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Critical Analysis on the Choice of *Takaful* (Islamic Insurance) Operating Models in Malaysia

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Takaful and insurance have been compared long ago by many scholars around the world. Prior literatures of Takaful are mainly focusing on the concept and theoretical nature of takaful and its differences from insurance. Malaysian Takaful industry has been given flexibility in terms of the operational models adopted and to the researchers' knowledge; no research has been conducted in Malaysia regarding the choice of Takaful operational models by Takaful operators. It is important to study the motives behind choosing among different Takaful models since different models have different impacts on the surplus distribution of Takaful funds, especially for Family Takaful funds. Therefore, this research is conducted to examine on reasons behind choosing Takaful models and to propose the most suitable model to be adopted by Takaful operators to be fair and equitable for both Takaful operators and participants. The representatives from Takaful operators are interviewed and it has been found out that most of Takaful operators prefer the Hybrid Wakalah or Modified Wakalah (principal-agent) model. The main reason is that Central Bank of Malaysia clearly sets the rule that in the Wakalah contract; Takaful operators can charge Wakalah fess (agent fees and administrative expenses) upfront to the participants (certificate holders). Moreover, an upper limit Wakalah fees is 40% and hence, it is favorable to Takaful operators. The mudarabah (profit and loss sharing) model is not much favored in the Malaysian Takaful industry due to its profit sharing nature which strains the Takaful Operators to purely claim the profit out of the actual performance of the profit. Interview results further find out that most of the practitioners also think that the Wakalah fees imposed on the participants are too much and the Hybrid Wakalah/ Modified Wakalah model has too many layers of charging profits from the funds and consequently, the currently adopted models are at the disadvantages of participants. Since this research provides a clear picture of the current practice of the Family Takaful operating models adopted by the Malaysian Takaful operators, these findings will be useful for regulators and shari'ah advisors to look into this issue again to be fair and justice to involved parties.

Field of Research: Takaful, Islamic Insurance, Takaful Operating Models

1. Introduction

The first Malaysian Takaful Company was recognized in 1985 and it was established under the Takaful Act 1984 (Abdul Rahman & Redzuan, 2009). In reference to that source, it can be said that the local Takaful industry has been around for 25 years. Since then, numerous models have been introduced to the Takaful operators to realize the Islamic insurance concept. The contracts involved in the Takaful models can generally be categorized into six, namely; al-Mudarabah, Musyarakah, Wadi'ah

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Yad Dhamanah, al- Wakalah, Waqf and Ju'alah (Frenz and Soualhi, 2010; Frenz, 2009). However, only al- Wakalah and al-Mudarabah are the only two models that have been implemented so far in Malaysia (Frenz and Soualhi, 2010; Frenz, 2009; Ali, Odierno & Ismail, 2008). All these contracts can be applied in both the General Takaful and Family Takaful (Bank Negara Malaysia, 2010; Ali, Odierno & Ismail, 2008). However, the study aims only to lay a hand on the operational models of Family Takaful product. It can be observed that the general guidelines of the Shari'ah principles give a lot of space to the Takaful operators to exercise variety operating models depending on which suit the business objectives most. The operating models for distributing the surplus are adequate as long as the Takaful operators fulfill certain fundamental components that do not contradict the governing Shari'ah principles. There exists incongruity about the practice of Family Takaful surplus distribution in the Malaysian Takaful companies. This research aims to inspect the current practice of Family Takaful operation models adopted by the Takaful companies in Malaysia and to investigate whether there is any issue regarding the methods selected by the Takaful operators in distributing the surplus specifically for the Family Takaful fund.

Therefore, the main objective of this study is to propose the most suitable operational model for the Malaysian Takaful companies to manage its Family Takaful fund. The secondary objectives are to examine the motives of the Malaysian Takaful companies in choosing a particular model for its Family Takaful fund, to know the impact of each model adopted by the Malaysian Takaful companies in managing its Family Takaful fund and to analyze whether there is a need for a standardization of the operational models for the Malaysian Takaful companies to manage its Family Takaful fund. These objectives have led to the following main and sub-research questions:

a. What is the most suitable operation model for the Malaysian Takaful companies to manage its Family Takaful fund?
b. What are the justifications of the Malaysian Takaful companies to choose that particular model for its Family Takaful fund?
c. How these Family Takaful operation models are affecting the surplus distribution between participants and Takaful companies?
d. Should there be a uniformity of the operation models for the Malaysian Takaful companies to manage its Family Takaful fund?

There are five sections all together for this paper. Section 2.0 discusses about the theoretical concept of surplus distribution models. Section 3.0 presents the research methods and design for this study. In particular, the researcher will explain about the research approach, selection of data collection methods, design of research instruments, and sampling strategies. Section 4 is about the existing Family Takaful surplus distribution models in Malaysia. This section also discusses about the problems regarding the adopted models. Section 5 summarizes the findings, makes recommendations and concludes the study.

2. The Concept and Operational Mechanism of Family Takaful in Malaysia

The modern day Takaful is claimed to have its first appearance in Sudan in 1979 and is making its way throughout the world since then (Farooq, Chaudhry, Alam & Ahmad, 2010; Wahab, Lewis and Hassan, 2007; Taylor, 2005; Islamic Fiqh

Academy, 2000; and Maysami & Kwon, 1999). The main reason that Takaful is reintroduced in 1979 is because Muslim scholars have realized that the conventional insurance does not fulfill the Muslim ethics (Farooq, Chaudhry, Alam & Ahmad, 2010; Wahab, Lewis and Hassan, 2007; Taylor, 2006; Islamic Fiqh Academy, 2000; and Maysami & Kwon, 1999). They conceded that conventional insurance are deemed *fasid* because the contracts are engaged with *gharar, maysir* and the investment of premiums are *riba*-based. However, Qaradawi (1985) believes that the modern form and concept of insurance is acceptable and only opposes the means and methods of the conventional insurance. Lian (2006) summarizes that Takaful has been revolutionizing because the industry has been receiving support and approval from the Shari'ah scholars around the world. Basically, the world is experiencing a vigorous Takaful industry and Malaysia is not an exception to this situation.

The development of Takaful industry in Malaysia started when the Takaful Act 1984 came into force for the regulation of the Takaful business in the country. Since then, the Takaful market in Malaysia has grown from only one Takaful operator in 1985 to twelve Takaful operators in 2010 (Bank Negara Malaysia, n.d.). It is expected to expand further in an environment of stronger economic growth and more favorable Islamic business environment (Taylor, 2005 until 2009. This obviously shows that Malaysia's Family Takaful business records an). The Takaful Key Indicators depicts that the total Takaful fund assets in the country have an increasing pattern each year (Bank Negara Malaysia, n.d.). The same report also confirmed that the total Family Takaful fund assets in Malaysia experience the same growth pattern and account for more than 50% of the total Takaful fund Assets (Bank Negara Malaysia, n.d.). Similarly, the General Takaful depicts an improvement in its total fund assets from 2005 impressive growth since its commencement in the country. The increasing pattern in the Malaysian Takaful funds proves that the Muslims are beginning to give greater recognition to adhere to Shari'ah principles in the business activities. It has made Takaful an integral part in the development of Islamic banking and finance in the world today and have stimulated the Malaysian government to provide the uninsured majority Muslim population in the country with halal financial instrument (Annuar & Abu Bakar, 2010).

Although it is hardly surprising that the Takaful industry is undergoing a period of rapid growth, it cannot be denied that the development faces a lot of issues and challenges e.g., the surplus distribution issue (Salim Ali, 2010; Frenz and Younes Soualhi, 2010; Frenz, 2009; Soualhi, 2008; Scott, 2006). A few years ago, Shari'ah scholars have started to debate about the ownership of the underwriting surplus i.e., to whom does the underwriting surplus belong to (Younes Soualhi, 2008). He further elucidates that the Middle Eastern scholars and Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) do not allow Takaful operators to share the underwriting surplus. However, some other scholars approve the practice. For example, Islamic Financial Services Board (2009) acknowledges the sharing of underwriting surplus but ironically they seem to discourage the practice as well. The reason that they are against this principle is because it would give in more returns to the Takaful operators. Shari'ah scholars believe that this practice would defeat the whole purpose of Takaful as they see it as an attempt by the Takaful operators to earn more through spreading the earnings. Bank Negara Malaysia (2010) however does not see it as an issue and classifies that the Takaful operators can earn profit through the charge of upfront fees (i.e. Wakalah fee), profits from participants' fund and surplus on investment profits.

Despite the fact that scholars are battling against each other to ascertain the owner of the underwriting surplus, none of them agree to standardize or purely regulate the Takaful models (Faizal Manjoo, 2007). It is agreed that the different models create a liberty that could trigger the juristic deliberation in the Muslim nation especially in regards to Islamic Finance. The Prophet p.b.u.h even said that *"difference of opinion among my Ummah is a blessing."* Based on the said hadith, scholars agree to differ in the opinions that there are various types of operational models to manage the Takaful funds (Nawi, 2011; Frenz and Soualhi, 2010; Frenz, 2009). There are basically six models in practice and they are explained in the following paragraphs.

1. **Mudarabah Model**

   The earliest Takaful model in Malaysia is the Mudarabah model (Macey, 2008; Laldin, 2008). Ali, Odierno & Ismail (2008) explain that in this model, the participants contribute to the Family Takaful Fund. The savings and investment will be credited into the Participant's Account (PA) while the donation into the Participant Risk Account (PSA). Bank Negara Malaysia (2010) deduces that both the PA and PSA must be invested in shari'ah compliant investments by the Takaful operators. An inference could be made that the capital provider is the participants and the entrepreneur is the Takaful operator. Any profit will be shared between the participants and the Takaful operator according to the ratio agreed upfront. The PSA will be used for claims and reserves, etc. The PA will be accumulated and then paid together with the coverage amount from the PSA to the participants upon maturity or claim.

2. **Hybrid Wakalah Mudarabah Model**

   Under this model, Wakalah fee is charged upon the contribution and the Mudarabah on the investments (Frenz & Soualhi, 2010; Frenz, 2009; Ali, Odierno & Ismail, 2008). Some Takaful operators in Malaysia modified the mudarabah model by sharing the net underwriting surplus (Ali, Odierno & Ismail, 2008). Meaning that, the PSA is not only channeled to the participants but is distributed to the Takaful operators as well (Soualhi, 2008). Any net underwriting surplus will be returned to the participants.

3. **Pure Wakalah Model**

   In the pure Wakalah model, the investment or savings portion will be credited to the PA account and the donation will be credited into the PSA (Frenz & Soualhi, 2010; Archer, Ahmed & Nienhaus, 2009; Frenz, 2009; Abdul Rahman & Redzuan, 2009; Ali, Odierno & Ismail, 2008). Here, all the underwriting surplus and investment profits belong to the participant. The Takaful operator in Wakalah model simply earns their income from the Wakalah fee (Abdul Rahman & Redzuan, 2009). They do not share in the underwriting surplus. As depicted in figure 2.3, the Wakalah fee is charged only once upfront. Abdul Rahman & Redzuan (2009) however believe that the Wakalah fee is charged two times. There are actually (1) Wakalah fee on contribution and (2) Wakalah fee on value of investment. On the other hand, Bank Negara Malaysia (2010) mentions that for products based on the Wakalah contract, a fixed upfront fee can be charged on the contributions based on contractual terms entered with the participants. The Wakalah fee is to cover commissions and management expenses incurred in the management of Takaful funds. It does not specifically explain anything against charging the Wakalah fee more than once.

4. Wakalah Model With Performance Incentive

Frenz & Soualhi (2010) have named this model as Wakalah model with performance incentive while Ali, Odierno & Ismail (2008) has named this model as a modified Wakalah model. Both models actually are the same model. It is different than the pure Wakalah model because the net underwriting surplus in the pure Wakalah model is not allowed for sharing with the Takaful operator. In this model a Wakalah fee is not only charged upfront but is also charged as a proportional share in the underwriting surplus. This practice is approved by the National Shari'ah Council of Malaysia (SAC) and it is said that the performance incentive can be in the form of gift (*Hiba*), performance fee (*Ju'alah*) or waiver (*Tanazul*) where the participants can waive part of their surplus shares. Although this model is being accepted by SAC of Malaysia but Frenz & Soualhi (2010) have explained that it is also being rejected by a lot of scholars and practitioners. The reason is simply because this model does not give a clear distinction between Wakalah and Mudarabah. Other reason that it is not being accepted by many scholars around the world is because it is argued that this model practices an inequitable system (Islamic Fiqh Academy, 2000). The profits of underwriting surplus are shared between the Takaful operator and the participants but the Takaful operator would not be responsible for the losses.

5. Wadi'ah Yad Dhamanah Model

This model operates under the ta'awuni model and all the contributions are allocated to the Wadi'ah Yad Dhamanah Fund (Nawi, 2011). He further explains that Takaful operator acts as a *Wakil* (agent) to invest the Wadi'ah fund and any profit arising from the investment goes directly to the Takaful operator. However, Takaful operator has the option to give some of the investment profit as a *Hibah* to the participants (Nawi, 2011; Frenz & Soualhi, 2010; Frenz, 2009; Ali, Odierno & Ismail 2008). Another variation of this model is when the Wadi'ah fund is charged with no *tabarru'* nor Wakalah fee (Frenz & Soualhi 2010). They explain that the relationship between the Takaful operator and the participants under this type of Wadi'ah model is similar to those depository institutions and the depositors. Yet, the participants would receive their deposit minus the claims value at the end of the financial year. According to AAOIFI (2010) guidelines, this model is offered in the market because it provides an alternative to the Waqf model and it clarifies any ownership issues.

6. **Waqf Model**

Unlike Mudarabah model or Wakalah model, the Waqf fund in this model is not owned by anybody (Khan, 2009). Plainly it means that any surplus can be distributed between members in the Mudarabah model or Wakalah model but such distribution is not possible in the Waqf model. Raj (2007) has mentioned that the Justice Muhammad Taqi Usmani feels that Waqf is more compatible with the co-operative concept of Takaful as the fund is created on the purpose of cooperation and not for the purpose of producing profit. This model also is favored by Justice Muhammad Taqi Usmani because it treats the Waqf fund as a legal entity (Yousaf & Usman, n.d.). Taqi Usmani is said to believe that in this model when one contributes to the fund, the contribution is regarded as a contribution for the common good. Further, the Qard would be given by the shareholders to the Waqf entity and to individuals as in the typical Wakalah model.

It can be observed that some Takaful operators use Mudarabah model, whilst others use Wakalah model, or Waqf model (Abdi, 2007; Smith, 2007). On the other hand, Smith (2007) believes that the models in practice are the Mudarabah model, Wakalah model, Ta'awuni model, and Non-profit model. Regardless of the available models worldwide, Malaysia has chosen to practice the Mudarabah and Wakalah models (Nawi, 2011; Frenz and Soualhi, 2010; Frenz, 2009; Abdul Rahman & Redzuan, 2009; Smith, 2007). It should also be noted, that the operational mechanism of Takaful can be based on any of the said contracts or a hybrid of any two or more of those (Ali, Odierno & Ismail, 2008). These models can be applied with regards to Family Takaful or General Takaful plans depending on the Takaful companies (Bank Negara Malaysia, 2010).

3. Research Methodology

The researchers have chosen to do a qualitative research as the method to answer the research objectives stated earlier. Qualitative research has helped the researchers to interpret and better understand the complex reality of the current situation and the implications of the models chosen by the Takaful operators. Having said that, the most suitable research technique for this study is the qualitative method and this can be justified by the following reasons:

1. The study requires people's knowledge, understandings, views, interpretations, experiences, and interactions. Thus, interviewing is the most meaningful and relevant instrument to the designed research questions.
2. The most important data of this study is regarding the surplus distribution methods adopted by the Malaysian Takaful companies. It involves details and complex information, which can only be answered by the experts or practitioners in that particular field.
3. It would be a need to refer to extensive texts and documents as to understand the basic concept of the surplus distribution in theory and practice.

The researchers also rely on both the primary and the secondary data to meet up the research objectives. The primary data is collected by interviewing the *takaful* operators. Secondary data collected by the researchers are mostly from the published and published journals, company documents, and subject relevant literature.

3.1 Selection of Data Collection Method

This study is concerned with the operating models in the Malaysian Takaful industry. Being a setting of this research, Malaysia has to be the source of the data. Views, opinions, and experience of people involved in the operation of surplus distribution are needed as to realize the above objectives. For this study, a semi structured face to face interview is the main method for collecting the data regarding operating models that govern the Malaysian Takaful companies and any issue arising thereof. The face-to-face interviews were done using an interview guide tips provided by Sekaran (2003) in which the topic and questions are notified in advanced before the actual interview sessions take place.

3.2 Design of Research Instruments

As mentioned before, the research instrument is entirely depending upon the semi-structured interview. The content of interview questions are developed from literature reviews and reading materials. Other sources for the interview questions are obtained from the discussion and feedbacks from the experts. The interview questions have been properly derived after a preliminary trial of interview with one of the Takaful expert in the country. The pilot study has improved the research questions and therefore dividing them in four sections. The pilot study greatly reduces the number of errors of the unforeseen problems such as the suitability of the interview questions, the length of the interview and the technique of interviewing. In addition to that, interviewees' profiles are required such as, their full name, positions, institutions attached, specialization, position in the institution to decide whether they are knowledgeable to be interviewed. Since the field of study is very detailed and specific, only experts who really involved in the operation of Takaful are able to answer them. Most of the experts are usually the Shari'ah Committee of the Takaful companies.

3.3 Sampling

There are currently twelve Takaful companies in Malaysia registered under the Takaful Act 1984. The researchers have approached all the Takaful companies to carry out the research. However, only representatives from six Takaful companies agree to be interviewed. These companies are as follows:

1. SYARIKAT TAKAFUL MALAYSIA BERHAD
2. TAKAFUL IKHLAS SDN BHD
3. HSBC AMANAH TAKAFUL MALAYSIA SDN BHD
4. CIMB AVIVA TAKAFUL BERHAD
5. PRUDENTIAL BSN MALAYSIA BERHAD
6. GREAT EASTERN TAKAFUL

The sample companies include Syarikat Takaful Malaysia Berhad and Takaful Ikhlas Sdn Bhd, which are the leaders of the Takaful market in Malaysia. CIMB Aviva Takaful Berhad and Great Eastern Takaful represent the latest players in the Takaful industry in Malaysia. Therefore, it can be described that the results from the interviews represent to generalize the whole takaful market in Malaysia.

3.4 Data Analysis

The data collected is interpreted using the content analysis method. The reason that the researchers did this type of data analysis is because the researcher used open-ended questions for the interviews. Firstly, the researchers listened several times to the recorded interview data. The data is then reviewed and transcribed in a written form. At the same time, the data is organized by question to look across all respondents and their answers to indentify similarities and differences. The researchers then categorized the answers according to the case. In this research, the answers are either in the category of Hybrid Wakalah or Modified Wakalah. From there, the researchers indentify the pattern and connections between the two categories.

4. Results and Findings

The findings are explained in three sub-sections.

4.1 Choice of Takaful Operating Model

In order to find out why TOs adopt the specific operating model, four interview questions are developed and the summary interview results are as follows:

1. ***What is the current Family Takaful Operational Model that your company is practicing? i.e. Wakalah, Mudarabah or Hybrid.***

   Majority of the TOs (Takaful Operators) in Malaysia adopt Hybrid Wakalah Model. Only one particular TO adopts the Modified Wakalah model.

2. ***What are the reasons that the Management, Board of Directors (BOD) and the Shari'ah Committee of your company adopting this model? i.e., what are the factors that make your company choose this type of model for operating its funds?***

   a) It is comprehended that there are currently two models in practice for any Takaful product in Malaysia; either Mudarabah model or Wakalah model. However, the main reason that the Management, BOD and the Shari'ah Committee of the TOs chose the Hybrid Wakalah model or the Modified Wakalah Model for the Family Takaful product is because this model is less controversial than the Mudarabah model. They do not use the Mudarabah model for managing the Family Takaful Product mainly because most Shari'ah scholars believe that the Mudarabah model contradicts to the original form of Mudarabah contract. Most Shari'ah scholars have agreed that the Mudarabah model is not suitable because it includes in the condition that the expenses of managing the fund is paid from the Mudarabah capital (in this case, the Takaful contributions from the participants). Hence, the Mudarabah become invalid. The reason for invalidity is that, the expenses might be more than the profit in which case the expenses will have to be covered from the Mudarabah capital (Takaful contributions) itself. Therefore, defeating the whole purpose of Mudarabah. So, Wakalah Model contains lesser *gharar* as compared to the Mudarabah model because the portion of expenses is charged under the upfront Wakalah fee.

b) It also understood in the Mudarabah contract that an entrepreneur is liable to share the profit with the capital provider. A profit is considered profit if the entrepreneur manages to generate more than the provided capital. Basically, a mudarabah investment of 100 is only considered profitable if the entrepreneur successfully brings in more than 100. However, that is not the case in Takaful (in Takaful, the surplus shared is net of claims, reserves, retakaful and expenses). The interviewees are of the opinion that the surplus shared between the participants and the TOs cannot be considered as a profit as it has nothing to do with the definition of profit upheld in the principle of Mudarabah.

c) Muslims scholars also do not favor the Mudarabah model for managing the Family Takaful fund simply because of the Qard Hassan issue. It is identified that if there is a case of deficit in the Family Takaful Fund, the TO has to give Qard Hassan loans to the participants. The interviewees strongly believe that this practice is obviously against the nature of Mudarabah because the main principle endorsed in the Mudarabah contract is to share both the profit and loss. Consequently, profit should be shared as agreed upfront by both parties and losses should solely be borne by the capital provider (not the entrepreneur). At the same time, they also admit that participants are not fully ready to embrace the original concept of Mudarabah. Hence, TOs are given no choice but to come out with their own fund to cover the deficit so that participants do not withdraw from the Family Takaful Funds.

d) All the interviewees unanimously agreed the Wakalah model is less controversial and there is not much issue pertaining to it. This model is globally accepted by scholars from Malaysia and also Middle East because of its clear-cut structure. Bank Negara Malaysia (BNM) also has given no objection pertaining to this model.

e) The other reason that the Modified Wakalah model is much preferred in Malaysia for managing the Family Takaful product is because unlike the General Takaful business, the Family Takaful business is long term in nature. And in the first few years of any business, it is normal to expect little or no profit at all. So, Modified Wakalah model is seen very appropriate for managing the Family Takaful product because it gives greater advantage to the TOs. The upfront Wakalah fees earned by the TOs actually give them greater chance to survive in the beginning years of managing the Family Takaful product.

3. ***When did your company adopt this model to manage the Family Takaful fund, i.e. current model?***

   The TOs adopt the current model ever since their set up of the Family Takaful product.

4. ***Has your company ever used another model prior to the current adopted model? If yes, what are the reasons that your company changed to the current adopted model?***

   The TOs have been using the current model since the introduction of their Family Takaful product in the company.

4.2 Effect of Adopted Takaful Operating Model on the Surplus Distribution

In order to make inquiries of how the Takaful operating model affects surplus distribution, the following six interview questions are developed and the summary interview results are as follows:

1. ***Based on the company's current practice, is the surplus of the underwriting in the PSA shared between participant and shareholders? If it is shared, is it stated in the contract (aqad) and what is the ratio?***

   The surplus of the underwriting in the PSA is absolutely shared between the participants and the shareholders and this practice is definitely mentioned in the contract. The TOs believed that the ratio depends on the type of product (The Family Takaful product has variety of options and categories). However, the interviewees included that most participants are unaware of this situation because they do not read the contract and are lack of understanding about the whole product.

2. ***Does your company charge certain management expenses in managing the Fund? If yes, is the percentage charged stated in the contract (aqad)?***

   The practice includes the management expenses under the Wakalah fee and it is definitely mentioned in the contract.

3. ***Is the profit from investment of Family Takaful Fund being shared between Shareholders and Participant? If shared, what is the Shari'ah view on this?***

   The profit derived from the investment of the Participant's account is shared between the shareholders and the participants. Some of the interviewees support this practice because they think that the TOs earn it for the effort of investing the amount in the Participant's account. Nevertheless, some interviewees see this practice as excessive and unfair because the TOs have already taken a lot from the Wakalah fee and the underwriting surplus.

4. ***Based on the company's current practice, who is liable for any losses arising from the investments of the Family Takaful Fund?***

BNM (2007) has outlined that there are currently three options if there is a loss in the Family Takaful fund:

a. Participants to inject more funds to cover the deficit
b. TOs to provide benevolent loan to cover deficit
c. Outright transfer by TO if prolonged deficit in the takaful fund

However, participants do not usually want to add more funds. The interviewees said that this situation gives the TOs no option and usually engage them to provide benevolent loan to cover the deficit.

5. ***Based on the company's practice, who pays for the operating expenses?***

Most interviewees could not answer this question because they cannot differentiate between the operating expenses and the management expenses. They concluded that the operating expenses should be borne by the TOs because this type of expenses is also part of the management expenses. By implication, these expenses are covered by the Wakalah fee paid to the Takaful Operator, and thus indirectly charged to Participant's Takaful Fund.

6. ***Does this model give any financial impact to your company/ the surplus fund? Does it manage to boost your surplus income? How does this model affect the sales of your company's Family Takaful product?***

Most interviewees explain that this question is beyond their jurisdiction and they do not think that the Modified Wakalah model is correlated with the sales or the surplus income of the Family Takaful product. They opine that the model adopted has no effect on the sales of the Family Takaful product as the consumers'/participants' awareness about the model or contract is very limited. In Malaysia, the participants or consumers are very profit oriented and they do not actually give concern about the structure of the Family Takaful Fund. There is no such situation in Malaysia whereby a participant would choose to participate in a Family Takaful fund simply because of its mechanism/structure. Nevertheless, this point contradicts the later point through which they claim that this model is unfair due to its excessive profits taken by the TOs from the funds. Obviously, these interviewees have limited knowledge about the structure of managing the Family Takaful Fund.

On the other hand, some of those interviewed reasoned that the Modified Wakalah model is advantageous to them. This is especially true because the TOs are able to utilize the upfront Wakalah fees to sustain the Family Takaful business until it reaches its breakeven point.

4.3 Adopting the Most Suitable and Uniform Takaful Operating Model

To examine the pros and cons of the currently adopted model and to suggest the most suitable model, the following four interview questions are developed and the summary interview results are as follows:

1. ***Do you find any loopholes of the current model that you are using to manage your Family Takaful fund?***

    a) A few of the interviewees believe that the Modified Wakalah Model is unjust especially to the participants because the model accumulates excessive proceeds. Basically, TOs obtain income from the followings:
        i. Upfront Wakalah fee (40% as the upper limit).
        ii. X% of the profit from the investment of the Participant's account
        iii. X% of underwriting surplus

        In essence, the upper limit imposed by BNM on the Wakalah fee might not be appropriate.

    b) Although the Takaful market in Malaysia is growing rather rapidly compared to other countries but the consumer perception about Takaful or insurance are very minimal. The interviewees admit that most of the participants do not actually contribute to the Family Takaful Funds because they have a preference over a particular structure/model but they do so because the TOs aggressively promote the Family Takaful products in the market. In fact, they are indifferent about Takaful or insurance products and prefer to gaze only at the profit element without even considering the *ta'awuni* spirit. This situation entails the Qard Hassan (benevolent loan) issue inherent in most of the Takaful structures/models i.e., TOs to provide benevolent loan to cover deficit. So, is it fair that the TOs as fund manager (*wakeel*) shares the risk of deficiency in the Takaful fund? In actual fact, the community's mindset in Malaysia is inadequately prepared to embrace the true Islamic Finance.

2. ***If there are loopholes, what would you do to recommend for it to be improved?***

    The recommendations provided by the interviewees to overcome the above issues are very general. They have agreed that there is not really a concise solution for those issues and the only way to improve the issue of excessive proceeds is for the regulators or the shari'ah advisors to look into this issue and determine the appropriate limit on the Wakalah fees that can be charged to the participants. While the issue of Qard Hassan (benevolent loan) can only be rendered through years of education, until the profit oriented mindset among the participants is eliminated. Although this does not sound realistic but a true *ta'awuni* spirit can only be raised through a balanced, holistic and comprehensive Islamic education of the younger generation. To make the nonprofit oriented mindset as an integral part of the new culture, all social, economic, political and educational forces in the nation have to be encouraged consistently as the new strategy of nation building.

3. ***Do you think that this model is the best for managing the Family Takaful fund? Why?***

    The interviewees deem that the Modified Wakalah model is the most suitable model to manage the Family Takaful Fund at the moment considering the imperfect Islamic financial market in Malaysia. Despite the above issues, this model has been in the market for quite some time and it is globally accepted.

However, an interviewee strongly supports Taqi Usmani's preference on the Waqf model because the Waqf model is the only model compatible with the co-operative concept of Takaful as it is created from the very purpose of cooperation. He further comments that a Takaful fund should be endowed a status of a legal entity. So in the Waqf model, whenever one contributes to this fund, the contribution is regarded as a contribution for the common good. When the Waqf fund distributes the funds between the members according to its own rules, the fund needs to have its own legal entity, and according Islamic jurisprudence, Waqf is an independent entity; hence he prefers this model and now in Pakistan the combined model name Wakalah- Waqf model is under practice. Even so, this particular interviewee cannot see this model to be adopted in the Malaysian market as the participants in Malaysia are not ready to embrace this type of model.

4. ***Would you recommend uniformity in the Takaful operational models in Malaysia? Please state the reasons.***

All of those interviewed unanimously agreed that there should only be general guidelines for the TOs and participants to follow but these guidelines need not be too stringent or else, the market would not be able to grow further. The industry should be given flexibility and let the market players determine the suitable and most appropriate model through the demand from the participants. Eventually, the Islamic financial industry shall evolve to a better shape and ultimately become an integral component of the global financial system.

The next section discusses summary findings and concludes.

5. Summary Findings and Conclusion

This study focuses on the choice of Takaful operating models adopted by Takaful market players in Malaysia. The main objective of this study is to propose the most suitable operational model for the Malaysian Takaful companies in managing its Family Takaful fund. The study identified twelve Takaful companies that provide the Family Takaful Business. Out of these, six companies responded to the interview. The followings are the main findings of this research:

I. The two most commonly used models in Malaysia currently are Mudarabah and Wakalah contracts. However, the Takaful operators in Malaysia specifically prefer to use the Modified Wakalah Model Or Hybrid Wakalah Mudarabah model for managing their Family Takaful Business.
II. Modified Wakalah Model is much favored in Malaysia for managing the Family Takaful Business simply because of the Shari'ah issues inherent in the Mudarabah Model.
III. Some of the respondents believe that the Modified Wakalah Model/Hybrid Wakalah Mudarabah Model is unfair because the Takaful operators take excessive profit while some other opine that this model is excellent for starting

a new Family Takaful Business since its nature requires the participants to pay Wakalah fee upfront.

IV. Participants contribute to a number of the problems inherent in the Modified Wakalah Model/ Hybrid Wakalah Mudarabah i.e., the *Qard Hassan* (benevolent loan) issue.

The research is being done in Malaysia whereby most of Takaful operators practice the same Model for its Family Takaful Business, i.e. five out of six interviewed companies. Although most of the operators adopt Hybrid Wakalah Mudarabah Model but it has its own weaknesses. Therefore, it is difficult to conclude that this model is the most suitable model for both participants and Takaful operators of the Family Takaful product. However, the researchers believe that both of the current Family Takaful Operating Models have their own deficiencies due to the deep-rooted mindset among the parties of Takaful industry. While the participants are not willing to top up the insufficient Family Takaful Funds and the TOs are overcharging the fees, regulators have no other choice but only to minimize the domino effect. Nonetheless, it is impossible to operate such a perfect Family Takaful Operating model considering the imperfect Islamic Financial Market in the world today.

Based on the interview results also, Takaful operators do not seem to prefer adopting uniformity in the Takaful Operating model. The researchers are also of the same opinion that it is unreasonable to impose such uniformity, as it would be limiting the growth of the Malaysian Takaful Industry. Thus, for future research, researchers around the world be it academicians, regulators, Takaful operators and shari'ah scholars should look at the unresolved issues in Takaful operating models and come out with the most appropriate model which is fair to all the affected parties.

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