69762 - Ruling on financial sponsorship; does it make a difference if the debt is transferred from one lender to another?

the question

A man sponsored a company (kafalah maliyah) that borrows from a normal bank. By time, this mentioned bank has merged into another bank. All the rights and responsibilities of the first bank moved to the second bank. Does the new bank have the right to ask for a guarantee of the amount? In other words, does it make a difference if the debt moves from a lender to another?.

Detailed answer

Praise be to Allah.

Firstly:

If the sponsorship that was given to the company was sponsorship for a riba-based loan – which is what appears to be the case from your words, because you say that the bank is “normal”, i.e., riba-based – then it is haraam sponsorship, and comes under the heading of cooperating in sin and transgression, and Allaah forbids that in His words (interpretation of the meaning):

“… but do not help one another in sin and transgression. And fear Allaah. Verily, Allaah is Severe in punishment…”

[al-Maa’idah 5:2]

What you have to do is repent to Allaah for your action, and resolve not to repeat any such thing; and you have to advise the person whom you sponsored to get rid of his loan and haraam financial dealings. You must also withdraw your sponsorship if possible.

But if it is legitimate shar’i sponsorship, and the transaction is not haraam, then your sponsoring of him is permissible; indeed it is a good action, and you will be rewarded for it, and it comes under the heading of kind treatment of people.

Secondly:

It is well known in companies – and it is not contrary to sharee'ah – that when a company is sold or amalgamated into another, then its assets and obligations are transferred to the other company, and everything that is owed to the first company by others is now due to the second company, and what the first company owes is now owed by the second.

Based on this, the new bank is entitled to ask you for the sponsored money.

In the case of a riba-based loan, it is not entitled to ask you for anything more than the capital only, and not the interest, because the Prophet (peace and blessings of Allaah be upon him) said: "The riba of Jaahiliyyah is abolished." Narrated by Muslim (1218).

Al-Nawawi said in Sharh Muslim: His words (peace and blessings of Allaah be upon him) concerning riba, "it is all abolished" refer to the interest on the capital, as Allaah says (interpretation of the meaning): "but if you repent, you shall have your capital sums" [al-Baqarah 2:279]. What I have mentioned is clarification, otherwise what is meant is clear from the words of the hadeeth, because riba is interest, and if riba is abolished then what it means is that the interest is abolished, and the meaning of abolishing is rejecting and annulling. End quote.

And Allaah knows best.