Malaysia-UK Islamic Finance Forum
Kuala Lumpur, 8 July 2009

Keynote Address by

Tan Sri Dato' Sri Dr. Zeti Akhtar Aziz
Governor, Bank Negara Malaysia

It is my pleasure to be here today to address the Malaysia-United Kingdom Islamic Finance Forum organised in collaboration with the Commonwealth Business Council. Allow me to take this opportunity to welcome The Right Honorouble Lord Mayor and distinguished guests from the United Kingdom today that are joining this dialogue with the Malaysian financial community to discuss the opportunities and areas of collaboration in Islamic finance - an important potential avenue for strengthening financial and economic linkages not only between our economies but with other parts of the world.

A global shift is currently taking place in the international environment that is dramatically altering the configuration of the global economy. It is resulting in an increasingly multi-polar world. In this new phase of globalisation, the concentration of economic power will become more dispersed. Strengthening strategic economic and financial linkages across jurisdictions will become a key feature in this environment. It is very much Malaysia 's intention to be part of this new future as we consciously build our capacity to enhance our international economic and financial linkages.

Building Effective Partnership between UK and Malaysia

The United Kingdom and Malaysia has one of the oldest relationships. This relationship has been dynamic, evolving in the rapidly changing international environment. The strong and close bond has continued to evolve in the areas of trade, investment, education and finance.

While the bilateral trade in goods between the United Kingdom and Malaysia only accounts for 1.4% of our total trade, Malaysia 's bilateral trade in services with Britain accounts for 6.3% of our trade in services in 2008. While the balance of trade is in our favour, the balance in the services account is in the favour of the United Kingdom amounting to RM2.3 billion. In the area of mobility of people between our two countries, there continues to be a significant two-way flow relating to employment, education and tourism. Tourists from Britain represent the largest group of visitors from the European market. In the area of education, there are a great number of Malaysian students studying in the United Kingdom . This has been reinforced by the twinning programmes. In addition, British education for Malaysians has been strengthened by the branch campuses in Malaysia.

More recently, the relationship building has extended into the area of Islamic finance. This relationship was cemented with the signing of a Memorandum of Understanding between the UK Trade and Investment and Bank Negara Malaysia.

The early development of Islamic finance was very much domestic-centric. This recent decade has seen the internationalization of Islamic finance. This has increased the potential for strategic partnerships between international financial centres that will bring with it mutually reinforcing benefits.

Malaysia has developed a comprehensive Islamic finance industry founded on a strong legal and regulatory framework, with a diversified number of Islamic banking and takaful institutions and a well-developed Islamic money and capital market. Today, Islamic financial assets comprise 17 per cent of the total assets of the banking system in Malaysia and the daily average volume transacted in our Islamic money market is RM6 billion. The sukuk market which has been expanding at an average annual rate of 22%, now accounts for more than 50% of our bond market.

With this financial infrastructure in place, Malaysia has recently intensified its pace of liberalisation. In April, the government announced further liberalisation measures that included new licences to be offered in Islamic banking and takaful.

More specifically, up to two new mega Islamic banking licences will be issued to foreign players with minimum paid up capital of USD1 billion to enhance global interlinkages and leverage on global developments in Islamic finance. E xisting domestic Islamic banks that wish to scale up their operations and expand into global markets are also given greater flexibility to enter into strategic partnerships with foreign players to raise their capitalization to USD1 billion with a higher foreign equity limit of up to 70%.

In addition, up to two new family takaful licences will be issued in 2009 to players that can offer significant value propositions to Malaysia to spur the development of the takaful industry. Takaful companies will also be given the flexibility to enter into strategic tie-ups with foreign partners through higher foreign equity limit of up to 70%, to further strengthen resilience and competitiveness. In addition, international Islamic financial institutions can be established to offer the full range of Islamic financial services to residents and non-residents in international currencies.

Another further measure announced is the liberalization of legal profession to allow up to five top international law firms with expertise in international Islamic finance to offer legal services in international Islamic finance in Malaysia.

Internationalisation of Islamic Finance

Several factors are important in sustaining the internationalisation of Islamic finance.

Firstly, is the development of international Islamic financial markets to enhance the liquidity of the instruments and the risk management capacity of the players. This is important to promoting the efficient functioning of the markets and thus facilitate cross border capital flows thereby strengthening global financial integration. However, it can be observed that in most jurisdictions that have Islamic financial institutions, Islamic money and capital markets remain relatively less developed. Consequently, Islamic banking institutions face the challenge in their day to day management of cash, arising from the lack of a comprehensive Islamic inter-bank market with highly rated short-term tradable instruments. Without access to such a market, it is difficult for these institutions to manage their short-term liquidity needs in an efficient and effective manner. This would in turn require them to maintain a larger amount of liquidity compared to their conventional counterparts. In Malaysia , such markets exist and have been key to facilitating liquidity management.

Coordinated initiatives across jurisdictions can be taken to foster the development of an efficient and vibrant international Islamic financial market. The IFSB Task Force on Liquidity Management reflects a concerted effort to explore measures needed to develop the liquidity management infrastructure and framework for the Islamic financial institutions. Notwithstanding the effort by the Task Force to look into the pertinent issues, Islamic financial institutions are encouraged to promote innovation in the development of a broader range of Islamic financial market instruments. These include instruments with equity ownership features, Islamic asset-backed securities, the inclusion of permissible forms of credit enhancements as well as Shariah-compliant risk mitigating instruments.

It is also essential that there should be sufficient availability of liquidity to support the intermediation of funds in the Islamic financial system. Central banks must therefore have sufficient Islamic financial instruments at their disposal to manage the liquidity conditions in the Islamic financial system.

Secondly, is the international cooperation to ensure financial stability of the international Islamic financial system. This will also involve partnerships between international financial centres in promoting financial stability. A **robust and effective regulation and supervision of Islamic financial institutions** is key to preserving financial stability. The current ongoing global financial and economic crisis has highlighted the structural weaknesses in the global financial regulatory and supervisory framework. Co-operation between regulators across jurisdictions is vital in containing potential systemic risks that have extended beyond the national and regional boundaries.

In the case of Islamic finance, a rigorous and well developed legal, regulatory and Shariah framework is being put in place. Such a regulatory framework also needs to govern market practices by the Islamic financial institutions. This will involve the implementation of the prudential standards that have been

issued by the Islamic Financial Services Board, the IFSB. The IFSB also has an important role in the harmonisation of prudential standards, in addition to contributing towards the consistent development of Islamic finance across different jurisdictions. Several parts of the world, including Malaysia , have implemented the prudential standards issued by the IFSB. These prudential standards which have been designed to take into account the unique features specific to Islamic finance will contribute towards ensuring its soundness and stability. British financial regulators are therefore encouraged to be members of the IFSB.

Early this year, the IFSB in collaboration with the Islamic Development Bank (IDB) established a task force on Islamic Finance and Global Financial Stability. The task force is responsible to examine the resilience of Islamic finance in the current challenging global financial environment and to examine further the building blocks that need to be put in place to develop the international financial architecture to strengthen further the resilience of Islamic finance. The task force will provide recommendations including on developing the framework for prevention and management of crisis taking into account the lessons for reform of the international financial system.

Thirdly, and importantly is that international integration of Islamic finance would be facilitated by the mutual recognition of financial standards and products across jurisdictions. In the area of Shariah, there has already been the progressive convergence of Shariah views and rulings, and **the mutual recognition of financial standards and products across jurisdictions.** As this continues to occur, it would be a major driver towards greater international financial integration. This convergence and harmonisation is taking place with the greater engagement among the regulators, practitioners and scholars in Islamic finance across jurisdictions.

To promote greater mutual recognition of products, Bank Negara Malaysia has embarked on the initiative to develop the Shariah Parameters to promote more consistent application of Islamic financial contracts. This initiative aims to determine the essential features of Islamic financial products derived from underlying key Shariah principles. This is also to provide greater clarity to the international community thereby facilitating greater cross border transactions. An International Shariah Research Academy for Islamic Finance (ISRA) has also been established in 2008 to promote greater engagement among Shariah scholars from around the world and to undertake research activities and contribute towards a greater understanding and international convergence. In this respect, we welcome relevant British institutions to collaborate with I SRA to advance this endeavour.

Development of human capital in Islamic finance is also important to ensure an adequate supply of talent pool of experts and high calibre professionals. The investment in human capital development is therefore crucial to support the global development of Islamic financial services industry. Bank Negara Malaysia is committed towards promoting human capital development. Dedicated ancillary institutions such as INCEIF, IBFIM and ISRA have been established to focus on training, education and research. There has also been a higher degree of strategic alliance with British education and training institutions with our Malaysian institutions to advance the talent development for the Islamic financial services industry. In this respect, I am pleased to note that we will today witness the signing of a number of strategic collaboration between leading British institutions and Malaysian education and training institutions.

Let me conclude my remarks. The increasing awareness and appreciation of the inherent strengths of Islamic finance and its tremendous potential for advancement have ignited interests amongst the global financial community to venture into this new sphere of finance. Taking advantage of the increasing role of Islamic finance in bringing together different parts of the world with surplus funds in search of investment opportunities, with those that have financing needs, will increase these mutually reinforcing prospects. We look forward to London ‘s participation in this new financial evolution.

SEACEN-BNM Banking and Financial Law School 2009 "Current Challenges in Central Banking - Legal Perspective" Kuala Lumpur, 24 September 2009

Keynote Address by

Tan Sri Dato' Sri Dr. Zeti Akhtar Aziz
Governor, Bank Negara Malaysia

It is my great pleasure to speak at the 5th Banking and Financial Law School 2009, jointly organized by the South East Asian Central Banks (SEACEN) Research and Training Centre, the Institute of Bankers Malaysia and Bank Negara Malaysia. The theme for this year's Banking and Financial Law School on "the legal perspective of the current challenges in Central Banking" has particular relevance in the present environment. Indeed, global attention is now focussed on an overhaul of the financial architecture in the efforts to address the fundamental weaknesses that have surfaced in this recent global financial crisis.

The current policy debates cover a wide ranging set of issues that include far-reaching regulatory reforms to strengthen the foundations for financial stability, institutional arrangements to achieve more efficient functioning of financial markets, effective coordination of financial stability measures and greater clarity of central bank mandates in promoting monetary and financial stability. The theme of this conference also has special relevance to us at Bank Negara Malaysia, as our new Central Bank of Malaysia Act 2009 will come into force later this year. We are very honoured to host the conference for this year and are pleased to welcome so many distinguished members of the legal fraternity, in particular, from other parts of the world to join us at this forum.

My remarks today will focus on three key challenges confronting Central Banks, and how the legal aspects impact the effectiveness of Central Banks. The first relates to building the capacity to manage the increasing uncertainties generated by financial innovation, the increasing prominence of the non-regulated sector and the increasing interconnectedness between financial institutions and markets. Such developments have not only resulted in the emergence of new risks to the financial system but have also changed the dynamics of how risks in the financial system are transmitted to the real economy. In this environment, it is vital to have **a legal and regulatory framework that is robust and dynamic** enough to enable the central bank to respond to these developments.

The second challenge concerns the effective implementation of **financial safety nets** and the effective coordination of the different components of the safety net to maintain public confidence and to support continuous financial intermediation. Appropriate legislation and regulations that ensure credibility and integrity of the safety nets are an essential part of maintaining financial stability.

The third relates to the increasingly and highly **complex financial and economic integration associated with globalisation. This has resulted in a significant expansion in cross-border financial activities** and introduced new sources of risks to domestic financial systems. The recent crisis raised many issues for which clear solutions, or even consensus, have yet to emerge, including on the propensity for home bias in the policy responses, suitable approaches to cross-border resolutions, and the significant challenge of coordinating policies across different legal and institutional frameworks. This is an area where the legal framework remains highly fragmented. A sustainable solution will require legal reforms in particular, to provide certainty and clarity in dealing with crises.

Addressing the new challenges in the Central Bank of Malaysia Act 2009

As events in the current global environment have demonstrated, central banking has become significantly more challenging. The issues confronting central banks today are

far more diverse and complex, prompting the re-examination of the role of central banks, the capacity to manage and contain risks to monetary and financial stability, and the governance arrangements and the policy instruments that are needed to support the effectiveness of central banks.

The new Central Bank of Malaysia Act 2009 which was passed by Parliament in July this year represents the culmination of more than two years work to address the issues and challenges that are confronting Central Banks in this rapidly changing environment. The Act elaborates extensively giving greater clarity on the mandates for which we are accountable and providing enhanced powers to undertake these mandates. In the principal objective of promoting monetary stability, it is recognised that price stability is to be achieved in an environment of sustainable growth of the economy. Consideration is thus given to the sustained implications of monetary stability measures on the real economy. The law therefore requires the Bank to take a balanced view to avoid the adoption of rigid frameworks that may result in strong biases that would lead to a fundamental and sustained damage to the economy. This balance is also extended to the explicit role of the Bank in developing an inclusive financial system in its responsibility to develop a sound and progressive financial system. These considerations are particularly important for emerging market economies so as to ensure balanced economic progress and development.

The new Central Bank of Malaysia Act 2009 also institutionalises the autonomy for the formulation of monetary policy, thus providing for the integrity and credibility of the decisions made. It also provides for greater flexibility in monetary policy implementation, allowing for a diversified range of instruments that can now be deployed for the implementation of monetary policy. As financial markets trend towards greater sophistication and demonstrate periods of extreme volatility, central banks must have commensurate capabilities to conduct monetary policy operations in order to maintain price stability. Equally important is the mandate to provide oversight over the money and foreign exchange market to ensure the orderly development and functioning of the markets. These necessary powers are however, combined with a system of checks and balances to enable the Bank to act decisively, but yet having in place safeguards so as to enhance transparency and accountability.

More extensive powers to achieve financial stability

In the area of financial stability, our new Central Bank Act incorporates an explicit mandate of the Central Bank for financial stability. This mandate is articulated in terms of the risks to financial stability that includes risks that disrupts the financial intermediation process (including the orderly functioning of the financial markets), or which affects public confidence. The Act also provides comprehensive provisions for heightened surveillance, pre-emptive actions and expanded resolution powers to facilitate the swift and orderly resolution of financial crises. The Bank may also take appropriate intervention actions to avert risks that stem from unregulated entities.

The Act further acknowledges the importance of coordinated policy measures across different agencies whose actions can affect financial stability. Accordingly, the new Act provides for cooperation arrangements with other supervisory authorities and the ability of the Central Bank to make recommendations to such authorities on measures or safeguards for promoting financial stability. These new powers are complemented by strengthened institutional arrangements in the form of the establishment of a Financial Stability Executive Committee that will be formed to ensure the effective coordination of regulatory authorities in financial resolution.

Enhanced governance and accountability framework

With these enhanced powers, the governance and accountability framework in the Act has also been strengthened considerably. This relates to the enhanced role of the Board of Directors' in the oversight of the management of the Bank. In providing enhanced powers to the Central Bank to address financial stability issues and the strengthening of the oversight function of the Bank, correspondingly, focus

has also been given to governance, internal controls and risk management by the Bank. For this purpose, the Central Bank of Malaysia Act 2009 empowers the Board to establish three specific committees, namely the Board Governance Committee, Board Audit Committee and Board Risk Committee that are chaired by a non-executive director, to ensure the independence of the oversight on the functioning of the Bank.

A comprehensive Financial System Safety Net

Let me now turn to the second key area confronting central banks, the need to have in place an effective financial safety net. The global experience in these recent two decades has shown that crises have continued to plague the world and have resulted in massive costs to the economy. Financial safety nets serve two primary purposes, that is to avert risks to financial stability and to reduce the costs to the financial system and economy in the event of a crisis. They also serve an important social purpose of protecting savers and investors.

The first component of the financial safety net is the existence of an effective regulatory and supervisory system to ensure the sound management of financial institutions and the ability to deal with problems affecting financial stability. This includes adequate powers and instruments to mitigate losses to the system in the event of a crisis, restore stability and ensure the continuity of the financial intermediation process. The second is the lender of last resort facility that is provided by central banks to address liquidity stresses faced by financial institutions. Thirdly, is the deposit insurance scheme that provides a guarantee on deposits to protect the savings of small depositors and to reduce the prospect for disruptions that could threaten the stability of the financial system.

The effectiveness of the financial safety net depends on several factors. They include the capacity of central bank and supervisory authority to assess risks, the effective coordination between the different components of the safety net, clear communication strategies and a strong and comprehensive legal framework that supports the operation of the safety net. In Malaysia, the Malaysia Deposit Insurance Corporation Act (MDIC Act) which establishes the Malaysian Deposit Insurance Corporation (MDIC) provides comprehensive intervention powers for the protection of depositors. This is complemented by an extensive operating framework developed between the Central Bank and the deposit insurance corporation which clearly sets out the responsibilities and obligations of both agencies in promoting financial stability and in financial resolution. In the area of consumer protection, amendments to Malaysia's financial services legislation are also being put in place to provide for the establishment, roles and functions of a financial ombudsman to deal expediently and efficiently with disputes concerning financial services between consumers and the financial institutions.

Increased Globalisation has brought new challenges

Let me now turn to the challenges arising from greater financial globalisation and the growing importance of international cooperation in ensuring sustainable economic and financial integration across national borders. In this environment regulators are confronted with the challenge of adapting regulatory and legal norms from a nation-centric system to norms that are more reflective of international business and finance. The issue is how to complement the domestic agenda and the international agenda. Regulatory problems arise not only because of the need for domestic regulators – operating within diverse national regulatory norms and cultures – to cooperate and coordinate in the domestic environment but also across jurisdictions.

Operational and legal issues in cross-border resolution arise where the regulatory frameworks of different countries do not provide for a common solution in areas such as the unwinding of financial transactions and the enforceability of secured parties' rights to collateral in the foreign jurisdiction. Failure to address such resolution issues promptly, generally within a matter of days, can lead to increased uncertainty and potential cross-border conflicts. Authorities must also have access to information that is not regularly exchanged in

the normal course of supervisory cooperation. This needs to be supported by consistent requirements for the coordinated execution of regulatory actions. Equally important is an effective legal infrastructure for the mediation of claims against insolvent institutions with international operations.

Concurrence among regulatory authorities on key elements of effective resolutions would be an important step forward. Greater harmonization and clarity about the triggers for action, the tools to return insured funds quickly to depositors, the authority to implement a quick resolution, and the legal powers to restructure and continue key banking functions would allow for more effective crisis management. Hence, it is not just about opening our borders; we need to examine how our domestic regulatory framework interfaces with that of other countries.

International Cooperation

The regional cooperation among central banks in East Asia have advanced significantly in this recent decade in the aftermath of the Asian Financial crisis. The focus of cooperation has been in the areas of financial stability, financial markets and payment and settlement systems. The participation in the working, technical and high level committees have contributed towards efforts to facilitate the adoption of international standards for banking supervision and financial stability taking into consideration the regional perspective. It has also contributed towards identifying supervisory priorities and areas of concern that will have an impact on financial stability, and towards improving techniques relating to supervision and surveillance. Challenges pertaining to cross-border issues such as regulatory arbitrage, competition laws, regulatory harmonisation are, however, yet to be fully resolved.

The new Central Bank of Malaysia Act 2009 gives Bank Negara additional flexibility and the mandate to engage in international cooperation. The Act allows for the Bank to engage with foreign supervisory authorities to coordinate and cooperate on financial stability measures. The new constituent law also incorporates a specific provision for the Bank to participate and provide appropriate resources in arrangements, schemes, programmes, or initiatives with any other central banks or international financial institutions or authorities to promote bilateral, regional and international monetary, financial or economic co-operation.

Conclusion

In conclusion, the supporting legal framework for central banking and the financial system is a key element to addressing the challenges faced by central banks. I have highlighted three areas which are currently very relevant in the current global financial system. Central banks in the advanced financial systems have resorted to unorthodox measures to prevent a systemic collapse of the global financial system. While action has been based on the sense of urgency and to avoid a total collapse of the system, in the aftermath of the crisis, an extensive review of the legislation needs to be made. The more challenging part is to effectively address cross-border issues facing national financial systems. Regardless of whether we are in a state of crisis, these challenges will continue to be relevant given that conditions will continue to be dynamic and the trend towards a more globalised world will not reverse.

On this highly complex subject, this two day conference will likely generate highly engaging discussions. I wish the Banking and Financial Law School a highly productive outcome and hope that your stay in Malaysia will also be enjoyable and memorable.

4th IFSB Seminar on Legal Issues in the Islamic Financial Services Industry Kuala Lumpur, 28 September 2009

Opening Remarks by

Tan Sri Dato' Sri Dr. Zeti Akhtar Aziz
Governor, Bank Negara Malaysia

It is my great pleasure to speak at this 4th IFSB Seminar on Legal Issues in the Islamic Financial Services Industry that has brought together so many international experts and industry practitioners to discuss legal issues in Islamic Finance. Such dialogue is important to achieving a common understanding and solutions to issuess in Islamic finance, thus contributing to its overall development.

Islamic finance has continued to expand and demonstrate its resilience in the current more challenging international financial environment. This advancement has been in terms of the increased range of Islamic financial products and services, the development of the Islamic financial infrastructure and institutions, the greater maturity of the Islamic financial markets and the more comprehensive supporting legal and regulatory framework. More recently, the international dimension of Islamic finance has gained significance with the move to further liberalise domestic Islamic financial system and the strengthening of the international Islamic financial architecture.

In Malaysia, Islamic banking assets at the end of the second quarter of this year, now constitutes close to 19% of total banking assets. Total financing now amounts to RM118 billion and accounts for 20.1% of the total financing portfolio of the banking industry. Net non-performing financing remains low at 2.4%. Islamic securities has also maintained its dominance in the Malaysian bond market, accounting for 58% of total bond market. And almost two thirds of the equity market comprises Shariah compliant securities. Growth has also been experienced in the takaful sector in which the funds asset has registered an increase by 8.2%. This recent decade has also seen the increase in number of Islamic financial institutions including full-fledged Islamic banks, development financial institutions that engage in Islamic banking, takaful, re-takaful and capital market intermediaries. Several of these players have strategic partnerships with foreign players. In April this year, as part of the liberalization initiatives announced, new mega Islamic banking licenses and up to two family takaful licenses will be issued this year. On the global front, Islamic financial assets are projected to grow to **USD1.6 trillion** by 2012 while the global sukuk outstanding valued to date at approximately **USD152.8 billion**.

In the third series of this seminar in 2007, the vital role of a strong legal and Shariah framework in the sustainable development of Islamic finance was extensively discussed. It is key to providing certainty and predictability to financial transactions. The current international financial crisis has demonstrated the importance of recognizing that the rapid transformation of the functioning of the international financial system had to be accompanied by the need to ensure that regulatory and legal framework was aligned with these developments. The relevance of legal framework is essential to providing certainty and predictability to the financial transactions and to the innovative products, thus promoting public confidence in the financial system. This is equally important for the Islamic financial services industry in which this recent decade has seen a rapid evolution in terms of the innovation and in terms of its expansion.

Indeed, a robust legal framework in Islamic finance instills public confidence in the Islamic financial system, provides an enabling platform for practitioners to develop more innovative and complex financial products to meet the increasingly multifaceted consumer demands. In addition, it provides the

mechanism for dispute settlement that takes into account the distinct features of Islamic financial transactions. This is where the legal services industry has a vital role in providing sound legal solutions in Islamic finance. It therefore provides an important "bridge" between Shariah and legal parameters, thus enabling the operationalisation of Shariah principles into legally enforceable Islamic finance practices. In addition, by ensuring that the legal parameters are in compliance with Shariahparameters and the regulations, it also becomes a risk mitigator.

The legal aspects in Islamic finance represents an important "bridge" between the governing Shariah principles and the practice of Islamic finance. The application of Shariah principles in the light of the governing laws and regulations in each Islamic financial transaction are interpreted through legal advice, in legal documentation of the financial transactions, and dealing with disputes. In documenting financial transactions based on specific Shariah principles that underlie a financial product, the legal documentation reflects the tenets of Shariah and that it is in full compliance with the laws and regulations governing the financial transactions. Varying interpretations of Shariah in particular between countries adds to the complexity when cross-border transactions are involved.

From a domestic perspective, more jurisdictions are considering a central Shariah Council as the ultimate decision making body on Shariah matters. Across jurisdictions, there has been greater engagement thus bringing about increased covergence. Mutual recognition of the interpretation of Shariah principles across countries will contribute to the sustained growth of Islamic finance.

To promote consistent application of Islamic financial contracts in Malaysia, Bank Negara Malaysia has issued "Shariah Parameters" aimed at promulgating a standard point of reference on Shariah for Islamic finance practitioners. The Shariah Parameters outline the main Shariah requirements in the contracts and provides examples, methods and models for practical application of such contracts. The first Shariah Parameter on Murabahah that was recently issued aimed to promote consistent interpretation and application of Shariah views and opinions on Murabahah contracts.

In providing legal services, the industry has an important role of bridging the Shariah parameter with the legal parameters of the Islamic financial contracts. This is in particular important in preparing the legal documentation of Islamic financial transactions so as to avoid ambiguity, inconsistency and to avoid the risk that the legal document be considered void by a court of law on the grounds of contravention with Shariah.

Islamic financial transactions have their own unique risk characteristics that need to be managed. Risk areas that are unique to Islamic finance transactions include the legal risk of losses due in the event of lawsuits and non-compliance with relevant laws, the risks associated with non-compliance of Shariah principles and the fiduciary risk arising from failure to perform contractual obligations based on the underlying Shariah principles. The introduction of new, more innovative and complex products and financial transactions enables the disaggregation and repackaging of risks in ways that has not been explored. Shariah advisors would require the collective expertise including legal practitioners, to identify and understand the permissibility of a given structure. Islamic financial institutions in turn would need to address the attendant implications.

In view of the importance for Islamic finance to be supported by a robust legislative framework, the new Central Bank of Malaysia Act 2009 explicitly codifies the duality of the Malaysian financial system which shall consist of the Islamic financial system and the conventional financial system. This statement of law is supported by a comprehensive legal framework already put in place for the regulation of Islamic finance in Malaysia, encompassing the banking, takaful (Islamic insurance) and Islamic capital market industries. The legal recognition of the distinct features of Islamic financial transactions and the availability of a dispute settlement mechanism capable of applying these distinctive features reduces the legal risks as well as risk of non-compliance with Shariah principles.

Institutional structure that is determined by the legal and administrative framework is the first pillar of competitiveness. The ability to execute financial transactions efficiently, with sufficient certainty and enforceability, and a clear process for resolving ambiguities and possible breaches of the contract will enhance competitiveness, both at the institutional level as well as for the financial system as a whole. In Malaysia, Islamic finance disputes are adjudicated in civil courts and not the Shariah courts where the jurisdiction is limited to matters relating to Muslim individuals. If the dispute concerns a point on the ascertainment of Shariah, the courts and arbitrators are required to refer to the Shariah Council at Bank Negara Malaysia to facilitate the ruling. The Shariah Council's authority is the ultimate body responsible for Shariah in banking and financial matters that is within the purview of Bank Negara Malaysia. This referral system provides an enabling platform for preserving consistency and predictability in interpretation and application of Shariah principles for financial transaction in Malaysia.

Concluding remarks

Allow me to now conclude my remarks. The inherent strengths of Islamic finance amid the global financial crisis has heightened interest in Islamic finance across the world. The level of innovation, scale and complexity of Islamic financial transactions is also increasing at a tremendous pace. Going forward, it is envisaged that the legal services in Islamic finance will become even more significant in the continued advancement and efficiency of Islamic finance.

In this regard, your thought leadership in addressing the legal issues embedded in Islamic finance holds important element in the continued growth of the Islamic financial services industry. Here, I would like to take this opportunity to congratulate the Islamic Financial Services Board for organizing this timely seminar. I trust it will continue to be a constructive platform for the legal and industry practitioners to deliberate on effective and pragmatic solutions to the legal issues in Islamic finance. On this note, I wish all of you a productive and successful seminar.