

# Takaful as a risk management tool in Islamic estate planning

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## Abstract

*Takaful is a form of protection to help us, our family and our beloved person. A good Muslim must be a Muslim with a forward thinking. Hence, some continuity preparation must be done and this preparation must take place from now, in future and in fact after death. To accomplish this goal, wealth management has been determined as an important tool as it plays some important roles to assist for a proper planning in our life and after our death. In other word, Islamic wealth management aims to provide the best reward in this world and hereafter. Furthermore, it has been strengthened by Islamic law that has outlined a comprehensive guidance related to property management after death through a complete and systematic Islamic estate. The benefits can be enjoyed by family from takaful products and will be the Islamic estate of a continuity guarantee after the contributor passes away. Aspired by this issue, this paper focuses on two fold. The first fold discusses on takaful products in Islamic estate planning and followed by the second fold that elaborates on how to incorporate this instrument to be more integrated in Islamic financial system in particular and Islamic economics system in general. The discussions encompasses on shariah aspects and further the applications of this product in Malaysia.*

**Keywords:** Takaful, risk management, Islamic estate planning.

## 1.0 Introduction

The guarantee to be successful in this world and hereafter would be achieved if every human being manage and arrange their life base on shariah. Besides having a good relationship with Allah, human relations are also important to be addressed. Relationships among human being can be developed through the implementation of the trust given by Allah such as a power and property. Both power and property are trust from Allah that must be wisely handled based on shariah.

Wealth management concept during life time and after death covers five key elements:

1. Producing wealth with effort and energy. (al-Jumu ah: 10, al-Qasas:77)
2. Accumulating wealth via saving and investment. (Yusuf:47-48)

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3. Wealth protection for the future comfortability (al-Hasyr: 18)
4. Distribution of property through will instrument (al-Baqarah: 180), Hibah (al-Baqarah: 177), Waqf (Al Imran:92)
5. Purification of wealth through zakah and charities (al-Baqarah: 195).

Takaful is an Islamic concept that grasps on protection and distribution of property. Currently, it becomes one of the important instruments in wealth management business and it differs from other conventional wealth management products since it has been constructed based on shariah. In Islamic wealth management aspect, the term has been spelled out in the third (3) and fourth elements (4) out of the five elements as above.

Takaful gives benefits to consumers in the form of wealth protection and also has a key element in risk management. It can be understood as a discipline that enables an individual or organisation to deal with any uncertainty to protect our own assets or resources. Dealing with Takaful requires any actions that deploy both effort and attempt that are fully compliant with shariah. The cornerstone of Takaful is to protect the interest of contributors during their life and their inheritance after the contributor passes away. Therefore, the distribution process is necessary according to the Quran (al-Nisa: 11, 12 and 176).

In this paper, the discussion describes takaful products in Islamic estate planning followed by the elaboration on how to incorporate this instrument to be more integrated in Islamic financial system. The focus is made on the Family Takaful product. The rest of this paper is organised as follows: Section 2 discusses the financial life design. The third section discusses the context of important terms related to Islamic planning estate. Section 4 explains a brief discussion in the context of definition and concepts of takaful. Section 5 presents discussion on the development of takaful. Section 6 explains the takaful operating models. Section 7 shares the information about the advantages of takaful products compared with the conventional products. Section 8 extends the issues of takaful benefits as an Islamic Estate instruments and this paper is concluded in section 9.

## **2.0 Typical life line**

A comprehensive financial life design serves as a framework for organising the pieces of our financial picture. With a financial design in place, we will be able to focus on our goals and understand what it takes to reach them.

The benefit of having this financial design is to create a balance among competing financial priorities. A financial design clearly shows us how our financial goals are related. For example, the financial design can clearly shows how the saving for retirement and takaful may impact the ability to save for other retirement expenses. Hence, based on the information gathered, the financial goals can be prioritised, strategies can be implemented and suitable financial products will be selected. Best of all, we will have the peace of mind that comes from knowing that our financial life is on track.

**Diagram 1: Design of financial life**

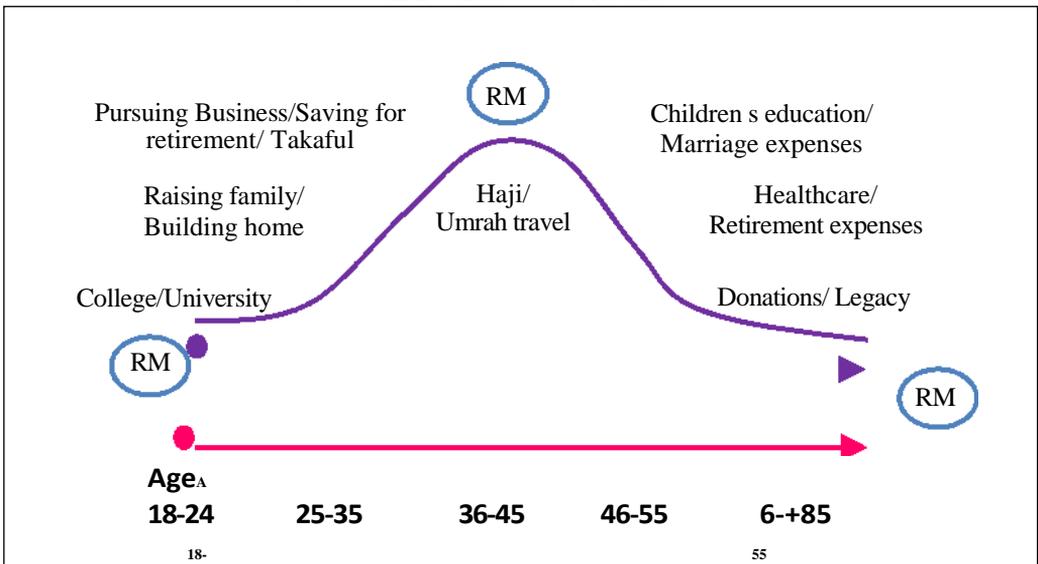


Diagram 1 represents a typical lifeline arrangement which can help us to solve certain financial issues based on the age of life. This is supported by Keynes (1936) who defined saving (takaful) as the excess of income over consumption expenditure, or simply, saving is a function of income. Extending the Keynesian perspective, Modigliani and Brumberg (1954) proposed the life-cycle model which emphasises that the main motive of saving (takaful) is the accumulation for retirement. The model is built around the consumption or saving behaviour of an economic agent who is assumed to maximise the present value of lifetime utility, subjected to a budget constraint. The model predicts that consumption in a particular period depends on expectations about lifetime income.

“Allah is pure and accepts nothing but the pure,” said the Prophet (Peace Be Upon Him), and he also told us that Allah only accepts the works and supplications of those who make their earnings and spending lawful. (Muslim)

### 30 Definition and concepts of takaful

Takaful originates from Arabic word Kafalah, which means joint guarantee. In Al Quran, this word is used with the meaning of protection (Ali ‘Imran: 37 and Taaha: 40). In principle, the Takaful system is based on mutual co-operation, responsibility, assurance, protection and assistance between groups of participants. Thus, it can be visualised as a pact among a group of members or participants who agree to jointly guarantee among themselves against loss or damage that may inflict upon any of them as defined in the pact. Should any member or participant suffer a catastrophe or disaster, he would receive a certain sum of money or financial benefit from a fund, as also defined

in the pact, to help him meet the loss or damage. (<http://www.Takaful-malaysia.com>). Takaful is also defined as a contract which involves mainly the participants and the operator, who bind themselves with a mutual consent to encounter a defined risk. Parties bind themselves relying on the principles of contract through that of offer and an acceptance. For example, the participants offer to contribute a particular sum of money to the takaful fund, while the takaful operator accepts the offer in view of managing the fund properly and provide a reasonable coverage for the insured against a defined risk. Thus, in takaful operation, the operator binds himself unilaterally to manage the fund properly. (Wahbah Zuhaili, 1995).

*According to the Takaful Act 1984, takaful means a scheme based on brotherhood, solidarity and mutual assistance which provides for mutual financial aid and assistance to the participants in case of need whereby the participants mutually agree to contribute for that purpose.*

Every one of us has to die. In this regard Allah mentioned in the Al Quran that everyone has to die (al-'Ankabut: 57, al-Anbiya':35 dan Ali 'Imran: 185) and even though we plan, Allah is the best of planners. Wealth management solutions, by definition, need to include components that allow their beneficiaries to insure against risk. In the case of shariah compliant wealth management offerings, this refers to takaful. Risk is the potential or likelihood of surprises. It refers to an uncertainty of meeting objectives over a specified time horizon. A Muslim must believe that takaful is not superseding the power or will of Allah in ones life, death or destiny (Qada and Qadar) but is achieving the pleasure of Allah who orders us to help one another (al-Baqarah: 155-157). Allah created us to test us, and we will be rewarded or punished as a result. The punishment in the next world shall be thorough and severer. This punishment should not exclude those punishments which are sentenced to some in this world only. The Quranic verses tell us that Allah punishes some in this world. The Holy Quran says:

*Corruption has spread over land and sea on account of what the hands of men have wrought, that He may make them taste a part of that which they have done, so that they may return to the right path. (al-Rum:41)*

However, if we expect to get better without any effort on our part and try to avoid or minimise any risk, we will be disappointed because **Allah will not change the condition of a person unless there is a change of what is in themselves** (al-Ra d: 11). Tawakal is a branch of faith. Nevertheless, there are those among us who consider tawakal as resting everything in the hands of Allah without putting in any effort. In reality, the concept of tawakal means to put effort in the best way we can before surrendering the outcome to Allah. That is what is called by tawakal. It is when we are confident that good or bad outcomes come from Allah. In addition, the ideal risk management even accepts all of the potential of a particular risk and also minimizes the negative effects of risks.

This is found in the story in Al Quran (Hud: 37, al-Mukminun: 27) when Allah told the Prophet Nuh to build a ship in preparation for the coming flood. Even when the eleven sons of Prophet Yaaqub (a.s.) were about to undertake their journey from Palestine to Egypt, Prophet Yaaqub (a.s.) advised them not to enter the gates of the city of Cairo as one group, but rather they should enter the city by different gates (Yusuf: 67) as a precaution that if someone were to harm or attack them, all of them would not be effected by that harm. Another lesson is drawn from the story of the Prophet Yusuf about the seven years of drought following the seven years of fecundity, and about preparing for leaner times during the years of abundance (Yusuf: 47-48). On that occasion, it was stated that even though the cycles of prosperity and depression usually come in turns in any economy, they can be avoided. Indeed, prosperity can turn into depression through mans own negligence, wastefulness and poor planning. Like the Prophet Yusuf, Nuh and Yaaqub, we must exercise risk planning to enhance our resilience to meet the challenges of the future.

#### **4.0 Islamic estate planning**

This section describes the takaful benefits as an Islamic estate instruments. The focus is made on the Family Takaful product because this type is the policy to secure the family conditions if anything happens to the head of the family in the future related with the inheritance laws in Islam. In addition, the benefits among family on the occurrence of death of a participant are also discussed in this session to make a better understanding.

When a participant dies before the Family Takaful coverage matures, his/her heirs will receive the benefits of Takaful as follows (Sobri Salamon, 1989):

1. All instalments of the takaful contributions paid by the participant before he/she passes away as has been accumulated in the accounts of participants and the profit allocated to investment in accordance with the agreement of al-Mudharabah.
2. The remaining instalments of the takaful contributions that is payable by the participant if he is alive and continues to maintain its participation. The balance is calculated from the date of death until the date of maturity of the protection scheme. The balance of the instalment payment will be made from a special account in accordance with the consent of all participants, as enshrined in the takaful contract.
3. The excess of the special account of all that can be allocated to participants. This surplus is derived after deducting all operating expenses in family takaful such as takaful benefit payments to beneficiaries, partners of participants who die and others.

However, the scholars (fuqaha) have different opinions in deciding the Takaful benefit to the nominee named in the beneficiary form. According to the basic principles, 'Hibah' needs to be done during life, but the benefits will only be effective after the Takaful

participants die. Takaful benefit status is still questionable whether it is the property of the deceased or not, and it must follow the *faraid* or can be Hibah. The Shariah Advisory Council of Bank Negara has decided in the 34<sup>th</sup> of meeting on 21<sup>st</sup> April 2003 on the Hibah application for the division of takaful benefits as follows:

1. Can be Hibah because it is absolutely the rights of the participants
2. Status of Hibah in the takaful plan is permanent and will not be changed to a will. The type of Hibah is called Conditional Hibah. The Hibah is in the form of an offer to the recipient for a certain time. In this context, the takaful benefits associated with the death of the participant and the certificate matures. In other words, if the participant is still alive when the certificate matures, the participant will own the benefits of takaful, and, if the participant passes away before the maturity of the certificate, then, the Hibah will be effective.
3. Participants have the rights to cancel the Hibah made before the certificate matures, because Hibah only becomes perfect after *al-Qabd*.
4. Participants have the rights to cancel the Hibah made to individuals and give it to others who are preferred by the participants or cancel participation in takaful, if the recipient dies before the certificate matures.
5. Takaful nomination form should be coordinated and clearly stated whether the beneficiary's status is nominee or trustee.

In the practices of Takaful Ikhlas, for family takaful products, the company will provide Hibah proposal form if the participant intends to give Hibah the takaful benefits after his death. The company also specifies the name of Hibah's recipients which are among parents / legal spouse / children / siblings. The aim is to take care of immediate family. The takaful concept of Hibah integration method is more competitive against conventional insurance that does not have an effort of such applications.

The Hibah can also be adapted as a concept in additional to takaful products and practised by most of the operator as an Education Plan Product by Takaful Ikhlas Sdn. Bhd. For example, this product is offered to parents who have children. Parents act as paying contributor (Hibah provider) and their child is a takaful participant (Hibah recipient). The Hibah like this is still available because it fulfils the requirement of all the rules and conditions.

The most important element related to takaful policy is to name the nominee. The purpose in the context of takaful is to facilitate the management of the property after the death of the participant. The nominee becomes a trustee and not the recipient ([www.e-fatwa.gov.my](http://www.e-fatwa.gov.my)). After the death of the participant, the trustee is responsible for managing the property according to the *faraid*, will or Hibah as participants or Takaful contract requirements that have been sealed. Accordingly, the participant must ensure that the nominee is among the most reliable and able to manage the property. However, if the nominee is named among the children, it is advisable to ensure that they have reached puberty in order to qualify *tasarruf*.

The appointment of an executor (Wasi) or trustee and Hibah is an important element in the distribution of property in takaful. The participants received a total amount of compensation in the event of misfortune. If the participant dies, a sum of money will be given to his heirs. The Hibah or executor would be considered according to the circumstances. If the husband makes a Hibah of compensation to his wife, she will get all the property without having to follow the *faraid*. However, if the participant is appointed as executor of his wife, she should divide the compensation to the heirs or beneficiaries in accordance with the consent of the *faraid*. In general, participants need to make smart selection mechanism to determine the best estate planning during life. In the aspects of: i) the nominee, ii) the appointment of Hibah proposals or iii) the appoint of executor, the actual role and functions of all three elements should be clearly understood.

From the aspects of risk management as previously discussed, it is clear that takaful is the best method to manage risk. For example, the wife can take the benefit of the takaful from her husband. If the husband falls sick, the cost of treatment and surgery could reach RM50, 000.00. So, with such a high cost, all deposits will melt and stock investments will be liquid. However, through the takaful with the contributions of two digits, it could overcome the medical costs. In this case, we are recommended to take the takaful in the name of our spouses. So, if compensation is received, it does not need to be *faraid* for the property that belongs to us. In general, the takaful is taken according to our needs and families.

## 50 The takaful product and Islamic estate planning

Takaful concept has been practised in various forms for over 1400 years. There were two situations which indicate that takaful were actually practised by the previous Muslim communities. The first situation concerned the practice of *Aqilah* or blood money and *Qasamah* or collective blood money. In *Aqilah* system, the members of the society agreed to help other members of the society in case of any member of a society was killed. The heir of the victim would be paid an amount of blood money as compensation by the close relatives of the killer. Those close relatives of the killer called as *Aqilah*, were supposed to pay the blood money on behalf of the killer. *Qasamah* concept protects policy holders life in the case of Qisas<sup>1</sup>. Under the doctrine of *Qasamah*, it appears that the payment of compensation has been made by the members of the community towards providing a financial security for the legal heirs of the deceased. In other words, it is compensation paid to relatives of a person who is killed and the killer cannot be found. *Qasamah* is compulsory when there is an unclear statement (Ahmad Ma sum Billah: 2007).

The first Islamic insurance company in the world was established in Sudan in 1979. In 1980s, takaful companies expanded across Europe. Afterward, in 1979, the Islamic Arab Insurance Company was the leading provider of shariah compliant takaful in

<sup>1</sup> Qisas is an Islamic term meaning equal retaliation. In the case of murder, it means the right of the heirs of a murder victim to demand execution of the murder.

Saudi Arabia. Following the success of the insurance company in Sudan, other Islamic insurance companies were established in Islamic and non-Islamic countries. They included: i) Dar Al-Mal Al-Islami in Geneva (1979); ii) Dar Al-Mal Al-Islami (DMI) in Switzerland (1979); iii) Islamic Takaful Co. in Luxembourg (1983); iv) Islamic Takaful in Bahrain (1983); v) Bait Al-Tamwil in Turkey (1986); vi) USA Takaful in the United State of America (1990); and vii) IBB Takaful in Brunei (1995) (Mohd Fadzil Yusof: 1996).

The takaful industry in Malaysia originated with the enactment of the Takaful Act 1984. Syarikat Takaful Malaysia Sdn Bhd was the first takaful operator in Malaysia. It began operations in 1985. The basis of Takaful Malaysia's operations is founded on the principles of shariah with the primary objective to provide comprehensive takaful facilities and services to the Muslims. The development of the takaful industry in Malaysia started in the 1980s when the need of the Muslim consumers for an alternative to the conventional life insurance prevailed as the result of a *fatwa* issued by the Malaysian National Fatwa Committee which ruled that conventional life insurance is a void contract due to the presence of the elements of *maisir*, *gharar* and *riba* (Central Bank Report, 2005).

The growing significance of the Malaysia takaful industry is further reflected by the following key developments in the industry such as strengthening regulatory framework, with focus on corporate governance and consumer protection. Enhancement of the enabling environment conducive to the growth of the takaful industry continues to be a key strategic focus. The prudential regulations are strengthened with a greater focus on corporate governance including specifying the minimum expectations, roles and responsibilities of the takaful operators board of directors, auditors and appointed actuaries. Regulations are also focused on enhancing disclosure as well as maintaining fairness for better protection of the consumers. To facilitate market development, guidelines on takaful products were issued.

Islamic financial planning, while similar to classic private banking advisory, requires a deep understanding of the Qur'anic laws that govern wealth, and a holistic approach that encompasses wealth acquisition, preservation and distribution. Beyond earthly concerns, Islamic wealth management is intended to allow for lifelong actions that are supposed to prepare the investors for the afterlife. The religious requirements of making a will and the Qur'anic rules of inheritance must be considered. Social responsibility and accountability are deeply embedded in Islamic financial planning, since worldly requirements and goals must balance spiritual obligations, creating an additional financial dimension.

Nowadays, given that the takaful products offer implications of these obligations, a financial advisor must be extremely skilled to guide a customer through a Muslim wealth life cycle. One of the takaful product offers is implemented in Islamic estate. There are several questions asking specifically about how to go about it after a Muslim passes away. The word estate here means the property of a deceased or in Malay it is known as *pusaka*. The administration of estate actually refers to the administration of

the property of a deceased. Estates of a deceased are of two types namely testate and intestate. A testate estate is an estate of a deceased person who dies leaving a will. On the other hand, an intestate estate is the estate of a deceased person who dies without leaving a will.

In Malaysia, intestate estates are of two types. There are small estates and non-small estates. A small estate is an estate consisting wholly or partly of immovable property not exceeding RM 600,000 in total value. It is provided in the Small Estates Distribution Act 1955 (Act 98). Other than that, there are non-small estates. The distribution of small estates is within the jurisdiction of the land administrators. Only appeals go to the High Court. The administration and distribution of non-small estates are within the jurisdiction of the High Court even though the parties involved are Muslim. Syariah Court has only jurisdiction over property matters in the matter of issuing a *sijil faraid* (faraid certificate).

Managing the Muslim life cycle begins by defining goals and prioritising each phase of the cycle either acquisition, preservation or distribution. Quantifiable goals, with time frames that accommodate an individual's risk tolerance, should be established and measured. Given the complexity of this process, and the financial products and engineering that may be required, as layman, customers are recommended to seek trusted, qualified advisors with proven track records in this specialized field.

Given the need to manage wealth distribution, Islamic financial planning has a significant estate planning component, so Muslim customers require advisors who understand Islamic trust structures, tax optimization and succession planning, as well as managing assets across a variety of legal jurisdictions which may not have shariah based inheritance laws. Muslims are also expected to manage risk, as indicated by the Hadith. Takaful, a form of Islamic insurance in which members are the insurers as well as the insured, may be relevant to protect against risks in a shariah compliant manner.

To sum, there are many motivating factors to develop a takaful product. Firstly, there has been a continuous awareness among Muslim about the beauty of Islam for coming close to one another for economic cooperation and increasing the ties and friendship and brotherhood through joint and united efforts in all their activities. Secondly, takaful plays the role to improve the well-being and quality of life of the Ummah. It aims to create an exploitation free society and upliftment of the entire society as a whole. The takaful system, which has been working for the welfare of the mankind, is not in contradiction with Islam. Thirdly, the management of the Islamic banks of Malaysia would establish a takaful company. This leads to the establishment of insurance products offered by Islamic banks.

## **60 Advantages of takaful over the conventional insurance**

Takaful system offers many of the usual benefits of conventional insurance systems. Unlike conventional insurance where the primary motive is to generate profit for the benefit of the shareholders, in takaful, the business is conducted for the benefit of the

participants who are entitled to also share in the profit of the business. Takaful benefits can be summarized as follows:

1. Financial protection services based on Islamic principles (Sobri Salamon: 1989).
2. Periodic payment in family takaful.
3. The takaful company and the participants will enter into a mudharabah (profit-sharing) - refer takaful model.
4. When a participant dies, takaful benefits are payable to his/her family.
5. The benefits in term of spiritual (Mohd Fadzil Yusof: 1996).

Takaful system should be within the shariah spirit and there may not be any justification to involve herewith any element compared with conventional insurance. The concept of Islam as Ad deen, a way of life in this world and the hereafter, where every ibadah is commanded by Allah SWT. The advantages of takaful are as follows:

1. Responsibility based on the principles of tabarru (donation)(al-Nisa :114)
2. Co-operation with the concept of ta awwun (mutual assistance) (al-Maidah:2)
3. Protection tool especially during hard times (kafalah)

The Takaful is becoming an important component of the global financial system. There has been a significant momentum in terms of growth and participation of takaful players in the global market. Uniquely, in the multi-racial societies of Malaysia, takaful products have attracted even the non-Muslim communities, despite the obvious religious and cultural differences. The interest shown by non-Muslims and the support of Muslims promote the awareness and the growth of takaful and what it has to offer. The full implementation of muamalat is equality and justice.

In addition, there is greater co-operation and collaboration amongst customers, government, operators and investors/shareholders in the area of takaful to meet the requirements of Islamic banking and financial institutions. The strengthening of these parties are summarised as follows Table C: (Bank Negara: 2004)

**Table C: The roles of each parties involved**

The parties	Advantages of takaful
Customers	<p>The customers benefits from cheaper takaful products than through conventional insurance</p> <p>Contribution payment methods are simplified since they are collected directly from bank accounts</p>
Government	<p>Able to use knowledge and skills to manage the takaful scheme with increasingly competitive takaful landscape</p>

(continued)

The parties	Advantages of takaful
Operators	<p>The takaful operators strategically by providing high quality products and services to satisfy their customers.</p> <p>When consumers believe that certain service providers are concerned about their needs, they are more inclined to choose these service providers.</p>
Investors/shareholders	Provide reasonable returns on their investment comparable with conventional insurance

In Table D, some of the key differentiating characteristics between Takaful and conventional insurance are as follows (Takaful Malaysia, 2010): The risk or potential loss is assumed by the insurer in conventional insurance. However, in takaful, the risk of loss is shared by the participants, in a co-operative arrangement.

In takaful, there is a clear segregation of the takaful funds from the operators funds. The takaful funds are formed from contributions of the participants (participants assets) and managed for their benefit by the operator. Underwriting surpluses or deficits are accrued to the funds. Meanwhile, the operators funds or the takaful licensees shareholders funds are maintained separately. The takaful operator receives a fee for operating the takaful funds and may also share investment returns and underwriting results.

Takaful funds do not invest in interest (riba)-bearing investments, unlike conventional insurers who do not have this restriction. A takaful company also needs to have its own shariah board composed of knowledgeable Islamic scholars. The boards role is to help ensure the modes, policies, sharing ratios and investments of the takaful companies comply with the shariah.

**Table D: Comparison between takaful and insurance (proprietary and mutual)**

Category	Takaful	Conventional insurance (Proprietary)	Conventional insurance (Mutual)
Contractual Relationship	A combination of tabarru contract (donation) and contractual relationship between: i) the individual participants and the pool of participants; and ii) participants and the takaful operators, as represented by the Takaful.	A policy in the form of an exchange contract (sale and purchase) between the insured (policyholder) and the insurance company	A policy in the form of a risk sharing contract between the individual insured and the pool of insured as represented by the cooperative insurance company

(continued)

<b>Category</b>	<b>Takaful</b>	<b>Conventional insurance (Proprietary)</b>	<b>Conventional insurance (Mutual)</b>
Responsibility of policyholders/ participants	<p>Risks are shared by Takaful fund participants</p> <p>Takaful funds are owned by participants while operators fund is owned by takaful institutions.</p> <p>Participants make donations (tabarru ) to the scheme, as well as an element of savings in life takaful where a plan includes such component.</p> <p>Any underwriting surplus belongs to the policyholders, who are also liable for any deficit</p> <p>In some takaful undertakings, the takaful operator manages underwriting under a mudharabah contract and receives a share of the underwriting surplus as a mudharib fee. Something similar may also occur in a wakalah contract with a wakalah performance related fee based on the surplus</p>	<p>Risks are assumed by the insurer</p> <p>Insurance funds are owned by the insurer</p> <p>Policyholders pay premium to insurer</p>	<p>Risks are assumed by the insurer</p> <p>Insurance funds are owned by the insurer</p> <p>Policyholders pay contributions to the pool in the form of premiums paid to the cooperative insurance company.</p> <p>Any underwriting surplus belongs to the policyholders, who are also liable for any deficit</p> <p>Annual surpluses are normally retained in underwriting reserves out of which any annual deficits are normally met.</p>
Liability of insurer/ operator	<p>Takaful operator acts as the administrator of the scheme and pays the takaful benefits from the takaful (underwriting) funds</p> <p>In the event of the impending insolvency of a takaful underwriting fund, the takaful operator may be expected to provide an interest free loan to the takaful fund to enable it to meet its obligations</p>	<p>Insurer is liable to pay claims according to the policy using the underwriting fund and, if necessary, shareholders funds.</p>	<p>Pool is liable to pay claims according to the policy using the underwriting fund.</p>

(continued)

Category	Takaful	Conventional insurance (Proprietary)	Conventional insurance (Mutual)
Access to capital	Access to share capital by takaful operator but not to debt, except for interest free loan from operator to underwriting fund	Access to share capital and debt with possible use of subordinated debt	No access to share capital, but access to debt with possible use of subordinated debt
Investment fund	Assets of the takaful funds are invested in shariah compliant instruments  Investments of Takaful funds are free from interest (riba) element  Takaful company has its own shariah board	There are no restrictions apart from those imposed for prudential reasons  Investments are not generally restricted from featuring an interest element  No shariah board	There are no restrictions apart from those imposed for prudential reasons  Investments are not generally restricted from featuring an interest element  No shariah board

In particular, the relationships between takaful and insurance (Proprietary and Mutual) as highlighted in Table D are unique to takaful undertakings, given that the takaful participants are not insured as in conventional proprietary insurance, but share the profits and bear the deficits of the takaful undertaking in a manner similar to conventional mutual insurance.

However, when takaful is compared with conventional insurance, the enormous growth potential for takaful becomes obvious. Takaful that grows rapidly as has been seen in Malaysia faces the challenge of ensuring that the systems that are in place can cope with such rapid growth. Along with these challenges, takaful providers must enhance their product innovation and continue to offer a high level of customer service. These efforts will not succeed without a close cooperation between Bank Negara Malaysia and Takaful operators who cooperate in the development of takaful industry.

## 70 Conclusion

The management of the Islamic estate in Malaysia plays an important role in ensuring the continuity of a harmonious family relationship. Although the provision of State law does not specify the number of instruments contained in the Islamic inheritance, the implementation becomes very effective and efficient. Furthermore, the cooperation between administrative institutions, legal and national finance implicates positively for the development and strengthening its execution.

The benefits of takaful should be understood in detail because it has its own position in terms of law and the method of implementation of Islam as an instrument of the Islamic estate. After the death of the takaful contributors, a dispute often occurs among people

about it and thus it gives difficulties in settling the estate. Therefore, if these benefits are managed properly and meet the Islamic inheritance law, the future of the nearest of kin who has the rights would be taken care.

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