

**SCHOOL OF ISLAMIC BANKING & FINANCE  
INTERNATIONAL INSTITUTE OF ISLAMIC ECONOMICS**



# **PRACTICES OF ISLAMIC HOUSE FINANCING: A CASE STUDY OF HOUSE BUILDING FINANCE CORPORATION LIMITED PAKISTAN**

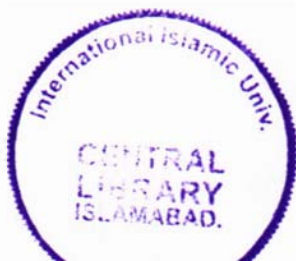
**A THESIS SUBMITTED FOR THE PARTIAL FULFILLMENT OF MS/M.PHIL  
ISLAMIC BANKING AND FINANCE**

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**INTERNATIONAL ISLAMIC UNIVERSITY, ISLAMABAD**

**2012**



Accession No TH 9306

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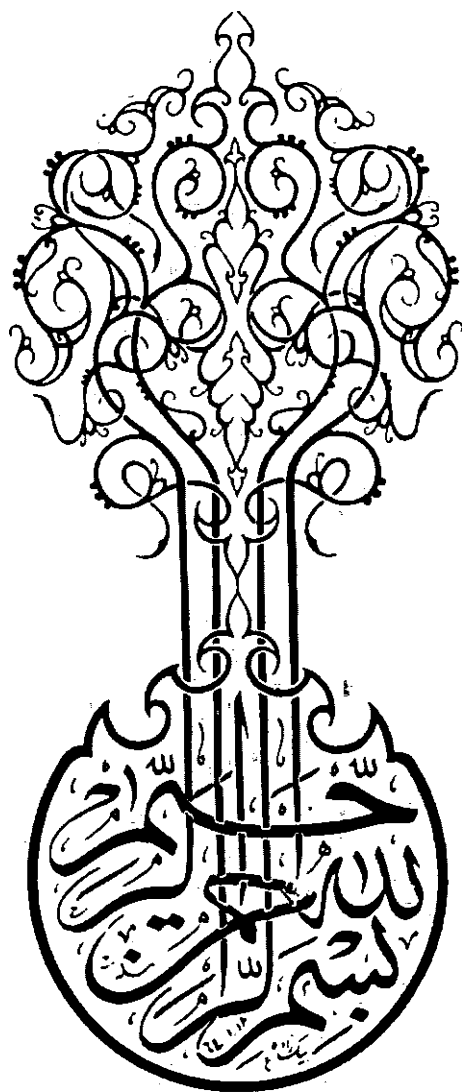
SHP

1. Financial economics

2. Finance

DATA ENTERED

Amz/28/06/13



# International Institute of Islamic Economics International Islamic University, Islamabad

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**Title of Thesis:**

“Practices of Islamic House Financing: A Case Study of House Building Finance Corporation Limited Pakistan”

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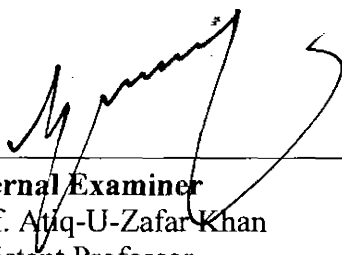
Accepted by the International Institute of Islamic Economics, International Islamic University Islamabad, in partial fulfillment of the requirements for the Master of Philosophy Degree in Islamic Banking and Finance

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## ACKNOWLEDGMENT

All praise be to the Almighty Allah for His help, blessings, who enabled me to undertake and complete this humble work.

First of all, I want to express my deep gratitude especially to my supervisor, Prof. Dr. Muhammad Tahir Mansoori, Director Sharia'h Academy at International Islamic University Islamabad, who has helped me a lot during the process of writing this thesis. His guidance, continuous motivation and encouragement have immensely contributed in the completion of my work in the present form.

I also like to convey my sincere thankfulness to Prof. Dr. Asad Zaman, D.G. International Institute of Islamic Economics, Prof. Khaleeq Uz Zaman Incharge School of Islamic Banking and Finance, Prof. Atiq U Zafar khan, Prof. Dr. Mehboob ul Hassan for their guidance and moral help.

Finally I would like to express my deepest appreciation to all those practitioners of House Building Finance Corporation without their cooperation this work was not possible, especially Mr. Zagham Mehmood Rizvi Ex-President HBFCL, Sir Amir Khaleel (SVP) Askari Islamic Bank Islamic Banking Services Division, Mr. Khalid Mehmood Khan General Manager HBFCL Islamabad office, Malik Riaz Ul Hassan Chief Manager HBFCL Islamabad Office, Mirza Muhammad Masood Branch Manager House HBFCL Islamabad branch, Muhammad Ilyas Zahid Branch Manager HBFCL Sheikhpura, my friends and everyone else which I could not mention each one of them here. They all have encouraged any helped me a lot to complete this work. May Allah (SWT) reward them with his blessings in this world and the Hereafter.

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July, 2012

## ABSTRACT

The house financing products are important part of Islamic finance. The purpose of this research is to examine the performance of existing house financing model which is commonly practiced in Islamic financial institutions. This study does not cover all aspects of Islamic financing system rather it gives basic information about the theory and actual practices concerning house financing system. This research will also evaluate the current practices of different types of products offered by Islamic Banks/DFIs concerning housing financing. These include diminishing *Musharakah*, *Murabaha lil-amiri bi-al-shira'*, *Ijara muntahiya bi-al-tamleek*, and *Istisna*.

The second part of this research has covered the practice of Pakistan's largest housing finance institution the House Building Finance Corporation, as a case study. In this section all products of House Building Finance Corporation will be examined in Sharia perspective, especially *Ghar Aasan* (Flexi) scheme. The research also examines the practice of *Ghar Aasan* scheme and concludes that the model of *Ghar Aasan* (Flexi) scheme is different from conventional house financing and is based on diminishing *musharakah*. But there are some Sharia issues in implementation of diminishing *musharakah*. The research escorted the writer to darw out recommendations and implications in the last part of this thesis.

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## LIST OF ABBREVIATIONS:

AAOIFI:	ACCOUNTING AND AUDITING ORGANIZATION FOR ISLAMIC FINANCE INSTITUTIONS
BBA:	<i>BAY BITHAMAN AL AJIL</i>
CII:	COUNCIL OF ISLAMIC IDEOLOGY
DM:	DIMINISHING <i>MUSHARAKAH</i>
GAS:	<i>GHAR AASAN</i> SCHEME
GAF:	<i>GHAR AASAN</i> FLEXI
HBFC:	HOUSE BUILDING FINANCE CORPORATION LIMITED
HSBC:	HONG KONG AND SHANGHAI BANKING CORPORATION
IDB:	ISLAMIC DEVELOPMENT BANK
IFS:	ISLAMIC FINANCIAL SERVICES
IFSI:	ISLAMIC FINANCIAL SERVICE INSTITUTION
IRTI:	ISLAMIC RESEARCH AND TRAINING INSTITUTE
IMBT:	<i>IJARAH MUNTAHIA BITMLEEQ</i>
IWI:	<i>IJARAH WA IQTNA</i>
KFH:	KUWAIT FINANCE HOUSE
MBL:	MEEZAN BANK LIMITED
MABL:	MUSLIM COMMERCIAL BANK LIMITED
MM:	<i>MUSHARAKAH MUTNAQISA</i>

PLS:	PROFIT LOSS AND SHARING
ROE:	RETURN ON EQUITY
SBP:	STATE BANK OF PAKISTAN
SGS:	SHANDAR GHAR SCHEME
SS:	SIMPLIFIED SCHEME
SSB:	SHARI'AH SUPERVISORY BOARD
UBL:	UNITED BANK LIMITED
GOP:	GOVERNMENT OF PAKISTAN

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## CHAPTER 1: INTRODUCTION

### 1.1. Introduction:

House is one of the necessities of human beings. In history, the human being lived in the cave of the mountains. With the passage of time human being changed their life style. Everyone needs a house for living and for this aspect of human nature we can find the references from the Quran and Hadith, In Quran Allah (S.W.T) says,

*"And 'Allah hath given you in your houses an abode, and hath given you (also), of the hides of cattle, houses which ye find light (to carry) on the day of migration and on the day of pitching camp; and of their wool and their fur and their hair, caparison and comfort for a while." (An-Nahl: 80).*

And the Prophet Muhammad (PBUH.) also pays attention to this concern by saying:

*"The happiness of son of Adam is determined by three things: a pious wife, a good House and a good vehicle, and the misery of son of Adam is determined by three things: an impious wife, a bad House and bad vehicle" (Musnad Ahmad: 1368)".<sup>1</sup>*

To realize this dream people normally spend their all reserves and savings but those people who have less saving and funds to get house hire houses or get money on credit for purchasing or building a house. They otherwise contact the financial institutions to fulfill their financial needs. There are different substitutes available for getting finance for house. Conventional banks

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<sup>1</sup>.That means: (The happiness of a man in three ... a broad house), reported by IbnHibban.

provide financing for building a house on the basis of interest which is strictly prohibited in Islam. According to the Quran dealing with interest is like a war against Allah (SWT) and His Prophet (PBUH)<sup>2</sup>. But modern Sharia'h scholars introduced some Sharia'h compliant methods of house financing which are used all over the world in Muslim Communities. Following is a schedule which shows different methods followed in different countries for House financing.

**Table No: 1**

Sr. No	NAME OF COUNTRY	SHARIA'H COMPLIANT METHOD FOR HOUSE FINANCING.
1	Pakistan	Diminishing <i>Musharakah</i>
2	Malaysia & Indonesia	Murabahah lil-amiri bi-al-shira/ Bay Bithaman Al Ajil(BBA)
3	<i>Brunei Darussalam</i>	Murabahah lil-amiri bi-al-shira/ Bay Bithaman Al Ajil (BBA)
4	U.A.E	Ijara WaIqtina
5	U.S.A	<ul style="list-style-type: none"> <li>• Ijara WA Iqtina (rent to own).</li> <li>• Diminishing <i>Musharakah</i></li> <li>• Ijara WA Iqtina (rent to own).</li> </ul>
6	U.K	<ul style="list-style-type: none"> <li>• Murabahah lil-amiri bi-al-shira/Bay Bithaman Al Ajil &amp; <i>Istisna</i></li> </ul>

The above mentioned methods are valid according to Sharia'h so if we summarize the above mentioned all modes of financing we can say that there are mainly three Islamic modes for house financing i.e. Murabahah lil-amiri bi-al-shira, Ijara and Diminishing Musharka. Diminishing Musharka is more acceptable to all scholars as compared to other modes for house financing. In Pakistan there are different types of practices of house financing,

- i. Conventional Banks
- ii. Islamic Banks
- iii. House Building Finance Corporation (HBFCL)

<sup>2</sup> Al Quran 2:279

In Pakistan Islamic Banks and HBFCL Ltd provide house financing on the basis of Diminishing *Musharakah* which is Sharia'h compliant solution for house financing. HBFCL is a large government based institution which provides financing for building and purchasing of houses. There is general perception among people that the business of HBFCL is not Sharia'h compliant. On the other hand according to the manuals of HBFCL the business of the HBFCL is based on Diminishing *Musharakah*, which is acceptable mode of financing in Sharia'h. Although a difference of opinions exists, yet no lucid research has been previously carried out to examine that whether this practice is Sharia'h compliant or not? In this research the researcher will try to examine the product of HBFCL in the light of Sharia'h.

### **1.2. Research Objective:**

The objectives of the study is,

- To present a clear picture of the practices of House Building Finance Corporation Limited Pakistan in the light of Sharia'h.
- To find out loophole or flaws that affect the validity of the practice,
- To suggest viable and executable suggestions to rectify them.

### **1.3. Research Question:**

The research will investigate the following question,

1. How many models are available for house financing in Islamic financial institutions?
2. What are the practices of house finance in different Islamic financial institutions?
3. Is the product of House Building Finance Corporation (*Ghar Aasan Flexi*) Sharia'h compliant?
4. What are deficiencies in practice of House Building finance Corporation?



5. How can these deficiencies in the practice of House Building Finance Corporation be removed?

#### **1.4. Research Methodology:**

This study comprises library based and field research. Hence, it is theoretical and practical in nature. The research methodology of this study is based on primary and secondary data available. For the primary data, agreements offer letter and other legal documentation used in executing contracts in HBFCL and it also includes interview of House Building Finance Corporation's officials. Besides, product manuals and operating procedures will also be used as source of primary information for the study. It should be noted that the study is not limit itself to any particular financial institution in Pakistan. The Researcher has also compared different products of House Building Finance Corporation and the practice of HBFCL with the Practice of Meezan Bank Limited Pakistan. Literature and academic tests on the application of different modes of Islamic House financing on the other hand will be the secondary data used. This literature comprises published journals, periodicals, books, thesis, unpublished articles and internet resources.

#### **1.5. Plan of Study:**

The research work consists of five chapters including the introduction and ended with a conclusion and recommendation.

The first chapter will give an overview of the research which highlights the Practices of Islamic house financing especially that of House Building Finance Corporation Limited Pakistan in Sharia'h perspective. The introduction also includes the research methodology used in this

work. The second chapter contains review of literature done on Islamic House financing and House Building Finance Corporation limited Pakistan.

The third chapter is devoted to the Practices of Islamic House Financing. In this chapter the researcher will discuss modes of Islamic house financing and their practices in different regions of world, e.g. Pakistan, USA, UK, Brunei Darussalam, Indonesia etc. In second last chapter the researcher will give an overview of the Practice of House Building Finance Corporation Limited Pakistan and Islamization process with historical reference. It helps to understand whether the practice of HBFCL is Sharia'h compliant or not?

The last chapter presents the summary of the findings of the research followed by some recommendations which are necessarily required

## CHAPTER 2: LITERATURE REVIEW

House is considered a basic need of human being. (Hanif & HJazi ,2010) To fulfill this need people normally spend their all reserves and savings but the people who do not have sufficient funds to get a house they get money on credit for purchasing or building of house. They go to the financial institution to fulfill their needs. There are different substitutes available for getting finance for house. Conventional Banks provide financing for building a house on the basis of interest/riba which is strictly prohibited in the Quran, Allah (SWT) says in Quran: *“O you who believe! Be afraid of Allah and give up what remains (due to you) from Riba (from now onward), if you are (really) believers. And if you do not do it, then take a notice of war from Allah and His Messenger (PBUH) but if you repent, you shall have your capital sums. Deal not unjustly (by asking more than your capital sums), and you shall not be dealt with unjustly.”* (Al-Baqarah, 2:278-279).

Interest is strictly prohibited in Islam. Modern scholars have introduced some Sharia'h compliant methods of house financing which are using in all over the world in Muslim communities. Different countries are using different modes for Islamic house financing, e.g. Malaysia, Indonesia and Baronei Darussalam are using *Bay Bithaman AlAjl* (Muhmood, 2007), and in UAE the financial institutions are using *Ijarah* (Al-Shalhoob) in Pakistan financial institutions are using Diminishing *Musharakah* as a mode of Islamic House financing. (D. M. Usmani, Meezan Bank's Guide to Islamic Banking 2002) People in none Muslim countries like USA and UK facing problems for House financing because the financial institutions in these countries finance on interest basis.

Demand of house financing is high in USA because the Muslim community in USA is around 10 million and they avoid Riba based transactions, Al-Manzil, AFHL, and MSI have taken steps to meet this demand. (Abdul-Rahman n.d.), USA Financial institutions generally use *Ijarah WA Iqtina* mode for house financing.

In Malaysia, Islamic financial institutions employ *Bay bithaman al ajil* or *murabahah lil-amiri bi-al-shira*. In *Bay bithaman al ajil* the financial institution purchases house from customer on spot payment basis and will sell him on deferred payment basis with profit it resembles *Bay al-inna* which is not allowed in Sharia'h. The *Bay bithaman al ajil* contract is a controversial contract among Sharia'h scholars. According to Sharia'h scholars *Bay Bithaman Al Ajil* is similar to conventional house financing. (Razak, Ahamed Kameel & Dzuljastri Abdul 2005) On the basis of price Meera and Abdul Razak have discussed in their article with mathematical analysis that *Bay bithaman al ajil* is similar to conventional house financing, *Diminishing Musharakahis* however different from both, and consequently it is Sharia'h compliant (Ahmed Kameel Meera & Abdul Razak 2009 AD/1430 AH) Some institutions in UK use *Istisna* as a House financing product. This contract is basically for the construction of specific thing in a specific form<sup>3</sup>. (Al-Shalhoob 2008) We have discussed above that *diminishing Musharakahis* the most acceptable mode of Islamic House financing. In Pakistan different financial institutions provide house financing these institutions include conventional and Islamic banks a institution House Building Finance Corporation Limited, a government based institution established by the government of Pakistan in 1952, and incorporated under companies ordinance 1984 /XLVII of 1984.<sup>4</sup>Prior to 1977 the House Building Finance Corporation used to run its business on interest

<sup>3</sup>Al-Zuhayli, Financial Transactions, p. 268

<sup>4</sup>Chaudhry, Z.H. (2004), "House Building Finance Corporation Act 195", Nadeem Law Book house, Lahore, p.5

<sup>4</sup>HBFC. (n.d.). Introduction. Retrieved October 26, 2011, from House Building Finance Corporation:

based methods. Later on the Government of Pakistan instructed to the Council of Islamic Ideology (CII) for preparing of detailed scheme for establishing a Sharia'h compliant financial system in the country. The Council of Islamic Ideology submitted two reports on elimination of Riba. The first report recommended changes in the operations of non-bank financial intermediaries such as ICP, NIT, and House Building Finance Corporation Ltd. Pursuant to this law the House Building Finance Corporation started providing Islamic house financing on the basis of diminishing *Musharakah* from 1<sup>st</sup> July, 1979.<sup>5</sup>

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<sup>5</sup>Hassanuzzam, D. S. (1995). Islamisation of the Financial System in Pakistan. In I. o. Insurance, *Encyclopaedia of Islamic Banking & Insurance* (pp. 231-245). London: Institute of Islamic Banking & Insurance.- Usmani, M. M. (2005). *Islam aour Jadeed Maeeshat O TIjaraht (Urdu)*. Karachi: Maktba Muarif Ul Quran. P. 156 - CII. (1978-79). *Annual Report*. Islamabad: Council of Islamic Ideology, P. 260-229

## CHAPTER 3: PRACTICES OF ISLAMIC HOUSE FINANCING

### 3.1 Introduction:

The house financing has received a great amount of interest and attentions by contemporary Muslim scholars. Because of its importance a joint workshop on "Islamic Banking Methods for Housing Financing" was organized by Islamic Research and Training Institute (IRTI) of the Islamic Development Bank (IDB) in Khartoum two decades ago, Sudan.<sup>6</sup> The purpose of workshop was to discover Sharia'h compliant methods to finance housing sector. In this workshop the scholars also evaluated the experiences of some financial institutions that were already providing financing to housing sector. The scholars proposed a number of modes of Islamic house financing for the prospective customers, such as *Murabaha*, *Musharakah*, *Bay' Bi Al-Thaman Al-Ajil*, *Ijarahh* and *Istisna'*. These modes of financing are considered to be viable to meet the needs of the Muslim Ummah.

### 3.2 Islamic House Financing:

There are four different practices of Islamic house financing. These Four Practices are *Murabaha*, *Musharakah*, *Bay' Bi Al-Thaman Al-Ajil*, and *Istisna'*.

#### 3.2.1 *Bay' Bi Al-Thaman Al-Ajil/ Murabahah Lil-Amiri Bi-Al-Shira*:

*Murabahah lil-amiri bi-al-shirais* is, a term of Islamic Law that refers to a particular kind of sale. Most of the Islamic banks and financial institutions are use this transaction as an Islamic

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<sup>6</sup>See, Mahmoud Ahmad Mahdi, (Ed.) *Islamic Banking Modes for House Building Financing*, Seminar Proceedings Series No.: 28, Jeddah: Islamic Research and Training Institute- Islamic Development Bank, 1995, p. 17.

mode of financing.<sup>7</sup> Murabahah lil-amiri bi-al-shira is a sale of goods at a price covering the purchase price plus profit margin agreed upon between the contracting parties. In this type of sale the seller discloses the cost and profit of the sold commodity.<sup>8</sup> The legitimacy of *murabahah lil-amiri bi-al-shira* contract is based on the Quran, the Sunnah, the consensus of the Muslim jurists and the analogy (*qiyas*). In the Qur'an, Allah (SWT) says: "*Allah has permitted trade and prohibited Riba*"<sup>9</sup>. The Prophet Muhammad (saw) says: "*The best earning is what man earns with his own hands and from a permissible trade*".<sup>10</sup> According to scholars there is a general principle of Islamic law that everything is permissible as long as there is no violation of specific rules of Sharia'h. Furthermore, the consensus of the Muslim jurists can be traced in classical Islamic jurisprudence which shows their permission on *murabahah lil-amiri bi-al-shira* contract. Its legitimacy is also proved by analogy, since the Prophet (saw) has approved the *tawliyah* sale which is similar to *murabahah*<sup>11</sup>, Islamic financial institutions are also use this mode of financing for financing. In Malaysia, Indonesia and Baranai Daru Salam Islamic Financial institutions provide house financing on the basis of *murabahah lil-amiri bi-al-shira/ Bay bithaman al ajil*. According the scholars, this contract is not suitable for House financing because of pricing issue i.e. a contract of Murabahah lil-amiri bi-al-shira (for House Financing) is for long term financing and IFI can not charge extra amount during the period of contract, as a result it becomes costly for customer.

<sup>7</sup>Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN.P. 95

<sup>8</sup>Mansoori, D. M. (2005). Islamic Law of Contracts and Business Transactions. Islamabad: Shai'ah Academy, International Islamic University, P. 214

<sup>9</sup>Al-Qur'an, al-Baqarah: 275.

<sup>10</sup>Narrated by Hakim

<sup>11</sup>Tawliyah is a sale based on cost price

In this contract the customer books a house from Construction Company and then sells it to the bank. The money from the bank is given to the construction company to complete the purchase. Now the bank sells the house back to the customer as an installment sale.

### 3.2.1.1 Conditions of *Murabahah Lil-Amiri Bi-Al-Shira*:

Following are some conditions of *murabahah lil-amiri bi-al-shira* to the Purchase orderer.

1. The Subject matter must exist at the time of sale.<sup>12</sup>
2. The subject matter must be in the actual or constructive possession of the Seller/ financial Institution.<sup>13</sup>
3. The Customer or his agent should not be the Supplier of the Islamic bank at the same time. But it is permissible for the financial institution to purchase commodity for the person having blood relation with customer.<sup>14</sup>
4. The Transaction should be genuine not fictitious.<sup>15</sup>
5. The subject matter should not be Gold and silver.<sup>16</sup>
6. The Sale should be not contingent on future event and it should not be a conditional Sale.<sup>17</sup>
7. The Subject matter must have some material Value.
8. The Subject matter must be halal, it should not be wine etc.<sup>18</sup>

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<sup>12</sup>Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN.P. 97

<sup>13</sup> Ibid,

<sup>14</sup>AAOIFI. (1429H-2008). Accounting Standards. Manama: Accounting and Auditing Organization for Islamic Financial Institutions, P.O.Box 1176, Bahrain. Section 2/2/3 and 2/2/4 P. 116

<sup>15</sup>Ibid, Section 2/2/2, P. 116

<sup>16</sup> Ibid, Section 2/2/6, P. 116

<sup>17</sup>Usmani, D. M. (2002). MeezanBank's Guide to Islamic Banking. Karachi: DARUL-ISHAAT URDU BAZAR KARACHI-I PAKISTAN. P. 127

<sup>18</sup>Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN.P. 100



9. The Subject matter must be identified and specified. If the Subject matter is not defined the sale will be void.<sup>19</sup>
10. The Price of the Commodity Must be Specified and known to the both parties. If the price of the commodity is not known the seller the Murabaha sale is not valid.
11. The Profit Must be clearly mention before the Murabaha contract.<sup>20</sup>

### 3.2.1.2 Process flow of *murabahah lil-amiri bi-al-shira* in Islamic house financing:

The customer books house from construction company and then sells it to the bank. The money from the bank is given to the construction company to complete the purchase. An objection raised on this transaction is that, if the sale to bank is valid than ownership should be with the bank, but apparently it is not the case. Bank just retains the papers. The bank sells the house back to the customer on installment sale basis.

1. Customer books a house paying earnest money to construction company.
2. For remaining payment customer will approaches the Islamic bank.
3. Customer sells this house to Islamic Bank on spot payment basis.
4. Customer Purchases that house from construction company.
5. House remains in the name of customer...
6. Customer pays the amount of loan in installments to the bank.
7. Bank keeps documents of house as collateral.

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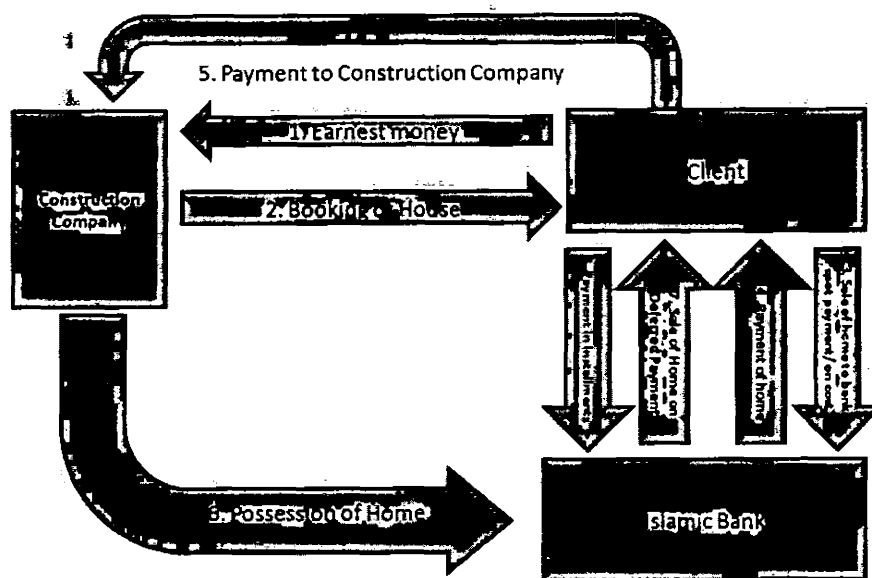
<sup>19</sup> Ibid

<sup>20</sup> If A sells a Book to B and not mention the Price and Profit specifically there will be Musawma instead of Murabaha.

8. After payment the Islamic Bank transfers the ownership and possession to customer.<sup>21</sup>

Figure: 1

### PROCESS FLOW OF BAY BITHAMAN AL AJIL (BBA) IN HOME FINANCING:



### 3.2.2 Diminishing *Musharakah*:

Diminishing *Musharakah* (*Musharakah Mutanaqisa*) is combination of three contracts which are: *sharikah* (Partnership), *Ijarahh* (Lease) and *Bay* (Sale).<sup>22</sup> In this contract Islamic Financial Institution and the customer participate in the joint ownership of a property or equipment on the basis of *Sharikah tul Milk*. The share of the financier is divided into a number

<sup>21</sup> Hasan, D. Z. (2011). Islamic Finance for housing. International Conference on Islamic Business and finance ICIB-2011 (Feb 8-9-2011), (pp. 1-12). Islamabad.

<sup>22</sup> Abdullah, Noor Mohammad Osmani & Md. Farukh. (July 2010). *Musharakah Mutanaqisah* House Financing: A review of Literatures & Practices of Islamic Banks in Malaysia. international Review of Business Research Papers,, (pp. Vol: 6 272-282). P. 273

of units and the customer purchases those units one by one periodically. The customer purchases units of Islamic financial institution until the customers become the sole owner of the property.<sup>23</sup> The customer pays the rent to Islamic financial institution for using portion of Islamic financial institution. As the customer purchases units of the Islamic Financial institution his payable amount of rent decreases. Finally the payable amount of rent becomes zero. This mode of financing is normally used by the Islamic financial institution of Pakistan for House financing.<sup>24</sup>

### 3.2.2.1 Process flow of Diminishing *Musharakah* for house financing:

1. Both the parties i.e. the customer and the bank contribute their share in the venture to create joint ownership (*Shirkah tul Milk*)
2. The financier gives his part of property on rent to the customer.
3. The rental starts only after the house is purchased and the customer takes its possession.<sup>25</sup>
4. The customer purchases share of financial institution.
5. Every sale of unit is recorded by the bank and proper receipt is issued to the customer.
6. When the customer buys all units, he becomes sole owner of house.

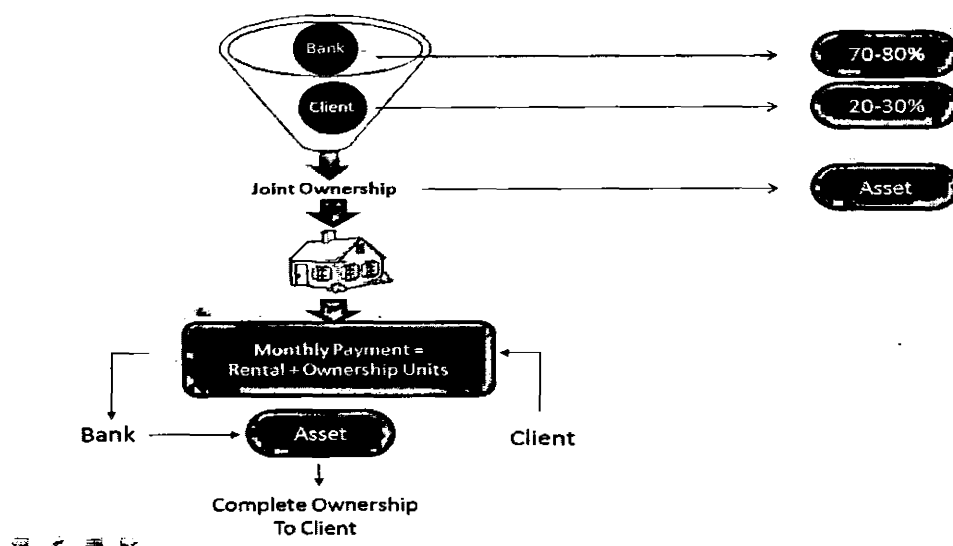
<sup>23</sup>Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN, P. 82, - OIC, F. A. (n.d.). Fatawa. Retrieved Oct 21, 2011, from ISRA: <http://www.isra.my/fatwas/topics/commercial-banking/financing/musharakah/item/324-al-musharakah-al-mutanaqisah-and-its-shari%E2%80%99ah-rules-resolution-no-136-15/2-2004-by-the-international-council-of-fiqh-academy.html#startOfPageId324>, Usmani, D. M. (2002). MeezanBank's Guide to Islamic Banking. Karachi: DARUL-ISHAAT URDU BAZAR KARACHI-I PAKISTAN., P. 115, - Usmani, D. M. (2005). Shirkat O Muzarbat Asre Hazar Main (Urdu). Karachi: Idaratul Ma'arif.,p. 415 - Usmani, M. M. (1996). Fiqhi Muqalat (Research Papers in Islamic Law). Karachi: Maiman Islamic Publishers, P. 231 - Ayub, M. (2002). Islamic Banking and Finance theory and Practice. Karachi: State Bank of Pakistan, P. 75

<sup>24</sup>SBP. (2008, March 25). [www.sbp.org.pk/ibd/2008/Annex-c2-1.pdf](http://www.sbp.org.pk/ibd/2008/Annex-c2-1.pdf). Retrieved Oct 22, 2011,

<sup>25</sup> As a matter of rule in Islamic law an effect can't be presumed until and unless its cause comes into beings. We can't sale what we don't have in our ownership likewise a thing which is missing an ingredient of ownership is invalid for selling and rent is akin to sale.

Figure: 2

### PROCESS FLOW OF DIMINISHING MUSHARKAH IN HOME FINANCING:



#### 3.2.3 Ijarahh:

*Ijarahh* is a term of Islamic law. The word *Ijarahh* literally means to give something on rent. In the Islamic jurisprudence, the term is used for two different situations. In the first place, it means to employ the services of the person on wages given to him as a consideration for his hired services. Second type of *Ijarah* relates to the usufructs of assets and properties.<sup>26</sup> Islamic financial institutions also used *Ijarah* as a mode of financing where they use *Ijarah wa Iqtina*. In *Ijarah* the customer requests to the Islamic financial institution for financing. Islamic financial Institution purchases the asset and gives to customer on the basis of *Ijarah* and charge him rental. The IFI is called lessor and the customer is called lessee. After a specific date or on completion of contract the financial institution transfers that asset to customer that asset in the form of gift or against some price.

<sup>26</sup> Ibid, P. 157

### 3.2.3.1 Conditions of *Ijarah* for house Financing:

1. Anything which cannot be used without consuming the same cannot be leased out.<sup>27</sup>
2. The subject matter of *Ijarahh* must be valuable.
3. The object and purpose of the contract should be lawful.
4. The subject matter will remain in the ownership of the lessor. Only its usufruct will be transfer to the lessee.
5. All the liabilities arising from the ownership shall be borne by the lessor, but the liabilities referable to the use of the property shall be borne by the lessee.
6. The period of *Ijarahh* must be defined in clear terms.
7. The lessee shall use the leased asset for the purposes according to the specified agreement in the lease contract.
8. The lessee is liable for any damages in the leased property due to negligence or any misuse on the part of the lessee.
9. During period of *Ijarahh*, the lessor shall bear loss due to inevitable loss.
10. The rental of the property must be determined at the beginning of contract for the whole period of *Ijarahh*.<sup>28</sup>
11. It is permissible that different amounts of rents are fixed for different phases during the lease period, provided that the amount of rent for each phase is specifically agreed upon at the time of affecting a lease.<sup>29</sup>
12. Unilateral increase of the rent is not permissible.

<sup>27</sup> Ayub, M. (2002). Islamic Banking and Finance theory and Practice. Karachi: State Bank of Pakistan, P. 96

<sup>28</sup> Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN, P. 161

<sup>29</sup> Ibid

13. The lease period shall commence from the date on which the leased asset has been delivered to the lessee and the rent will be charge after delivery of asset.

#### **3.2.3.2 Process flow of *Ijarah* in Islamic House Financing:**

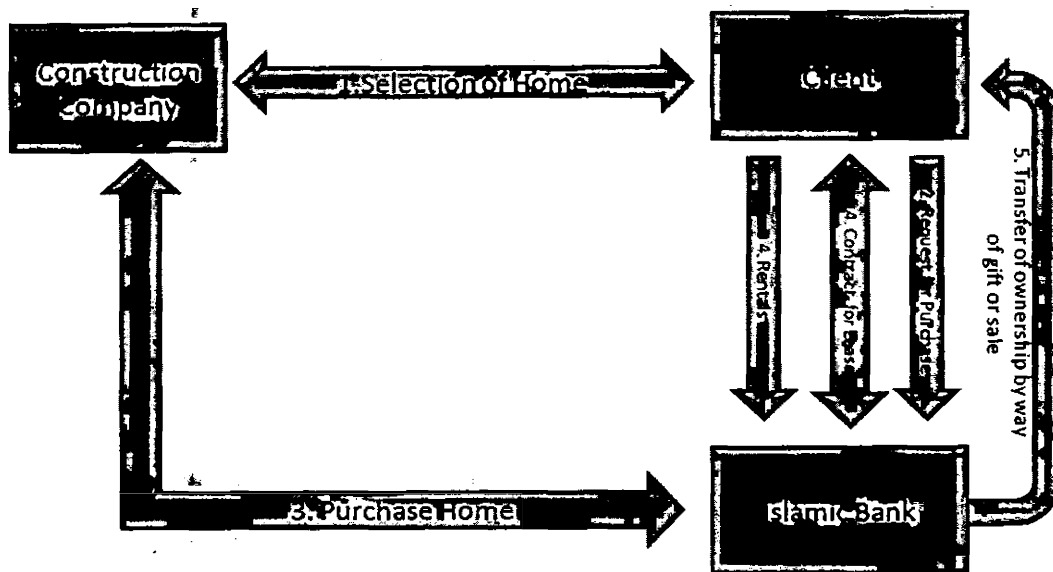
1. Customer selects a model house according to his need,
2. The financial institution purchases the house, and pays the price by cash from third party
3. The financial institution offer the house to be hired,
4. At the end of lease contract the ownership of House is transferred to the customer by way of sale or gift.<sup>30</sup>

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<sup>30</sup> Al-Shalhoob, D. S. (2008). House Financing in Islamic Law, A study of some products from housing financing and applicable to Islamic Law. Kuala lumpur. King Fahd University of Petroleum and minerals, Saudi Arabia

Figure No. 3

## PROCESS FLOW OF IJARAH IN HOME FINANCING:



### 3.2.4. Istisna:

*Istisna* is also a contract of sale in which price is paid in advance and commodity delivered in future. This contract is used for manufacturing of specific good generally non-fungible things. In this contract a customer approaches to a manufacturer for manufacturing of a commodity and pays the price fully or partially. He may also defer payment on completion of project. The manufacturer delivers that product/commodity in future. Islamic financial institutions also use *Istisna* as a mode of financing where they use *Al-Istisna'-muwazii* (Parallel *Istisna*). Islamic financial institution participates in this contract as an intermediary i.e. the customer requests to the Islamic Financial Institution for purchasing a specific good/commodity, and Islamic financial

institution enters into a parallel contract with the manufacturing company for manufacturing of that specific object. IFI pays price to the manufacturer on spot and takes delivery in future, on taking its possession transfers it to his customer. The Customer takes delivery and pays in future.

#### **3.2.4.1. Conditions of *Istisna* for House Financing:**

1. The *Istisna* contract can only take place when some manufacturing or work is involved.<sup>31</sup>
2. The contract of *Istisna* should be for finished product.
3. The specification and price of the required commodity should be spelled out in the contract of *Istisna*.<sup>32</sup>
4. The customer cannot provide material to the manufacturer because it will become *Ijarah* instead of *Istisna*.
5. Price can be paid in advance and can be deferred to future date.
6. The Parallel *Istisna* Contract cannot be done with customer himself.
7. The time of delivery should be fixed.

#### **3.2.4.2. Process flow of *Istisna* in Islamic house financing:**

1. The bank acts as a middle man, using *Al-Istisn al-muwazi* (on one hand bank is seller and on other hand bank/IFI is purchaser.)
2. Customer selects a specific designs and bank makes an agreement with a contractor for construction of a house.

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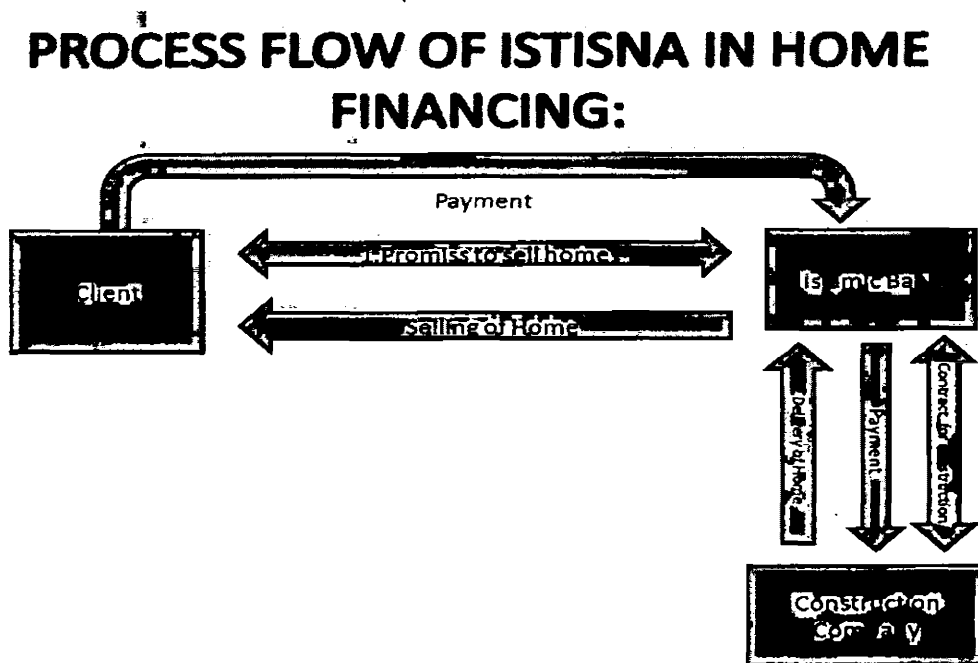
<sup>31</sup> Mansoori, D. M. (2005). *Islamic Law of Contracts and Business Transactions*. Islamabad: Shai'ah Academy, International Islamic University, P. 209

<sup>32</sup> *ibid*



3. After construction of house bank pays agreed price to the contractor and delivers house to the customer on deferred payment basis.<sup>33</sup>

Figure No. 4



<sup>33</sup> Ibid

## **CHAPTER 4: CASE STUDY OF HOUSE BUILDING FINANCE CORPORATION LIMITED PAKISTAN**

### **4.1 Introduction:**

The House Building Finance Corporation was established in 1952 under an act of the parliament<sup>34</sup> to finance construction of house in the urban areas of Pakistan. Its operations started from the city of Karachi and were later on extended to other cities and towns. The Objective of the House Building Finance Corporation was to facilitate the low income people of Pakistan. The House Building Finance Corporation Limited is the oldest housing finance institution in Pakistan. HBFCL is a Government designated financial institution and provides financing facilities for construction, reconstruction, renovation and purchase of house.<sup>35</sup>

The House Building Finance Corporation was incorporated on July 25, 2007; the House Building Finance Corporation Limited is an unlisted public company. The Government of Pakistan (GOP) and the State Bank of Pakistan (SBP) jointly hold the capital of HBFCL with 62.50% and 37.50%, shares respectively. As of February 18, 2011 and pursuant to the provisions of section 39 of the Companies Ordinance, 1984, the name of House Building Finance Corporation has been changed to House Building Finance Company Limited.<sup>36</sup>

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<sup>34</sup>Chaudhry, Z.H. (2004), "*House Building Finance Corporation Act 1995*", Nadeem Law Book house, Lahore, p.5

<sup>35</sup>HBFCCL. (n.d.). *Introduction*. Retrieved October 26, 2011, from House Building Finance Corporation: [http://www.HBFCL.com.pk/company\\_profile.html](http://www.HBFCL.com.pk/company_profile.html)

<sup>36</sup> Ibid

## **4.2 Role of HBFCL in Economic Development:**

As a matter of their mandate, HBFCL has focused on providing house financing for the housing needs of the lower and middle income socio-economic sectors. To date, HBFCL has financed over 450,000 Houses. Over the years they have developed and offered housing finance products based on the needs of the customers.

Presently, nearly 51% of HBFCL's customers are of the lower income demographic with loan amounts of less than Rs. 100,000. Nearly 93% of customers have loans below Rs. 500,000, and maintain a monthly income between Rs. 3,500 and Rs. 5,000. Understanding that a large portion of customer base can only afford to pay installments of Rs. 1,000 to Rs. 1,200 per month, HBFCL has actively developed products to accommodate this market to include repayment plans over a 15 to 20 year period.

To date, HBFCL has financed around 456,256 units for Rs.47.82 billion, successful recoveries of Rs.64 billion (inclusive of markup) and has a housing portfolio of Rs.14.6 billion. At present the HBFCL is handling over 77,666 operative accounts with a work force comprising of 951 officers and support staff. The Company operates throughout Pakistan including Azad Kashmir and Northern areas.<sup>37</sup>

## **4.3 Islamization of HBFCL:**

Prior to 1977 the House Building Finance Corporation used to run its business on interest based means and methods. Later on the Government of Pakistan ordered to the Council of Islamic Ideology (CII) for preparing detailed scheme for establishing a Sharia'h compliant

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<sup>37</sup>HBFCL. (n.d.). *Introduction*. Retrieved October 26, 2011, from House Building Finance Corporation: [http://www.HBFCL.com.pk/company\\_profile.html](http://www.HBFCL.com.pk/company_profile.html)

financial system in the country. The Council of Islamic Ideology submitted two reports on elimination of Riba. The first report recommended changes in the operations of non-bank financial intermediaries including House Building Finance Corporation Ltd. In compliance with recommendation of report, the House Building Finance Corporation started providing Islamic house financing on the basis of diminishing *musharakah* from 1<sup>st</sup> July, 1979.<sup>38</sup>

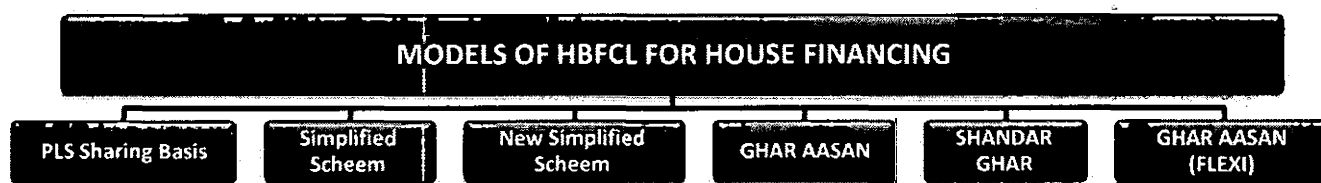
#### 4.4 Models of House Building Finance Corporation Limited:

The House Building Finance Corporation Limited developed its Islamic House Finance products during 1979-1987. The first model of Islamic house financing was introduced and notified by the HBFCL was on PLS or income sharing basis. Later-on in 1988-1990 the next product of HBFCL for Islamic house financing i.e. "Simplified Scheme" introduced. This scheme was launched on the basis of income sharing. "New Simplified Scheme" was third product of HBFCL, which was introduced in 1990-2001. After the Supreme Court's Judgment on Riba the HBFCL introduced in 2002-2008 a new product named *Ghar Aasan* on the basis of Diminishing *Musharakah*.<sup>39</sup> HBFCL introduced a product for financing contractors/builders in 2003 with the name Shandar Ghar. This product was on the basis of Murabahah lil-amiri bi-al-shira i.e. murabaha to the purchase orderer. The current product of the House Building finance corporation is *Ghar Aasan* (FLEXI). This product was introduced by HBFCL in late 2007.

<sup>38</sup>Hassanuzzam, D. S. (1995). Islamisation of the Financial System in Pakistan. In I. o. Insurance, *Encyclopaedia of Islamic Banking & Insurance* (pp. 231-245). London: Institute of Islamic Banking & Insurance.- Usmani, M. M. (2005). *Islam aour Jadeed Maeeshat O Tljaraht (Urdu)*. Karachi: Maktba Muarif Ul Quran. P. 156 - CII. (1978-79). *Annual Report*. Islamabad: Council of Islamic Ideology, P. 260-229

<sup>39</sup>HBFC. (2001-2002). *Manuals of House Building Finance Corporation*. Karachi: House Building Finance Corporation, . - Khan, K. M. (2011, 01 03). House Building Finance Corporation. (M. A. Shahzad, Interviewer) - Khan, K. M. (2011, 01 03). House Building Finance Corporation. (M. A. Shahzad, Interviewer)

**Figure No. 5**



#### **4.4.1 PLS Basis / Income Sharing Basis Scheme & Simplified Scheme:**

We have mentioned above that during the Islamization process, the government of Pakistan instructed to the Council of Islamic Ideology for preparing detailed scheme for establishing a Sharia'h compliant financial system in the country. The Council prepared a detailed report and submitted it to the Government. Pursuant to its recommendations the House Building Finance Corporation started its Sharia'h compliant business. This product was launched by the House Building Finance Corporation in 1979. According to this scheme the HBFCL charged original amount along with rental for a specific time period. Different rentals were fixed according to different localities. Later on HBFCL introduced a new product "Simplified Scheme" in 1988-1990 in which they specified localities and regions. A characteristic of this product was that there were different rental rate in different regions of cities e.g. in Rawalpindi there were four regions "A", "B", "C", "D" and HBFCL charged rentals according to the category. If a person needs financing in "A" region the rental rate was different as compared to

region “B”, “C” and “D”.<sup>40</sup> These products were developed on income sharing basis. This product did not follow any specific Islamic mode of financing.<sup>41</sup>

#### 4.4.2 New Simplified Scheme:

In 1990-2001 the House Building Finance Corporation Limited introduced a new product for house financing. The product was introduced with nominal changes in previous products i.e. PLS and Simplified scheme. The rules relating to localities were omitted in this scheme and different regions, and different rental values were changed into specific rental rate for all localities.<sup>42</sup> The reason behind the above mentioned changes and introducing a new product was that HBFCL suffered loss due to difference in rental amounts. So in new scheme, it made rentals uniform for all localities.

#### 4.4.3 Ghar Aasan Scheme:

*Ghar Aasan* was the fourth scheme of HBFCL. It was introduced as result of Supreme Court’s judgment. The House Building Finance Corporation launched this scheme in 2002 to 2008. This product was on the basis of Diminishing *Musharakah*. This product was for the construction of house.<sup>43</sup>

In this scheme a period of 09 months for house and 18 months for apartment from the date of execution of the deed of assignment and partnership was fixed. During this period no rental

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<sup>40</sup>Ibid and Case of Firdous BiBi Account No. 23801513-MJ Dated 01-07-1983.

<sup>41</sup>Limited, House Building Finance Corporation. *Simplified Scheme*. Scheme manual (Simplified Scheme), Karachi: HBFCL, 1987.

<sup>42</sup>HBFCL. (2001-2002). *Manuals of House Building Finance Corporation*. Karachi: House Building Finance Corporation, . - Khan, K. M. (2011, 01 03). House Building Finance Corporation. (M. A. Shahzad, Interviewer)

<sup>43</sup>Usmani, M. M. (2005). *Islam aour Jadeed Maeeshat O Tljaraht (Urdu)*. Karachi: Maktba Muarif Ul Quran.- Shoukat, M. I. (2010, 07 25). *Ghar Aasan*. (M. A. Shahzad, Interviewer) - SBP. (2002). *Islamization of Financial System in Pakistan*. Karachi: SBP.- Saëed, M. M. (2010, 07 25). Diminishing *Musharakah*in HBFCL. (M. A. Shahzad, Interviewer)

was charged from the customer.<sup>44</sup> In case of purchase of finished house/Apartment, no such period for completion of house/flats was applicable. Only appreciation fee was charged. In case of purchase of constructed house no such period for completion of house flats was be applicable.

The *Ghar Aasan* Scheme works in the following ways:

The payment of the share of rental income of HBFCL's share commence from the first day of month next following the expiry of the agreed period. In case of construction of house flate and from the first day of the month execution or signing of the deed of assignment, and partnership in case of purchase of finish house.

The corporation's share in the rental income was payable on monthly basis during the period of moratorium and thereafter the monthly installment amount was increased to enable the partner to purchase one investment unit each year. The funds received towards purchase of investment unit were treated on-account till the total purchase price (including the agreed appreciation in the value of the house) has been received. The share of the corporation in the net rental income shall be revised after purchase of every investment unit and shall remain fixed at the revised ratio worked out on the balance of the investment, till all the investment units are purchased.

#### 4.4.3.1. Calculations:

##### Calculation of Investment Units:

$$= \frac{\text{Investment Amout}}{\text{No. of Months or Duration of investment}}$$

<sup>44</sup>This period is calls lock out period. In this period the House Building Finance Corporation give time to CUSTOMER for construction of house. In this period the HBFCLL don't charge unit price or rental. And during next 15 months HBFCLL charges only the amount of rental. The CUSTOMER can purchase units only after completion of 24 months.

As mentioned in (Annexure: 3) a CUSTOMER has applied for investment Rs. 490, 000 for a period of 25 years (300 months) out of these 300 months 9 months were for construction and 15 months were moratorium period In construction and Moratorium period the CUSTOMER can not purchase units so unit price will be as follow

$$= \frac{490000}{276}$$

$$= 21304$$

For monthly calculation answer will be divided by 12 e.g. 21304/12 the monthly price of unit will be Rs. 1775

#### Calculation Rental:

$$= \text{HBFCL's Share X Rate}$$

$$= 490000 \times 5\%$$

$$= 22504$$

For monthly calculation answer will be divided by 12 e.g. 22504/12 the monthly price rental will be Rs. 2042.

#### 4.4.3.2. Case Example:

Customer "Ishfaq"<sup>45</sup> applied for house financing to HBFCL on 1<sup>st</sup> December 2008. The approved amount and duration was as under.

Financing Amounting		Rupees -10,00,000/-
Duration		10 Years
Units		10
<b>01-01-2011</b> <sup>46</sup>		
Purchase of Units	100,000	
Purchase one unit (10,00,000/10)	= 30,000	

<sup>45</sup> This is a case of House building Finance Corporation which has been closed. I am using this case as an example. The Account Number of Mr. Muhammad IshfaqBhati was (838000010-2). This case has changed for deducing complexity.

<sup>46</sup> Just after completion of construction and moratorium period of two year



Appreciation Amount (10% p.a.)<sup>47</sup>

=

$$\frac{100,000 + 30,000}{12}$$

Unit Price

=

10833.33

Amount of Rent @ 5%

=

4170

Insurance @ 0.5% of 100000

=

500

**Per Month Installment:**

**15503**

- After Every three years appreciation in rent will be according to contract or 25% (in practice)
- On next year the rent will be charged on 9 units.
- Appreciation will be charged 40 percent 30% for previous 3 years and 10 percent for 2012 in advance.

#### **For the Year 2012**

Purchase of Units

Purchase one unit (10,00,000/10)

=

100,000

Appreciation Amount (10% p.a.)<sup>48</sup>

=

40,000

$$\frac{100,000 + 40,000}{12}$$

Unit Price

=

11666.67

<sup>47</sup> The House Building Finance Corporation charges "Appreciation" on land during the period of construction and moratorium 2009, 2010 and for 2011 in advance. (10,00,000\*30/100)

<sup>48</sup> The House Building Finance Corporation charges "Appreciation" on land during the period of construction and moratorium 2009, 2010 and for 2011 in advance. (10,00,000\*40/100)

Amount of Rent @ 5%<sup>49</sup> = 3750

Insurance @ 0.5% of 100000 = 500

**Per Month Installment: (Approximately)**

**15916.67**

#### **4.4.4. Shandar Ghar Scheme:**

To facilitate the low income people of Pakistan House Building Finance Corporation provides different schemes. The HBFCL accommodates not only general public but also builders. Shandar Ghar Scheme was introduced in 2003 for the builders and those customers who want to renovate their house. This scheme was on the basis of *Murabahah lil-amiri bi-al-shira or murabaha to the purchaser order*.

A customer approaches the HBFCL for financing to renovate his house the HBFCL will provide him a financing after some prerequisite. The process will be as follow,

1. The Customer will request HBFCL for purchasing material for renovation.
2. HBFCL will accept his request
3. HBFCL will make payment to customer in one check.

#### **4.4.4.1 Calculations:**

HBFCCL will charge profit from customer and his monthly instalment on following formula.

1. A customer's approved facility amount: 468000
2. Rate of Profit (KIBOR): 14.2%
3. Spread for Government employee: 3.25<sup>50</sup>

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<sup>49</sup> Corporation's one unit has been purchased by the customer in 2011. Now the rent will be charged on 09 units.

$$\text{Monthly Rent} = \frac{\text{Principal} + \text{Profit}}{\text{No. of Months}}$$

### Case Example:

A Customer applied for renovation, (Annexure: 2) Detail of his facility is as under.

Account Number:	1150004628
Cost:	500, 000
Profit:	6, 75, 000
Murabahah lil-amiri bi-al-shira Sale Price:	11, 77, 040
Duration:	120 months

### Calculation of Monthly Payment:

$$\text{Monthly Rent} = \frac{\text{Principal} + \text{Profit}}{\text{No. of Months}}$$

$$\text{Monthly Rent} = \frac{500,000 + 675,000}{120}$$

$$\text{Monthly Rent (Pk Rs.)} = 9792/-$$

The CUSTOMER will not pay any other amount. His fixed monthly payment is Rs 9792, for whole duration of facility (Annexure: 2).

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<sup>50</sup>The rate of spread is different for government employee and business man. For government employee rate of spread is 3.25% on the other hand the for business man 3.5%.

#### **4.4.4.2 Issues in Shandar Ghar Scheme:**

##### **4.4.4.2.1 Application of Murabahah lil-amiri bi-al-shira:**

In previous chapter murabahah lil-amiri bi-al-shira has been discussed in detail. We have mentioned that this is a type of sale in which a person sells a commodity. The HBFCL however used Murabahah lil-amiri bi-al-shira for renovation. Thus its practice is not according to Sharia'h because it did not sell anything to customer HBFCL give him only loan.

##### **4.4.4.2.2 Recommendations:**

The House Building Finance Corporation used Murabahah lil-amiri bi-al-shira as mode of financing for the renovation purpose. This is very suitable for renovation because if a person needs to renovate his house e.g. he wants to change doors of his house and applies for this scheme the HBFCL can provide his financing on following procedure.

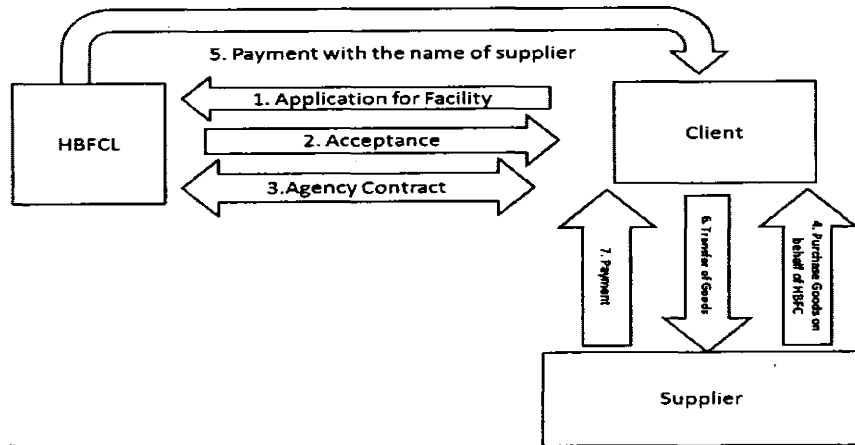
##### **4.4.4.2.2.1 Purchasing Stage:**

- Customer approaches HBFCL for renovation facility.
- HBFCL accepts his application.
- HBFCL appoints customer as his agent to purchase required goods.
- The customer purchases required goods e.g. wood, on behalf of HBFCL
- HBFCL makes payment to supplier through the customer.

This was first step as agent has taken procession and the procession of agent is procession of principal now the HBFCL can sales the commodity. Before this process the HBFCL can not sale goods to his customer as prohibited in Hadith "*Don't sell what you don't have*". In 2<sup>nd</sup> step the HBFCL will sell to his customer

**Figure No. 6**

Stage: 1

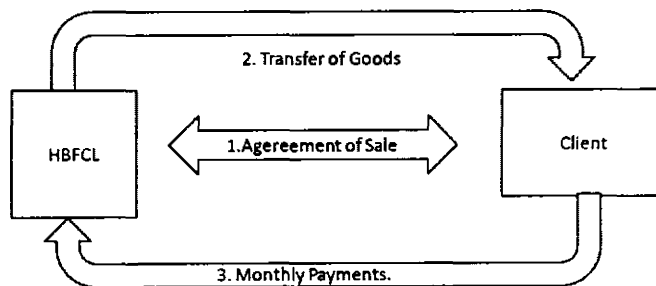


**4.4.4.2.2.2 Selling Stage:**

- HBFCL requests his customer for sale of goods.
- HBFCL transfers procession of goods to his customer.
- The customer pays his monthly payments to HBFCL.

**Figure No. 7**

Stage:2



Shandar Ghar scheme, in our analysis, can become Sharia'h compliant if the above mentioned process is followed.

#### 4.4.4.2.3 Pricing Issue:

In this facility the House building finance corporation charges a very high profit rate which comes under *Ghabn e Fahish* “which means excessive loss suffered by a party to contract as a result of concealment or misrepresentation or deception or fraud practiced by the other”<sup>51</sup>. A case mentioned in Annexure 2 that the HBFCL has approved facility of rupees 500,000 and amount profit is 675,000. The customer will pay 11, 75000. There are some other charges amounting to rupees 2040 and the CUSTOMER will pay total amount of rupees 1177040. It is clear that the HBFCL is charging 135% profit on cost which is too much.

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<sup>51</sup>Mansoori, D. M. (2005). *Islamic Law of Contracts and Business Transactions*. Islamabad: Shai'ah Academy, International Islamic University,.

#### 4.4.4.3. Difference between Ghar Aasn, Shandar Ghar, Simplified and PLS Scheme's:

Table No: 2

<b>G HAR AASAN SCHEEM</b>	<b>SHANDAR GHAR</b>	<b>SIMPLIFIED SCHEME</b>	<b>NEW SIMPLIFIED SCHEME</b>
<b>PURPOSE:</b>			
Construction	Renovation	Construction	Construction
<b>SHARIA'H COMPLIANCE</b>			
Product was Sharia'h Compliant but application was not Sharia'h Compliant	Product was Sharia'h Compliant but application was not Sharia'h Compliant	No	No
<b>CUSTOMER CONVENIENCE</b>			
No	No	Yes	Yes
<b>CUSTOMERS:</b>			
General Public	Contractors/ General Public	General Public	General Public
<b>BASIS:</b>			
Diminishing Musharakah	Bay Murabahah lil-amiri bi-al-shira	Rental Sharing	Rental Sharing
<b>RENTAL RATE:</b>			
KIBOR + Spread	KIBOR + Spread	Specific with respect to area	Specific amount
<b>RENTAL STARTS:</b>			
After 09 Months	From 1 <sup>st</sup> day	From 1 <sup>st</sup> day	From 1 <sup>st</sup> day
<b>MORATORIUM PERIOD:</b>			
Yes	No	No	No
<b>EXPENSIVENESS:</b>			
This facility was very expensive because HBFCL charged appreciation on value of house which was very high	This Facility was also very expensive with respect to CUSTOMER because HBFCL charged Profit rate very high on Murabahah lil-amiri bi-al-shira price even some time profit becomes double then Murabahah lil-amiri bi-al-shira price.	This Facility was very Cheeper as compared to Ghar Aasn and Shandar Ghar Because in this facility HBFCL charged only rental and facility amout	These Facilities were very ideal because in these facilities HBFCL charged rental, but the rental was different in different localities.
<b>INSTALLMENT</b>			
Very High	High	Low	Very Low

#### **4.4.5 Ghar Aasan Flexi Scheme:**

The House building Finance Corporation introduced a comprehensive scheme after *Ghar Aasan* in late 2007. This facility is based on diminishing *Musharakah* and is only being practiced for providing house financing in House Building Finance Corporation. Other schemes like *Ghar Aasan*, *Shandar Ghar* etc.

have been closed by HBFCL e.g.

This scheme offers the following categories to meet different needs of the customers, however here we will focus only on construction case:

- Construction of residential property
- Renovation of an existing residential property
- Purchase of a residential property

##### **4.4.5.1 Primary Conditions of *Ghar Aasan* Flexi Scheme:**

In this scheme the HBFCL facilitates customer to construct a residential property on previously owned land by customer, or to add on current domestic property. HBFCL assists up to 60% of total estimated cost of construction (Land cost + Cost of construction)<sup>52</sup>. HBFCL only facilitates for construction and the land must be bought from customer's side.

##### **4.4.5.2 Main Conditions/Characteristics of *Ghar Aasan* Flexi Scheme:**

1. Rental Rate KIBOR + Spread<sup>53</sup>.
2. Rental Fix for one year.

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<sup>52</sup>HBFCL. (n.d.). *New Customers*. Retrieved June 11, 2011, from House Building Finance Company Limited: <http://www.HBFCL.com.pk>

<sup>53</sup> Spread amount is different for Government employees and Business man. For Government Employee the rate is 3.25% and for Business man the rate is 3.5%.



3. Re pricing after every year.
4. 3% penalty on outstanding principal (In case of default)
5. Option of Rescheduling
6. Pre-payment charges 3% (In case a customer wants to purchase units in advance.)

#### **4.4.5.3 Documentation of this Scheme:**

##### **4.4.5.3.1 Islamic House Finance Agreement:**

This Agreement sets out the terms and conditions upon and subject to which the HBFCL and the customer agree to enter into a *Musharakah*. It is understood between the parties that regardless of the proportion of each party in the *Musharakah*, the entire *Musharakah* property will be occupied and used by the customer against payment of the monthly payment. Through this agreement the customer buys out the company's share in the *Musharakah* from time to time.

##### **4.4.5.3.2 Monthly Payment Agreement:**

This Agreement sets out the terms and conditions upon and subject to which the customer agrees to pay monthly rental of HBFCL's share.

##### **4.4.5.3.3 Understanding to Purchase *Musharakah* Units:**

In this agreement the customer applies for purchasing HBFCL's shares. This agreement set out the terms and condition for purchasing of *Musharakah* units.

##### **4.4.5.3.4 Letter of Undertaking to Sell *Musharakah* Units:**

The letter of undertaking to sell *Musharakah* units is generally taken by HBFCL from its customers by this undertaking the customer agree to purchase *Musharakah* units.

#### **4.4.5.4 Penalty:**

The House Building Finance Corporation charges penalty for an initial period of two months on following rate on account of dishonoring of postdated cheque of debit advice.

1. Per dishonored postdated cheque, a penalty of Rs. 500 will be imposed and charge for a maximum period of two months.
2. In case of Non Materialization of debit advice, a penalty of Rs. 500 will be charged for an initial 2 months period.
3. If the post dated cheques /debit advice are cleared within the same month, no penalty will be charged.
4. If the customer remains in default even after two months, then penalty will be imposed according to investment slab as under.

Investment up to 500000	Rs. 500 P.M
500000-1500000	Rs.1000 P.M
1500000-2500000	Rs.1500 P.M
Above 2500000	Rs. 3000 P.M

#### **4.4.5.5 Insurance:**

In the interest<sup>54</sup> of the company and the customer, the HBFCL arranges life insurance<sup>54</sup>, while is equivalent to the amount of the investment. The HBFCL resorts to practice due to unavailability of Takaful. The life of the customer is insured with the reputable insurance company on whose income the investment application is accepted by the company. The sum

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<sup>54</sup> The House Building Finance Corporation is using conventional life insurance now days. They will switch to Islamic Insurance soon (G.M. HBFCL ZONAL OFFICE ISLAMABAD)

assured of the insurance policy is equal to the original amount of the investment disbursed by the company. The claim if any, received against the policy from the insurance company in excess of the outstanding balance of total dues shall be refunded to the legal heirs of the customers. The customer shall pay the insurance premium along with the monthly payment of rent and purchase price of *Musharakah* unit. The company shall also arrange property Takaful for a reputable Takaful company, against all relevant insurable risks such as loss, damage or destruction of *Musharakah* property.

In the event of claim being lodged, the proceeds are shared between the company and the customer in accordance with their respective share in the *Musharakah*. All costs and expenses incurred in respect of the insurance of the *Musharakah* property are borne by the customer.

#### **4.4.5.6 Procedure of *Ghar Aasan* Flexi Scheme:**

A customer applies for house financing in HBFCL and submits application with required Documents. HBFCL accepts application of customer after necessary process. The HBFCL gives approved amount in installments on following schedule during the agreed period of construction which is normally nine months. In this period the customer will construct house.

1 <sup>st</sup>	30% of Approved Amount
2 <sup>nd</sup>	30% of Approved Amount
3 <sup>rd</sup>	30% of Approved Amount
4 <sup>th</sup>	10% of Approved Amount

After disbursement of facility the HBFCL will start charging amount of rent. As compared to *Ghar Aasan* (Previous Scheme) in which during construction period the HBFCL does not

charge any amount. The HBFCL charges only amount of rent for the period of fifteen months<sup>55</sup> (Annexure 3). After completion of moratorium period customer can purchase units of HBFCL's share, the monthly payment will be changed and included the price of units.

#### 4.4.5.7 Sharia'h Appraisal of *Ghar Aasan* Flexi Scheme:

According to the management of HBFCL' *Ghar Aasan* Scheme has designed on the basis on diminishing *musharakah*. Diminishing *Musharakah* (*Musharakah Mutnaqsa*) is the combination of three contracts which are *Sharikah* (Partnership), *Ijarah* (Lease) and *Bay* (Sale)<sup>56</sup>. In this contract Islamic financial institution and the customer participate in the joint ownership of a property on the basis of *Sharikah tul Milk*. The share of the financier is divided into a number of units and the customer purchases those units one by one periodically until he becomes the sole owner of the property.<sup>57</sup> The Customer pays the rent to Islamic financial institution for his part. As the Customer purchase units of the Islamic Financial institution his payable amount of rent decreases, finally the payable amount of rent remains zero. Same is the case in *Ghar Aasan* Scheme launched by HBFCL, Customer contributes land and HBFCL contributes in shape of financing (for construction of house) in *Sharikah tul Milk*. After the lockout period Customer pays rent of HBFCL's share and will purchase one unit annually.

<sup>55</sup> This period is called moratorium period.

<sup>56</sup> Abdullah, Noor Mohammad Osmani & Md. Farukh. (July 2010). *Musharakah Mutnaqisah* House Financing: A review of Literatures & Practices of islamic Banks in Malaysia. international Review of Business Research Papers,, (pp. Vol: 6 272-282). P. 273

<sup>57</sup> Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN, P. 82, - OIC, F. A. (n.d.). Fatawa. Retrieved Oct 21, 2011, from ISRA: <http://www.isra.my/fatwas/topics/commercial-banking/financing/musharakah/item/324-al-musharakah-al-mutanaqisah-and-its-shari%E2%80%99ah-rules-resolution-no-136-15/2-2004-by-the-international-council-of-fiqh-academy.html#startOfPageId324>, Usmani, D. M. (2002). MeezanBank's Guide to Islamic Banking. Karachi: DARUL-ISHAAT URDU BAZAR KARACHI-I PAKISTAN., P. 115, - Usmani, D. M. (2005). Shirkat O Muzarbat Asre Hazar Main (Urdu). Karachi: Idaratul Ma'arif.,p. 415 - Usmani, M. M. (1996). Fiqhi Muqalat (Research Papers in Islamic Law). Karachi: Maiman Islamic Publishers, P. 231 - Ayub, M. (2002). Islamic Banking and Finance theory and Practice. Karachi: State Bank of Pakistan, P. 75

### 3.4.5.8. Sharia'h Scholars debate on the legitimacy of HBFCL's Product:

The followings are the issues arising from the contract of diminishing *Musharakah*:

- **Combination of Contracts**<sup>58</sup>

The first question relates to the legal status of the various contractual relationships incorporated in one single transaction in the light of *Shari'ah*. It is presumed that the contract is like conducting several contracts, each of which is made conditional the other. This is void in the eyes of Islamic law.<sup>59</sup> However, it is argued that each contract is made independent and the CUSTOMER's promise to purchase does not contain clauses of condition on which the validity of another contract is depends. It is true that if the condition is mentioned in the promise then it will render the contract void. Therefore, the CUSTOMER's promise to purchase the Bank's share in units is made unilaterally and separately.<sup>60</sup> Regarding the legal status of unilateral promise, it has already been examined in the previous discussion. The issue of combination of contracts may be inferred from the *murabahah lil amiri bi al-shira'* as it adopts the concept of deferred payment which (*Bay' al-mu'ajjal* in). Same reasons and grounds for the latter contract should be used accordingly.

- **Substitution with interest rate**

Another issue is that the diminishing *musharakah* is deemed to be substituting the rental rate with the market interest rate. This behavior gives an amortization schedule similar to conventional financing. Actually it does not so. The different rental rate of diminishing *musharakah* is determined by making review in the rental rate periodically, such as every three to five years. The amount of rent for each phase –five years as the case may be- is clearly agreed

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<sup>58</sup> Ibid, p. 58.

<sup>59</sup> That is based on the view that two sales in one contract is considered as *fasid* (unenforceable/irregular) contract as it amounts to uncertainty and defective consent and it is clearly prohibited by the Prophet s.a.w. that He prohibited two sales in one sale (See, Zuhaily, Op.cit, p. vol. 4, p. 471.)

<sup>60</sup> See, Sadique, Op.cit.

upon at the time of affecting a lease contract. For example, when a CUSTOMER wishes to buy a house priced at 3.000.000, and he pays 20% of the price, i.e. 600.000, and the financier provides the remaining 80%, i.e. 2400.000. Further the CUSTOMER wants to redeem the financier's share within 20 years and the rental is agreed upon to be 10.500 per month for the first 5 years, but would be reviewed to 10.800 for the next 5 years and 20.000 for the remaining 10 years. By following this formula, if the CUSTOMER pays 10.500 only every month, it would take more than twenty years to fully own the house. Therefore, some additional amount is required in order to completely redeem the share of the bank within twenty years. On above example it shows that the rental payment formula may vary and subject to adaptation according to the prevailing rental rates. However, estimating the rental is somehow could prove burdensome and costly towards the CUSTOMER. Therefore, it is suggested that house price indices or the rental indices are preferably used to estimate the new rental rather than the service of independent real estate agents. This is to avoid bearing additional costs of the Bank side.<sup>61</sup>

- **Issue of varying property value<sup>62</sup>**

Another criticism is concerning the value of the property which is subject to appreciation in its value. If two parties (financier and CUSTOMER) co-own an asset and share its rental income, they should also share the asset's price appreciation because they are tied by the partnership contract. It would be justified if the income is shared accordingly. For this, two points can be taken into consideration: first, the CUSTOMER, during the time of partnership, acquired no full ownership. By only he deserves any price appreciation the end of the diminishing partnership contract, as he has achieved full ownership. Secondly, an asset is subject to valuation only when there is a sale of the property which would involve the full transfer of ownership. During the

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<sup>61</sup> See, Meera, Ahmed Kameel Mydin and Razak, Dzuljastri Abdul, *Islamic Home Financing Through Musharakah Mutanaqisah and al-Bay' Bithaman Ajil Contracts: A Comparative Analysis*, J.KAU: Islamic Econ., vol. 22 no. 1, p. 133

<sup>62</sup> Ibid, p. 130

*musharakah* contract, full transfer of ownership does not take place except the gradual transfer of ownership within the duration of the contract.

- **Early redemption, default and termination of contract<sup>63</sup>**

There are three situations where the CUSTOMER may plans to early terminate the contract. First is when he intends to settle up the payment and obtain the house before the completion of the agreed contract. Second is when the termination is due to death of the CUSTOMER and the last is when he intends to leave the house without any desire to own it such as in case of default. In the first case, suppose, the tenor of the *musharakah* is 20 years, but he intends to early redeem the house at the end of 10 years. The redemption amount will be based on the balance outstanding and revaluation of property is thus not required. However, the Islamic Bank can grant a rebate as discretionary measure to the CUSTOMER by reducing the amount of debt in subsequent transactions. As discretion, it must not be mentioned in the contract otherwise it amount to prohibited interest.<sup>64</sup> In the second case, law of inheritance will be applied accordingly and this can be further mitigated through *Takaful* insurance policy. For the last case, a revaluation is required to offset the outstanding amount and the residual amount will be shared between the CUSTOMER and the Bank based on the prevailing profit sharing ratio. Suppose if the CUSTOMER is defaulter, the house will be sold in the market and the price will be divided between the CUSTOMER and the bank after deducting all outstanding arrears, liquidation costs, etc.

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<sup>63</sup> See, Ibid, p. 131.

<sup>64</sup> Ayub, Op.cit, p. 290.

### **3.4.5.9. Sharia'h Scholars Opinions on House Building Finance Corporations Sharia'h Compliance**

The ulama (Sharia'h Scholars) have difference of opinion on the Sharia'h Compliance of House Building Finance Corporation Limited. Majority of ulama (Sharia'h Scholars) are of the opinion that the House Building Finance Corporation limited is not Sharia'h Compliant.

#### **Opponents Views:**

Ulama (Sharia'h Scholars) who are against the Sharia'h compliance of House Building Finance Corporation Limited base their opinion on following.

1. House Building Finance Corporation Limited is working on interest based system. The HBFCL is financed by the Government of Pakistan and State Bank of Pakistan who lend money on interest and in return HBFCL lends money to their customers on interest. Jabir RA said 'Allah's Messenger PBUH cursed the accepter of Interest, and its payer, and one who records it, and the two witnesses, and he said: They are all equal'.<sup>65</sup>  
*(Darul Ifta Noor Ul Irfan Muharram Al Haram 1427 A.H. , February 2006 Annexure No. 5)*
2. Even if the product of HBFCL is considered Sharia'h Compliant then the issue of check and balance is another concern. The Ulama raised the objection that there is no check and balance by the Sharia'h experts.
3. The purchase and construction of property with the partnership of House Building Finance Corporation does not involve Riba (Interest). However there are few terms and Conditions exist which are not permitted in Sharia'h. *(Daru Ifta Darul Uloom Karachi, Jamadi al Thani 1403 A.H. Annexure No. 6)*

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<sup>65</sup> Muslim: Book 10:Hadith.3881



### Proponents Views:

Ulama (Sharia'h Scholars) in favor of House Building Finance Corporation Limited make ground for their opinion the following;

Documents and product of HBFCL are aligned with their counter parts of Meezan bank Limited and other Islamic banks. According to Mufti Hassan Kaleem; Darul Ulloom Karachi Pakistan, *"The structure of the GAS meets the minimum Sharia'h requirements; therefore its underlying assets can be converted into Sukuk. However, it should be noted that in order to align all the clauses of existing GAS according to Sharia'h requirements...."*

1

1

1

3

### 3.4.5.10. Difference between *Ghar Aasan* Scheme and *Ghar Aasan* Scheme Flexi:

Table No: 4

<b><i>GHAR AASAN</i> SCHEME</b>	<b><i>GHAR AASAN</i> SCHEME FLEXI</b>
<b>CONSTRUCTION PERIOD:</b>	
House Building Finance Corporation Provided a facility of nine months to their CUSTOMERS. In this period the HBFCL does not charge anything.	In <i>Ghar Aasan</i> Scheme Flexi this facility is not available
<b>MORATARIUM PERIOD:</b>	
In this scheme a period of 15 months is also given. In this Period HBFCL charges only rental. The Cline cannot purchase units of HBFCL	In this scheme a period of 12 months is introduced as moratorium period. In this Period HBFCL charges only rental. The Cline cannot purchase units of HBFCL
<b>APPRECIATION IN PROPERTY PRICE:</b>	
In <i>Ghar Aasan</i> Scheme the HBFCL charge appreciation in property from his CUSTOMER/partner. The rate of appreciation is varies in different places.	In <i>Ghar Aasan</i> Scheme Flexi this facility is not available

### 3.4.5.11. Islamic House Financing in Meezan Bank Limited:

#### 3.4.5.11.3. Introduction

Meezan Bank Limited is the first scheduled bank in Pakistan, which has been licensed by the State Bank of Pakistan to operate as an Islamic commercial bank. Meezan Bank offers house financing through their product namely "Easy Home" on the basis of diminishing *musharakah*.

#### 3.4.5.11.4. Sharia'h Compliance of Easy House Facility:

As discussed above that Meezan Bank offers this facility on the basis of diminishing *musharakah*. In this contract MBL and the customer participates in the joint ownership of a property or equipment on the basis of *Sharikah tul Milk*. The share of the Meezan Bank Limited is divided into a number of units and the customer purchases those units one by one periodically. The customer purchases units of Islamic financial institution until the customer become the sole

owner of the property.<sup>66</sup> The Customer pays the rent to Islamic financial institution for his part. As the customer purchases units of the Islamic Financial institution his payable amount of rent decreases, finally the payable amount of rent remains zero. Same is the case in Easy Home Scheme launched by Meezan Bank Limited. The Customer and MBL make a pool on the basis of *Sharikah tul Milk*. The customer pays rent of MBL's share and purchases one unit annually.

As mentioned in (Annexure 1) that the total cost of house is PRs.1, 000,000. The MBL has invested 600,000 on the basis of *Sharikah tul Milk*. The Meezan Bank charges rental for his share and customer purchases units of MBL until he becomes sole owner of that property.

### 3.4.5.11.5. Calculations of Meezan Banks House Financing:

#### 3.4.5.11.5.1. Calculation Unit Price:

$$= \frac{\text{Investment Amount}}{\text{No. of Months or Duration of investment}}$$

As mentioned in (Annexure: 1) a CUSTOMER has applied for investment Rs. 600, 000 and duration of 20 years (240 months) then unit price will be as follow

$$= \frac{600,000}{240}$$

$$= 2500$$

<sup>66</sup>Usmani, M. M. (2000). Introduction to Islamic Finance. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN, P. 82, - OIC, F. A. (n.d.). Fatawa. Retrieved Oct 21, 2011, from ISRA: <http://www.isra.my/fatwas/topics/commercial-banking/financing/musharakah/item/324-al-musharakah-al-mutanaqisah-and-its-shari%20%80%99ah-rules-resolution-no-136-15/2-2004-by-the-international-council-of-fiqh-academy.html#startOfPageId324>, Usmani, D. M. (2002). MeezanBank's Guide to Islamic Banking. Karachi: DARUL-ISHAAT URDU BAZAR KARACHI-I PAKISTAN., P. 115, - Usmani, D. M. (2005). Shirkat O Muzarbat Asre Hazar Main (Urdu). Karachi: Idaratul Ma'arif.,p. 415 - Usmani, M. M. (1996). Fiqhi Muqalat (Research Papers in Islamic Law). Karachi: Maiman Islamic Publishers, P. 231 - Ayub, M. (2002). Islamic Banking and Finance theory and Practice. Karachi: State Bank of Pakistan, P. 75

#### **3.4.5.11.5.2. Calculation Rental:**

$$\begin{aligned} &= \text{MBL's Share} \times \text{Rate} \\ &= 600,000 \times 17.72\% \end{aligned}$$

First time the share of Meezan Bank will be total Investment Amount but as the customer will purchase the units, HBFCL's share will decrease this can be explained by the following example.

$$\begin{aligned} \text{MBL's Share in Rent} &= \text{Investment by MBL} - (\text{Unit Rate} \times \text{Purchased Units}) \\ &= 600000 - (2500 \times 1) \\ &= 597500 \end{aligned}$$

In second month the Meezan Bank Limited will charge rent on Rs. 597500/- not on whole investment.

#### **3.4.5.11.5.3. Calculation of Monthly Rent:**

$$\begin{aligned} &= \frac{600,000 \times 17.72\%}{12} \\ &= 8860/- \end{aligned}$$

**3.4.5.11.6. Differences and Similarities between Meezan Bank Limited, House Building Finance Corporation Limited and United Bank Limited:**

**Table No: 5**

<b>MEEZAN BANK LIMITED</b>	<b>HBFCL</b>	<b>UNITED BANK LIMITED</b>
<b>MODE OF FINANCING:</b>		
Diminishing <i>Musharakah</i>	Diminishing <i>Musharakah</i>	Interest Based
<b>SHARIA'H AUDIT</b>		
Yes	No	N/A
<b>SHARIA'H ADVISORY BOARD</b>		
Yes	No	N/A
<b>LICENSE FROM SBP FOR ISLAMIC HOUSE FINANCING</b>		
Yes	No	N/A
<b>MAX FACILITY AMOUNT:</b>		
40000000/-	7500000	300000000/-
<b>DURATION:</b>		
3-20 Years	3-20 Years	3-20 Years
<b>RENTAL RATE:</b>		
KIBOR+3.5% Approximately	KIBOR+2.5% To 3.5%	KIBOR+3.5% To 4.5%
<b>LIFE INSURANCE:</b>		
Compulsory	Compulsory	Compulsory
<b>PROPERTY INSURANCE:</b>		
Optional	Optional	Optional
<b>MORATORIUM PERIOD:</b>		
N/A	A period of 12 months as a moratorium period. In which HBFCL will charge only rental.	N/A
<b>LATE PAYMENT CHARGES:</b>		
Rs.500 flat+20%* p.a.	<b>INVESTMENT</b>	<b>PENELTY</b>
	UP TO 500000	Rs.500
	500001-1500000	Rs. 1000
	1500001-2500000	Rs. 1500
	Above 2500000	Rs. 3000
		Rs.1000 per installment
<b>USE OF LATE PAYMENT CHARGES:</b>		
Charitable Purpose	Income of HBFCL	Income of Bank

### 3.4.5.11.7. Case Example:

From the above information if a person needs financing amounting to Rupees 30, 00, 000 his monthly payment will be as follow.

Financing Amount: 3000000

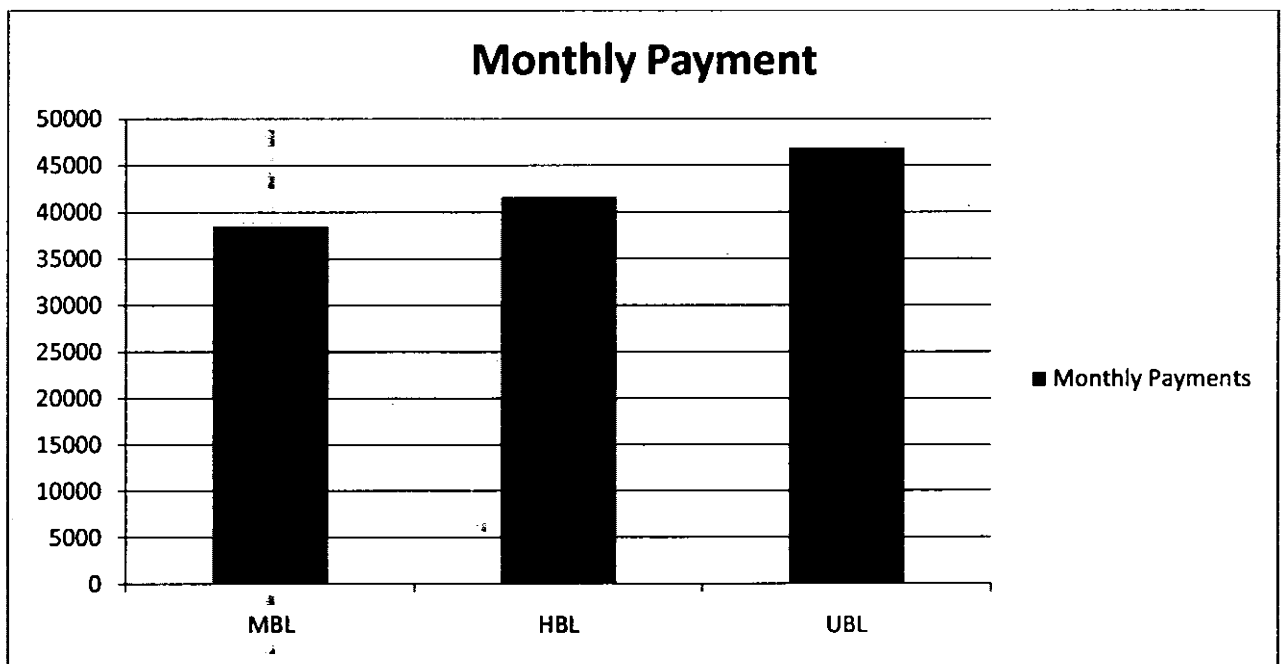
Tenure: 20 Years (240 Months)

Rate: KIBOR + Spread

Table No: 5

MEEZAN BANK LIMITED	HOUSE BUILDING FINANCE CORPORATION LIMITED	UNITED BANK LIMITED
Monthly Payment:		
Rs. 38450	Rs. 41602	46890

Figure No. 9



## CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

Finally, the study derives the following concluding points:

House is basic need of human life; therefore financing services offered by financial institutions are always necessary to meet the need of the people. Presently, there are two modes of financing offered to fulfill the demand of consumers: Islamic and conventional. The existing modes used in Islamic house financing include: *murabahah lil-amiri bi-al-shira'* Diminishing *Musharakah*, *Istisna'*, and *Ijarahh muntahiya bi-al-tamleek*. The major mode is diminishing *Musharakah* financing as commonly adopted in Middle East countries as well as in Pakistan, while *murabahah lil-amiri bi-al-shira'* and is normally used in South East countries like Malaysia and Indonesia.

In Pakistan all Islamic banks are using diminishing *Musharakah* as a mode of house financing, even in construction, renovation, balance transfer and for purchasing a constructed house. House Building Finance Corporation is a very old house financing institution in Pakistan. HBFCL provides financing to the small and medium level citizens of Pakistan for construction, renovation and purchasing of house.

The findings of this research conclude that the product (*Ghar Aasan Flexi*) of House Building Finance Corporation is based on diminishing *musharakah* (A Sharia'h compliant Mode for House Financing). House Building Finance Corporation is using Sharia'h compliant modes after Supreme Court Judgment on Riba. In 2000 the House Building Finance Corporation introduced a new scheme (GAS) on diminishing balance method, later

in 2003 House Building Finance Corporation introduced another product namely Shandar Ghar Scheme based on *murabahah lil-amiri bi-al-shira*. There are many issues in House Building Finance Corporation, some of them, but not exhaustive, as follow:

- In *Ghar Aasan Flexi* product the late payment charges include in their income while it is considered as charitable fund in Islamic financial institutions.
- There is no concept of Sharia'h supervisory board which may guide them about Sharia'h regulatory framework for a specific product. The corporation do not follow the rule and regulations which are the essential for the contract e.g. in *murabahah lil-amiri bi-al-shira* they provide the required amount to their CUSTOMER, who purchases the goods and starts to use the goods. Then both the parties , the customer and the corporation sign the contract is being signed between HBFCL and customer which make no difference between conventional and Islamic product.

Such issues can be resolve taking some steps which have been discussed in recommendations.

## **5.1 Recommendations:**

### **5.1.1 Sharia'h Advisory Board & Sharia'h Audit:**

As discussed above that the House Building Finance Corporation finances through diminishing *Musharakah* but there are a number of problems in application. The HBFCL must appoint a Sharia'h Advisor as State Bank has issued a circular for all Islamic Banking institutions on March 25, 2008. The HBFCL must appoint a Sharia'h advisor who will ensure that all products and services and related policies and agreements of HBFCL are in compliance with Sharia'h rules and principles. Before launching any new product and services the related procedure, rules and agreements shall be duly examined by the Sharia'h Advisor.



The Sharia'h Advisor should also conduct Sharia'h audit on annual or by annual basis. In this regard the management of House Building Finance Corporation shall be responsible to provide him all information's required. Sharia'h Advisor will thoroughly review operation of the House Building Finance Corporation's products on periodic basis in coordination with officials responsible for Sharia'h compliance to ensure that all the products and services offered by the House Building Finance Corporation are Sharia'h compliant.

#### **5.1.2 Deficiency of Islamic Orientation Regarding Islamic Finance:**

It has been observed that the management of HBFCL does not have sufficient knowledge regarding Islamic Finance. The Employees of House Building Finance Corporation do not know about Islamic finance products. The HBFCL is providing house financing on diminishing *musharakah* basis but the employees do not know what diminishing *musharakah* is. They cannot convince their customers about their product's Sharia'h compliance. It is necessary for providing Sharia'h compliant products that the House Building Finance Corporation should arrange training programs for their employees on regular basis.

#### **5.1.3 Takaful:**

The House Building Finance Corporation is using conventional life insurance but they should use Takful instead of conventional insurance.

## ANNEXURES:

### Annexure: 1 Easy House Payment Plan Summary by Meezan Bank Limited

Payment Plan			
Cost Price: (PKR)	1,000,000 /-	Total Units	240
Customer Share: (PKR)	400,000 /-	Unit Sale Price: (PKR)	2,500 /-
Bank Share: (PKR)	600,000 /-	Monthly Rent Per Unit: (PKR)	37 /-
Profit Rate:	17.72 %	Total Starting Rent: (PKR)	8,860 /-
Tenure in Years:	20	Starting Month Payment: (PKR)	11,360 /-
Segment:	Businessman	Easy House Category:	Buyer (UMI)

Tentative Payment Schedule					
Months	Rent (PKR)	Unit Price (PKR)	Monthly Payment (PKR)	Balance Unit Value (PKR)	Balance Units
0				600,000	240
1	8,860	2,500	11,360	597,500	239
2	8,823	2,500	11,323	595,000	238
3	8,786	2,500	11,286	592,500	237
4	8,749	2,500	11,249	590,000	236
5	8,712	2,500	11,212	587,500	235
6	8,675	2,500	11,175	585,000	234
7	8,639	2,500	11,139	582,500	233
8	8,602	2,500	11,102	580,000	232
9	8,565	2,500	11,065	577,500	231
10	8,528	2,500	11,028	575,000	230
11	8,491	2,500	10,991	572,500	229
12	8,454	2,500	10,954	570,000	228
13	8,417	2,500	10,917	567,500	227
14	8,380	2,500	10,880	565,000	226
15	8,343	2,500	10,843	562,500	225
16	8,306	2,500	10,806	560,000	224
Onward					
240	37	2,500	2,537		0
Total	1,067,640	600,000	1,667,640		

**Annexure: 2 Pricing Schedule of Shandar Ghar Scheme.**

**House Building Finance Corporation**

**Schedule of Payment**

AccountNo	1150004628	Profit	675,000	Purpose	RENOVATION
CostPrice	500,000	Period	120 Month(s)	Area Type	B.C URBAN 1 TO
Murabaha Sale Price	1,177,040	Monthly Installment	9,809	Max.Inv.Limit	Rs. 500,000
Month	Monthly Installment Brakup			Monthly Repayment	Balance
	Profit	Principal	Insurance		
1	5,625	4,167	0	9,792	1,167,248
2	5,625	4,167	0	9,792	1,157,456
3	5,625	4,167	0	9,792	1,147,664
4	5,625	4,167	0	9,792	1,137,872
5	5,625	4,167	0	9,792	1,128,080
6	5,625	4,167	0	9,792	1,118,288
7	5,625	4,167	0	9,792	1,108,496
8	5,625	4,167	0	9,792	1,098,704
9	5,625	4,167	0	9,792	1,088,912
10	5,625	4,167	0	9,792	1,079,120
11	5,625	4,167	0	9,792	1,069,328
12	5,625	4,167	0	9,792	1,059,536
13	5,625	4,167	0	9,792	1,049,744
14	5,625	4,167	0	9,792	1,039,952
15	5,625	4,167	0	9,792	1,030,160
16	5,625	4,167	0	9,792	1,020,368
17	5,625	4,167	0	9,792	1,010,576
18	5,625	4,167	0	9,792	1,000,784
19	5,625	4,167	0	9,792	990,992
20	5,625	4,167	0	9,792	981,200
21	5,625	4,167	0	9,792	971,408
22	5,625	4,167	0	9,792	961,616
23	5,625	4,167	0	9,792	951,824
24	5,625	4,167	0	9,792	942,032
25	5,625	4,167	0	9,792	932,240
26	5,625	4,167	0	9,792	922,448
27	5,625	4,167	0	9,792	912,656
28	5,625	4,167	0	9,792	902,864
29	5,625	4,167	0	9,792	893,072
30	5,625	4,167	0	9,792	883,280
31	5,625	4,167	0	9,792	873,488
32	5,625	4,167	0	9,792	863,696
33	5,625	4,167	0	9,792	853,904
34	5,625	4,167	0	9,792	844,112
36	5,625	4,167	0	9,792	824,528
Onward					
119	5,625	4,167	0	9,792	11,792
120	5,625	4,167	0	9,792	60

<b>Total</b>	<b>675,000</b>	<b>501,980</b>	<b>0</b>	<b>1,176,980</b>	
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# House Building Finance Corporation

Date 18-NOV-2011 12:58

## Schedule of Payment

AccountNo	8150007006	S.No.3	AssessedAppreciation in Value of House	7.5	After Every	12 Months	Purpose	CONSTRUCTION
PartnerName	ZAFAR HUSSAIN S/O ABDUL AZIZ		InitialNet Rental income	2,042			Max.Inv.Limit Rs.	2,500,000
Costof House	893,632		Increasein Rent	25 %	After Every	36 Months	AreaType	B.C URBAN 1 TO 2499
Corporation'sInvestment	490,000		MonthlyInsurance Premimum	245				
TotalNo of Units of House	42		Profit on each Rs 100,all units purchase within					
Unitsowned by the Partner	19		Agreed& Moratorium Prd.	12.50				
Unitsowned by the Corporation	23		AgreedPeriod of Construction	9				
Valueof each Unit	21,304		MoratoriumPeriod	15				

Month	Principal Balance	Insurance Amount	Corporation's Share in Rental Income		Agreed Appreciation in Value of Units	Purchase Price of Units	Monthly Repayment
			Net Annual	Net Monthly			
1	490,000	0	0	0	0	0	0
2	490,000	0	0	0	0	0	0
3	490,000	0	0	0	0	0	0
4	490,000	0	0	0	0	0	0
5	490,000	0	0	0	0	0	0
6	490,000	0	0	0	0	0	0
7	490,000	0	0	0	0	0	0
8	490,000	0	0	0	0	0	0
9	490,000	0	0	0	0	0	0
10	490,000	0	24,504	2,042	0	0	2,042
11	490,000	0	24,504	2,042	0	0	2,042
12	490,000	0	24,504	2,042	0	0	2,042
13	490,000	0	24,504	2,042	0	0	2,042
14	490,000	0	24,504	2,042	0	0	2,042
15	490,000	0	24,504	2,042	0	0	2,042
16	490,000	0	24,504	2,042	0	0	2,042
17	490,000	0	24,504	2,042	0	0	2,042
18	490,000	0	24,504	2,042	0	0	2,042
19	490,000	0	24,504	2,042	0	0	2,042
20	490,000	0	24,504	2,042	0	0	2,042
21	490,000	0	24,504	2,042	0	0	2,042

ote: The above schedule of payment is based on the assumption that Partner regularly pay monthly installment throughout the investment period. Revised onward schedule of payment every year on the basis of actual payment during the preceeding year will be prepared and communicated to the partner.

## Date 18-NOV-2011 12:58

[illegible]

# Schedule of Payment

Date 18-NOV-2011 12:58

AccountNo	8150007006	S.No.3	AssessedAppreciation in Value of House	7.5	After Every	12 Months	Purpose	CONSTRUCTION
PartnerName	ZAFAR HUSSAIN S/O ABDUL AZIZ		InitialNet Rental income			2,042	Max.Inv.Limit Rs.	2,500,000
Costof House	893,632		Increasein Rent	25 %	After Every	36 Months	AreaType	B.C URBAN 1 TO 2499
Corporation'sInvestment	490,000		MonthlyInsurance Premium			245		
TotalNo of Units of House	42	Profit on each Rs 100,all units purchase within				12.50		
Unitsowned by the Partner	19	Agreed& Moratorium Prd.						
Unitsowned by the Corporation	23	AgreedPeriod of Construction				9		
Valueof each Unit	21,304	MoratoriumPeriod				15		

Month	Principal Balance	Insurance Amount	Corporation's Share in Rental Income		Agreed Appreciation in Value of Units	Purchase Price of Units	Monthly Repayment
			Net Annual	Net Monthly			
295	21,312	204	5,100	425	3,328	1,7755,732	
296	21,312	204	5,100	425	3,328	1,7755,732	
297	21,312	204	5,100	425	3,328	1,7755,732	
298	21,312	204	6,372	531	3,328	1,7755,838	
299	21,312	204	6,372	531	3,328	1,7755,838	
300	21,312	204	6,372	531	3,328	1,7755,838	
Total		56,304		596,943	514,416	489,9001,657,563	

Schedule of Payment

AccountNo 9150000967

RentalRate

16.96%

Property/Purpose

HOUSE CONSTRUCTION

Partner Name RAHEELAIDREES

MonthlyInsurance Premium

232

Max Inv.LimitRs

Costof House 1,914,250

AgreedPeriod of Construction

12

AreaType

B.CURBAN 1 TO 2499

Corporation's Investment 500,000

MoratoriumPeriod

12

Product

FixedInstallment

No.	Ins. Month	Bal. Amount	Rent	Prorata Rent	Unit	Property Insurance	Life Insurance	Total Insurance	Installment	Total Installment
1	FEB-2011	200,000	2,827	1,115	0	0	0	0	2,827	3,942
2	MAR-2011	200,000	2,827	0	0	0	0	0	2,827	2,827
3	APR-2011	200,000	2,827	0	0	0	0	0	2,827	2,827
4	MAY-2011	200,000	2,827	0	0	0	0	0	2,827	2,827
5	JUN-2011	350,000	4,947	558	0	0	0	0	4,947	5,505
6	JUL-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
7	AUG-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
8	SEP-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
9	OCT-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
10	NOV-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
11	DEC-2011	350,000	4,947	0	0	0	0	0	4,947	4,947
12	JAN-2012	350,000	4,947	0	0	0	0	0	4,947	4,947
Total			50,884	1,673	0	0	0	0	50,884	52,557

Annexure: 5 Fatawa on House Building Finance Corporation Limited

Fatawa No. 1

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الصلوة والسلام عليك يا رسول الله وعلى آله وصحبه يا حبيب الله

## دار الافتاء نور الشرفان

جامع مسجد معصوم شاہ بخاری پولیس چوکی کھنار ادر باب المدینہ (کراچی) - 74800 پاکستان  
Timing: 1pm to 6pm sunday open, Fax 021-2203646 -Phone: 021-2203646

دفتر نمبر 0797-A

کیا فرماتے ہیں علمائے دین و مفتیان شرع متین اس بارے میں کہ ہاؤس بلڈنگ فنانس کارپوریشن سے جو قرضہ لیا جاتا ہے وہ شرطوں میں  
لوٹا پڑتا ہے اس کا لینا جائز ہے یا نہیں؟

سائل: غیاث الدین

### الجواب بعون الوهاب اللهم هذلية الحق والصواب

ہاؤس بلڈنگ فنانس کارپوریشن جو قرضہ دیتی ہے وہ بغیر سود کے نہیں دیتی اور سود جس طرح لینا جائز ہے اسی طرح بلا ضرورت شرعی دینا بھی حرام ہے  
چنانچہ حدیث پاک میں ہے کہ عن جابر بن عبد اللہ رضی اللہ تعالیٰ عنہما قال: قال رسول اللہ صلی اللہ تعالیٰ علیہ وآلہ  
وسلم اکمل العرب ما من كلة و كاتبة و شاهدة و قال "هم سواء" ترجمہ: حضرت جابر رضی اللہ تعالیٰ عنہما سے روایت ہے فرمایا کہ  
رسول اللہ صلی اللہ تعالیٰ علیہ وآلہ و سلم نے لعنت فرمائی سو کھانے والے پر، سو کھانے والے پر اس کے لکھنے والے پر، اور اس کے گواہ پر اور  
فرمایا کہ یہ سب (اس لعنت) میں برابر ہیں۔ (صحیح مسلم جلد ۲ صفحہ ۲۷۷ قدیمی کتب خانہ کراچی)

واللہ ورسولہ عزوجل و صلی اللہ علیہ وآلہ وسلم اعلم بالصواب

کتبہ

ابو محمد علی اصغر العطاری المدنی

۱۲ محرم الحرام ۱۴۲۲ھ ۱۱ مئی ۲۰۰۱ء



## **Fatawa No. 2**

### **Fatwa on Shariah Compliance of Ghar Asan Scheme of House Building Finance Corporation Limited (HBFC)**

I have reviewed the Deed of Assignment and Partnership and other related documents of Ghar Asan Scheme ("GAS" or the "Scheme"), one of the many products of House Building Corporation of Pakistan (HBFC). The scheme was designed purposefully to meet the Shariah requirements, as it is stated by the officials of the corporation. The scope of this review is to form an opinion about Shariah compatibility of the scheme based on the documents provided and explanations given.

The scheme is based on an arrangement comprising of three levels:

- a) joint ownership between the corporation and the customer (Partner);
- b) giving the corporation's share in the property on rent to the Partner; and
- c) sale of the units of the corporation's share in the property to the Partner.

The key features of the scheme are as follows:

- ♦ The net annual rental of the house is fixed for the first three years and increased by 25 percent on completion of every three year period thereafter.
- ♦ The net rental will also be revised by decreasing or increasing the investment units of the corporation.
- ♦ An average appreciation in the value of the house and the investment units thereof is worked out at the inception of the arrangement and is binding on both parties.
- ♦ In the event of default the Partner will hand over vacant possession of the house to the corporation within 30 days after corporation serves notice to the Partner.
- ♦ In the case of sale of the house the corporation after adjusting the due rentals and the average appreciation in the value as agreed at the inception, at its sole discretion may forego its share in the capital gain if any, in excess of the agreed value of its units on the date of sale. In case the sale proceeds are insufficient to adjust outstanding investment, the loss shall be shared between the customer and the corporation in the ratio of their investment on the date of the sale.
- ♦ Corporation share the maintenance and property tax expenses with the Partner by foregoing 1% of investment amount of the corporation

The structure of the GAS meets the minimum Shariah requirements; therefore its underlying assets can be converted into Sukuk. However, it should be noted that in order to align all the clauses of existing GAS according to Shariah requirements the corporation shall ensure the adherence to the clarifications/commitment as given by the corporation in the attached annexure. Therefore, this certificate is being issued subject to the compliance of the matters covered in the said annexure.

Rest Allah Subhan Wa Talah Knows The Best

1

Hassaan Kaleem

Annexure

Observations Raised By Shariah Advisor and Clarifications/ Commitments Provided by HBFCL

Serial	Deed Doc. Clause Ref.	Hassaan Kaleem's Observation	HBFC comments
01	8 & 16	The clause 34 of the Circular 333 should be disclosed in the Deed of Assignment & Partnership. Additionally, the Partner should also be given an opportunity to demonstrate that the expense that was incurred by him/ her were genuinely required and could not be accommodated within the 1% allowance for expenses provided by HBFCL as HBFCL's proportion of expenses	<p>HBFC has no objection on the suggestion that the clause # 34 of the circular # 333 which reads as under is included in the HF 16, for future transactions"</p> <p><b><u>HBFC NOT TO SHARE IN MAINTENANCE COST, PROPERTY TAX AND OTHER EXPENSES</u></b></p> <p>The partner will be allowed 1% margin while working out the net rental value to incur and pay all maintenance expenses and property tax etc."</p> <p>In addition we may also define the Gross rental and Net Rental in the HF-16.</p>
03	14	<p>HBFCL should arrange Takaful instead of the Partner. In this regard only amendment that would be required is as follow:</p> <ol style="list-style-type: none"> <li>HBFCL will make takaful premium payment for the agreed period and moratorium period.</li> <li>Partner will reimburse the takaful premium at the inception of the housing finance</li> </ol>	<p>There appears to be some confusion at your end regarding the payment procedure of insurance premium currently in vogue.</p> <p>As per the practice, customer/partner donot arrange / pay the insurance premium directly to the Insurance company. Instead, HBFC has arranged a group life insurance policy from the</p>

		<p>facility.</p> <p>The above arrangement would not pose any extra burden on the Partner as he/she pays the premium directly to the insurer at the time of availing the financing facility. HBFCL, however, would be entitled to any benefit that may arise on the Takaful policy as the rightful beneficiary as appose to existing practice.</p>	<p>SLIC and it pays the premium to the insurance company. The procedure is adopted in the agreed/moratorium period. Subsequently, the insurance premium paid by HBFC is recovered from the customers in the installments.</p> <p>Moreover, it would be appreciated, that the portfolio which would be the underlying asset of the transaction consists of those investments which already have passed the agreed /moratorium period and the customers are now paying the insurance premium included in the installments.</p>
02	20 (ii)& 20 (iii)	<p>Unit purchase should be on monthly basis instead of yearly basis in order to pass on the ownership benefit to the Partner instead of making adjustment at the year-end.</p>	<p>You would appreciate that as per the terms of assignment deed (HF-16) it is not compulsory that the unit purchase price should be paid/purchased by the customer on the monthly basis. Rather by executing the agreement/deed customer has agreed to purchase the unit on annual basis. Hence, it is optional on the part of the customer to either pay the unit purchase price in lump sum at the end of the year or avail the option given by the HBFC to facilitate him/her by way of making payments to HBFC on monthly basis. He/she becomes defaulter of unit purchase price only after 12 months. Though in principle HBFC has no objection on adopting the</p>

			<p>suggested procedure but as discussed in the meeting that would require major changes in infrastructure and accounting procedures. Moreover, the new product recently launched on the suggested concept is expected to cannibalize the GAS over a time. Hence we feel that since the concept of purchasing units on yearly basis and allowing the customer/partner to pay the unit price in monthly installments instead of one heavy lump sum payment is not against the principles laid down by the Shariah, the system at this stage should not be disturbed.</p>
04	31	<p>In case of delay the agreed period should be extended till the time the property comes into 'living conditions'. However, HBFCL can increase to rental amount to be properly compensated accordingly.</p>	<p>In practice, HBFC do allow extension of three months for the completion of the construction, thus allowing the construction period of 12 months in total, which is sufficient time to complete the construction of any house in the market which is being catered by HBFC. In addition, Provincial Chiefs are allowed to grant further extension of six months in extra ordinary circumstances.</p>
05	34	<p>Kindly explain that what charges/ cost are recovered from the partner at the time of prepayment/ early termination of the facility by the Partner.</p>	<p>"Within 2 years from the date of execution of the Deed of Assignment and Partnership, the partner have the option to purchase the investment of the Corporation on lump sum payment of profit @ 7.5% in Union Council, 10% in Tehsils, 12.5% in District</p>

			<p>Headquarters and 15% in Middle/Upper Income Group areas in addition to the payment of appreciation in the value of the house at applicable rates. All payments, made to the Corporation towards Rent/Purchase of units if any (excluding insurance premium payment made) are deducted from the above payment."</p> <p>After two years, the partner has the right to purchase the outstanding units at the unit price plus the applicable appreciation rate of unit in addition to the payment of rental at the applicable rate till the date of purchase of units.</p>
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موجودگی میں کارپوریشن کے ساتھ مل کر جائداد خریدنے یا بیچنے کا معاملہ کرنا  
جائز نہیں۔

واللہ اعلم

بندہ عبد الرؤف سکھروی

دولہ آباد، دارالعلوم کراچی ۳۲

۱۳۲۷ھ - ۱۳۲۷ء



الرجاء صحیح

مکتبہ طائفہ اہل حق  
۱۳۲۷/۵/۲۷ھ

ہاں بلڈنگ ٹائرس کارپوریشن

کے ذریعے جائداد بیچنا

مستقلہ

ہاں بلڈنگ ٹائرس کارپوریشن کے ذریعے جائداد بیچنا جائز ہے یا نہ

سودنی طریقہ سے

الرجاء صحیح  
مکتبہ طائفہ اہل حق  
۱۳۲۷/۵/۲۷ھ

ہاں بلڈنگ ٹائرس کارپوریشن کے ذریعے جائداد خریدنے یا بیچنے کا مسئلہ

کافی عرصہ سے ہمارے یہاں ذریعہ غور تھا، ۱۳/ جنوری ۱۹۰۷ء کو مولیٰ علیہ السلام نے فرمایا کہ

اس مسئلہ پر غور و فکر کرنے سے پہلے میں تحقیق فرماتا ہوں۔ ماضیہ کا اعلان ہوا،

غور و فکر کے بعد ہمیں جس نتیجہ پر پہنچا اس کا خلاصہ یہ ہے کہ

ہاں بلڈنگ ٹائرس کارپوریشن کی شرکت میں کوئی جائداد خرید یا بیچنا جائز

ہے۔ یہی مسئلہ کے ذیل میں تو نہیں آیا، لیکن کارپوریشن کے موجودہ قواعد و

دستور میں استدلال کر کے ایسی چیزیں جو جائداد اور خلاف شرع ہیں، لہذا ان کی

## BIBLIOGRAPHY:

Al Quran

AAOIFI. *Accounting Standards*. Manama: Accounting and Auditing Organization for Islamic Financial Institutions, P.O.Box 1176, Bahrain, 1429H-2008.

—. *Sharia'h Standerds*. Accounting and Auditing Standerds of Islamic Financial Institutions., 2008.

—. *Shari's Standards*. Manama: Accounting and Auditing Organization for Islamic Financial Institutions, P.O.Box 1176, Manama, Bahrain, 1429H-2008.

Abdullah, Noor Mohammad Osmani & Md. Farukh. "*Musharakah* Mutnaqisah Home Financing: A review of Literatures & Practices of islamic Banks in Malaysia." *international Review of Business Research Papers*,. July 2010. Vol: 6 272-282.

Abdul-Rahman, Dr. Yahia. *Islamic Home Financing in the United State*. LARIBA and Mike Maguid Abdelaaty,.

Ahmed Kameel Meera & Abdul Razak. "Home Financing through the *Musharakah* mutnaqishah contract: some practical Issues." *JKAU: Islamic Econ*, Vol. 22 No. 1, 2009 AD/1430 AH: 121-143.

Ali, Hafiz Zulafqar. *Dour E Hazir kay mali muamlat ka Shari Hukam*. Lahore: Abu Huraira Academy, 2008.

—. *Maeeshat wa Tljaraht kay Islami Ahkam*. Lahore: Abu Huraira Academy, 2010.

ALMUTAIRI, HUMOUD. "A COMPARISON BETWEEN ISLAMIC AND CONVENTIONAL HOME FINANCING IN KUWAIT: CUSTOMER PERCEPTIONS OF THE FACILITES OFFERED BY THE NATIONAL BANK OF KUWAIT AND KUWAIT FINANCE HOUSE." *A thesis submitted for the degree of Doctor of Philosophy in Islamic Banking and Finance*. UK: School of Government and International Affairs, Institute for Middle Eastern and Islamic Studies, 2010.

Al-Shalhoob, Dr. Salah Fahd. "Home Financing in Islamic Law, A study of some products from housing financing and applicable to Islamic Law." *Kuala lumpur*. King Fahd University of Petroleum and minerals, Saudi Arabia, 2008.

Ayub, Muhammad. *Islamic Banking and Finance theory and Practice*. Karachi: State Bank of Pakistan, 2002.

Chaudhry, Zafar Hussain. *House Building Finance Corporation Act*,. Lahore: Ch. Abdul Sattar at G.F. Printing Press,, 1952.

CII. *Annual Report*. Islamabad: Council of Islamic Ideology, , 1978-79.

Elahi, Arif. "Housing Finance in Pakistan." *The Journal NIPA Karachi*, Vol-8 No. 4, 2003: 25-47.

Hanif & Hjazzi . "Islamic Housing Finance: A Critical Analysis and Comparison with Conventional Mortgage." *EuroJournals Publishing*, Inc. 2010: ISSN: 1450-2889 Issue 6 (2010).

Hasan, Dr. Zubair. "Islamic Finance for housing." *International Conference on Islamic Business and finance ICIB-2011 (Feb 8-9-2011)*. Islamabad, 2011. 1-12.

Hassan, Mehboob Ul. "The Islamization of the Economy and the Development of Islamic Banking in Pakistan." *Kyoto Bulletin of Islamic Area Studies* (Kyoto Bulletin of Islamic Area Studies), 2007: 92-109.

Hassanuzzam, Dr. S M. "Islamisation of the Financial System in Pakistan." In *Encyclopaedia of Islamic Banking & Insurance*, by Institute of Islamic Banking & Insurance, 231-245. London: Institute of Islamic Banking & Insurance, 1995.

HBFC. *Existing Customers*. <http://www.hbfc.com.pk> (accessed June 10, 2011).

—. *Introduction*. [http://www.hbfc.com.pk/company\\_profile.html](http://www.hbfc.com.pk/company_profile.html) (accessed October 26, 2011).

HBFC. *Manuals of House Building Finance Corporation*. Karachi: House Building Finance Corporation, , 2001-2002.

HBFC. *Master Circular - Ghar Aasan & Shandar Ghar Schemes*. Karachi: House Building Finance Corporation Ver. 1.0, Pages18-35.

—. *New Customers*. <http://www.hbfc.com.pk> (accessed June 11, 2011).

IPS. *Jadeed Iqtsadi Masail, Shariat ki Nazar Main*. Islamabad: Institute of Policy Studies, 1992.

—. *Jadeed Iqtsadi Masail Shariat Ki nazar Main*. Islamabad: Institute of Policy Studies, 1997.

IRUM and NIDAL. "Economic Pricing Mechanisms for Islamic Financial Instruments: *Ijarah* Model." *SABA, IRUM and ALSAYYED, NIDAL INCEIF the Global University in Islamic Finance*. kuala Lumpur, 2010.

Khan, Khalid Mehmood, interview by Muhammad Asghar Shahzad. *House Building Finance Corporation* (01 03, 2011).

Kiyani, shazia. *house financing in pakistan & united kingdom from Sharia'h perspective*. Islamabad: International Islamic University, , 2010.



Limited, House Building Finance Corporation. *Simplified Scheme*. Scheme manual (Simplified Scheme), Karachi: HBFCL, 1987.

Mansoori, Dr. Muhammad Tahir. *Islamic Law of Contracts and Business Transactions*. Islamabad: Shai'ah Academy, International Islamic University,, 2005.

—. *Islamic Law of Contracts and Business Transactions*. Islamabad: Sharia'h Academy, International Islamic University, Islamabad, 2009.

Matthews, Issam Tlemsani and Robin. *Ethical Banking Islamic House Financing in The United Kingdom: A Comparative Study*. Center for International Business Policy Kingston Business School, Kingstone Hill .

Mehmood, Aurangzeb. "Islamization of Economy in Pakistan, Past Present and Future." *Islamic Studies* 41:4, 2002: 675-704.

Mehmood, Malik Tariq, interview by Muhammad Asghar Shahzad. *Importance & Working of Postal Life Insurance* (September 27, 2011).

Mohammaed, Dzuljastri Abdul Razak and Mustafa Omar. "Consumers Acceptance on Islamic Home Financing: Empirical evidence on Bai Bithaman Ajil (BBA) in Malaysia." *IIUM International Accounting Conference IV (INTAV)*. Kuala Lumpur, 2008. 24-26.

Muhmood, Ahmad Tarmidzi Al-Muttaqi Bin. *Bay Bithaman Ajil (BBA) in house Binancing As implemented by Malasian Financial insitutions: A critical Analysis of its procedures and application from the fiqh point of view*. International Islamic University, Malaysia, 2007.

OIC, Fiqh Academy. "Fatawa." *ISRA*. <http://www.isra.my/fatwas/topics/commercial-banking/financing/musharakah/item/324-al-musharakah-al-mutanaqisah-and-its-shari%E2%80%99ah-rules-resolution-no-136-15/2-2004-by-the-international-council-of-fiqh-academy.html#startOfPageId324> (accessed Oct 21, 2011).

Razak, Ahamed Kameel & Dzuljastri Abdul. *Islamic Home Financing through MM & BBA contracts: A comparative Analysis*. Internatioanal Islamic University, Malasia, 2005.

Saeed, Mr. Muhammad, interview by Muhammd Asghar Shahzad. *Diminishing Musharakahin HBFC* (07 25, 2010).

Samdani, Dr. Molana Ejaz Ahmed. *Mali Muamlat Par Gharar Kay Asrat* . Karachi: Adara Tul Muarif, Jan 2007.

SBP. *Islamization of Financial System in Pakistan*. Karachi: SBP, 2002.

—. "[www.sbp.org.pk/ibd/2008/Annex-c2-1.pdf](http://www.sbp.org.pk/ibd/2008/Annex-c2-1.pdf)." *Instructions for Sharia'h Compliance in Islamic Banking Institutions*. March 25, 2008. [www.sbp.org.pk](http://www.sbp.org.pk) (accessed Oct 22, 2011).

Shoukat, Mr. Ihtsham, interview by Muhammad Asghar Shahzad. *Ghar Aasan* (07 25, 2010).

Soetaman, Isyrokhh Fuaiddi. "Risk Management in House Financing in Islamic Financial Institutions." *A thesis submitted in Partial fulfillment of the requirements of the degree of LLM Islamic Commercial law*. Islamabad: Faculty of Sharia'h & Law, International Islamic University, Islamabad, 2010.

Usmani, Dr. Muhammad Imran Ashraf. *MeezanBank's Guide to Islamic Banking*. Karachi: DARUL-ISHAAT URDU BAZAR KARACHI-I PAKISTAN, 2002.

Usmani, Dr. Muhammad Imran Ashraf. "Shirkat O Muzarbat Asre Hazar Main (Urdu)." Karachi: Idaratul Ma'arif, 2005.

Usmani, Molana Mufti Taqi. "Islam aour Jadeed Muashi Masail." Vol:7, 305-308. Lahore: Adara E Islamiyat, 2008.

Usmani, Mufi Muhammad Taqi. *Introduction to Islamic Finance*. Karachi: IDARATUL MA'ARIF, KARACHI PAKISTAN, 2000.

Usmani, Mufti Muhammad Taqi. *Fiqhi Muqalat (Research Papers in Islamic Law)*. Karachi: Maiman Islamic Publishers, 1996.

—. *Islam aour Jadeed Maeeshat O Tijaraht (Urdu)*. Karachi: Maktba Muarif Ul Quran, 2005.

*www.pakpost.gov.pk*. 09 23, 2011. <http://www.pakpost.gov.pk/financial/pli.html>, (accessed 09 23, 2011).

