

CIAE PROGRAM



Certified Islamic Arbitrator & Expert



4:00 PM – 10:00 PM



Period 4 Days



CIAE@IICRA.COM



Duration 25 Hours



+971 4 294 92 92



16th of March to 19th of March 2023
24th of Sha`ban - 27th of Sha`ban 1444 AH

SPEAKERS



Dr. Hashem M. Jaber

Dr. Hashem Jaber is an attorney at law by profession and has vast expertise in arbitration and conciliation between disputants. He is also an academic lecturer at many universities across the globe such as the University of Jordan, the Institute of Advanced Legal Studies, Dubai UAE, and the University of Sharjah, U.A.E. He obtained his L.L.D (Doctor of Laws) from the University of Ottawa, College of Law, Canada, and an L.L.M (Master of Laws) from Tulane University, U.S.A, and Master of Laws from Cairo University, Cairo, Egypt.



Shari'ah Advisor / Abdul Rahim Adi

Mr. Abdul Rahim is considered one of the most prominent certified trainers in the field of Islamic finance, where he currently holds the position of AVP, Shariah Consultations, R&D in Emirates Islamic Bank (EI) and has an extensive expertise in the legal and technical aspects of the operations of Islamic financial institutions. He also worked closely with Islamic Finance industry's leading scholars and Islamic economists in developing innovative products and structures in Islamic financial transactions. Mr. Abdul Rahim also delivers education and awareness-raising programs for other relevant professional and academic institutions in his field of expertise in the United Arab Emirates (UAE).



Dr. Suzanne Munir Abdallah

Dr. Suzanne Abdallah has graduated from the Faculty of Law at the Lebanese University in Beirut in 1998, and obtained a Master's Degree (LLM) with distinction from the University of West London in 2003, as well as a Doctorate Degree in legal studies from London in 2008. Further, over the years, she has worked as a Lawyer in the most prestigious law firms in Dubai, where she has handled all kinds of Arbitration and Litigation Cases. Dr Suzanne has also attended lots of professional training courses and seminars related to Arbitration and other type of litigation and published many articles since 2013 related to Arbitration and status quo.

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DAY 1

■ Introduction to Commercial Arbitration

Theme 1

■ Arbitration and Difference Between Other Methods of Conflict Resolution

DEFINITION

▶ **Types and Advantages of Arbitration:** Definition of Arbitration in Arabic language and Shari'ah terminology and its types, and the definition of each types of Arbitration, Ad Hoc Arbitration and institutional Arbitration, domestic and international Arbitration, Arbitration by Law and Conciliation.

▶ **Historical Perspective of Origin and Evolution of Arbitration:** Brief history of Arbitration and its origin as a Methods for settling the disputes throughout the ages, with a focus on Arbitration in Islam, and known historical Arbitral facts.

▶ **The Difference Between Arbitration and Other Methods of Dispute Resolution:** Clarifying the difference between Arbitration and other methods of settling disputes such as formal judiciary system, mediation, conciliation, compromise and the features of Arbitration that distinguish it from other disputes settlement methods.

▶ **Parties to Arbitral Process:** Defining the Parties to Arbitration in details (the Arbitral Tribunal, the Chairman of the reputed Tribunal), Both Parties to the dispute (the Plaintiff and Defendant), and other parties involved in the arbitral process such as Experts, Translators, etc.

▶ **Legal Principles of Arbitration:** Declaration of principles and legal and doctrinal grounds of Arbitration and Declaration of legal basis of Arbitration Clause and Arbitration Agreement.

▶ **Mandate to Eliminate Arbitration:** Whereas the State's images are discussed in various stages of the Arbitration case from the appointment of Arbitrators through the provisional and expedited procedures until the implementation of the Arbitral Award and execution thereof.

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Theme 2

■ The Legal Structure of International Commercial Arbitration



▶ **UNCITRAL Rules of International Commercial Arbitration:** A detailed explanation of the rules and procedures provided/set forth by the UNCITRAL Arbitration and Conciliation Rules in International Commercial Disputes, and to what extent these rules are mandatory and their role in building domestic legislations.

▶ **The Relevance of Conventions Regulating the International Commercial Arbitration:** Addressing the significant International Conventions in the field of international commercial Arbitration and the implementation of foreign Arbitration, while highlighting the importance of 1958 New York Convention in the enforcement of the Foreign Judgments.

▶ **A Comparative Study of Arab Laws on Arbitration:** Addressing the significant Arab legal legislations on Arbitration and important common characteristics, the principles, and legal foundations/grounds they are based on in enacting its legislation and outlining the distinct legislations.

▶ **Mechanisms for implementing Arbitrators' judgments:** Highlighting the practical aspect of implementing the Judgment of the domestic and international Arbitrators by conducting a comparative study on the Arab legislations in the field.

▶ **Electronic Arbitration:** Electronic Arbitration and the definition of the legal system of electronic Arbitration (substantive norms and procedural rules), Rules for implementing the electronic Arbitral Award and procedures leading to the nullity of the electronic Award.

▶ **Arbitration at International Islamic Center for Reconciliation and Arbitration (IICRA):** The coverage of the Arbitration case stages from the moment the dispute is referred to arbitration at IICRA until the issuance of the Final and Binding Award and the elements of sound judgment for its executive formula.

DAY 2

■ Practice of International Commercial Arbitration

Theme 1

■ Documents in Arbitral Process

▶ **Introduction to the Principles of Legal Drafting:** Addressing the legal drafting principles and the steps to be taken to avoid/bridge legal gaps.

▶ **Arbitration Clause and Arbitration Agreement:** Definition of Arbitration Clause and Arbitration Agreement, Distinguishing between them and the draft format for each, the most commonly used draft formats and significant elements for each formats with the precedents indicating the mis-drafting of these Clauses, which the parties to Arbitration must avoid.

▶ **Arbitration Document or Arbitration Instrument:** How to draft the Arbitration document, what are the most important data and information to be stipulated in the document and what are the basic terms and conditions, and the view of jurisprudence while signing the relevant document and the presentation of a model Arbitration document.

▶ **Mandate document:** Data of the Arbitrators 'assignment document and the extent of its legal impact in the event of offer and acceptance of the mission or in the event of rejection and explanation of the reasons for rejection, and presentation of a model document for designating the Arbitrators .

▶ **Arbitral Award:** The most important conditions to be met in wording the final Arbitration Award of both substantive and secondary issues, with precedents that invalidated the Arbitral Award and the presentation of a model Arbitral Award.

DAY 2

■ Practice of International Commercial Arbitration



Theme 2

■ Fundamentals of Arbitral Process

- ▶ **Appointment of an Arbitrator, and His Response:** Identifying the conditions to be met by the Arbitrator, mechanisms for his appointment and his response procedures.
- ▶ **Missions of Arbitral Tribunal:** Limiting the tasks designated to the Arbitral Tribunal, whether it is an individual or a body, and the exclusive powers of the Chairman of the Arbitral Tribunal.
- ▶ **Arbitration Deadline:** Indication of the period granted to the reputed Tribunal to render the Final Arbitral Award, Ways of assessing it and the one who has the authority to do so, and the importance of this procedure to the validity of the Arbitration proceedings.
- ▶ **Determining the Applicable Law in Procedural Rules and Substantive Methods for Arbitration:** Explaining the mechanisms for determining the legal rules applicable for settling the disputes by Arbitration and the mechanisms, standards and criteria for selecting each of these laws according to International Private Law and conflict of laws-rules.
- ▶ **Arbitral Award Enforcement Suit:** Indicating the procedures through which an Arbitral Award is enforced incorporating the executory formula and referring it to the public authority for material implementation under private international laws.
- ▶ **Other requests for Arbitration:** Describing the contents and conditions for the Parties' requests submitted for Arbitration, such as the Request for the appointment of an Arbitrator, the Request for the extension of the Arbitration period, and the Request for the interpretation of the Arbitral Award.
- ▶ **Partial Arbitral Awards:** Describing the nature, and characteristics, authenticity, and the implementation mechanism of these Awards.
- ▶ **The Arbitrator's Commitment to Public Order in International Arbitration:** The concept of public order, standards and criteria that the Arbitrator must consider in order to issue the enforceable Arbitral Awards without any objection by the State where the award is to be executed claiming the violation of public order.

■ Introduction to the Islamic Financial Industry

Theme 1

■ Legal and Shari'ah Principles for the Operation of Islamic Financial Institutions

▶ **Introduction to the Islamic Finance:** Introduction to the Islamic finance, its principles, its types, risk, and principles, and describing the Banking and Shari'ah Provisions and foundations of Islamic Finance.

▶ **Fundamentals and Introduction to the Islamic Financial Institutions Activity:** Definition of Islamic economy and what distinguishes it from others, whether Capitalist or socialist, with exposure to the distinctive nature of Islamic Banks and management of their assets and liabilities, and provision of Banking services, and controls of legality (Shari'ah) governing them.

▶ **Legal & Shari'ah Hedging of Islamic Finance Risks:** Definition of technical aspects related to the credit decision and the legal dimensions of the credit study as well as identifying the methods and risks of Islamic Finance.

▶ **Bank Conversion from Traditional to Islamic Activity:** A description of the transformation mechanisms, legal conditions and procedures imposed by most central Banks, and a study of Shari'ah Standard No. 2 related to Bank Conversion.

▶ **Shari'ah Supervision in Financial and Banking Institutions:** Institutionalizing the concept of Shari'ah supervision and its importance on the operation of Islamic Financial Banks and institutions, with exposure to their operating systems and introducing the mechanisms for their development.

▶ **Standards of Accounting Organization for Islamic Financial Institutions (AAIOFI):** Introducing the Accounting and Auditing Organization for Islamic Financial Institutions in standardizing Islamic financial applications and identifying the issued legal standards and practical aspects of their application.

▶ **Banking Terminology in Islamic Financial Industry:** This paper is only for discussing the most prominent Banking Terms to see its effect and its Formal and substantive conditions such as bank accounts of all types.



DAY 3

■ Introduction to the Islamic Financial Industry

Theme 2

■ Contracts of Islamic Financial Institutions

- ▶ **Islamic Banking Financing Methods:** Introduction to the Islamic Banking Financing Methods, with exposure to application problems in practice, and introducing mechanisms for development in accordance with Banking and Shari'ah Principles.
- ▶ **Contracts in Circulation at Islamic Financial Banks and Institutions and Regulations for Creating Islamic Products:** Introducing contracts in circulation at Islamic Financial Banks and Institutions and defining the Rules for creating new products that are efficient, reliable, and legitimate.
- ▶ **Methods of Mortgage Finance in Islamic Financial Banks and Institutions:** Introducing the methods for mortgage financing in Islamic Financial Banks and Institutions extensively and establishing mechanisms for development in accordance with the Banking and Shari'ah Rules with exposure to application problems in practice and focus on these contracts in subsequent sessions.
- ▶ **Introduction to the Islamic Finance:** Introduction to the Islamic finance, its principles, its types, risk, and principles, and describing the Banking and Shari'ah Provisions and foundations of Islamic Finance.
- ▶ **Banking Services in Islamic Financial Institutions:** A description of these services, including documentary credits and credit cards, and introducing them from an Islamic perspective in terms of their concept, types, importance, risks, and legal and Shari'ah controls.
- ▶ **Trading in currencies:** What is trading in currencies and the mechanisms prevailing for this activity in financial institutions and Shari'ah provisions and due legal process for trading in currencies.
- ▶ **Sukuk:** Shari'ah, legal and technical Controls for Sukuk, and its latest prominent development.

DAY 4

Legal and Shari'ah Perspectives of Islamic Financial Products

Theme 1

■ Contracts of Islamic Financial Institutions

▶ **Murabaha Sale:** A comprehensive explanation of the nature of the Murabaha contract and its legal and Shari'ah principles and the sound mechanisms in its implementation and review of the model contract for these transactions, and outlining the practical development as an updated version in the form of some special Murabaha such as shareholdings, tickets, telephone services, and finally, highlighting the most important legal and Shari'ah gaps for the Murabaha contract and bringing them into Arbitrator's attention.

▶ **Bai Salam:** Defining Bai Salam contract along with its characteristics and legal and Shari'ah principles, and clarifying the mechanisms for the implementation of this contract in Islamic Banks and the updated formulas for this product, and highlighting the most important legal and Shari'ah gaps or loopholes for Bai Salam contract and drawing the Arbitrator's attention towards it and studying a model contract for this product.

▶ **Istisna'a:** The definition of Istisna'a, its elements and legal and Shari'ah Principles, and the Application problems in Istisna'a contract along with highlighting the most important legal and Shari'ah gaps for Istisna'a contract and studying a model contracts for this product.

▶ **Tawarruq:** Defining Tawarruq contracts and its legal and Shari'ah principles, and a description of the modern applications of Tawarruq contracts along with highlighting the most important legal and Shari'ah gaps for the Istisna'a contract and bringing them into Arbitrator's attention.

■ Partnership Contracts, Leasing Contracts and Takaful Insurance in Islamic Banks

▶ **Mudaraba Contracts:** Definition of Mudaraba Contracts and the legal and Shari'ah Principles/Basis and description of the modern applications of these contracts while highlighting the most important legal and Shari'ah gaps for Mudarabah.

▶ **Musharakah Contracts:** Definition of partnerships and the legal and Shari'ah principles for the nature of participation, and highlighting the most important challenges that the partners may fall into in their work from the establishment of the company to their business/work within the scope of this company until it is liquidated.

▶ **Agricultural Contracts:** Definition of these contracts and their legal and Shari'ah characteristics for each type of these contracts such as watering, cultivating, planting, and the characteristics of each product of these contracts, and the forms that these contracts take in the operation of Islamic Banks.

▶ **Ijara:** Definition of leasing contracts and the legal and Shari'ah Principles of these contracts, with a focus on modern applications of Tawarruq and leasing contracts of various types along with highlighting the important legal and Shari'ah loopholes for each type of these contracts and are divided into operational leasing and leasing ending with ownership, and the purchase of mortgage and leasing it to the same seller with lease ending in ownership.

▶ **Takaful (Cooperative) Insurance:** its definition in Arabic language and Shari'ah terminology and the difference between it and traditional insurance, and thereafter conducting a study on the legal and Shariah aspects of Takaful insurance and common mistakes in the implementation of Takaful insurance and model contracts for Takaful insurance.

▶ **Takaful (cooperative) Insurance:** Its definition in Arabic language and Shari'ah terminology, its mechanism and the difference between Takaful and traditional insurance, and a study of the legal and Shariah aspects of Takaful Insurance and common mistake committed in its application and model contracts for Takaful insurance.

▶ **Waqf:** A statement of Waqf, its types, characteristics, legal provisions, and mechanisms for investing the Waqf fund.

▶ **Zakat:** Shari'ah Provisions for Zakat, and the mechanisms for investing Zakat funds.

