

# FATAWA HOUSE PURCHASE AND MORTGAGE 2003

## Buying a House on Mortgage in the Western Countries

From: Monzer Kahf  
Sent: Monday, January 26, 2004 8:02 AM  
To: Islam on line  
Subject: RE: Buying a House on Mortgage in North America

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

For the considerations you mentioned in your question, the Fatwa of the Second International Fiqh Conference held in Detroit, fall 1999 came. Yes, under the circumstances you mentioned it is permissible to purchase on interest for people who cannot deal with the available non interest financing.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Monday, January 26, 2004 3:29 AM  
To: monzer@kahf.net  
Subject: Buying a House on Mortgage in North America  
Name of Questioner hassan                      Gender Male                      Age 31-45  
Education Post Graduate                      Date Submitted 1/20/2004  
country of Origin Canada                      User Ref. No. 5R2MZW                      country of Res. Canada

Does Shari'ah allow Muslims of North America to mortgage A house if Interest free Housing Finance is not available

Notes

I am Canadian Muslim living in GTA (Greater Toronto Area) InShaAllah I like to buy a house The minimum price for house/townhouse in GTA In a decent neighborhood is \$250,000.0 Currently mortgage companies in Canada are offering Very low mortgage rate for zero down or only 5% down (i.e. approx.

10,000 of cash for 250,000.0 house) and with current mortgage rate of 5% 1200 to 1400 of monthly payment are required for \$250,000.0 house Cheaper than rent for these type of houses which is around 2000.0 for 1200 to 1400 a family of four can only rent an apartment in average neighborhood where crime rate is high. The only Interest free Housing Finance Available in Canada - the Islamic Co-operative Housing Corporation Ltd. (IHC) require a investment of Around \$100,000.0 for a 250,000.0 house The interest free option is almost impossible for Middle class Muslim family, With cost of houses rising 15 to 20 % annually What options Muslims of GTA have Should they spend all there life in an apartment? Where quality of life is poor and crime rate is increasing! Does Shari'ah allow them to mortgage A house under these conditions?

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From: Monzer Kahf  
Sent: Sunday, January 25, 2004 7:16 AM  
To: Islam on line  
Subject: RE: Purchasing a House Through Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Luqman  
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.  
Yes, It is permissible InShaAllah for consideration of schooling, building equity, avoiding high rent, etc. as long as there are no Islamically compatible contracts available to you for house financing. There is a Fatwa in this regards from the Islamic Shari'ah council of Europe and the Second International Fiqh Conference in America (Detroit fall of 1999).  
Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Sunday, January 25, 2004 12:52 AM  
To: monzer@kahf.net  
Subject: Purchasing a House Through Mortgage  
Name of Questioner Luqman Gender Male Age 31-45  
Education Graduate Date Submitted 1/19/2004  
country of Origin Nigeria User Ref. No. XC1J8F country of Res. U K

Assalam Alaikum. I am currently working in Dublin, Ireland. Here in Ireland there is no Islamic financial institutions I know of and I'm not eligible for housing schemes provided by the govt. due to the level of my salary. House rent in Dublin is quite high and both Muslim schools are situated in the capital which I'll like my children to attend InShaAllah, but not possible at the moment because I live outskirts of Dublin. I want to know if it's allowed in Islam to purchase a house through mortgage out of 'necessity'. Or what options do I have considering my current situation. Maasalam

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From: Monzer Kahf  
Sent: Tuesday, October 21, 2003 7:40 AM  
To: Islam on line  
Subject: RE: Buying a House on Mortgage: Follow Up

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. houssam

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

I am not aware that our Ustath Shaikh Yusuf al Qaradawi has changed his Fatwa on the issue of Muslims who live in the West when they buy homes for their own residence. If you want his opinion in Arabic, you have to write him in Arabic his website is: <http://www.qaradawi.net>.

The Fatwa on the issue is: Muslims, living in the West, who need to buy houses to live in must first try to establish Islamic financing institutions and companies to fulfill their needs in accordance with the Shari'ah; this is a Fard Kifayah on those who are able among them. If this does not exist, the second alternative is to deal with conventional finance providers on the basis of contracts that are compatible with Shari'ah, and the last resort after exhausting these two potentialities is to buy on conventional mortgage with the intention to make the least involvement with interest and to pay it as soon as possible.

If you bought under the conditions of the Fatwa and you intend to clear your involvement with interest as quick as you can, there is no sin InShaAllah.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Tuesday, October 21, 2003 3:42 AM  
To: monzer@kahf.net  
Subject: Buying a House on Mortgage: Follow Up  
Name of Questioner houssam      Gender Male      Age 46-60  
Education High School      Date Submitted 10/14/2003  
country of Origin Lebanon      User Ref. No. VCSLNU      country of Res. Australia

salam Alaikum, my question towards shiekh Yousef Qaradawi is that around 2 years ago their was a fatwa given saying that it was permissible to buy a home using interest from a bank as long as we live in it, now your fatwa has changed much since that time....2 years ago we bought a house and are still currently living in it. What is your fatwa for our situation. (can you please give us your response in the laky language) thank you Salamu Alaikum wa ra7matulaahi wa Barakatuh

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From: Monzer Kahf  
Sent: Tuesday, September 02, 2003 9:26 PM  
To: Islam on line  
Subject: RE: Buying a House in California

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Hani

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The Fatwa on the exceptional permissibility of using interest-based mortgage for buying a residence of Muslims in America is conditional of the lack of compatible Islamic financing. If an Islamic company charges more to the extent that makes it non-competitive with others, you consider it as non existing. "Islamic financial institutions are supposed to give you at comparable rates or at lower rates to encourage people to avoid Riba, not to abuse the market and exercise certain monopolistic powers on Muslims who want to abide by the rules of their religion.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Monday, September 01, 2003 6:41 AM  
To: Monzer Kahf

Subject: Buying a House in California

Name of Questioner Hani      Gender Male      Age  
Education      Date Submitted 8/23/2003  
country of Origin      User Ref. No. JSE7EU      country of Residence

Assalamu Alaikum, I am a young Muslim man living in the United States, and I'm trying to the best of my ability to live my life according to Islam. Lately, I've been looking into buying a house. I know that the ruling for taking bank loans is that they are permissible only if there is no other Islamic alternative. However, there is an Islamic financial lending company based in California (I'm not going to name names) that offers loan, but if under their program I will end up paying 1.5 to 2 times what I would pay under a regular bank loan. So what is a Muslim supposed to do in such a situation, when Islamic institutions don't make it feasible, and income is limited?

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From: Monzer Kahf  
Sent: Tuesday, August 26, 2003 1:18 PM  
To: Islam on line  
Subject: RE: mortgage financing

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. JUNAID

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.  
Interest prohibited, no doubt about that. the Prohibition applies to giving, taking, writing its contract or even being a witness to it as the Prophet, pbuh, informed us.

You must know that circumstances of necessities may relax any prohibition. This is a principle that is established clearly in the Qur'an itself too.

What other people do may be under necessity circumstances or not, God is the only One who judge them and their circumstances and who knows what is exactly inside their hearts.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Tuesday, August 26, 2003 1:03 AM  
To: Monzer Kahf  
Subject: Signing an Interest-based Contract?  
Name of Questioner JUNAID            Gender Male            Age 21-30  
Education Graduate            Date Submitted 8/19/2003  
country of Origin Bangladesh            User Ref. No. TGXZ85            Res. U S

Assalamu Alaikum My question is regarding to mortgage loan. As far as I know giving interest and as well as any agreement based on interest is completely prohibited in our religion. Then how come there are so many Muslim are doing this? Is it allowed in our religion to sign any contact based on interest in some circumstances?? Allah hafiz.

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From: Monzer Kahf  
Sent: Monday, August 11, 2003 6:28 AM  
To: farook  
Subject: RE: Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Farook

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

You know your situation better, if taking an interest-based mortgage relieves you from hardship and inconvenience, keeping in mind the unavailability of Shari'ah compatible house financing, you may take it. But there is no excuse to buy on the credit card if you know that you cannot pay its balances during the no interest grace period. You simply do not buy on credit cards! You know there are agencies that extend some help for necessities, especially food and medicines.

There are a few authentic Sayings that give Du'a in such cased please consult the books of the Daily and Nightly Du'a. Some of these are: "Allahumma Inni A'uthu Bika mina al Hammi wa al Hazan, . . . Wa A 'uthu Bika min Ghalabati al Daini wa Qahri al Rijal," Allahumm Inni A'uthu Bika mina al Kufri wa al Faqr wa A'uthu Bika min "athabi al Qabr," Allahumma Wassi' li fi Dari, Allahumma Wassi' li fi Rizqi," etc.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: farook  
Sent: Friday, August 08, 2003 10:17 PM  
To: monzer@kahf.net  
Subject: Mortgage

Assalam Alaikum Dr. Monzer Kahf:

I am in financial problems, and have been for quite a while. I have to pay very high rent 950/mth which exhausts most of my funds. I have a wife and two young children. It is very difficult for us to get by, and I have to purchase many items on credit card. I can't maintain a full-time job because of my health. Therefore, I would like to know if it is permissible for me to take mortgage with interest to purchase a home. My father-in-law is willing to help us with a large portion of down payment. I live in Toronto, Canada.

Also, is there any Du'a for removal of financial difficulty, and acquiring wealth. Your response will be appreciative.  
Jazakullah

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From: Monzer Kahf  
Sent: Wednesday, June 18, 2003 9:18 PM  
To: Islam on line  
Subject: RE: Buying a House with Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. hussam

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

If you need the new house for your expanding family with the new comer, for which you should be very thankful To God, perhaps you should have planned it to begin with, the answer is yes you may buy the house you need. keeping the flat and renting it until it sells in the market is obviously the only solution if you could not sell it now. The general rule is that whenever any one of us has to go for an interest-based transaction one has to minimize one's involvement with interest as much as possible, in terms of period, amount and rate. This implies that when you sell the flat the Islamic advice would be to use your equity to reduce the mortgage on your house.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Tuesday, June 17, 2003 1:53 AM  
To: Monzer Kahf  
Subject: Buying a House with Mortgage  
Name of Questioner hussam Gender Male Age 31-45  
Education Diploma Date Submitted 6/12/2003  
country of Origin Palestine User Ref. No. P9BGA1 country of Res. U K

ahmatu ahmatu. We are a family of two me and my wife who live in London, and a baby is coming on October, I bought a flat last year with a mortgage, this flat consist of one good size bedroom the other is a box room (very small room) which contains 2 computers, we did not planned for the pregnancy, but my wife is pregnant now. We are thinking to sell this flat and buy a house, we already find a house in a good price for our budget, we are trying to sell our flat but its not selling, could we let it out for this year and buy another one with a mortgage as well, till we could sell the flat (the rent of the flat will just be for baying its mortgage no profit) and for limited time till we find some one to buy. The house we find is perfect for our budget and we will not be able to buy another one if we miss this one. Jazaka Allah wa Barakatuh

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From: Monzer Kahf  
Sent: Thursday, June 12, 2003 7:30 AM  
To: Fatwa-team@islam-online.net  
Subject: RE: Buying a House Through Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Sr. nova

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The Second International Fiqh Conference in North America that was held in Detroit in the Fall of 1999 addressed this issue and resolved that: Muslim families who live in the West for considerations of fining suitable living quarters, building equities, schooling for children, social and neighborhood appropriateness, security and safety, tax and financial matters, etc. May go for conventional mortgage provided they are not able to establish or have Islamic companies that provide



Islamically permitted financing contracts or have Islamic contract with non Muslim finance providers.

Of course there are people who do not agree with this opinion, but I share this opinion with many Muslim scholars.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Fatwa-team@islam-online.net

Sent: Thursday, June 12, 2003 3:46 AM

To: Monzer Kahf

Subject: Buying a House Through Mortgage

Name of Questioner noha      Gender Female      Age 31-45

Education Graduate      Date Submitted 6/7/2003

country of Origin Eritrea      User Ref. No. 68WLUH      country of Res. U S

al salam wa Alaikum brother I live in united states of America. we want to buy a house through mortgage. it is cheaper to buy a house than renting an apartment. when you rent an apartment the rent increases every year, also if you have three children they tell you to move to three bedroom apartments, which is more expensive and we can not afford it. when you buy a town house , the mortgage is about \$1300 which we can afford it. I agree with Shaikh al Qaradawi and Dr. Abdullah Shahata, they say buying a house through mortgage is Halal and the dallil is " al dorariat tabih al mahzorat" what do you think, please replay Jazakum Allah Khair from Noha

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### **Why The Exceptions for Mortgage**

From: Monzer Kahf

Sent: Wednesday, January 21, 2004 8:12 AM

To: Islam on line

Subject: RE: Mortgage Transactions

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Asad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Shari'ah as a universal law for humanity has within itself principles that deal with all circumstances. One of the rules of Shari'ah is: There must be exceptions from any prohibition under circumstances of necessity if it happens that a given prohibition under such circumstances damages or inhibits any of the basic objectives for which God sent the Shari'ah, these are: protecting life, religion, mind, property and posterity.

Another rule is: any prohibition may also be relaxed if it makes it difficult to normally promote and protect any of these five objectives provided this hardship affect a mass of persons not only a few (for only a few hardship may be tolerated and they can be helped by the community).

According to these rules the Second International Fiqh Conference held in Detroit and the European Fiqh and Fatwa Council resolved that for Muslims who live in the West, buying houses on interest-based mortgages may be permissible under the following two conditions:

- 1- There is a genuine need (less than necessity) to protect any of the five objectives with regard to the buyer,
- 2- There are no other means from Muslim finance companies or from others but on the basis of contracts permissible in Shari'ah.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Tuesday, January 20, 2004 1:34 AM

To: monzer@kahf.net

Subject: Mortgage Transactions

Name of Questioner Asad

Gender

Age 21-30

Education Post Graduate

Date Submitted 1/6/2004

country of Origin Pakistan

User Ref. No. 5L8SU7

country of Res. U K

Salam respected scholar, I recently read your answer to Riba based transactions. I would like to expand on that and ask whether there are any exceptions to Shari'ah law when considering mortgage transactions. I apologize if you have answered this before but I have a mortgage where I pay interest only every month.

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From: Monzer Kahf

Sent: Sunday, November 23, 2003 6:30 AM

To: Amr

Subject: RE: fatwa on house financing

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Dr. Amr

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The two points you raised are quite legitimate and should really be taken into consideration. Kindly notice, however, that the Fatwa is not based on necessity. The rule of necessity is well known in Shari'ah; it covers cases of extreme damage or destruction to any of the five things for their protection and promotion religion itself was sent down from Havens. These five things are: life, faith, mind, posterity (or human reproduction and future generations) and wealth.

The Fatwa is based on what is called in Shari'ah "a global or general need" with needs being a degree less severe than necessities. The argument is as follows: when a need applies to a large population (or universe) it should then be treated in a way that is similar to necessities with respect to relaxation of prohibition.

(While it is forbidden to take even a small quantity of alcohol, and suppose all cold medicine includes alcohol, that much alcohol that is in medicines is permissible although treating cold is not really a necessity, it is only a temporary relief while the body overcomes the virus, simply because cold patients have a need to get some relief and such a need normally applies to the whole universe of cold patients). It is obvious that there will be many people who can bear the difficulty of sneezing, little temperature and throat pain. But the criteria for relaxing the prohibition are: as a group, or universe, cold patients normally reduce a lot of the pain and inconvenience by taking this medicine.

In other words, it is not the necessity that matters here but the very disadvantages that you mentioned, in regard to income/expenses/ saving, feeling of insecurity, neighborhood quality, residential stability, quality of schooling, services and utilities, building personal equity/wealth, professional and scientific benefits, etc. I mean to say this Fatwa seems to exactly apply to your case, that you may be an ideal example of the large group of Muslims (the Fatwa universe) for whom it was needed. Our religion came to reduce restrictions and eliminate hardship "and he (the Prophet) releases them from their heavy burdens and from the yokes (iron collar types of restrictions) that were (imposed) on them." [the Qur'an 7: 157].

I would add that if I were in your place I would go ahead and purchase a house.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Amr

Sent: Sunday, November 23, 2003 4:17 AM

To: monzer@kahf.com  
Subject: House Mortgage  
Assalamu Alaikum wa Rahmatu Allah wa Barakatuh

Dear Dr Kahf

It gives me a great deal of pleasure to be contacting you in person and I hope you will have the time to read and respond to my message.

I am an Egyptian doctor living in the Scotland. I have been there since 1999 and for the last 4 years I have been renting a flat in order to avoid mortgages, however it is getting too small for the family and the neighborhood is not that good.

Renting a good sized house in a good neighborhood would be very expensive and will put me in an obvious financial disadvantage.

I am aware of the fatwa of European Council for Fatwa and Research in this respect. However there are 2 points I would like to clear from you:

1. Does the fatwa apply if my actual presence in the Scotland is in itself not a necessity as I can return back to Egypt at any time. Taking in consideration that my presence in Scotland is of great scientific, clinical and financial advantages and that we as a family are fully practicing Islam without any restrictions and that our return to Egypt is obviously disadvantageous.
2. With my income in the UK I can rent a house in a good place but this will take up most of my salary, I will not be able to have any significant savings, and I will not feel secure.

Dear Sir, in view of the Fatwa of the European Council for Fatwa and Research and taking in consideration the 2 points I detailed above, can you please give me your opinion if I can buy a house using mortgage (there is no Islamic finance services covering Scotland where I live).

Jazakum Allah Khair and Eid Mubarak

Dr Amr

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From: Monzer Kahf  
Sent: Monday, April 14, 2003 8:46 AM  
To: Islam on line  
Subject: RE: Dealing with Banks and Buying Shares and Stocks

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Sr. Mona

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

First, please relax and have patience; it seems you are either new in Canada or new in dealing with banks! you have rushed too many things together and brushed

them with one phrase: "dealing with banks." as alternative of putting your money at home and wait for a thief to come and grab them! That is why probably you got a vague answer from the Imam or you thought of it as vague at least. Please take the following few points and think about them and if you have any further question please send them without any hesitation. You can consult the Fatwa band at Islam on line or my website at [www.kahf.net](http://www.kahf.net) for further info on this matter:

1)- Interest is certainly forbidden in Shari'ah. The Qur'an (2: 279) used the strongest ever warning with regard to this prohibition by declaring a war from God and his Messenger on those who keep dealing with Riba. Riba is any increment stipulated in a loan contract. a loan is giving money with the condition of returning it in the future. This is exactly what is meant by the word Riba that is mentioned in the Qur'an. For this the word interest is used in our current language.

2)- Banks, in Canada as well as in Egypt, offer several services, some of them are interest-based and some are not. instead of keeping your money at home you can open a current account which is not interest-based, pay your bills, by checks or electronically, get your income deposited in this account either directly or by making a trip to the bank's nearest office. All these services are interest-free.

3)- Getting loans from banks in Canada and from banks in Egypt is forbidden (Haram) because they only give loans that are loaded with interest; certainly the only exception is the case of necessity.

4)- Having credit cards (i.e., signing their contract that include a clause that if you don't pay within the grace period you have to pay interest) and using them are both permissible provided you do not expose yourself to invoking the interest clause. This means you can use them to pay bills and pay within the grace period. withdrawing cash makes interest to begin accumulate from the day of withdrawal (i.e., it does not have a grace period) and delaying full payment until after the due date, both, trigger interest. This means that if you cannot guarantee to yourself complete fulfillment of these two conditions it become forbidden to use credit cards. You know by the way that credit cards charge you a very high interest rate!

5)- Buying a residence with interest-based financing may be permissible under the case of necessity. There are two conditions here too: the family must be in need for a house in consideration to its size, its need to build equity and get settled, close to good schools, etc. and there must be no other alternatives available for financing through Islamically permissible contracts such as a 'lease to own' contract.

6)- Saving accounts and other interest-based transactions with banks, in Canada and in Egypt, are certainly forbidden in our religion and one must not resort to them unless under the necessity rule. In application of the necessity rule one must keep in mind the she is the final judge in determining what is necessary and what

is not but such a decision is going to be scrutinized by the Most Knowing Who cannot be cheated or fooled!

7)- Banks, in Canada and in Egypt, give you the umbrella when it is not rainy, they never give you an umbrella when you needed it most. Try to get any kind of loan (to start a business, for a car, for a house or to go gamble in Las Vegas) for a person who is not financially strong! It will never be given and such a person may end up with the homeless that fill the streets of all big cities in the USA, Canada and to a lesser extent in Egypt only because of the strength of family ties.

8)- Egypt has many social and economic maladies, no doubts about that but its illnesses are not cause by the lack of Canadian or at least Canadian-style banks there. It has plenty of them and only two Islamic banks! Both time and the subject of this Fatwa are not the best space to dwell on these maladies that both you and I know many of their causes anyway.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Monday, April 14, 2003 6:45 AM  
To: Monzer Kahf  
Subject: Dealing with Banks and Buying Shares and Stocks  
Name of Questioner Mona      Gender Female      Age 31-45  
Education Graduate      Date Submitted 4/12/2003  
country of Origin Egypt      User Ref. No. IVWSXF      country of Res. Canada

Al Salamu Alaikum, I'd like to know if dealing with the bank is Haram. In Canada, dealing with banks is in all aspects of life. Having a retirement saving plan, taking a loan to pay for a car or to start a business. Paying a mortgage to buy a house, using credit card to buy every day's needs. All these dealings are associated with interest. If dealing in interest is Haram, what's the option? I can't just put the money I earn at home and worry that it'll be stolen. No one carries money in his/her pocket or keeps it at home. I asked the Imam in the mosque & he gave me a vague answer. Please I need to have a practical solution for this matter. I believe that bank system here is much better than in my home country in Egypt. If a man wants to get married & buy a house he has to work all his life to manage to do that. Some people can't even do it. While here anyone who wants to do the same thing can go & do it tomorrow. Bank system facilitates life here in so many ways. You can start a business of course if you satisfy certain criteria as having a good credit history among other things. Also I'd like to know if buying shares, bonds or stocks is Halal. Jazakoum Allah

Notes

I know that in Egypt there are so many people who can't find jobs, can't start business, can't get married & can't buy every day's needs. It doesn't really matter how educated they are. Obviously that leads to so many social problems as : adultery, zawag orfy( which is a major problem now in Egypt), stealing & killing. Now I'm not saying we don't have this in Canada but at least, if you don't have enough money, you're not doomed for the rest of your life to stay so. You can take a loan & start a business or take a loan and be a partner in a company or buy stocks or shares. I appreciate your prompt reply. Thank you

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### **Shari'ah-Compatible Contracts with Conventional Financiers**

From: Monzer Kahf  
Sent: Sunday, January 11, 2004 5:22 AM  
To: Islam on line  
Subject: RE: 2- Islamic Home Financing schemes

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Sajid

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Before I answer your question I like you to please note that your description of the transaction of house financing in America is not accurate. In house financing (Islamic and otherwise) there is a transaction between two parties only, not three as you thought, the company and you. If the contract between these two parties is compatible with the Shari'ah, that is all what matters. The confusion rightly came from the fact that financing in America has also a wholesale market. In this wholesale market providers of finance turn to big investors, like Fanny Mae and Freddie Mac in house financing, and reassign the contract to them, or sell them the contract. But notice the provider of finance, with whom you contract, is not an agent of Freddie Mac or Fanny Mae.

Now the answer: if the contract between you and the provider is compatible with the Shari'ah, that all what matters to you. In fact, it does not matter at all whether the provider is a Muslim company or not, a company owned by Muslim may offer you an interest-based contract and by the same token a conventional company or

bank may offer you a contract that is compatible with Shari'ah. What matters is the contract itself what does it say and what is in it.

Additionally, it is not of your business what the provider does on its own, if it assigns (sell) the contract to a third party or not is not of your business at all. Don't you notice that when you rent (permissible contract) you do not question where does the landlord get the money for building? is it not normally and in almost in all cases in America that the finance came from banks on interest? If the finance provider is a company owned by Muslims, or that invite Muslims to invest in it by depositing funds in it then it is the responsibility of the owners and investors to be sure that all transactions of the company, with you and with wholesalers, are compatible with Shari'ah.

If the contract is based on buying the house with you, each one owns what he/it pays for, and then renting (leasing you the part of the house that is owned by the company; this kind of contract can be assigned in Shari'ah because it amounts to selling its share in the house to a third party which is absolutely permissible at any price they agree on.

But if the contract creates a debt (as in Murabahah) a Muslim may not sell it for any amount that is different from the face value. This means that no one would buy it for the face value and wait for 30 years to get it money back! In other words, discounting a future debt is not permissible in Shari'ah. However, once again if the provider is not Muslim she/he can do any thing with the debt she/he has on you and it is not of your business or concern, Islamically, to question her/his actions.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Tuesday, January 06, 2004 2:37 AM  
To: monzer@kahf.net  
Subject: 2- Islamic Home Financing schemes

Name of questioner	Gender	Age
Education	Date Submitted 12/30/2003	
Country of Origin	User Ref. No. 7MGBQ8	country of Res.

Assalam O Alaikum Wa Rahmatullahi Wa Barakatuh, This question is regarding Islamic Home Financing schemes that are available in the US these days. Different companies are using different methodologies including Murabahah, Musharakah and others to provide home financing services to Muslims in US.



However, the actual investment is not coming directly from these Islamic financial institutions. Instead of going into the specifics of the issue, I have a very simple question. If there are 3 parties involved in a business transaction, say A, B and C. A is the source of the money, B is the party who is acting as an agent who will provide all services for home buying and would do a contract with C, and C is the client. In this transaction, C has no direct relationship with A because C would only deal with B. Now if there is a Shari'ah-based contract between B and C and C somehow knows that the contract between B and A is not Shari'ah based and involves Riba: 1) Would that be a concern for party C? 2) Is it obligatory for party C to know what is the source of money that B is getting from A to do this business deal? 3) In case if the dealing between B and A is not Shari'ah based, does that invalidate the dealing between B and C while C has no direct contract with A? I would appreciate for any help on this, inSha'Allah. This question is important for many brothers and sisters in US who are willing to buy homes in US but hesitant because of this issue. May Allah (SWT) reward you for any help extended. Wassalam

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From: Monzer Kahf  
Sent: Sunday, April 20, 2003 9:32 AM  
To: Islam on line  
Subject: RE: Fixed Interest Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. zain

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

Interest-based mortgage is prohibited because interest is Riba that is prohibited in the Qur'an and the Sunnah with the strongest terms that include announcing a "war" from God and His Messenger and the "wrath" of God on those who deal with Riba. It doesn't make a difference whether interest is fixed, variable or determined on the basis of other factors as long as it is an increment in a loan.

Of course every rule has exceptions that deal with cases of necessities and overwhelming needs. Those Muslims who have necessities or overwhelming needs may take loans on interest basis to the extent that removes the hardship only.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Sunday, April 20, 2003 1:03 AM

To: Monzer Kahf

Subject: Fixed Interest Mortgage

Name of Questioner zain Gender Male

Age 21-30

Education Post Graduate Date Submitted 4/15/2003

country of Origin Pakistan User Ref. No. 96JEBM country of Res. U K

salaam is a fixed interest mortgage which involves fixed monthly payments for a fixed time Halal. salaam

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### **Islamic House Financing**

From: Monzer Kahf

Sent: Monday, December 15, 2003 10:32 PM

To: Islam on line

Subject: RE: Can I Buy a House with the Contribution of an Islamic Bank?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Hassan

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you think that Islamic Bank will give you money because its depositors love you as their brother in Islam, your expectations will certainly fail! Islamic banks are there to make money for their depositors and share holders. they use Islamically permissible contracts instead of interest-based contracts, and no they are not similar. you are incorrect in seeing them similar.

Actually, your description of the Islamic contract of Murabahah is perfect. This is the way Islamic bank does it and this is the way it should be done in accordance with Shari'ah. the bank buys the property cash for 80 and sells it to you installments for 100. and takes collaterals and guarantees to secure these installments (debts). Do you see the element of purchase and sale to help you only and to make money in this help that is to help you not out of personal love to you

but to make money through buy and sell? Do you see any thing wrong in buy and sell?

Interest in prohibited and the unbelievers of Makkah noticed certain similarity, which is true as I and you see it too, between deferred-payment sale and interest loan, and the Qur'an, marvelously, did not deny the similarity! did not say: you guys are stupid! how come you say sale is just like Riba. Instead the Qur'an said but sale is permissible and Riba is prohibited. In Fact deferred sale can't be prohibited because there is a need for financing. But whence you accept Riba, you will have to accept discounting and rediscounting and pile up huge wealth of debts in the society, layer above layer until what probably they explode in a financial crisis! In sale you cannot pile up debts, you can take collaterals and guarantees to assure payment.

I am sure that Islam on line web is full of explanations of this idea, I did many answers to similar questions myself. Please read it carefully. It is clear, not confused!

For a question on house financing for Muslims in Australia, please either consults the web for answers which I made more than once or rephrase your question and sends it again.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Monday, December 15, 2003 4:32 AM

To: monzer@kahf.net

Subject: Can I Buy a House with the Contribution of an Islamic Bank?

Name of Questioner Hassan                      Gender Male                      Age 31-45

Education Post Graduate                      Date Submitted 12/8/2003

country of Origin Australia                      User Ref. No. IPCF41                      country of Res. Aust.

I have 2 questions related to the system adopted by Islamic banks in Qatar to enable people to purchase homes. I will use an example to illustrate my understanding of the system. I want to buy a house worth \$100,000, and can afford paying \$20,000 cash. The Islamic bank will then make up the difference (\$80,000) to the seller. So, the seller of the house will get my \$20,000 in addition to \$80,000 from the bank. The Islamic bank will then ask me to pay \$10,000 per year for 10 years. Therefore, the bank will ask me to pay \$100,000 for the \$80,000 that was paid to the seller of the house. This is considered by Islamic scholars not to be same as paying interest, because no cash changed hands. Further, the bank will not charge any interest if I miss paying any installment, but

the bank makes it impossible for me to miss a payment by taking a guarantor to the loan, which would be liable for any installment if, for any reason, I am unable to make it. My FIRST QUESTION is if my understanding is correct. If this is correct, it does not look like any different to another bank "not Islamic". In Australia for example, I can ask a bank to contribute \$80,000 as per the above example, and ask the bank to fix an installment for a set number of years, say 10 years. The Australian bank will then use some sort of a projection method to calculate a payment plan and arrive at an annual repayment. This annual repayment may end up being \$10,000 x 10 years, which is exactly the same as the payment of the Islamic bank. My SECOND QUESTION if this method with a non-Islamic bank is not Haram? Please note that: (1) There are no Islamic banks in Australia (2) The cost of borrowing money from the bank this way and repaying it will most likely be to my advantage InShaAllah due to the expected increase in the land value that outweighs the cost of getting the bank involved (3) I checked on your website and found conflicting opinions from scholars on this issue Thank you and Gazak Allah Khair. Salam Alaikum

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From: Monzer Kahf  
Sent: Wednesday, November 19, 2003 6:51 AM  
To: Houzaifa  
Subject: RE: House Mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Houzaifa

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

I like to put for your kind consideration the idea of Islamic financing how it is done by some company and then provoke your thinking about it and solicit your judgment. I'm sure you realize that while it is interest-free Islamic financing is not cost free. If you find a company that prepared a home financing contract with the help, inspection and complete approval of very knowledgeable scholars like Shaikh Taqi Osmani and Shaikh Abd al Sattar Abu Ghuddah, what would be the basis of any claim that such contracts " are not Halal anyway" and how much reliability would you give to such a statement? Compare this contract and the people who contributed to its making with another company that tells you we use the same contract of conventional banks but between us "it is Islamic"!

I certainly do not want to adopt any given company and disavow another. But I like you to make your own judgment. . . By the way a late penalty is permissible if it covers the expenses triggered by delinquent payments, it is not permitted when it disguises interest for the time of delay. Notice that a late penalty is needed as a deterrence too.

If you can refinance with a company that has a contract that is subjected to Shari'ah inspection by reputable Scholars you should go for it unless the cost is kind of tough for you.

Buying from conventional banks directly may hardly be an option because the normal practice of such sales is a cash price plus interest-based loan. Yes, if you can have the sale contract written in such a way that the total amount of installments is the sale price, this contract becomes permissible and you can buy on it from a bank directly. To my knowledge, some private owners (owner financing) may accept to have such a contract but not banks.

Selling the house and forgetting about it is always an option, but doesn't your family need a residence? And does it give you stability and reasonable comfort to buy compared with renting?

It seems to me that under the circumstances, the first best would be to go for refinancing with an Islamic company, after you are satisfied with the contract they offer and who approves of it from Shari'ah point of view. If the cost does not warrant such a transfer and your family need the house stay with the present arrangement in view of the well known Fatwa on the subject until more Islamic companies come in the field and their cost becomes competitive. In the mean while if you find an opportunity to buy on an installment contract from any bank, company or individual you should take it.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Houzaifa

Sent: Monday, November 17, 2003 11:11 PM

To: monzer@kahf.com

Subject: House Mortgage

Salam Alaikum Br. Monzer,

I attended your Zakah presentation at the MCA couple of weeks ago. I was checking your home page, then noticed your Fatwa link about Mortgages. I read most of your Q&A about this subject, and I'd to tell you about my situation and seeking a help from you InShaAllah.

I bought a house 2 yrs ago with a finance with a regular bank. At the beginning I didn't have too much regret about it because all I can afford is 10% and everyone was saying Islamic banks are not Halal anyway. Now, I'm I really not satisfied and I'd like to do one of the followings:

- 1- Sell my house and forget about the whole thing.
- 2- Refinance with an Islamic bank.
- 3- Sell my house then buy a house as a property from a bank or an organization.

As far as #2. I'm reading about lariba & guidance. Lariba is expensive, and I think guidance is little-bit cheaper but still not 100% Halal? Is that true? Is guidance 100% Halal or not? People are telling me that It's not 100% Halal, but still even if I deal with them I'll get rid of Riba, but only deal with non-Shari'ah issues like late penalty. If I deal with them, Am I not committing Riba sin anymore?

As far as #3, how exactly does it work with a property that's owned by a bank. If I buy a house that's owned by bank of America, does that mean I can buy it with payments to be total than the price, but not to get a loan from them? Is in it the same for both, logically?

Please reply with any comments you have about points 1, 2, & 3.

JAK,

Houzaifa

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Date: Mon, 25 Aug 2003 17:35:07 -0700 (PDT)  
From: Abdulai  
Subject: RE: Shari'ah compliant Islamic financed housing.  
To: Monzer Kahf

Wa Alaikum Wa Salaam,

Thank you for your prompt response. I meant to write to you earlier. I saw your name advertised for a Lariba symposium in 2002. I was using Monzer @ instead of Monzer @ .

Alhamdulillah I am able to get through to you.

As per your suggestion on the Lariba contract, I have not seen the full contract but I have seen one page from a friend who purchased his home through them. But I think they use the standard Mortgage forms for their other transactions.

I can fax a copy to you.

I talked with Dr Abdur-Rahman Yahya and he said that the transaction is Shari'ah-compliant and that I am on his neck.

My current situation is that I plan to close Insha Allah on Friday with Lariba.

However I think I feel more comfortably with Guidance Financial because of their scholars and the fatwa on their website. But they are not yet operational in Texas where I intend to make this purchase. My plan is Insha Allah once they become operational I plan to contact them. It may have to cost me more(per closing cost) going to Guidance.

I hope I am making the correct decision. I will appreciate any advice you can offer.

I pray that Almighty Allah(SWT) forgives me for any error I may make by doing this transaction with Lariba and I hope that Almighty Allah(SWT) forgives us all too.(Amin)

Maa Salaam.....Abdulai

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Dawodu

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

Thank you for writing me. You seemed in a Hurry when you called on Friday and it took you two days to write.

house purchase financing in accordance with Shari'ah may take the form of Murabahah or lease/sale contracts.

In Murabahah financing the company buys the house you designate and negotiate with the seller on cash basis and after signing the sale contract and handing over the check and receiving the keys, while still in the closing sitting, sells the house to you on installment basis for the original price plus the profit increment that was agreed upon between you (which is the rate of increment you negotiate with the company). This transaction is made in the form of a contract that normally takes some 8-10 pages.

In lease sale financing the company and you together buy the house you designate on cash basis, you become an owner of a percentage of the house that is equal to the percentage of the down payment to total cost (price plus closing cost) and the company becomes an owner of the rest of the house (=the percentage of the amount it paid to the total cost). Then the company leases to you its share of the house for an agreed upon monthly rent and at the same time it offers you and you accept to buy the company's share of the house for its cost on installments over the period of the lease. This contract is also about 8-10 pages.

In both cases the schedule of equal monthly payments (installments in Murabahah - and rent plus partial purchase in the case of lease/sale) will appear similar and similar to amortization schedule in the interest-based transaction. But such similarity must not deceive you.

Guidance Financial offers the second form of financing that is after you buy the property together it leases/sells to you its share. The contract they offer has been reviewed by a respected group of scholars.

You need to check the written contract offered by Lariba regardless of what they say verbally. If the contract they offer is the same form used by interest-based bank it is then an interest-based loan like any other bank, even if they claim otherwise. If it is a Murabahah or buy together and lease/sale it is most likely in accordance with the Shari'ah. To the best of my knowledge Lariba does not have any scholars who reviews whatever transactions they make.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Dawodu  
Sent: Sunday, August 24, 2003 9:52 AM  
To: monzer@kahf.com  
Subject: Shari'ah compliant Islamic financed housing.

Assalam A Alaikum,  
I will appreciate your feed back with respect to the above named subject. Dr. Siddiqui mentioned that you are well versed in this subject. Having studied the home financing models of Lariba and Guidance financial group. I will appreciate if you could provide an answer to the following question:  
1. Are they Shari'ah compliant?  
2. Amongst both contracts, which one could be considered close to Shari'ah? I am close to getting a house financed through Lariba in Houston by Insha Allah end of the month.  
May Almighty Allah(SWT) bless the Holy Prophet Muhammad(SAW), all Prophets(AS) and all of us.(Amin). May Almighty Allah(SWT) also continue to increase you in knowledge.  
Maa Salaam.....

---

From: Monzer Kahf  
Sent: Sunday, August 03, 2003 11:41 PM  
To: Hassan  
Subject: RE: A new Ijara-based Islamic finance company  
Sensitivity: Private

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Hassan  
Assalamu Alaikum wa Rahmatullahi wa Barakatuh.  
It is very delightful news to hear about a serious concern to provide house financing compatible with the Shari'ah to Muslim consumers in Australia.  
If you are asking me in your personal capacity I'm certainly glad to answer you and spend any time to give you any amount of info I know that may be of benefit to your. The same I do with Islamic non-profit organizations. If you are asking on behalf of the company that offers this new financing, I then charge for my time



because it is a profit making that should pay for what it gets. (This is presently the source of revenue for my consulting business).

Your personal part of the question, it is permissible to work in this kind of company or with it on promotion/commission basis. Just be sure that the customer holds the title certificate partly for her/himself and partly on behalf of the finance provider. In the States this can be done by virtue of the Mutual contract and special forms like a "quit claim."

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Hassan

Sent: Sunday, August 03, 2003 4:48 AM

To: Monzer@Kahf.net

Subject: A new Islamic finance company

Importance: High

Sensitivity: Private

Assalamu Alaikum Dear Dr Kahf,

Alhamdulillah, a new Islamic finance company has emerged in Australia. It relies on mortgage securitization as its source of funding to provide the Muslim community with home finance through Islamic Finance instruments

I would appreciate your opinion on:

The permissibility of financing homes through the offered Ijara wa Iqtina'a product as well as the lawfulness of my earnings if I was to promote, mediate in and facilitate this product to other Muslims.

A brief background:

- \* Median House Prices in most capital cities have soared e.g. in Melbourne \$325K and Sydney \$420 K (where 90% of the Muslim population reside)
  - \* The affordability rate for purchasing houses in Australia is at its lowest for the past 13 years
  - \* High housing costs forced the Federal Government to call in the Productivity Commission to investigate hurdles facing struggling first-home buyers (August 2, 2003).
  - \* The only other option available to the Australian Muslims is a co-op with limited resources; max finance \$160K per applicant, min deposit 20%, and waiting period between 12 to 18 months.
- The product in question is the Ijarah wa Iqtina'a
- Technique and features of the product:
- \* Upon the approval of the finance application, the customer selects the property.
  - \* Pursuant to an Agency Deed between the customer and the financier, the customer purchases the property on behalf of the financier.

- \* The financier then leases it back to the Customer for an agreed period (30 years)
  - \* The Customer's monthly installments (comprising of buy back of the financier's equity and rent components) progressively form an increase in his/her equity in the property so by the end of the 30 year contract the customer attains 100% equity for which the financier offers the option to the customer to buy the property for \$1.00
  - \* The Certificate of Title is in the Customer's name.
  - \* Rent rate is discounted on an annual basis to reflect ongoing occupancy costs
  - \* Any asset appreciation realized on subsequent sale of the property is entirely for the customer.
  - \* The financier interest is only in the full lease payment and other contractual obligations disclosed to the member at the outset.
- I apologize for the long question and I am looking forward to receiving your answer at your earliest convenience.
- Wassalam,  
Hassan

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From: Monzer Kahf  
Sent: Thursday, May 01, 2003 10:14 PM  
To: Islam on line  
Subject: RE: Mortgage from a British Bank

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Elsadeg

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

If this bank you have that calls itself Islamic has a Shari'ah adviser(s) or board that consist of known names in the field of Financial Fiqh, it is no doubt Islamic because these scholars would see to it that banks follows the Shari'ah rules.

It is true however that there are similarities between Riba and permitted financing. Even the Qur'an did not deny such similarities that the Makkan disbelievers mentioned (2: 279) But the Qur'an added that 'God made sale permissible and Riba forbidden" inspite of these similarities because there are differences too that warrant the variation in the Shari'ah ruling. For instance Riba can be given for undisclosed reasons whereas deferred-payment sale can only apply to a commodity (car, house, refrigerator, etc); one is a loan contract the other is a sale contract; etc.

Now, if the Islamic bank sells you the same service at a higher price than conventional banks it means it is exploiting your religiosity. This is certainly forbidden. Islamic banks must be competitive and must sell the financing service at competitive prices, otherwise the Fatwa of resorting to conventional mortgage applies because such an exploitative bank is treated as it never exists.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Wednesday, April 30, 2003 8:00 AM

To: Monzer Kahf

Subject: Mortgage from a British Bank

Name of Questioner Elsadeg                      Gender Male                      Age 31-45

Education Post Graduate                      Date Submitted 4/23/2003

country of Origin Lybia                      User Ref. No. W186EC                      country of Res. U K

Assalamu Alaikum brothers and sisters. I live in the UK, and work as a hospital doctor. I want to buy a house. I heard about the fatwa from sheik Al Qaradawi , who said its permitted to buy house with the mortgage (interest) Currently in the UK there is Islamic bank called AHLI BANK in London (Kuwaiti in origin) They buy the house and then they either sell it to you in a higher price (Murabahah) or they rented to you (Ijara). They are much more expensive than the conventional banks. I would like to know is this Halal? People think that the Islamic banks are doing the same thing but they give it different name. I am really confused WHAT SHALL I DO?

Notes

Since the Fatwa is their Is it ok to take mortgage from British bank or agency.?

-----

### **House Financing in Canada**

From: Monzer Kahf

Sent: Tuesday, December 02, 2003 10:49 PM

To: Ibrahim

Subject: RE: RE: Shari'ah submission

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Ibrahim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh,

I think your consultant does not get the point. Giving security is permissible and has no problem from Shari'ah point of view.

I certainly need more details about this "vendor take back mortgage" what is it? How it works? Give me a detailed example. The way I understand it is the following: 1) a Muslim buyer gets self financing from the vendor (the contractor who built the house) so that the price of the house is inflated by the amount of interest wanted as a return [if this contract is done as principal plus interest it is not permissible but if it is done as higher sale price, it is permissible]. 2) vendor turns back to the CU and sells it these future monthly payments at a discounted price which is presumably the principal of the financing [this transaction does not mean anything to the Muslim buyer because she/he has nothing to do with it. But if the CU is Muslim, it cannot do that because it is a sale of future debt for a present value that is less than its face value, it is not permissible being interest, if the credit union is not Muslim this is none of our concern]. In this case we do not need a Muslim credit union. All we need is the vendor to accept the contract be written without interest (although the future payments are calculated on the basis of interest) and the Ottawa Credit Union to cover the vendor.

Please correct me if I am wrong and give me details to discuss.

Also do we have to hang up on Credit Unions, why not approach banks with our lease/purchase and our Murabahah sale?

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Ibrahim

Sent: Tuesday, December 02, 2003 10:33 PM

To: Dr. Monzer Kahf

As Salam Alaikum, Dr. Kahf,

Jaza-kalla-khairun for your previous email. Here is something that may be interesting to you. FSCO is the regulator in Ontario.

Salam,

Ibrahim

From: Geoffrey

Date: Tue, 2 Dec 2003 15:45:06 -0500

I had a long conversation with ----- at FSCO this afternoon. FSCO has NOT received any submission from any other group on the issue of Shari'ah compliant

mortgages. However, John also noted that FSCO is not likely to even entertain the submission of any concept that would involve the Credit Union becoming owner of the residential properties. In his opinion, the very low limit on the real estate holdings a credit union can have [Regulation 76/95, s. 66(2): "The total book value of all investments by the credit union and its investments in improved real estate in Canada must not exceed 10 per cent of the credit union's regulatory capital and deposits."] makes the concept impractical for a credit union if it wishes to make more than a few Shari'ah "loans". The value of each home financed in this fashion would have be considered part of the credit union's portfolio of investments in improved real estate.

On the other hand, ----- seemed interested in my alternative concept of having the credit union purchase, as an investment, at a discount [to arrive at the full price the vendor wanted on closing anyway], a vendor take back mortgage for the balance of the purchase price [inflated to include imputed "return" for the deferred payments]. The credit union would not receive interest, but it would retain profit from the difference between the discounted price it paid for the stream of payments under the mortgage and the present value of those payments over time. He thinks this could be workable. I did not receive from you a definitive answer as to why this approach might not be acceptable to your Shari'ah scholars, but I speculate that some of your Shari'ah scholars take the position that it is not acceptable for a Muslim to give security for his payment obligations. The vendor take back mortgage would indeed involve the purchaser giving security. Please advise if this is the case, or if this is not a consensus opinion among your scholars. It seems to me that I would be wasting your time and money proceeding with the submission as originally contemplated if the alternative is ultimately acceptable to your scholars.  
Geoffrey

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### **Going For Hajj While Under Mortgage**

From: Monzer Kahf  
Sent: Sunday, November 16, 2003 12:55 PM  
To: Islam on line  
Subject: RE: Hajj, Credit Cards, Mortgage etc...

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Sr. shahla

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you made settlements with all the credit card companies and have now a schedule of payment to go by, it is okay to go for Hajj, but if these are unsettled debts that still accumulate interest, you should start paying these interest-bearing debts before you spend on the Hajj trip because you are not called upon to make Hajj as long as you are under interest-generating debts or under due debts even if they do not carry interest. Going to Hajj while under debts that are not due yet is permissible.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Sunday, November 16, 2003 4:54 AM

To: monzer@kahf.net

Subject: Hajj, Credit Cards, Mortgage etc...

Name of Questioner shahla Gender Female Age 31-45

Education Graduate Date Submitted 11/11/2003

country of Origin Palestine User Ref. No. XZKJBZ country of Res. U S

Assalamu Alaikum wa Rahmatu ALLAH ,dear fadeelat alsheekh MONZER KAHF; me and my husband planning to go to hajj this year with Allah's help, the situation for us with some credit card companies, that we borrowed money from them in the past to recover our loss in the stock market, and we couldn't pay all of it back because we lost all of there money and ours, we still have our salary and we are paying most of the debt by paying 30% or 50% of the money we took from them, some took us to court, and after that we ended up settling with them, too. we regret what happen and we ask SUBHANAHU WA TAA"LA to forgive us, this debt could take years to settle, "several cards " and its lots to handle, we are asking Allah's forgiveness. I feel we need to go to hajj and ask ALLAH for his rahma, we did tawba , Alhamdu lelah, if we do go will it be accepted ?and will it be right hajj! or should we wait? We have the money for hajj ,but the Dain is still .

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From: Monzer Kahf

Sent: Monday, May 26, 2003 6:45 AM

To: Islam on line

Subject: RE: Hajj & Mortgage

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Sr. Maheema

Assalamu Alaikum wa Rahmatullahi wa Barakatuh.

The house purchased in your name may have been purchased out of need and in application of the known Fatwa that excludes cases of needs from the prohibition. Besides, houses purchased on mortgage are normally paid for over an extended period of time. The idea of the Fatwa is to avoid undue pressure on Muslims who live in Non-Muslim countries.

This means that a house purchased according to this Fatwa is to be paid from future income while the purchasers take full charge of conducting normal life and expenses. You certainly may, and probably should, consider helping your parent in making extra payment on the house so that you all can get rid of the interest the soonest possible, but the fact that a house still has future payments to be done (even under conventional mortgage does not prevent you or your parents from going for Hajj. Debts that take priority over Hajj are due debts not future debts for which future income is considered.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Monday, May 26, 2003 12:24 AM

To: Monzer Kahf

Subject: Hajj & Mortgage

Name of Questioner Maheema

RefNo CQRCG

Age 21-30

Education Graduate

Date Submitted 5/23/2003

Country of Origin Bangladesh

Gender Female

Country of Res. U

K

Assalamu Alaikum. My question relates to the system of Interest. My parents purchased a house in my name but I do not pay the mortgage, they do. I would like to go on Hajj next year but I am not sure whether I am eligible to perform Hajj due to the Interest being paid under my name. I have read that you can not perform Hajj if you have debts. Please can you tell me what my position is Islamically. Jazak Allah Khairan

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**Taking a Mortgage for Needs then Giving the House as a Waqf**

From: Monzer Kahf  
Sent: Thursday, November 06, 2003 11:13 AM  
To: Ashraf  
Subject: RE: House & Awqaf

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Ashraf  
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You are, MaShaAllah, a very kind and considered person. This is the true ethics of righteous persons, you may disagree with a Fatwa or not feel comfortable with it but you still respect it and find it useful as long as it comes from a trustworthy 'Alem.

Your intention is very commended, to enrich the community. And your question is very relevant.

In fact some people, even in the past such as al Qadi Shurayh thought that Awqaf contradicts inheritance. But this is a result of a fine confusion and it is incorrect. There is almost unanimity that Awqaf does not violate inheritance.

The fine point here is that creating a Waqf is one of the actions taken by persons who are alive and fully incapacitated to take financial actions and to enter into transactions. The principle in this regard is very expressed by Fuqaha' that "people have absolute authority over what they own." Inheritance if only after death, it is a distribution decreed by God, Ta'ala.

In Application, creating a Waqf through a last will is only valid with the limit of the one third that is permitted within the Wasiyyah. On the other hand creating a Waqf and actually transferring the title of ownership to the, say Islamic center and including a condition that you keep the right to use the property for a given period of time or until death is disposition by persons who are authorized over what they own, it is permissible.

When you want to cross that bridge, you may ask me for a suggested form that I prepared for this kind of Waqf: Waqf with a condition to benefit from the house until death and even by children after death.

Wa Allahu A'lam



Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

Question:

From: Ashraf  
Sent: Thursday, November 06, 2003 9:43 AM  
To: 'monzer@kahf.com'  
Subject: House & Awqaf

Alamo Alaikum Dr Kahf,

I am graduate from The institute of preacher, Ministry of Awqaf, Egypt.  
I have read Dr. al Qaradawi's fatwa regarding buying houses on mortgage and attended your sessions at IMO conference 2003.

As I understand from Dr. Qaradawi fatwa, buying a house on mortgage is consider to be permissible in order to give the community the opportunity to own houses and strength the community financially.

As you mention in your lectures , we have to have an Awqaf to support the community in North America.

Since I do not feel comfortable with buying house on mortgage, if it is only in order to own the house.

So that I am thinking to buy a house on mortgage and live in it, till Insha Allah I pay it completely off and then put in it as Awqaf when me and my family do not need to live in it. (With that I will be at ease that I have fulfilled Dr. Qaradawi reasoning in his fatwa; strength the community financially )

I would like to hear your advice and some information regarding how to put the house as a Awqaf without any conflict with the Islamic Law of inheritance.

Jazak Allah Khairan We Ramadan Mubarak, May Allah bless you and your family for your effort.

I pray to Allah accept from us all and guide us to the straight path.

Ashraf

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### **Paying Earned Interest for the Mortgage**

From: Monzer Kahf  
Sent: Thursday, September 11, 2003 12:40 PM  
To: Islam on line  
Subject: RE: Mortgages

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Shaukat  
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.  
May God give more and more health, wealth and wisdom.

No, your argument does not hold on several grounds (by the way it is very wise of you not to use your money in risky investment). Interest you accumulate from your deposits is not yours because your interest-based deposit contract is invalid in Shari'ah and whatever it generates does not become your property. WHO OWNS IT THEN? The fact is: from Shari'ah point of view it is still owned by the entity that paid it to you (the bank). But notice since it came to you through a contract that is permissible according to the law of the land and because the bank is an interest based entity that will use this money to make more of the evil contracts and transactions you do not return it to the bank. It is treated like any property that has no known owner, it must be given to the poor and needy and to serve the general interests of the Muslim community. You cannot dispose of it to your own benefit, to discharge of an obligation you freely contract, though it is forbidden in the Shari'ah.

If you freely enters into a Shari'ah-prohibited contract you are required to fulfill it and you also carry (I hate to say it) the sin of your action. The Qur'an considers Riba contracts as one of the literally worst sins that may ever be committed, a sin that calls for a war from God and His Messenger (2:279). The prophet considers it as one of the seven gravest sins and he said "the wrath of God is on the person who takes it, the one who gives it, the writer and the two witnesses." You cannot justify entering into a prohibited mortgage if you have millions in the bank, either use some of them to buy your home or borrow from them (i., e., from yourself even if the regulations require you to pay interest to your own retirement account, this is permissible because you own this account alone). Besides it is financially wrong because you pay 6% or more on the mortgage and you receive 1% or so on the deposits.

I may suggest to you some safe investment of your money also, put it in an Islamic bank in your country if it has one or in a country that is financially open to non-residents to have bank accounts.

Avoidance of taking and giving Riba is required from every Muslim to the best she/he can and countering a Riba by entering in more Riba contracts is against the rational limits and certainly in violation of the Shari'ah rules and principles.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam

Sincerely,  
Dr. Monzer Kahf

Question:

From: Islam on line  
Sent: Thursday, September 11, 2003 3:41 AM  
To: monzer@kahf.net  
Subject: Mortgages  
Name of Questioner Shaukat Gender Male Age  
Education Graduate Date Submitted 8/31/2003  
country of Origin Bangladesh User Ref. No. RKNGYH country of Res. Canada  
Can I pay the "interest part" of the mortgage from the interest that I got from the bank on my fixed deposit account? This indirectly fulfills the requirement that "I did not take any interest from the bank for the money that is in my account. Also I do not pay any interest for the loan I take". In other words I do not profit from the Riba system. I stay neutral. I give them back their impure money. The interest money does not touch me. Would be grateful if you can comment. Jazakumullah  
Notes

I have a few millions in bank - the amount I received as retirement benefit. This amount was lying in bank ( I cannot keep it at home, or do I want to lose it by making an unwise investment). The interest on this amount in three years is considerable - almost nearing a million. I want to buy a house. The only way I can afford now is through mortgage system, and it will require me to pay interest. By paying back the interest part of the mortgage from the interest I accumulated, I can keep the sum total of interest received and paid by me as zero. Hence as far as I am concerned neither did I take interest nor did I give any.

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**Buying a House on Mortgage in Muslim-Minority Countries**

From: Monzer Kahf  
Sent: Wednesday, September 03, 2003 7:06 AM  
To: Islam on line  
Subject: RE: Buying a House through Interest in India

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Br. Syed  
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

India is similar to the Western countries from the point of view of purchasing residences by Muslim families being a general need that is to be treated as necessity and therefore relaxing the prohibition of interest on house mortgage EXCEPT FOR TWO IMPORTANT DIFFERENCES THAT AFFECT THE Shari'ah RULING:

1 - Muslims in India are settled for centuries and they have families' and friend's support. This does not exist for the immigrant in the US who are mostly cut off this kind of support; and

2 - There are Islamic financial institutions in India, the Amanath Islamic Bank that has several branches and the several Islamic housing cooperative. the large community enables them to establish small scale house financing cooperatives too,

These two differences have a great bearing on the issue. I think that unless in the rare cases where families, friends and communities are dysfunctional and in areas of India where there are no branches of the Islamic bank and no house financing cooperatives or if their charges are higher than the market BUYING HOUSES ON INTEREST IS NOT PERMISSIBLE IN FOR MUSLIMS INDIA.

I didn't understand your reference to insurance companies in the question. Please if you have any question on the mentioned insurance company send it to Islam on line and give details.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: Islam on line

Sent: Tuesday, September 02, 2003 6:50 AM

To: Monzer Kahf

Subject: Buying a House through Interest in India

Name of Questioner Syed Gender Male Age 31-45

Education Graduate Date Submitted 8/23/2003

country of Origin India User Ref. No. J8UXM3 country of Res. India

In India we do not have Islamic Banks of financing scheme. Can we take bank loan to purchase a house. The objective of going for loan on interest through bank is: 1. The rent that we pay can be paid in installment towards the loan 2. There is income tax benefit from govt. on the taxes that we pay ( which is huge for a middle class salaried person) 3. The company where I am working has tied up with housing loan company and they are offering to the employees(us) Please suggest whether I can take a loan from Bank, Insurance company ( LIC of India - Which

does not pay interest but bonus to its members)or and financial institution.  
Thanks.

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### **Taking a Mortgage to Give Money to Son**

From: Monzer Kahf  
To: mimi  
Sent: Saturday, July 05, 2003 9:10 AM  
Subject: RE: mortgage

My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi  
Ajma'in

Dear Sr. Mimi

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You know Sister, at your age it is very much unadvisable to refinance your home if it is already paid for. you may refinance to get lower rate and I don't advice to get more money out of it.

the company that is called Guidance Financial in the USA (I don't think it operates in Canada) has a contract of refinancing that is acceptable in Shari'ah. the idea is as follows: they buy the house from you and they rent it back to you with a promise to sell you. Actually they do not rent all of it because you have equity in it so after the house is appraised, and your share in its equity becomes known they pay to the previous lender the balance of its loan and buy a share in the house from you at the amount they pay plus cost then they rent you this part with a promise to sell. the final outcome will be that you pay a monthly payment, similar to what you pay now but at a lower rate (which is the objective of refinancing) so that the payment will be lesser than the present payment and this transaction is accepted in Shari'ah. It is usually recommended for those persons who have interest-based financing on their homes.

Do you have such an Islamic finance company in Canada? to my knowledge there is none.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

Question:

From: mimi

Sent: Wednesday, July 02, 2003 9:51 AM

To: monzer @kahf.net

Subject: mortgage

Aslamo Alaikum Wa Rahmatu Allah Wa Barakatuh:

Dear Dr. Kahf:

I would like to know how can get a mortgage (borrow) money against my home according the Islamic Shari'ah

to pay my mortgage from the bank. what is the Halal

Loan.

Thank You and Gazak Allah Khairan.

sr. Mimi

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