



ASSISTANT TREASURER

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**PRESS
RELEASE**

TERMS OF REFERENCE FOR BOARD OF TAXATION REVIEW INTO ISLAMIC FINANCE ANNOUNCED

The Assistant Treasurer, Senator Nick Sherry, has today announced the terms of reference for the Board of Taxation's review of the tax treatment of Islamic finance in Australia.

The review, which was announced on 26 April 2010 by the Assistant Treasurer and the Minister for Financial Services, Corporate Law and Superannuation, the Hon Chris Bowen MP, will be a comprehensive analysis of Australia's tax laws to ensure that, wherever possible, they do not inhibit the provision of Islamic finance, banking and insurance products.

"Islamic finance is a rapidly growing part of the global financial system," said the Assistant Treasurer.

"The Islamic finance, banking and insurance market is worth almost \$1 trillion and could reach as much as \$5 trillion."

"Attracting more of these funds and investment will develop business and boost jobs in Australia."

"This review is not about creating special treatment, but about creating a fair and level playing field for the provision of Islamic financial products into the Australian market."

"My recent trip to the Middle East illustrated the vibrancy and dynamism of this sector and there is no reason why we shouldn't address national tax laws that may be inhibiting local growth."

"Our funds management sector also has much to offer the wholesale Islamic finance sector – so the review will address any issue on that front also."

The Board of Tax has been asked to make recommendations on Commonwealth laws and findings on State and Territory laws that might be impediments and to review the progress made by other key jurisdictions in Europe and Asia in similar efforts.

"Ultimately, a guiding principle here is that the tax treatment of Islamic financial products should be based on their economic substance rather than their form wherever possible," said the Assistant Treasurer.

"Several other Western jurisdictions have made progress in achieving this – as have we – but now we need to move to the next level."

"The Board of Taxation review will enable us to do just that."

This reference to the Board of Taxation implements a recommendation in the report of the Australian Financial Centre Forum, that the Board of Taxation undertake such a review "in order to ensure that Islamic finance products have parity with conventional products, having regard to their economic substance" (Recommendation 3.6).

The Board is being asked to provide a final report to the Assistant Treasurer by June 2011.

CANBERRA

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Terms of reference for the Board of Taxation

Review of the tax treatment of Islamic finance

1. The Board of Taxation is asked to undertake a comprehensive review of Australia's tax laws to ensure that, wherever possible, they do not inhibit the expansion of Islamic finance, banking and insurance products.
2. The Board is asked to:
 - (i) identify impediments in current Australian tax laws (at the Commonwealth, State and Territory level) to the development and provision of Islamic financial products in Australia;
 - (ii) examine the tax policy response to the development of Islamic financial products in other jurisdictions (including the United Kingdom, France, South Korea and relevant Asian jurisdictions); and
 - (iii) make recommendations (for Commonwealth tax laws) and findings (for State and Territory tax laws) that will ensure, wherever possible, that Islamic financial products have parity of tax treatment with conventional products.
3. In conducting the review, the Board should have regard to the following principles as far as possible:
 - (i) The tax treatment of Islamic financial products should be based on their economic substance rather than their form.
 - (ii) Where an Islamic financial product is economically equivalent to a conventional product, the tax treatment of the two products should be the same.
4. If the Board concludes that amendments to the tax law are required, the Board should consider whether adjustments can be made to existing tax frameworks rather than the development of specific provisions directed solely at Islamic financial products.
5. The Board is asked to report to the Assistant Treasurer by June 2011.