

FAAIF Introduces the Dubai World Islamic Finance Arbitration Center (DWIFAC) in Europe

CEO of FAAIF addresses the dispute resolution conundrum of the Islamic Finance Industry.

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-- Camille Paldi, CEO of FAAIF introduces a proposal for a dispute resolution mechanism for the Islamic finance industry, namely, DWIFAC, which shall be funded by Sheikh Mohammed bin Rashid Al Maktoum, and may act as the independent central dispute resolution authority and Shari'ah regulator connecting all of the adjudication apparatus's of Dubai, the UAE, and the DIFC into one consolidated framework for the adjudication of Islamic

finance disputes with a centralized Shari'ah authority in the form of the Shari'ah Supreme Council (Article 5, Federal Law No. 6 of 1985 Regarding Islamic Banks, Financial Institutions, and Investment Companies). The decisions of the Shari'ah Supreme Council shall be binding and available to the public for review, thereby giving certainty to legal decisions and promoting confidence amongst investors.



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Camille Paldi

DWIFACJO shall issue a standardized dispute resolution contract, which may be attached to all Islamic finance contracts and issue a uniform Islamic banking law, which may be adopted by the UAE and serve as a model for countries around the world wishing to engage in Islamic finance business. In terms of the standardized dispute resolution contract, it shall contain a built-in dispute resolution mechanism similar to the FIDIC contract, which is widely used

in the construction industry. This system encourages completion of contract and preserves the relations of the parties. It is only if the contractually built-in dispute resolution system fails that the parties can then submit their claim to the Dubai World Islamic Finance Arbitration Center, which shall be staffed by leading Islamic finance lawyers, arbitrators, and Shari'ah Scholars. The Center may apply *lex mercatoria* or commercial business practice, law, and Shari'ah to the dispute resolution process. The decisions shall be published in English, French, and Arabic. Shari'ah Supreme Council decisions shall act as a source of precedent and shall be binding, thus providing legal certainty to Islamic finance dispute adjudication. The Shari'ah Supreme Council established by DWIFAC shall act as the highest Shari'ah authority for DWIFAC arbitration, the UAE, and the DIFC.



FAAIF CEO Camille Paldi notes that the current system of submitting Islamic finance disputes to common law courts cannot sustain the Islamic finance industry successfully into the future and that an independent and unique dispute resolution mechanism is necessary for the survival of the Islamic finance industry. FAAIF CEO also mentioned that it might be a good idea to create an Islamic Finance Bankruptcy Court for the world's sukuk defaults. Camille Paldi can be reached at camille@faaif.com.

Camille Paldi
FAAIF
+971569500562
[email us here](#)

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