

CCFON & CLC Response to the Consultation on the Legislative Framework for the Regulation of Alternative Finance Investment Bonds (Sukuk)

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Response to the Authorities' Consultation¹

Our response consists in this memo and its appendices, which provide answers to the questions that are asked and to assumptions that are made in the consultation, and the attached paper entitled 'Islamic Finance in the UK', which provides evidence for the points made.

This response was compiled on the advice of our Islamic Affairs Director, Sam Solomon, who was himself a Muslim and has expertise in Shari'ah Law.

¹ HM Treasury and the Financial Services Authority, *Consultation on the Legislative Framework for the Regulation of Alternative Finance Investment Bonds (Sukuk)*, (London, OPSI, 2008), hereafter referred to as the 'present consultation', available at: http://www.hm-treasury.gov.uk/d/consult_sukuk101208.pdf.

The Authorities' Consultation

The Treasury and the Financial Services Authority are to be commended for setting out in some detail their proposals for the regulation of *sukuk* bonds and for enabling the public to respond to this important question. Nonetheless, there remain serious Governmental misconceptions in the premises upon which the consultation and the programme for supporting Islamic Finance are based.

Governmental Misconceptions

HM Treasury papers on *sukuk* reveal a startling naïvety as to the origins, purpose and possible effects of participating in any form of Shari'ah-Compliant Finance.² Whereas the Government suggests that Islamic Finance may be 'ethical'³ and forms a necessary part of allowing moderate Muslims the opportunity to 'participate in the financial system regardless of faith',⁴ it has become apparent that there are several reasons to doubt the ethical standing of such instruments and to doubt the necessity of Islamic Finance to the financial enfranchisement of Muslims.

None of the early Islamic legal manuals make any reference to Islamic finance or to Islamic banking. Modern-day Islamic banking concepts are therefore seen by many an Islamic scholar as an innovation. It must be understood that Shari'ah-Compliant Finance was first thought of by the founder of an Islamist⁵ terrorist organisation called the Muslim Brotherhood in the 1920's and that it was first implemented in the 1960's with the creation of several Middle Eastern banks. Its prohibition on interest was merely a radicalised interpretation on the original prohibition on usury found in the *Qur'an*⁶.

The Shari'ah Prohibition of Interest is Illusory

Examining the structure of many types of SCF instrument, including the *Ijara* contract selected by the Government for the issue of *sukuk*,⁷ it becomes apparent that the principle of conscientious avoidance of interest is absent: in actual fact, interest is very much a part of many SCF transactions, it is just hidden behind a different name, such as 'rent', 'mark-up', or in this case 'additional payments'. The Treasury's papers and the draft legislation⁸ reveal

² 'Shari'ah-Compliant Finance' ('SCF') and 'Islamic Finance' are used interchangeably throughout this response and the attached paper.

³ HM Treasury, *The development of Islamic finance in the UK: the Government's perspective*, (London, OPSI, 2008), hereafter referred to as 'the Government's perspective paper' at p. 7, available at: http://www.hm-treasury.gov.uk/d/islamic_finance101208.pdf.

⁴ HM Treasury and UK Debt Management Office, *Government Sterling Sukuk Issuance: a Response to the Consultation*, hereafter 'GSSI:RC', (London, OPSI, 2008), at p. 3, available at: http://www.hm-treasury.gov.uk/d/consult_sukukresponses020608.pdf.

⁵ In this response and the attached paper, the terms 'Islamist' and 'Islamism' are used to refer to Muslims and to Islamic doctrine that are radical, militant and that seek the introduction of Shari'ah Law or that advocate political or violent action in order to render non-Muslim states more Islamic.

⁶ Sura 2:275, 276 and 278.

⁷ *Ibid*, fn. 3, at p. 5.

⁸ See p. 16 of the the Government's perspective paper regarding the Finance Act 2005, and the Explanatory Note to the draft Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 on p. 27 of the present consultation, which states that the return on *sukuk* 'is economically equivalent to interest',

that SCF instruments generally, and *sukuk* in particular, yield interest payments, howsoever called.

It is also expected that National Savings & Investments would examine the feasibility of the Government becoming an issuer of retail Islamic financial products. Bonds have already been declared un-Islamic by the Standing Committee on Academic Research and Issuing *Fatwas* in a Ruling on dealing in bonds.⁹ If the NS&I were to take the *murabaha* route in any of its retail products, that too has been declared un-Islamic as per *fatwa* 36408¹⁰. Thus the 'Shari'ah risk' in such projects becomes clear: whilst some Shari'ah scholars are prepared to approve bonds (as long as they are called *sukuk* and produce 'returns' or 'additional payments' rather than interest) and *murabaha* contracts, others regard them as *haram* (forbidden) and it becomes difficult to know how many Muslims will choose to invest in them.

On a number of occasions, the present consultation states that Islamic Financial Institutions ('IFIs') 'cannot' or are 'unable'¹¹ to access traditional financial sources because of their use of interest. However, the forbidding of interest is disputed amongst the Shari'ah scholars, as evidenced by the millions of Muslims who have for centuries used, and who continue to use, conventional financial structures that charge or pay interest.¹² If it were clear and indisputable in religious Islamic doctrine, surely Muslims would repay interest to those who had been charged it or not charge interest at all? Yet the approach has been to adopt complex structures to hide interest and to call it by another name, rather than to refund it. The forbidding of interest is simply a device to separate Islamic Finance from conventional finance so as more effectively to pursue the goals for which it was conceived.

According to the *Qur'an* and the *sunnah* (the primary sources of the Shari'ah) the real purpose for which Islamic Finance was introduced, is one kind of *jihad* known as *jihad bi l mal*¹³, the ultimate aim of which is to undermine Western capital markets¹⁴ as stated by Dr P. Sookhdeo in his book, *Understanding Shariah Finance*¹⁵. It is also seen as a way of ensuring that investors contributed *zakat*, or donations to Islamic charities, which are often passed to organisations that advocate, sponsor or fund terrorism. (It is a *Qur'anic* directive to allocate a portion of *zakat* for *jihad* and the support of those who are waging war for the sake of Allah, sura 9:60, hence a divine law which remains irrevocable.) Islamic Finance has been traced as an actual supplier of funding to terrorist organisations. The adoption of Shari'ah finance by Western nations lends credibility¹⁶ to Shari'ah Law, which prescribes *jihad*.¹⁷ See also suras 2:216 and 61:10-11.

in addition to p. 13, which states that *sukuk* mirror conventional bonds 'in economic substance', (thus they must bear interest, even if under another name) and p. 15, which equates the 'additional payments' on *sukuk* bonds to interest payable on debt-like instruments.

⁹ See <http://www.islamqa.com/en/ref/2143>. The full text of the *fatwa* is in appendix I.

¹⁰ For the full text, please see appendix H.

¹¹ See the Regulatory Impact Assessment on pp. 19 and 22 respectively.

¹² For further information, please see the attached paper.

¹³ See sura 8:72, 9:20, 88; 61:11.

¹⁴ In this regard, see the attached paper, 'Islamic Finance in the UK'.

¹⁵ *Understanding Shari'a Finance: The Muslim Challenge to Western Economics*, Isaac Publishing, ISBN: 978-0-9787141-7-8, chapter 6, 'Shari'a finances as *Jihad*' pages 31ff.

¹⁶ See *GSSI:RC*, above, at p. 11, where para. 3.2 speaks of the Government's issue of sterling *sukuk* as contributing to 'the wider acceptability of *sukuk* as an asset class'.

Another possible reason for the use of Islamic finance in waging *jihad*, is that Islamic approval of SCF products requires the appointment of Shari'ah Supervisory Boards, who thus become sources of authority in financial institutions¹⁸. Islamic Finance of all forms, including *sukuk*, is therefore a form of Jihad deployed by hard-line Muslims, whose aim is to gain a financial, influence and ultimately political stronghold in the English financial and legal systems.¹⁹ The Authorities²⁰ assumption that Islamic Finance represents the financial liberation of ordinary Muslims is therefore misguided. In actual fact, moderate Muslims are likely to come under increasing pressure from radical Muslims to invest in Islamic Finance if it is sanctioned and accommodated by the British Government as proposed in the consultation.

Shari'ah Law: Muslims Not Required to Be Loyal to Non-Muslims

As the Treasury is aware, Shari'ah Law is the divine law of Islam²¹, a law centred on the concepts of *halal* and *haram*—permitted and forbidden.²² Who decides what is *halal* and what is *haram*? Allah alone has that right (as interpreted by Shari'ah scholars) according to *fatwa* 3922, for which see appendix M. According to the Shari'ah, the concept of *halal* and *haram* is not limited to types of products or to types of industries in which Muslims may invest as portrayed by HM Treasury: instead it covers every aspect of a Muslim's life, and all of his relationships. Hence it is important to understand that it is not limited to the field of trade or financial transactions. A Muslim is allowed to associate only with other Muslims except where association with a non-Muslim ('*kaafir*') is likely to serve Islamic purposes. Any other association with *kaafir* is *haram*.²³

It is likewise forbidden to accept the authority of a non-Muslim,²⁴ thus it is impermissible to leave the treasury in the hands of a non-Muslim²⁵ or to share worship facilities with other religions, which are all abrogated according to Islamic doctrine.²⁶

Whilst the present consultation advocates SCF as beneficial to Muslim consumers and to the economy, it is to be expected that any apparent benefits are short-term ones only and are outweighed by the costs and risks that SCF brings with it. In particular, the increased liquidity that the Treasury expects to enjoy will come at the price not only of the higher

¹⁷ See point 7 of the *fatwa* on the call to unite all religions in appendix A, which evidences the Islamic understanding that *jihad* is the perpetual struggle against non-Muslims to establish Islam as supreme in all the earth.

¹⁸ Muhammad Taqi Usmani *Times*, 8th September 2007, available at: <http://www.timesonline.co.uk/tol/comment/faith/article2409833.ece>.

¹⁹ See the *fatwa* in appendix A, which shows the Islamic objective of world domination, especially points 1,4, 7, 9(iii) and 10.

²⁰ That is, the Treasury and the FSA.

²¹ See HM Treasury and UK Debt Management Office, *Government Sterling Sukuk Issuance: A Consultation*, (London, OPSI, November 2007), hereafter referred to as 'the Government's first paper' at p. 6, para. 2.2, available at: http://www.hm-treasury.gov.uk/d/consult_sukuk141107.pdf.

²² See the *fatwa* in appendix B.

²³ For evidence, please see *fatwa* 59879 in appendix F.

²⁴ For further details, see the *fatwa* in appendix C.

²⁵ Please see the *fatwa* in appendix D.

²⁶ Regarding the last two points here, please see the *fatwa* in appendix A.

costs of issuing *sukuk*²⁷, but also of the ownership of British Government assets and of the influence that comes with being the creditor of the Government.²⁸ This short-term increase in liquidity comes at the price of longer-term illiquidity, with Islamic capital being locked up in illiquid assets, making them inherently unsuitable for increasing liquidity. Many other costs and risks are listed in the attached paper.

The Advice given to HM Treasury by the Respondents to the Previous Consultation should not be Heeded

The Authorities seem to have taken for granted that the parties who responded to the previous consultation were themselves prudent and sound financial advisers. We need look carefully at the list of respondents. Lehman Brothers has gone into receivership; HSBC is desperately trying to raise funds by issuing more shares; RBS has been partly nationalised and is in crisis due to mismanagement; UBS in difficulties; Barclays would have had to be bailed out if it had not raised funds from the Gulf and some others in the list have had to be bailed out by their respective Governments, to say nothing of the credibility of the States that are the key proponents of Islamic finance. It would be appropriate for the Authorities to disregard the advice and predictions of such respondents, whose track record attests to their imprudence. Hence most of those in favour of Islamic finance in the list of respondents on page 39 of the Government's response to the previous consultation cannot be relied on for their judgment, lest systemic risk overtake our financial institutions.

The Authorities seem to assume that SCF is purely a financial matter and has nothing to do with those parts of Shari'ah Law that are unpalatable to the Western conception of Human Rights, such as floggings, the treatment of women, the death penalty and so on. It also seems to assume that *sukuk* will be acceptable to investors regardless of their religion.²⁹ This cannot be true for the following reasons:

- a) Islamic Law proclaims itself to be divinely ordained, immutable and indivisible;
- b) Islamic investments can only be made in industries that comply with other parts of Shari'ah Law;³⁰
- c) Islamic investors must give a percentage of their returns to Islamic charities;
- d) Islamic finance can only be approved by Shari'ah scholars, that is, senior clerics³¹ and
- e) Islamic Finance is steeped in the religion of Islam.

Relationships with non-Muslims

²⁷ Such as the costs of operating and maintaining any assets transferred to an SPV in a *sukuk* transaction, see *GSSI:RC*, above, at p. 34, para. 4.51.

²⁸ As the *Bible*, says: 'the borrower is servant to the lender' Proverbs 22:7b.

²⁹ See *GSSI:RC*, above, at p. 11.

³⁰ For the definitions of what is *halal* (permitted) and what is *haram* (forbidden), see the *fatwa* in appendix B, which mentions that other religions are *haram* including *shirk*, or stating that Jesus is the Son of God.

³¹ See the *fatwa* in appendix D, which outlines the impermissibility for Muslims of appointing anyone to have charge over financial matters, or of appointing an adviser who is not himself a Muslim. The *fatwa* in appendix E then explains exactly what a non-Muslim or '*kaafir*' is: Jews and Christians. The *fatwa* in appendix F goes further to explain that *kaafir* (non-Muslims) may be used but not befriended.

It must be noted that Islam's teachings and its view of 'others', namely non-Muslims, which regulates Muslims' relationships with non-Muslims must remain at all times a matter of serious concern particularly to a democratic government like ours. This doctrine is the principle of allegiance and rejection (*Al wala wa al Baraa*), which teaches separation, and segregation rather than assimilation and peaceful co-existence.

Alwala wa al Baraa:

'*Alwala*' simply means allegiance, loyalty, closeness, affinity, unity and affiliation with Muslims overtly and covertly (see suras 49:10 and 8:72). '*Baraa*' is both 'to renounce' and 'to denounce', that is, to reject, abhor, censure, deplore, criticise and condemn all non-Islamic customs, teachings, practices, traditions and festivals—to treat all non-Muslim heritage and lifestyle as sinful and abhorrent. It is to hate and to hold enmity towards all non-Muslims generally, but particularly towards Jews and Christians. This is mandatory for every Muslim. All Muslim scholars without exception state that Muslims have no choice in the necessity of enmity with the *kaafir* (non-believers) for it is a key part of their worship to Allah. It is required and obligated by Allah just as believers are obligated to pray, fast, and so on.³²

This is further complicated by doctrines of deception known as *taqiyya*, which are held by Shi'a, Muda'rat held by Sunni Muslims. Added to that is the doctrine of the utter supremacy of Islam so that anything done to further the advance of Islam's jurisdiction is said to be right. Islam teaches that Muslims are mandated to conquer the world for Allah, imposing the religion of Islam.³³ Islamic finance is one part of that plan, known as '*A' jihad bi al mal*' or jihad through financial activities.³⁴

The endorsement of Shari'ah finance by the British Government represents a capitulation to Islamic religious law, giving it superior status to English law. Of most concern is the authority given to Shari'ah scholars in financial institutions and the plans announced to appoint Shari'ah scholars to advise the Authorities also.

Whilst the Authorities state that: 'The issuance of *sukuk* does not require the incorporation of Shari'ah Law into English Law'³⁵, they fail to discern that financial instruments that are governed by a Law other than English Law and that accept the Shari'ah's jurisdiction as supreme³⁶ are in fact incorporating the manifestation of Shari'ah Law into this jurisdiction. Interestingly enough, the European Court of Human Rights has acknowledged that Shari'ah Law is incompatible with democracy and human rights and required Turkey to fold the Ra'afa party as a result.³⁷

A surrender of sovereignty to external authority whose basis is at variance with that established in our Constitution must be avoided if Britain is to remain a free, democratic nation. Even if the Shari'ah scholars' jurisdiction extends only to purely financial matters, it is standard Islamic doctrine that a Muslim's loyalty is to Islam and its community known as

³² See http://www.islamway.com/?iw_s=Scholar&iw_a=articles&scholar_id=841.

³³ See the *fatwa* in appendix A, in particular points 1, 4, 7, 9(iii) and 10.

³⁴ For evidence of these assertions, please see the attached paper. See also the *fatwa* in appendix A, in particular points 1, 4, 7, 9(iii) and 10.

³⁵ See *GSSI:RC*, above, at p. 35, para. 4.53.

³⁶ See the *fatwa* in appendix A, as above.

³⁷ See appendix K.

the 'Ummah', and not to a non-Muslim state, i.e. the United Kingdom.³⁸ This, coupled with the belief that the *ummah* owns all property and that once wealth or an asset has become Islamic it must remain Islamic, may lead in future to Shari'ah Supervisory Boards ('SSBs') ordering that if an investor requires the return of his/her capital or the additional payments on his/her investment, he/she must affirm his/her allegiance to Islam. Given the authority accorded to SSBs in financial institutions, it is difficult to see how this kind of situation could be remedied. It is of great concern, therefore, that the Government is considering the appointment of a board of Shari'ah scholars to advise it on Islamic Finance.³⁹

The Authorities state that Shari'ah-compliant financial products 'are regulated to the same standard as conventional financial products, conferring the same degree of consumer protection'⁴⁰ and that 'Islamic banks are subject to the same regulations for liquidity management as conventional banks'.⁴¹ The Authorities also state that they seek to adhere to the Better Regulations Principles (which require regulations to be necessary, suitable, proportionate, consistent, flexible and risk-sensitive).⁴² These statements assume that Islamic finance resembles conventional finance in key respects and consequently assumes that equality is achievable with little adaptation. These statements cannot be regarded as valid for the following reasons:

- a) Shari'ah Law does not allow for any absolute guarantees on the return of capital or investments, therefore consumers are at a greater risk of losing their investments. This is also evident because the assets purchased to back *sukuk* may not make any profit and may depreciate themselves.
- b) The Authorities admit on many occasions that the 'legal structure and risk characteristics [of *sukuk*] may be different'⁴³ from conventional financial products, yet there is no certainty as to such risk characteristics.
- c) The Authorities identify 'Shari'ah risk'⁴⁴ as a risk additional to those that accompany investment in conventional bonds, yet insufficient weight is accorded to it, given that it may make Shari'ah instruments unacceptable to consumers or may invalidate them and it is therefore insufficiently mitigated.
- d) The Authorities appear to be ignorant of the detrimental effect on investor confidence that the doctrine of *taqiyya* entails: investing capital in a fund managed by religious scholars whose allegiance lies with their fellows and who are not obliged by their own consciences or religion to deal honestly or transparently does not make for a secure investment or consumer confidence. The Authorities also need to be aware that Shari'ah scholars do not see themselves as obliged to non-Muslims.
- e) The Authorities seem unaware that the lack of standardisation of SCF instruments and therefore the uncertainty regarding their acceptability has repercussions for the

³⁸ See for example the recent BBC Panorama programme, *Muslim First, British Second*: http://www.bbc.co.uk/iplayer/episode/b00hq21s/Panorama_Muslim_First_British_Second. See also the *fatwa* in appendix C, which states that it is not permissible for Muslims to swear allegiance to non-Muslim rulers and that non-Muslim rulers should be replaced with Muslim ones.

³⁹ See *GSSI:RC*, above, at p. 35, para. 4.52.

⁴⁰ See the Government's perspective paper at p. 5.

⁴¹ See *GSSI:RC*, above, at p. 12, para. 3.8.

⁴² See the present consultation at p. 13, fn. 1.

⁴³ See for example p. 3 of the present consultation.

⁴⁴ See *GSSI:RC*, above, at p. 12, para. 3.4.

profitability and stability of Islamic Finance, its institutions and of the capital of investors.

- f) The Authorities cannot accurately second-guess what decisions any given Shari'ah Supervisory Board will make, in any given instance, or in adjudicating on any given dispute. SSBs are not made accountable for their decisions to any British authority. In surrendering authority in this way, the Authorities cannot hope to regulate Islamic Finance to any given standard.
- g) Standard Islamic doctrine teaches that Shari'ah Law is supreme.⁴⁵ There is no reason to suppose, therefore, that SSBs will recognise the authority of the Treasury or the FSA⁴⁶ should they gain sufficient economic weight and should it prove inexpedient for them to do so.
- h) Given that the decisions of SSBs are not open to scrutiny, it is impossible for the Treasury or the FSA to know where *zakat* contributions are being sent and whether they are being funnelled into terrorist organisations via *hawala* dealers (this is known as 'reverse money laundering').
- i) The Authorities have not given adequate heed to the uncertainty caused by the vulnerabilities of an asset-based bond when the actual asset is not under their direct control as per *fatwa* I0646.⁴⁷

Finally, the eventual Islamisation of the UK is the ultimate desire of most of the members of Shari'ah boards—if not all—as expressed by the HSBC's Shari'ah expert Sheikh Nizam Yaquby in his outline of the pre-requisites for such a launch and its maintenance. For the full text, please see appendix N.

Most importantly, the most serious flaw in the launch of this unconventional bond is that *sukuk* are said to be economically equivalent to debt securities and yet they appear to the law to be collective investment schemes ('CIS').⁴⁸ It seems strange that the Authorities should adopt an approach of positive discrimination to these instruments, given that their structure would normally require the tighter regulatory regimen of CIS. It seems illogical that conventional CIS require this more stringent regulation, yet *sukuk* that appear in the same form, do not. Rather than creating a 'level playing field', it seems that the Authorities are intent on creating a loophole in its own regulations in order to allow Islamic rules to enjoy a privileged position over other CIS.

In order for *sukuk* and other Islamic financial instruments to be adequately regulated by English Law, the Shari'ah scholars would have to issue a *fatwa* renouncing all the *fatwas* in the appendices and stating explicitly that their rulings will be subject to the jurisdiction of the Bank of England, the FSA and the Treasury. Nothing short of such a commitment would be effective in ensuring that these instruments and the authority of the Shari'ah scholars are governed by English Law. In the meantime, they remain subject to the purported 'higher' authority of Shari'ah Law.

⁴⁵ See the *fatwa* in appendix A, in particular points 1, 4, 7, 9(iii) and 10.

⁴⁶ Indeed, there is every reason to believe that they will not: see the *fatwas* in appendices C and D, which state that Muslims should not submit to non-Islamic rulers and that non-Muslims should not be in charge of the treasury respectively.

⁴⁷ See appendix J.

⁴⁸ See the present consultation at pp. 13 and 19-22.

For evidence in support of these contentions and for further details, please see the attached paper entitled 'Islamic Finance in the UK' and the appendices that follow.

In the light of the foregoing, the responses to the particular questions given in the consultation are as follows:

Question 1: Do you agree that AFIBs which have similar economic characteristics to conventional debt instruments should be regulated in the same way as those conventional debt instruments, where appropriate?

Answer 1: We believe this question is based on an incorrect premise as the risks associated with *sukuk* bonds are much higher than conventional debt instruments for the reasons given above. Therefore the answer is 'no'.

Question 2: Do you agree that including them as a specified investment under the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 and amending the Schedule to the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001, affords these instruments a similar regulatory treatment to conventional debt instruments?

Answer 2: No. Again, the question is, in our submission, wrongly framed. The question should ask whether Britain *should* be offering similar regulatory treatment to *sukuk*, given their inherent and associated risks. If Britain must accommodate them, it should regulate them by refusing to exempt them from the tried and tested method of regulating CIS, namely the Financial Services and Markets Act 2000 (Collective Investment Schemes) Order 2001.

Question 3: Do you believe the provisions above are sufficient for defining an AFIB for regulatory purposes?

Answer 3: No. An AFIB cannot be sufficiently defined for regulatory purposes without taking into account the rest of Shari'ah Law and its susceptibility to being interpreted differently by different boards of Shari'ah scholars. As to the other risks that need to be taken into account in order to regulate AFIBs, please see above.

Question 4: Do believe there are any additional provisions that should be included for the regulatory definition of an AFIB?

Answer 4: Yes. In order to comply with and be adequately regulated by English Law, AFIBs should be defined as alternative finance investment bonds that are not governed by Shari'ah Law and are not subject to regulation by Shari'ah Supervisory Boards or Committees, howsoever called. Anything short of separating their existence from Shari'ah Law and its jurisdiction will fail adequately to subject them to English Law.

Question 5: Do you believe that the mandatory listing requirement is relevant for the reasons stated above?

Answer 5: If *sukuk* are to be accommodated, then yes, a mandatory listing requirement is essential.

Question 6: Do you agree that, although the regulatory definition of an AFIB should generally be the same as the definition of AFIBs for tax purposes and as set out in section 48A of the Finance Act 2005, it is not appropriate simply to cross-refer to section 48A?

Answer 6: For the reasons given above and in the attached paper, no regulatory definition of an AFIB should be elaborated.

Options 1-4:

It is suggested that nothing further is done to accommodate Islamic Finance (Option 4) and that the changes already made to tax and financial law⁴⁹ are reversed and it is made clear that the British Government will henceforth have no further part in accommodating or participating in Islamic Finance.

For evidence in support of these contentions and for further details, please see the attached paper entitled 'Islamic Finance in the UK'.

⁴⁹ One list of such changes can be found in the box on p. 9 of HM Treasury and UK Debt Management Office, *Government Sterling Sukuk Issuance: a Consultation*, hereafter 'the previous consultation', (London, OPSI, 2008): http://www.hm-treasury.gov.uk/d/consult_sukuk141107.pdf.

Appendix A

Taken from:

<http://www.islamqa.com/en/ref/10213>

Islam Question & Answer

www.islamQA.com

Ruling on the call to unite all religions

What are Ruling on the call to unite all religions

Praise be to Allaah Alone and peace and blessings be upon the one after whom there will be no more Prophets, and upon his family and companions and whoever follows them in truth until the Day of Resurrection.

The Standing Committee on Academic Research and Issuing Fatwas (al-Lajnah al-Daa'imah li'l-Buhooth al-'Ilmiyyah wa'l-Iftaa') has examined the questions which have been submitted to it and the opinions and articles published and broadcast in the media concerning the call to unite the three religions of Islam, Judaism and Christianity; and the call which stems from that, to build a mosque, a church and a synagogue in one place, on university campuses and in public squares; and the call to print the Qur'aan, Tawraat (Torah) and Injeel (Gospel) in one volume, etc.; and the conferences, seminars and meetings on this topic which are being held in the east and in the west. After studying and pondering the matter, the Committee issues the following statement:

- (1) One of the basic principles of belief in Islam, something which is obviously a basic principle and on which all the Muslims are agreed (ijmaa') is that **there is no true religion on the face of the earth apart from Islam. It is the final religion which abrogates all religions and laws that came before it.** There is no religion on earth according to which Allaah is to be worshipped apart from Islam. Allaah says (interpretation of the meanings):

“This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islâm as your religion” [al-Maa'idah 5:3]

“And whoever seeks a religion other than Islâm, it will never be accepted of him, and in the Hereafter he will be one of the losers” [Aal 'Imraan 3:85].

After the coming of Muhammad (peace and blessings of Allaah be upon him), Islam means what he brought, not any other religion.

- (2) One of the basic principles of belief in Islam is that the Book of Allaah, the Holy Qur'aan, is the last of the Books to be revealed from the Lord of the Worlds. It abrogates all the Books that came before it, the Tawraat, Zaboor, Injeel and others, and it is a Muhaymin [Muhaymin: that which testifies the truth that is therein and falsifies the falsehood that is added therein] over them. So there is no longer any

revealed Book according to which Allaah may be worshipped apart from the Qur'aan. Allaah says (interpretation of the meaning):

“And We have sent down to you (O Muhammad) the Book (this Qur'aan) in truth, confirming the Scripture that came before it and Muhaymin (trustworthy in highness and a witness) over it (old Scriptures). So judge among them by what Allaah has revealed, and follow not their vain desires, diverging away from the truth that has come to you.” [al-Maa'idah 5:48]

- (3) It is obligatory to believe that the Tawraat and Injeel have been abrogated by the Qur'aan, and that they have been altered and distorted, with things added and taken away, as Allaah tells us in the Qur'aan, for example (interpretation of the meaning):

“So, because of their breach of their covenant, We cursed them and made their hearts grow hard. They change the words from their (right) places and have abandoned a good part of the Message that was sent to them. And you will not cease to discover deceit in them, except a few of them” [al-Maa'idah 5:13]

“Then woe to those who write the Book with their own hands and then say, “This is from Allaah,” to purchase with it a little price! Woe to them for what their hands have written and woe to them for that they earn thereby.” [al-Baqarah 2:79]

“And verily, among them is a party who distort the Book with their tongues (as they read), so that you may think it is from the Book, but it is not from the Book, and they say: “This is from Allaah,” but it is not from Allaah; and they speak a lie against Allaah while they know it” [Aal 'Imraan 3:78]

Hence, whatever in the previous books was correct is abrogated by Islam, and everything else is distorted and changed. It was reported that the Prophet (peace and blessings of Allaah be upon him) became angry when he saw that 'Umar had a page with something from the Tawraat written on it, and he (peace and blessings of Allaah be upon him) said: “Are you in doubt, O son of al-Khattaab? Have I not brought you something shining and pure? If my brother Moosa were alive, he would have no choice but to follow me.” (Narrated by Ahmad and al-Daarimi, and others).

- (4) One of the basic principles of belief in Islam is that our Prophet and Messenger Muhammad (peace and blessings of Allaah be upon him) is the Seal of the Prophets and Messengers, as Allaah says (interpretation of the meaning):

“Muhammad is not the father of any of your men, but he is the Messenger of Allaah and the last (end) of the Prophets” [al-Ahzaab 33:40]

So there is no longer any Messenger whom it is obligatory to follow, apart from Muhammad (peace and blessings of Allaah be upon him). If any of the Prophets were alive, they would have no choice but to follow him, as Allaah says (interpretation of the meaning):

“And (remember) when Allaah took the Covenant of the Prophets, saying: ‘Take whatever I gave you from the Book and Hikmah (understanding of the Laws of

Allaah), and afterwards there will come to you a Messenger (Muhammad) confirming what is with you; you must, then, believe in him and help him.’ Allaah said: ‘Do you agree (to it) and will you take up My Covenant (which I conclude with you)?’ They said: ‘We agree.’ He said: ‘Then bear witness; and I am with you among the witnesses (for this).’” [Aal ‘Imraan 3:81]

When the Prophet of Allaah ‘Eesaa (peace be upon him) descends at the end of time, he will follow Muhammad (peace and blessings of Allaah be upon him) and he will judge according to his Sharee’ah. Allaah says (interpretation of the meaning);

“Those who follow the Messenger, the Prophet who can neither read nor write (i.e. Muhammad) whom they find written with them in the Tauraat (Torah) and the Injeel (Gospel) — he commands them for Al-Ma’roof (i.e. Islamic Monotheism and all that Islam has ordained); and forbids them from Al-Munkar (i.e. disbelief, polytheism of all kinds, and all that Islam has forbidden); he allows them as lawful At-Tayyibaat (i.e. all good and lawful as regards things, deeds, beliefs, persons and foods), and prohibits them as unlawful Al-Khabaa’ith (i.e. all evil and unlawful as regards things, deeds, beliefs, persons and foods), he releases them from their heavy burdens (of Allaah’s Covenant with the children of Israel), and from the fetters (bindings) that were upon them. So those who believe in him (Muhammad), honour him, help him, and follow the light (the Qur’aan) which has been sent down with him, it is they who will be successful” [al-A’raaf 7:157]

It is also one of the basic principles of belief in Islam that the Message of Muhammad (peace and blessings of Allaah be upon him) is addressed to all of mankind. Allaah says (interpretation of the meaning):

“And We have not sent you (O Muhammad) except as a giver of glad tidings and a warner to all mankind, but most of men know not” [Saba’ 34:28]

“Say (O Muhammad): “O mankind! Verily, I am sent to you all as the Messenger of Allaah” [al-A’raaf 7:158].

And there are many similar aayaat.

- (5) One of the basic principles of belief in Islam is that we must believe that every Jew, Christian or other person who does not enter Islam is a kaafir, and that those against whom proof is established must be named as kaafirs and regarded as enemies of Allaah, His Messenger and the believers, and that they are the people of Hell, as Allaah says (interpretation of the meaning):

“Those who disbelieve from among the people of the Scripture (Jews and Christians) and Al-Mushrikoon, were not going to leave (their disbelief) until there came to them clear evidence” [al-Bayyinah 98:1]

“Verily, those who disbelieve (in the religion of Islâm, the Qur’ân and Prophet Muhammad) from among the people of the Scripture (Jews and Christians) and Al-Mushrikoon will abide in the fire of Hell. They are the worst of creatures” [al-Bayyinah 98:6]

“This Qur’aan has been revealed to me that I may therewith warn you and whomsoever it may reach” [al-An’aam 6:19]

“This (Qur’aan) is a Message for mankind (and a clear proof against them), in order that they may be warned thereby” [Ibraaheem 14:52]. And there are many similar aayaat. It was reported in Saheeh Muslim that the Prophet (peace and blessings of Allaah be upon him) said: “By the One in Whose hand is my soul, no one among this nation, Jew or Christian, hears of me, then dies without having believed in that with which I was sent, but he will be one of the people of the Fire.” Hence whoever does not regard the Jews and Christians as kuffaar is himself a kaafir, according to the ruling of Sharee’ah, “Whoever does not regard the kaafir as such after proof has been established against him is himself a kaafir.”

- (6) In the light of these basic principles of belief and the rulings of sharee’ah, calling for the uniting of all religions, and for them to be brought close to one another and cast in the same mould, is an evil and crafty call whose aim is to mix truth with falsehood, to destroy Islam and undermine its pillars, and to tempt its followers into total apostasy. This is confirmed by the words of the Qur’aan (interpretation of the meaning):

“And they will never cease fighting you until they turn you back from your religion (Islamic Monotheism) if they can” [al-Baqarah 2:217]

“They wish that you reject Faith, as they have rejected (Faith), and thus that you all become equal (like one another)” [al-Nisaa’ 4:89]

- (7) Among the effects of this evil call would be the cancelling out of the differences between Islam and kufr, truth and falsehood, good and evil. It would break down the psychological barrier that exists between the Muslims and the kaafirs, and there would be no sense of al-Walaa’ wa’l-Baraa’ (loyalty and friendship towards Muslims, disavowal and enmity towards kaafirs), or jihaad and fighting to make the word of Allaah supreme in the earth of Allaah. Allaah says (interpretation of the meaning):

“Fight against those who (1) believe not in Allaah, (2) nor in the Last Day, (3) nor forbid that which has been forbidden by Allaah and His Messenger (Muhammad) (4) and those who acknowledge not the religion of truth (i.e. Islâm) among the people of the Scripture (Jews and Christians), until they pay the Jizyah with willing submission, and feel themselves subdued” [al-Tawbah 9:29]

“and fight against the Mushrikoon (polytheists, pagans, idolaters, disbelievers in the Oneness of Allaah) collectively as they fight against you collectively. But know that Allaah is with those who are Al-Muttaqoon (the pious)” [al-Tawbah 9:36]

“O you who believe! Take not as (your) Bitaanah (advisors, consultants, protectors, helpers, friends) those outside your religion (pagans, Jews, Christians, and hypocrites) since they will not fail to do their best to corrupt you. They desire to harm you severely. Hatred has already appeared from their mouths, but what their

breasts conceal is far worse. Indeed We have made plain to you the Ayaat (proofs, evidences, verses) if you understand” [Aal ‘Imraan 3:118]

- (8) If the call to unite the religions is made by a Muslim, this considered to be blatant apostasy from the religion of Islam, because it conflicts with the basic principles of belief. It is an acceptance of disbelief in Allaah and a contradiction of the truth of the Qur’aan and its abrogation of all laws and religions that came before it. On this basis, it is an idea that should be rejected from the point of view of sharee’ah, and it is definitely haraam according to the evidence of Islam, Qur’aan, Sunnah and ijmaa’ (scholarly consensus).
- (9) Based on the above:
- (i) It is not permissible for a Muslim who believes in Allaah as his Lord, Islam as his religion and Muhammad (peace and blessings of Allaah be upon him) as his Prophet and Messenger, to call people to this evil idea, to encourage it or to propagate it among the Muslims, let alone respond to it or join the conferences and gatherings held to promote it.
 - (ii) It is not permissible for a Muslim to print the Tawraat and Injeel on their own, so how about printing them with the Qur’aan in one volume? Whoever does this or calls for it is far astray, because by doing so he is combining truth (the Qur’aan) with that which is either distorted or was true but has now been abrogated (the Tawraat and Injeel).
 - (iii) Similarly, it is not permissible for a Muslim to respond to the call to build a mosque, church and synagogue in one place, because this involves recognizing a religion in which Allaah is worshipped other than Islam, and rejecting the idea that Islam should prevail over all other religions, and giving the idea that there are three religions and that it is OK for people to belong to any of these three. This is a kind of equality which implies that Islam does not abrogate the religions that came before it. Undoubtedly, if a person approves of this, believes it or accepts it, this is kufr and misguidance, because it clearly goes against the Qur’aan, the Sunnah and the consensus (ijmaa’) of the Muslims and implies that the distortions of the Jews and Christians come from Allaah – exalted be He far above that. By the same token, it is not permitted to call churches “Houses of God” or to say that the people there are worshipping Allaah in a correct and acceptable manner, because this worship is not done according to the religion of Islam, and Allaah says (interpretation of the meaning):

“And whoever seeks a religion other than Islam, it will never be accepted of him, and in the Hereafter he will be one of the losers” [Aal ‘Imraan 3:85].

On the contrary, they are houses in which disbelief (kufr) in Allaah is expressed; we seek refuge with Allaah from kufr and its people. Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said in Majmoo’ al-

Fataawaa (22/162): “They – churches and synagogues – are not houses of Allaah; the houses of Allaah are the mosques. On the contrary, they are houses in which disbelief (kufr) in Allaah is expressed. Even if Allaah is mentioned therein, houses are the same as the people in them, and the people in these houses are kuffaar, so they are the houses of worship of the kuffaar.”

- (10) It should be noted that it is obligatory on the Muslims to call the kuffaar in general, and the People of the Book in particular, to Islam through the clear texts of the Qur’aan and Sunnah. But this is only to be done by explaining to them and arguing with them in a way that is better (with good words and in a good manner) (cf. Al-‘Ankaboot 29:46), not by compromising any of the beliefs or laws of Islam. This is in order to convince them about Islam and bring them into the religion, or to establish proof against them so that those who are to be destroyed (for their rejecting the Faith) might be destroyed after a clear evidence, and those who are to live (i.e. believers) might live after a clear evidence (cf. Al-Anfaal 8:42). Allaah says (interpretation of the meaning):

“Say (O Muhammad): “O people of the Scripture (Jews and Christians): Come to a word that is just between us and you, that we worship none but Allaah (Alone), and that we associate no partners with Him, and that none of us shall take others as lords besides Allaah. Then, if they turn away, say: “Bear witness that we are Muslims.” [Aal ‘Imraan 3:64]

As for debating and meeting with them in order to go along with their wishes and fulfil their aims of destroying Islam bit by bit, this is falsehood which is rejected by Allaah, His Messenger and the believers, and Allaah is the One Whose help is sought against all that they ascribe to Him. Allaah says (interpretation of the meaning):

“but beware of them lest they turn you (O Muhammad) far away from some of that which Allaah has sent down to you” [al-Maa’idah 5:49]

The Committee has made the above statement to the people. We advise the Muslims in general, and people of knowledge in particular, to fear Allaah and be aware that He is always watching, to guard Islam and to protect the ‘aqeedah (belief) of the Muslims from misguidance and those who promote it and from kufr and its people, and to beware of this idea.

Islam Q&A
Sheikh Muhammed Salih Al-Munajjid

Appendix B

Taken from:

<http://www.islamqa.com/en/ref/10887>

Islam Question & Answer

www.islamqa.com

what is definition of haram &halal?

Praise be to Allaah.

Haram is that for which the one who does it will be punished and the one who abstains from it will be rewarded, if the reason for his abstinence is following the prohibition of Allaah. The halal is that in which there is no sin in doing it and no sin in not doing it, but if a person intends to enhance his obedience to Allaah by doing it, then he will be rewarded for this intention.

Dictating what is halaal and what is haraam is the right of Allaah alone. There are people who make halaal some of that which Allaah has forbidden, and people who make haraam some of that which Allaah has permitted. Some people invent acts of worship which have not been prescribed by Allaah and which in fact He has forbidden. The asl al-deen or basic principle of religion is that the halaal is that which Allaah and His Messenger have permitted, and the haraam is that which Allaah and His Messenger have forbidden. The religion is that which Allaah and His Messenger have prescribed. No one has the right to go beyond the limits of the Straight Path with which Allaah sent His Messenger. Allaah says (interpretation of the meaning):

“And verily, this is My straight path, so follow it, and follow not (other) paths, for they will separate you away from His path. This He has ordained for you that you may become Al-Muttaqoon (the pious)” [al-An’aam 6:153]

Allaah mentions in Soorat al-A’naam, Soorat al-A’raaf and elsewhere the things for which He condemns the mushrikeen (polytheists, those who associate others in worship with Allaah), which is that they made haraam things which Allaah had not forbidden, such as the baheerah and saa’ibah (camels to which certain taboos were attached for the sake of their idols), and they permitted things which Allaah had forbidden, such as killing their children, and they prescribed in their religion things that Allaah had not permitted. So Allaah says (interpretation of the meaning):

“Or have they partners with Allaah (false gods) who have instituted for them a religion which Allaah has not ordained? [al-Shooraa 42:21]

These things included things that are haraam in and of themselves, which they made into acts of worship, such as shirk (associating others in worship with Allaah) and things which are obscene, such as performing Tawaaf around the Ka’bah naked, etc.

Sheikh Muhammed Salih Al-Munajjid

Appendix C

Taken from:

<http://www.islamqa.com/en/ref/islamqa/82681>

Islam Question & Answer

www.islamQA.com

Is it permissible to swear allegiance to a kaafir ruler?

Is it permissible to swear allegiance to a kaafir ruler?

Praise be to Allaah.

Allegiance (bay'ah) is a pledge to obey. And it is a shar'i contract between the one who swears allegiance and the one to whom allegiance is sworn, namely the ruler or caliph.

Allegiance is sworn to a caliph after the decision makers (ahl al-hill wa'l-aqd) select him; they are the ones who meet the conditions of being trustworthy and of sound opinion.

In al-Mawsoo'ah al-Fiqhiyyah (9/274) it says:

Bay'ah or allegiance, as defined by Ibn Khuldoon in his Muqaddimah, means: a pledge to obey; it is as if the one who swears allegiance is promising his ruler that he will accept his authority with regard to his own affairs and the affairs of the Muslims, and he will not dispute with him with regard to any of that, and he will obey him in any duties that he assigns to him, whether at times of ease or at times of hardship. When they swore allegiance to a ruler and made this pledge, they would put their hands in his as confirmation of the pledge. That is akin to what the seller and purchaser do, so bay'ah or allegiance was accompanied by a handshake. End quote.

It also says (9/278):

The selection by the decision makers of the ruler and their swearing allegiance to him (bay'ah) is the basis of his taking that position. The decision makers (ahl al-hill wa'l-aqd) are the scholars and people of wisdom and high status, whose knowledge is accompanied by other essential conditions: trustworthiness, good character and wisdom. End quote.

Just as there are conditions that must be met by the decision makers, there are also conditions that must be met by the caliph to whom allegiance is sworn. Some of these conditions are the subject of scholarly disagreements, but on others there is consensus. Not one of the scholars disagreed with the condition that the ruler must be a Muslim, because what is implied by bay'ah (swearing allegiance) is the implementation of the laws of Allaah, carrying out of hadd punishments and guarding the borders of Islam, so how can a kaafir implement the laws

of Allaah and do these things? Rather if the ruler is a Muslim and becomes a kaafir, he must be removed from office because of his kufr.

Ibn Hazm (may Allaah have mercy on him) said, discussing the conditions of leadership:

He should be a Muslim, because Allaah says (interpretation of the meaning): “And never will Allaah grant to the disbelievers a way (to triumph) over the believers” [al-Nisa’ 4:141]. Rulership is the greatest of such ways. And Allaah has enjoined us to put the people of the Book in their place and to take the jizyah from them. End quote.

Al-Fasl fi’l-Milal wa’l-Ahwa’ wa’l-Nihal (4/128).

Al-Nawawi (may Allaah have mercy on him) said:

Al-Qaadi said: The scholars are unanimously agreed that a kaafir should not be appointed as ruler, and that if the ruler becomes a kaafir, he must be deposed. End quote.

Sharh Muslim (12/229).

In al-Mawsoo’ah al-Fiqhiyyah (6/218) it says:

The fuqaha’ stipulated conditions for the ruler, on some of which there is consensus and concerning others there is a difference of opinion.

The conditions of rulership on which there is consensus are:

1 – **Islam (i.e., the ruler should be a Muslim)**, because this is a condition of testimony being acceptable and guardianship being valid, which are much less serious issues than rulership. Allaah says (interpretation of the meaning): “And never will Allaah grant to the disbelievers a way (to triumph) over the believers” [al-Nisa’ 4:141]. And rulership, as Ibn al-Qayyim said, is the greatest of such ways. And he is to take care of the interests of the Muslims. End quote.

Based on this, **it is not permissible to swear allegiance to a kaafir ruler**, and if the ruler becomes a kaafir then he should be deposed, according to the conditions that are known to the scholars.

And Allaah knows best.

Islam Q&A

Appendix D



Taken from:

<http://www.islamqa.com/en/ref/9606>

Putting a non-Muslim in charge of the Muslim treasury (bayt al-maal)

A Jewish man is in charge of the Muslim treasury bayt al-maal; he weighs and evaluates the dirhams (coins) that are paid in or out, and his word is accepted. Is it permissible for him to be in charge or not? Will the ruler be rewarded if he fires him and replaces him with a trustworthy Muslim? Will those who help him to do that also be rewarded?

Praise be to Allaah.

It is not permitted for a Jew to be in charge of that, and it is not permitted to leave him in that position. It is not permitted to rely upon his evaluation. The ruler, may Allaah give him strength, will be rewarded for firing him and replacing him with a trustworthy Muslim, and those who help him to do that will also be rewarded. Allaah says (interpretation of the meaning):

“O you who believe! Take not as (your) Bitaanah (advisors, consultants, protectors, helpers, friends) those outside your religion (pagans, Jews, Christians, and hypocrites) since they will not fail to do their best to corrupt you. They desire to harm you severely. Hatred has already appeared from their mouths, but what their breasts conceal is far worse. Indeed We have made plain to you the Ayaat (proofs, evidences, verses) if you understand” [Aal ‘Imraan 3:118].

The meaning of this aayah is: do not take as close advisers who will be deeply involved in your affairs and will be dealing with your secrets and important matters, people other than you, i.e., kuffaar. “They will not fail to do their best to corrupt you” means, they would not hesitate to cause harm and corruption if they are able to. “Hatred has already appeared from their mouths” means, they say, we are your enemies.

And Allaah knows best.

Fataawaa al-Imaam al-Nawawi, 225.

Appendix E

Taken from:

<http://www.islamqa.com/en/ref/6688>

Islam Question & Answer

www.islamQA.com

Whoever does not believe that the kaafirs are kaafirs is himself a kaafir

Is it true that anyone who does not accept that kuffaar are kuffaar is a kaafir himself, even if he prays, believes in the Qur'aan, and the Prophet Muhammad ()? If so, what is the proof for this? Can a person insist on believing that Jews and Christians can be believers and go to heaven after being shown clear evidence against this, and still be considered a Muslim?

Praise be to Allaah.

Yes, this is correct. Whoever is not convinced that the person who disbelieves in the religion of Allaah is a kaafir, does not believe what Allaah has told us about their being kaafirs, and he does not believe that the religion of Islam abrogates all previous religions and that all people must follow this religion no matter what their religion was before.

Allaah says (interpretation of the meaning):

“And whoever seeks a religion other than Islam, it will never be accepted of him, and in the Hereafter he will be one of the losers” [Aal ‘Imraan 3:85]

“Say (O Muhammad): “O mankind! Verily, I am sent to you all as the Messenger of Allaah” [al-A’raaf 7:158]

Al-Qaadi ‘Ayyaad said: hence we regard as a kaafir everyone who follows a religion other than the religion of the Muslims, or who agrees with them, or who has doubts, or who says that their way is correct, even if he appears to be a Muslim and believes in Islam and that every other way is false, he is a kaafir

(Al-Shifaa’ bi Ta’reef Huqooq al-Mustafaa, 2/1071)

Shaykh Muhammad ibn ‘Abd al-Wahhaab (may Allaah have mercy on him) said:

Know that among the greatest things that can nullify Islam are ten things:

Associating others in worship of Allaah alone, Who has no partner or associate. The evidence of that is the aayah (interpretation of the meaning):

“Verily, Allaah forgives not (the sin of) setting up partners (in worship) with Him, but He forgives whom He wills, sins other than that” [al-Nisaa’ 4:116].

This also includes offering sacrifices to other than Allaah, such as to the jinn or at graves.

Whoever regards others as intermediaries between him and Allaah and calls upon them to ask them to intercede for him, is a kaafir according to scholarly consensus.

Whoever does not regard the Mushrikeen as kaafirs or doubts that they are kaafirs or regard their way as correct, is a kaafir according to scholarly consensus.

After enumerating them, he said (may Allaah have mercy on him):

In the case of all these things that nullify Islam, there is no difference whether a person is joking or is serious or is afraid – except in cases where he is forced to do something. All of them are among the things that are very dangerous and which happen very often. The Muslim has to beware of them and fear them happening to him. We seek refuge with Allaah from the things that earn His wrath and His painful punishment, May Allaah bless Muhammad.

(Mu'allafaat al-Shaykh Muhammad ibn 'Abd al-Wahhaab, 212, 213).

Shirk and kufr are the same when it comes to the ruling (hukm)

Ibn Hazm said:

Kufra and shirk are the same; every kaafir is a mushrik and every mushrik is a kaafir. This is the view of al-Shaafa' and others.

(al-Fisl, 3/124).

The Jews and Christians are kuffaar and mushrikeen. Allaah says (interpretation of the meaning):

“And the Jews say: ‘Uzair (Ezra) is the son of Allaah, and the Christians say: Messiah is the son of Allaah. That is their saying with their mouths, resembling the saying of those who disbelieved aforetime. Allaah’s Curse be on them, how they are deluded away from the truth! ... They (Jews and Christians) took their rabbis and their monks to be their lords besides Allaah (by obeying them in things which they made lawful or unlawful according to their own desires without being ordered by Allaah), and (they also took as their Lord) Messiah, son of Maryam (Mary), while they (Jews and Christians) were commanded [in the Tauraat (Torah) and the Injeel (Gospel)] to worship none but One Ilaah (God — Allaah) Laa ilaaha illa Huwa (none has the right to be worshipped but He). Praise and glory be to Him (far above is He) from having the partners they associate (with Him).” [al-Tawbah 9:30-31].

It was reported from Abu Hurayrag that the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “By the One is Whose hand is the soul of Muhammad, not one of this nation, Jew or Christian, will hear of me and will die without having believed in that with which I have been sent, but he will be one of the dwellers of Hell fire.”

(Narrated by Muslim, 153)

Whoever says that the Jews are not kaafirs is disbelieving in the words of Allaah (interpretation of the meanings):

“And their hearts absorbed (the worship of) the calf because of their disbelief” [al-Baqarah 2:93]

“Among those who are Jews, there are some who displace words from (their) right places and say: “We hear your word (O Muhammad) and disobey,” and “Hear and let you (O Muhammad) hear nothing.” And Raa‘ina [in Arabic it means “Be careful, listen to us, and we listen to you”, whereas in Hebrew, it means “an insult”] with a twist of their tongues and as a mockery of the religion (Islâm). And if only they had said: “We hear and obey”, and “Do make us understand,” it would have been better for them, and more proper; but Allaah has cursed them for their disbelief...” [al-Nisa’ 4:46]

“Because of their breaking the covenant, and of their rejecting the Ayaat (proofs, evidences, verses, lessons, signs, revelations, etc.) of Allaah, and of their killing the Prophets unjustly, and of their saying: “Our hearts are wrapped (with coverings, i.e. we do not understand what the Messengers say)” — nay, Allaah has set a seal upon their hearts because of their disbelief, so they believe not but a little. And because of their (Jews) disbelief and uttering against Maryam (Mary) a grave false charge (that she has committed illegal sexual intercourse); And because of their saying (in boast), “We killed Messiah ‘Eesaa (Jesus), son of Maryam (Mary), the Messenger of Allaah,” — but they killed him not, nor crucified him, but it appeared so to them the resemblance of ‘Eesaa (Jesus) was put over another man (and they killed that man)]...” [al-Nisa’ 4:155-157]

“Verily, those who disbelieve in Allaah and His Messengers and wish to make distinction between Allaah and His Messengers (by believing in Allaah and disbelieving in His Messengers) saying, “We believe in some but reject others,” and wish to adopt a way in between. They are in truth disbelievers. And We have prepared for the disbelievers a humiliating torment” [al-Nisa’ 4:150-151]

Whoever says that the Christians are not kuffaar is disbelieving in the words of Allaah (interpretation of the meanings):

“Surely, in disbelief are they who say that Allaah is the Messiah, son of Maryam (Mary)...” [al-Maa’idah 5:17]

“Surely, disbelievers are those who said: “Allaah is the third of the three (in a Trinity).” But there is no Ilaah (god) (none who has the right to be worshipped) but One Ilaah (God —Allâh). And if they cease not from what they say, verily, a painful torment will befall on the disbelievers among them” [al-Maa’idah 5:73]

And he is disbelieving in the words of Allaah concerning the Jews and Christians who do not believe in our Prophet or follow him:

“Verily, those who disbelieve in Allaah and His Messengers and wish to make distinction between Allaah and His Messengers (by believing in Allaah and

disbelieving in His Messengers) saying, “We believe in some but reject others,” and wish to adopt a way in between. They are in truth disbelievers. And We have prepared for the disbelievers a humiliating torment” [al-Nisa’ 4:150-151]

What is there left to say after these clear statements from Allaah, may He be exalted? We ask Allaah to guide us. May Allaah bless our Prophet Muhammad.

Sheikh Muhammed Salih Al-Munajjid

Appendix F

Taken from:

<http://www.islamqa.com/en/ref/59879>

Islam Question & Answer

www.islamQA.com

What is meant by taking the kuffaar as friends? Ruling on mixing with the kuffaar

In the Quraan, it says that we can not take the Kuffaar as awliyaa, but what does that mean? I mean, to what degree? Can we do business with them still? If I'm at school, can we play basketball with them? Can we talk to them about basketball and stuff? Can we hang out with them as long as they keep their beliefs to themselves? The reason I ask is because someone I know does hang out with them in this way and it doesn't affect his beliefs, but I still tell him, "Why don't you hang out with the muslims instead?" He says that most or many of the Muslims drink and take drugs where they hang out and they have girlfriends and he's afraid that the sins of the Muslims will lure him, yet he's sure that the Kufr of the Kaafirs will not lure him because that's something that isn't attractive to him. So is hanging out with them, playing sports with them, and talking with them about sports considered as "taking them as awliyaa instead of the believers" keeping in mind that he is doing that for his own eemaan?

Praise be to Allaah.

Firstly:

Allaah has forbidden the believers to take the kaafireen (disbelievers) as friends, and He has issued a stern warning against doing that.

Allaah says (interpretation of the meaning):

“O you who believe! Take not the Jews and the Christians as Awliyaa’ (friends, protectors, helpers), they are but Awliyaa’ of each other. And if any amongst you takes them (as Awliyaa’), then surely, he is one of them. Verily, Allaah guides not those people who are the Zaalimoon (polytheists and wrongdoers and unjust)” [al-Maa’idah 5:51]

Shaykh al-Shanqeeti (may Allaah have mercy on him) said:

In this verse Allaah tells us that whoever takes the Jews and Christians as friends is one of them because of his taking them as friends. Elsewhere Allaah states that taking them as friends incurs the wrath of Allaah and His eternal punishment, and that if the one who takes them as friends was a true believer he would not have taken them as friends. Allaah says (interpretation of the meaning):

“You see many of them taking the disbelievers as their Awliyaa’ (protectors and helpers). Evil indeed is that which their ownselves have sent forward before them; for that (reason) Allaah’s Wrath fell upon them, and in torment they will abide.

81. And had they believed in Allaah, and in the Prophet (Muhammad) and in what has been revealed to him, never would they have taken them (the disbelievers) as Awliyaa’ (protectors and helpers); but many of them are the Faasiqoon (rebellious, disobedient to Allaah)” [al-Maa’idah 5:80-81]

Elsewhere Allaah forbids taking them as friends and explains the reason for that, as He says (interpretation of the meaning):

“O you who believe! Take not as friends the people who incurred the Wrath of Allaah (i.e. the Jews). Surely, they have despaired of (receiving any good in) the Hereafter, just as the disbelievers have despaired of those (buried) in graves (that they will not be resurrected on the Day of Resurrection)” [al-Mumtahanah 60:13]

In another verse Allaah explains that this is so long as they are not taken as friends because of fear or taqiyah (i.e., being friendly with them in order to avoid harm); if that is the case then the one who does that is excused. Allaah says (interpretation of the meaning):

“Let not the believers take the disbelievers as Awliyaa’ (supporters, helpers) instead of the believers, and whoever does that, will never be helped by Allaah in any way, except if you indeed fear a danger from them” [Aal ‘Imraan 3:28]

This verse explains all the verses quoted above which forbid taking the kaafirs as friends in general terms. What that refers to is in cases where one has a choice, but in cases of fear and taqiyah it is permissible to make friends with them, as much as is essential to protect oneself against their evil. That is subject to the condition that one’s faith should not be affected by that friendship and the one who behaves in that manner out of necessity is not one who behaves in that manner out of choice.

It may be understood from the apparent meaning of these verses that the one who deliberately takes the kuffaar as friends by choice and because he likes them, is one of them. End quote.

Adwa’ al-Bayaan, 2/98,99

One of the forms of making friends with the kaafirs which is forbidden is taking them as friends and companions, mixing with them and eating and playing with them.

In the answer to question no. [10342](#) we have quoted Shaykh Ibn Baaz as saying:

Eating with a kaafir is not haraam if it is necessary to do so, or if that serves some shar’i interest. But they should not be taken as friends, so you should not eat with them for no shar’i reason or for no shar’i purpose. You should not sit and chat with them and laugh with them. But if there is a reason to do so, such as eating with a guest, or to invite them to Islam or to guide them to the truth, or for some other shar’i reason, then it is OK.

The fact that the food of the People of the Book is halaal for us does not mean that we may take them as friends and companions. It does not mean that we may eat and drink with them for no reason and for no shar'i purpose.

Shaykh Muhammad al-Saalih al-'Uthaymeen (may Allaah have mercy on him) was asked about the ruling on mixing with the kuffaar and treating them kindly hoping that they will become Muslim. He replied:

Undoubtedly the Muslim is obliged to hate the enemies of Allaah and to disavow them, because this is the way of the Messengers and their followers. Allaah says (interpretation of the meaning):

“Indeed there has been an excellent example for you in Ibraaheem (Abraham) and those with him, when they said to their people: ‘Verily, we are free from you and whatever you worship besides Allaah, we have rejected you, and there has started between us and you, hostility and hatred for ever until you believe in Allaah Alone’” [al-Mumtahanah 60:4]

“You (O Muhammad) will not find any people who believe in Allaah and the Last Day, making friendship with those who oppose Allaah and His Messenger (Muhammad), even though they were their fathers or their sons or their brothers or their kindred (people). For such He has written Faith in their hearts, and strengthened them with Rooh (proofs, light and true guidance) from Himself” [al-Mujaadilah 58:22]

Based on this, it is not permissible for a Muslim to feel any love in his heart towards the enemies of Allaah who are in fact his enemies too. Allaah says (interpretation of the meaning):

“O you who believe! Take not My enemies and your enemies (i.e. disbelievers and polytheists) as friends, showing affection towards them, while they have disbelieved in what has come to you of the truth” [al-Mumtahanah 60:1]

But if a Muslim treats them with kindness and gentleness in the hope that they will become Muslim and will believe, there is nothing wrong with that, because it comes under the heading of opening their hearts to Islam. But if he despairs of them becoming Muslim, then he should treat them accordingly. This is something that is discussed in detail by the scholars, especially in the book Ahkaam Ahl al-Dhimmah by Ibn al-Qayyim (may Allaah have mercy on him).

Majmoo' Fataawa al-Shaykh Ibn 'Uthaymeen, 3, question no. 389.

Secondly:

With regard to what this person says about not mixing with sinful Muslims for fear that he may be tempted by their sins, but the kufr of the kuffaar does not tempt him, the answer to that is:

As for not mixing with Muslims who commit sin, he is doing well thereby, if he is not able to advise them and forbid them to do evil, and he fears that he may fall into the same sins and think it is something good.

With regard to mixing with the kuffaar, the reason why mixing with the kuffaar is not allowed is not only the fear that one may fall into kufr, rather the main reason for this ruling is their enmity towards Allaah and His Messenger and the believers. Allaah has indicated this reason in the verse where He says (interpretation of the meaning):

“O you who believe! Take not My enemies and your enemies (i.e. disbelievers and polytheists) as friends, showing affection towards them, while they have disbelieved in what has come to you of the truth (i.e. Islamic Monotheism, this Qur’aan, and Muhammad), and have driven out the Messenger (Muhammad) and yourselves (from your homeland) because you believe in Allaah your Lord” [al-Mumtahanah 60:1]

So how can it be appropriate for a Muslim to keep company with the enemy of Allaah and his enemy, and make friends with him?

How can he be certain that he will not start to think of their ways as good? Many Muslims have fallen into kufr and heresy and have apostatized from Islam because of keeping company with the kuffaar and living in their countries. Some of them have become Jews and some have become Christians, and some have embraced atheistic philosophies.

We ask Allaah to make us steadfast in following His religion.

See also the answer to question no. [2179](#), which explains the important principle of the prohibition on taking the kuffaar as close friends. It also describes many forms of the kinds of friendship that are forbidden.

In the answer to question no. [43270](#) you will find the ruling on saying that the morals and manners of the kuffaar are better than those of the Muslims, and there is a quotation from Shaykh Ibn Baaz on the prohibition on saying such a thing.

In the answer to question no. [26118](#) and [23325](#) it is stated that it is forbidden to keep company with the kuffaar and make friends with them.

And Allaah knows best.

Islam Q&A

Appendix G

Taken from:

<http://www.islamqa.com/en/ref/2179>

Islam Question & Answer

www.islamQA.com

Clarification of the important rule: it is haraam to take kaafirs as close friends and protectors

We hope that you will be able to explain, with examples, what is meant by the phrase, “Taking kaafirs as close friends and protectors is haraam.”

Praise be to Allaah.

Yes, examples will certainly explain and clarify what is meant, so we will move straight on to quoting some of the most important points that the scholars and leaders of da’wah have said about different ways of showing friendship towards kaafirs.

Accepting their kufr and doubting that it is kufr at all, or refraining from labelling them as kaafirs, or praising their religion. Allaah says about the kufr of the one who accepts them (interpretation of the meaning): “... but such as open their breasts to disbelief...” [al-Nahl 16:106]. Allaah says, making it obligatory to label the kaafirs as such (interpretation of the meaning): “... Whoever disbelieves in Taaghoot [false deities] and believes in Allaah, then he has grasped the most trustworthy handhold that will never break...” [al-Baqarah 2:256]. Allaah says about the munaafiqoon (hypocrites) who prefer the kuffaar to the Muslims (interpretation of the meaning) “... [they] say to the disbelievers that they are better guided as regards the way than the believers (Muslims).” [al-Nisa’ 4:51].

Referring to them for judgement. Allaah says (interpretation of the meaning): “... they wish to get for judgement (in their disputes) to the Taaghoot (false judges, etc.) while they have been ordered to reject them...” [al-Nisa’ 4:60]

Befriending and liking them. Allaah says (interpretation of the meaning): “You will not find any people who believe in Allaah and the Last Day, making friendship with those who oppose Allaah and His Messenger...” [al-Mujaadilah 58:22]

Inclining towards them, relying upon them and taking them as a support. Allaah says (interpretation of the meaning): “And incline not towards those who do wrong, lest the Fire should touch you...” [Hood 11:113]

Helping and supporting them against the Muslims. Allaah says (interpretation of the meaning): “The believers, men and women, are awliya’ (helpers, supporters, friends, protectors) of one another...” [al-Tawbah 9:71]. He also says of the kuffaar that they are “but awliya’ (helpers, supporters, friends, protectors) to one another...” [al-Maa’idah 5:51].

And He says (interpretation of the meaning): "...And if any amongst you takes them as awliya', then surely he is one of them." [al-Maa'idah 5:51].

Becoming members of their societies, joining their parties, increasing their numbers, taking their nationalities (except in cases of necessity), serving in their armies or helping to develop their weapons.

Bringing their laws and rules to the Muslim countries. Allaah says (interpretation of the meaning): "Do they then seek the judgement of the Days of Ignorance?..." [al-Maa'idah 5:50]

Taking them as friends in general terms, taking them as helpers and supporters, and throwing in one's lot with them. Allaah forbids all this, as He says (interpretation of the meaning): "O you who believe! Take not the Jews and the Christians as awliya' (friends, protectors, helpers, etc.), they are but awliya' to one another..." [al-Maa'idah 5:51].

Compromising with them and being nice to them at the expense of one's religion. Allaah says (interpretation of the meaning): "They wish that you should compromise (in religion out of courtesy) with them, so that they (too) would compromise with you." [al-Qalam 68:9]. This includes sitting with them and entering upon them at the time when they are making fun of the Signs of Allaah. Allaah says (interpretation of the meaning): "And it has already been revealed to you in the Book that when you hear the Verses of Allaah being denied and mocked at, then sit not with them, until they engage in a talk other than that; (but if you stayed with them), certainly in that case you would be like them..." [al-Nisa' 4:140]

Trusting them and taking them as advisors and consultants instead of the believers. Allaah says (interpretation of the meaning): "O you who believe! Take not as (your) bitaanah (advisors, consultants, protectors, helpers, friends, etc.) those outside your religion (pagans, Jews, Christians, and hypocrites) since they will not fail to do their best to corrupt you. They desire to harm you severely. Hatred has already appeared from their mouths, but what their breasts conceal is far worse. Indeed We have made clear to you the aayaat (proofs, evidence, verses), if you understand. Lo! You are the ones who love them but they love you not, and you believe in all the Scriptures [i.e., you believe in the Tawraat and the Injeel, while they disbelieve in your Book (the Qur'aan)]. And when they meet you, they say, 'We believe.' But when they are alone, they bite the tips of their fingers at you in rage. Say: 'Perish in your rage. Certainly Allaah knows what is in the breasts (all the secrets).' If a good befalls you, it grieves them, but some evil overtakes you, they rejoice at it..." [Aal 'Imran 3:118-120].

Imaam Ahmad and Muslim reported that the Prophet (peace and blessings of Allaah be upon him) went out to (the battle of) Badr, and a man from among the mushrikeen followed him and caught up with him at al-Harraah. He said, "I wanted to follow you and join you, and have some of the war-booty with you." (The Prophet (peace and blessings of Allaah be upon him)) said: "Do you believe in Allaah and His Messenger?" He said, "No." He said, "Go back, I do not need help from a mushrik."

From these texts it is clear that we are forbidden to appoint kaafirs to positions whereby they could find out the secrets of the Muslims and plot against them by trying to do all kinds of harm.

Putting them in administrative positions where they are bosses of Muslims and can humiliate them, run their affairs and prevent them from practising their religion. Allaah says (interpretation of the meaning): "... and never will Allaah grant to the disbelievers a way (to triumph) over the believers." [al-Nisa' 4:141]. Imaam Ahmad reported that Abu Moosa al-Ash'ari (may Allaah be pleased with him) said: "I said to 'Umar (may Allaah be pleased with him). 'I have a Christian scribe.' He said, 'What is wrong with you, may Allaah strike you dead! Have you not heard the words of Allaah (interpretation of the meaning), "O you who believe! Take not the Jews and the Christians as awliya' (friends, protectors, helpers, etc.), they are but awliya' to one another..." [al-Maa'idah 5:51]"? Why do you not employ a haneef [i.e., a Muslim]?" I said, 'O Ameer al-Mu'mineen, I benefit from his work and he keeps his religion to himself.' He said, 'I will never honour them when Allaah has humiliated them, and I will never bring them close to me when Allaah has expelled them from His mercy.'"

Similarly, we should not employ them in Muslim homes where they can see our private matters and they bring our children up as kaafirs. This is what is happening nowadays when kaafirs are brought to Muslim countries as workers, drivers, servants and nannies in Muslim homes and families.

Neither should we send our children to kaafir schools, missionary institutions and evil colleges and universities, or make them live with kaafir families.

Imitating the kaafirs in dress, appearance, speech, etc., because this indicates love of the person or people imitated. The Prophet (peace and blessings of Allaah be upon him) said: 'Whoever imitates a people is one of them.'

It is forbidden to imitate the kaafirs in customs, habits and matters of outward appearance and conduct that are characteristic of them. This includes shaving the beard, letting the moustache grow long, and speaking their languages, except when necessary, as well as matters of clothing, food and drink, etc.

Staying in their countries when there is no need to do so. Allaah forbade the weak and oppressed Muslims to stay among the kaafirs if they are able to migrate. He says (interpretation of the meaning): "Verily! As for those whom the angels take (in death) while they are wronging themselves (as they stayed among the disbelievers even though emigration was obligatory for them), they (angels) say (to them): 'In what (condition) were you?' They reply, 'We were weak and oppressed on earth.' They (angels) say: 'Was not the earth of Allaah spacious enough for you to emigrate therein?' Such men will find their abode in Hell –what an evil destination! Except the weak ones among men, women and children, who cannot devise a plan, nor are the able to direct their way." [al-Nisa' 4:97-98].

Nobody will be excused for staying in a kaafir country except for those who are truly weak and oppressed and cannot migrate, or those who stay among them for a valid religious purpose such as da'wah and spreading Islam in their countries.

It is forbidden to live among them when there is no need to do so. The Prophet (peace and blessings of Allaah be upon him) said: "I disown the one who stays among the mushrikeen."

Travelling to their countries for vacations and leisure purposes. But going there for a legitimate reason – such as medical treatment, trade, and learning specialized skills that cannot be obtained in any other way – is permitted in cases of need, and when the need has been fulfilled, it is obligatory to return to the Muslim world.

This permission is also given under the condition that the would-be traveller has sufficient knowledge to dispel his doubts, to control his physical desires, to demonstrate his religion, to be proud of being Muslim, to keep away from evil places, and to be aware and cautious of the plots of his enemies. It is also permissible, and even obligatory, to travel to their lands for the sake of da'wah and spreading Islam.

Praising them and their civilization and culture, defending them, and admiring their behaviour and skills, without taking note of their false ideology and corrupt religion. Allaah says (interpretation of the meaning): “And strain not your eyes in longing for the things We have given for enjoyment to various groups of them (disbelievers), the splendour of the life of this world that We may test them thereby. But the provision (good reward in the Hereafter) of your Lord is better and more lasting.” [Ta-Ha 20:131]. It is also forbidden to honour them, give them titles of respect, initiate greetings to them, give them the best seats in gatherings, and give way to them in the street. The Prophet (peace and blessings of Allaah be upon him) said: “Do not be the first to greet a Jew or a Christian (do not initiate the greeting), and if you meet one of them in the street, then push him to the narrowest part of the way.”

Forsaking the Islamic calendar and using their calendar, especially since it reflects their rituals and festivals, as is the case with the Gregorian (Western) calendar, which is connected to the supposed date of the birth of the Messiah (peace be upon him), which is an innovation that they have fabricated and that has nothing to do with the religion of ‘Eesa (Jesus). Using this calendar implies approval of their festivals and symbols.

In order to avoid all of that, when the Sahaabah (may Allaah be pleased with them) established a calendar for the Muslims during the time of ‘Umar (may Allaah be pleased with him), they ignored all the systems of the kuffaar and created a new calendar starting from the date of the Prophet’s Hijrah. This indicates that it is obligatory to differ from the kuffaar in this matter and others where it is the matter of distinct characteristics. And Allaah is the Source of Help.

Taking part in their holidays and festivals, helping them to celebrate them, congratulating them on these occasions or attending places where such celebrations are held. The phrase al-zoor [falsehood] in the aayah (interpretation of the meaning) “And those who do not witness falsehood...” [al-Furqaan 25:72] was interpreted as meaning the festivals of the kuffaar.

Using their names that have bad meanings. The Prophet (peace and blessings of Allaah be upon him) changed names whose meanings involved shirk, such as ‘Abd al-‘Uzza and ‘Abd al-Ka’bah.

Seeking forgiveness for them and asking Allaah for mercy for them. Allaah says (interpretation of the meaning): “It is not (proper) for the Prophet and those who believe to ask Allaah’s forgiveness for the mushrikeen, even though they be of kin, after it has become clear to them that they are the dwellers of the Fire (because they died in a state of disbelief).” [al-Tawbah 9:113]

These examples should give a clear picture of what is meant by the prohibition of forming close friendships with the kaafirs. We ask Allaah to keep our belief sound and our faith strong. And Allaah is the Source of Help.

Islam Q&A
Sheikh Muhammed Salih Al-Munajjid

Appendix H

Taken from:

<http://www.islamqa.com/en/ref/36408>

Islam Question & Answer

www.islamQA.com

What conditions should be met in order for the bank's purchase scheme (muraabahah) to be considered permissible

My question is: how sound is the following transaction, what is the ruling on it, what is the ruling on someone who has already gotten involved in it and what should he do?

The details of this muraabahah purchase program (as it is called by the bank) are as follows:

1 – The buyer goes and gets a price list for the bank from the main supplier of the product (a car showroom or agency, for example), including a description of the car, its colour, features and price (100,000 riyals, for example).

2 – The buyer obtains a letter stating his salary, and fills out the required forms to have part of his salary deposited in the bank for the period agreed upon with the bank (for example, three years), to pay off the total cost which includes the basic price plus the bank's profit (for example, 7%).

3 – The contract is drawn up, including the processing fees (1000 riyals for example) and is signed by the bank, the buyer and the witnesses.

4 – The bank issues a draft cheque payable to the showroom or agency (the supplier) for the value of the car as quoted in the price list referred to in #1 above.

5 – The buyer takes the cheque and gives it to the supplier, who then does all the paperwork needed to register the car in the name of the buyer and gives it to him.

Praise be to Allaah.

This transaction is haraam and is not permitted. Basically this transaction is a loan with interest, which is the essence of riba (usury), because the bank gives the buyer a cheque for 100,000 and takes payment for it in installments, adding interest and what they call processing fees.

Calling this a purchase does not make it permissible, because this deal is essentially a riba-based loan and not a sale or purchase. Also, the bank is not buying the car from the showroom or selling it to the buyer, rather it is giving him a cheque for that amount.

Buying products (whether cars or anything else) through the bank is not permissible unless two conditions are met:

1 – The seller should take possession of this product before selling it. So the bank should buy the car, for example, from the showroom for itself.

2 – The bank should take the car into its own possession by moving it (physically) from the showroom before selling it to the customer.

If both or either of two conditions are not met, then the transaction is haraam, and the reason for that is that when the bank did not buy the car for itself in a real sense, rather it only issued a cheque on behalf of its customer, that was a riba-based loan, because essentially the bank loaned the price of the car (say, 100,000 riyals) to the customer on the basis that it would take back 170,000 riyals.

If the bank buys the car then sells it before taking possession of it, that goes against the words of the Prophet (peace and blessings of Allaah be upon him) to Hakeem ibn Hizaam: “When you buy something, do not sell it until you have taken possession of it.” Narrated by Ahmed, 15399; al-Nasaa’i, 4613; classed as saheeh by al-Albaani in Saheeh al-Jaami’, no. 342.

Al-Daaraqutni and Abu Dawood (3499) narrated from Zayd ibn Thaabit that the Prophet (peace and blessings of Allaah be upon him) forbade selling goods when they have been bought, until the merchants had added them to their own goods. This hadeeth was classed as hasan by al-Albaani in Saheeh Abi Dawood.

In al-Saheehayn it is narrated from Ibn ‘Abbaas that the Prophet (peace and blessings of Allaah be upon him) said: “Whoever buys food, let him not sell it until he has acquired it.” Al-Bukhaari, 2132; Muslim, 1525. Muslim added: Ibn ‘Abbaas said: I think that this applies to everything else – i.e., there is no difference between food and other things in this regard. Based on this, the bank does not have the right to sell the car until it has taken possession of it. Goods are taken possession of according to custom, and taking possession of a car means that it is moved physically from where it was. Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said: “Whatever is moveable, such as garments, animals and cars etc, possession is taken of it by moving it, because this is the custom. From Sharh al-Mumti’, 8/381.

It says in Fataawa al-Lajnah al-Daa’imah (13/153): If a person asks someone to buy a specific car for him or a car that has certain features that he describes, and promises to buy it from him, and he buys it and takes possession of it, it is permissible for the one who asked for it to buy it from him after that, with cash or in installments for a known profit. This does not come under the heading of a man selling something that he does not own, because the one who was asked for the product only sold it to the one who asked for it after he had bought it and taken possession of it. He does not have the right to sell it to his friend, for example, before buying it, or after buying it but before taking possession of it, because the Prophet (peace and blessings of Allaah be upon him) forbade selling a product where it was bought, until the merchants had added them to their own goods. End quote.

With regard to the one who engaged in such a transaction in the past, if he did not know at the time that it is haraam, and he did that thinking that it was permissible, then he does not have to do anything, because Allaah says (interpretation of the meaning):

“So whosoever receives an admonition from his Lord and stops eating Ribaa, shall not be punished for the past” [al-Baqarah 2:275]

See also Question no. [2492](#).

But whoever did that knowing that it is haraam has committed the major sin of riba and exposed himself to a declaration of war from Allaah and His Messenger. Allaah says (interpretation of the meaning):

“O you who believe! Be afraid of Allaah and give up what remains (due to you) from Ribaa (from now onward) if you are (really) believers.

And if you do not do it, then take a notice of war from Allaah and His Messenger but if you repent, you shall have your capital sums. Deal not unjustly (by asking more than your capital sums), and you shall not be dealt with unjustly (by receiving less than your capital sums)” [al-Baqarah 2:278-279]

So he has to repent from this major sin, and resolve not to do that again.

With regard to making use of the car that was bought in this manner, there is nothing wrong with doing so, in sha Allaah, after repenting and regretting. See question no. [22905](#).

And Allaah knows best.

Islam Q&A

Appendix I

Taken from:

<http://www.islamqa.com/en/ref/2143>

Islam Question & Answer

www.islamQA.com

Ruling on dealing in bonds

What is the ruling on dealing in bonds that produce fixed returns?

Praise be to Allaah.

A bond is a certificate which, according to its terms, obliges the issuer to pay the bearer the face value plus the agreed amount of interest when it reaches maturity, or to pay other benefits, such as prizes awarded by drawing lots, or payment of a fixed amount, or any discount.

The Islamic Fiqh Council has researched the matter of dealing in bonds and issued the following statement:

Bonds which represent a commitment to pay the face value plus interest, or conditional benefits, are haraam according to sharee'ah, whether one is buying, selling or handling them, because they are considered to be interest-based loans. This applies whether they are issued by private companies or by public bodies run by the state. The fact that they are forbidden is not affected by giving them other names such as "certificates", "investment documents" or "savings", or calling the interest "profit", "commission" or "returns".

Also forbidden are bonds that offer prizes, because these are loans made on the condition that the benefits or increase will go to the group loaning the money, or to one of them, who is not specified at the time of investment, in addition to the fact that this is based on the idea of gambling.

Another kind of forbidden bonds, which it is haraam to buy, sell or handle, is bonds or documents based on bidding for a specific project or activity from which the owners will not benefit in any definite way, but will only receive a share of the profits according to the number of bonds or documents that they own, and they will only receive this profit if the project is actually carried out.

And Allaah knows best.

Majma' al-Fiqh al-Islami, p. 126

Appendix J

Taken from:

<http://www.islamqa.com/en/ref/10646>

Islam Question & Answer

www.islamqa.com

The difference between Waqf and Endowment/trust fund

I would like to know what is waqf and the differences between Islamic waqf and endowment or trust fund used in the West. To what extent can waqf benefit the non-Muslims. For example can we give scholarships using waqf fund on them? Do you think waqf can be part of economic system or alternative to help Muslim countries for their economic growth? In your expert opinion, what are the potential problems or hurdles that should be considered in developing waqf?

Praise be to Allaah.

Waqf means freezing the capital or property, and not disposing of it by selling, giving or inheriting, or in any other way, so that any income or earnings are to be disposed of in the manner dictated by the person who initiated the waqf, for charitable purposes and the like.

A gift or bequest means giving up possession of some wealth to someone who will benefit from it and who has full power of disposal over it.

In the case of waqf, the best is to use it for charitable purposes. If it is used for the purpose of calling non-Muslims to Islam, if there is the hope that they will enter Islam and it is most likely that they will do so, there is nothing wrong with that, because if the obligatory zakaah money may be used to soften people's hearts towards Islam, then it is more apt that the money derived from waqf should be used for this purpose. But it is better to use it in charitable projects, because the benefit from them is certain rather than merely hoped for.

Waqf may be used to energize the Islamic economic system, so that waqf funds may be disposed of in ways that are permitted by sharee'ah in order to promote the growth of the Islamic economic system.

Any problems that may be expected with regard to waqf come from the heirs and relatives, and the way in which the profits should be distributed among the needy.

‘Abd al-Kareem al-Khudayr

Appendix K

Extract from the Solemn hearing of the European Court of Human Rights on the occasion of the opening of the judicial year, Thursday, 22 January 2004, speeches by Mr Luzius Wildhaber, President of the European Court of Human Rights and Antônio Augusto Cancado Trindade, President of the Inter-American Court of Human Rights:

Noting that the Welfare Party had pledged to set up a regime based on sharia law, the Court found that sharia was incompatible with the fundamental principles of democracy as set forth in the Convention. It considered that "sharia, which faithfully reflects the dogmas and divine rules laid down by religion, is stable and invariable. Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it". According to the Court, it was difficult to declare one's respect for democracy and human rights while at the same time supporting a regime based on sharia, which clearly diverged from Convention values, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women and the way it intervened in all spheres of private and public life in accordance with religious precepts.

This can be found at page 2 of the speeches at the following link:

http://www.echr.coe.int/NR/rdonlyres/29AC6DBD-C3F8-411C-9B97-B42BE466EE7A/0/2004_Wildhaber_Cancado_Trindade_BIL_opening_legal_year.pdf.

For further information on Turkey's ruling party, see the *Middle East Forum*, 'The Case Against Turkey's Ruling Party' by Michael Rubin, *The American*, June 20, 2008, available at the following link:

<http://www.meforum.org/1924/the-case-against-turkeys-ruling-party>

See also: <http://www.hrw.org/en/news/2008/07/27/court-case-against-turkey-s-ruling-party>.

Appendix L

Taken from:

<http://www.islamqa.com/en/ref/10421>

Islam Question & Answer

www.islamqa.com

The difference between taking the kaafirs as friends and seeking their help

What is the difference between taking the kaafirs as friends (muwaalaah) and seeking their help?

Praise be to Allaah.

Taking the kaafirs as friends (muwaalaah) means supporting them and helping them in matters of kufr, such as the Muslims fighting alongside the kuffaar, such as when the kaafirs launch an assault against a Muslim country and a Muslim befriends them and supports them and helps them in fighting against that country, whether that is with weapons or by supplying them with anything that will help them to fight the Muslims. This is muwaalaah, or a type of friendship that is haraam, because it means joining them and supporting them against other Muslims.

With regard to seeking their help, that depends of the purpose to be served. If that serves the Muslims' interests, there is nothing wrong with it, on the condition that we must beware of their evil and treachery and there be no risk of them betraying us. But if that serves no interest then it is not permissible to seek their help because there is no good in them.

Liqaa'at al-Baab al-Maftooh by Shaykh Muhammad ibn Saalih al-'Uthaymeen, p. 20.

Appendix M

Taken from:

<http://www.islamqa.com/en/ref/3922>

Islam Question & Answer

www.islamqa.com

Who is to say what is halaal and haraam?

Assalamu a'laikum

How can we make things haraam or halaal (such as smoking or avoiding tax or insurance) when Allah (SWT) Himself is the only One to say what is halaal and what is not?

Praise be to Allaah.

Allaah, may He be exalted, says (interpretation of the meanings):

“The command (or the judgement) is for none but Allaah. He has commanded that you worship none but Him...” [Yoosuf 12:40]

“And say not concerning that which your tongues put forth falsely: ‘This is lawful and this is forbidden.,’ so as to invent lies against Allaah. Verily, those who invent lies against Allaah will never prosper.” [al-Nahl 16:116]

“Say [O Muhammad, to the polytheists]: ‘Tell me, what provision Allaah has sent down to you! And you have made of it lawful and unlawful.’ Say [O Muhammad]: ‘Has Allaah permitted you (to do so) or do you invent a lie against Allaah?’” [Yoonus 10:59]

It is only for Allaah to say what is halaal and what is haraam, because He is the Law-giver, and there is no law-giver besides Him. When we say that a given thing is haraam, or halaal, we refer to the evidence in the Book of Allaah and the Sunnah of His Messenger (peace and blessings of Allaah be upon him). Whatever we find is prohibited therein, we take as haraam, and whatever we find is permitted, we take as halaal. We refer to the sayings of the Sahaabah (Companions of the Prophet (peace and blessings of Allaah be upon him) and the Taabi'een (the generation after the Sahaabah) – may Allaah be pleased with them – and the commentaries of the Salaf (first generations of Islam) on the texts of the Qur'aan and Sunnah, and we refer to the sayings and ijtihaad of the scholars.

It is not permissible for us to allow or prohibit however we wish. When new issues come up, if we do not find a text in the Qur'aan or Sunnah, or in the sayings of the scholars of the salaf or the scholars of Ahl al-Sunnah wa'l-Jamaa'ah who came before us, then we have to refer to trustworthy scholars and people of understanding, as Allaah commands us (interpretation of the meaning): “... so ask of those who know the Scripture...” [al-Nahl 16:43]. These are the scholars, who can do ijtihaad, examine the matter and make analogies (qiyaas) with the existing texts of Islam, taking into consideration the principles of necessity, and taking note

of what is harmful to the interests of sharee'ah and what is beneficial, relying on the basic general principles of sharee'ah, such as the aayah (interpretation of the meaning), "... he allows them as lawful al-tayyibaat [(i.e., all good and lawful things as regards things, deeds, beliefs, persons, foods, etc.)...] [al-A'raaf 7:157] and the hadeeth, "There should be no harming nor reciprocating harm" (reported by Ibn Maajah, 2331), and avoiding following whims and desires. Every evil thing that is proven to be harmful is haraam, and every good and beneficial thing is halaal. If it is not known that it is either harmful or beneficial, then the general rule is that it is permissible (mubaah). And Allaah knows best.

Islam Q&A

Sheikh Muhammed Salih Al-Munajjid

Appendix N

The writer of this article is the head of the Islamic Window at HSBC. It can be found at the following link: http://www.islamic-banking.com/shariah/shariah_aom/sn_yaqubi.php. It was written for the Institute of Islamic Banking and Insurance.

Shariah Requirements for conventional banks

By Sheikh Nizam Yaquby
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Many conventional banks and financial institutions are increasingly becoming interested in Islamic finance and investment. How can these conventional banks and institutions enter this market? Is it possible or not? This paper is an initial attempt to lay down the conditions necessary for conventional institutions to comply with and implement when doing so. The most important of these required conditions are: complete segregation of funds; the existence of a Sharia supervisory board; management committed to Islamic financial concepts; safeguarding Muslim investors' funds from negligence, trespass, and fraud; and compliance with the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

Introduction

This write up is a modest contributory note that sets out the most important conditions to be fulfilled when conventional banks and financial institutions, their Articles of Association of which do not comply with the tenets of Islamic law (the sharia), set up any Islamic bank, window, or fund. The importance of this issue cannot be overstated, particularly in view of the wide spread of this trend, over the past few years, and the oft-repeated claims by many parties that their transactions and dealings fully comply with the provisions of the sharia when subjected to scrutiny and examination, this proves otherwise. Little or no research appears to have been conducted on this matter, and therefore this note is a beginning toward this end. It is hoped that specialist research and studies by scholars and academics will follow.

Forms of collaboration and their permissibility

Before delving into the details of these requirements, we have to note that cooperation and overlap between Islamic and conventional financial institutions in managing investments has taken several forms. These include the following:

1) An Islamic financial institution (IFI) offers an investment portfolio, backed by its sharia expertise, but vests management of this portfolio in an external investment manager who undertakes to comply with the IFI's conditions and applies the criteria and standards laid down by the IFI when managing investment.

This is permissible under the sharia if the investment manager complies with the Islamic conditions and his or her success has been proven in more than one instance.

2) A conventional financial institution or bank sells and markets an Islamic product, introduced and planned by an IFI through its sharia expertise. This is also sanctioned by the sharia if it has been proved successful in more than one practical example.

3) Alternatively, a conventional financial institution or bank opens an "Islamic window" on its premises, introduces an investment product marketed as "Islamic," such as a fund, or sets up a private Islamic bank or company. This is the subject of the present discussion.

Some scholars believe that this is not permissible, because conventional financial institutions do not comply, in the first place, with the sharia in terms of their incorporation and statutes. If they do not

comply with Islamic law in their basic charters, how can they claim to comply with it in their funds, branches, or windows?

In addition, the funds of these conventional financial institutions are drawn from prohibited earnings, so how can they invest unlawful funds in Islamic products? The rationale cited by scholars is that these financial institutions or banks are only intent on exploiting practicing Muslim investors and in so doing unfairly compete with Islamic financial institutions.

On the other hand, there is a group of contemporary scholars who permit this type of investment product as long as the sharia conditions laid down for them are satisfied. They argue that dealing, in compliance with the teachings of the sharia, in transactions and their Islamically sound contracts is not confined to a certain group of people. In this view, it is permissible-indeed incumbent-upon whomever can conduct dealings in accordance with the provisions of the sharia to do so. If it is impossible to do so in all contracts, at least one should start with those that are possible. In response to the argument that the source of these funds is unlawful earnings, one may reply that there is nothing to prevent such funds from being purified, cleansed, and subsequently directed to lawful and permissible channels. Jurists say that it is permissible to deal with commingled (mixed) funds-funds that are not purely lawful funds, but rather are mixed, containing both lawful and unlawful money. This is as stated by Ibn Taymiyyah, in his Collection of Fatawa, and by other eminent scholars.

Moreover, the claim that traditional financial institutions desire to unfairly compete with Islamic financial institutions can be refuted by saying that competition is always in favour of the most suitable, efficient, and fittest. This kind of competition may prompt Islamic financial institutions to exercise more diligence and care to introduce better quality products and conduct their activities more efficiently. This is in fact evident in many nations in which competition exists.

On the other hand, conventional financial institutions may gradually convert into full-fledged IFIs if they find this viable and if they have acquired adequate practical experience and sharia practices in this field. There are practical examples to substantiate this argument.

Among scholars and jurists who hold this view are Yusuf Al Qaradawi, Abdul-Sattar Abu Ghuddah, M. Taqi Usmani, Nazih Hammad, Abdullah Al Muslih, and Abdullah bin Sulaiman Al Manea. Economists who also espouse this view include M. Ali Elgari and Monzer Kahf. They all concur that the required conditions, outlined below, necessitate strict compliance.

Required conditions

The most important of these required conditions are: complete segregation of funds; existence of a sharia supervisory board; management that is committed to Islamic financial concepts; safeguarding of Muslim investors' funds from negligence, trespass, and fraud; and compliance with the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI).

a) Complete Segregation of Funds

The funds of the Islamic investment product and those of the financial institution in which sharia provisions are not observed must be completely segregated. The funds of investors who are very diligent and anxious to earn lawful income should not be commingled with those of conventional investors who are not observant of the sharia. Therefore, there should be separate accounts, books, and computer programs evidencing this complete segregation of funds. This matter is not difficult or problematic in view of the availability of modern computer systems, assuming that intentions are sincere and the required expertise is available. This compliance should be enshrined and expressly stated in the statutes or the prospectus.

b) Sharia Supervisory Board

There should be a sharia supervisory board for any institutional Islamic investment body, and that Board should consist of trustworthy scholars who are highly qualified to issue fatawa (religious

rulings) on financial transactions. In addition, they ought to have considerable experience with knowledge of modern dealings and transactions. The Articles of Association, prospectuses, or statutes (depending on the type of activity) should provide for the existence of a sharia board, whose fatawa and resolutions should be binding upon the financial institution's management. It should be independent and free to give opinions on proposed contracts and transactions. The role of the sharia supervisory board should be concurrent with that of the financial institution itself in the sense that it should be formed from the moment the financial institution is incorporated, and that it should provide continued supervision and permanent checking of contracts, transactions, and procedures. This should be expressly provided for in the Articles of Association or the prospectus.

c) Managerial Commitment

The financial institution's management, which is undertaking such business activities, should be fully convinced of the concept and fully committed and dedicated to it. It should be anxious to implement it and comply with the teachings governing it. Unless the entire management is committed and convinced, the business activities and the enterprise will not be foul free or will not escape irregularities and deviation. Regardless of how strict and stringent fatawa and contracts are, this will not ensure sound practices if there is no one sufficiently sincere and committed to implement the principles. However, there is no harm in starting first with the executive senior management, which implement resolutions and subsequently trains the other members of the administrative team. The general manager himself should act as a springboard and set a good example for all in this respect.

d) Safeguarding Muslim Investors' Funds

It is an established principle in Islamic law that the mudarib does not guarantee the mudaraba capital for the capital provider. Hence, investment accounts in Islamic financial institutions are not guaranteed by the mudarib. However, this does not prevent the laying down of a stipulation requiring that the parent conventional financial institution (the original company) guarantee Muslim investors' funds against trespass, negligence, and fraud. Major financial institutions may sometimes shirk their responsibility in this connection by claiming that their Islamic windows, branches, or sections are privately incorporated, among other reasons and excuses. This is wholly unacceptable. Precautions should be taken to guard against this, and a similar policy should be expressly stated in the Articles of Association or the prospectus of the financial institution.

e) Compliance with AAOIFI Standards

The Accounting and Auditing Organization for Islamic Financial Institutions has issued and published a number of accounting and auditing standards that all Islamic financial institutions should comply with and implement. The AAOIFI's activities are considered a fundamental groundwork that underpins Islamic banking activities by keeping them away from individual, personal reasoning. The collective personal reasoning (ijtihad) of the AAOIFI is highly important in this vital aspect of Islamic economic life. Therefore, these standards deserve strict adherence. A number of government authorities and central banks in certain countries have circulated these standards and obliged other financial institutions to comply with them. That is why any party wishing to incorporate or set up an Islamic financial institution should be required to conform to these standards in order to avoid confusion, misunderstanding, and ambiguity, and to seek clarity and sound business activities.

Conclusion

Islamic investment, with its governing sharia rulings and provisions, is an open area for all those wishing to give it a try, provided that they approach it from its front door. They ought to comply with its provisions and honestly deal with people in their communications and transactions. For those who are intent on fraud, cheating, and misleading, all that can be said is that "he who cheats us is not one from us."