares that my company gave me? 2. If I sold all investment and company shares that they gave me, they will worth less than my initial investment. Example, my initial investment \$10,000.00 and my company gave \$3000.00 worth of stocks currently, they will worth \$8000.00. Is \$8000.00 Halal or Haram money? 3. If my investment worth right now \$14,000.00, Does \$1000.00 consider Haram money or only 5.4% of the \$1000.00 is Haram? 4. What do you think about owning stocks from companies such as Toyota or GM or Ford? Jazaka Allahu Khairan for this noble work you are doing

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. RC

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

1- it is not Forbidden to accept stocks from the company you work at as long as its main line of business is permissible. If the company, with the main line being permissible, is loaded with prohibited transactions such as Riba, you need to sell the stock as soon as you get it or you are permitted to sell.

2, 3- if you made losses on the stock you get you balance out and do nothing. If you make profit you need to estimate the percentage of prohibited elements in the gain, it is very often more than the 5.4% you mentioned because all the companies whose stocks are in the mutual funds deal with interest and may be other prohibited transactions and goods to varying extents, and you need to take that into consideration. Very few technology funds have assets structure that requires less than 15% donation to Islamic Charity to keep the principal Halal. To my knowledge most technology mutual funds may require up to 25% if you add the activities of the companies whose stocks are held by the fund.

4- For specific companies, the easiest way is to check the list of the Dow Jones Islamic market index on its website, stocks that are on the list are usually OK because they are reviewed periodically by the Shari'ah committee of the index.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Can we take the 401K plan although we have no choice of selecting its stocks component?

From: Islam on line

Date: December 17, 2002 7:15 AM

Name of Questioner Wael

Gender

Age

Education

Date Submitted 10/30/2002

Email

country of Origin

User Ref. No. CBDFV5

country of Residence

Question

In the company I work for, I have the opportunity to have a retirement plan (401k) and for each dollar I put in this plan, the company matches with 50cents. The problem is most of the funds have a fixed interest. If I reject the offer, I will loose the company match. My question is: Can I use these types of funds and get rid of the interest which means just take the money I put and the company put.

Notes

Other funds exist but most of them are also Haram companies like wine companies, banks. The only Halal fund that exists is my company's stock which is going down dramatically. This means I may loose my job and the retirement money as well

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Wael

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You may take the 401K as it is provided you give away to Muslim charity any amount that accrues as interest or results from transactions in interest-based bonds or stocks.

What applies to interest applies to other prohibitions too. In the meanwhile you still must

select funds with the least possible forbidden content, without endangering your assets in the 401K. This opinion is based on your inability to select better venues for investing the 401k, but if you can find other venues such as borrowing the amount to purchase a house or a car you must take them.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Is venture capital permissible?

From: Islam on line

Date: March 03, 2003 6:59 AM

Name of Questioner mehdi

Gender Male

Age 21-30

Education Graduate

Date Submitted 2/25/2003

Email

country of Origin Iran

User Ref. No. 6MFW8X

country of Res. Iran

Question

What is Islam idea about venture capital? Best Regards,

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. mehdi

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you mean by venture capital, using money to participate in/establish new companies and/or by stocks when they are first open to public, it is certainly permissible. If you have any other meaning or experience for this term "venture capital" please explain.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Saving for retirement in a 401K account

From: Islam on line

Date: April 01, 2003 7:33 AM

Name of Questioner Runghina

Gender Female

Age 21-30

Education Diploma

Date Submitted 3/28/2003

Email

country of Origin Afghanistan

User Ref. No. DM9Y5P

country of Residence

Question

Assalamu Alaikum Brother, My questions is concerning 401K retirement account, I wasn't sure until recently I heard that 401K or retirement account uses interest or Riba, I know that 401K fidelity uses dividends is that still not allowed according to Islam. Also is saving money in a saving account I know accumulates dividends or you have to put certain amount on your taxes every year if you have saved in a savings account. Now are Muslims allowed to save money in a savings account and also what kind of 401k account can one save money to or what is one's options for saving money for retirement. Can one use a savings account or is one supposed to cash money and save them at home. Please, give some helpful information. May Suban Allaha keep us successful in faith of being good Muslims. Thank you, Runghina

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Runghina

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Saving accounts in conventional banks generate interest, nothing else. And 401K funds are usually invested in mutual funds, such as Fidelity's. Mutual funds invest in stocks and bonds. Bonds are always interest based. Stocks may be of companies whose main business is permissible such as technology and oil stocks or forbidden in Shari'ah such as banks and financial sector's stocks. Also companies whose main business is permissible may highly depend on interest-based borrowing or interest income or may not, if they heavily depend on interest, one way or the other, they are also prohibited. The problem is that when you own a stock you are a partner in that company, even a sleeping one. And a partner is responsible for whatever decisions the management make.

To sum it all up: There is a great deal of interest in the American investment market, and obviously in the saving accounts. Interest is clearly, very strongly and absolutely prohibited in the Shari'ah (the Qur'an 2: 278-9). If you can avoid it would be doing better, if you cannot, as in the case of 401K, you have to be religiously aware and play smart in selecting the funds that have the least interest in them and each year give away to Islamic charitable organizations the amount you estimate is coming from interest sources in these funds. I certainly do not advice to keep money under your carpet at home, and you do the same with the interest if you have to use a saving account.

By the way, there is a study supervised by a group of Shari'ah scholars that resulted in selecting about 600 stocks in the American market of companies that have least involvement with interest. On the basis of this study the Dow Jones company created the "Dow Jones Islamic market index" you can find this list on the internet under Dow Jones Company. And there are several mutual funds established on the basis of these stocks that you may try to invest in for your 401K and other investments.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf
