

FATAWA ISLAMIC BANKING 2006

Deposits in Conventional and Islamic Banks

Subject: Taking a Monthly Fixed Amount From the Bank on Deposit

From: Salman through Islam on line

Sent: Sunday, October 29, 2006 2:39 AM

Question

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

First of all, I would like to define my situation and then go for the question. My name is Salman. I was born in Pakistan in 1980 but I lived in Saudi Arabia for 17 years and spent my childhood there with my family. We came back to Pakistan in 1998 after my father took retirement. My father brought all of his earnings with him. He had the amount in US dollars. He deposited them in a bank in Pakistan. He never went for interest. He always withdrew some dollars from his account and converted in Pak Rupees according to the rates by the State Bank which fluctuate. He didn't have any job or business in Pakistan. He was old and sick (He was diabetic). He had worked in Saudi Arabia for nearly 30 years. So this was his retirement period. Things went the same for 7 years. He withdrew the dollars from his non-interest based account and it was converted in Pak Rupees for spending. After his death, the court decided to distribute the amount according to Shari'ah among us. It was distributed among my mother, 3 sisters and me and in Pak Rupees. At the time of death of my father, we (brother and sisters) were still in school or colleges. My mother was treated for cancer in 2004 and the process continued through 2005 too. My father didn't worry for himself. He tried his best. But ALLAH had something else for him. He passed away on 20th Ramadan, 1426 corresponding to 25th of October, 2005. I was unaware of the workings of banks and institutions in Pakistan since I spend my childhood in Saudi Arabia. I never went to any bank when my father was alive. My cousin helped us to put that money in a scheme in National Saving Centre of Pakistan which gives us a monthly fixed amount for living since he knew that we had no jobs or other modes for living. I completed my education in early 2006 but I am still jobless! I have responsibilities over my shoulder. I have 3 sisters whose marriages are my responsibility and a sick mother who had Cancer. What am I supposed to do? Is this amount which I take now from the bank is permitted for me and my family? I have no where else to go. I can't take any risk since I have no experience of doing any kind of business. Mostly the people around us are greedy. I can't trust them for any kind of business. My father never trusted such people so that's why he never invested his earnings in Pakistan. What should I do? I want to be a good Muslim. I have read about Riba now and it worries me. I plan to take out all amounts to free it from interest if I get a descent job that would allow me to support my 3 sisters, their education and marriages and my mother. Even my cousin who helped us out is a student in a university. He and his mother are living the same way as we are now. His father died 2 years ago. I am 26 now and I am not married. Even though I have done MBA? Marketing, I remain jobless. My Résumé's are everywhere but nobody has called me so far. And if anybody calls, they offer so much less that I can hardly spend it on my family. I worry for my sisters and mother. Sometimes I feel that I will not be forgiven. I am telling you the truth. I can't trust anyone here. Considering these facts, please tell me what should I do? May ALLAH show us the right path. Aameen! azakum 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 Br. Salman,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

What you should do is simple and straight forward. You are MaShaAllah a young man, religious and keen to live as a good Muslim. Please do the following:

1. Have trust in God, He will always help you and be with you. Be sure that you will get a good job keep searching and going for interviews
2. Always preserve your prayers on time and keep your Du'aa live on your tongue and in your heart
3. Be kind to your mother and sisters and help them always all the time and to the best of your effort
4. In Pakistan there are several Islamic banks some of them are more than ten years old, change your accounts, for all of you to an Islamic bank and put them in Mudarabah deposit, the income you get from it is HALAL. These investments are safe like the present bank or center.
5. Calculate the amount of interest that is given by the center since the beginning of the deposits and give away this amount to a Muslim charity that helps the poor and needy. Does it give interest or what? I am not sure. If it is interest, it is Haram certainly and you don't want to eat Haram. If it is not interest, please check what is it?

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Investment Deposits in Islamic banks

From: suzanne

Sent: Sunday, August 20, 2006 8:28 AM

Question

asalamu alaikum,

I found your e-mail on the Islamonline website. I am aware that you have a solid education and experience in Islamic financing, hence the reason for me contact you.

alhamdulillah Allah has bless me with extra money which I would like to take care of in a Halal way. I currently have a bank account, but it collects a small amount of interest...maybe \$0.04 to \$0.10 a month. With regards to the Shari'ah do I find a bank that can give me 0% or can I keep the account which I have and spend the interest earned for the poor and needy? I have received a fatwa that says it is permissible to take the interest and give it away to the poor...but I do not feel that this is correct. What is the opinion of the scholars. jazak Allahu khairan

Suzanne

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. Suzanne

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

The Fatwa you received is correct but it applies to the case where you have to deposit in a conventional bank not to cases when you have a choice. \

There are many Islamic banks in the world, all of them accept deposits on profit sharing basis and they use their funds while they avoid interest transactions, they all give a positive profit that ranges between 2 and 5%. Please jump on the Internet and find one that is suitable to you.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Bank Accounts with Prizes

Subject: Placing Money in a Savings Account to Have a Chance of Taking a Prize

From: Bashir through Islam on line

Sent: Tuesday, October 03, 2006 1:50 AM

Question

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

I have been approached by a number of Muslims concerning the following issue. We have a bank in South Africa offering the following Savings Policy: A client can place money in a savings account on a monthly basis. The minimum amount is 100 Rand. Every time he puts money in that account, he stands a chance of winning a Million Rand or a lesser prize. The more he puts in his account, the greater his chances of winning, (e.g. 200 or 300 rands). The money he puts in his account stays his and he never loses it but it has to stay in his account for a fixed period.

Could you please supply me with a Shari'ah Ruling on this issue since many Muslims are interested in it? Shukran 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 Br. Basheir,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

There is a thin difference between marketing promotions that take the form of prizes and interest that is presented in the form of prizes. Promotional prizes are given for accounts that are needed for other reasons such as current accounts. People open current accounts in conventional banks for well known reasons of convenience and some banks announce prizes from time to time to encourage people to go to this bank instead of the others, this kind of prizes are permissible and some Islamic banks practice it with the approval of their Shari'ah boards. Saving accounts are normally opened to get interest. Having such an account un-necessarily is obviously non-advisable and its contract is an interest-based contract. Suppose such a saving account does not have interest but instead it has prizes as mentioned in the question. These prizes represent the interest that is given. Within this

understanding the OIC Fiqh Academy resolved that "Bonds with prizes and no interest" are considered interest-based and these Prize bonds are as prohibited as conventional interest bonds. There is no difference between a prize account and a prize bond, they both are interest-based and therefore prohibited.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Converting a Personal Debt into a Shari`ah Complaint Loan

Subject: Converting a Personal Debt into a Shari`ah Complaint Loan

From: Sr. Jannah through Islam on line

Sent: Wednesday, October 04, 2006 5:52 AM

Question

Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh, Mubarak Ramadan. I am a convert to Islam and I have found Islamic loans to mortgage a house or to buy a car, but I am wondering if there is an Islamic consolidation loan for personal debt? Is there a way for those who convert to Islam to convert their personal debt into a Shari`ah compliant loan? Thank you. 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. Jannah,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

On personal level I doubt that you can find it in the USA, but the methodology is there and it is applied in Islamic banks in the Middle East and South East Asia (because of the very close similarity to interest, most scholars, including me go along with the view that restricts this methodology to only converting interest-based loans into Islamic in a case like yours: the borrower did not pay attention to the prohibition and then wants to repent and change into Islamic way of finance). It consists of selling an asset for cash to the Islamic bank and lease/purchase it back on a long term contract.

Otherwise, there are several approaches of converting business loans into Islamic financing that I, and most scholars too, have no reservation on but explaining them requires a more professional setting and that is outside this Fatwa forum.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Do Some Islamic Banks Charge High Cost?

Subject: High cost of finance in Islamic banks and Zakah

From: Ahmed

Sent: Monday, August 28, 2006 2:35 AM

Question

Dear Sir Assalam o Alaikum

I am indeed thankful that you always take time to reply my emails. I have gone through your fatwas available on the website yet I have a question of similar nature. The question is old about interest but the context and concerns are new. The situation is as under:

I want to invest some money so that I can have some monthly return and I can meet certain fixed expenditures like children fees etc. The conventional banks give good %age return which is all Riba and Haram as I am committed to follow this. The Islamic banking is becoming popular in Pakistan with fatawas of Halal from renowned scholars. Now I quote one example from a bank in Pakistan which runs various Halal deposit schemes based on Mudarabah. The confusing think is that they ask for 7 years deposit to earn good profit equivalent to prevailing interest rate i.e. 10+%. The lesser the deposit period lower is the profit. Sir I know it is not good to ask you to visit their website but don't you think this is also exploitation. Should I invest in this scheme or not?

My second question is: If I put some money in bank in the name of my child now age 3 years, I will also be the legal caretaker till her turning to 18. I will not take any money out of it. What will be the fatawa regarding Zakah in this case. Do I need to pay Zakah on this as well or when the child grow to puberty or 18 (whichever is valid for paying Zakah) will pay herself? In the later case she needs to pay till that date or for all previous years. I will be thankful to your answers. Wassalam
Ahmed

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

1. You are right. This is exploitation!. It is very unfortunate that Islamic banks very often exercise their monopolistic power on their captive clientele! Yet, this is life! Please make the best of it... May be the more competition we have between Islamic banks the lesser the exploitation will be. Let us pray for the better and for the Islamic bankers to be guided to avoid exploitation and monopolistic behavior!
2. Zakah is due on the property of a child. This is why the Prophet, pbuh, recommended that the guardian must invest the minor' properties so that it would not be wiped out because of the continuous payment of Zakah year after year. You are required to pay it from your daughter's property or you may donate it from your own, it is equally permissible. If it is not paid regularly by the guardian, it has to be paid by the child immediately once she takes charge of the property in arrear for all past years, if she does that there will be no sin on her, otherwise delaying it is sinful.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,
Dr. Monzer Kahf

Transactions of Islamic Banks

Subject: Auto Financing through Murabahah

From: Rifai

Sent: Thursday, August 24, 2006 3:16 AM

Question

Dear Dr Kahf,

I want to buy a car and I don't have the money to finance it. I want to get a loan through Dubai Islamic Bank. Can you advice me whether the method they are following is of Shari'ah compliant. i.e. I first go to a dealer and select the car of my choice and then the I tell the bank the car I want. The bank will buy the car and sell it to me at 3.99% profit rate per annum. If I want to pay it over five year period then they'll multiply the profit rate for 5 years and arrive at the total price which I have to pay in 60 monthly installments. Is this is a Shari'ah compliant method? Jazakallhhairan.
Rifai

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. Rifai,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

Yes, this is of course permissible. For your info, the contract was reviewed by the Shari'ah board of the DIB and it has a very respected group of Shari'ah scholars.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: Financing House Purchase from Islamic Banks

From: Anduena through Islam on line

Sent: Thursday, August 03, 2006 3:11 AM

Question

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

I and my husband are Muslims. We have a home which is half finished. That means all the 4 floors have been founded, however still the walls and the rest are NOT finished. Therefore, except our flats (one flat for us and another for my parents in-law) in which we live the rest of the house area remains unconstructed because of lack of further capital. We would like to finish it and give it on rent because it only needs little investment now to be brought to an end compared to the big investment done up to now. However, we do not have more money, and we would like to approach

a bank in Albania. Can you suggest a Halal way to approach for a loan? There is only one bank with Muslim capital (Bahrain) in Albania, however the Albanian laws do not permit 100% free of interest loans and we are still afraid to go for it. On the other hand, friends have helped us a lot up to now, and there is no way we can approach our friends for free loans. Therefore, we can only approach some financial institutions. Please suggest. Best wishes, Anduena
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. Anduena

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

To the best of my knowledge there is an Islamic bank in Albania, it may be small, I don't remember its name now. What you need to realize is: Islamic financing does not mean loan without interest. Islamic financing means providing funds on sale or lease or partnership basis (in contrast with loans) and getting certain return. This means that Islamic financing can work under laws that regulate loans because Islamic financing gives the fund provider a return.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Subject: HSBC Amanah Personal Loan

From: Rifai

Sent: Thursday, June 08, 2006 11:57 PM

Question

Dear Dr Kahf, Asslamu Alikum

I want to take loan from HSBC but through Amanah Personal Loan Method which the bank offers. the bank says it's Shari'ah compliant and approved by their Shari'ah committee. Is Amanah banking in UAE is Shari'ah compliant?

They say they buy copper for the money we have requested and sell the copper and then what ever the amount/profit with that they give it as a loan. These are some of the terms: Competitive Murabahah profit rates, Zero down payment, No early settlement fee.

This is their Shari'ah supervisory committee:

http://www.hsbcamanah.com/hsbc/amanah_about/Shari'ah-supervision

<http://www.hsbcamanah.com/hsbc/amanah_about/Shari'ah-supervision>

Jazakllah

Rifai

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. Rifai,

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

This is exactly what is known as Tawarruq. The majority of Shari'ah scholars, including me, strongly disapprove it. It is even worse than plain interest because it adds a little cost. Some scholars accept it and those are the ones who work with HSBC, they are the same group that work with almost all Islamic banks that practice this new version of Riba.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Establishment of Islamic Banks

Subject: Question Establishing Islamic Banks

From: Abiyu

Sent: Wednesday, May 03, 2006 1:02 AM

Question

Dear Dr, Assalamaleykum waRahmatulah waBarakatuh.

1.From your experience what are the major legal requirements that Islamic banks cannot fulfill under conventional banking laws when they apply for licence in non Muslim countries?

Identification of such legal impediments is helpful as it enables me to recommend for possible legal amendment to accommodate Islamic banks under Ethiopian Laws.

2.In case a dispute arises between Islamic banks, clients, and entrepreneurs, can ordinary courts handle such cases?

3.Most Islamic bank assets are tied up in joint venture. Then how can they fulfill liquidity requirement?

4.Under Islamic law, it is said that profit is justified by risk. Based on this principle Islamic banks don't guarantee saving and investment accounts. In my opinion this discourages depositors. What is the source of this principle? The Qur'an or the Hadith?

5.In what kinds of direct investment can Islamic banks directly involve?

Wassalam

My Answer

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

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

Dear Br. Abiyu

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

1. The most important impediment is that many banking laws are interpreted to prevent banks from buying commodities/estates. Islamic banks function essentially on buying and selling/leasing. Also laws in many countries (e.g., Germany is not one of them) do not permit banks to be share holders in companies and sit on their board of directors. Islamic banks need to do this through Musharakah and a little of Mudarabah. Some laws are interpreted liberally in some countries.

For instance, the USA Controller of Currency interprets Murabahah and Ijarah as normal banking practices.

2. Some laws require banks to pay positive interest to time deposits and to guarantee their principals. This is the case in the USA and UK. Investment Mudarabah deposits can neither be guaranteed nor a positive return can be given on them.
3. Some laws have sales tax and they consider the buying and selling in Murabahah subject to tax twice.
4. Disputes are normally solved through arbitration that is pre-agreed on in the contract between the Islamic bank and a customer. Consensual arbitration is usually upheld in courts. But obviously if the contract fails to appoint appropriate arbitrators the matter finally goes to secular courts! Some times they uphold the Islamic nature of the contract but very often they do not!
5. It is incorrect to think that ""most Islamic banks assets are tied in joint ventures"" there is no scientific or empirical evidence to support it. The statistical fact is that most of Islamic banks' assets are Murabahah and Ijarah debts, very similar to conventional banks. They also have usually excess liquidity (empirical evidence supports this). They have good tools for liquidity management.
6. It is incorrect to state that profit is justified by risk taking. Rather profit is justified by ownership of real assets that is liable to produce increments. All such assets have also another characteristic, that is they involve risk. Hence risk is there but not as a justification of profit. The rule is: if you own a property you are entitled to its increments and liable to its decreases. This is based on the principle of ownership that is in Islam and in all other legal systems. It is more obvious than it needs a specific verse or Hadith.
7. This risk is minimal and Islamic banks are heavily regulated, this gives confidence to depositors. Empirically, Islamic banks never suffer from shortage of time deposits, they also have current deposits (checking accounts deposits that do not give return).
8. We like to see Islamic banks venture a little in direct investment, within restricted limits and on request from well-established partners.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Contracts and institutions

Subject: Islam's Stance on Lariba

From: Mohammed through Islam on line

Sent: Monday, August 21, 2006 7:47 AM

Question

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

Can you please give me your opinion about LARIBA. It is a financial institution in the United States for financing residential and business properties. They could be accessed at lariba.com. They say their model is based on Islamic concept of Loan free interest and rental but nobody here in the US was able to tell me a frank straightforward opinion about their method. Thank you. 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 Br. Mohammed

Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh

We don't give personal opinions or Fatwa on persons or entities. The criteria for Islamic finance are: 1) the contract, in contrast to marketing materials, must say either Ijarah and rent or buy and sale with profit; and 2) the contract must have been reviewed by as Shari'ah specialist whom you trust. If these two conditions are satisfied, ask your heart only, if you need any further help, please send me a copy of the proposed contract and I can review it for you. Finally if you are the son of Dr. Abd al Mannan, please give him my Salam.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabb al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf
