

## **Problem: U.S. Treasury Endorsement of Shariah Compliant Finance**

The U.S. Treasury is holding a workshop on Thursday, November 6 to train U.S. government personnel in Shariah Compliant Finance. The invitation is downloadable here as a pdf file (<http://www.sanetworks.us/uploads/news/applications/7.pdf> ). The invitation text is appended at the end of this email.

**Legal Response:** David Yerushalmi is preparing litigation for the DC District Court to enjoin the whole affair, and to force Treasury to actually address the real question: before you start cheerleading for Shariah-compliant finance, don't you think you ought to know what Shariah is and what it says about Jihad against the infidel West?

**Policy Response:** CSP will hold a press conference and rally outside the Treasury Building if we can obtain a permit on short notice (or do it in a way not requiring a permit), to protest the Treasury's efforts to establish Shariah Compliant Finance on U.S. financial institutions. Rally co-sponsors and participants are needed and welcome. Contact [icohen@securefreedom.org](mailto:icohen@securefreedom.org) or [brim@securefreedom.org](mailto:brim@securefreedom.org)

### **Background:**

**1. Harvard's Saudi Connection and responsibility for bringing Shariah to Treasury:** The Harvard Law School's Islamic Finance Project is co-sponsoring this November 6 Treasury "seminar", a "Project" bought and paid for by the Jihadist Wahhabis in Saudi Arabia and neighboring environs. Some relevant facts on the Harvard connection:

- Harvard's famous duo, Professors Vogel and Hayes, authors of the most important book on Shariah-compliant finance (SCF) for infidels, wrote:

*"Islamic legal rules encompass both ethics and law, this world and the next, church and state. The law does not separate rules enforced by individual conscience from rules enforced by a judge or by the state. Since scholars alone are capable of knowing the law directly from revelation, laypeople are expected to seek an opinion (fatwa) from a qualified scholar on any point in doubt; if they follow that opinion sincerely, they are blameless even if the opinion is in error."*

This quote is not what we and other critics say about Shariah. This is what the advocates of SCF say about Shariah because it is what the Ulema or Shariah authorities say about Shariah.

- Noah Feldman, another Harvard professor, has written several articles and two books with the theme that Shariah should be used as a

constitutional brake on the Muslim "executive branch"--a euphemism for the tyrannical regimes who run any given Islamic state. Feldman bases his theme on a historical narrative that says Shariah's role was both symbiotic and in tension with tyranny as a way to ground the mostly secular political rule of the Islamic Caliphate with the steadiness and "fairness" of absolute authoritative divine law. Now, what Feldman doesn't tell his illiterate or otherwise gullible reader is that throughout Shariah's history, it has called for the death of the Muslim apostate and the recalcitrant infidel.

**2. Speakers at the November 6 Treasury Seminar are supporters of Shariah, not just Shariah finance (profiles from Alex Alexiev).** The speakers include Talal DeLorenzo, Rushdi Siddiqui, Samuel Hayes, Mahmoud el-Gamal, Michael McMillen and David Loundy. Hayes is mentioned above, with his views that Shariah Law is an inseparable legal system.

Alex Alexiev notes that El-Gamal is a bit of a maverick. He supports shariah finance but has been known to be critical of some aspects of it, at times sharply, as in the following quotation "The modus operandi of Islamic finance is worrisome for two reasons: it glorifies irrational adherence to outdated medieval jurisprudence, and supports the development of a separatist and boastful Islamic identity. This mixture has proven disastrous in recent years ..."

[http://us.ft.com.ftgateway/superpage.ft?news\\_id=fto05222007224053](http://us.ft.com.ftgateway/superpage.ft?news_id=fto05222007224053)

But importantly – and marked by his presence at this Treasury training workshop – El-Gamal appears to have swung toward orthodoxy of late.

**DeLorenzo** is one of the half dozen most important shariah advisors and an Islamist of note though he is careful in public. A product of the radical jihadist madrasa Jamia Uloom Islamia in Karachi he has been involved at a very high level in many Islamist institutions from the Wahhabi/Ikhwan networks in the U.S. These include: Secretary- Fiqh Council of North America (FCNA), Member of the Board- International Institute of Islamic Thought (IIIT), Director – Graduate School of Islamic and Social Sciences, Director of Education – Islamic Saudi Academy etc. Also very active in the international SCF management and leadership organizations. A long-time colleague of jihadist guru Taqi Usmani.

**Rushdi Siddiqui** – Not as well known as DeLorenzo but possibly even more important as the founder and 'global director' of Dow Jones Islamic Market Index Group. He is credited with creating over 65 Islamic indexes. He is not known to have received a religious education but has played a key role in developing and promoting shariah finance. At Dow Jones he manages the Shariah board (i.e. Usmani, DeLorenzo et al) and also teaches at the online Dow Jones Islamic University with the same individuals. Through his DJIM involvement he has also been closely associated with the Islamists at NAIT (Bassam Osman, Idris Ali, (late)Kaseruddin, Muzamil Siddiqui and those of NAIT's subsidiary and IMANX manager Allied Asset

Advisors. Also a key figure in the international SCF scene as a director at DIFC( Dubai International Financial Center) and head of business development at Dubai Bank, where he was said to assist in the development of the bank's shariah board.

**David Loudon** – Vice president and counsel to Devon Bank. Not very well-known until recently Loudon is a member of the family that owns Devon Bank in Chicago which started offering SCF only six/seven years ago, or after Freddie Mac began buying Islamic mortgages in 2001. It currently is reported to offer Islamic mortgages in 36 states.

Loudon and Devon Bank are primarily of interest because of their ties with some very unsavory SCF outfits. Prime among them is the now defunct Sunrise Equities and the modestly named Shariah Board of America. Sunrise Equities (founded 2001) is the outfit that gave Barack Obama office space on its premises during his run for the senate in 2004. Its president and CEO, Salman Ibrahim evidently helped Devon Bank set up its SCF programs and secure the blessings of the Shariah Board of America (SBA) in which Ibrahim was a board member and reportedly one of SBS's three vice presidents. Ibrahim, who is alleged to have been a Taliban sympathizer, disappeared alongside two other execs of Sunrise with up to \$80 mln this past September. The people defrauded are about 300 Pakistani and Indian Muslims. The SBA (shariahboard.org) is a division of the Rahmat-e-Alam Foundation, which appears to be active in South Asia and is very likely a Deobandi outfit. Most of its members and shariah experts were educated in Deobandi institutions in India and Mufti Taqi Usmani is mentioned as one of their advisors. They also appear to have very close associations with the radical Deobandi proselytizers of Tablighi Jamaat and the Chicago mosque Masjid al-Noor, where the president of SBA, Mufti Navalur Rahman Miftahi, is the head imam may in fact be the Tablighi headquarters in Chicago. The foundation also appears to be running a Deobandi madrassa in Chicago called, Darul Uloom Chicago. More research needs to be done to establish greater detail but the story is juicy enough to warrant it.

### **More Background from David Yerushalmi:**

The most important thing about DeLorenzo and Siddiqui is they sat on Dow Jones Islamic Index Fund with Usmani for 9 years without a peep about Usmani's fatwa re Jihad against America.

DeLorenzo's talk on Shariah compliance will consist largely of this: you must have a Shariah authority. Thus, in a similar paper on compliance for mutual funds, he writes:

#### **Portfolio Selection: Screening Stocks**

Undoubtedly, one of the most important functions of a Shariah Supervisory Board is its scrutiny of equities for compliance with established, Shari`ah-based criteria.

Much has been written on this subject in recent years, and much more remains to be written.<sup>7</sup> For the

purposes of this paper, however, suffice it to say that if an Islamic fund is not licensed to an Islamic index with a full Shari`ah Supervisory Board, then it will undoubtedly require the services of a Shari`ah Supervisory Board to oversee its choice of investments. Such choices cannot be made on the basis of software, or by simply applying the published criteria of another fund, or index. So, when an Islamic equity fund is licensed to such an index, it may at least rest assured that the stocks it invests in will accord with the guidelines for prudent Islamic investing. Even so, and I continue to explain why, it will still require Shari`ah supervision.

While I will not repeat here what has now become common knowledge in regard to the Shari`ah screening of equities, I will take this opportunity to say that beyond the quantitative screening of securities is the highly subjective matter of ethics, and what is socially responsible. Again, from the perspective of enjoining the good and prohibiting what is wrong, I believe that it is the responsibility of Shari`ah Supervisory Boards to work on these issues, even after a fund has licensed to an investable universe through an index. Muslim investors, with our spiritual, cultural, and family ties to what is politely termed the third world, are more intimately concerned with, and sensitive to, the practices and policies of multinationals.

A company's ethics, unlike its primary business and capital structure, are highly subjective and not easily quantified. In considering issues of this nature, it is important that the fund's Shari`ah Supervisory Board works closely with management on policies and guidelines that will adequately cover these issues. Islamic investing has much in common with the modern forms of investing known as ethical investing, socially responsible investing, faith investing, and green investing. Each of these investment sectors, or subsectors, has much of value to contribute; and each has something in common with the teachings of Islam. It is therefore important for Shari`ah Supervisory Boards to keep abreast of what is happening in these areas. The internet is an excellent tool for the purpose of research into these forms of investing, the

organizations that support and implement their principles, and the issues that concern them. Perhaps the most encouraging thing for Muslim investors to note about the funds that have grown up around these concepts is that they have been very successful, and that they are the fastest growing sector on the market.<sup>8</sup> Given the affinities shared by these groups and Muslim investors, it is important that Islamic funds begin to build bridges. In this effort, the participation of Shari'ah Supervisory Boards will be all important.

Now, DeLorenzo actually translated a two volume set on major fatwas on Shariah compliant finance where he brings down rulings where you can't deal with churches, and where the question of taking interest from infidels in dar al Harb, the land of war has some value to weaken them. I've cited all of this in my legal memo at footnotes 70-71 and accompanying text. The pdf of that memo is posted here: <http://www.saneworks.us/Civil-Liability-and-Criminal-Exposure-for-US-Financial-Institutions-and-Businesses-Engaged-in-Shari%92ahCompliant-Finance-article-482-0.htm>

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Text of November 6 Treasury Department Invitation to Training Session on Shariah Compliant Finance:

Islamic Finance 101

Hosted by the

U.S. Department of Treasury

In association with the

Islamic Finance Project – Harvard Law School

November 6, 2008

1:00 p.m. to 5:00 p.m.

1500 Pennsylvania Avenue NW, Washington D.C

Seminar at the US Department of the Treasury:

“Islamic Finance 101”

November 6, 2008

1:00 p.m. – 5:00 p.m.

Department of Treasury, Washington DC

Purpose:

This forum is designed to help inform the policy community about Islamic financial services, which are an increasingly important part of the global financial industry. The Department of the Treasury, working with Harvard University's Islamic Finance Project, will host speakers from academia and industry to share information on the development of Islamic finance, both in the United States and globally. The primary audience of this seminar is comprised of staff from U.S. banking regulatory agencies, Congress, Department of Treasury and other parts of the Executive Branch. For some in attendance, this may be their first and only opportunity to learn formally about Islamic finance. We expect about 100 people in the audience. The presentations will be short and focused, directed toward policy makers rather than academics.

Program:

A. WELCOME (5-10 min):

Assistant Secretary Neel Kashkari

B. INTRODUCTION AND SEMINAR OVERVIEW (10 min):

Seminar Chair: Samuel Hayes, Professor Emeritus, Harvard Business School

C. PANEL I – OVERVIEW OF ISLAMIC FINANCIAL INSTRUMENTS AND TRANSACTIONS (45 min):

Moderator: Samuel Hayes, Professor Emeritus, Harvard Business School

Speaker Presentation Topic

1. Mahmoud El-Gamal, Rice University

What is Islamic Finance?

2. Sarah Bell, Federal Reserve Bank of New

York

US regulation of Islamic financial

institutions

3. Yusuf Talal DeLorenzo, Shariah Capital Understanding shariah compliance

D. COFFEE BREAK (20 min)

E. EVOLUTION OF THE MARKET FOR ISLAMIC FINANCE (45 min):

Moderator: Mark Brady, Deputy Assistant Secretary for Services, US Department of Commerce

Speaker Presentation Topic

1. Michael McMillen – Islamic Legal

Forum, American Bar Association

Legal trends in shariah compliant

finance

2. Rushdi Siddiqui, Dow Jones Indexes Overview of recent developments in

the global market for Islamic

financial services

3. David Loundy – VP & Corporate

Counsel, Devon Bank

US market for Islamic financial

services

Profile of Moderators and Speakers:

NEEL KASHKARI

Interim Assistant Secretary of the Treasury for Financial Stability and Assistant

Secretary of the Treasury for International Economics and Development, U.S.

Department of the Treasury

Neel Kashkari was designated as the Interim Assistant Secretary of the Treasury for Financial Stability on October 6, 2008. In this capacity, Mr. Kashkari oversees the Office of Financial Stability including the Troubled Asset Relief Program. Mr. Kashkari also continues to hold the position of Assistant Secretary of the Treasury for International Economics and Development, but his International Affairs responsibilities are delegated to Assistant Secretary for International Affairs Clay Lowery while Mr. Kashkari serves as Interim Assistant Secretary for Financial Stability.

Mr. Kashkari joined the Treasury Department in July 2006 as Senior Advisor to U.S.

Treasury Secretary Henry M. Paulson, Jr. In that role, he was responsible for developing

the President's Twenty in Ten energy security plan, enhancing Treasury's engagement with India, particularly in the area of infrastructure development, and developing and executing the Department's response to the housing crisis, including the formation of the HOPE NOW Alliance, the development of the subprime fast-track loan modification plan, and Treasury's initiative to kick-start a covered bond market in the United States. Prior to joining the Treasury Department, Mr. Kashkari was a Vice President at Goldman, Sachs & Co. in San Francisco, where he led Goldman's IT Security Investment Banking practice, advising public and private companies on mergers and acquisitions and financial transactions. Prior to his career in finance, Mr. Kashkari was a R&D Principal Investigator at TRW in Redondo Beach, California where he developed technology for NASA space science missions such as the James Webb Space Telescope.

#### SAMUEL L. HAYES III

Jacob Schiff Professor of Investment Banking, Emeritus, Harvard Business School

Samuel L. Hayes, III, holds the Jacob Schiff Chair in Investment Banking Emeritus at the Harvard Business School. He joined Harvard's faculty in 1970, prior to which he was a tenured faculty member of the Columbia Business School. Hayes has a B.A. in Political Science from Swarthmore College and an MBA (with Distinction) and D.B.A. from the Harvard Business School. Hayes has published in journals such as Harvard Business Review, Accounting Review, and Financial Management. He was a principal contributor to the Harvard Islamic Investment Study. Hayes is the author or co-author of seven books, including Islamic Law and Finance: Religion, Risk and Return, which he coauthored with Frank E. Vogel of Harvard Law School. Hayes has consulted for a number of corporations, financial institutions, foundations, and government agencies including the Treasury Department, Justice Department, the Federal Trade Commission, the Securities and Exchange Commission, and is a founding member of Harvard's Islamic Finance Project Advisory Board. Hayes has been the invited speaker to many of the major Islamic finance conferences held globally.

#### MAHMOUD A. EL-GAMAL

Professor of Economics and Statistics, Rice University

Mahmoud Amin El-Gamal Ph.D, is a Professor of Economics and Statistics at Rice University in Houston, TX, where he is currently Chair of the Economics Department and holds the endowed Chair in Islamic Economics, Finance, and Management. Before joining Rice in 1998, he was an Associate Professor of Economics at the University of Wisconsin in Madison. He has also worked as an Assistant Professor at the University of Rochester, and the California Institute of Technology, as an Economist at the Middle-East Department of the International Monetary Fund (1995-6), and as the first scholar in residence on Islamic finance at the U.S. Department of Treasury (2004). El-Gamal has published extensively on finance, econometrics, decision science, economics of the Middle East, and Islamic transactions law. His recent books are *Islamic Finance: Law, Economics, and Practice*, Cambridge University Press, 2006, and a major translation project for classical Islamic law and its contemporary interpretations: *Financial Transactions in Islamic Jurisprudence*, Dar Al-Fikr, 2003. Other publications have included academic journal articles and book chapters on monetary and exchange rate policies, foreign direct investment in the Arab world, growth and investment in various Arab countries, and financial models for employment-generating small and medium enterprises.

SARAH BELL

Senior Bank Examiner, Bank Supervision Group, Federal Reserve Bank of New York  
Ms. Bell currently works in the FRBNY Investment Support Office. She is also part of the internal FRBNY working group on Islamic finance and has worked on related issues since joining the Bank in 2003. Before her current assignment, Ms. Bell worked in the Credit Risk Department where she monitored financial institutions' commercial, consumer and counterparty credit risk management. Prior to joining the Credit Risk Department, she conducted financial analysis and risk monitoring in the Regional Banks Department. Ms. Bell earned a BA degree in Political Economy from Princeton University and a Masters in Public Policy from the Kennedy School of Government at

Harvard University.

#### YUSUF TALAL DELORENZO

Chief Shariah Officer, Shariah Capital

Shaykh Yusuf Talal DeLorenzo is a scholar of Islamic Transactional Law whose 30 year career was featured in an August 2007 front page story in The Wall Street Journal. Based in the Washington, DC area, he has served as a Shariah advisor to dozens of international financial entities, including index providers, institutional investors, home finance providers, international investment banks and a variety of asset managers. He is the author of the three volume Compendium of Legal Opinions on the Operations of Islamic Banks, the first English/Arabic reference on the fatwas issued by Shariah boards. In addition, he wrote the introduction to Islamic Bonds, the 2003 book that introduced Sukuk and transformed the world's Islamic capital markets. His work has appeared in academic and industry journals and as chapters in books, including Euromoney's Islamic Asset Management (2004), Islamic Retail Finance (2005), and Islamic Finance: Innovation & Growth (2002). His entries on the terminology of Islamic finance appear in The Oxford Dictionary of Islam.

#### MARK BRADY

Deputy Assistant Secretary for Services, U.S. Department of Commerce

Mark Brady oversees and manages three separate offices, which develop trade policy, identify foreign market barriers, and analyze trends affecting the domestic and foreign competitiveness for U.S. businesses in the service, tourism and finance industries. He provides technical support to the United States Trade Representative during trade negotiations. Additionally, Mr. Brady works to ensure that U.S. exporters have competitive access to export finance through the Department of Commerce's representation on the Export-Import Bank and the Overseas Private Investment Corporation. The services sector represents approximately 75 percent of the private sector economy of the United States.

Prior to assuming that position, Mr. Brady was appointed to be the first Executive

Director of Corporate Partnerships for the U.S. Commercial Service. Prior to joining the Administration, Mr. Brady was President of Manchester Partners, Inc., a corporate financial advisory firm. He is a former member of the New Hampshire Legislature where he represented district 2 and served on the Commerce Committee. He has written and testified extensively on fiscal, health care, and environmental policy and successfully sponsored legislation as a freshman legislator. He earned a degree in Economics from the Whittemore School of Business and Economics, University of New Hampshire.

#### MICHAEL MCMILLEN

Lecturer-in-Law, University of Pennsylvania

Michael McMillen is a partner of Fulbright & Jaworski and works in the areas of Islamic finance, project finance and structured finance. Although based in New York, he also works extensively in the London, Riyadh and Dubai offices. He teaches Islamic Finance at the University of Pennsylvania Law School, the Wharton School of Business, and other institutions. Michael was the first Chair, and is the current Co-Chair of the American Bar Association Islamic Finance Committee. He has twice received Euromoney's award for Best Legal Advisor in Islamic Finance. Michael has also received the Sheikh Mohammed Bin Rashid Al Maktoum Award for Best Islamic Finance Legal Advisor for North America. Michael works closely with the Islamic Financial Services Board and has responsibility for three of the five capital markets initiatives of the IFSB (securities and capital markets laws; the use of trust concepts; and enforceability matters).

Michael received his Juris Doctor from the University of Wisconsin School of Law in 1976, his Doctor of Medicine from the Albert Einstein College of Medicine in 1983, and his Bachelor of Business Administration from the University of Wisconsin in 1972.

#### RUSHDI SIDDIQUI

Global Director of the Islamic Index Group, Dow Jones Indexes

Rushdi Siddiqui is Global Director for the Dow Jones Islamic Market Indexes. In this capacity he supervises more than 70 Dow Jones Islamic Market Indexes [equity, sukuk,

sustainability, etc.] that underlie hundreds of Shariah-compliant mutual funds, exchange traded funds and structured products with total assets under management (AUM) of US\$7B. He also oversees the Dow Jones Islamic Market Index Shariah Supervisory Board of international scholars. Mr. Siddiqui introduced the idea of building Islamic indexes to Dow Jones in 1998 and since then has been a vigorous advocate for the Islamic finance through his relationships with OIC global stock exchanges and investment firms, speaking at conferences, teaching at universities, writing articles, and conducting media interviews. He has received numerous awards in Islamic finance, and is on the advisory of committees of DIFC's Islamic Finance Advisory Committee (IFAC) and Islamic Capital Market Committee at UK Trade & Investment (UKTI).

#### DAVID LOUNDY

Corporate Counsel and Vice President, Devon Bank

David Loundy is Corporate Counsel, a Vice President, a member of the Board of Directors for Devon Bank, and is in charge of the Islamic Finance Division for Devon Bank at Devon Bank, David has created the products for the Bank's Islamic finance program, has worked to expand the Bank's Islamic finance program out to cover 37 states, and designs the structures for all non-standard transactions. He has designed and implemented more Islamic banking products in the United States marketplace than any other banker in the U.S. He is working to create an off-shore investment company that will allow for continued growth and expansion of the Bank's Islamic finance program. Devon's program won the Sheikh Mohammed Bin Rashid Al Maktoum award in Islamic Finance in the Category "Vision: North America."

Before joining Devon Bank, David worked as a law professor, a law school administrator, as well as teaching in an executive MBA program, and worked as a lawyer practicing in the fields of intellectual property and computer law, with a focus on Internet law issues. He is a past chairman of the Illinois State Bar Association Intellectual Property Law Section, and the Chicago Bar Association Computer Law Committee. David has given more than seventy presentations and has more than one hundred

publications in his name. Some of his works have been translated into French, Japanese, Turkish and Korean. David Loundy has a BA in telecommunications from Purdue University, and a JD from the University of Iowa, College of Law, both with distinction. He has completed the post-graduate diploma program from the Institute of Islamic Banking and Insurance, and recently finished the Loyola University Family Business Center's Next Generation Leadership Institute.