

AGENDA

2ND SC-OCIS ROUNDTABLE: *ISLAMIC FINANCE AND THE PUBLIC GOOD*

12–13 March 2011

The Conference Room, Ditchley Park, Oxfordshire

Day 1 – Saturday, 12 March 2011	
2.00pm – 2.05pm	Welcome Remarks, Dr Farhan Nizami, Director, Oxford Centre for Islamic Studies
2.05pm – 2.10pm	Welcome Remarks, Tan Sri Zarinah Anwar, Chairman, Securities Commission Malaysia
2.10pm – 2.30pm	Special Address, HRH Dr Raja Nazrin Shah, Crown Prince of Perak, Malaysia and Financial Ambassador to the Malaysia International Islamic Financial Centre
2.30pm – 4.30pm	<p>Session 1: Shariah, Finance and the Public Good</p> <p>The Session will deliberate on Shariah which is consistent with what is universally deemed good. The Roundtable will also deliberate on the significance of <i>maslahah</i> which revolves around making a fatwa premised on public interest. In the advent of failures of several Islamic financial institutions, how can stakeholders sustain the industry and improve on transparencies and disclosures.</p>
4.30pm – 5.00pm	Tea Break
5.00pm – 7.00pm	<p>Session 2: Shariah, Recourse to Law and Enforceability of Financial Contracts</p> <p>Session 2 will evaluate how Shariah departs from the Contract Law - how fitting Shariah into “Shariah-compliant products” may lead to legal uncertainty OR how the legal language may cause a breach in Shariah. Real cases are examined to see how Islamic finance could be adversely impacted. The Roundtable will discuss what may be the best way forward to overcome this paradox.</p>
Day 2 – Sunday, 13 March 2011	
9.00am – 11.00am	<p>Session 3: Creating an Enabling Corporate Structure for Islamic and Ethical Finance</p> <p>Session 3 would address issues that are relevant to the corporate structure of Islamic finance including the balance sheet structure, regulatory implications, implementing ethics into the organization and governance.</p>
11.00am – 12.00pm	Break

12.00pm – 12.45pm	<p>Conclusion & Recommendations: Islamic Finance and the Public Good</p> <p>This session will comprise a summary report of the three sessions, highlighting the key points discussed and recommendations proposed.</p> <ul style="list-style-type: none"> • Chairman: Dato’ Sri Nazir Razak, Chevening Fellow, OCIS
12.45pm – 12.50pm	Closing Remarks, Dr Farhan Nizami, OCIS
12.50pm – 12.55pm	Closing Remarks, Tan Sri Zarinah Anwar, SC
1.00pm	<i>End of the 2nd SC-OCIS Roundtable</i>

The above agenda is subject to change and is correct at time of print.

Session Topics & Key Points for Discussion

Session 1: Shariah, Finance and the Public Good

Issues to be raised should include:

1. Shariah and the Public Good
2. Incorporating ethical values into financial management
3. *"No harm should be caused to another nor shall any harm be caused in return for harm"*, Prophet Muhammad
4. Significance of Maslaha
5. The Shariah, Islamic finance and social relevance
6. Strategies for sustainability, transparency and disclosure
7. Ethics & Finance – is ethical consumer and business financing achievable?

Session 2: Shariah, Recourse to Law and Enforceability of Financial Contracts

Issues to be raised would include:

1. Customising Shariah compliance into secular legal structures
 - a. How should Shariah view the contracts – the substance which may lead to a legal risk or merely consider whether Shariah compliant
 - b. True sale – how to enforce beneficial ownership in certain jurisdictions
 - c. Meeting insolvency needs; the effects of foreclosure on "partnerships" – shareholder, creditor, secured creditor.
2. Recourse to Law – the enabling legal framework
3. The Importance of court procedure
 - a. Independence of the judiciary
 - b. Appeals process
 - c. Enforcement culture
4. Need for clarity on substance of contracts – debt or partnership?
5. Are equities similar to the concept of musharakah?
6. Can investors claim right to assets under musharakah?
7. Are tranching of rights as under subordinated structures and preference shares permissible?
8. Need for standardization of definitions and applications in order to enable practices widely acceptable and better spaces for arbitrations (identification of black letter provisions under international conventions similar to ICC)
9. Case studies:
 - a. Beyond Shamil/Beximco
 - b. East Cameron Gas/Sukuk Certificate Holders
 - c. TID/Blom – Learning the Lessons
10. Freedom to contract
11. Shariah and the prevailing commercial law – which takes precedence?
12. Limits of legal cohabitation
13. Is the supremacy of Shariah courts implicit or should there be specialised Shariah finance courts with judges experienced in both the Shariah and modern finance?

Session 3: Creating an Enabling Corporate Structure for Islamic and Ethical Finance

Issues to be covered would include:

1. Revisiting the limited company structure - defining the relevant stakeholder
2. Corporate balance sheet structures - the optimum equity/debt mix
3. Understanding different corporate structures - providers of public goods, financial services, commercial goods
4. Redefining for profit and not for profit organizations
5. Regulatory implications
6. Incorporating ethical needs of maqasid Shariah into operations and structures
7. Governance shortfalls and need for transparency and disclosures
8. Case study: Investment Dar vs BLOM

Session Format

Role of Chair/Moderator

The Chair/Moderator is to introduce the session, the speakers, the panel members and the rapporteurs. He is also to ensure that all participants adhere to the Ditchley house rules (ie time given for each participant to speak) and chairs, presides as well as moderates over the sessions and sees to it that the sessions are in line with the set programme. Specifically, the Chair will:

- Introduces the session topic or theme and objectives
- Introduces the programmed presenters for the session
- Ensures that each presenter, panelist and respondent keeps to allotted time, and if necessary interrupts the them to advise of time remaining, or stop them when time is up
- Chairs the session and facilitate the discussion among the panel members and other participants
- Acknowledges participants who wish to contribute to discussions on presentations and decides on the order and length of the interventions;
- Ensures that the same participants do not monopolise the discussions and that interventions are relevant to the topic under discussion by interrupting when an intervention strays from the topic; and
- Sum up the presentations and discussions at the end of the session.

Role of the Speaker

The guidance notes for each of the session topics are as attached. Specifically, the Speaker shall:

- Prepare a paper on the topic of the session, giving his views, for or against, and not necessarily be based on the points in the guidance notes given. The speaker may present his original views on the topics
- Prepare the paper for circulation to the panelists who will commenting on the presentation as well as the topics
- Prepare a summary of the paper for the Roundtable
- Present a summary of the paper in **15 minutes** during the session; and
- Participate in discussions during general discussion that follow.

Role of Session Panelists

The Panelists are to provide comment and feedback on the Speakers' presentation. Approximately 5 minutes will be allowed, following the cue of the Chair/Moderator.

Role of Session Rapporteurs

Rapporteurs will take notes of their allocated session and summarise the discussion into a succinct report, which will be presented at the concluding session of the Roundtable (on Day 2).

Specifically, session rapporteurs:

- Take full narrative notes and any other ad hoc contributions that arise during sessions; not just bullet points in recording the session
- Integrate the notes immediately after the session and present the notes at the final session,

Role of the Respondents

Respondents are expected to challenge, rebut, introduce new perspectives and insights on the subject matter or issues discuss