

FATAWA ISLAMIC BANKING 2013-2015

From: Osama

Sent: Wednesday, January 20, 2012

Question: Islamic banking reserves and money creation

Assalam Alaykum Dr Kahf,

InShaAllah all is well with you. In the past few weeks I have been working a bit more intensely on my research and I am almost set on the exact direction of my paper along with an outline. In getting my paper set up I came across a recent article on BBC titled How Shari'ah-compliant is Islamic Banking? (<http://news.bbc.co.uk/2/hi/business/8401421.stm>) The article starts off with the following quote:

"The question's pertinence was raised in March last year, when Sheikh Muhammad Taqi Usmani, of the Accounting and Auditing Organization for Islamic Finance Institutions (AAOIFI), a Bahrain-based regulatory institution that sets standards for the global industry, said that 85% of Sukuk, or Islamic bonds, were un-Islamic."

This caught my attention especially as I have been reading different works on different types of financial instruments/contracts found within modern day Islamic banking and the claim that Islamic bankers and economists have tended to modify the conventional, fractional reserve banking model to non-interest operations. I'm assuming that because many Islamic finance institutions are simply trying to "Islamize" conventional, profit based banking, Mufti Usmani believes that 85% of Sukuk (let alone other aspects of Islamic banking) are un-Islamic.

With this in mind, in a hypothetical situation where we have an ideal Islamic state and Islamic economic system would we actually have any of these aspects of Islamic banking we find today, such as Musharakah, Sukuk, etc.?

As well in our ideal system wouldn't it be smarter to have the government set up a central bank that was there primarily to serve the people, unlike private banking (whether Islamic or not) which is driven by profit margins?

Hopefully I made these questions clear enough. If not just ask me to clarify InShaAllah.

Osama

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Osama

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

In fact NO, you did not make your questions clear and I did not get your point. But let me settle a few matters:

1. Whatever Osman said is his opinion and it turned, after he and AAOIFI, issued amended standard on Sukuk, that he was talking about a few Sukuk issued on Musharakah with guarantee in Malaysia, very partial point.
2. Most Sukuk are in fact Shari'ah compliant especially those issued on leased assets or usufruct.
3. Islamic banks cannot be described as un-Islamic because they imitate conventional banks, after all this vehicle of banking is a western invention and we take it from the west and adapt it to our Shari'ah, anything wrong in that? Haven't our ancestors done that in the past and they

lived Islamically?

4. Is there anything wrong in pursuing profit? Whether in finance or other trades? Is nationalizing the banking activity better?

5. Do we find anything wrong with partial reserves? Is this principle inappropriate technically or religiously? Does it make banks, Islamic or conventional, reap illegitimate profits? Or rather provide services at lower cost?

6. I don't like to extend my imagination too much, but does an Islamic finance system have to be without Musharakah, Mudarabah or say sale on credit? No I don't think so because these are contracts that proved survival over all centuries from the beginning of humanity and under all systems..

7. Do we need specialized institutions in financial intermediation in the pure Islamic system? I argue, YES. And it is wrong to think that because it is invented in the West and because Shari'ah permits several ways of econo-financial regulations/organization this one is wrong and we should avoid it. I think it is a part of efficiency and equity that are objectives of all systems, Islamic included.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Osama

Walaikum as salaam wa Rahmatullah wa Barakatuh,

Jazaka Allah Khairan for your thorough response. I am sorry if my question was not clear. I was debating a few things over in my mind after having read Dr. M Umer Chapra's article on the authenticity of Islamic Banking. As well, I understand that we are allowed to adopt principles from non-Muslims as is seen in the use of the ditch during the battle of al-khandaq by the Prophet Muhammad alayhi as salaam when Salman al Farisi (ra) recommended it. And if we do not have this example, does it mean that we cannot take anything from others?

At the time I was just wondering if whether or not we would be better off without banks.

As a follow up, I had a few questions on the issue of fractional reserve banking, where banks issue out credit (a check with no value that is not backed by any real asset) to borrowers. Within the framework of an Islamic economy would this be allowed or must any loan that is given out actually be redeemable for the asset that backs the currency?

This is a complex fallacy! Who said that banks (Islamic and Kufranic) create money in the form of credit without backing. Study the balance sheet of any bank. You will find it balanced, it does not give any credit that is not backed, does it? Besides, is it not more efficient than holding paper currency in a vault or metals in a basement? Further, now everything is electronic. Is the balance sheet well balanced electronically, i.e., suppose there is no paper currency at all. Every bank only gives to finance requesters credit that it stands to fulfill, does it not? Where is the problem that you cried? If reserves are 100% and you record deposits as credit in your balance sheet, can you give any finance as the amount of cash you have should equal the amount in the creditors accounts? WOULD THE BANK BE ONLY A BOOK-KEEPER?

As well, in terms of backing the currency by the asset many people claim we should return to a gold/silver currency. Islamically, we must have the currency backed by a real asset (not necessarily gold/silver though) correct? NO, who said so and where does it come from. It is simply a matter of pure civil judgment not a Shari'ah matter at all. In spite of what is written in

classical Fiqh that “gold and silver are money by their nature” this is from their mind not from Islam.

This being the case, if the currency is backed by a real asset like gold/silver wouldn't the money supply be finite? How would this be dealt with as the population continues to grow?

This becomes irrelevant. Think of this: which is better allowing producers of gold and silver to determine the quantity of money in our economy or allowing the government. Also remember that with all corruption and dictatorship in the Muslim lands today, do we argue that we do not want a government in the Islamic system?

Looking forward to your answers. I cannot emphasize how much help your responses are.

Osama

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Osama

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please see my answers below your questions.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Walaikum as salaam wa Rahmatullah wa Barakatuh,

I am a bit confused about the answer in regards to banks. I have learned from my research that in terms of the credit creation, banks have the ability to create money out of debt. For example, under the fractional reserve banking system a depositor comes into the bank and deposits \$100. If the government sets the reserve requirement at 10% the bank must take \$10 and put in reserves. The other \$90 it can lend out. But while lending out that \$90 it still guarantees the depositor his \$100. So, despite depositing only \$100, there is now \$190 in the money supply. This extra \$90 was created by lending, and that creation is possible because the money is not backed by any asset. Since the borrower must pay back \$90 plus the interest, he will eventually have to take out more loans since the bank only created the principle (the \$90) but not the interest. Playing out this example on a larger scale, it can have disastrous consequences on a society. Over 90% of money in circulation today is credit created by this process, and it merely exists as numbers on a computer. If all money had to be backed by an asset wouldn't it help solve this problem? Osama

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Osama

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Did you see any bank balance sheet? Please look at one and see if you find it not balanced! Where is the creation of money in circulation? It is a matter of mere definition and. We in econ define certain debts as money, don't we? When a bank receives a loan from a depositor (aren't deposits in conventional banks all loans?) you call money and when you receive a loan from a

friend (depositor) you do not call it money, what is the legal difference? This is one, two: suppose the bank is asked to maintain 100% reserve. Does it become only a book keeper or it remains financial intermediary? We can create bookkeepers but these are different animals? Now the main objective of depositing with a bank (an Islamic one at least) is to gain profit (or interest in conventional). If the bank is required to keep all this money I deposit in a vault, 100% how can it create profit and what can it give finance to any one? There will then be no finance at all and then we as people of surplus will have to create certain institutions that are not required to maintain 100% to deposit with and have them provide finance to persons and entities of deficit that need finance. Is that what you call for..? Well we found them they are the banks that live on partial reserves! Three, is there a cost in having big vaults to keep the cash safe and a cost to maintain accounts? The society is then required to bear this cost regardless of whatever methodology we use and whoever is going to bear its burden.

Please don't be fouled by fallacies? Last, if the law and system is giving any person or entity a privilege that is not given to others and because of this privilege this entity is reaping a rent we should tax it. This applies to a bank or any other entity in the economy. If banks, because of this practice are gaining profits that is caused by the privilege of allowing them to receive deposits from the public while other entities are not allowed the same, tax them to create equality and fairness.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Walaikum as salaam wa Rahmatullah wa Barakatuh,

Before I begin, I just want to say how much I appreciate you taking the time out of your day to answer these questions. It really means so much to have people well versed in the field answering my questions to help me gain a greater insight into Islamic economics. May Allah swt reward you in this life, and the next.

My point is in regards to when you said "If the bank is required to keep all this money I deposit in a vault, 100% how can it create profit and what can it give finance to any one?"

This is where I am confused. Using my earlier example, if I deposit \$100 in the bank and the bank proceeds to lend out \$90 of it to a businessman, the bank will still guarantee me \$100 in my bank and at the same time is guaranteeing the businessman \$90.

Thus the bank is guaranteeing \$190 worth of money despite only \$100 existing.

This is incorrect because if you look at the balance sheet of the bank you will see that it has cash 100 and receivables 90. So it actually has 190 but part of it is debt on the borrower and the other part is cash. It is irrational to even think that the bank is going to give 190 out of 100 how can this be?!

If Islam is built upon Profit Loss Sharing

This is incorrect Islamic banking is not built on this at all. Islamic finance is built on taking funds from people either of sharing (equity) or Mudarabah (profit sharing this is the investment deposits) or loan (current accounts).

On the side of use of fund, Islamic finance when I make a deposit into the hypothetical Islamic bank, knowing this money will be lent out to someone, shouldn't my money not be guaranteed, but rather be dependent upon the success/failure of the bank?

This is true and this applies to investment deposits in Islamic banks. As for deposit in current

accounts these are debts on the bank and the bank is free to use them as it wishes to its own benefit. When you ask for them they will pay them back and it is none of your business where do they get that from! Of course if all depositors in investment and in current accounts ask for their deposits at the same time and the bank could not liquidate its assets it will fail to pay and this is called bankruptcy. Its reason is not that it has no assets but that it could not collect them. Otherwise don't you notice that the banks has given financing to its clients and that its balance sheet has equal amounts on both sides that is the total of cash plus debts on others equal the total of deposits, all of them, plus equity, I am simplifying the balance sheet only to understand the point.

If the banks were run Islamically and I allow \$90 to be borrowed from my deposits (in a Profit/Loss sharing arrangement), shouldn't a -\$90 be reflected in my balance sheet until the money is paid back by the business man.

No, accounting wise this is incorrect. The bank should not consider you a creditor but rather a special kind of partner, this is on one hand. On the other hand the bank should consider the user of finance a debtor to the bank because the bank gave him the finance (say Murabahah) and the bank should collect from it not you as that client does not know you. Therefore, accounting records better show your deposit as investment deposit not real liability on the bank and the finance given to a customer as debt to the bank on it, you are simply a dormant partner.

for In real life when I lend my friend Mahmoud a ten dollar bill, I physically hand him a ten dollar bill. There is a chance I never see it again. Yet with western banks, I am always guaranteed the amount I deposit. Why is it different with western banks?

Because banks, Islamic and conventional, are not your friend, as simple as that. The law gives them facility to accept deposits from the public, your friend cannot do that and consider the debts on them in current accounts as a form of money on which usage depositors write checks. You cannot write a check on your friend!

Osama

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br.

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please see my answers below your questions.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Dr. Shawkot

Sent: Saturday, June 08, 2013

Question: Islamic banks use percentages and are more expensive

Dear Islamic scholar.

I would like to ask you a question, if you can spend some of your valuable time for me please.

Being a Muslim, I would like to go for Islamic Bank of Britain to buy my first house in the UK, knowing that conventional bank is interest based and as such Haram.

When I looked at the IBB's web site, they mentioned, fixed and variable types with certain percentage also mentioned. In addition to this, their total payments are much higher than conventional bank. They have added rent plus other costs, admin charge etc. (Musharakah). Total amount payable is more than conventional bank. Also down payment is 20%, conventional 5% with 80- 20 shared equity, 20% provided by Government will remain interest free for first two years.

I do not have the money to give 20% down payment.

Though I require a house to buy near children's schools, only new houses have more than one toilets. We face trouble every morning specially while I need to go to hospital, and my children (three) and my wife, not working, have to visit only one toilet. We are tolerating this because of our Taqwaa.

IBB did not make it easier for us, rather hard.

When asked, IBB could not explain to me satisfactorily. I am unable to understand the policy of IBB fully, hence I would request you to spend some time for me , how far IBB is following Islamic Shari'ah.

jaka Allah Khair.

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Dr. Shawkot

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I can understand your dilemma! Most Islamic banks are not competitive sufficiently basically because of their inefficiency in doing their job. There are some other elements that make a little cost for them too. In the case you mentioned, please notice that the IBB cannot share with the government this 20% because it is interest-based even with the interest waiver of first 2 years.

I suppose you still can negotiate with IBB or other Islamic banks in Britain for better deals. But if you failed and you cannot afford the 20% and you need the housing as you mentioned, I think the Fatwa of going for interest-based mortgage applies to your case and you may go for conventional, may be later try to change it to Islamic.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Drita

Sent: Saturday, July 06, 2013

Question: Interview for dissertation on Islamic Banking

From: Drita

Salamu Alaykum dear honored Dr. Monzer Kahf

I am Drita, Ph.D. student at Institute of Economics, Ss. Cyril and Methodius University, Skopje, Macedonia. I am on the final stage of my PhD dissertation on the topic: "Islamic financial market and institutions - Case study Saudi Arabia".

So while, I have done more research on Islamic finance, I also want to do interview with you as an expert and scholar on Islamic finance. Macedonia is a state where there are not applied

Islamic banking (about 25% Muslim population).

I followed your work and I would be most grateful and honored if you answer my questions for my dissertation.

I also have to admit that your scientific work helped me so much and made easy my investigation.

Thank you so much for your time. I appreciate your consideration of my request.

Sincerely

Drita

My Answer:

Dear Drita

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I will be glad to answer your questions and feel happy that you are making this kind of research.

Best Regards,

Wassalam

Prof. Dr. Monzer Kahf

Honored Dr. Kahf,

First of all, I use the opportunity to thank you for making accessible your scientific work, so that we can take them free. Your scientific work is a reference in my dissertation. I'm glad I did that.

The questions of the interview will be as followed:

1 – Do Islamic banks cooperate with conventional banks? What are the advantages and disadvantages of the cooperation between the conventional banks and Islamic banking modes?

Yes from day one when the first Islamic bank was established in 1974 for IDB and 1975 for DIB. Two main drive are behind this cooperation: 1) there is a need for serving their respective customers better within and without each country, and 2) Islamic banks are the new baby of the banking system which cannot live without such cooperation which takes many forms including placing non-interest deposits, roles of correspondents in international transactions for trade and foreign currency exchange, financing project together in consortiums, coordinating is use of credit cards and ATM cards, etc., it is to the benefit of both because of the nature of banking industry that all its ingredients attest each other's.

2 – What do you think today's perspective of Islamic financial banks will be, and how much Shari'ah financial standard will be acceptable in the future?

Islamic banks offer services to consumers, individuals and corporations, on the basis of sale, lease and sharing. They have moral and realism criteria. This gives them an edge in applying their finance to most un-vulnerable companies and transactions (they do not finance immoral commodities and they do not finance all non-real transactions such as trading options, futures, indexes and the like. the last crisis proved that because of the above they are more resilient than conventional banks. They have been even inceptions growing at a higher rate than the industry at large and they will continue do that.

3 – How is Islamic finance embedded in the International accepted standards for unification?

What many people do not realize is that Islamic banks use instruments (contracts) known to everybody and embedded in commercial laws of all countries. That is sale on credit, leasing and sharing contracts. their innovation is by taking these well-known contracts and making them the core of financial intermediation instead of the loan contract. this gives them two characteristics: 1) there is no mystery in what they do to the extent that any bank can do it without requiring to any religious qualifications, 2) they appeal to the normal human mind as

being moral finance which avoid speculations and speculative relationships. They are accommodated in the international markets and laws which are tuned only to serve the lending contract in finance are been amended in a country after country to enlarge the understanding of finance to include provision of goods and services through credit-based sale, lease and sharing.

4 – How you see Europe in this?

It is definitely coming along for Islamic finance, already more than one European country has amended its laws to accommodate it.

6 - Macedonia as a developing country which first steps should it undertake towards implementing Islamic banking model?

I believe in teaching Islamic finance and accommodating it in tax laws especially. Remember Islamic finance is a set of principles and rules which do not require any religious affiliation. I very often call it non-Islamic in the sense of being a step of growth of the concept of finance and an advancement in banking which belongs to all humanity not to Muslim alone.

Again thank you so much for your time. I appreciate your consideration of my request.

Please don't hesitate to write me.

wesselame

Drita

My answer:

Please see my Answers below your question:

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Drita

Alaykum Salam respected professor Kahf

I have to admit that this is very great moral support for me, Thank you very much and Jazaka Allah Khair.

From: Saeed

Sent: Wednesday, August 21, 2013

Question: Conventional vs. Islamic Mortgages in UK - not competitive

Salaam Dr. Kahf,

I have been going through different discussions (Q&A pdf) around getting first mortgage through conventional banks if the necessity clause triggers. and secondly if there isn't an Islamic product available. But if the available Islamic product is not competitive with the conventional banks then one can go with conventional.

I'm very confused now and would need your advice in my situation. I live in the UK and am renting for last 2.5 years and pay nearly 35% of my monthly pay in rent. I can continue to do so but will not be able to buy a house on cash like this as my pay finishes at end of each month. and if I get a mortgage, I will be giving around same amount of money in it but will own the house then. I have given almost £25000 as rent in last couple of years and its going down the drain!

In terms of options - We have limited Islamic products available in the UK but they are of higher rates and limited availability. So my question is around the competitiveness of Islamic and conv.

mortgages.

Here is an example of options available to me.

Conventional (one of the bank)- If I borrow £

200k from bank - 25 years - @2.99 rate = £947 a month and giving back £284.2k over 25 years. so paying back £84.2k on top of borrowed 200k.

Islamic (No 1 bank) - If I borrow £200k from bank - 25 years - @4.49 rate= £1110 a month (£163 more than conventional bank) and giving back £333.15k over 25 years. so paying back £133.15k on top of borrowed 200k.

So basically I will have to pay ~£49,000 more in case of Islamic mortgage which is quite a lot of money and obvious loss.

There are other conventional options available on similar sort of rates and competitive amongst conventional options. but Islamic product is standing far ahead of those.

Is the above scenario of conventional vs. Islamic option competitive in your opinion? Am I fair to say that it's an obvious loss to me in case if Islamic product and I can go with conventional mortgage for my first home?

A lot of people around me are confused between these 2 options and your detailed answer in this regard will help us out of this situation InShaAllah.

Best Regards,

Saeed

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Saeed

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

In any competitive market there is always a range of price/rate. Usually one can beat any price by adding more research and more negotiation. I expect that the Islamic finance must be within the market range. If it is within the market range it cannot be described as excessive. In finance market, like most other markets there are some special rates/prices sometimes which are offer by a company of special circumstances, these special prices are normally outside the market range and should not be considered in any comparison.

If the Islamic finance institution is considerably and persistently outside the market range, I usually describe it as exploitative and aiming at charging its customers for their religiosity. This kind of institution, to me, is equal to non-existing and I would in this case apply the general Fatwa of permissibility of accepting conventional mortgage for the purchase of a house to live in. similarly if the conditions it imposes, such as payment of a certain percentage that is not affordable as down payment.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

Jazak'Allah for your prompt response Dr. Monzer.

If I can explain the situation in detail please. This will help us a lot in making our decision.

The example of calculation I gave in my initial email (& below) is exactly what is on offer with at least 20% down payment (as this is the minimum what 1 Islamic bank accepts).

HSBC in the UK is giving a life time tracker mortgage with 2.99 as the rate. IBB (Islamic bank of Britain – best Islamic option here) is giving me the Islamic product @ 4.49. both have 0.5% of bank of England rate and rest is there part on top of this. Halifax is another bank which is also giving conventional mortgage on even better rate than HSBC (so the example I'm quoting for conventional mortgage is not the best available.. it's the average one – while the Islamic product quoted below is the best available one).

HSBC - Conventional - If I borrow £200k from bank - 25 years - @2.99 rate = £947 a month and giving back £284.2k over 25 years. so paying back £84.2k on top of borrowed 200k.

IBB - Islamic - If I borrow £200k from bank - 25 years - @4.49 rate= £1110 a month (£163 more than conventional bank) and giving back £333.15k over 25 years. so paying back £133.15k on top of borrowed 200k.

So basically I will have to pay ~£49,000 more in case of Islamic mortgage which is quite a lot of money and obvious loss.

Please note that IBB is the only Islamic bank which is giving this rate @ 20% down payment. rest couple of banks are asking for at least 35% as down payment (clearly out of reach of almost 99% of brothers here). link is as under.

<http://www.islamicmortgages.co.uk/index.php?id=168>

<<http://www.islamicmortgages.co.uk/index.php?id=168>>

We use to have HSBC Amanah till last year which had competitive rates of less than 3% (in line with conventional mort) but the minimum down payment was also 35%. Even than few brothers went for this option but unfortunately HSBC scrapped this product last year and are not offering this to any new mortgage applicant.

So as of now - IBB is the best of the lot in Islamic products but are clearly far from the available average conventional options.

I had a discussion with IBB representative in the bank as well around the competitiveness issue. They said that they are new entrants in this mortgage market and its very difficult to compete. Then he said that you know its Islamic and to be frank - you know that we all pay extra bit of money to get the halal chicken. but we do that as its halal and we don't eat haram. So ok we are expensive but we are halal!..

I know 4 brothers in my close friends circle who have taken conventional products as they are far easy to get and the difference from Islamic product is quite considerable. 4 more of us are currently looking to buy the house and are having this discussion on daily basis since months. All of them have come to conclusion that Islamic banks are just exploiting Muslims situation and are charging very high rates to sell their Halal products. The situation is Unfortunate of course. People here genuinely believe that we are being exploited by Islamic banks which are not at all competitive with conventional mortgages.

What would you say on this exact scenario Dr. Monzer? We have done months of research and negotiations for options available in the UK and come to above numbers/comparisons.

Another thing to add here is that government has started a new scheme for first time buyers. With this option – one will have to pay just 5% of the down payment and govt. will add 15% to it making it 20% for the bank and guaranteed mortgage. This 15% will be given for 4 years I guess and customer will start giving it back to govt. in installments after this period. This has boosted the house market here with asking price up by ~10% after this as more people have started buying. BUT it's not Islamic of course and we are confused again. L

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Saeed

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I do not agree with the claims given by some Islamic banks that it is OK to give higher rates than the market. same also applies to Halal chicken!

I believe that some Islamic finance institutions are vicious in their pursuit of profit at the expenses of their captive customers. This is as Haram as Riba if not more and I do not support this behavior.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Abdul Awwal

Sent: Friday, February 27, 2015

Question: Development of Islamic Monetary Policy Instruments

Respected Brother Dr. Monzer Kahf

Assalam Alaykum. Hope that you are well InShaAllah and still contributing in the field of Islamic economics, finance and banking. You may remember me, I am in the Central Bank of Bangladesh, currently head of the Research Department. As you are aware Islamic banking sector in Bangladesh is growing fast and 8 Islamic banks have already been managing one-third of the assets and experiencing huge excess liquidity due to non-availability of Islamic monetary policy instruments.

Central Bank of Bangladesh has sent me to IRTI to review the present Islamic monetary instruments introduced by the OIC central banks and select 2/3 instruments suitable for Bangladesh. (Now I am in IRTI). In this regard, I need your kind cooperation. You have many important contributions, would you please suggest me which instrument will be practical and Shari'ah compliant to mop up and inject liquidity from/to the Islamic banks by central bank.

Hope to receive your suggestions soon.

With best regards,

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br.

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

Please see the attachment also consult my eBook on Amazon/kindle,

Then I will be glad to discuss any details and modus operandi with you anywhere and anytime.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Farnaz

Sent: Saturday, July 04, 2015

Location: Australia

Question: Question regarding Islamic Finance Company in Australia

Assalam Alaykum wa Rahmatullah wa Barakatuh Dr. Monzer.

I have a question regarding one Islamic finance company in Australia. This company is borrowing money from the conventional bank. However, lending money to their customers for buying house under Islamic contract. So, basically the company is making a Riba based contract with the bank and making an Islamic contract with the home buyer (Ijarah, Musharakah contracts). If I know that this company is doing this, am I allowed to borrow money to buy a house from this company? Jazaka Allah Khairan.

Best regards

Farnaz

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Farnaz

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

As a rule, it is permissible to take Islamic finance from this company even if it borrows on interest from conventional banks. It is also permissible to take Islamic finance from conventional banks and some of them offer that.

More important, I doubt that this company borrow on interest. You need to check again it may get special arrangement with a conventional bank to sell it its Ijarah contracts and replenish the funds it gives on Ijarah or Musharakah. This is of course permissible as in Ijarah and Musharakah the company owns its share of the property and has right to sell it to another entity. I think you need to check again.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Joe

Sent: Thursday, December 03, 2015

Question: Alberta Ethical Credit Union - Shari'ah Restrictions

Salam Alaykum

I'll start the conversation on the issues you raised by posing some question, and what for our scholars to answer.

1- Restrictions on accepting funds: Since money is fungible, can a bank realistically place a value judgment on any funds that it is not directly involved in earning? It would seem to me at the personal level this is impossible, but on corporate account could be viewed as a form of "assisting each other in sin." What will regulations say about distinguishing between "sin" accounts and others? Will this jeopardize the credit union's status?

2- Restrictions on transactions: Is express knowledge of the transaction constant? Meaning do I have to always monitor each transaction? If I was tasked with carrying a box to a location, with no knowledge of what is in it, would my earnings from this act be permitted? Is cashing a check like this? Or is it more akin to fulfilling a right that the bearer has on the account, regardless of the previous transaction between him and the owner of the account. I lean to the latter.

WS

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Sharafe and Br. Joe

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

The evidence for no restriction is the general rights of people to privacy and to no interference from others. This is a general them in Shari'ah. no one is granted authority even to ask questions about personal affairs of others. And whoever asks has no right to answers. Asking a person where do you get your money is itself not permissible because it is none of the questioner's business. I cannot quote any specific Verse of Hadith on it and sorry to say it wrong to ask about a Hadith or a verse for such an essential matter. The Qur'an repeatedly did not allow the Messenger himself to interfere in other person's personal affairs even in matters of faith. This is why I say it is only for Barakah that in the founding stage we avoid persons who are known obviously to have their only source of wealth is from Haram. But even that it is not a Shari'ah specific requirement as I explained it to you Br. Sharafe in answering a previous questions a few months ago. The only incidence I can remember is that before Islam when the Kuffar of Makkah wanted to rebuild al Ka'bah they avoided accepting any funding from Riba and its likes. Going around people asking them: where did you get your money is not only non-permissible it is also unthinkable. This is why we limit ourselves to what the law requires (although most questions required by the laws of anti-laundering and anti-terrorism are themselves silly and have loopholes!).

I agree with brother Joe on his statement except the example of carrying a box. When I do a thing I must know exactly that it is Shari'ah compliant. I cannot carry a box not knowing what is in it. This is not permissible in Shari'ah and in all laws too and my lack of knowledge of its content does not give me an excuse at all. Similarly, the CU cannot give finance to any non-permissible activities, as you used the term we cannot finance sin. But this is different from cashing a check. When we cash a check it is none of our business to check the transaction for which it is written and Shari'ah and the law both do not give us right to ask that question. I like to add here if the check is written on finance provided from the CU (as in Istisna' or in Murabahah line of credit) we then are required by the dynamics (nature) of the transaction to verify every payment of that finance because Islamic finance is always founded on ownership which means that the CU is a part of the transaction, (owning then transferring ownership to customer/member). This is different from a check written on the current account where the CU itself is not a part of the transaction.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

From: Sharafe

Sent: Thursday, December 03, 2015

Question: Alberta Ethical Credit Union - Shari'ah Restrictions

As-Salamu Alaykum wa Rahmatullah wa Barakatuh,

I pray you are all excellent.

Please forgive the lapse in communication, there has been a lot going on.

*business plan is still being prepared, there are many details needed

*lawyer yet to be selected, another law firm interviewed, mixed reviews (the preference is to find a lawyer committed to the cause)

*presentation is being prepared to recruit founding members (and seed capital) - the intention is to have the membership ready with solid data upon applying to make the approval process smoother rather than obtain approval and go recruit members

*regulatory bodies have been contacted to aid in development of application

In the meantime, while preparing this presentation and business plan/bylaws:

*are there any restrictions on whose funds the CU can accept? For example, are we permitted to hold the savings of someone who owns a bar, casino, or liquor store? To what level of rigor are we to ascertain the source of wealth? Are there different approaches for personal accounts vs. corporate ones? Do we put this in the contract for when they sign up that they declare the wealth to be free of money derived from interest, gambling, alcohol, drugs, etc.? Or do we simply state our policies loud and clear and give everyone the benefit of the doubt? Then, in that case, what do we do if something is brought to our attention later, is there any enforcement?

*similarly, are there any restrictions on what transactions the CU can process? For example, if someone uses a check to buy alcohol, we must then cash that check and transfer the money to the account of the liquor store and have aided in the transaction. Or for debit cards. To what extent are we to require to make sure members will use the CU for Shari'ah-legal purposes? For example, do we put this in the contract for when they sign up? Then is there any enforcement?

My Answer:

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu 'ala Sayyidina Muhammad, wa 'ala Aalihi wa Sahbihi Ajma'in

Dear Br. Sharafe

Assalam Alaykum wa Rahmatu Allah wa Barakatuh

I pray to Allah to help you guys sort out all these issues> I know that always establishing new projects has a lot of pain and efforts. May Allah reward you all and for all the excellent work you are doing for our community and its future generations.

For the question. I suggest that we make no reference to any restrictions on source of fund other than what is required by law of money laundering and finding terrorism.

In the founding period, for Barakah and purity, just do not approach people whose only source of income is from liquor, Riba and the like. (Remember this does not include persons who work in financial institutions including banks because the source of their income is labor not Riba, and may of the jobs in such institutions do not include writing a Riba contract.). Later on, just do not ask more questions than the law requires because we do not boycott people on the basis of their income.

Wa Allah A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf
