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Russell Sage Foundation Grant Proposal*Submitted September, 2002***Bill Maurer***University of California, Irvine***Articulating Islamic Knowledge to an American Dream:
Islamic Home Financing Alternatives
after September 11, 2001**

Islamic banking and finance (IBF) consists of a wide array of efforts to create financial products that adhere to Islam's prohibition of *riba*, often glossed as interest or usury.¹ The past ten years have seen a remarkable expansion of IBF in the United States. Catering to the very devout, who view interest in terms of Qur'anic injunctions, as well as the less devout but "socially responsible," who see interest-based lending as contributing to inequality and poverty, IBF professionals worldwide (in places as diverse as the United Kingdom, Malaysia, and Bahrain) have engineered an astonishing array of products and services in a relatively short period of time. Today, one can apply for interest-free business loans, automobile loans, home financing, and college loans; invest in Islamic mutual funds made up of stocks of companies whose activities do not violate Islamic law; and open insurance policies crafted so as to avoid any hint of speculation or gambling.

In the aftermath of the events of September 11, 2001, IBF came under scrutiny from the FBI, Department of Treasury, and other U.S. government agencies that sought to track and interdict any financial transactions that might be linked to global terrorism. The news media quickly generated reports about Islamic charities potentially posing as front organizations for money laundering or terrorist fundraising, and traditional informal credit associations like *hawala*, also suddenly under suspicion.² Whereas just months earlier the mainstream media promoted the virtues of IBF in a series of newspaper reports and television spots about new interest-free mortgage alternatives for Muslims,³ suddenly the reports focused on the shady and illicit. Islamic financial alternatives were reported as having less to do with religious injunctions against interest than with clandestine and possibly criminal financial activities.

In the summer of 2002, with support from the Russell Sage Foundation, the principal investigator (PI) conducted preliminary research on the impact of September 11 on IBF in the United States. Interviews with industry professionals, academics, Shari'a (Islamic law) scholars, and others generated a number of insights into the effects of September 11 and its aftermath in the arenas of public debate, regulatory response, and economic affairs. This research laid the

groundwork for a more in-depth study of specific IBF innovations. Those innovations, primarily in home finance, pre-date September 11, but September 11 has shifted their import, visibility, and valence. The first part of this proposal briefly summarizes that preliminary research and outlines those shifts. The second part discusses the findings in more detail, and lays out a plan for future research on the Islamic home finance sector. Surprisingly, this sector underwent considerable growth and expansion after September 11, 2001. The proposed research seeks to understand how and why the financing of home ownership, which IBF professionals believe to be the cornerstone of the "American dream," has achieved such prominence.

I. Summary of Preliminary Research

While American Muslims' fears of reprisals and harassment after September 11, 2001, has undeniably dampened Islamic banking and financial activity in the U.S., the preliminary research supports the following additional conclusions:

- Asset seizures of Islamic charities led Islamic investment professionals to re-assess portfolio purification techniques, discussed further below. This re-assessment occurred because IBF professionals feared being tarred with the same brush as those charities that have been alleged to be serving as fronts for illegal or clandestine activities (not because the charities receiving donations from Islamic investment businesses were actually involved with terrorist money).
- Anti-Muslim sentiment in the U.S. in the aftermath of September 11 has led many Muslims to withdraw their investments in Islamic alternatives and to shorten the time horizon of their investments. People withdrew their investments for the same reason that investment professionals re-assessed their purification techniques: the fear of being labeled "linked" to terrorism, or, more precisely, of being linked to anything labeled "Islamic," which in the immediate aftermath of September 11 was equated in some circles with terrorism despite efforts to assert otherwise. People shortened the time horizon of their investments because of uncertainty about the future, about their own future safety in the U.S., and concerning future impact of September 11 on financial markets.
- Volatility and decline in the stock market during 2002, together with historically-low interest rates, have pushed many investors, Muslim and non-Muslim, into real estate.⁴ This has had a significant impact on the market for Islamic home mortgage alternatives. IBF professionals speculate that increasing political awareness and a desire to claim an American identity has also led many American Muslims to decide to purchase a home.

- The continued, and uninterrupted, support of the Federal Home Loan Mortgage Corporation (Freddie Mac) for Islamic home finance, discussed below; the potential entry of other government-sponsored enterprises (GSEs) such as Fannie Mae and Ginnie Mae into Islamic home finance; together with the effects of the stock market crash, produced a blossoming of interest in Islamic mortgage alternatives. The only new entrant in the field of Islamic finance in the U.S. since September 11, 2001 has been a home financing company.
- IBF marketing strategies may be undergoing a subtle shift, toward the “ethical” and “socially responsible” labels and away from the “faith-based” and “Islamic” labels. These have enabled Islamic home financing to become more closely identified with the mandate of GSEs charged with improving access to home financing for underserved populations.

II. Project Description

The goal of the proposed research is to understand the cultural and social production of new markets through novel articulations of bureaucratic and religious knowledge. The broader implications of the research will be to further understanding of the limits of accommodation and inclusion of religious alternatives to putatively secular markets in the United States, especially for a religious minority scarred by backlash in the wake of September 11, 2001. The research will also contribute to the literature on the social construction of markets and the sociology and anthropology of economic knowledge. If there is little ethnographic work on the home financing process and the various routes to homeownership taken by underserved populations (Ratner 1997a, 1997b), there is even less on the design of new and innovative home financing products by industry professionals charged with creating such products. This research seeks to fill this gap.

Given the increasing importance, visibility, and government-sponsored enterprise (GSE) support of Islamic home mortgage alternatives, the proposed research will explore ethnographically the creation of Islamic home financing products and their relationship to wider home financing markets. The research will focus on the production, not the consumption, of these products because they are still very much in the development phase and because their appeal to American Muslims may well hinge on various factors that will determine their design, from changes in interpretations of the income tax code to changes in interpretations of religious texts.

Due to the manner in which Islamic home financing alternatives have emerged in recent years, as well as the PI's research experience, this project will focus on the practices and processes that create specific kinds of knowledge in the service of the Islamic mortgage market and the broader home financing market.⁵ The

emphasis on knowledge practices is also inspired by IBF professionals' own current concerns with creating a national reach, adhering to regulatory guidelines, and forging new guidelines. Specifically, the research will explore:

- 1) The emergence of a folk political theory among IBF professionals that increasing home ownership will lead to greater political participation among American Muslims, and the relationship between that folk theory and efforts to create regulatory change;
- 2) The linkage of certain forms of religious knowledge with certain forms of bureaucratic knowledge in order to create new mortgage-like products and investment vehicles backed by those mortgage-like products;
- 3) The challenge of reporting, auditing, and accountability for Islamic home mortgage alternatives (including taxation issues, such as the applicability of the mortgage interest deduction for federal income tax purposes);
- 4) The development of advertising techniques that emphasize differences among the various Islamic mortgage alternatives that have become available to consumers (leasing versus co-ownership versus installment purchase, for example), and the development of advertising techniques that target specific market niches.

Given the state of development of Islamic mortgage alternatives, it makes most sense at this time to focus on IBF professionals involved in the creation and marketing of these products. The proposed research will form the basis of a book on Islamic knowledge and bureaucratic knowledge in the formation of mortgage-like products. It will also lay the groundwork for possible future research projects, namely, research on the actual effects of Islamic mortgage alternatives on Muslim homeownership patterns and political participation in the U.S. This could be approached both ethnographically and through an analysis of quantitative data that should become available in the next two to three years through the Home Mortgage Disclosure Act (HMDA; see below). The book resulting from the proposed research will provide necessary background and framing for future projects.

Background: IBF Industry Responses to September 11

"Everyone collectively began to hold their breath." These words, from an IBF specialist in Islamic law, sum up the response of IBF professionals interviewed during preliminary research. Like other Americans and people around the world, he felt that the events of September 11 had introduced a previously unimaginable degree of generalized insecurity and instability. For Islamic banking, the effects were twofold. First, the suspension of trading on the U.S. stock exchanges, the shock to world markets, the withdrawal of investment capital from the U.S., and lack of confidence in the future dramatically affected IBF as it did all other finan-

cial and investment activity. Second, the immediate assumption that international terrorists professing the Islamic faith were responsible for the attacks cast a chill over American Muslims and created fears of government reprisals against all Muslims, a “witch-hunt,” in the words of one interviewee. The effects of the rounding up and detention of American Muslims and immigrants without due process, the freezing of the assets of several Muslim charities, hate crimes against Muslim individuals and institutions, and pronouncements of prominent politicians and opinion leaders that Islam itself was to blame were not mollified by the conciliatory and inclusive gestures offered by leaders in the government and the media. Where previously Muslims might have worried about anti-Muslim hate crimes committed by individuals, or anti-Muslim rhetoric from certain evangelical Christian leaders, now, in addition, “public policy became a factor and public policy became a fear,” as one interviewee put it.

Because of the fear that public policy would now target Muslims, many clients of IBF businesses began to withdraw their money and commitment. Interviewees were quick to point out that this reaction, together with a “wait and see” attitude, prevailed not only among clients of IBF businesses, but among investors of all stripes. But it took on a particular character for IBF: “it was kind of a minefield,” one interviewee said, especially as those charged with tracing terrorist money began to freeze the assets of Muslim charities. At the same time, people interviewed in the summer of 2002 for the most part expressed confidence that regulatory agencies “knew about the entities they were dealing with” and that investigators quickly began to appreciate the difference between terrorist financing and Islamic financing. Still, many worried that politically driven anti-Muslim rhetoric stoked rather than quelled the fears of many American Muslims. Nearly all interviewees noted a renewed anti-Islam discourse, especially among evangelical Christian leaders like Rev. Franklin Graham, as the primary challenge facing Muslims in American society.

Of course, the events of September 11 are only part of the story of what has happened in IBF since that date. Almost as significant—to some interviewees, actually more significant—has been the crisis in confidence in corporations brought on by the accounting scandals of 2002 and the bursting of the stock market bubble in the spring of that year. The year 2002 was a bad one for financial services and investment all around, not just in the field of IBF, and, not surprisingly, IBF professionals interviewed placed heavy emphasis on the need for greater accountability and transparency in all corporate activities. The new attention being given audit and accounting procedures, they believe, stands to help IBF in the long run. New initiatives (such as that of the Bahrain-based Accounting and Auditing Organization for Islamic Financial Institutions, or AAOIFI) have generated interest in the U.S. and abroad, and have even helped spark outreach and education efforts on Islamic banking at the highest levels of government.⁶ After returning from a trip to Bahrain where he met with the head of the AAOIFI,

Secretary of the Treasury Paul O'Neill directed his undersecretary for international affairs, John B. Taylor, to issue a call for a seminar titled, "Islamic Finance 101." Held on April 26, 2002, in Washington, D.C., the seminar attracted over one hundred participants from various government agencies (Treasury, State, congressional offices, and others) who spent the day being taught the fundamentals of Islamic finance by some of the field's leading specialists. The charge of the seminar, as Taylor put it, was to "demystify Islamic banking for our colleagues in Washington who may not have had exposure to this topic."⁷ In spite of being considered a "very positive experience" by those who attended, however, others viewed Treasury's effort as a weak response, at best, to the freezing of assets of charities and a perceived lack of transparency and accountability regarding the U.S. government's own actions in counter-terrorism since September 11.⁸

It is necessary to understand the changing fortunes of Islamic investing in order to appreciate the remarkable resilience and expansion of Islamic home finance since September 11, 2001, since the two are closely interrelated. The next two sections summarize the post-September 11 issues specific to Islamic investing, followed by issues specific to Islamic lending, in order to demonstrate the rationale for the proposed research.

Industry-specific issues: *Islamic Investing*

Several companies have been offering Islamic investment vehicles in the U.S., such as mutual funds, since the late 1980s. Because Islam prohibits certain kinds of business activities (those that deal with pork, alcohol, gambling, pornography, and, according to some interpretations, arms production and tobacco, among others), an Islamic mutual fund manager seeking to create a portfolio must first screen out companies that engage in religiously forbidden activities. Because Islam prohibits interest or usury, financial service companies must also be screened out of the investable universe. Many corporations engage in a wide range of activities not linked to their primary business (hotels serve alcohol; General Motors offers credit cards), and those whose secondary activities violate Islamic law are screened out as well. Due to the prohibition of interest, Islamic portfolio managers have also developed screens based on the financial standing and financial activities of companies that offer stock. The first excludes companies whose debt to market capitalization ratio is greater than or equal to thirty-three percent. The second excludes companies whose accounts receivables to total assets ratio is greater than or equal to forty-five percent. The third excludes companies whose interest income is greater than one third of its market capitalization.⁹

Such screening, however, poses a problem for Islamic investing, a problem that may seem esoteric to the outside observer but becomes crucially important for the maintenance of Islamic funds' "Islamic-ness": how to deal with that propor-

tion of earnings that ultimately derives from the percentage of a corporation's activity that is based on interest or interest-bearing debt? Financial ratio screens do not eliminate these earnings entirely but keep them within certain limits. To solve this problem, Islamic investing has devised "purification" techniques that catch the proportion of earnings ultimately derived from interest and debt and that filter them out of the fund's total earnings. Once the amount of "tainted" revenue is calculated (itself a complicated process), it is deducted from the fund's dividends and given in charity in the form of a gift (not *zakat*, the religiously-mandated alms required of all Muslims who are able to pay). Islamic investment companies purified their funds by donating tainted revenue primarily to various Islamic charities. After September 11, this practice came under scrutiny. As one professional put it, immediately after September 11 "new revelations were coming up every day and I guess for whatever reason these charities make ideal fronts, but, I mean, who'd a thunk it?" "Guilt-by-association" also figured in the regulatory and investigative efforts to trace terrorist money after September 11, and "a lot of fingers were being pointed." That which had made Islamic investing unique, and uniquely Islamic, suddenly became suspect. For American Muslims and others who had invested in Islamic mutual funds, the link between portfolio purification and Islamic charities led many to reconsider their investments, mainly out of the fear of being investigated, harassed, or tarred with the same brush as terrorist financing. A year after September 11, 2001, one investment professional stated that, in his view, "things are improved, but not restored."

At the same time, once the immediate fears faded, the stock market crash further dampened Islamic investors' enthusiasm. Movements in the Islamic investment market and the stock market are closely correlated. The screens employed in Islamic investing tend to favor technology and blue-chip stocks, and such stocks were among the hardest hit in the market downturn of 2002. Accounting scandals and allegations of corporate malfeasance, which drew many investors away from the market, also hurt Islamic investing. Like other Americans, American Muslims who had invested in the stock market began to take their money out and put it into alternatives. Of particular interest here is the turn toward real estate, which is discussed further below.

One of the working hypotheses of the preliminary research proposal was that Islamic investment professionals would seek to identify their products and services with "ethical," "socially responsible," or "faith-based" financial services, rather than relying solely on the "Islamic" label. Indeed, all interviewees mentioned this shift in strategy, although for many it was simply a logical outgrowth of their activities pre-September 11 and the ways in which the business press and marketing research agencies had already categorized Islamic investing. Still, some professionals have made explicit efforts to stress that Islamic investing is a form of ethical or socially responsible investing, and others have begun employ-

ing categories and labels such as “Abrahamic.” The “faith-based” label, though perhaps the most natural and obvious, seems to have less purchase than “ethical” or “socially-responsible,” however. This may be because the “faith-based” umbrella brings together members of some religious constituencies that remain openly hostile to Muslims and Islam. One model cited by the professionals interviewed in 2002 is that of Domini, a socially responsible group of funds. None, for example, mentioned the Timothy Plan funds or any other similar mutual funds targeted to very conservative Christians.¹⁰

Like other investment fund companies, Islamic funds are beginning to stress long-term savings over short-term growth. There is more emphasis now on retirement funds, college savings funds, and the like, in an effort to convince investors to return to the market and stay in over the long term instead of worrying about short-term fluctuations of today’s volatile markets. Interest in real estate is seen as a part of this broader move toward stability and the long-term.

Industry Specific Issues: *Home Finance*

The American Finance House - Lariba wrote the first “Islamic mortgage” in 1987 for the purchase of a home in Madison, Wisconsin.¹¹ The mortgage contract was on a cost-plus model (*murabaha*)¹² according to which the finance house purchased the house and the client paid the cost of the house plus a pre-set and unchanging mark-up over a period of time. It is the pre-set and unchanging amount of the mark-up that distinguishes this contract from a conventional interest-based mortgage, from the point of view of Islamic finance.¹³ (See Appendix I for a list of current Islamic home mortgage alternative contractual forms.) Later mortgage products developed by the American Finance House - Lariba used lease-to-purchase agreements based on *ijara* contracts from classical jurisprudence. In March, 2001, Freddie Mac signaled its support for American Finance House - Lariba’s Islamic mortgages by investing \$1 million in existing American Finance House - Lariba contracts. It has since invested a total of \$45 million.

Freddie Mac support has been hailed as a major milestone in the growing visibility and legitimacy of Islamic mortgage alternatives. Before September 11, Freddie Mac had begun to expand its purchase of Islamic mortgage alternatives. In August 2001, it invested \$10 million to purchase lease contracts from Standard Federal Bank and United Mortgage of America in Detroit.¹⁴ Freddie Mac support has been crucial to the success and expansion of the Islamic mortgage alternative sector. It is significant that the only new entrant into the field of IBF in the U.S. since September 11, 2001, Guidance Residential, is a home financing company, which has already entered into an agreement with Freddie Mac for an initial commitment of \$200 million.¹⁵

For Freddie Mac, investing in Islamic mortgage alternatives fell under its mandate to expand opportunities for underserved populations to gain access to home ownership.¹⁶ Freddie Mac’s commitment has endured, unchanged, since

September 11, 2001. Indeed, according to one interviewee, the only change brought about by September 11 has been “a new sense of resolve, that what we’re working on is more important now than it was on 9/10.” And Islamic financial institutions offering mortgage alternatives have seen an increase in business and in inquiries since September 11. Some attribute this increase to the general turn away from the stock market and into real estate discussed earlier. Others, however, attribute it to a feeling that American Muslims after September 11 want more than ever to assert their position as full members of American society. They also see a sort of political progression or evolution growing from Muslim homeownership. As one remarked:

The most intangible thing is that, when you take puritan Muslims who refuse to participate in interest, and have lived in apartments and so on, and put them in decent neighborhoods, they will start mixing with the American community and become responsible American citizens and this will grow in the neighborhoods and develop relationships and friendships and so forth.

In addition, IBF professionals see significant economic potential in home financing alternatives:

At this point we’re dealing with a sleeping giant. But . . . it’s about to hit in a big way. And the reason for that is the appearance very shortly of home acquisition programs. . . . The home acquisition programs, they address an essential need, and they basically put something in people’s pockets, whereas the other programs, I mean the investment things, the different funds that are developed, those are either aimed at high net-worth individuals or institutions, or, at the retail level, they’re for people with *extra* money.

The role of Freddie Mac and other GSEs like Fannie Mae and Ginnie Mae, which may begin purchasing Islamic mortgage alternatives soon, cannot be understated. Freddie Mac has also begun to explore the securitization of Islamic mortgage alternatives for the purposes of creating securities for large investors seeking Islamically acceptable investment vehicles. An interviewee remarked that this creates an incentive for “organizations with the deep pockets” to step in. Securitization also makes Islamic mortgage alternatives scalable in a way they had not been before, when they were primarily local or regional affairs backed by small investors. This is discussed further below, as it forms an important part of the proposed new research.

In addition to providing liquidity, stability, and scalability, the support of Freddie Mac and the potential that other GSEs will enter the Islamic market has generated competition among Islamic financial service providers. This fact goes against one of the provisional hypotheses of the preliminary research: that September 11 might occasion a closing of ranks among IBF organizations and the attempt to

speak with one voice on matters of concern to the industry and to American Muslims more generally. The PI has monitored IBF activities as part of a research project supported by the National Science Foundation since 1998 (NSF grant #9818258). IBF professionals pride themselves, justly, on their civility and collegiality, and the spirit of cooperation, mutual trust, and inquisitive experimentation. When debate gets heated, it usually occurs in private and over very technical matters of the interpretation of Shari'a. In 2002, however, for the first time, the public face of IBF has taken on some of the qualities associated with other forms of competitive enterprise. IBF professionals are now actively involved in marketing their products and emphasizing the benefits (financial, spiritual, or otherwise) of their products compared to those of their competitors. There also seems to be a new element of market differentiation and fragmentation, with different products being marketed to different communities of Muslims, which will be discussed further below.

Research Methodology

The proposed research will be based on interviews and, to the extent practicable, participant-observation among IBF professionals engaged in creating the new Islamic home finance market, as well as employees of GSEs, lawyers, real estate agents, and securities brokers who are working with them to create new products and new markets. Appendix II provides a list of the types of individuals to be interviewed. The research will also involve the collection and analysis of publicly available archival and quantitative data. Archival data collection is ongoing and will continue throughout the duration of the project. Interviews will be conducted during the spring and summer of 2003, and the summer of 2004. Site visits will occur during the summers of 2003 and 2004. Support for a graduate research assistant to collate and analyze archival and quantitative data during the 2003–2004 academic year is also requested.

Because Islamic home financing is a new field, and has heretofore been solely undertaken by small-scale local or regional enterprises, there is currently little quantitative data of the sort made available through the Home Mortgage Disclosure Act (HMDA).¹⁷ Such data should become available within the time period of the proposed research (2002–2004), and it will be analyzed as it becomes available in order to answer questions about access to these mortgage alternatives, the demographics of those who purchase them, their regional and political geographies, and so forth. The research timetable will closely track the availability of quantitative data on mortgage origination as well as sales to GSEs. It will also track the development of mortgage-alternative-backed securities, currently under discussion and development at Freddie Mac.

Methodologies specific to each of the four research questions outlined at the start of this proposal include the following:

- 1) To explore the IBF folk theory that home ownership translates into political clout, HMDA data will be collected and analyzed in order to determine who exactly is purchasing and benefiting from these products. At least one interviewee in the summer of 2002 expressed skepticism that certain new non-lease-based models of Islamic home financing being developed will actually reach underserved Muslims, and will instead mainly benefit the wealthy, or those in relatively affluent areas. At the same time, other industry specialists note that the first lease-to-purchase products effectively cut off access to home ownership to poorer Muslims because they required down-payments significantly higher than what has been available in conventional home finance (down-payments of anywhere between twenty and forty percent, compared to five to twenty percent for a conventional mortgage). HMDA data includes the race, ethnicity, and sex of the borrower, as well as geographical information and loan amounts. When they become available, the PI will collect and analyze these data to determine what lending patterns emerge, as well as the profile of borrowers using these mortgage alternatives.¹⁸ These data will point toward future research on the relationship between home ownership and political participation. With only minimal HMDA data available at this time (from UBK in the late 1990s), one might venture to suggest that such an inquiry may require a rethinking of the concept of the political and of political action itself. The main effect of UBK's Islamic home financing experiment seems to have had little to do with actual patterns of homeownership. While it did not reach many potential homebuyers, it *did* compel a regulatory and bureaucratic rethinking of the relationship between Islamic and conventional contractual forms, and resulted in the regulatory frameworks within which Islamic home finance can now flourish. The relationship between politics and bureaucracy may turn out to be non-trivial, but, indeed, constitutive.
- 2) To explore the articulation of religious knowledge and bureaucratic knowledge, the PI will conduct interviews with IBF professionals engaged in creating the new Islamic home finance market, as well as employees of GSEs, lawyers, real estate agents, and securities specialists. The PI will attend at least four national conferences during the project period to participate in dialogues about new financial products. The PI will also build an archive of regulatory, legal, and religious writings relevant to the field of Islamic home mortgage alternatives.

The PI will pursue two preliminary lines of analysis based on the research to date:

- a) The first is the interpretive work necessary to include the provision of Islamic mortgage alternatives as part of a bank's or other institution's

mortgaging powers. The regulatory changes at issue are at the level of the Office of the Comptroller of the Currency (OCC), which administers national banks. Banks and other lenders can ask for a regulatory ruling (called an “interpretive letter”) on a specific matter of concern; the interpretive letter then becomes the form through which new products are authorized. And, indeed, is it the formal qualities of the interpretive practice that is of interest here. In its Interpretive Letter #867, the OCC scripts a *murabaha* contract from classical Islamic jurisprudence into its existing understanding of the National Bank Act’s sections 24 and 29. The prime goal of the archival, interviewing, and interpretive methods used here will be to understand how such formal articulation is made possible, from the point of view of the religious scholarship on the matter as well as the regulatory principles and texts.

Interviews will be aimed toward the following two broad questions: What is the relationship between the techniques of *ijtihad*, or scriptural interpretation in Shari’a, and the techniques of regulatory interpretation? Are equivalences drawn between *ijtihad* practices of ruling through *qiya*, or analogy, and OCC interpretive practice? To reach toward those broader questions, interviews on this topic will begin with basic questions about the interviewee’s general understanding and interpretation of the process of interpretation itself—what is *ijtihad*? What is its scriptural basis? How or why is it relevant to contemporary affairs? What are its methods? Which of its methods do you employ? How do you select which methods to employ? Are there methods of interpretation that do not suit the development of new contractual forms, or others that especially suit it? Is regulatory interpretation carried out by agencies like the OCC *ijtihad*? Why, or why not? Can two forms of textual interpretation exist side by side? If so, how do they connect to each other?¹⁹

b) The second important topic is the imminent development of Islamic mortgage-alternative-backed securities for trading on the secondary market. Freddie Mac currently holds the Islamic mortgage alternatives it has purchased in its own portfolio, but is exploring the possibilities for pooling them together into securities for investors who desire Islamically-acceptable investment vehicles. For conventional mortgages, such pooling and securitization lends scalability, greater liquidity, and ultimately stability to the mortgage market.²⁰ For Islamic mortgage alternatives, the process may not be so simple, as some interpretations of property in Islamic law prohibit the detachment and fragmentation of the right of ownership from the tangible object owned.

Interview questions will emphasize the problem of property and securitization for Islamic law. Specific questions that reach toward this broad

er problem include: How do IBF professionals understand property itself? What is the essence and efficient cause of property? Is there an Islamic conception of property? What is the limit between the tangible and the intangible in assessing the Shari'a compliance of various forms of modern property, like securities or shares? Questions here will also turn to the problem of *ijtihad*: are there analogies in Islamic jurisprudence for securitization? Why is securitization a problem—or not?

- 3) To explore the issue of reporting, auditing, and accountability, the PI will conduct an analysis of the tax law implications of various models of Islamic home finance. How do Islamic mortgage alternatives, with their lack of interest, articulate to the federal income tax's mortgage interest deduction? Preliminary research revealed a number of different answers to this question, based on the type of financing model and the specific interpretive and regulatory rulings brought to bear on it. Examining this question will involve legal research as well as interviews with specialists.

Rather than being narrowly focused on the tax issue, however, interviews will also consider IBF professionals' ideas and visions of audit, ethics, transparency, and accountability. What do these concepts mean to participants? How do IBF professionals deal with conflicts that might emerge between administrative or bureaucratic transparency, on the one hand, and "religious" transparency, on the other, especially as the very heart of Islamic banking and finance—the prohibition of interest—is based on an understanding of interest-bearing debt as *not* transparent?

Interviews will be directed toward the questions of accountability, transparency, and bureaucracy. Specific questions include: How do you understand accountability and transparency? Are there analogues to these concepts in Islamic law? How do they relate to non-Islamic definitions and practices? Are there practices considered transparent in contemporary bureaucratic and accounting practices that you do not consider transparent, and what makes them not transparent? Of what benefit is transparency for Islamic finance? Are there accounting procedures that unfairly stigmatize Islamic financial practices? How do you interpret current tax code and the home mortgage interest deduction? Is there a problem with that deduction, from the Islamic standpoint, or is it a tool Islamic finance can use to increase interest in its products? If so, how can it do so without drawing itself into financial interest? How does Islamic finance make distinctions between conventional interest and the mark-up in a *murabaha* contract (see Appendix 1)? What is the role of accounting in establishing this difference?

- 4) At the time of this writing, potential Muslim homebuyers interested in an Islamic mortgage alternative have choices among several products. How are IBF professionals positioning their products? What role do different interpretations of Shari'a, U.S. regulations, and faith play in the marketing of these products? Preliminary research suggested that industry professionals already identify several market niches among the estimated twenty-five percent of American Muslims interested in Islamic financial alternatives. One consists of those "puritans" who not only want to avoid interest but also put stock only in a handful of religious (*fiqh*) scholars. One consists of those who want to avoid interest but are more willing to entertain hybridizations of the various branches of Islamic law and innovative interpretations of the prohibition of interest. Some professionals cast this distinction as a regional one (East Coast vs. West Coast) or as a generational one. Another important issue is the composition of Shari'a Supervisory Boards (SSBs) that oversee and provide religious legitimacy to all Islamic financial institutions. Research on the question of marketing, market niche, and market differentiation will be conducted through building an archive of advertising materials and through interviews with professionals. Preliminary research has identified some intriguing practices that may bear on the question of marketing, such as the posting of often rather dense research reports on particular aspects of Islamic finance on company webpages designed with potential clients in mind. This dissemination of Islamic finance knowledge begs the question of who is the intended audience for these papers and to what use do IBF professionals expect their clients to put them? Or, is the posting of research reports another practice of transparency, and, if so, what function do those who post these reports understand such transparency to serve?

Interviews will be aimed toward IBF professionals' understandings of their potential market. Preliminary research has already determined that such understandings sometimes come in the form of carefully guarded proprietary secrets, for fear of revealing one's strategies to one's competitors. Analysis of advertising materials may ultimately prove more fruitful than interviews, but, where possible, interviews will include questions such as: What is your target market? Whom are you trying to reach? What success or failures do you foresee? Why do you emphasize ____ in your marketing and promotional material? How do you convey principles of Shari'a in your advertising? Do Shari'a scholars review your advertising material? What mechanisms exist for Shari'a supervision of the marketing process?

III. Relevant Literature

This research draws from three broad areas of scholarly concern: the sociology and anthropology of knowledge; research on Islam and Muslim communities in the United States; and housing policy research.

Anthropologists and sociologists have been studying the processes of the creation of expert knowledge for a number of years. Developments in the anthropology of law and in science studies have reinvigorated this field, as social scientists have brought techniques of ethnography to bear on practitioners of other forms of knowledge production such as lawyers, scientists, and economists. To the more traditional concern with locating knowledge producers in their social and cultural context has come a concern with the networks of objects and subjects that give form to scientific practice itself. The core of this new research is the constitution of and subsequent relationship between the knowledge producers under study and the objects of their own analyses. For example, in the anthropology of science, research has turned toward the processes of classification and organization of data that frame scientists' research questions and solidify the objects they study (Bowker and Star 2000; Fujimura and Fortun 1994; Helmreich 2000). This work has had much in common with studies of bureaucratic and legal knowledge (Riles 2000; Shore and Wright 1999), particularly in development studies where the interrelationship between bureaucratic and scientific knowledge has become a focus of study (Escobar 1995; Ferguson 1991).

Historians, sociologists and anthropologists have been attending to the "embeddedness" of economics in social worlds ever since the work of Bronislaw Malinowski (1932) and Karl Polanyi (Polanyi, Arensberg, and Pearson 1957). Granovetter's seminal articles (1973, 1985) sharpened the focus on the network of relationships within which economic actors and economic decisions are situated, and other sociologists (e.g., Zelizer 1992) have pushed this line of inquiry toward the way economic matters and materials like money symbolize those ties. The "embeddedness" framework left a couple of questions unresolved, however, particularly the conceptual division between the economy and whatever it was assumed to be embedded "in," as well as the distinction between economic value and moral or cultural values that sat uncomfortably in the center of such discussions (Stark n.d.). In the sociology and anthropology of economic knowledge, therefore, research has turned to the knowledge practices that delimit "insides" and "outsides" of economies such that it makes sense for economists to write about, model, and debate over "externalities" (Callon 1999; Callon, Méadel, and Rabeharisoa 2002); the market as an object of intellectual and affective attachment (Knorr-Cetina and Bruegger 2000); the category of the "social" or the category of the "individual" (Pottage 2001), as well as "cultural context" itself (Strathern 2002) in economic analysis and decision making. Whereas earlier work on economic knowledge emphasized economists' use of metaphor, analogy, and other rhetorical devices to stake their claims (McCloskey 1998), atten-

tion has now also turned to the scientific and especially mathematical techniques that function both as a form of rhetoric (Poovey 1998) and as a method that produces what it names (MacKenzie 2001; Maurer 2002c), in a similar manner to the creation of scientific objects discussed by Latour (1987), Rabinow (1999), and others.

The proposed research will bring together the sociology and anthropology of knowledge with research on the production of Islamic knowledge, particularly Islamic knowledge in the U.S. Scholarship on Islamic jurisprudence has proceeded in its own world, relatively detached from concerns of other modes of inquiry interested in the production of knowledge. Long the preserve of Orientalists, the study of the production of Islamic law has recently been opened up to new theoretical perspectives (e.g., Masud, Messick, and Powers 1996). Relatively little attention has been given to Shari'a and *fiqh* in the U.S. (but see Leonard 2002). What exists comes mainly from a critical insider perspective, exemplified by Kaled Abou El Fadl's lament that "In the United States the field of *sharia* is flooded with self-declared experts who inundate our discourses with self-indulgent babble and gibberish" (1998:41). Leonard (2002) outlines the various efforts to create national-level *fiqh* councils in the U.S., particularly the efforts of the Islamic Society of North America and the Islamic Circle of North America (see also DeLorenzo 1998). It is perhaps significant that members of the resultant Fiqh Council of North America sit on *some*, but not all, of the Shari'a Supervisory Boards of the Islamic banking and finance corporations discussed earlier. Leonard cites Abou El Fadl's characterization of the current situation of Islamic knowledge in the U.S. as having "produced a landscape devoid of respect for the schools and methods of Islamic legal scholarship and for pluralism" (Leonard 2002:63). She reports on Bagby, Perl, and Froehle's (2001) survey research indicating that *imams* and presidents of mosques in the U.S. cite the Qu'ran (95%) and Sunnah (90%) as "absolutely foundational" while the various schools of Islamic law are seen as of "little or no importance" (52%) or only "somewhat important" (25%).

Islamic banking and finance draw heavily on Islamic jurisprudence to stake their claim both to uniqueness in the wider market and to their Islamic credentials. The proposed research will address how the work of IBF professionals connects to these wider debates over the status, role, and importance of Shari'a and *fiqh* in the U.S. today. Unlike previous research, it will bring the perspectives of the sociology and anthropology of knowledge to bear on the creation of Islamic knowledge, since, in the field under investigation, the production of Islamic knowledge is inseparable from the production of financial and economic knowledge.

Finally, the proposed research stands to contribute to ongoing debates in housing policy research over the development of new mortgage products for underserved populations. Beginning with research on unfair lending practices, mainly racial

and regional discrimination, housing policy research has explored redlining (Squires 1992), the relationship between urban poverty and housing policy (Squires 1989), and the social and economics costs of housing discrimination (Yinger 1995). Some scholars have studied mortgage innovation and have pointed out the conflict between the need to create new kinds of products to improve access to homeownership and the drive to create standardized products in the name of efficiency (Listokin and Wyly 2000; Listokin, Wyly, Schmitt, and Voicu 2001). Research on the relationship between homeownership and political organization (Rohe and Stegman 1994a, 1994b; Rohe and Stewart 1995), a relationship of interest to IBF professionals, is also relevant to this project. There is relatively little housing policy research that uses an ethnographic approach, however. As Ratner notes, "in the literature on homeownership and housing finance, one rarely encounters stories about people" (Ratner 1997b:1; see also Hummon 1989; Low and Chambers 1989; and Wienk 1992). If there are few stories about potential homebuyers, there are even fewer about home finance professionals. Ratner's ethnographic studies of home financing focus on the potential homebuyer. The proposed research will focus on those who seek to create new products for potential homebuyers, placing the knowledge practices of home finance professionals at the center of analysis.

Significance

After September 11, 2001, Islamic banking and finance found itself uncomfortably in the spotlight of anti-Muslim rhetoric and the investigative response of the U.S. government to the attacks. At the same time, Islamic home financing flourished, in part due to some of the effects of volatility in the stock markets after September 11 and in part due to regulatory and interpretive innovations already in place before that date. The proposed research takes advantage of the opportunity to understand the conversations taking place now, at the start of what promises to be a boom in this form of home mortgage alternative. Islamic home finance also has the potential to transform not only the regulatory and investment landscape for real estate markets, but also the character of democratic inclusion promised by the American dream of homeownership.

By focusing on the knowledge practices of participants involved in these developments, the proposed research will broaden understanding of the cultural and social production of new markets through novel articulations of bureaucratic and religious knowledge. The broader implications of the research will be to critically assess the limits of accommodation and inclusion of religious alternatives to putatively secular markets in the United States. At the most general level, the research will contribute to the literature on the social construction of markets and the sociology and anthropology of economic knowledge, as well as the production of new forms of Islamic knowledge in the United States.

Notes

1. There is a vast specialist literature on Islamic banking and finance, beginning with the signal contributions of early twentieth-century South Asian and Middle Eastern economists, nationalists, and religious scholars who sought to promote an "Islamic" alternative to colonial economic regimes. See, generally, Chapra 1992; Choudhury 1997; Khan 1999; Kuran 1997; Maududi 1975; Qureshi 1946; Vogel and Hayes 1998;. See also the Proceedings of the Harvard Islamic Finance Information Program Forums for the past four years.
2. For example, "Age-Old Way of Moving Cash Leaves Little Trail," Los Angeles Times, September 26, 2001: A1.
3. For example, "Pursuing an American Dream while Following the Koran," New York Times, July 5, 2001:C1, C7.
4. At the time of this writing, the stock market has seen a decline of 17% since January 1, 2002. Interest rates for a thirty-year mortgage hover around 6.00%, though they began to increase during September 2002.
5. With support from the National Science Foundation (grant #9818258) the PI conducted a multi-sited, three-year research project on financial alternatives, including Islamic finance, the results of which appear in Maurer 2001, 2002a, 2002b, 2002c, 2003a, 2003b, 2003c, 2003d, and Coutin, Yngvesson, and Maurer 2002.
6. On the creation of the AAOIFI, see Karim 1990; Lewis 2001; Maurer 2002a; Pomeranz 1997.
7. Dept. of Treasury, Office of Public Affairs, Introductory remarks by John B. Taylor, Under Secretary for International Affairs, April 26, 2002, PO-3068. Available at <http://www.treas.gov/press/releases/po3068.htm> (accessed October 16, 2003).
8. Another important event after September 11, mentioned by almost all interviewees, was the publication of a lengthy and sympathetic article on Islamic banking in Fortune magazine (Useem 2002).
9. These are the screens that guide the Dow Jones Islamic Market Indices, and are generally recognized as the industry standard. See Dow Jones 1999.
10. The Timothy Plan funds screen out stocks of companies that offer same-sex domestic partner benefits, for example, while the Christian Science American Trust Allegiance Fund screens out medical stocks. The Carlisle Catholic indexes screen out companies that deal with contraception or pornography, but also companies that have been charged with racial or gender discrimination or unfair lending practices, that trade with

Myanmar/Burma, and that are involved with genetically modified organisms. Lumping these funds together with Islamic banking under the rubric of faith-based investment options for religiously conservative individuals really does not adequately capture the complexity here, as “conservatism” within one religious tradition is not commensurate with conservatism in another.

11. See, generally, Abdul-Rahman and Abdelaaty 2000; Abdul-Rahman and Tug 1999; Ebrahim and Hasan 1993.
12. Islamic banking and finance employs Arabic terms from classical jurisprudence for its contractual forms. The naming of such contracts was itself a focus of the PI’s previous NSF-funded project, and the proposed research will also attend carefully to the interplay of Islamic jurisprudence and Arabic terms on the one hand and the dynamics of product positioning on the other.
13. Two Middle Eastern financial companies attempted to offer Islamic financial services in the U.S. as well, but with limited success, as did a small financial services company based in Houston, Texas. The Saudi firm Dallah al-Baraka opened a subsidiary in California in 1988, only to move to Chicago shortly thereafter and to shift its emphasis from consumer finance to real estate and industrial investment. The United Bank of Kuwait (UBK) opened a mortgage company, al-Manzil, in 1998, but closed shop in 2000. MSI, an outgrowth of the Islamic Circle of North America, offered various loan products to consumers based on lease-to-purchase and co-ownership models in the Houston area, but never achieved the visibility or scale of the American Finance House. Unlike MSI and the American Finance House, however, UBK and al-Baraka lacked a constituency in the communities in which they attempted to operate, and, as a result, could not mobilize the networks that the other two companies had tapped into through community connections, mosques, and political and social organizations. Significantly, UBK’s entry into Islamic home finance in the U.S. did spark an interpretive ruling from the Office of the Comptroller of the Currency (OCC) that has had enduring significance for the field. It will be discussed later in this proposal.
14. Freddie Mac Press Release, August 10, 2001, “Freddie Mac, Standard Federal Bank Announce New Islamic Home Financing Initiative for Michigan Families,” available at <http://www.freddiemac.com/news/archives2001/sohinitiative0810.htm> (accessed October 16, 2003). See also International Real Estate Digest, “Freddie Mac Provides Lease-purchase Mortgages for Muslims,” Sept. 4, 2001, available at <http://www.ired.com/news/2001/0109/muslim.htm> (accessed January 7, 2004).
15. See The Minaret, “Islamic Home Financing Starting the Nation’s Capital,” July/August 2002: 19-20.

16. Indeed, Freddie Mac's involvement with Islamic home finance came under the rubric of its "Summer of Homeownership" initiative which sought to bring greater access to underserved populations, particularly lower-income individuals and immigrants. According to some estimates less than sixty percent of Muslims in the U.S. are homeowners, compared to the U.S. average of sixty-nine percent (Thomas n.d., n.9).
17. The Home Mortgage Disclosure Act was enacted in 1975. It is implemented by Regulation C of the Federal Reserve Board. Regulation C requires that loan data be made publicly available in order to determine whether lenders and other financial institutions are meeting the housing needs of communities, to identify discriminatory lending practices or patterns, and to provide information to public officials charged with attracting private sector investment. HMDA data is disseminated by the Federal Financial Institutions Examination Council (FFIEC), and is available in raw form on-line at <http://www.ffiec.gov> (accessed October 16, 2003). Currently, depository institutions with assets of \$32 million or less, and nondepository institutions with assets of \$10 million or less and fewer than 100 home purchase loan originations (including refinancings) are exempt from HMDA data collection. Most current Islamic home financing companies are exempt, but this is likely to change given the volume of new business since 2002 (indeed, according to interviews conducted in the summer of 2002, one small nondepository institution has probably just crossed the threshold this year).
18. The analysis of HMDA data will proceed fully cognizant of its limitations, summarized by Wienk: "Analyzing the outcomes [of the home financing process using HMDA data] is a poor substitute for analyzing the process itself and the behavior of all agents in the process" (1992:217).
19. On *ijtihad* and Islamic banking, see Vogel and Hayes 1998.
20. See Dualeh n.d.

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Appendix I: Islamic Finance Contractual Forms

Name of Contract	Approximate equivalent	Companies employing (past and present)	Technique
Ijara wa iqtina	Lease-to-purchase	American Finance House; UBK; MSI	Buyer pays rent based on equity share (initially determined by down-payment) plus pre-determined and unchanging portion of the principal. With each payment to the principal, buyer's equity share increases, and so rent decreases. Rent determined by marking to market.
Istisna'a	Manufacturing partnership	Key Bank (for commercial property)	Finance company funds construction of a house for the buyer on finance company's property; buyer then purchases house through ijara or other process.
Mudaraba	Limited partnership	Various, at various times (never successful)	Buyer and finance company enter into limited partnership and form a corporate entity; buyer rents from the corporate entity, increasing buyer's share in entity over time until it is completely owned by the buyer. The object of the contract is the corporate partnership itself, which over time is bought out by the buyer.
Murabaha (bai bi thamin al ajil)	Deferred payment sale	Guidance Residential	Buyer pays finance company, which holds title until complete payoff, principal plus administration costs.
Musharaka	Joint venture	MSI	Similar to Mudaraba, but finance company and buyer share title as "co-owners" of the property rather than as partners in a separate corporate entity. The object of the contract is the property, not the corporate partnership.

Appendix II: Potential Interview Subjects

Names of all individuals and companies will be kept confidential. There are currently four companies *actively* marketing Islamic home finance products: American Finance House—Lariba (Pasadena, CA); Guidance Financial Group (Washington, D.C., expanding nationwide; Irvine, CA office opening in 2003); United Mortgage of America (Detroit, MI); and Standard Federal Bank (Troy, MI).

Several individuals will be interviewed more than once. Interviews will generally last between 45 minutes and 2 hours (based on previous experience). There will be between 35 and 60 interview subjects (depending on availability to be interviewed, willingness to participate, etc.).

Field of expertise	Company or Organization	Number of individuals
Shari'a and <i>fiqh</i>	Shari'a Supervisory Board, Islamic Home Finance Company A	3-5
	Shari'a Supervisory Board, Islamic Home Finance Company B	3-5
	Shari'a Supervisory Board, Islamic Investment Company A	3-5
	Fiqh Council of North America	3-5
	Harvard University Islamic Finance Information Program	2
	Rice University	1
Mortgage product development and marketing	Islamic Home Finance Company A	2
	Islamic Home Finance Company B	2
	Islamic Home Finance Company C	2
	Islamic Home Finance Company D	2
	Legal firm A	3-5
	Freddie Mac	1-3
	Ginnie Mae	1-3
	Fannie Mae	1-3
Independent analysts	[There are at least two such individuals, whom I have not interviewed before]	2
Mortgage securities development	Islamic Home Finance Company A	1-3
	Freddie Mac	1-3
	Legal firm A	1
	Office of the Comptroller of the Currency	1-2