

Mechanism for disposing of the illicit element

The shares of the joint stock companies, in terms of their objectives, activities and controls of dealing in their stocks, fall in three types. Type Three is the companies whose objectives and activities are permissible but some illicit matters may occur in their dealings such as dealing in usurious interest-bearing lending or borrowing activities. In case of dealing with these companies, the following controls must be observed:

First: The following controls shall be in place when investing and trading in the stocks of this type of joint stock companies.

- Permissibility of dealing in the stocks of this type of companies is restricted to exigency. In this regard, if certain joint stock companies are found to comply with avoidance of dealing in usury and can satisfy the need for such dealing, they should be preferred to similar but non-complying companies.
- Total amount of interest-bearing (long or short term) loans shall not exceed 30% of the total market value of assets of the borrowing company unless this value goes below the book value of the assets, with due consideration to the fact that interest-bearing borrowing is impermissible regardless of the volume of the borrowed amount. The market value must be taken from its average for each quarter of the year.
- The revenues generated from the illicit element shall not exceed 5% of the total revenues of the respective company whether such revenue is generated from interest-bearing investment or from the practice of illicit activity, ownership of an illicit item or otherwise. In case certain revenues are not disclosed, efforts and attempts must be exerted to know them, but on a conservative basis.

Secondly: If the conditions of this type of companies change to the extent that the foregoing controls become inapplicable to them, the stocks of these companies must be sold as soon as practically possible, preferably within a deadline not to exceed ninety (90) days from the date of confirmed change of such conditions.

Thirdly: In attempting to know the company activities and the prescribed rates for permissibility to invest or deal in their stocks, reference shall be made to the latest audited or non-audited annual, quarterly or monthly financial statements of these companies which show their objectives.

Fourthly: It is not permissible to participate in establishing companies whose articles of association stipulate that their objectives or activities provide for dealing in illicit transactions.

Fifthly: The investor who invests in these companies shall dispose of the illicit component of the said companies according to the following :

1. The disposition of the illicit element rests on the owner of stocks at the time of issuing the financial statements whether being quarterly or annual statements, and whether the company has distributed dividends or not, in cases of investment and trading .Therefore, the purification of illicit elements is not obligatory to the one who sold the stocks prior to the issuance of those financial statements because the illicit element becomes evident, only post to its issuance whereas the seller has sold it irrespective of its potential gain or loss.
2. The purification should be applied to the prohibited revenue, regardless of its source.
3. The purification process should be as follows :

The amount of the illicit revenue should be disposed of wholly, regardless of its source, and whether it lead to generation of profit or not. However, if the revenue has not been known accurately, it should be computed on an approximate basis in such a manner that leads to giving acquittal.

The amount that should be disposed of by the dealer in stocks is computed by way of dividing the total of the illicit revenue of the company where there is dealing on its stocks, by the number of the company's stocks. The result will be the excluded of the share of each share, and then the outcome will be multiplied by the number of stocks owned by that dealer, and the final result, will be the amount to be excluded of.

Example: if the number of the company's shares is 100.000 shares, and the shareholder owns 2000 shares out of this number, and it is found that the total prohibited revenue equals S.R. 1000 this revenue will be divided by the company's shares $1000 \div 100.000 = 0.01$ Riyals, and the result will be multiplied by the number of shares owned by the shareholder $2000 \times 0.01 = 20$ Riyals, hence the final outcome will be the amount of the illicit element that should be excluded of each share.

4. It is not permitted to benefit from the illicit element in any way or to defraud by any means, i.e. a shareholder should not use this element to pay his Zakat or alms (charities) or tax, or use it in advertisement or announcement, or otherwise. It should be excluded with the intention of an purification, and spend it in different kinds of almsgiving and performance of good deed.