

A COMPARATIVE REVIEW OF TAKAFUL FRAMEWORKS IN NIGERIA, MALAYSIA AND PAKISTAN

Maryam Dikko (Corresponding author)

Centre for Islamic Legal Studies

Ahmadu Bello University Zaria

Kaduna, Nigeria.

Tel: +2348036494817

E-mail: maryam.dikko@gmail.com

Mahyuddin Abu Bakar

Islamic Business School,

Universiti Utara Malaysia, 06010 UUM Sintok, Kedah

Darul Aman, Malaysia

Tel: 604-9286688

E-mail: mahyuddin@uum.edu.my

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ABSTRACT

This paper was undertaken with the purpose of conducting a critical review of the framework for Takaful in Nigeria in achieving *shari'ah* compliance by comparing it with those available in Malaysia and Pakistan. The review looked at laws and other regulations, Takaful operations including models and marketing structure and dispute resolution mechanisms. The study found there are loopholes within the Nigerian system as compared to those in Malaysia and Pakistan regarding enacted legislation and requirements for capacity to serve on *shari'ah* advisory boards. Deficiencies also exist with regard to the qualification requirements for management and marketing staff and in the absence of an adequate dispute resolution mechanism. Recommendations arising from the research include suggestion that Nigeria enact specific all-encompassing legislation to regulate Takaful. There is also the need for the creation of a specialized system for resolving Takaful disputes and the requirement of specialized training for Takaful personnel.

Keywords: *shari'ah* compliance, Takaful, Takaful frameworks, Takaful Nigeria, Takaful Pakistan, Takaful Malaysia

INTRODUCTION

The principle that cases should be decided according to consistent principles and rules so that similar facts will yield similar results is the foundation of all common law systems. This body of past common law binds judges so that future decisions must be guided by previous ones having the same underlying principles to ensure consistency. If, however, the court finds that the current dispute is fundamentally different from any previous case(s), it decides the matter independently and thereby makes new law which also becomes precedence for future like cases. However, within the same system legislations may be enacted to regulate old or new arising matters. Countries that run this type of system are usually referred to as commonwealth countries due to their history of being former colonies of the British Government.

Takaful is provided in over 200 countries across the globe and in most of those countries though the common law system is in use, legislation or regulation have been enacted to regulate the activities of the Takaful operators. Malaysia, Pakistan and Nigeria are not only countries that have introduced and maintained Takaful services but have the commonality of being commonwealth countries. In addition to this, all three countries have large Muslim population with the potential of growing a sizeable Takaful industry.

Several studies into Takaful frameworks in different countries have been conducted over the years. Jaffer, Ismail, Noor & Unwin (2010) look into the models, issues and challenges facing the emerging industry at that time while a 2015 Islamic Financial Services Board (IFSB) report, in the process of conducting analysis into the issues arising from the regulation of micro-Takaful, presented studies on models and methods across several Takaful providers. This was however limited to providers in Malaysia alone. Shafique, Ahmad, Ahmad, & Adil (2015) provide a comparative analysis of efficiency between conventional insurance and Takaful but the analysis was limited to Pakistan. A Deloitte (2015) study actually conducted a review of markets and regulatory frameworks for Takaful in the developed (as far as Islamic finance is concerned) Middle Eastern

and South Asian countries including Malaysia and Pakistan. The study also placed some focus on the emerging Takaful markets of Nigeria, Kenya and Tanzania. However, Saleh, Balan & Ruslan (2016) did conduct a research on a comparative analysis of the Nigerian regulatory framework for Takaful against the backdrop of the Malaysian framework with a view to highlighting the discrepancies in and proffering possible solutions to that of Nigeria.

Khan and Shah (2015) comparatively analyze the regulatory and supervisory structures for the Islamic financial sector in Malaysia, Pakistan, Bahrain and the UK but the scope was limited to the Islamic banking sector. Saleh et al. (2016) recognize the similarities between the Nigerian and Malaysian Takaful regulatory frameworks and the possibilities of Nigeria learning from that of Malaysia. However, they did not conduct an in-depth analysis of both systems.

At the same time, a number of extensive studies on the state of Malaysian Takaful recognize the developments and refinements that have occurred in the industry. Thus Deloitte (2015) place Malaysia among the maturing Takaful markets alongside Middle Eastern Countries like Bahrain and the UAE and in fact considers the regulatory framework for Malaysian Takaful as 'leading the wave' in best practices as far as regulation and supervision are concerned. In the same vein, Isma'il et al. (2017) rate Malaysia as leading the industry in regulatory supervision. On the other hand, Kaunain & Akhtar (2016) recognize the growth of the Pakistani Takaful market that begun after the enactment of the proper legislation of the 2005 Takaful rules.

In addition to this, a number of studies have been undertaken to establish how maqasid al sharia may be achieved in the provision of Takaful. Maqasid is achieved when the rules of Islamic law are adhered to in all aspects of Takaful operations (Habib, 2012; Leins, 2011) and when the service actually performs the job of providing protection against risk (Abdullah, 2012). Daud (2012) further argues that maqasid is achieved when Takaful is used as a medium to advance Islam and its teachings. These objectives are realized when Takaful personnel have a working knowledge of Islamic financial principles and use Takaful as a means of educating others (Dikko, 2016).

This research undertakes a comparison of the framework for Takaful in Nigeria with those of Malaysia and Pakistan. This covers not only the nature and scope of the substantive laws put in place but also extends to supervisory and conflict resolutions mechanisms across the jurisdictions and includes commonly used operating models. The research was conducted with a view to highlighting the strengths and weaknesses within each system particularly that in Nigeria and to ultimately proffer suggestions that may lead to improvements within the Nigerian framework towards achieving *maqasid al- shari'ah*.

Following the introduction, this paper presents an overview of the existing frameworks in each country followed by an analysis and findings from the review. Recommendations are then presented and avenues for future research are explored before the paper is concluded.

1. Existing Frameworks

A framework means the overall system in place for the provision of a service or a broad overview, outline or skeleton of interlinked items which supports a particular approach to a specific objective¹. This includes the regulatory frameworks, the nature of Takaful operations and models within each industry, the systems put in place for *shari'ah* supervision and conflict resolution.

1.1 Regulatory frameworks

A regulatory framework refers to any and all laws, rules and guidelines enacted for the regulation of Takaful services.

A separate law, passed by the national legislature, has not been made to regulate Takaful in Nigeria. However, the insurance regulator National Insurance Commission (NAICOM), which also oversees Takaful operations, under the powers granted to it by its enabling law issued Guidelines for the Regulation of Takaful (GTO) in 2013. The *Takaful* guidelines “regulate Commercial *Takaful-Insurance* business conducted in Nigeria and covers all operations relating to

¹Retrieved from

<http://www.businessdictionary.com/definition/framework.html#ixzz4AbsmsC>

Takaful-Insurance Operators” (section 1.7) and is an all-inclusive regulation which covers issues ranging from operational models to *shari’ah* supervision and capital adequacy and solvency. It also covers matters of surplus distribution and *qard hasan* (benevolent loan) regulation (Ibrahim, 2014).

The Guidelines is however subject to the provisions of the Insurance Act due to the supremacy of the Insurance Act being the enacted legislation. Therefore, in all cases where there is a conflict between the provisions of the Act and the guidelines, the provisions of the Act must prevail. Also, in the absence of any clause in the Act or the guidelines creating exclusion on a particular matter, the provisions of the Act will prevail. In fact, Section 95 of the Insurance Act states;

The provision of this Act shall be read in conformity with that of the National Insurance Commission Act, 1997 and if any provision of that Act is inconsistent with those of this Act, the provision of this Act shall prevail and that other provision shall to the extent of its inconsistency be void.

In Malaysia on the other hand, the Takaful industry is regulated by the provisions of the Islamic Financial Services Act (IFSA) 2013 which replaced the Takaful Act 1984. The IFSA regulates Islamic banking, Takaful and other Islamic financial services and provides general guidelines concerning Takaful operations. Specific provisions are found within a number of guidelines which include the Takaful Operational Framework (TOF), Risk-based Capital Framework for Takaful Operators (RBTO), guideline on Operating Costs for Family Takaful Business (OCC guideline), guidelines on Claims Settlement Practices and a Concept Paper on Appointed Actuary: Appointment and Duties (AA Concept paper) among others. The IFSA is the dominant law and all regulations that are inconsistent with its provisions are void to the extent of the inconsistency.

Oversight functions for the Takaful industry are performed by the Malaysian Central Bank (Bank Negara Malaysia) and the Islamic Financial Services Board (IFSB). To ensure the exercise of self-regulation within the *Takaful* industry, the Malaysian Takaful Association sets a common standard for all *Takaful* operators to regulate on and control matters concerning the pre-contract

examination of agents, agency registration systems, code of ethics, and compliance on *Takaful* tariffs.

Finally, in Pakistan the Insurance Ordinance 2000 and Insurance Rules 2002 regulate all insurance business in the country including *Takaful*. The *Takaful* Rules 2005 and later the *Takaful* rules 2012 were however made to provide for the additional requirements of *Takaful*. The *Takaful* Rules (the Rules) cover all aspects of *Takaful* operations from the nature of operating models to *shari'ah* compliance and qualifications of and training for all persons involved in the provision of *Takaful* services. It also covers capital adequacy and corporate governance issues. In addition the Securities and Exchange Commission (which is also the general overseer for *Takaful* operators) of the country may make rules in the form of circulars from time to time which may regulate both conventional insurers and *Takaful* operators.

Takaful operators in Pakistan must comply with the provisions of all three laws. However, in cases of conflict between the provisions of the *Takaful* Rules and the Insurance Rules, the *Takaful* Rules will prevail but where there is conflict between the Rules and the Insurance Ordinance, the Ordinance prevails (Section 4(3) of the Rules). All *Takaful* operators must be registered under the Insurance Ordinance.

1.2 Nature of *Takaful* Operations

This refers to whether *Takaful* services may be provided through companies incorporated for just that purpose (referred to as stand-alone) operators or via the subsidiaries or departments within an existing insurance provider (also referred to as window operations). The nature of *Takaful* operations also refers to the types of operating model and marketing system used by *Takaful* operators.

In Nigeria, the *Takaful* guidelines provide that *Takaful* services may be provided by stand-alone *Takaful* operators and also allow for the provision of *Takaful* by conventional insurers via window operations. The *Takaful* Rules of Pakistan also allow for *Takaful* window operations though the rules provide under section 11 that all documents of the window *Takaful* operator must carry the phrase 'window *Takaful* operator' under its company name. In the Malaysian

framework however, window operations are prohibited and only stand-alone Takaful providers may operate in the country.

Furthermore, though conventional insurers have the choice of providing general or life insurance products or both, Takaful laws in some countries regulate this choice for Takaful providers. Thus in Pakistan, the Takaful Rules provide that an operator may provide general or life Takaful but not both (section 4(2) Takaful Rules). The Rules allow for both stand-alone and window *Takaful* operations (Section 3 of the Takaful Rules) even though a window operator is required to display this status below the company name in its place of business and all other relevant correspondences (section 11). Notwithstanding, a conventional insurer may transform itself to a *Takaful* operator upon application to the Commission and meeting certain requirements set out by the Commission (Section 7(1)).

In Nigeria, the Takaful Guidelines is silent on any limitations to the nature of Takaful business. It however provides the two categories of Takaful business as general and family Takaful and that a Takaful operator must segregate between the funds of the two thus implying that an operator may carry on both businesses simultaneously. The power to do so is however limited by the provisions of the Insurance Act which provide under section 11 that life insurance and general insurance shall be subject to separate application and registration. Therefore, eligibility to conduct a class of Takaful business will be determined by whether the company has applied for and obtained registration for that class of insurance.

In the same vein, the Malaysian Guidelines for Takaful Operational Framework do not have specific provisions as to the exclusivity or otherwise for the nature of Takaful business but also provide that an operator must segregate the funds of its general and family Takaful business.

In the case of operating models, though Takaful models in use internationally include the *mudarabah*, *wakala* and *waqf* or the hybrids or modified models, regulators may sometimes limit the choices for Takaful operators. Under the Nigerian framework, section 2.2 of the Guidelines provides that Takaful operators may choose between the *mudarabah*, *wakala* or *mudarabah-wakala* model though notification of the operator's choice must be made to the National

Insurance Commission as the regulator.

However, in Malaysia Takaful operators may choose from any of the operating models available worldwide provided the operational model has been approved by its *Shari'ah* Committee and Board of Directors but by virtue of section 8.2 of the Malaysian Guidelines for Takaful Operation, the approval of the Central Bank must be sought where the Takaful operator wishes to use a model which is to be introduced in Malaysia for the first time. On the other hand, the Pakistani framework, like those of Nigeria, though not having specific sections with limitations, in its definition section (section 2 of the Takaful Rules, 2012), provides for only the *mudarabah* and *wakala* models, thus by extension limiting the operators to a choice of between these two models only.

Nigerian regulations have not provided a structure that must be used for the marketing of Takaful in the country. For this reason, and because the guidelines allow for window operations, Takaful products are marketed using the existing system for conventional insurance. In addition, despite the fact that the Insurance Act allows for the use of insurance agents and brokers, insurance companies generally use marketing staff employed by the company and Takaful is marketed alongside conventional insurance products using marketers who may have just a perfunctory knowledge of Takaful and its principles (Dikko & Ghani, 2015).

The marketing of Takaful products in Malaysia however is undertaken using an agency system where agents only qualify to be duly registered by the Malaysian Takaful Association after passing the Takaful Basic Examination (TBE), a qualifying examination organized by the Islamic Banking and Finance Institute Malaysia (IBFIM).

Lastly, in Pakistan marketing is also done using the agency system. While the Takaful Rules, 2005 provide that a Takaful operator must provide a compulsory classroom training course of a minimum of eight hours duration for each of its agents, the new Takaful Rules 2012 provide in section 28 that operators must provide training, for a minimum of twenty hours, for all their managerial staff including their sales force. This training must be done with an institution approved by the commission and must be completed within one year from the date of induction for new employees or from the commencement date of

the Rules for existing employees. In furtherance of this requirement, the Pakistani Insurance Institute designed a course to serve that purpose and agents must have at least 75% attendance upon the completion of the course before they may be awarded certificates that will render them eligible to so act (Pakistani Insurance Institute Course Outline and rules. See http://pii.com.pk/Courses_Takaful.aspx).

1.3 *Shari'ah* Supervision

Shariah supervision is the system put in place for ensuring that Takaful operations, from product development to implementation of operating models comply with the provisions of Islamic financial law. The Guidelines for Takaful Operations in Nigeria mandate that a Takaful operator must constitute a *shari'ah* supervisory board referred to as an Advisory Council of Experts (ACE) whose duty is to ensure *shari'ah* compliance of all products, services and investment decisions of the operator (S.3.6). This Council must consist of at least three members the majority of which must have knowledge in Islamic jurisprudence particularly in matters relating to Islamic financial transactions and at least one member of the Council must also have knowledge in commercial financial products and services (S. 3.7). The operator is also required under Section 3.25 to have an internal *Shari'ah* Compliance Unit which shall be a *shari'ah* audit team and will report directly to the ACE. Members of the Compliance Unit must have appropriate qualifications in Islamic commercial jurisprudence law and conventional insurance and finance. In addition to these mechanisms, the National Insurance Commission also has constituted its own Advisory Council of Experts which has oversight powers over the ACE of the Takaful operators.

In Malaysia the Takaful operator is also required by section 30 of the IFSA to have a *shari'ah* supervisory board referred to as a *Shari'ah* Committee to perform the same function as the ACE in Nigeria. The Central Bank of Malaysia (BNM) as regulator also has the power to, through its own *Shari'ah* Advisory Council, issue standards for *shari'ah* compliance which must be adhered to by all Islamic financial institutions in the country. Though the Act is silent as to the number and qualifications for membership to the *Shari'ah* Committee, the BNM in its Guidelines on the Governance of *Shari'ah* Committee for

Islamic Financial Institutions provides that the Committee shall consist of at least three (3) members all of whom must have knowledge (not necessarily paper qualifications) in Islamic jurisprudence and/or Islamic commercial law.

Conversely, in the Pakistani framework, a Takaful operator is only required to appoint one *shari'ah* advisor, a *shari'ah* compliance auditor and a *shari'ah* compliance officer. The *shari'ah* advisor may act in the same capacity for not more than three Takaful operators and must have a degree in *Shahadatul Aalmiyya* from a school recognized by the Higher Education Commission of Pakistan, a Certificate in Takhasus fil Ifta or Takahsus fil Fiqh, adequate knowledge of Islamic finance and Takaful, sufficient command of the English language and knowledge of Pakistani laws and at least 4 years' experience in giving *shari'ah* rulings.

In addition, the Securities and Exchange Commission of Pakistan, as regulator, has the power to appoint its own *Shari'ah* Advisory Board which shall formulate policies and guidelines for *shari'ah* compliance and resolve differences in *shari'ah* rulings relating to treatment of operational issues that may arise amongst Takaful operators.

1.4 Conflict Resolution Mechanism

The framework in Malaysia provides several dispute resolution avenues for conflicts arising from Takaful transactions. First, a section of the country's High Court under the commercial division of the court, referred to as the *Mu'amalat* Bench has been dedicated to entertain matters in Islamic financial conflicts. Also, a Financial Mediation Bureau has been established by Bank Negara Malaysia to arbitrate small claims in Islamic financial disputes so as to reduce congestion in the courts. Finally, section 138 of the IFSA transformed the Financial Mediation Bureau into a Financial Ombudsman Scheme as "a scheme for the resolution of disputes between an eligible complainant and a financial service provider in respect of financial services or products." However, because the *mu'amalat* bench and the Bureau are situated in the capital city of Kuala Lumpur, disputes arising in other parts of the country are still determined before the high court in its ordinary sittings though the courts are required to register such cases under a unique code in order to ensure that they

are expedited.

The mediator under the financial Mediation Bureau performs the same function as a judge as he investigates with a view to arriving at a correct decision. But he also acts as a counselor and reconciliatory to facilitate amicable settlement amongst disputants and makes binding awards within the ceiling provided as the limit for the Bureau (Oseni, 2013)

In Nigeria on the other hand, the law is silent as to dispute resolution mechanism for Islamic financial matters in general or Takaful in particular. While the High Courts have jurisdiction to entertain "...any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue..." (section 272(1)) which will include matters arising from disputes between insurance companies and its customers, conflicts concerning Islamic law are however within the jurisdiction of the *shari'ah* courts though this is limited to matters of Islamic personal law. For this reason, it remains unclear whether Takaful related disputes may be presented before the High Court or the *Shari'ah* Court.

Nevertheless, the National Insurance Commission (NAICOM) as the insurance regulator in Nigeria has within its units, dispute resolution department which entertains claims related matters which include those arising from Takaful. However, persons unsatisfied with the decision of the department may only forward their complaints to the regular High Court. In any event, there is no provision that the members of the dispute resolution department should have any knowledge of Takaful.

Finally, in Pakistan to arbitrate Takaful related disputes the Securities and Exchange Commission sets up a Dispute Resolution Committee via the Small Disputes Resolution Committee Rules 2015. The Committee sits in the major cities of Karachi, Islamabad, Lahore and such other places as may be designated by the Commission and has the power to arbitrate disputes arising from individual life, domestic and motor insurance policy provided the claim does not exceed one million rupees. In addition operators providing micro-Takaful are required to establish an internal dispute resolution mechanism to

handle consumer complaints (section 8(4)) of the Securities and Exchange Commission (Microinsurance Rules) 2013.

ANALYSIS AND FINDINGS

The purpose of this research was to perform an assessment of the differences not only in regulation but also other operations relevant to the provision of *Takaful* across the jurisdictions and to extract, from the analysis, the ideal system for provision of *Takaful* services.

Previous studies, (already highlighted in the introduction to this research) have either provided insight on the workings of the frameworks within the jurisdictions of the various *Takaful* industries, or have made some attempt to compare the efficacy of one system against the other without necessarily focusing on *Takaful*. Without a doubt Saleh et al. (2016) provide extensive research on the regulatory lacunae evident in the Nigerian framework by comparing it to that available in Malaysia. The study however only highlights the ambiguities and irregularities within all laws regulating *Takaful* in Nigeria.

Upon critical review of the foregoing data, it was discovered that all three countries have enacted specific laws for the regulation of *Takaful* though Malaysia has a fully enacted Islamic Financial Services Act while Pakistan and Nigeria have guidelines passed by their respective insurance regulatory body. Also, while Nigeria and Pakistan allow for *Takaful* window operations, Malaysia only permits stand-alone (fully-fledged) *Takaful* operators. Again, while both Pakistan and Nigeria limit the choice of operating models within regulation, Malaysia allows operators to choose any model that is in use anywhere in the world provided they inform the regulator of the said choice particularly where they intend to use a model that has not been previously used in the country.

It was also discovered that all three countries insist on the existence of a *shari'ah* supervisory board for a *Takaful* operator to ensure *shari'ah* compliance. However, whereas Pakistani regulation provides that a company may have only one person to act as the said adviser, Nigerian and Malaysian rules are similar in that they insist on a minimum of three persons to constitute the membership of a *shari'ah* advisory board. In addition, all three countries allow *Takaful* operators

to use agents and brokers to market *Takaful*. In Malaysia, agents must pre-qualify by passing a *Takaful* Basic Exam and in Pakistan, agents must undergo a certain number of hours of *Takaful* training to be organized by their operators, but in Nigeria, no special requirements for education or training of *Takaful* agents is made.

Lastly, while the framework in Nigeria does not provide for a special dispute resolution mechanism to cater to *Takaful* related disputes, in Malaysia there is in place known as the Mu'amalat Bench in the High Court to entertain such disputes and also a Financial Mediation Bureau which provides arbitration services for disputes arising from Islamic financial matters including those from *Takaful*. In Pakistan, though a similar court has not been created the Small Disputes Resolution Committee sits in major cities and entertains *Takaful* related disputes.

In addition to this, though Pakistan does have the Small Disputes Resolution Committee which acts as a quasi-court, Malaysia has created, within its judicial system, a specialized court to entertain *Takaful* disputes which means matters will be decided by persons adequately knowledgeable in Islamic financial matters and has even put in place an arbitration system to not only ease and speed up dispute resolution but to also allow for persons better skilled in deciding Islamic financial disputes to do so.

Finally, the provision that marketers must pass a basic *Takaful* exam means only persons with knowledge of *Takaful* will be marketing the products. Thus they can perform the extra function of educating people about *Takaful*, Islamic finance and even Islam.

Nevertheless, it must be pointed out that the system in Pakistan that requires specific educational qualifications and experience for membership to a shariah supervisory board will definitely result in improved oversight functions of the board resulting in improved *shari'ah* compliance. At the same time, this is also complemented with the mandating of the provision of training for members of *Takaful* units of operators.

The summary of the jurisdiction across countries is depicted in Table 1. In summary, it was found that each system had its strengths and weaknesses but the Malaysian system was the most evolved and

robust of the three (Deloitte, 2015; Isma'il et al., 2017). From its introduction in 1985 to date, the Malaysian Takaful industry has grown from one Takaful provider to 11 with additional 4 reTakaful providers². The industry also currently enjoys a 62% market share (Isma'il et al., 2017) of the Malaysian insurance industry with an estimated 20% increase in the coming year³. This may be attributed to the fact that Malaysia has provided specific enacted legislation which supersedes any other legislation. This goes a long way in ensuring *shari'ah* compliance as there would be no question of conflicts with the provisions of other laws. The growth and maturity of the system may also be supported by the creation of distinct bodies to perform oversight functions for the industry and the requirement for specialized training for all persons involved in the Takaful industry.

Table 1: Differences across the jurisdictions

Country	Regulatory Mechanism	Nature of Takaful Operations	Manpower Development and Training	Shari'ah Supervision	Marketing	Dispute Resolution
Malaysia	Specific legislation enacted	- Stand-alone companies only - may use any type of operating model	Pre-qualifying exams in basic Takaful training	Shari'ah Supervisory Board of at least three members	Special marketing agents with specialized training	Specialized courts and institution to handle disputes.
Pakistan	Specific legislation enacted	*Allow Takaful	Required number of hours training in	Shari'ah supervisory Board of at	Special marketing agents with	Small disputes resolution

² Bank Negara Malaysia (BNM) index licenced insurance companies and takaful operators. Available online at bnm.gov.my/index.php. accessed 11/03/2018

³³ Islamic Finance News. Available online at www.islamicfinancenews.com. Accessed 10/3/2018

		windows *limits the Takaful models	Takaful	least number of members	specialized training	committee
Nigeria	Specific legislation enacted	*Allows Takaful windows *limits the Takaful Models	No training required or provided.	<i>Shari'ah</i> supervisory Board of three members	No training required or provided for marketers	Dispute resolution Unit within the Regulator

RECOMMENDATIONS

In view of the findings based on the review above, the following are recommendations that may contribute to the improvement of the framework for Takaful in Nigeria.

First, the Legislature must consider the enactment of a law (not just the guidelines) specific for the *Takaful* industry which would incorporate all aspects that would ensure *shari'ah* compliance in general and reflection of *maqasid al shari'ah* in particular and would not have problems of conflict with other enacted legislation regulating the *Takaful* operators. In addition to this, they must consider the establishment of a separate governing body for the regulation of Islamic financial services similar to that available in Malaysia to oversee all aspects of the said institutions in order to establish *shari'ah* compliance in particular and achievement of *maqasid al shari'ah* in general.

Furthermore, regulations should establish formal minimum educational requirements for all stakeholders in the *Takaful* industry. Management staff must possess formal education in Islamic finance and *Takaful* and this should not be limited to just top level management but all cadres of staff involved in management so as to

solve any generational issues that may arise. This means changes that may occur due to loss of staff as a result of death, retirement or transfer. While marketing staff such as internal sales force or agents and brokers need not have a formal background, the requirement for in-depth specialized training as is provided for in Malaysia and Pakistan must be entrenched.

As a corollary to this, regulators may begin to look into establishing a formal system or training institute for the provision of the said training the system could concurrently provide regular updates and retraining for managerial staff. An educational syllabus for *Takaful* may also be introduced in the school system at the secondary school level.

A system may also be developed for testing the knowledge and capacity of persons who are to act as *Shari'ah* Advisors to *Takaful* operators, whether as members of the Advisory Councils or Internal *Shari'ah* Compliance Units in addition to the requirement of educational qualifications, experience and references.

Finally, there must be a specialized conflict resolution mechanism for *Takaful*. Though the regulator in Nigeria has an internal dispute resolution unit to handle claims related disputes, the unit also caters to the same issues arising from conventional operators and may not necessarily be qualified to properly address the intricacies of *Takaful*. Moreover, persons aggrieved with the decision of the unit have not been availed with a suitable adjudicative system specific to *Takaful*. Recourse is then only to be had by using the same avenues open to conventional insurance which may not help towards ensuring *shari'ah* compliance.

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