98152 - Are Investment Certificates Permissible?

the question

What is the ruling on getting involved in Class A, B and C investment certificates?

Summary of answer

The investment certificates that are issued by Riba-based banks of all three types – Class A, B and C – are all prohibited. Certificates of Class A and Class B are prohibited because they are loans that are guaranteed with guaranteed interest. Certificates of Class C are in fact based on Riba and that it is included in the general principle which says that “Every loan that brings a benefit is Riba.”

Detailed answer

Praise be to Allah.

The investment certificates that are issued by Riba-based banks of all three types – Class A, B and C – are all prohibited.

The certificates are bonds which represent a loan with interest, and they vary according to type.

- Class A investment certificates bring interest that is a percentage. This interest is added to the basic value of the certificate, until the time for the certificate ends after ten years.
- Group B investment certificates have a specified rate of interest which is paid every month, or every three months, or every six months, according to the terms of the agreement with the bank. The capital remains and is not subject to loss.

Both types are prohibited because they are loans that are guaranteed, with guaranteed interest. They are not profit sharing (Mudarabah) at all, and if they are described as profit sharing, it is invalid profit sharing.

Islam does not allow profit sharing (Mudarabah) in which the capital of the one who invests is guaranteed and in which the worker who does business with it is given a specified amount of money.

In a statement of the Islamic Fiqh Council, issued during its fourteenth session in Qatar, 8-13 Dhul-Qi`dah 1423 AH (11-16 January 2003), it says:

It is well established that a loan with interest is different from an Islamically-acceptable Mudarabah (profit-sharing) contract, as profit and loss are both borne by the borrower in the case of a loan. In the case of Mudarabah, it is a partnership in which profits are shared, and losses are also shared if they occur, because the Prophet (blessings and peace of Allah be upon him) said: “Whoever is liable for the product he is selling, the profit belongs to him.” (Narrated by Ahmad and the authors of As-Sunan with an authentic Isnad (chain of narrators))

In other words, whatever occurs of returns, growth and increase is only permissible for the one who will bear the consequences if the goods are destroyed, ruined or become defective. The jurists derived from this Hadith the famous juristic principle: “The one who is entitled to profit is the one who will bear any loss.” Moreover, the Prophet (blessings and peace of Allah be upon him) forbade profit earned by trading in something for which one is not liable. (Narrated by the authors of As-Sunan)

There is consensus among the jurists throughout the ages in all Schools of Fiqh that it is not permissible to define the profit of investment in Mudarabah or any other partnership in terms of a specific amount or a percentage of the money invested – in other words, the capital – because that is guaranteeing the capital, which is contrary to the authentic religious texts and leads to no sharing of profit and loss, which is the very essence of partnerships and profit sharing.

This consensus is proven and well established, because there is no report to indicate any contrary view.

Concerning that, Ibn Qudamah (may Allah have mercy on him) said in Al-Mughni (3/34): “The scholars from whom we acquired knowledge are unanimously agreed that Mudarabah contracts

are rendered invalid if one or both parties stipulates that he will receive a specific number of dirhams. Scholarly consensus is valid proof in and of itself.

As the Council is citing this consensus, it urges the Muslims to seek permissible earnings and to avoid prohibited earnings in obedience to Allah, may He be Exalted, and His Messenger (blessings and peace of Allah be upon him)."

No rate of interest is specified in Class C investment certificates , and the investor has the right to claim back the value of the certificate whenever he wishes. The certificate also qualifies him to enter into a regular draw of the numbers of the certificates. This draw is stipulated in the contract with the one who purchases the certificate, meaning that were it not for this draw he would not have joined the program for this type of certificate. This is what dictates that the ruling on it is that it is in fact based on Riba, like the other two classes of certificates, and that it is included in the general principle which says that "Every loan that brings a benefit is Riba."

The scholars of the Permanent Committee were asked:

The National Bank of Egypt issues Class C investment certificates, which are certificates that you buy from the bank, and there is a monthly draw on the purchased certificates. The certificate that is drawn wins a large amount of money, whilst the certificate holder retains the right to return the certificate to the bank and claim its value at any time. What is the Islamic ruling on this huge amount of money that the holder of the winning certificate receives?

They replied:

"If the matter is as described, this transaction is a kind of gambling, and it is a major sin, because Allah, may He be Exalted, says (interpretation of the meaning):

{O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful.

Satan only wants to cause between you animosity and hatred through intoxicants and gambling

and to avert you from the remembrance of Allah and from prayer. So will you not desist?} [Al-Ma’idah 5:90-91]

The one who has engaged in such transactions must repent to Allah and seek His forgiveness; he must stop engaging in such transactions and get rid of whatever he has acquired through them, in the hope that Allah will turn to him in mercy.” (Shaykh `Abd Al-`Aziz ibn Baz, Shaykh `Abd Ar-Razzaq `Afifi, Shaykh `Abdullah ibn Ghadyan, Shaykh `Abdullah ibn Qa`ud. Fatawa Al-Lajnah Ad-Da’imah (13/301-302))

The Islamic Fiqh Council issued a statement that all three classes of investment certificates are prohibited. The statement reads as follows:

“In the name of Allah, the Most Gracious, the Most Merciful.

Praise be to Allah, Lord of the Worlds, and blessings and peace be upon Sayyiduna Muhammad, the Last of the Prophets, and on his family and companions.

Statement no. 62/11/6, regarding bonds:

The Islamic Fiqh Council during its sixth session and conference in Jeddah, Kingdom of Saudi Arabia, 17-23 Sha`ban 1410 AH (14-20 March 1990 CE), after studying the papers, recommendations and conclusions submitted in the symposium on financial markets that was held in Rabat, 20-24 Rabi` Ath-Thani 1410 AH (20-24 October 1989), in cooperation with this Council and the Islamic Institute for Research and Training of the Islamic Development Bank, hosted by the Ministry of Awqaf and Islamic Affairs in the Kingdom of Morocco, and after learning that the bond is a certificate which states that the issuer is committed to pay the bearer the nominal value when it becomes due, in addition to interest on the nominal value of the bond as agreed upon, or giving some other benefit as stipulated – whether it is prizes distributed by a draw , or a stated amount of money, or a discount, the Council has determined the following:

- Bonds which represent a commitment to repay the amount with accrued interest, or a stipulated amount are prohibited according to Islamic law, in terms of issuing, buying or

trading, because they are Riba-based loans, regardless of whether the issuing organisation is private or public, belonging to the state. It makes no difference whether they are called investment certificates or savings certificates or the Riba-based returns are called profit, income, brokerage or returns.

- Zero-coupon bonds are also prohibited, because they are loans that are sold for less than their nominal value, and the purchasers benefit from the difference, as it is regarded as a discount on these bonds.
- Bonds that may win prizes are also prohibited, because they come under the heading of loans in which a benefit or increase is stipulated for a number of lenders, or one of them, but without specifying. That is in addition to the resemblance to gambling.
- Alternatives to bonds that are prohibited – whether in terms of issuing them, buying them or dealing in them – are bonds that are based on profit sharing investment in a project, or specific investment activities, in which there is no interest paid to holders and there is no specific benefit for them; rather they will have a percentage of the profits of the project, commensurate with what they own of these bonds, and they will not receive any profit unless there actually is any.

You can learn more from what is mentioned in statement no. 5 of the 4th session of this council.
End quote.

And Allah knows best.