

**In the Name of Allah, the Merciful, the Compassionate**

**Fatwa of Shari'a Supervisory Board on**

**Purchase of Shares and their Shari'a Compliance**

All praise to Allah and May peace and blessings be upon His messenger, his family, his companions and all followers of his guidance.

On Thursday the Sha'ban 24, 1444 AH that corresponds to March 16, 2023, the Shari'a Supervisory Board (SSB) of Ahli Islamic, Ahli Bank SAOG (the "Ahli Islamic/Bank") issued the following pronouncement on Purchase of Shares and their Shari'a Compliance:

**1.0. Shares and their Trading**

- 1.1. A share represents an undivided share in the capital of a corporation, just as it represents an undivided share in its assets and the rights associated with it upon conversion of the capital into tangible things, benefits, debts and so on.
- 1.2. It is permissible to buy and sell shares of corporations, on a spot or deferred basis, in which delay is permissible, if the activity of the corporation is permissible irrespective of its being an investment (that is, the share is acquired with the aim of profiting from it) or dealing in it (that is, with the intention of benefiting from the difference in prices).
- 1.3. The fundamental rule is that of prohibition of acquiring shares and transactions (investment and trading) in the shares of corporations that sometimes undertake transactions in Riba and other prohibited things even when their primary activity is permissible, but from this rule subscription and transactions (investment or trading) are exempted with the following conditions:

- 1.3.1. That the corporation does not state in its memorandum of association that one of its objectives is to deal in interest, or in prohibited goods or materials like pork (swine) and the like<sup>1</sup>.

---

<sup>1</sup> Following is a general list of Sharia non-permissible business activities:

- i. Advertising
  - Advertisers of pork, alcohol, gambling, tobacco, and all other non-Islamic activities.
  - Advertising means and modes which contravene the tenets of Islam
- ii. Media & Entertainment
  - Producers, distributors and broadcasters of music, movies, television shows and musical radio shows
  - Cinema operators except News Channels, Newspapers, Sports Channels, Children's Channels, Educational Channels.
- iii. Alcohol
- iv. Financial Services, except:
  - o Islamic Banks,
  - o Islamic Financial Institutions,
  - o Islamic Insurance Companies and
  - o Defined as a company having:
    - Shariah Committee or Shariah scholar to supervise all activities
    - All products are Islamic
    - All investments and non-operating business activities of the company are Islamic
    - Passes the criteria mentioned in this resolution.
- v. Gambling
- vi. Pork related activities
- vii. Pornography
- viii. Tobacco and electronic cigarettes/vaping products
- ix. Recreational cannabis, including products derived from cannabis used recreationally
- x. Cannabis-based products which are produced, sold and consumed under medical supervision for health reasons are considered compliant
- xi. Trading of gold and silver as cash on deferred basis

- 1.3.2. That the collective amount raised as loan on interest – whether long-term or short-term debt – does not exceed 33% of the market capitalization of the corporation, knowingly that raising loans on interest is prohibited whatsoever the amount is. In case this percentage is higher with minor percentage then the SSB will review the case in view of minimal percentage of Shari'a non-compliant income from prohibited activity stated in point 3 below, cash in hand and overall business activity perspective, whether Shari'a exception can be given.
- 1.3.4. That the amount of income generated from prohibited component does not exceed 5% of the total income of the corporation irrespective of the income being generated by undertaking a prohibited activity, by ownership of a prohibited asset or in some other way. If a source of income is not properly disclosed then more effort is to be exerted for identification thereof giving due care and caution in this respect.
- 1.3.5. It is essential for the investing bank to purify the prohibited income of the forbidden element.

## **2.0. Elimination of Prohibited Income**

2.1. It is obligatory to eliminate prohibited income specific to the share that is mixed up with the earnings of the corporations, and this in accordance with the following:

- 2.1.1. The elimination of prohibited income is obligatory on one who is the owner of the share, whether an investor or a trader, at the end of the financial period, even if the payment is due at the time of issuance of the final financial statements whether quarterly, annual or for other period. Accordingly, elimination is not obligatory for one who sells the shares before the end of the financial period.
- 2.1.2. The subject-matter of elimination is the prohibited income specific to the share whether or not the profits have been distributed and whether or not the corporation has declared a profit or suffered a loss.
- 2.1.3. Elimination is not obligatory for the intermediary, agent or manager out of part of their commission or wages, because this is their right in lieu of the work they have undertaken.

- 2.1.4. A differentiation must be made between the concepts of investing in stocks and trading in stocks. Investing in shares is the acquisition of a share with the intention of obtaining its annual profit (revenue). As for trading, it is buying and selling with the intention of obtaining the profit resulting from the difference between the two prices (the purchase price and the sale price), whether the investing bank (or financial institution) does it by itself or through others. Whether the investment bank's dealings are for the benefit of itself or for others as a means of mediation and brokerage.

### 3.0. Purification Process

#### 3.1. Purification is based on two things:

- 3.1.1 The first element is the benefit of the interest-based loan in the event that the bank or financial institution borrows with interest.
- 3.1.2 The second element is the forbidden revenue, whatever its source.

#### 3.2. The purification is as follows:

- 3.2.1. In the case of usurious borrowing, the benefit of the money borrowed on interest must be avoided, from the given net profit. And since the profit is produced from two elements, which are capital and work, and that the forbidden element came from the money taken with interest, in this case the profit resulting from the interest-based loan must be divided into two halves.
- For example, if the interest rate of the loan to the assets is 20%, then 10% of the net profit per share must be disposed of, whether the profit is distributed or not. If there is no profit, then it is not necessary to purify or dispose of anything. The disposal of the interest of short-term loans shall be in proportion to the duration of its stay during the period of time subject to purification.
- 3.2.2. In the event that there is a prohibited income, the entire amount of the prohibited income must be set aside, regardless of the source from which it came, whether or not profits were

made, and whether profits were distributed or not. And if the revenue is not known precisely, it must be calculated approximately in order to discharge the obligation of the dealer.

- 3.2.3. As for the way to get rid of the forbidden element, it is by dividing the total forbidden revenue of the company whose shares are dealt with by the number of shares of that company, so what pertains to each share is obtained, then the result is multiplied by the number of shares owned by that dealer (whether it is an individual, company, fund, etc.). The result of that equation is the amount that must be disposed of.
- 3.2.4. It is not permissible to benefit from the prohibited element in any way, nor to employ it as fictional device (Hilah) in any way, so the dealer does not calculate it from his zakat or from his own charity, nor pay tax from it, nor use it in advertising, or anything else.
- 3.2.5. The responsibility for getting rid of the prohibited element rests with the investor (investing bank or individual) if it deals for itself or if it manages an investment fund or portfolio.

#### 4.0. Shari'a Monitoring and Compliance

4.1. Responsibility to Shari'a compliance with guidelines lies with both corporation issuing IPOs and the investor of the stock. The corporation has to maintain the following compliance criteria:

4.1.1. **Leverage Compliance.** This is measured as:

It is debt to trailing 12-month average market capitalization which is computed as:

$$[(\text{Total Interest} - \text{Bearing Debt}) / (12 \text{ months Average Capital Cap})] \times 100$$

Threshold: 33 percent

Any corporation with a debt to trailing 12-month average market capitalization ratio exceeding 33 percent will be excluded. The justification is payment of a substantial portion of its earnings as interest on debts.

4.1.2. **Liquid Assets Compliance:** This is computed as:

[Cash Deposits + Marketable Securities + Interest-Bearing Instruments / trailing 12-month average market capitalization] x 100

Threshold: 33 percent

4.1.3. **Cash Compliance.** Following conditions for cash holding must be met:

- Accounts Receivables / Market value of Equity (12-month average) < 49 %
- (Cash + Interest Bearing Securities) / Market value of Equity (12-month average) < 33%

4.1.4. **Dividend Purification Ratio.** Investors should calculate the following ratio for purification purposes:

Dividends x (Non-Permissible Revenue / Total Revenue)

And Allah knows what is right.

Sharia Supervisory Board



Dr. Mohammed Taher Al-Ibrahim

(Chairman of SSB)



Dr. Mustain Ali Abdul Hameed

(Deputy Chairman of SSB)

Dr. Abdul Raouf Abdullah Al-Tobi

(SSB Member)

