

Fatawa Stocks, Shares, bonds, commodities, etc. 2004

Investment in Bonds, Annuities and Shares where Main Line of Business in Prohibited

SUBJECT: Investment in Bank Shares

From: Islam on line

Sent: Saturday, June 05, 2004 11:42 PM

Name of Questioner Muhammad Gender Male Age 30-21

Education Graduate

country of Origin Pakistan country of Residence Pakistan

Question

Whether Islam give permission for transaction of Bank shares even a shareholder is equally divided its loss and profit. Although banks deal their business on REBA by giving loans to peoples so called mark up on high percentage. I request you kindly guide me in accordance with Quran and Sunnah. Thank
Jazakum Allahu Khairan for your constant help

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Muhammad

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Conventional banks conduct their business on the basis of interest which is the most common form of Riba. They give loans to businesses and charge them interest; they also accept deposits on loan basis from people and pay them interest. These activities are prohibited according to Shari'ah. As the activities themselves are prohibited, it is also prohibited for a Muslim to own a bank, whether the owner manages it or appoint a manager and whether one owns the whole bank or a few shares of it because the manager acts on behalf of owners on the basis of agency. On the other hand, Islamic banks accept deposits on the basis of Mudarabah which is a form of partnership with a sleeping partner. They also give financing to businesses on the basis of either Musharakah/Mudarabah, sale on cost plus or Ijarah. All these contracts are permissible in Shari'ah. buying, owning and trading their stocks are permissible because they make their businesses in accordance with Shari'ah.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: Investment in Treasury bills and GIC

From: Islam on line

Sent: Saturday, November 20, 2004

Question from Canada:

Assalam Alaikum!! I am asking hoping that you could shed some light on the issue at hand and help me, guide me in my decision-taking process. There are many investment options offered on the Canadian market. Some are obviously haram, as they explicitly make mention of interest, but others are less. I am referring to stock market GIC's and treasury bills. Both are financial instruments that use different profit-yielding mechanisms. Treasury bonds are sold at discount and par payment is made at maturity. For example, the government of Canada sells one bill at 97.00\$ and pays back 100.00 three months from now. As for stock market GIC's, an example is given just below of a GIC offer : <<< With the Stock Market GIC if the market increases over the term of your investment, you earn interest up to a maximum return. Even if the market declines, your original investment is guaranteed and the full amount of your principal is returned at maturity. Right now, we offer two options for the HSBC Stock Market GIC: Canadian Index USA Index These GIC's are three-year, non-redeemable terms and the full amount of your principal and any interest you have earned, are payable at maturity. >>> I would appreciate if you could provide some Islamic investment guidelines. I am asking for advice because there are no Islamic banking institutions where I reside (unfortunately). There was hearsay that there might be in Toronto but that's far from where I live. HSBC does have an Islamic banking subsidiary but it's only operating in the U.S. not in Canada. Thank you very much, Jazakumullah Khayran! Assalam Alaikum!

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,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

- 1) There are other investment opportunities in Canada that you should study and consider. Of course I don't give any investment advice. You know now all Canada is one market even the whole world that you can contact by internet. There is the Islamic Housing Cooperative that accepts investment including RRSP and RREP, and the Royal Bank had issued some investment securities that are approved by its Shari'ah Committee.
- 2) The Treasury Bonds carry interest. This is pure Riba as defined in Shari'ah, all treasury bonds are forbidden, of all countries and regardless of whether they pay the interest directly or they take lesser amount and pay back the face value as in the example you mentioned.
- 3) According to your description of the GIC, this GIC seems to be interest-based and consequently forbidden. To give you more definite opinion I need more info about it and detailed description with a numerical example.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: investment in annuities

From: housam

Sent: Thursday, December 02, 2004

Question

dear dr. kahf: alsalam alekum

I would appreciate it if you can give me the sharia opinion regarding these types of annuities:

- 1- It is called "immediate life annuity with survivor and certain period": it is contract between the individual (annuitant) and an insurance company. The annuitant agrees to pay the insurance company a single payment and the insurance company agrees to pay the annuitant a monthly income/salary (calculated on the bases of the amount paid and the annuitant age and life expectancy) starting within one month of the contract and last for the rest of the annuitant life. if the primary annuitant dies then the payment are continued to the rest of the life of the secondary annuitant(spouse). there is also a certain period of 20 years ,during which if both annuitants died before the end of these 20 years then the payment are continued to a specified beneficiary up to the end of these 20 years. once the contract signed and became in effect you can not get your money back also there is no repayment of principle or any lump sum payment in case of death or reaching a certain age or after x numbers of years. it is basically just an insurance of a stable income as long as you live or your spouse lives.
- 2- The other type is similar to number 1 except that the contract is between the individual and a charitable organization, and the payment the annuitant gives initially is considered a charitable gift. So on top of the monthly income, the annuitant get tax deduction advantage for the charitable gift on a yearly basis.
- 3- The third type is called "equity indexed annuity"
Equity-indexed annuities guarantee customers a minimum interest rate (often about 3 percent) while offering the potential of higher rates by tying your return to an index like the Standard and Poor's 500.
While it's a lot like investing directly in the stock market, customers don't get the full boost of a rising market. With equity-indexed annuities, the money put down by purchasers isn't invested directly in the stock market. Instead, customers are offered a percentage of how much the index gains over a period of time (not including dividends, which accounted for about 30 percent of the total return of the S&P 500 for the last 20 years), and a guaranteed minimum return if the stock market declines. Thank you much

housam

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. Housam

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

I am sure that by now you can make a good judgment on any such instruments. You notice that in all of them interest is the core of the deal. they are all interest based and consequently prohibited.

There is an insurance policy, offered by most of the companies, that invests your asset in the stock market, a choice of funds, and this may be permissible if you choose funds that have the least interest involved companies and apply the cleaning principle. by estimating the percentage related to interest if the final outcome of the policy and give it to charity (making a charity a beneficiary of such percentage.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in government indexed bonds

From: housam

Sent: Monday, September 13, 2004

Question:

Dear brother Monzer:

From what I read from your fatwa (included below), is it correct to assume that if the government introduces a product that you can put your money in and compensate you for the loss of the value of your money by indexing this product to the rate of inflation (no more or less) is it then Halal. As this product is a government regulation available to everybody. so every citizen who have extra money can put his money in this product and the government who is responsible for the inflation will be compensating each of these citizens for the erosion of the value of their money by inflation. And who wishes not to participate then he bears the responsibility of the loss of the value of his money. And who does not have any extra money he has lost nothing. So it is fair to everybody.

I am just drawing similarities from your fatwa of 2002, reproduced below in Italic. In other words, what is the current opinion about indexation is it still controversial, is there still some scholars argue for it permissibility?

Housam

V. INDEXATION AND THE PROHIBITION OF RIBA

SUBJCT: Indexation by government regulation

From: dialogue@islam-online.net

Sent: August 14, 2002

Name of Questioner ZA Gender Age

Education Date Submitted 7/18/2002 Email

country of Origin Pakistan User Ref. No. 6FT7HR country of Res. Pakistan

Question

The inflation rate in Pakistan is fast increasing. Keeping this in mind if we deposit some amount of money in our bank, after 5-10 years it will be of no value! The bank continues to add some profit to our money. So in this case will it be Sood (interest)?

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. ZA

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If what is added to you account is in implementation of a government regulation to compensate for inflation for all debts, i.e. what is called indexation, this addition is not forbidden and you may take it. Otherwise it is Riba (interest) and it is Haram whether the rate of inflation is greater or smaller. The Reason is that indexation is controversial, and some scholars argue for its permissibility and in controversial matter we don't haste to prohibition.

Interest is not controversial, it is forbidden. And it is scientifically incorrect to claim that interest is in compensation for inflation. Interest is the price of money whether there is inflation or not.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

SUBJECT: Indexation and the prohibition of Riba

From: dialogue@islam-online.net

Sent: June 10, 2002

Name of Questioner Nabeil Gender Male Age 21-30

Education Post Graduate Date Submitted 5/22/2002 Email

country of Origin Yemen User Ref. No. XC45E9 country of Res. U K

Question

Assalamu Alaikum and May Allah reward you greatly for this blessed service. This question consists of two parts. Nearly 3 years ago I took out a student loan. The only interest on this loan is that corresponding to the rate of inflation (i.e. the natural increase/decrease in the value of currency). (i) Was this loan Halal/Haram? (ii) Should I repay this loan as soon as possible? Why I ask this 2nd question is because the Student Loan Company is lenient in how it wants repayments to be made. They take a small amount from your wages (if they are over £10,000 pa) every so often. One can of course repay all the amount of loan at any time. However, if you die or reach the age of 65 before your repayments have been completed then the loan is ""forgiven""!

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. Nabeil

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Interest is forbidden whether it is determined in the contract or later and regardless of inflation. However, there is a minority of Ulama, though this goes against the resolution of the Islamic Fiqh Academy of the OIC (Organization of Islamic Conference) in Jeddah, who argue that indexation is permissible. The link with inflation makes it indexation.

Accordingly my answer is that such a loan contract is prohibited, but there are people who say it is not, I wouldn't do it and wouldn't like you to do it. I argue that at many times most banks wish to have their interest linked to inflation because it happens that interest rates may go below inflation rates.

For the second question I suggest that you pay it as soon as you can because it is interest based and especially that you are not planning on dying soon, are you?

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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. Housam

Do you notice that your conclusion in regard to my fatwa is like what happened to Ibn Abbas when he was asked whether God may forgive a killer and once he said no while he said yes in another occasion! The difference was the first questioner wanted to kill and was looking for a way out before hand the other have already committed a murder!

My Fatwa deals with an increment imposed on debtors (all of them) as indexation because inflation took place. Your incorrect analogy was about contracting the government to give an increment over a loan I will give it!

They are not the same!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in Haram and Purification

From: Jeff

Sent: Tuesday, November 16, 2004

Question

Dear Br. Monzer:

ASAKWRWB. I am still thinking about this, sorry. I have a question that perhaps will help my understanding. Suppose I buy stock in a business that is 100% Haram (such as a beer company, say). I buy one share for \$10, and I sell it one year later for \$5. The company earns \$1 per share of profits during the year I owned it. I decide I want to purify. How much do I pay to charity? \$1? \$0.50? \$0? The price of the stock is theoretically equal to the market's perceived value of the company's future discounted free cash flows. In this case, all the perceived future cash flows are Haram.

Jeff

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Your example of a beer brewery is not inclusive. In this case, beer is not a property for a Muslim. It deserves only one thing if it becomes a property of a Muslim, that is: spill it over and destroy it all since it has no value whatsoever from the Shari'ah point of view (unlike when it is owned by a non-Muslim. If the share is of a beer company it has to be given to charity, all of it, principal and profit. (it must be destroyed and you cannot even transform it into vinegar!))

But let us take another example, a conventional bank or even a pork industry (as there is some value of the hide and may be some other parts for non-food uses). If you put \$10 in a stock of a bank and at the end of the year you get 5 for it, there seems to be nothing to purify, because you did not even recover your principal. A profit is defined in Shari'ah as a surplus after you recover the principal.

Suppose you gave an agent an amount of money and after a year you checked with her and found that she put it in a conventional bank's stocks but ended up with only two thirds of the money, do we ask about certain operations the bank did whether they were profitable or not? My principal is recovered; clear enough to say that I did not make any profit. In fact I lost one third of my original amount and that is what matters.

This is different from the case that has profit but not distributed as dividends.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Holding Stocks in an Interest Based Bank

From: Islam on line

Sent: Monday, December 20, 2004

Question from Palestine

assalam alykum, my husband inherited stocks in the Arab bank limited few years ago. We would like to know if it is Haram to hold stocks in a bank of interest dealing wa jazakum Allah khair.

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. Hanadi,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

The answer is yes, It is Haram to buy, own and hold stocks in interest-based banks such as the bank you mentioned. Your husband is required to sell these stocks as soon as he can and take, if he can determine, only the price on the day the stocks became his and give away any difference to Muslim charity. Owning stocks in an interest bank is equivalent to participating in the forbidden activities of the bank.

Certainly an heir is not responsible for whatever the deceased have done or owned.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Are the Shares I Obtained Halal?

From: Islam on line

Sent: Thursday, June 24, 2004

Question: from Palestine

I work in the IT department in a non Islamic bank in Australia. Twice a year, I get a performance based bonus the bonus is split into one third cash component, one third shares and one third options. The options and shares are locked for three years, during that period I receive dividends that are automatically reinvested in buying more shares. Are these shares and options halal to take? I also get the chance to participate in employee share save scheme where part of my salary is deducted to buy shares in the bank at a discounted rate and saving me the administrative costs All of these benefits are considered part of the package I am paid and is calculated as part of the remuneration I get. What should I do with them?

Jazakum Allahu Khairan for your constant help

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. Rasha

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know that buying shares and options to buy shares of conventional banks is not permitted in Shari'ah because it amounts to becoming a partner in a company and giving its management an authorization to make interest-based contracts on your behalf and in your name. This becomes as if you were personally making such contracts. But I look at your question from a different angle.

- 1) I look at the bonus you are given as follows: a cash amount and an amount equal to the value of a package of shares and options that the employer decides and manages and it is paid to you after three years. This becomes real if you immediately sell each package on the day you become eligible to sell it. I do not see it non-permissible provided you sell it on that day. This is in order to mean that you do not intend to give any authority to the management to act on your behalf. At the same time you want to collect this part of your bonus when it is due to you according to the employer's regulations. I believe that you are entitled to the fringe benefits of your employment and you are also required not to deal in Riba. While I see that collecting this part of your bonus is permissible we must realize that holding such package for any period of time means you are, by proxy, dealing in Riba.
- 2) Would the same apply on buying shares at discount? I don't see it that way because in buying you are initiating the action voluntarily on your own! Suppose you want to get this benefit and decide to buy shares and sell them immediately to pocket the difference (assuming selling them immediately is permissible according to the regulations of the employer) would it be okay? I would say no because buying shares of an entity whose main function is Riba-based transactions is itself not permissible in Shari'ah. Notice here that we are working out a fine line between the Halal and the Haram, I suggest that you do not use this employment benefit.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: buying shares of HSBC

From: Islam in line

Sent: Tuesday, April 27, 2004

Question from UK

Asalamoalikum :- Could you please give me help for the following situation , I work for HSBC as an IT Technician and from your previous answers I believe this is allowed, but my problem is that I participate in a company share-save scheme in which I give £100 a month from my salary in to this scheme. after three years I can

use the money saved up i. e, £3600 to buy shares in HSBC at a price set at the beginning of the scheme. Is it permissible for me to buy these shares and sell them immediately so make my self a profit and then use the money to pay off my mortgage which is also with HSBC Your opinion will be greatly appreciated

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. Shenaz

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Buying shares of any conventional bank is not permissible in Shari'ah, even for the purpose of making a quick profit, because this act on your part makes you a partner in the ownership of the bank and as such a taker of Riba. I know that HSBC has an Islamic department but it is unfortunately not an independent entity that has its own share alone; in addition to being a very small portion of the whole bank. This does not mean that the Saving scheme itself is forbidden.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: GIC, Treasury bills and other investments in Canada

From: Islam on line

Sent: Saturday, November 20, 2004 6:02 AM

Name of Questioner Mohamed Gender Male Age 21-30

Education Diploma

country of Origin Canada country of Residence Canada

Question

Assalam Alaikum!! am asking hoping that you could shed some light on the issue at hand and help me, guide me in my decision-taking process. There are many investment options offered on the Canadian market. Some are obviously Haram, as they explicitly make mention of interest, but others are less. I am referring to stock market GIC's and treasury bills. Both are financial instruments that use different profit-yielding mechanisms. Treasury bills are sold at discount and par payment is made at maturity. For example, the government of Canada sells one bill at 97.00\$ and pays back 100.00 three months from now. As for stock market GIC's, an example is given just below of a GIC offer: With the Stock Market GIC if the market increases over the term of your investment, you earn interest up to a maximum return. Even if the market declines, your original investment is guaranteed and the full amount of your principal is returned at maturity. Right now, we offer two options for the HSBC Stock Market GIC: Canadian Index USA Index These GIC's are three-year, non-redeemable terms and the full amount of your principal and any interest you have earned, are payable at maturity. I would appreciate if you could provide some Islamic investment guidelines. I am asking for advices because there are no Islamic banking institutions where I reside (unfortunately). There was hearsay that there might in Toronto but that's far from where I live. HSBC does have an Islamic

banking subsidiary but it's only operating in the U.S. not in Canada. Thank you very much, Jazakumullah Khayran! Assalam Alaikum!
Jazaka Allah kairan for your cooperation.

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,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

- 1) There are other investment opportunities in Canada that you should study and consider. Of course I don't give any investment advice. You know now all Canada is one market even the whole world that you can contact by internet. There is the Islamic Housing Cooperative that accept investment including RRSP and RREP, and the Royal Bank had issued some investment securities that are approved by its Shari'ah Committee.
- 2) The Treasury Bonds carry interest. this is pure Riba as defined in Shari'ah, all treasury bonds are forbidden, of all countries and regardless of whether they pay the interest directly or they take lesser amount and pay back the face value as in the example you mentioned.
- 3) According to your description of the GIC, this GIC seems to be interest-based and consequently forbidden. to give you more definite opinion I need more info about it and detailed description with a numerical example.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying Certificate of Deposits (CD)

From: A Questioner through Islam on Line

Sent: Tuesday, May 25, 2004 7:22 AM

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

Is buying Certificate of Deposits (CD) issued by the government allowed? My understanding is that the government uses this money for its projects and pays interest on this money. Will this pay like participating with the government in these projects and earn interest since the bank is not involved? Thanks you
Jazakum Allahu Khairan for your constant help

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina
Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br.

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

There is nothing in our religion that prohibit dealing with banks because banks are legal entities that may undertake permissible or non-permissible contracts.

What matter is the contract and its real components and nature. a loan contract with interest is prohibited. Interest is the most common form of Riba that is prohibited in the Qur'an and the Sunnah of our beloved Prophet, pbuh. It is the only sin that is threatened in the Qur'an with a war from God and His Messenger.

It does not matter whether the loan is given to/taken by the government or an individual. Any increment in a loan is interest and is prohibited. Additionally the use of the loan for a good purpose does not justify the prohibited interest. The government has a thousand and one other way to get funds for financing public projects in accordance with the Islamic rules and regulations; why should it have to select only a prohibited kind of contract?

Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Registered Education Saving Plan

From: Islam on line
Sent: Monday, October 04, 2004 8:23 AM
Name of Questioner Ahmed Gender Male Age 31-45
Education Graduate
country of Origin Egypt country of Residence Canada

Question

In Canada the government offers what's called RESP or Registered Education Saving Plan, where you can save money for your children education, for the money you save, you get a tax break plus the government contributes 20% of the money you save every month up to a defined max. Of course you will be getting return for saving this money over the years in the trust company.. What should I check with the trust company to make sure the return I'm getting is Halal? One of them is saying ""Guaranteed principal: By investing only in government guaranteed or fully insured investments, we are able to guarantee your principal for the life of the plan.""

Jazakum Allahu Khairan for your constant help
Yours,

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. Ahmed,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Most kinds of return on such plans with conventional financial institutions are interest-based If you take such a plan (on interest) you have to give to Muslim charity all accumulated interest over time and keep only your contributions and the government matching contributions.

However, to the best of my knowledge the Islamic Housing Cooperative of Canada (housed in Mississauga) is registered and qualified for this RESP and if you deposit with it, its return is lucrative and almost guaranteed because it only invest in helping

Muslims get houses. You may also check with the Royal bank of Canada (or may be on Montréal, I am not sure about the name) because it announces the issuance of an investment plan that is Shari'ah compatible, see if it accepts this RESP.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Shari'ah Criteria for Investment in Stocks and Mutual Funds

Subject: Paying Debts by Trading in Stocks

From: Islam on line

Sent: Tuesday, September 28, 2004

Question: from Morocco

Assalam'oulaykum: first, may Allah Bless you for your work. I am an illegal immigrant Muslim in the west with financial issues. I am more than 18,000 pounds in credit card debt. I didn't pay my credit cards for 8 months now because I didn't have any money. Interest was too high, 27%. I just started work and called credit cards to work a deal with them. They offered me big discount if I pay it now. I told them I don't have that much money. I started trading stocks on internet and made profits to pay them faster. I buy a stock when I find it cheap and sell it when it goes up, it could be the same day or the next week. I know that trading stocks in the west is HARAM, but i am intending on repenting as soon as I finish paying my debt. I am scared to go back home without paying the debt. Is it ok if I pay credit cards only the discounted amount they ask me or I must pay the full amount (in Shari'ah) anyway. Is paying my debt by trading profits Halal or Haram? What should i do? Also, is working at restaurant here (restaurants in the west sell alcohol) Halal in my situation, because I make more cash fast, only till I pay cards. Please guide me, answer in full. I don't like to disobey Allah. Allah Bless you?

Notes

As soon as possible, may Allah bless you.

Jazakum Allahu Khairan for your constant help

Yours,

Islamonline.net

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. Hassan,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Four points are mentioned in your question.

- 1) Using credit card when you know that you cannot pay within the grace period is not permitted in Shari'ah because lack of payment within the grace period

invokes the clause of interest in the credit card agreement and interest, at a high rate as you said, is charged to you.

- 2) Making a mutually agreed on settlement with credit cards company to reduce the balance or delete the accumulated interest is certainly permissible because it reduces the amount of Haram you got yourself indulged in. Then you should honor the agreement you make and pay on schedule in order to avoid any further interest.
- 3) Trading stocks is not Haram as a one shot. Some of it is Haram and some is permissible. There are two basic conditions for permissibility of stock trading. a) It is permissible to trade stocks that are permissible for Muslims to own. This exclude socks of banks, casinos and Western Film production companies, weapon producing companies, etc. and b) the contracts used for stock trading must also be permissible. For instance short contracts in stocks are not permissible because there is interest on lending the stock generated to the broker. Ordinary long contracts (that are actually most common) are permissible.
- 4) Working in a restaurant that serve alcohol is permissible provided you do not serve it or do any of the thing that are done normally by a bar tender (including stocking liquor n shelves, pouring in glasses, carrying it to customer, etc.)

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment in companies

From: Tariq

Sent: Monday, March 15, 2004 10:33 PM

Question

Salaam Alaikum Dr. Monzer Kahf:

Thank you in advance for your time and patience. My partner and I have an opportunity to buy approximately 20 % interest in a company. This company operates a office building. It has two tenants neither of which is operating anything 'HARAM'. When it first started about two years ago the company got a mortgage from a bank to build this office complex. It still has a mortgage today. We would like to buy part of this company. Can we?

Please respond at you earliest convenience. Please send your response using the e-mail that I used to send to you as well as:

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. Tariq

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

There is a need for a three-point introduction:

- 1 - Going into a partnership with persons who don't mind making Riba-based transactions is discussed in the classical Fiqh. In brief, it is permissible provided you are able to block any interest-based decision, because when your partner acts for the partnership/company, she/he acts on your behalf and in the name of the company of which you are part, it

becomes as if you gave her/him an authorization to make such interest-based transactions on your behalf.

- 2 - Buying shares for the purpose of reselling them when the price is right is considered permissible, by many scholars under necessity rules, in companies that deal in interest, provided its dealing is not much. "Not much" is defined as no more than 5% interest income out of total income and no more than 1/3 ratio of loans to equity. The difference between buying shares and partnerships and closed companies is that in the former you have no leverage on the company in contrast to the latter and there is a large number of Muslims who have small savings and do not know any direct business to go in, buying shares for them becomes about the only outlet for investment. Here there is the condition of cleansing: one has to estimate the percentage of income and capital gain that results from interest transactions and give it away to Muslim charities.
- 3 - When you buy a real estate with an interest-loan on it, one may look at it as if you are buying for whatever down payment you give plus assuming the gross amount of installments (keeping a blind eye on the components of each installment). In other words, it has a slight difference when you compare it with getting an interest-based loan just outright. In your question, you are not buying the real estate but a percentage of the company that has a debt on it the gross amount of it is xxx .

Putting these elements together, I wouldn't say that buying this percentage is like contracting an interest-based loan. It becomes permissible if you can influence the company to avoid any interest-based transactions in the future (there is an Opinion in the OIC Fiqh Academy about buying a bank for the purpose of transforming it to Islamic but it added a limit that transformation must be done within a reasonable period of time, estimated not to exceed two years for the bank). If you are not able to prevent future interest-based transactions it becomes not permissible. This means that the existing mortgage, considered alone, may be tolerable on the ground of assuming a gross debt. Under all circumstances, the principle of cleansing applies: you need to calculate the percentage of net profit that resulted from interest earned (if any) and the loan balance and give it away to Muslim charities (not including building a mosque)

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: stock investing

From: Jeff

Sent: Wednesday, November 03, 2004 Dear Br. Dr. Monzer:

Question:

Assalamu Aleikum wa Rahmatulahi wa Barakatuh. I want a clear explanation why it is ok under Shari'ah to invest in stocks, and under what conditions. Didn't the OIC Academy make a ruling around 1991 that it was ok? Could you please give me a 3-5 sentence description of the consensus opinion and your opinion on this? I would like to have a quote from you on the website on this subject. Thanks.

Jeff

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Sorry for the delay of this answer. basically it took me time to figure out the best approach as reference to the OIC Fiqh Academy resolution will not benefit us, it is essentially negative as it translates as "the principle is the prohibition of participating in companies that deal at times in prohibited things such as Riba even though their main activities are permissible." [resolution No. 63/1/7 of May 1992].

Here is the wording I suggest:

Companies that produce permissible products such as computers, electricity or cars make certain transactions on the basis of Riba or other prohibited contracts or may have subsidiaries that provide Riba-based financing or deal with prohibited material. This kind of companies makes the great majority of listed companies. While it is obviously prohibited to buy and own stocks in companies that produce prohibited things such as breweries, interest-based banks or porno businesses, the prohibition of stocks of the first kind of companies would impose too much hardship on Muslim investors. Therefore, in application of the Shari'ah rule that hardship should always be removed, many Muslim scholars believe that buying and owning stocks of such companies must be permissible provided that their prohibited transactions are not much and the Muslim investor purifies her/his investment by donating to charitable causes a part of the income that is estimated to have resulted from such Haram transactions. The criteria of permissibility are as follows:

1. The main line of business must be Halal
2. Riba and other prohibited activities must not generate more than a small percentage of the company's income
3. Funds used in assets (liquidity in banks and account receivables) that may generate interest must not be high in relation to total assets
4. Leverage or dependence on borrowing must not be high
5. The company must have honest and transparent business or be not involved in cheating, Fraud, etc.
6. The Muslim investor must estimate the percentage of her/his profits that may have come from Riba transactions and donate it to general charitable causes so that her/his investment and profit remains pure.

If you think this is too long please feel free to abridge it

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: Jeff

Sent: Monday, November 08, 2004

Dear Br. Dr. Monzer:

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh. Thanks for this helpful wording. The other aspect of this that I wanted to try to clarify is that I understand there is near universal agreement that it is ok to buy stock in a limited liability company such as a modern corporation if it has no dealing with Haram activities, in other words, even though it is not strictly a partnership and is a modern invention, it is ok. The related OIC Fiqh Academy ruling I was referring to is from a reference to it in the fourth

paragraph of Mohamed Ali Elgari's paper "Purification of Islamic Equity Funds" from the Fourth Harvard University Forum on Islamic Finance (2000)" but all the reference note says is "Fiqh Academy Session of the year 1412 H" and he says it was 1991 CE not 1992 CE, but no information on the actual resolution number unfortunately. I was wondering if you have access to Elgari's paper and know what ruling he is talking about and what it says. He says the ruling was "a monumental and decisive ruling on 'what is a company share'." I will work up a quote from you using the material below and send it back to you for your approval or editing. Thanks.
Jeff

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

It is the same ruling of 1412h; I think he made a mistake in the 92 instead of 92. It is a long resolution. it mentions the acceptability of limited liability, of share issuance and of the share holding common sock companies as a derivative of the Inan Partnership.

It is true, classical Islamic Fiqh does not accept both limited liability and the un-personalization of partnerships. But for about a century Muslim scholars have been discussing the common stock company and approving it. The OIC resolution kind of sealed the issue. I don't have the paper of Dr. al Gary on purification.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: share trading and share inheritance

From: Islam on line

Sent: Tuesday, August 10, 2004

Question from Nigeria

As salamu alaikum!!! I hope the scholars are fine and in the best of health, amin. I have two questions: One - what is the islamic rulings on buying and selling of shares - stock trading? Two - I have an uncle who is presently late, but whose estate was inherited by my father, since he has neither wife, nor children or any person to inherit his properties. Before his death, he had stocks, and it happens that after his death, and though i wasn't the one who inherited his stocks, my father always encouraged me to buy, anytime the stock companies sent in request for right issues, which in a normal circumstances, my late uncle supposed to have subcribed since he has stock with the company. But my father encouraged me so that i now bought a lot of shares, under my late uncle's name, but through the rights issue process, and almost all the share certificates of my late uncle have been converted to my name, because i happen to be the one lodging his returns. I now want to know the status, islamically, of the stocks i bought under the rights issue process, and the issue of dividend, since i am not the rightful heir of my uncle. how do i now claim my dividend, since the

stocks are always considered to be the entitlements of one person, my uncle? May the almighty Allah reward you abundantly. wassalam
Jazakum Allahu Khairan for your constant help

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Abdallah

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

For the shares that are permissible to trade (buy, own and sell) please consult the Islam on line Fatwa bank, there are several Fatawa on this. In brief, stocks of companies that do not deal in Haram (Riba and otherwise are permissible, stocks of companies whose main line of business is Haram are forbidden and stocks of companies that deal a little in Haram may be permissible with the cleansing condition (giving to charity the return that pertains to the Haram activities).

The second question seems to be a legal no Shari'ah one. From Shari'ah point of view, Stocks that you bought from your money, in the name of your uncle, are yours not his; you have the right to collect their dividends; and you said they are converted to your name. If they are in your name you can collect their dividends and if they are inherited by your father, he can transfer them to your name!

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: Speculating on stock Prices

From: Islam on line

Sent: Wednesday, May 19, 2004

Question

Please explain what is the islamic meaning of 'Speculating on prices' and give examples. I understand that it is not permissible to speculate. I am intending to invest in stocks and shares using charts and looking at their patterns. Is this possible. You may also wish to look at the following website: <http://www.learntotradefutures.com/>. Please advise whether it is permissible to invest in this way.

Jazakum Allahu Khairan for your constant help

Yours,

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. Abdullah

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

First, please note that future currencies are not permitted in Shari'ah as they contradict the correct Hadith that requires currencies to be traded with delivery of both objects of the contract at the time of the contract itself. Any time differential in

delivery and any delay, even of both currencies is called Riba in Shari'ah. Additionally, the OIC Fiqh Academy studies commodities futures and resolved that it is not permissible to trade commodities futures because both price and delivery are set for a future date and they are mostly not meant to be implemented.

Speculation has no Shari'ah definition and it can't be claimed forbidden. all trade is in fact speculative as you buy a thing on the hope of being able to sell it at a higher price. There are prohibited practices such as bidding in order to raise the price on a person who wants the item while you don't, or selling a thing before you own it and actually possess it, etc.

buying stocks in the market on the hope that the price will go up is permissible as long as the stock you buy is permissible to own. For instance stocks of interest-based banks are not permissible to own, so are stocks of military industry that is used for aggression on other nations/people like killing innocent wedding attendees in Iraq! also prohibited are stocks of companies that deal/produce prohibited items as a main line of business, even other companies may also be prohibited if their dealing in Haram is extensive although the main line of business may be permissible. etc.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Mutual funds and interest loans for car and house

From: feisal

Sent: Wednesday, April 21, 2004

Assalamu alaikum Dr. Kahf. How are you? My name is Feisal. I would like to ask you a couple of questions if you wouldn't mind. I recently came back from Hajj and I find myself being extremely cautious regarding everything, especially the matters of financing. I always hear of many different fatwas concerning these situations.

In the case of Mutual Funds, many scholars have deemed them acceptable. There are many Muslims who invest in these funds as a tax shelter to avoid paying higher taxes to the federal government. My question for you, is it better to put the money in a straight RRSP fund that gives me a fixed interest rate, then I take the interest made and give it away to a charity?

Also, as I mentioned before, there are many fatwas regarding such things as car loans and mortgages. Is it permissible for a Muslim to lease or take a loan out on a new vehicle even though he or she has the money to pay for it? I have heard it is okay as long as it is a fixed interest rate over a fixed term agreed upon by both parties. I would really appreciate any wisdom you could offer me on these specific questions. JazakALLAH Kheir for your time and may ALLAH (SWT) reward your contributions.

Feisal

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. Feisal

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I am not aware about the many Fatwa that you mentioned.

1- Mutual funds are treated the same way as stocks because what you buy in mutual funds is in fact units in a company that is managed by someone for given fees and its assets are the stocks it holds and trade. You cannot say that mutual funds are Halal or Haram without knowing the assets they hold. If the majority of these assets are Haram, holding units in the fund become Haram too. The OIC Fiqh Academy discussed the matter of stocks in one of its sessions and its resolution is as follows:

- 1- Stocks of companies that deal only in Halal products and Halal transactions are permissible, example: stocks of Islamic banks or any company that does not deal in interest and other prohibited products or contracts;
- 2- Stocks of companies whose main business is prohibited are prohibited even if the company makes some permissible activities, example: conventional banks inspite of the fact that many of them give charities and spend on community services that are certainly Halal. These stocks are Haram to buy, hold and sell because by holding them you become partner and the actions of the management is done in your name and on your behalf, as if you did them.
- 3- Stocks of companies whose main line of business is permissible, like computer or furniture production but they deal with certain prohibitions such as getting interest-based loans or depositing on funds on interest or having a small subsidiary that does that. The principle is that these companies are also Haram because a little or peripheral Haram is as forbidden as a lot of it.

Here a group of scholars dissents. They argue that at this time and under the wold circumstance such a prohibition creates a great hardship for many Muslims who cannot invest their own savings directly. In application of the Shari'ah rules that hardship always calls for relaxation, there must be certain criteria to determine the degree of tolerance of such stocks (that obviously represent the great majority of stocks). They came up with certain standards that aim at containing the forbidden transactions within a restricted limit: income from interest and other prohibited matters must not exceed 5% of the total income of the company, its assets used in interest and other prohibited matters must not exceed one third of total assets, it must not depend on interest-based borrowing for more than one third of its total assets. Additionally a cleansing criteria must be applied whereby one must estimate the percentage of the Haram in the company one invests in its stocks, both dividends and capital gain and give away to Muslim charity the same percentage of the return one get at the end pf the period.

These criteria are easy to apply because companies are required to issue this ifno. Dow Jones Company used them and issued what is known as the D J Islamic market index. And some companies bought the right to use it and established Islamic market funds. Search for them on the internet.

To come back to the Mutual funds: Mutual funds that satisfy these criteria are permissible with the cleansing requirement. You need to do your homework if you want to invest in funds other than the Islamic funds.

2- I suppose the RRSP is the Canadian retirement funds, if it is not please correct me and explain: No it is not better to invest in interest and give it to charity whole there are outlets that are Halal. Interest given to charity is not considered Sadaqah; it is only cleansing and it is InShaAllah rewarded as such; but if you

invest in Halal and still give from it is certainly rewarded at much higher rate, up to 700 times and more. The Islamic Housing Cooperative of Canada is authorized as an RRSP outlet, and you can invest in it the RRSP and it is Halal!

- 3- I am sorry not to be aware of the MANY Fatawa that interest for car and others is ok! To the best I know interest is Riba and it is Haram in the Qur'an and Sunnah whether it is for a car, a house, or any other purchase. It is one of the worst sins a Muslim may ever do as it is the only sin that provokes a war from God and His Messenger (the Qur'an, 2:279). True, under necessity a relaxation is incurred but a necessity cannot be expanded to what is not necessary.
- 4- There is a strong argument for buying a house to reside in for Muslims living in the West for several consideration that include decency of the area, schooling, building equity, tax saving, etc, although these are not necessities in the strict sense but since they apply to most or all Muslims in the West they are treated like necessities under the rule that when a thing that is needed (but below necessity) applies to a large number of people it is then treat as if it is a necessity; it is called in Fiqh ""Hajah 'Ammah."" I don't think it applies to buying cars in America unless in very very special individual cases
- 5- I don't know of any Muslim who says it is permissible in Shari'ah to take a loan with FIXED or variable interest. In fact Riba is defined as any increment in a loan. It is certainly Haram and big Haram.
- 6- Leasing is permissible for cars and other things provided the lease agreement does not contain other violations of Shari'ah. And one must look for such other violations in lease contracts. It does not matter if the lease is done with a bank that deals with interest or with an Islamic company that does not deal with interest.

Please do not hesitate to contact me for any other question and give my Salam to Tariq, in the meanwhile try to make some homework on the internet, start with the word Islamic financing or look at my website especially the item Fatawa, it is www.kahf.net

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment of Retirement Plans Funds

From: eric

Sent: Sunday, February 22, 2004

asalamu alaikum,

this is eric farouq sanchez. i was wondering if you can help me with my retirement plan. i am currently working for the government, agency is customs and border protection.

i have the retirement called FERS and TSP. and right now i wanted to know if i was able to put 14% into my retirement and the government matches up to 5%. And there are certain kinds of funds you can go into. The one i wanted to go into was this one called the c fund, which is the one that is the least stable one you can say. So insha-ALLah brother or sister, if you can please send me information on where or if i am able to do what i would like to do. Thank you brother/sister. asalamu alaikum
eric

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Eric

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

It is permissible to contribute to retirement plans, individually and/or through employers' plans like 401K or FERS and TSP and to get the benefits of the matching funds and the saving for retirement.

IRA can be invested with mutual funds that are compatible with the Shari'ah such as the Dow Jones Islamic index fund (IMANX) but employers funds have only a few contracted funds and they do not offer other funds.

What you need to do is: 1) try to get the Islamic funds approved by the managing committee of your plan; 2) select, from available funds in the plan those that have the least transactions and holdings in bonds and non permitted stocks such as stocks of banks, insurance companies, entertainment buz., etc. and 3) when you liquidate, at retirement, you estimate the percentage of all the increments (dividends and capital gains) during all the period that resulted from non-permitted investments in these funds and give an equal percentage to Muslim charities of every amount you withdraw. This is needed to keep clean off the Haram your own Halal money.

Please brother, if I can be of any help to you at any time do not hesitate to contact me by email or otherwise as all my contact are listed on my website.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

The Purification Principles

Subject: Calculating purification in stock investment

From: Jeff

Sent: Tuesday, October 19, 2004

Question:

I would like to get your opinions on several issues regarding purification of Riba income. I have reviewed, for example, Sh. Elgari's paper from the Harvard Symposium from a few years ago (I think it was 2000 or 2001) and found some useful info there, but basically I concur with the third method of calculation he mentions. That is, the holder of a share of stock in a company is responsible for paying to charity his share of the company's Riba income that quarter, whether or not he received a dividend. So if he owns a thousand shares and the company has a billion shares outstanding and made ten million dollars in Riba income that quarter, he must pay $\$10,000,000 \times (1000/1,000,000,000) = \10 to charity for that quarter. The fact that the company paid no dividend or a dividend of a higher or lower amount is irrelevant because the riba income will automatically be reflected as a capital gain in the stock price as valued by the marketplace. Even if the stock price went down and the company paid no dividend during the quarter, he still must pay because the

stock price would have gone down even more if the company hadn't received the riba income. So in my view it's a very simple matter: if you own part of a company that earns Riba income, you must purify your share. But please let me know your opinions on this.

Another aspect is how to include income from the trading of Riba securities. This is usually listed on financial statements as "net realized gain (loss) in marketable debt securities." My feeling is that if this is a gain, it should be counted as Ribawi income and be purified, and if it is a loss, it should not offset interest income. So if a company earns a million dollars in interest income and also loses a million dollars trading in bonds, it still has a million dollars in Riba income that must be purified. If it gains a million dollars trading bonds in addition to the million dollars in interest income, it has two million dollars in Ribawi income that must be purified. But let me know what your opinions are on this and if there have been any OIC rulings, Fatwas, etc. on it.

Another issue on purification of interest income: suppose a company makes a million dollars in interest income but also donates half a million dollars to good charitable causes in the same quarter. Some might argue that the company has already purified half of its Riba income and the investor need only purify the other half. The counter argument is that the company did not have the intention of Riba income purification when it donated to charity.

Lastly is the question of whether a shareholder must purify his share of Riba income after tax or before tax. Your views?

Note that this question of prohibited income of one type not offsetting that of another type for purification purposes is more general. For example, if I invest in a company that has a small business in gambling and alcohol sales, and let's say the company made \$50,000 profit in alcohol sales this quarter but lost the same amount in their gambling operations for a net prohibited income of zero, should I purify my share of the \$50,000 profit on alcohol sales, or am I not required to purify anything because the net prohibited income is zero?

Jeff

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1 - Calculation of Haram income for the purpose of purification: I agree with you on the calculation of the Haram income that is due for payment to charity in order to keep the principal and other earnings Pure and Halal: It must be calculated as the Haram income is declared. However, it seems that the way it is presented may give the wrong impression that it is due for payment at the end of each quarter. I think the date of its calculation needs not be the same as its due date for payment. PAYMENT IS ONLY REQUIRED UPON REALIZATION OF INCOME, this means after receiving dividends or selling the share. The point is that receipt by the agent (management) of this income does not trigger the obligation to pay it before receipt by the owner from her agent. If the agent pays it with the permission of original, he would not be doing any wrong and its due

date for payment is not even end of the quarter but the date of receiving the Haram income.

This purification amount is due for payment even if there were capital losses only if the hare holder knows the Haram income.

- 2 - Income from trading debt securities: It seems to me that we must not offset any losses on such forbidden transactions with interest income. Furthermore, to be more exact we **MUST NOT OFFSET AN INCOME FROM A SINGLE TRADING-BONDS TRANSACTION WITH A LOSS FROM ANOTHER SUCH TRANSACTION** because the fact is that each transaction is independent from the other. if we report only the net of all such transaction, the principle of transparency requires that we should mention it in the report, if e can know the gross income and gross losses of trading bonds both figure should be reported for the purpose of calculating the purification amount.
- 3 - Since charity payment by the management is done with prior authorization from the body of shareholders, I think it is permissible to consider such charity as part of the purification factor and a Muslim shareholder would be required to pay the difference only. Certainly not all non-profits are charities eligible for a Muslim's purification payments. Only charity that uses its funds to help poor and needy, churches, synagogues and missionary organizations are excluded because they promote worshipping other than God.
- 4 - Taxes on the Haram income are deductible from it for the purpose of calculating the purification factor because the net Haram earning is what goes to the shareholder. The net-of-taxes Haram income is the amount that should be given away to charity not the before tax amount. it is fair to deduct its share of taxes when we calculate the Haram income a Muslim shareholder has to pay to charity.
- 5 - I understand the way of reporting as giving 2 figures, one after tax and one after tax and charity; please correct me if I'm wrong. This way is correct but I may add that it would be better if we can include in the Haram income all gross income from trading bonds instead of net if this info is available.
- 6 - I agree with the note of generalizing the calculation of Haram income as you mentioned it. Income from a Haram transaction must not be offset by loses on any other Haram transaction.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: Jeff

Sent: Friday, October 22, 2004Dear Br. Monzer:

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Please see my comments in Blue Italic after each section.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

As Salamu Alaykum Wa Rahmatullahi Wa Barakatuh.

Thanks for your reply. I have the following comments.

1) I understand your point here, but I believe your last sentence is important, that we cannot offset Haram profits with any kind of losses, Haram or Halal. So if the company earns Haram profits in one quarter but loses a lot of money in its Halal businesses, it may pay no dividends and its stock price may go down. If the owner sells her shares the next quarter, she may suffer a loss because the stock price is lower and she received no dividends. However, I would argue that she STILL needs to purify the past Haram profits out of the proceeds of selling the stock, even if instead of realizing income she actually realized a LOSS. To take an extreme (but not unreasonable) example, suppose an airline had 100 million shares outstanding and made \$1 million in interest on its deposits in 2004 and I bought 1000 shares of its stock on December 31, 2003 for \$10 per share. The company has great difficulty and goes bankrupt and its stock becomes worthless on December 31, 2004 (one year later). Even though I lost my entire investment, I would argue that I still must pay \$0.01 per share=\$10 to charity on January 1, 2005.

Answer:

I agree with you to the extent of the stock value itself. Hence, using your extreme example I think the shareholder is not required to pay anything because she is not required to pay from her own Halal money (from other sources) for it. Some of it came from Haram but all of it is gone! It is this Haram money (acquired by her de facto attorney, who is the management of the company that needs to be given away to charity to purify the rest of the money that is in the hand of this de facto attorney. But the whole thing is gone. There is nothing to purify and there is no Haram money. On the other hand if any thing is left to her from these stock, she needs to purify them, I may even go for proportional purification, i.e., suppose she gets back only 4000 and the amount of purification of her original 10,000 investment was 10 Dollars she is required to give to charity only 4 Dollars because this is the amount that purifies her remaining investment. One may argue that the amount of interest income relates to the number of shares not to the amount of investment. While this is true, it is irrelevant to an investor. Investors in shares care about the value of their investment not about the number of share it buys them. In other words, if the capitalization value of the company was one billion and the amount of earned interest is one million, the Haram ratio is 1/1000; the company lost 600 million of its value and the share of this amount out of the Haram is gone with it; it does not remain a burden on the remaining 400 million. Do you buy this argument? It seems to me sound!

2) I agree. It is very difficult to get gross income on trading of debt securities, so for now, we will make the disclosure you suggest in our reports. Later, we may be able to get that info.

Answer:

Fine

3) Donations to hospitals, cancer research, would be ok? Donations to religious or political organizations are pretty rare—I haven't seen them yet.

Answer:

How about donations to the Israeli aggression against Palestinians? Don't they exist?

4) I understand your point here, but what if taxes in a specific quarter or year are greater than income? This is, for example, the case with Motorola last quarter, because they recorded an \$898 million non-cash tax charge to establish a deferred tax valuation allowance against the net deferred tax asset balances of Freescale Semiconductor, Inc., which they spun off as a separate company during the quarter (it used to be their in-house semiconductor operation). In other words, complicated accounting rules can cause taxes paid to go way up or down in a particular quarter or year, and sometimes to exceed total profits (though it is unlikely this could occur for an entire year). I see two potential solutions for this. One is that we could ignore non-cash tax charges and just deduct the cash taxes actually paid each quarter. The downside to this is that the cash taxes actually paid each quarter don't usually correspond to the profits earned in that quarter, but are a complicated function of recent past quarters and the present quarter, plus I'm not sure it would be correct to do this. The second potential solution is to use a company's average tax rate to calculate the taxes for each quarter and then make up the difference in the last quarter of each year so that the annual total is correct. I would probably prefer this solution but to disclose it in our reports. There may be an argument for haram income before taxes being the correct amount to purify, because when I personally give the money to charity, I get to DEDUCT it from my personal taxable income, both federal and state. I need to think about this some more.

Answer:

I go along with the second method you suggest because it is more indicative of the tax that relates to the Haram earning. This should be with disclosure. Further, getting tax deduction on such payments does not affect our calculation nor disclosure because it is totally a different and unrelated matter. Here it is a matter of government concessions for giving to certain types of organizations and there is no harm in taking this concession whenever one can. Don't you notice that when paying Zakah to Muslim charities we also take a similar concession and we do not consider it in the Zakah calculation?

From: Jeff]

Sent: Wednesday, October 27, 2004

Dear Br. Monzer:

Asalamu Aleikum wa Rahmatullahi wa Barakatuh. Ok, I still need to think about your answer on the first point. So what you are saying is that although Haram profits cannot be offset by any kind of losses as long as they are all held by the agent, if on the other hand the profits and losses are passed through to the shareowner as reflected in a capital loss (the shares are worth less because the company has losses, although market conditions also play a big role), then the Haram profits may be offset by losses. Do I understand this properly?

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. Jeff,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Rather: then the shareholder will have to purify only the remaining value of her share not because Haram income is offset by losses but because she lost the principal itself (of the share in Haram income of the lost value). In other words, as far as the lost value of her investment is concerned, there is no principal that needs purification. She is not required to use other resources (the remaining value) to purify a lost principal!

On the third point about donations, it is possible what you say is true about Starbucks, because I believe the CEO may be strong supporter of Israel. Usually, donations to political groups are not tax deductible. I agree we should exclude donations to political groups. It seems to me that a donation to a group that funds work in Israel is only acceptable if it helps the poor within Israel and does not discriminate between Jews, Arabs, or anybody else on the basis of race or religion. If and when we get around to rating Starbucks, I'll look at this issue. It will be fun and interesting to start to challenge some people on these issues.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Short Sale of Stocks and Commodities

Subject: Short sale of stocks

From: Fazal

Sent: Saturday, August 14, 2004

Assalamu alaikum wa rahmathullahi wa barakathuhu

Dear Br. Monzer Kahf

Thank you for your prompt reply on my query on share trading

I would like to know whether short selling of shares is allowed.

I trade in shares through the National Stock Exchange in India.

I am permitted to sell the shares first (even though I don't own them) and then later buy them on the same day and the difference whether profit or loss is charged to my account. This technique works out on a fall in share prices throughout the day. I would like to know whether I can do such trading.

Wassalam

FAZAL

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'ala Sayyidina
Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Fazal

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

The principle is that while interest is prohibited, sale of standardized objects on description (without owning them) is permissible provided the price is paid at the time of contract (not on margin). The short sale of stocks usually contains borrowing the stocks from the broker against interest. This is why short stocks is prohibited. If the day short does not involve borrowing for Riba, it must then be permissible.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Day Trading of Shares and Commodities

Subject: day sale and buy of shares

From: Fazal

Sent: Tuesday, August 10, 2004

Dear Dr.Monzer

Assalamu alaikum

This is in continuation of my earlier email.

I would like to get clarified one more doubt and I would like you to do so.

If I buy shares in the stock market through the broker, these shares come into my account only on the 2nd day after the purchase has been made. However I get a contract of purchase or sale made during the day from the stock broker at the end of the day and my account gets debited to the value of shares purchased or sold on a daily basis. Even though the stock does not come into my account the same day I am permitted to sell the shares the same day or the next day. (The only difference is that the brokerage charges are more if the shares are sold the next day).

I would like to get clarified whether am I permitted do such trading

Wassalam

FAZAL

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala

Sayyidina Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Fazal

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Shares are credited to your agent (the broker) on the same day, and it is his accounting that delays it. If the shares are in the possession of your agent, they are considered in yours too. You can sell them the same day.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Employers' Stock Option

Subject: Health and life insurance and stock options

From: Habib

Sent: Saturday, August 07, 2004

Question

Dear Br. Dr. Monzer,

Could I kindly ask you to help with your insights into the following 2 questions, may the Almighty reward you amply:

1- Medical and life insurance: I live and work in the UAE. My company has a group insurance policy with for the employees and their family members whereby ALICO reimburses our medical expenses as well as give us a life & disability insurance. Is the medical refund we receive Halal and is this type of life insurance Halal?

2- Stock options: The company I work for is a global food firm. Whilst in the UAE its commercial activity is Halal, it is selling pork in other parts of the world as part of its portfolio of food items, further the company may earn interest on positive cash flow.

My contract with the company does not oblige it to give me stock options, however, as a mean of retaining employees and as an incentive the company does offer me stock options. As you are probably aware how this works, the stocks would appreciate over time and once they are vested the employee can sell them and benefit from the amount by which the stocks appreciated. The company actually terms it this way:

The employee can buy the stocks at a fixed price after a number of years, which technically means the employee buy these stocks the same day he sells them and the principle would go back to the company.

Obviously the company could have bought (or reserved these stocks) for the employee through a bank loan. My question is it Halal for me to accept the amount by which the stocks appreciate as a pure financial operation (a company reward) and to do about the fact that part of it is due to non Halal activity (ie., Selling pork or earning interest on deposits).

May the Almighty bless you.

Habib

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Habib

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

1 - Insurance is permissible when it is not based on interest. Health insurance and term life insurance are not interest-based. They are permissible and the refund you get from the insurance company for medical bill is permissible. There are people who argue that insurance (of all kinds) is not permissible on the ground that it is similar to gambling, it contains interest or it contains a level of uncertainty that is not tolerable. I think their argument is weak and based on misconceptions about what insurance is.

2 - Employee stock options are, under normal circumstances permissible (unlike stock options that are in the market under the category of derivatives. But if it is only a small portion (say around 10% of total transactions, total sale or total revenue, it is permissible to buy/sell its stocks provided that you estimate the percentage out of the gain you make out of this option that is attributable to the prohibited sale/transactions and give it away to Muslim charity.

Wa Allahu A'lam,
Wa al Hamdu li Allahi Rabbi al 'Alamin,
Wa Assalam,
Sincerely,
Dr. Monzer Kahf

Subject: Are the Shares I Obtained Halal?

From: Islam on line

Sent: Thursday, June 24, 2004

Question: from Palestine

I work in the IT department in a non Islamic bank in Australia. Twice a year, I get a performance based bonus the bonus is split into one third cash component, one third shares and one third options. The options and shares are locked for three years, during that period I receive dividends that are automatically reinvested in buying more shares. Are these shares and options halal to take? I also get the chance to participate in employee share save scheme where part of my salary is deducted to buy shares in the bank at a discounted rate and saving me the administrative costs All of these benefits are considered part of the package I am paid and is calculated as part of the remuneration I get. What should I do with them?

Jazakum Allahu Khairan for your constant help

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. Rasha

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know that buying shares and options to buy shares of conventional banks is not permitted in Shari'ah because it amount to becoming a partner in a company and giving its management an authorization to make interest-based contracts on your behalf and in your name. This becomes as if you were personally making such contracts. But I look at your question from a different angle.

1) I look at the bonus you are given as follows: a cash amount and an amount equal to the value of a package of shares and options that the employer decides and manages and it is paid to you after three years. This becomes real if you immediately sell each package on the day you become eligible to sell it. I do not see it non-permissible provided you sell it on that day. This is in order to mean that you do not intend to give any authority to the management to act on your behalf. At the same time you want to collect this part of your bonus when it is due to you according to the employer's regulations. I believe that you are entitled to the fringe benefits of your employment and you are also required not to deal in Riba. While I see that collecting this part of your bonus permissible we must

realize that holding such package for any period of time means you are, by proxy, dealing in Riba.

- 2) Would the same apply on buying shares at discount? I don't see it that way because in buying you are initiating the action voluntarily on your own! suppose you want to get this benefit and decide to buy shares and sell them immediately to pocket the difference (assuming selling them immediately is permissible according to the regulations of the employer) would it be okay? I would say no because buying shares of an entity whose main function is Riba-based transactions is itself not permissible in Shari'ah. Notice here that we are working out a fine line between the Halal and the Haram, I suggest that you do not use this employment benefit.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Trading Options, Futures, Indices and Other Derivatives

Subject: Trading derivatives

From: Michael

Sent: Tuesday, June 08, 2004

Dear Monzer Kahf,

As salamu alaikum,

I am being not fully sure about some Shari'ah issues as follows:

- Trading of Arbutun and Bay As Salam permissible or not?
- Arbutun accepted by which schools and what is the majority opinion?

I would appreciate your comments on these points. For my own understanding what is the logic behind selling in ""bay as salam"" without ownership if we in the same time are defining a basic rule do not sell what you do not own?

Best regards wa salam,

Michael

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Michael

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

Sorry for coming back to you late. Your email caught me on travel and it was stuck in my laptop that I don't use at home.

Bay al Salam is unanimously permissible as it is supported by a clear Hadith. It is an exception to the rule according to the overwhelming majority. The exception is Ibn Taymiyyah. The difference is more semantic than any thing else because Ibn Taymiyyah argues that a text sets rules any thing that comes in texts must be rule setting , it can't be an exception! The others argue that we have general principles that are set in major texts, supported by logics and Religious rationale. ""You can't sell what does not exist"" and a text made an exception to make life easier for

people. The matter has an implication in regard to Qias. Exceptions to the rules cannot be considered main premises for Qias i.e. you cannot extend their rulings by virtue of qias.

Bay' al 'Arbun is a hanbali thing, all others refuse it as inconsistent with the rules. It is a sale with a down payment that if the purchaser does not go ahead with the sale she loses the 'Arbun. Others argue that you cannot predetermine a penalty for not going ahead with a binding contract, the penalty must be measured by the actual amount of damage, nothing else. I personally go along with the majority.

A relevant question arises: are options similar to 'Arbun? And are they used for the same kind of objective?

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Subject: Trading indices and Futures commodities and currencies

From: Islam on line

Sent: Monday, June 14, 2004

Question from Malaysia

ass.w.w. i am a futures trader who trades agricultural products through a futures exchange. is it a halal or haram profession? i don't gamble since i make my decisions based on research and analysis of the products. what about trading indices such as dow jones, nikkei etc. is it halal or haram ? at last, what about trading currencies, is it halal or haram ? all through a futures exchange such as chicago board of trade, etc. i've been waiting for so long for this opportunity, please give me an expert answer. may Allah reward your kindness.

Jazakum Allahu Khairan for your constant help

Yours,

Islam on line

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. Yan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Trading any goods / commodities that are permissible in Shari'ah is also permissible because trade creates value as it is well known.

Trading in commodity exchange and stocks markets is also based on the same principle. A stock is tradable because it represents a basket of assets. Therefore, according to Shari'ah this basket must be real and permissible. Hence, from our religion's point of view, stocks of companies whose main activity is not permissible are not tradable. an example is companies that produce weapons used by armies/individuals to kill innocent people or to occupy their land.

Additionally there must be real assets behind a stock to be traded. Indices are mere mental calculation of values of a bundle of stocks; but unlike stocks they do not

represent real assets. Therefore, the OIC Fiqh Academy ruled in 1412H that indices are not ownable or tradable.

While spot currency trading is permissible, currencies futures involve interest and our beloved Prophet, pbuh, prohibited it. In a correct Hadith he mentioned that currencies must only be exchanged with the condition of immediate delivery of both currencies. This means that futures are not permitted and margins are not permitted too.

The alternative to commodity futures is the Salam sale that is well defined in Shari'ah; it requires that the price, all of it, must be paid at the time of the contract. Accordingly, the same Fiqh Academy also ruled that commodity futures are not permitted too because they are traded on margin and they are usually not intended for delivery/execution.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying and Selling various market indices

From: Rayed

Sent: Monday, May 24, 2004

Question

Dr. Kahf, Asalamu Walikum Warahmatullahi Wabarakatu,

I would like to start off by thanking you again for your assistance in my earlier matters that I contacted you about. May Allah (a.z.j.) reward for your commitment and service to this ummah.

Akhy, I have another concern about the stock market that I would appreciate your comments on. I have come to realize that trading the market itself is quit profitable (i.e. trading the QQQ (nasdaq100), NYSE, S&P500) and other indexes, for example the semiconductor index, the tech index, and the pharmaceutical index. From what you know from the ulamah in this field, is day-trading the various markets (as a whole) and indexes halal.

To clarify - to trade the whole market the stocks are, for example the Nasdaq100 is a stock QQQ, S&P500 is SPY, NYSE is DIA and so on.

Inshallah we will remove any profit percentages of the haram companies that are contained in this markets, so as to purify our income.

The Nasdaq100 as you may know are a combination of the top 100 biotech firms, inshallah they should be all halal. The S&P500 and NYSE will have companies that we can't trade. So when we trade that particular market again as a whole, we will calculate what percentage that haram company has of the market (i.e. S&P500) and remove that from our profits at month end.

Your guidance in this matter would be appreciated.

JAZAKULLAH WAKHIRUN

Rayed

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Rayed

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

We need to go back to the principle. Why trading stock is permissible (I mean only these stocks that are permissible to own)? Stocks are only permissible because they are a representation of real things: the company including its physical assets and properties, and rights and claims it has of others including abstract rights such as the company's name and location, any patents, etc.

Does an index give a right of ownership? An index is mere calculation abstract! it does not give you a right in the companies included under the index. It is not a thing that can be owned and traded. This is the resolution of the OIC Fiqh Academy taken unanimously in 1412H.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Margin Trading

Subject: Trading stocks on margin

From: Wael]

Sent: Thursday, May 20, 2004

ALSalm Alykom,

Thanks so much, because Riba is a serious sin that's why i was trying to go deep to get an answer, and i really appreciate you got the time to provide me with one.

i had a feeling already that it's not a great idea, but i thought i would ask anyway.

But your answer makes me think about something else, stocks, i assume that because stocks are not a medium of transfer, that they can be traded on margin, is that right? Let us assume that interest won't be paid as in intra day stuff.

i remember that i saw something to that effect on your web site, but i am double checking.

Thanks again

Wael

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.

Yes, trading stocks (that are permitted to own) on margin is permissible, (stocks are not money and they do not have the same rulings as money), as long as the issue of margin does not invoke interest.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

From: Wael]

Sent: Thursday, May 20, 2004

Alsalm alykom Dr Mozer,

I checked with the broker company on the phone about how they do their trading.

Basically he told me that what i said before:

- 1- When a customer puts order they themselves lend the customer money to finish the transaction, the customer have only to come up with certain margin equity.
- 2- They are the market maker, the second part of the transaction they sell or buy the order from their inventory.
- 3- After finishing the transaction, they will go to the Inter-bank market and place the same order there. or replenish their inventory again.
- 4- Over night position is charged interest, intra day not.
- 5- The trade is spot trade not future.

Thank you

i hope i am not wasting you time, if i am accept my apology please

Salam

Wael

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.

I will answer your three email together.

- 1- This is not that new of a transaction.
- 2- The broker is not telling you the truth; instead he is summarizing it to you. The broker DOES NOT LEND YOU MONEY, PERIOD, the sale is itself a margin sale. It is ""as if it lends you""
- 3- The prophet, pbuh, made a clear distinction between currencies and other commodities. Yes you can sell TV's for a deferred price or on installments, but you cannot sell currencies because A) the Prophet said it with a clear cut statement "Ha'a bi Ha'." and "Ydan bi Yad" in another version of the Hadith; and B) because currencies are meant in Shari'ah to be a medium of exchange not a direct commodity that is why when we trade them, and trading them is needed and as ancient as the existence of currencies themselves.
- 4- Currency trading requires delivery at the time of the contract, this delivery can be done by credit and debit in the accounts but if it is not done, the transaction is then Riba al Fadl as called in Shari'ah. Holding a position does not mean you got delivery, it means you got a contract, delivery must accompany it if the transaction is to be compatible with Shari'ah.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Buying and Selling Stocks on Margin

From: Rayed

Sent: Friday, March 05, 2004

Dr. Kahf,

Asalamu walikum warahmatullahi wabarakatu,
Jazakullah wakhirun for your response, may Allah (azj) reward you for your assistance in this matter.

Allhamduillah, what I understand from the brokerage firm, is that there is no interest being charge on my account regardless if I am in a long or short position.

Allhamduillah.

But, Dr. Kahf my concern is the statement of (Sheikh Sâmî al-Suwaylim, member of the Islamic Advisory Board of al-Rajhi Bank) on dealing with margin accounts, when he says, "...the broker will not lend any amount unless he is authorized, with commission, to handle and dispose of the loan (i.e. margin). Such condition comes under the prohibition by the Prophet (peace be upon him) against lending and selling at the same time. The loan (i.e. margin) is contingent on being used through the broker with a commission. This, therefore, is a loan with the anticipation of benefit, which is unlawful."

Is margin then not allowed based on the above hadith of the Prophet (swa)? And the statement of this shiekh?

My apologizes Dr. Kahf for asking twice. It is just that daytrading is currently my means of livelihood for me and my family – and if there is any doubt or if there is any haram in this, then I want to leave it for the safety of my religion.

Jazakullah wa khirun for your guidance and assistance in this matter,

Wasalamu walikum warahmatullahi wabarakatu

Abu raya

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Rayed

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

I don't agree on classifying this as a benefit in a loan. It is a facility like check payments or electronic payment if you open a checking account in a bank. All Islamic banks do that and this facility is given to every one, it is not specific to you because you opened that account. I do not agree with the interpretation of the Hadith in the statement given as it makes life unnecessarily difficult. That Hadith applied on giving a loan and making conditional in-kind interest in the form of benefits to the lender.

The intention is different here, you open an account with a broker anyway (and you have to to make this kind of business) and you pay the commission per transaction anyway too, and this facility is simply a part of this package.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

From: Rayed

Sent: Tuesday, March 02, 2004

Dear Br. Monzer

Asalamu walikum warahmatullahi wabarakatu,

I hope I can take a moment of your time and ask you a question - for which I have tried to search though your website and have found no answer.

I day trade stocks of halal computer companies listed on the Nasdaq (i.e. amzn, yhoo, ntes, rimm, tasr, sina, qcom, rmbs, etc.) My day trading account with my broker allows me to have 4-times my capital placed into my account everyday, "margin". For example if I have \$100,000 in capital, I will then have \$400,000 in trading power. The brokerage does NOT charge me INTEREST on the margin money because I do not hold any stocks overnight. So what is the benefit in giving me all that extra money? commissions, they make from my transactions – the more buying power I have the more shares I am going to (buy – sell – sellshort – cover the short) the more money they make from commissions. Is this Halal? Is this a halal business transaction in Islam?

"...the broker will not lend any amount unless he is authorized, with commission, to handle and dispose of the loan. Such condition comes under the prohibition by the Prophet (peace be upon him) against lending and selling at the same time. The loan is contingent on being used through the broker with a commission. This, therefore, is a loan with the anticipation of benefit, which is unlawful."(by Sheikh Sâmi al-Suwaylim, member of the Islamic Advisory Board of al-Rajhi Bank)

Any guidance you can provide in this matter would be much appreciated.

Jazakullah wakhirun, May Allah (swa) reward for your help

Aslamu Walikum

Abu Raya

My Answer,

Bismi Allahi al Rahmani al Rahim,

Al Hamdu li Allahi Rabbi al 'Alamin, wa al Salatu wa al Salamu 'Ala Sayyidina

Muhammad wa 'Ala 'Alihi wa Sahbihi 'Ajma'in,

Dear Br. Rayed

Assalamu Alaikum wa Rahmatu Allahi wa Barakatuh

If you know for sure that you will not pay any interest on the margin it is permissible to have it and use it. The condition of working with a broker is imposed by the Exchange management and you need it anyway.

For short sale of stocks, are you sure the broker does not charge any interest of lending the stocks? if there is no interest, it is then permissible.

Wa Allahu A'lam,

Wa al Hamdu li Allahi Rabbi al 'Alamin,

Wa Assalam,

Sincerely,

Dr. Monzer Kahf

Zakah on IRA, 401K, RRSP, and Stocks and Similar Investments

Subject: Zakah on RRSP and Stocks

From: Javed

Sent: Saturday, November 22, 2004

Question from Canada:

Dear Mr. Khaf, Assalam Aalaikum,

1. How do we pay Zakaat on the RRSPs (Registered Retirement Savings Plans)?

A certain amount is deducted from my salary at source and contributed to my RRSP funds (mutual funds) . My company contributes a certain percentage to this fund as well. Based on my contributions I get a certain break in my Tax contributions and at times also get a refund.

If I want to take some money out of the RRSPs before the maturity or before the retirement I can only withdraw money from my portion only (I will have access to company's portion only if I leave the company) and I will have to pay as much as 20% tax on the money that I want to withdraw.

The questions are:

- a) Do I pay zakaat on the total RRSP (my contributions + company's contribution) fund current market value?
- b) Do I pay zakaat on my contributions only? Will it be on Invested value or current market value?
- c) Do I pay zakaat on my contributions only and also deduct 20% (Tax payment) from my contributions because that will be the money I will have in hand after paying off the tax. This looks like a more logical option to me since I am paying zakaat on the money I have access to and also after deducting the tax.

e.g. If I withdraw \$10,000 and pay 20% tax. Than I will receive \$8,000. So I pay Zakaat on \$8,000.

2. ZAKAAT ON STOCKS

My company offered stocks to it's employees at certain rate below the market value. An amount was deducted for two years from my salary and then the stocks were transferred in my name. My question is do I pay the zakaat on the value of the stocks that I bought them for or the current market value when I calculate the zakaat to pay. If I bought stocks at \$10.00 at that time I was in a position to pay zakaat on \$10.00 value stocks but as the value increased and touches the \$50.00 value I am not in a position to pay zakaat. The main intention was to buy the stocks and keep them and cash them in case I need them, nothing to do with the company ownership or profile. To me the more logical approach is to pay the zakaat on the invested value and the annual dividend.

Now the only option I have is to sell the stocks If I have to pay zakaat at the current market value because I cannot save from other sources to pay my zakaat on these stocks. 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. Javed,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1. RRSP and RREP are subject to Zakah because they are yours. The amount that is Zakatable is the market value of your deposits plus the market value of the vested part of the company's share (the part that is considered yours, as most companies set a period, like two years or 5 years for their contributions to

become yours,i.e., if you leave the company you cannot carry that part with you to another company; the restriction on withdrawal before retirement does not disqualify it from being yours). penalty and tax in case of early withdrawal does not harm your ownership; these are permissible government procedures because you are exempted from taxes on deposits. What matters is that you really own this amount, you can invest it, through approved brokers, and very often you can borrow from it for certain purposes.

2. Zakah on this amount is due every lunar year at the rate of 2.5% along with other Zakatable items; the first lunar year begins on the day the total of your Zakatable items reach Nisab (# USD 1000). You simply add the RRSP and RREP to other items in calculation of Zakah. Zakah can be paid out of other resources you may have.
3. You can delay, after calculation, the actual payment of Zakah of the balance of RRSP and RREP until withdrawal, in this case you have to pay out of each withdrawal the amount of accumulated due Zakah on that amount only, which may become a large percentage at the time of retirement. this delay is not sinful because it is permissible to pay the due Zakah of each item out of the same item, you are not required, though permitted, to pay it out of other resources.
4. If you withdraw and pay tax and penalty on the amount, the net balance in your RRSP (in your example - 10000) is included in the calculation at the end of that year; while the net amount you withdraw (in your example 8000) is added to your cash and depending on the use of it it may or may not be subject to Zakah at the end of that Zakah year.

For stocks, it is the market value that you own not the amount you paid, whether it is more or less; and Zakah is calculated on what you own at the due date. It is not on any past or future value. Apply this simple rule and you'll notice its logics! Here again you are not required to pay from other sources, you can pay the accumulated Zakah over years when you liquidate, and you can also pay it in kind by transferring 2.5% of the stocks you own to the recipient (poor or needy or charitable organization to be given to poor, needy, etc.)

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf
