

Pak-Kuwait Takaful Co. Ltd.



**One Day Life Insurance
Workshop**

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Miscellaneous Issues in Family Takaful



Family Takaful

Family Takaful means Takaful for the benefit of individual, group of individuals and their families as elaborated in the provisions of ordinance pertaining to life insurance business.

Family Takaful

Family Takaful means a Financial mechanism relying on the principles of mutual co-operation to undertake the responsibility towards safeguarding widows, orphans and other dependents of the participant from future financial risk which does not involve the elements of Riba, Gharar & Maiseer.

What should be the Family Takaful Operational Model?

Takaful Rule 8 defines;

“The principal operational model for insurance risk management and the investment component shall be based on the Islamic concept of wakala and modarba, respectively”

Family Takaful Operational Model

It means operational model for

Insurance Risk management	Wakala
Investment	Mudarba

Family Takaful Operational Model

Whereas some Takaful Rules state investment operational model as under:

“Wakala / Modarba / any other combination thereof”

Family Takaful Operational Model

8 (4):Investment of funds may be made in consonance with the Islamic concept of the **mudaraba, wakala or a combination of mudaraba and wakala** at the option of the Takaful operator

.....

9 (4) (d): a share of investment profits of the PTF as mudarib' s **share, or a percentage of the funds as wakala fees for investment management or any other combination** thereof..... .

Family Takaful Operational Model

10 (c): **proportion** of the investment profit generated by the investment of the PTF or the **fees** for investment as per the PTF rules and the PMD.

12 (4): The other relationship with the Takaful operator shall be that of **either mudarib or wakeel or both** , where in the case of the PTF, the Takaful operator shall also act **either as mudarib or wakeel or both to the PTF**. Further in the case of the Family Takaful plans with a savings element, the Takaful operator shall also act either as **mudarib or wakeel or combination of mudarib or wakeel** relating to the PIF.

Family Takaful Operational Model

19 : Investment of participants contributions within the PTF as well as in the PIF shall be managed under a wakala contract, a mudaraba contract or a combination contract.

Family Takaful Operational Model

Recommendation :

Operational Model should be as follows

Insurance Risk management	Wakala
Investment	Mudarba / Wakala / combination thereof

Recovery of Qard-e-Hasna

Rule 11. When the PTF including reserves are insufficient to meet their current payments less receipts, the deficit shall be funded by way of an interest-free loan (qard-e-hasna) from the SHF.

This Qard is recoverable from future Surpluses of PTF. This is a very long time period and harsh.

Recovery of Qard-e-Hasna

Recommendation :

SECP should allow Takaful Operator to recover Qard as soon as current balance of receipt and payment warrants the same instead of waiting the surplus determination at the end of the prescribed period.

Shariah Compliance Audit

Rule 31 : Takaful Operator shall appoint a Shariah Compliance auditor who will conduct its audit for each accounting period.

Shariah Compliance Auditor is not defined at Takaful Rules 2005 and Insurance Ordinance 2000.

Shariah Compliance Audit

However, Insurance Ordinance defines “Auditor” at Section 2 (v) as follows.

“Auditor” means a person qualified under the provisions of section 254 of the Companies Ordinance, 1984 (XLVII of 1984) to act as an auditor of companies;

Shariah Compliance Audit

Recommendation:

Shariah Compliance Auditor is an Auditor as per Companies Ordinance 1984 who will audit the company as per Shariah perspective.

OR

Shariah Compliance Auditor is a high calibre scholar who is a specialized jurists in fiqh almu' amalāt (Islamic commercial jurisprudence) and a have knowledge of modern financial dealings and transactions.

(as defined at Rule 34 (2) of Takaful Rules 2005 i.e. for Shariah Board)

Govt. levies & Taxes on Contribution

- Contribution is defined as Tabaru (Donation).
- This is the basic essence of Takaful.

Recommendation:

- Contribution should be treated at par with donations for all purposes in Income Tax and with Government Authorities.
- SECP should send this clarification to CBR and other agencies.
- Accordingly no Government levies be charged on Contribution.

Income Tax on PTF Surplus

- PTF is made up of donations / tabaru / contributions.
- It is a separate entity to Shareholder Fund.

Recommendation:

Function & nature of PTF is different and more resemble to Trust, therefore, while calculating the Income tax liability of Company, PTF surplus should not be included.

Central Shariah Board

- Rule 35 provides a provision of Central Shariah Board at SECP Level.

Recommendation:

- Constitution of this board is immediately needed with appropriate powers to Central Shariah Board over all the Shariah Boards of Takaful Companies.
- It will help to resolve many conflicting issues.

Window Takaful Operations

- Another issue that halting the progress of Takaful is “window operation of Takaful”
- This chapter was closed down just 11 months back after detail deliberation at SECP and Ministry of Commerce Level.
- Public comments on this issue were cognizant with the views of Malaysian Delegation headed by the Deputy Governor of Central Bank of Malaysia.
- Government of Pakistan after reviewing all the aspects and successful Shariah compliant models of Muslim Countries upheld the opinion of majority.

Window Takaful Operations



Some of the reasons that why Takaful Window is not practicable are as follows:

Window Takaful - Shariah View

There are five (5) elements that must co-exist to establish a proper framework for a Takaful system; namely:

- **Ne'aa** or utmost sincerity of Intention
- Integration of **Shariah conditions**
- **Presence of Moral Value and Ethics**
- **No Unlawful Element**
- Appointment of **Shariah Advisory Council** or Committee

Ne'aa does not exist in Window Takaful at part of window Takaful Operator.

Window Takaful - Shariah View

Conventional Insurance is not recognized by Shariah Scholars and Al-Humdolillah we all agree with it.

Amalgamation of income-expenses of the conventional insurance operations and window Takaful operations within the same company will defeat the very purpose of Takaful and it is a clear violation of the Quranic admonition.

“ And mix not, the Right with the Wrong; and hide not the truth when you know it” Al Baqara, verse 42

Window Takaful- International View

- Takaful is practiced in Muslim Countries since 1976.
- Presently Takaful is in operation in 18 Muslim Countries.
- Not a single Muslim country insurance regulator has permitted window Takaful operation due to obvious reasons.
- Our knowledge of Takaful is not so rich to match the experience & expertise of existing practitioners.

Window Takaful- International View

- Therefore considering Window Takaful against the International practice will obviously demand a higher level of expertise of Takaful as well as Shariah.
- We should also not forget that onus on the day of judgment will be on ourselves to prove that window takaful is not injurious to the very purpose of Takaful System and it is not against the Shariah.

Window- Commercial View

It is often argued that if window was allowed to Banks then why it was not applied to Insurance Companies.

Reasons were twofold.

1. Intricacies of Insurance/Takaful
2. Development of Industry

Window- Commercial View

1. Intricacies of Insurance/Takaful

We have already elaborated some Shariah issues and International practices in this regard and some will be discuss later on.

2. Development of Industry

Window- Commercial View

- A Takaful window may attract already insured Shariah Compliant population to some extent but certainly could not reach to the uninsured population of far flung areas as they had no means & track record.
- However, a new company will intense the competition and will induce the search of new segment of the market.

Window- Commercial View

- It is also a very optimistic expectation that mass population of un-insured will obtain Islamic Insurance. Optimists have no statistics to prove the same.
- Whereas ground facts are contrary. In the year 2003-4, a sample survey of one life insurance company reveals that less than 1% of people had turned out from insurance due to its Non Islamic Nature.
- Therefore need of the time is to promote the business either of Takaful or Conventional insurance through increasing number of players in the market.

Window- Commercial View

- Banking sector has adopted the window approach through separate branch system in lines with international practice and with some clear distinctive line of actions.
- The prime objective of regulator in this regard was “Islamization of Banking”. Development of Banking was secondary objective.

Window- Commercial View

- Banking Sector could adopt this version as they have a launching pad for this, as almost 80% of economy has been banked. There are around 7000 branches of the bank and more than 30 schedules banks. There around 30 million bank accounts in the country. Window option is helping them to Islamize the existing banking.
- But we have no launching pad for Islamiization of life insurance business. We have only six companies; Most of these have a limited network to five major cities. Our majority population is still uninsured.

Window- Commercial View

- In Pakistan, we are aware that Insurance, is “***sold and rarely purchased***”.
- We can only sell if we can reach to the masses.
- And without Capital, this could not be achieved.
- Therefore, our industry needs new players.
- Unfortunately, in last ten years we have not seen any new life insurance company.

Window- Commercial View

- Whereas Takaful Rules 2005 has induced the dedicated Takaful Operators.
- Within a period of eleven months, five new Family Takaful Companies mainly sponsored by strong international and national financial groups have emerged from the backdrop.

Window- Commercial View

- Existing Paid up capital of private life insurance companies of Pakistan is around 1300 million.
- Whereas, it is expected that these new five Takaful Companies will inject more than 2000 million in the life industry.
- It will not only help us to deliver message of Takaful to masses but it will also generate the avenues of jobs.

Window- Commercial View

- Our market has already developed sufficient number of Qualified Life Insurance Professionals. But most of them are looking for jobs abroad.
- Development of industry could arrest this outflow and may provide better opportunities.

Window- Commercial View

But

- if Window is allowed to conventional companies then **no attraction** will be left for dedicated Takaful Operators planning to enter into market.

Because

- They will loose the business edge.
- They have no privilege to open a “window for conventional business” .
- Paid up Capital of Window Operator needs not to be maintain in a Shariah Compliant way whereas Dedicated Takaful Operator bound to place it Paid Up Capital as per the Shariah Guideline.

Window- Commercial View

- Therefore, Irrespective of controversial position of Window Takaful in the eyes of believers, Commercially it is not viable for the industry as Window Takaful will cost us the potential dedicated entrants who otherwise can double the volume of our industry.

Window- Commercial View

- Also, SECP needs to check that if they allow Window then how can they justify the very purpose of Insurance Ordinance 2000 i.e.
- **“ To improve the capitalization ”**

Window- Commercial View

- Malaysia is considered to be the market leaders and pioneers in Islamic banking as well as Takaful.
- We can learn from the Malaysian experience that why they did not issue window Takaful license. SECP may consider to study the Malaysian Market in this regard and send some officer to Malaysia for this purpose.
- If SECP desire, we can arrange this visit.

Window- Commercial View

- Therefore, considering any option which is not opted by all the seasoned and pioneer countries is needed detailed justification in terms of technical aspects, Shariah point of view, industry growth and objective of Islamisation of Insurance etc.



THANK YOU FOR YOUR ATTENTION !!