

Kosher Investing?

How poskim from the Bais HaVaad helped develop a halachically compliant managed investment product

By Yossi Krausz



Are your investments glatt kosher? A new financial product is offering a way for investors to ensure that when they make money in the stock market, they're doing it with the strictest view of the *kashrus* of that profit.

The idea of “value investing” or “ethical investing” is one that has been popular on Wall Street for several decades. Muslims and Christians have for a long time had financial products that catered to their religious values. Now the Magni Halakhic Portfolio, administered by Magni Global Asset Management LLC using the guidelines and guidance of the Bais HaVaad Halacha Center, is trying to sell Orthodox Jewish investors on that same idea—a way both to make money and to be assured that one is adhering to *halachah* at the same time.

How did this get off the ground? It originated in part from the idea to create a wider product for Jews, Kurt Lieberman, the chairman and CEO of Magni (pronounced “mag-nigh”) Global, told me.

“We had built other religious portfolios,” he said. “I wanted to do a Jewish portfolio for some time, and with the help of one of my Jewish board members, we had put together a rabbinical panel that provided us with some overall Jewish guidance. However, it was so homogenized across the various sectors of Judaism that it never really resonated with anybody. It was just sitting on the shelf.

“So when Abe Unger called me, I got excited. I could now tune it to a community that would find it very responsive.”

That call from Dr. Abraham Unger—who serves as a professor at Wagner College in Staten Island, a visiting research scholar at Fordham University, and a senior research fellow at NYU’s Marron Institute of Urban Management—was inspired both by Dr. Unger’s work in urban economic development, which heavily involves municipal finance, and by a stint at Lehman Brothers early in his career. He told me he had noticed that *frum* Jews often were able to bring their values into their financial lives



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He took that idea to Morgan Stanley, and their referrals eventually led him to Mr. Lieberman, who had been looking for such an idea.

“Morgan Stanley has since come out with a portfolio for progressive Jewish values, emphasizing ‘*tikkun olam*,’ but nothing that would speak to the Orthodox community,” Dr. Unger said. It contains no concrete halachic concerns.)

They began looking for a *beis din* that could handle the serious, practical *Choshen Mishpat* questions that such a product would require, and they found that the Bais HaVaad Halacha Center was ideal because of the expertise of its *daya-*

nim, the breadth of its network, and its professional conduct and values.

They hired the Bais HaVaad, which produced a 50-page *teshuvah* examining all of the far-ranging questions. With that halachic background and the Bais HaVaad’s guidance, they were able to create the Halakhic Portfolio.

The principles that the Bais HaVaad developed included both negative screens, meaning tests for which companies will certainly be excluded from investment, and positive screens, tests to determine which companies should receive a greater allocation of funding. There were 15 general factors that were used to screen out companies. These included the nature of any Jewish ownership of the company, which requires greater scrutiny in regard to investment; whether the company is involved in selling or producing improper products or services; and whether there are specific *issur v’heter* issues in regard

to the company’s business, such as *basar b’chalav*, *ribbis*, *chametz* or unethical practices.

There is also an investment agreement designed by the Bais HaVaad, similar to the type used in Israel, that helps investors avoid specific halachic problems as well.

The portfolio, like other products of Magni Global, is an individual account, not a mutual fund. The investor owns the underlying stocks, which are managed by Magni Global but are controlled by a separate corporation, Halakhic LLC. Dr. Unger serves as the managing director of Halakhic LLC and as a consultant to Magni Global.

The portfolio is designed for long-term investment, Mr. Lieberman explained, and it won’t have the rapid buy-and-sell patterns characteristic of hedge funds. At the moment, the portfolio is open only to large investors (so-called accredited investors), with a minimum investment of \$100,000. (Mr. Lieberman said that registered investment advisers could also use the portfolio for their clients, with a special arrangement.) Eventually, however, there are plans to use what both Mr. Lieberman and Dr. Unger described as “technologies” to find a way for smaller investors (retail investors) to invest in such a portfolio. They are hoping this option may be available by April.

Rabbi Shmuel Honigwachs is the Bais HaVaad *dayan* who worked on the *teshuvah* and guidelines for the Halakhic Portfolio. Dr. Unger first approached the Bais HaVaad this past summer, and Rabbi Honigwachs began delving into the questions.

The work was a collaborative effort on the part of a number of *dayanim* and *poskim* of the Bais HaVaad, including Rav Dovid Grossman, *Rosh Bais HaVaad*, Rav Yosef Dovid Yoselovsky, Rav Dovid Shlomo

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Englander, Rav Yosef Kushner of the Bais HaVaad's Shabbos division and author of the *sefarim Commerce and Shabbos* and *Commerce and Issurei Hana'ah*, and Rav Yosef Fund of the Bais HaVaad's medical division, all of whom reviewed the guidelines and provided input.

First, Rabbi Honigwachs consulted with his *rebbe*, Rav Shlomo Miller of Toronto, who was in Lakewood at the time.

"He made it clear to me that in his opinion, there's nothing that is *assur al pi halachah* to invest in, except for certain categories which he felt it is a *chillul Hashem* for *Yidden* to invest in," Rabbi Honigwachs said.

Those categories include, for example, a company that is involved in abortion or a company that is owned by a *frum* Jew who should be operating it in a specific way *al pi halachah* but is not.

Rabbi Miller felt that other halachic issues that don't involve *chillul Hashem*, like *basar b'chalav*, the selling of *neveilos* and *treifos*, and *ribbis*, wouldn't be *assur* by the letter of the law because the Jewish investor would have a very small share of the company, so there is a *makom l'hakeil*.

(Rabbi Honigwachs noted that this would not be true in the case of a private equity investment, where an investor may be putting up a much more significant amount of money and have much more influence. In such a case, there could be many serious *sh'eilos mei'ikar hadin*.)

But Dr. Unger and Mr. Lieberman were not just looking for letter-of-the-law requirements or *kulos*. In other aspects of *halachah*, we are often not satisfied to say, "Well, I found a *kula*." Instead, we look to be *machmir* when there are reasons for it.

"If there was a *makom l'hachmir*, they wanted to be *machmir* if possible," Rabbi Honigwachs said. "We're not going to cover every *chumrah* possible, but still, those are only *chumros* when it comes to *ribbis*, *ma'achalos assur*, and *issurei hana'ah*. So we're comfortable saying that we're going to do the best we can and still

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have a financially viable product."

Rabbi Honigwachs therefore worked harder to develop guidelines for investment that could be seen as *mehadrin*, so to speak. Then he approached Rav Moshe Mordechai Karp from Eretz Yisrael, the well-known *posek* and *talmid* of Rav Elyashiv, *zt"l*. Rabbi Honigwachs was particularly interested in hearing Rav Karp's views on the matter because he is known as a *machmir* on a number of issues.

"It ended up that he basically came to a very similar conclusion that we had, which, in a nutshell, was that if it's commonly known that the company engages in a lot of *sechorah* with *neveilos* and *treifos* or with *basar b'chalav*, he felt that it was *meshubach*—praiseworthy—to avoid investing in such a company. Not *assur al pi din*, but praiseworthy to avoid investing in it. Again, it's not *assur al pi halachah*. We're just saying that there's a *makom l'hachmir* with these [companies]."

Rabbi Honigwachs noted that there are two basic issues in regard to these *issurim*. With *ribbis* (for example, owning stock in a company that lends money or something similar) or the *issur* of selling nonkosher food (owning stock in a food company), the problem is that if a stock owner is considered a real owner, then your company—and you—would be engaging in the *issur*

of *ribbis* or dealing in *neveilos* and *treifos*.

"There are *poskim* who believe that any stockholder is an owner," Rabbi Honigwachs said. "Because of those *poskim*, it's *ra'ui l'hachmir* and not to own any stock in these kinds of companies."

Then there are companies that do business with items that are *assur b'hana'ah*—items from which it is forbidden to derive any benefit, such as *basar b'chalav*. In these cases, the question isn't necessarily just about ownership, because if the stock owner can be seen as receiving benefit from the *issurei hana'ah*, that may be *assur* even if he doesn't own it.

"It ends up being very interesting, because even though we're not talking about an issue of *chillul Hashem* here, we're talking about a halachic concern," Rabbi Honigwachs said. "But Rav Karp felt that if the *issurei hana'ah* are not known to be the company's main business, it isn't even a *makom l'hachmir*."

"I understand that the reason is that it's considered a *davar she'eino miskaven* (an unintentional act). It's something that you're not thinking about when you buy and sell the company. You're not really intending to have *hana'ah* from these *issurei hana'ah*. And when it comes to *ribbis* or *sechorah* as well, it might be considered a *davar she'eino miskaven*."

“My conclusion when I wrote the *teshuvah* was that the *heter* would be that the *issurei hana'ah* wouldn't affect the person at all. He wouldn't get *hana'ah* from it. Even though they're selling *issurei hana'ah*, it doesn't matter because he's not actually gaining from it. But the way Rav Karp phrased it was that it shouldn't be obvious to an investor that that's what he's buying.”

Companies whose business involves a significant amount of *issurei hana'ah*, then, would be something to be *machmir* on.

Out of the 500 companies in the S&P 500, they ended up eliminating about 30 to 40, many because of a question of *ribbis*. “Then there were a large number of companies that were *osek in neveilos* and *treifos*,” Rabbi Honigwachs said, “and there were a few companies that sold *basar b'chalav* and *stam yeinam*.” There were also a few companies that fell into the *chillul Hashem* category.

Businesses that explicitly avoid deceptive sales tactics or other ethical issues are included in the positive screen, meaning that they would receive more investment. But some things that might be considered “ethical” in the outside world aren't a consideration in *halachah*, he said.

“Certain companies or institutions that are *keneged haTorah* might be very respected in the world at large because they have all kinds of eco-friendly policies. But it could be that those policies come with an attitude which is anti-Torah and against the *Ribbono Shel Olam*, and Rabbi Miller felt that those might be something to avoid as a *chillul Hashem*.”

Rabbi Honigwachs emphasized that the Bais HaVaad doesn't control or directly oversee the portfolio, so it isn't endorsing the portfolio or Magni Global. “We're not actively supervising the portfolio to make sure that it's being managed ethically, or that it's even following these guidelines,” he said.

However, the Bais HaVaad guidelines and advice are being used by Halakha LLC and Magni Global. (The Bais HaVaad is available to answer questions and give clarification about the guidelines they have provided.) For those who want to know that their investments are as kosher as the chicken they buy or the *tefillin* they wear, this may be the solution.

“Investing halachically should be part of our lives,” Dr. Unger said.

He and Mr. Lieberman see the work they're doing with the Halakha Portfolio as a game-changer, one that may encourage the development of more investment products for the Orthodox community.

“This is, as far as I can tell,” Mr. Lieberman said, “a pioneering work in creating a religious product for a religion that has been underserved as an investing community. I hope that we're creating something where we'll be able to look back in coming decades and say, ‘This is important.’” ●

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