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Türkiye Model Participation-Based Insurance, Takaful and Private Pension Certificate Program

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Strong legacy, bright future…

Introduction

The insurance sector is one of the two most important actors of the financial system, along with banks, in countries with high economic prosperity and a market economy.

Although the importance of this is not well known in some countries, in some Western countries insurance companies are so large that they have even established banks within themselves to utilize their income.

That's why the insurance industry is one of the most important sectors of every vibrant and large economy.

In other words, the insurance sector in developed countries is a sector that, due to its structure, affects and supports other areas of activity in the economy.

Definition of Insurance/Sigorta

The roots of the word insurance go back to the Italian language. Insurance comes from the Italian word “sicurta” (Seyidoğlu, 1999).

It is seen that the words "sigcuriye", "sikorta", "sikurta", "sikurita" and "sigurta" were first used in Turkish and eventually the word insurance emerged and was established (Kahya, 2010).

Insurance literally means "assurance« (Uygun, 2018).

As a concept, **insurance** is an activity aimed at eliminating the damages caused by possible risks that may arise in human life, based on a contract between an insured and an insurer.

People live in a world full of uncertainty and risks.

People naturally try to reduce these risks to feel safe and increase their well-being.

From this perspective, human history can, in a sense, be seen as the history of trying to reduce risks (Bernstein, 2015).

Insurance is here to reduce these risks and provide financial protection against the risks that occur.

It was born and developed in the quest to reduce or completely eliminate harms (Yayla, 2019).

History of Insurance

As a misconception, the fact that the insurance sector is more developed and institutionalized in rich Western countries leads to the belief that the insurance institution and sector was first born solely and entirely in the West.

However, this is contrary to the nature of human life.

The history of insurance is almost as old as the history of civilization.

The first examples of insurance appeared in Ancient China and Egypt.

No doubt. These first steps were not exactly the same as those of today, they were primitive and weak, but the motivations and pursuits of the sector were fundamentally the same.

Approximately 5000 years ago, that is, B.C. In the 3000s, Chinese traders as a way of reducing risk, they were transporting their goods by loading them on a single ship and distributing them across multiple ships.

B.C. In the 2000s, Babylonian merchants looked for ways to protect their goods.

Among the famous laws of Hammurabi, who went down in history as a lawmaker, was a contract called Darmatha, which aimed to compensate merchants for their losses. This contract was in force between shippers.

The Romans created insurance funds to cover the damages suffered by maritime transport during the Punic, Pön, Wars (Kahya, 2010).

Although its history goes back a long way, it is possible to trace the development of modern insurance since the 1250s.

The first premium-based insurance appeared in the cities of Northern Italy. These cities were cities such as Venice, Florence and Genoa (Orhaner, 2013).

History of Insurance

- Mercantalism,
- Bourgeoisie Sale of manufactured goods to Eastern Countries,
- Offically the first insurance was marine insurance, enacted in 1435. It is the Barcelona Ordinance.
- It was based on cooperation among Venetian merchants.
- The Jews exploited this and turned it into a means of profit.
- Sickness, work accident, disability and old-age insurance were established for workers in Germany between 1881 and 1889.
- Starting from 1924, "Unemployment insurance" was developed.

History of Insurance

Insurance-like practices existed in the Anatolian Seljuk State before the Ottoman Empire. The damages of the plundered caravans were compensated by the state. The expenses of this compensation were covered from the state treasury and the spoils obtained from the wars.

The entry of foreign capital and foreign businesses into the Ottoman markets accelerated the beginning and development of insurance8.

While these general developments prepared the ground for insurance or expanded the existing ground, some events also created additional incentives for insurance.

The great fire that broke out in Beyoğlu in 1870 seriously affected the more prosperous layer of society.

The destruction of approximately 3000 residences and workplaces and the death of many people revealed how important insurance is.

In 1892, the Ottoman Insurance Company was established.

Other companies were also established in the Ottoman Empire. One was founded in 1912 İhtiyat-ı Milli Hayat Sigorta is the Ottoman Company.

Another company established to work in the field of maritime transportation is Merakib-i Sayire-i Bahriye-i Ottoman Insurance Company.

A company established for all kinds of insurance transactions is Milli Sigorta Anonim Şirketi-i Umimiyesi.

In 1916, the Turkish National Insurance Company was established with the partnership of Phenix Insurance Company, headquartered in Vienna (Kahya, 2010).

History of Insurance

At the beginning of the Republic, new insurance companies were established and insurance legislation was improved by eliminating its deficiencies.

In 1924, the National Insurance Company, in 1925 Güneş Sigorta, Anadolu Sigorta and Bozkurt Turkey Umum Insurance Company were established.

Westernization in the legal field also affected the insurance sector.

With the Commercial Code that came into force in 1926, new provisions began to be implemented in insurance.

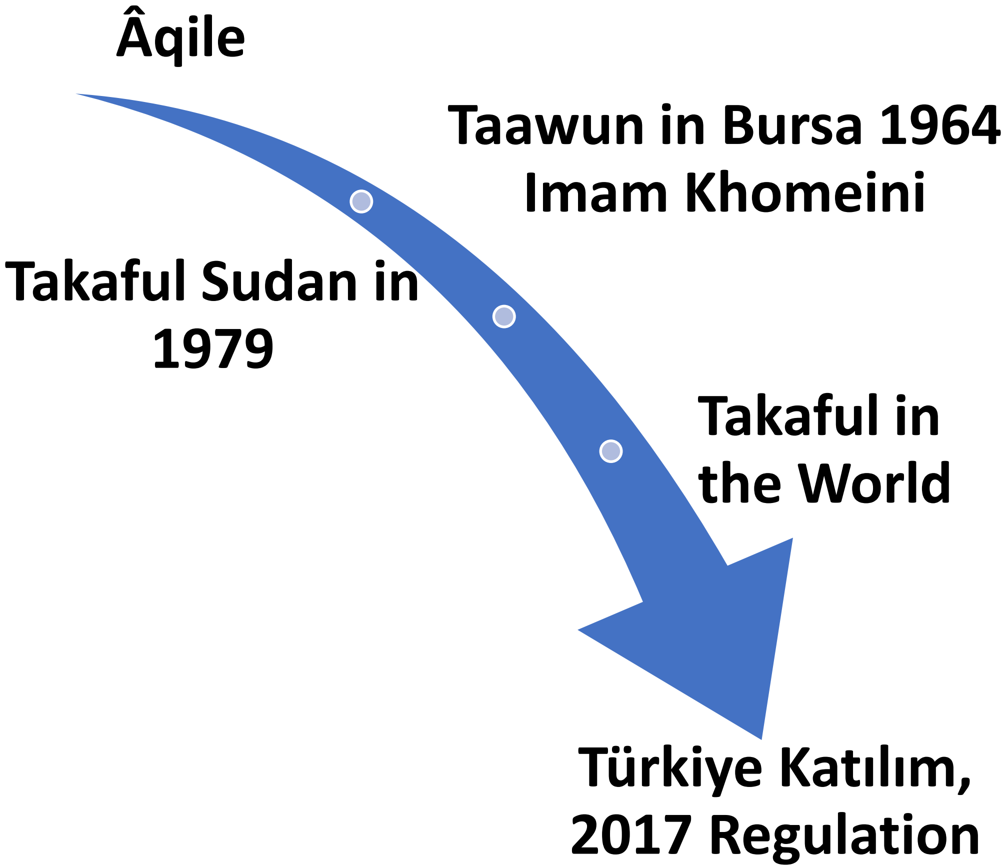
Insurance legislation was prepared in 1936.

On July 7, 1945, the Workers' Insurance Institution Law was put into effect.

The Social Security Law came into force on March 1, 1965.

Insurance in Islamic Tradition

- There is a social security institution called **âqile**.
- The aim is to ease the burden of the person who needs to pay the diet (compensation) and to help the victim.
- Strengthening the collective consciousness and sense of responsibility with the Âqile system.
- Man was created as the most honorable being.
- «and help one another in goodness and piety, and do not help one another in sin and aggression…» Maidah 2
- **First the term for the Islamic Insurance was used by Imam Khomeini in Bursa Turkiye in 1964** (by Prof. Muhammad Mahdi Asgari)
- Takaful insurance was established in Sudan in 1979 as The Islamic Insurance Co.
- In the United Arab Emirates, The Islamic Arab Insurance Co.
- The idea of takaful was expressed at the International Symposium on Islamic Banks and Strategies of Economic Cooperation" held in Germany, on 6-8 May 1981.
- The new draft regulation by the Insurance and Private Pension Regulation and Supervision Agency (SEDDK), the Turkish model (Katılım) will be taken as basis instead of the Malaysian model in the regulation published in 2017.



Development of The Takaful industry

In most Muslim countries, including the Middle East and North Africa (MENA) region, the development of insurance began emerging in early 1970,

In contemporary times, the first Takaful firm was operated in Sudan in 1979.

The Saudi Arabia company of Islamic Insurance, in 1979, followed Sudan.

Many countries, particularly in the Middle East like UEA (1980), Bahrain (1985), Qatar (1995), and Dubai (1997) stepped forward and followed Sudan to operate Islamic insurance.

The first General *Takaful* company Neova Insurance was established in the year 2009 and the first Family *Takaful* company Katilim Pension and Life initiated its operations in Turkey in the year 2013. However, the first regulations on *Takaful* came into the picture in 2017 in Turkey.

Currently, Turkey accounts for four full-fledged insurance companies and eight windows providing *Takaful* coverage for a large section of the population. Experts are expecting that the Islamic insurance (*Takaful*) to reach a 10% share of the Turkish Insurance Market by 2023 (COMCES, p.97)

Takaful vs Conventional

Conventional insurance use risk transfer techniques while Islamic finance utilizes risk-sharing methods.

The benefits of insurance are not only to give the policyholder peace of mind but also, to help to control or minimize the loss and enhance economic benefits as well.

Basically, Takaful or Islamic insurance operates based on Ta'awun (cooperation) as well as tabarru (donation) principles to fulfil the purpose of providing financial support to policyholders based on mutual benefit against accident or misfortune (Ayub, 2003; Hassan et al., 2018; Malik & Ullah, 2019).

CONCEPTUAL FRAMEWORK OF TAKAFUL

Takaful refers to a mutual guarantee or assurance arrangement among a group of people facing similar risks or the danger of incurring unforeseen losses, to individually contribute a certain
sum of money, which will be used to compensate any member of the group who incurs such losses (Alhabshi et al., 2012).

Legally, *Takaful* is defined as "*an arrangement based on mutual assistance under which Takaful participants agree to contribute to a common fund providing for mutual financial benefits payable to the Takaful participants or their beneficiaries on the occurrence of pre-agreed events*" (BNM, 2013).

The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) defines *Takaful* as "*a process of agreement among a group of persons to handle the injuries resulting fromspecific risks to which all of them are vulnerable*" (AAOIFI, 2017).

Therefore, *Takaful*, regardless of how it is interpreted in other languages, is a *Shari'ah* compliant mutual assurance contractual structure, where participants contribute their resources to mitigate against future risks based on agreed terms.

MISCONCEPTIONS ON *TAKAFUL*

Even though the practice of *Takaful* insurance is widely approved by the majority of contemporary Muslim scholars, there is still some confusion, debates and disputes about its permissibility and *Shari'ah* compatibility.

The misconceptions and relevant clarification on each of them are summarised as follows:

1. ***It is claimed that Takaful* contains an element of usury (*riba)* as it involves an exchange of money for money with an additional amount**.
However, *Takaful* does not involve *riba* as it is practised based on the principle of *tabarru'* in which the participants pay contributions as a donation for their mutual benefits. When a member suffers loss, the compensation paid to him is not *riba* because it is not a consideration of his *Takaful* contribution; but it is a donation from other participants.

2. **It is claimed that *Takaful* also contains an element of uncertainty (gharar). It is argued that the subject matter in the *Takaful* contract is the compensation to be paid on the occurrence of insured events such as death, accident or injury which is presumed to occur in the future that is uncertain; hence, this kind of transaction is prohibited by the *Shari'ah*.**
However, this perception is wrong since *Takaful* is a *tabarru'* (donation) contract in which uncertainty of the subject matter is tolerated. In contrast, in the contract of insurance, which is a sale-based transaction, the subject matter must be specified for such a transaction to be valid.

MİSCONCEPTIONS ON *TAKAFUL*

3. ***It is claimed that Takaful is also said to involve an element of maysir (gambling), as the policyholder pays a certain amount of contributions in the hope of better returns. It is argued that maysir comes into existence when the sum paid out by the Takaful company exceeds what the policyholder had already paid in terms of Takaful contributions in the event where the policyholder dies during the earlier period of the contract. It could also be because the Takaful benefit is paid together with bonuses and dividends.***

However, the above contention is incorrect because the payment to the policyholder (in the case of early death or early termination) is from the collective contributions provided by other policyholders based on the concept of *tabarru'*. The *Takaful* concept deals with pure risk and not speculative risk. Thus, *maysir* cannot be associated with *Takaful* since the element of risks that exists in *maysir* is not a pure risk but creates new, unnecessary speculative risks. It is also wrong to claim that there is an element of *maysir* because the aim of gambling is gaining material wealth while defeating other gamblers. *Takaful,* in contrast, is meant for mutual cooperation and assisting one another (*ta'awun*). It is mutual assistance to orphans, widows, other dependants as well as one's self against unexpected future loss, damage or perils.

MİSCONCEPTIONS ON *TAKAFUL*

4. ***It is claimed that Takaful is contrary to the principle of tawakkul (reliance on God or trusting in God's plan). This misconception is based on the fact that the policyholder puts trust on the Takaful company to protect him against an unanticipated loss instead of putting the trust in Allah the Almighty and this is in contradiction with the principle of tawakkul as we can only put our trust in Allah the Almighty***.

The claim can be rebutted by understanding the real concept of *tawakkul* whereby one does his best to protect the risk and afterwards hopes for the best by putting his trust in God and with God's blessings. The reason is that *Takaful* is used as a financial tool to provide indemnification or financial benefits on the occurrence of loss to reduce the financial burden suffered by the policyholder. It could be considered as an initiative or effort to the best of the policyholder's ability to overcome future unexpected difficulties. Also, based on the *tawakkul* concept, one is asked to strive for his best before putting his trust in Allah the Almighty.

5. ***It is claimed that Takaful means to insure one's life against death or to insure one's wealth and property. This is against Allah's will on the ground that no one can insure one's life or death except Allah. Thus, the practice of Takaful is unlawful. It was further argued that insuring or protecting wealth is only allowed in three situations; fear for unjust enrichment, fear of losing the property and fear of property being destroyed. However, in Takaful, the protection is given regardless of the presence of the above three situations.***

This argument seems to be groundless based on the reason that the *Takaful* certificate does not overpower Allah's will. *Takaful*'s aim is not to determine one's life or death but to ensure that the policyholder gets financial benefits from the *Takaful* fund on the occurrence of any unexpected loss or damage. Such transaction is in accordance with the *Shari'ah* principle as Islam encourages the people to do their best in protecting themselves from any difficulties and help one another.

MİSCONCEPTIONS ON *TAKAFUL*

6. ***It is claimed that Takaful also contains unlawful elements or conditions.*** A contract which is based on impermissible elements is not valid as the Prophet (PBUH) mentioned in a Hadith (Jami' al-Tirmizi, Vol.3 Book of Judgement, Hadith 1352): "*Muslims are bound by their stipulation or conditions except for the conditions that prohibit the lawful or the conditions that permit the unlawful*".
On the contrary, it is to be noted that Takaful does not contain unlawful conditions. It is based on such lawful contracts as *tabarru'*, *mudarabah* (trust partnership contract) and *wakalah* (agency contract). However, all terms and conditions in the contracts must be *Shari'ah* compliant or, otherwise, *Takaful* contract is not valid (COMCEC p.16-18).

SIGNIFICANCE OF INSURANCE AND *TAKAFUL*

Risk is the probability of two outcomes, and the ultimate outcome is usually unknown. Others see risk as the probability of loss in an event. Risk is an integral part of life as every human endeavour, particularly in business activities, entail risk. It is typically attributed to uncertain events in the future such as accidents, death, thefts, fire, diseases, and disasters, among others, that may result in losses, damage and financial difficulties. From time immemorial, people continue to develop measures and tools to manage risks. In modern times, such tools are primarily in the form of insurance, which has become indispensable for individuals and businesses to mitigate and manage risks that otherwise could result in losses and adversely affect people’s lives and their wealth.

The rapid development of Islamic finance has necessitated the need for *Shari'ah*-compliant alternative to conventional. This alternative, which is based on *Shari'ah* principles may also be referred to as “Islamic insurance”. *Takaful* operates in line with *Shari'ah* principles and, at the same time, offers the benefits and services equivalent to its conventional counterpart.

RE-TAKAFUL

Re-Takaful is defined as the "*Takaful* for the *Takaful* operators". It is a way for a primary *Takaful* operator (TO) to protect itself against unforeseen or extraordinary losses. The TO pays a premium from the *Takaful* fund on behalf of the participants to the *Re-Takaful* company, and in return, the *Re-Takaful* operator (RTO) provides security for the risk sharing. The need for Tos to engage RTO as a means of risk sharing is undoubtedly consistent with the concept of risk mitigation underlying the concept of *Takaful* and *Re-Takaful*. The *Re-Takaful* arrangement helps the TO to transfer some or selected risks to ensure the viability of its business and, most importantly, to ensure that all the policyholders are protected.

***Takaful* and *Re-Takaful* are like** Siamese twins that are highly dependent on each other. *Re- Takaful* functions as the primary risk-mitigating tool for the TOs in the form of providing a balance of the portfolios of the TOs, assisting them in attaining the homogeneous risks, avoiding unnecessary exposures of the TO's portfolio and strengthening of capital for TO as required by domestic laws or regulations. *Re-Takaful* mainly involves two parties to its contract – that is, the TO, which is also known as a ceding company, and the RTO. The TO needs to limit the risks undertaken from the *Takaful* participants by ceding it to the RTO that assumes a portion of the risk transferred by the TO.

FIGURE 2: *RE-TAKAFUL* CONCEPT

Source: Authors : COMCEC

PERMISSIBILITY OR LEGALITY OF *TAKAFUL*

There is no direct legal text in the Holy Qur'an and/or the Sunnah on the permissibility or non-permissibility of *Takaful*, but there are many legal texts in the Qur'an and prophetic precedents (*hadith*) that encourage the spirit of *Takaful* which is based on cooperation, shared responsibility, joint indemnity, common interest and solidarity. Allah the Almighty said:

«وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ ۖ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ ۚ وَاتَّقُوا اللَّهَ ۖ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ »

(and help one another in goodness and piety, and do not help one another in sin and aggression; and be careful of (your duty to) Allah; surely Allah is severe in requiting (evil)) (Maide 5:2)

The Prophet (PBUH) also advised the Muslims to help one another to relieve hardships, as narrated by Salim (r.a.): "*And he who relieved a Muslim from hardship Allah would relieve him from the hardships to which he would be put on the Day of Resurrection…*" (Sahih Muslim, *Kitab al-Birr wa al-silah wa al adab*).

the Prophet (PBUH) also mentioned that we should leave our offspring and dependants wealthy than to leave them destitute, hoping for other's help. Saad bin Abi Waqqas (r.a.) narrated that the Prophet (PBUH) said: "*Verily it is better for you to leave your offspring wealthy than to leave them poor asking others for help*" (Sahih Bukhari, Kitab al-Faraidh, Vol. 8, Book 80, no. 725).

PERMISSIBILITY OR LEGALITY OF *TAKAFUL*

The legality of *Takaful* could also be supported with analogies (*qiyas*) with several practices in Islamic law which is similar to it. These practices are the concept of *'aqilah* (paternal relatives' responsibility) in the payment of *diyah* (bloodmoney in the case of unintentional murder), the payment of *fidyah* (ransom of prisoners of war), the concept of *nahd/nihd* (sharing of food among members of a group) and *waqf* (Islamic charitable endowment).

The practice of *al-nahd* or *nihd,* which refers to the contributions made by a group of people for their expenses according to their number. is acknowledged by the Prophet (PBUH), as evident in several hadith, one of which is translated as follows:
"*When the people of Ash'ari tribe ran short of food during the holy battles, or the food of their families in Medina ran short, they would collect all their remaining food in one sheet and then distribute it among themselves equally by measuring it with a bowl. So, these people are from me, and I am from them.*" (Sahih Bukhari, Kitab al-Faraidh, Vol. 8, Book 80, no. 725).

Development of Takaful Industry in Türkiye

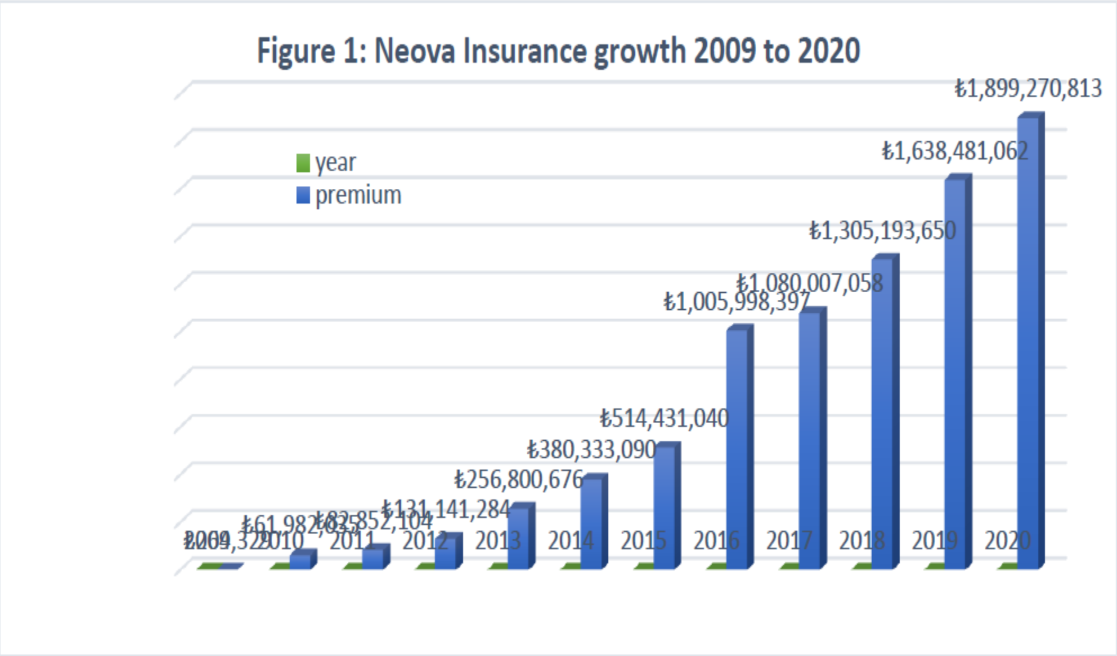
The first Islamic financing in Turkey began in 1984 with the operation of the Special Finance House institution, but the first takaful came late around 2009 (Aslan & Özdemir, 2015).

In terms of Islamic banking and finance, out of 52 banks (banking and financing) sectors operated in Turkey, six of them are full-fledged, meaning that they operate based on shari'ah-complaint rules and principles. Out of six, three banks are state-owned (Ziraat participation, Vakif participation, and Emlak participation), while the remaining three (Albaraka Participation, Turkiye Finance Participation, Kuveyt Turk Participation) are privately owned. According to a country report in December 2020, the total asset owned by the participation sector is estimated to be $55 billion, with a market share growing to 7.1% over the previous year's performance (Tan et al., 2021).

The Neova Sigorta, which started its production on December 16, 2009, was Turkey's first company operating following full-fledged participation insurance procedures.
It is a part of the Kuveyt Turk participation bank. Kuveyt Turk Participation Bank is a Joint Stock Company, having started its operations on March 31, 1989, in cooperation or partnership with Kuwait Finance House, Turkey Foundations of the General Directorate, the Governmental Social Security Organization of Kuwait, and the Islamic Development Bank (IsDB) as well.
The direct net gross written premium was 264,328 TL on December 31, 2009 (Neova, 2009, p. 8). Nowadays, the direct premium of Neova Takaful (Islamic Insurance) company reached about 1.90 billion TL on December 31, 2020, and it has been bringing a brand new concept to the insurance industry since its inception. Neova Sigorta has a share of 2.79% of the market share of Turkey's non-life insurance at the end of 2020 (Neova, 2020). At the end of 2020, life & non-life insurance premium written assets in Turkey are estimated to be 82.5 billion TL, while the total share of the participation|Islamic insurance sector in production is about 5.2%, with approximately 4.3 billion TL (Insurance Association of Turkey, 2020).

Development of Takaful Industry in Türkiye

Figure 1: Neova insurance growth from 2009 to 2020



Source: Adem Aman Shibu, Monzer Kahf,

Table 1: Neova Insurance Growth 2009 to 2020

Neova Company Profile 2009 to 2020						
company name	year	premium	market share in non-life insurance	number of regions	number of agency	numbers of branches of banks
Neova	2009	₺264,329	N/A	4	120	130
Neova	2010	₺61,982,035	N/A	5	303	1250
Neova	2011	₺82.852.104	N/A	7	420	450
Neova	2012	₺131.141.284	0,77	N/A	563	571
Neova	2013	₺256.800.676	1,23	10	812	673
Neova	2014	₺380.333.090	1,67	10	1000	785
Neova	2015	₺514.431.040	1,89	10	1150	847
Neova	2016	₺1.005.998.397	2,84	12	1500	909
Neova	2017	₺1.080.007.058	2,72	12	1900	975
Neova	2018	₺1.305.193.650	2,73	13	2100	1,047
Neova	2019	₺1.638.481.062	2,83	13	2200	1,088
Neova	2020	₺1.899.270.813	2,79	13	2398	1147

Source: Adem Aman Shibu, Monzer Kahf, (Neova annual Report 2009 to 2020)

Development of Takaful Industry in Türkiye

Adem Aman Shibu, Monzer Kahf

Table 3: Top 10 Insurance Market Share Versus Neova Participation Insurance 2021

Company Name	Market share	Last year market share
Turkish Insurance Plc	10.73 %	10.46%
Anadolu Limited Turkish Insurance	10.07%	9.53%
Allianz Insurance	9.67%	9.90%
Ak Insurance Plc	6.43%	6.02%
Axa Insurance Plc	5.03%	5.48%
Hdı Insurance Plc	4.44%	4.06%
Turkey Life & Retirment Plc	3.84%	5.61%
Sompo Insurance Plc	3.29%	4.17%
Mapfre Insurance Plc	3.03%	3.10%
Neova Participation Insurance Plc	2.54%	2.17%
Total	**59.05%**	**60.50%**

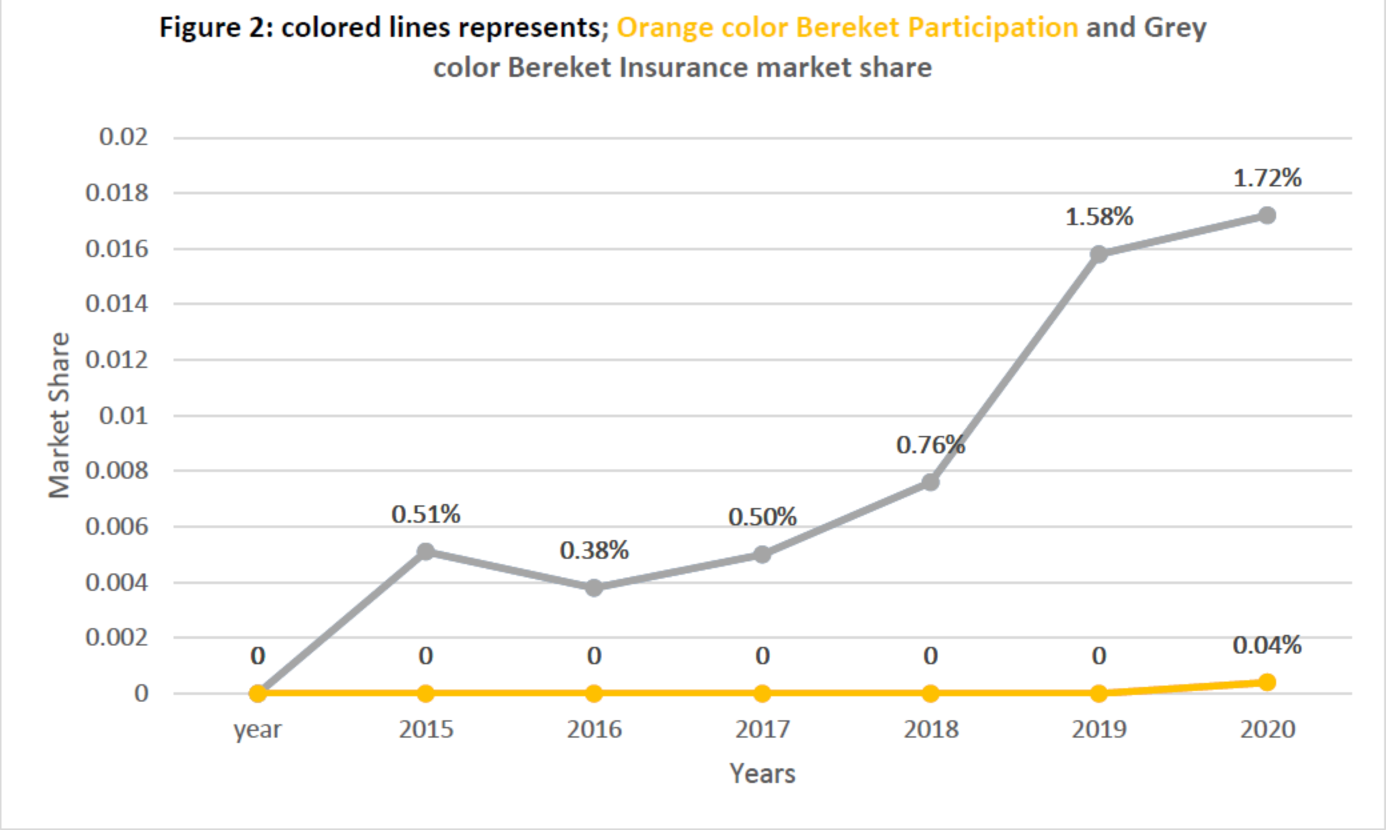
Source: Author's 2021, TSB visual Analysis Reports (English)

Development of Takaful Industry in Türkiye

Bereket participation Insurance plc is another full-fledged participation insurance operating in Turkey-based on shari'ah ruling and principles. It has been operating since 22 July 2019 and registered in the Trade Registry journal in the same year as part of Bereket insurance company (dependent on Bereket insurance).

Conventional insurance in Türkiye is the most dominant and leading sector in terms of market share. The market share of Bereket participation insurance in the graph next shows how much it is in an infancy stage using 0.04%. The comparison between Bereket conventional insurance and Bereket participation bank in insurance market share is 1,27% and 0,04%, respectively.

Figure 2: Cumulative Written Premium of Bereket Insurance vs Bereket Participation Market Share



Source: TSB Visual Analysis Reports (English) Dec 12, 2021

Takaful Funds and Islamic Investment in Türkiye

Although Turkey's economy was also influenced by the covid-19 pandemic, there are 39 no-life insurance companies, 21 life and pension companies, and three reinsurance companies providing service in Türkiye, including participation or Islamic Insurance as well.

The gross written premium of non-life insurance value is 68.2 billion TL, life and pension insurance premiums are 170.2 billion TL and 14.4 billion TL, respectively and also reinsurance companies produced around 3 billion written premium insurance in 2020. The total premium of the participation insurance sector (Takaful company) is near 2 billion TL.

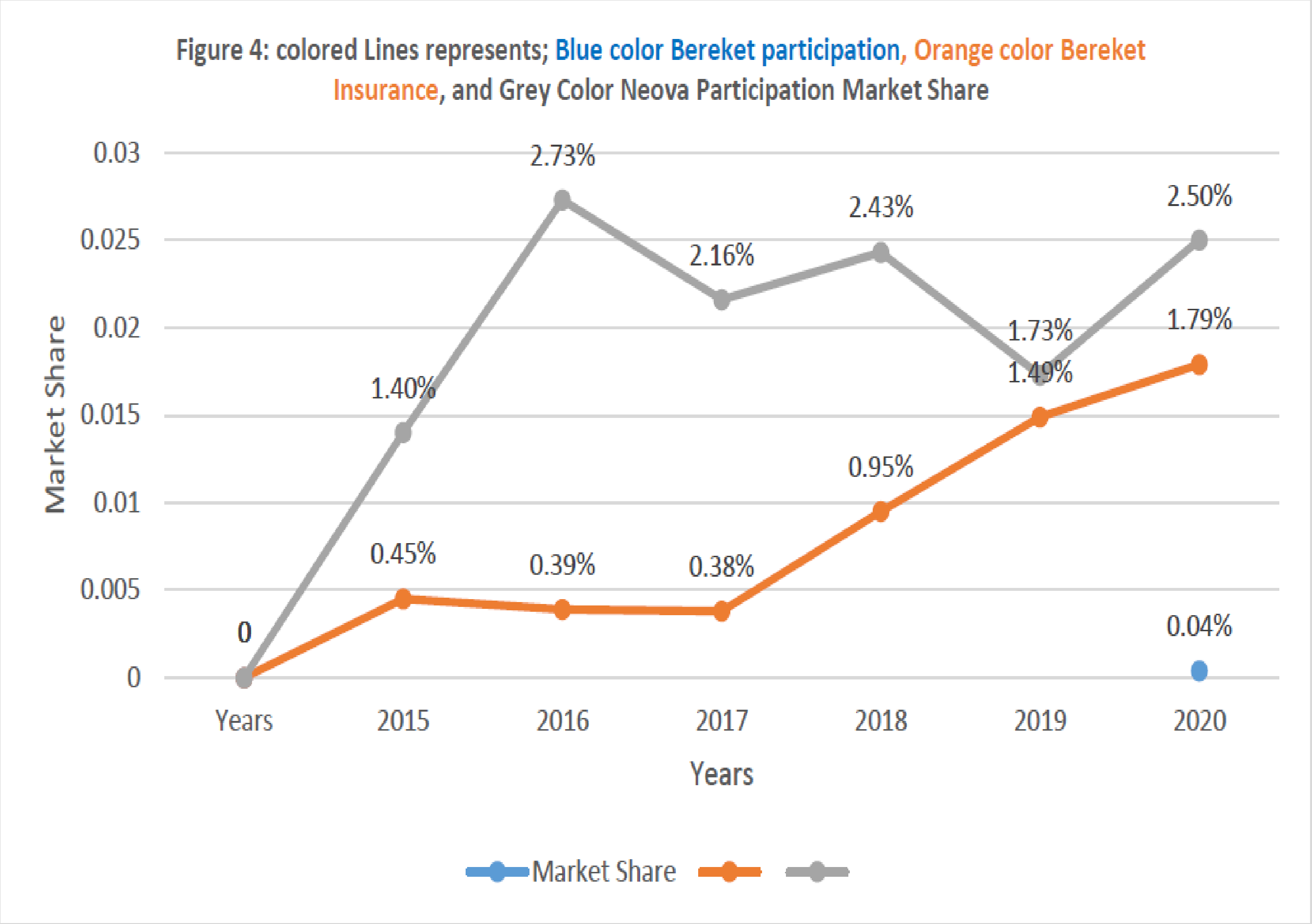
The participation sector in insurance activities in Turkey started in 2009 and has a history of approximately 11 years. In 2019, a total of twelve companies were operating. In the Participating Insurance industry, this number reached 14 companies in total in the first quarter of 2020, and the sector continued to develop. However, as a result of the merger of public companies during the year, this number decreased. At the end of 2020, it was realized as 12 companies. As of the end of 2020, 7 of these companies are in non-life branches, whereas the other five operate in life/retirement branches. Besides, six of these companies are "full participation models", and they carry out all their transactions within the framework of participation insurance rules and principles. The other six companies are conventional insurance (Laçinbala & Ünsal, 2019).

Takaful Funds and Islamic Investment in Türkiye

However, on December 19, 2020, the provisions of the regulation published in the Official Journal No: 31339 has been announced that companies that want to continue after this date should terminate the window system and continue with the full-fledged participation rules and principles following as stated or described in the above regulation. If the company does not want to continue, its portfolio following the new regulation will be transferred to companies under the supervision of the Insurance and Private Pension Regulation and Supervision Agency to manage the process.

The following chart shows the cumulative or gross written premium insurance market share percentage of some participation insurance. To mention some Neova participation insurance, Bereket participation insurance, and Bereket insurance market share comparison graph illustrate as follows:

Figure 4: Cumulative Written Premium of Bereket Insurance & participation vs Neova Participation Dec 12, 2021



Source: TSB Visual Analysis Reports (English) Dec 12, 2021 by Adem Aman Shibu, Monzer Kahf

Takaful Funds and Islamic Investment in Türkiye

In the past two decades, Turkey's economy has been growing rapidly, and Turkey's insurance sector is also growing fast from time to time simultaneously. Even though Turkey's economy grew and developed well, still, the volume of the insurance industry is small when compared with the rest World. According to some, studies show the Premium production of Turkey was $12.7 million in 2013, whereas the size of the world, England, France, Germany, and the EU is $4, 640.9, $329.6, $254.75, $247.16, and $1, 494.3 million respectively (Yıldırım & Çakar, 2015). İslam Ekonomisi Dergisi, 2022/2 60.

Turkey's insurance industry assets are growing by 4% when compared to other financial sectors. The premium (written premium) gross reached 40.5 billion TL, whereas the non-life insurance was almost 35 Billion TL (Sakallıoğlu, 2017).

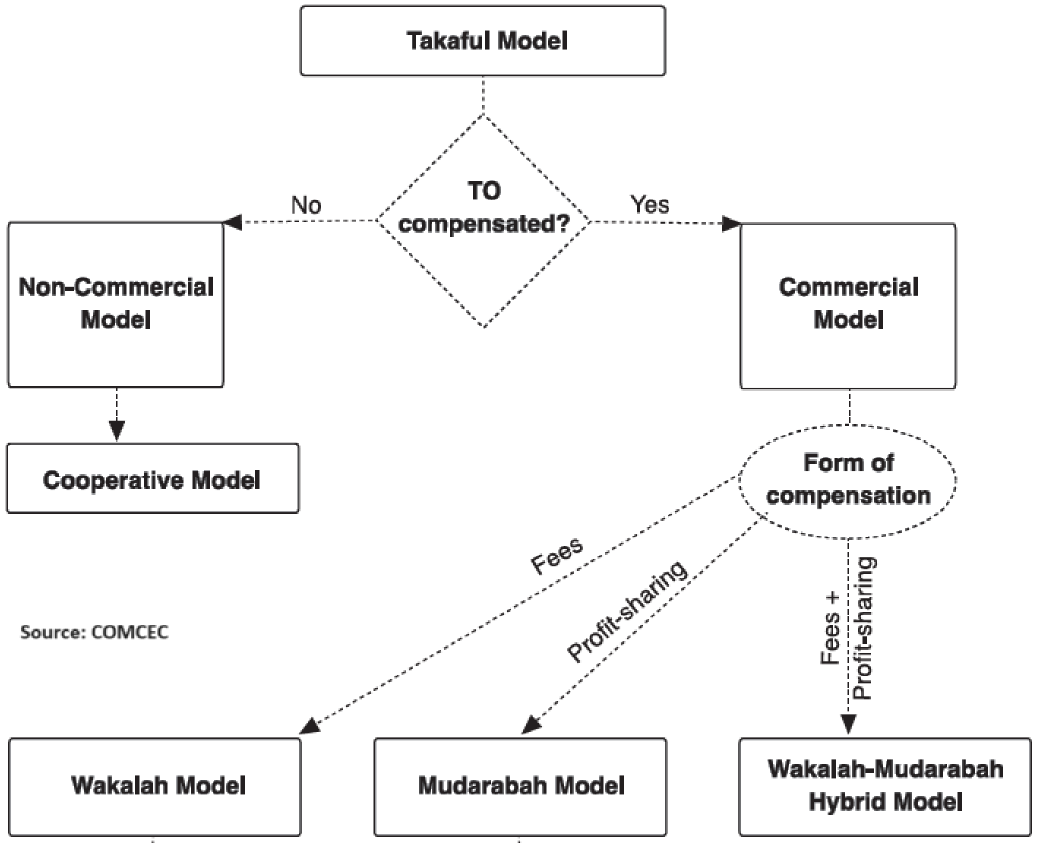
The share of Islamic insurance funds in Turkey, particularly in the non-life insurance market, was 2.80 per cent on December 31, 2020. Neova participation insurance and Bereket participation insurance are both companies, major operating according to interest-free and PLS-based rules and principles Takaful (Islamic insurance) industry in Turkey. Both companies' total capital is estimated to be 1.93 billion TL (Neova's capital on December 31, 2020, is equal to 1,90 billion TL, and Bereket participation insurance on March 31, 2021, is equal to 34.11 billion TL).

Takaful Models in Türkiye

Islamic Insurance (participation insurance) in Türkiye follows or operates within the framework of the **Wakalah**, **Mudaraba** as well as mixed (**hybrid**) mode. However there are four types of Takaful models in the world: **Ta'awuni** (Cooperative) Model, **Wakalah** (Principal-Agent) Model, **Mudarabah** (Profit Sharing) Model, Wakalah-Mudarabah (Agency-Partnership) **Hybrid Model**.

Ta'awuni (Cooperative) Model: This model is a non-commercial arrangement based on the concept of brotherhood, solidarity and cooperation among the participants, to protect each other in case of misfortune or calamity befalling any of the participants. The Trustee (the *Takaful* company) manages it on behalf of the participants. The contributions by each participant to the *Takaful* fund takes the form of *tabarru'*. The entire profit from the *Shari'ah*-compliant investment, as well as any underwriting surplus, belong to the participants only. In modern times, this model was first implemented in Sudan in 1979.

FIGURE 3: CLASSIFICATION OF *TAKAFUL* BUSINESS MODELS

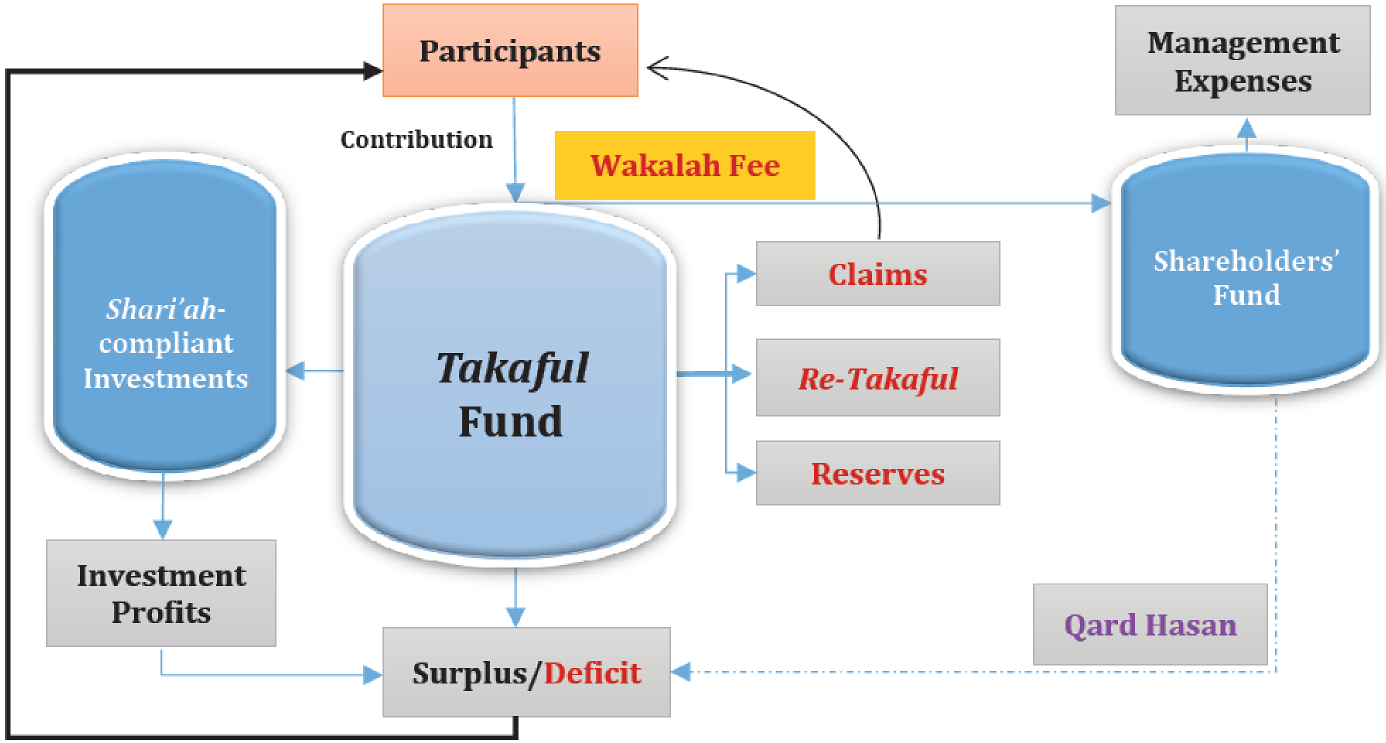


Source: COMCEC

Takaful Models in Türkiye

***Wakalah* (Principal-Agent) Model:** this model as ‘*one person representing the other as the latter's agent*’. In the *wakalah* model, the TO serves as an agent of the participants, collectively. This model is widely used in the *Takaful* market and it has been used since 1979 in the Middle East but adopted in Malaysia by *Takaful* Ikhlas in 2003. There are two unique *wakalah* models in the market: that is, the pure *wakalah* and the modified *wakalah*. **The structure for both models is quite similar** except for the part that involves the distribution of the underwriting surplus.

FIGURE 4: PURE WAKALAH MODEL



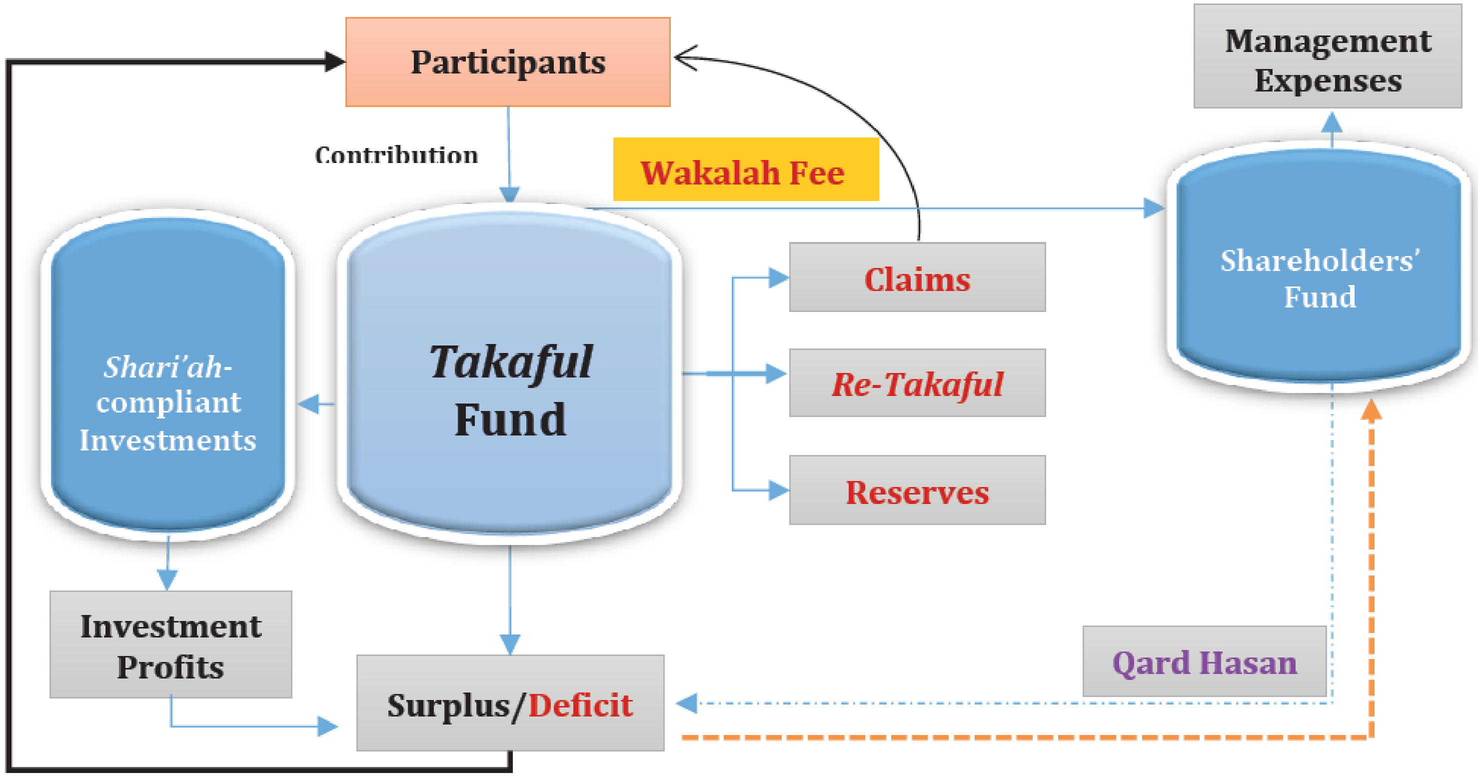
Notes: The figure presents two parties – Participants and TO. *Takaful* Fund and Shareholders' Fund are both managed by the TO. *Source: Adapted from PwC (2008).*

Takaful Models in Türkiye

The structure of the pure *wakalah* model is shown in here:
1. A contribution is paid by the *Takaful* participant as *tabarru'* to the *Takaful* fund;
2. *Takaful* participant appoints and employs the TO as agent or *wakil*;
3. The agent will deduct the *wakalah* fee from the contribution (this fee will be an upfront charge and go to the shareholders and agent, in addition to the fee for administering the fund);
4. The amount of contribution after deducting the *wakalah* fees will go to the *Takaful* fund;
5. *Takaful* fund will be invested by the agent in *Shari'ah*-compliant instruments;
6. The profit from the investment will be added to the *Takaful* fund. Then the claims, reserves and *Re-Takaful* will be subtracted;
7. The whole surplus in this model must be distributed back to the participants.; and
8. In case of underwriting deficit, the TO commits to provide the fund *qard hasan* (interest-free benevolent loan) to cover the shortage. Moreover, when the *Takaful* fund achieves surplus later, the loan the TO earlier provided to the fund will be fully redeemed.

Takaful Models in Türkiye

FIGURE 5: MODIFIED WAKALAH MODEL



Notes: The figure presents two parties – Participants and TO. *Takaful* Fund and Shareholders' Fund are both managed by the TO. *Source: Adapted from PwC (2008).*

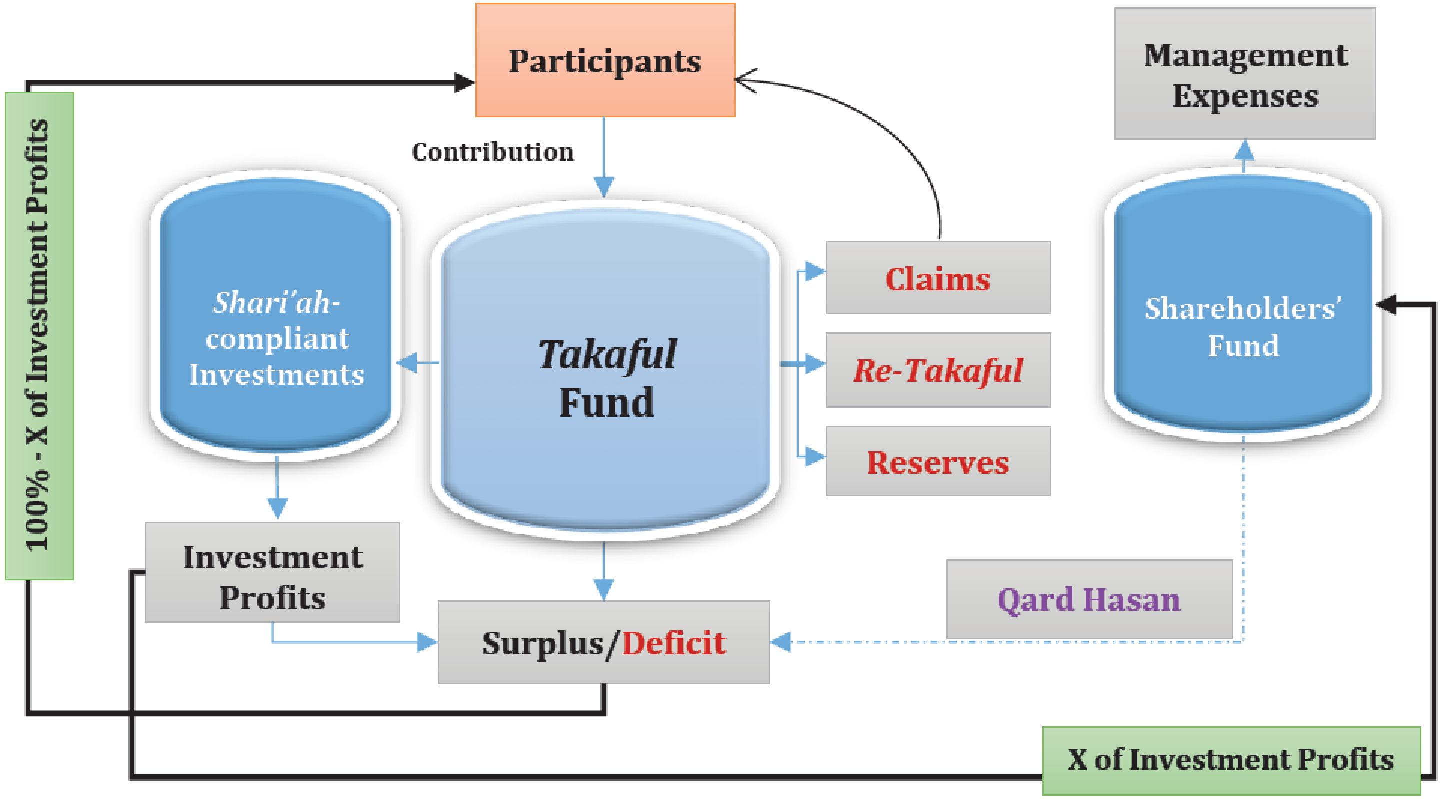
In contrast, in the Modified *Wakalah* model, the TO claims a portion of the underwriting surplus as an additional incentive for efficient performance (see Figure 5).

Takaful Models in Türkiye

***Mudarabah* (Profit Sharing) Model:** The *mudarabah* model is based on a mode of financing in Islamic finance that is based on a partnership contract between a capital provider, who is usually the sleeping partner and the entrepreneur, who invests the funds in a *Shari'ah* compliant business. In a typical *mudarabah* contract, one party provides the capital, known as *rab al-mal*, or capital provider, while the other party, known as the *mudarib* or entrepreneur offers his or her expertise in business management and investment.

The profit-sharing ratio will be agreed upfront between the parties, while in case of financial loss, it will be borne solely by the capital provider except in cases of explicit negligence on the part of the entrepreneur.

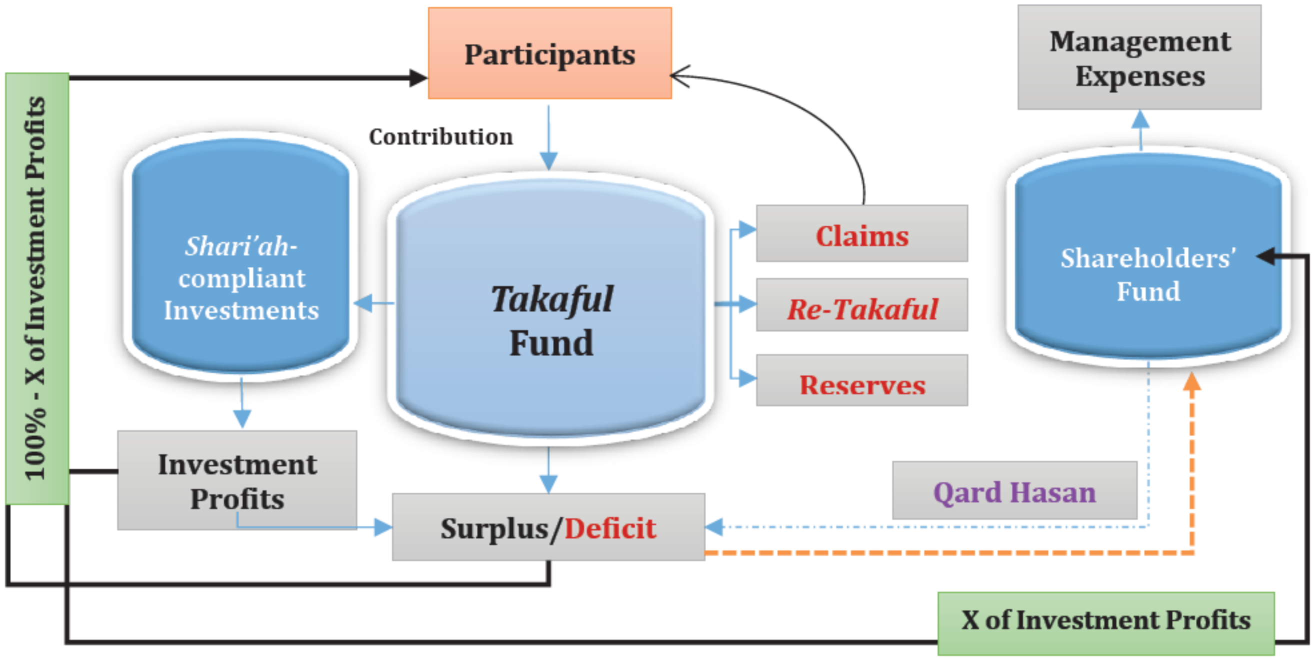
FIGURE 6: PURE MUDARABAH MODEL



Notes: The figure presents two parties – Participants and TO. *Takaful* Fund and Shareholders' Fund are both managed by the TO. *Source: Adapted from PwC (2008).*

Takaful Models in Türkiye

FIGURE 7: MODIFIED MUDARABAH MODEL



Notes: The figure presents two parties – Participants and TO. *Takaful* Fund and Shareholders' Fund are both managed by the TO. *Source: Adapted from PwC (2008).*

In contrast to pure *mudarabah* model, under the modified version of this model (see Figure 7), the TO shares the underwriting surplus with the participants as an incentive for efficient management of funds.

Takaful Models in Türkiye

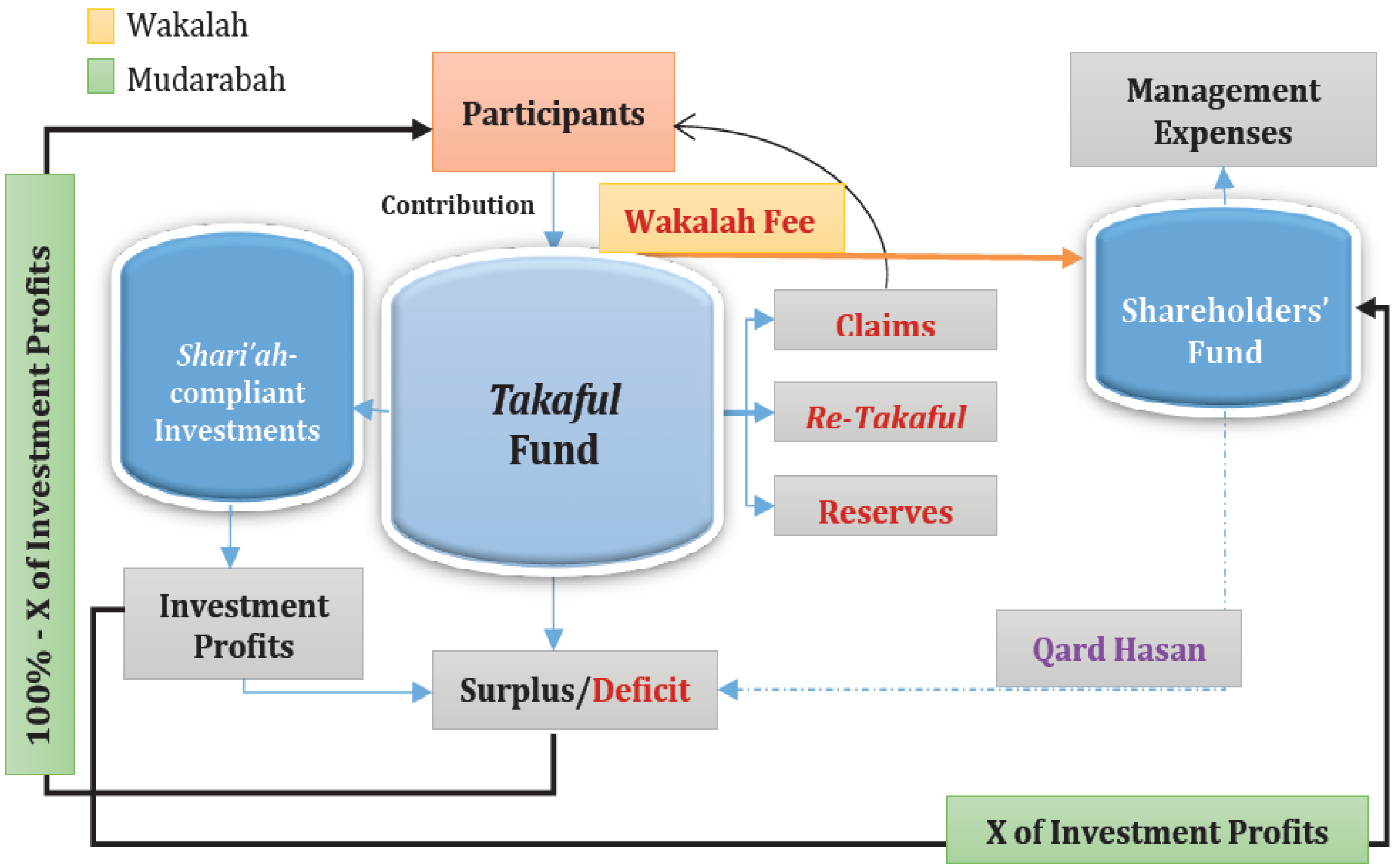
***Wakalah-Mudarabah* (Agency-Partnership) Hybrid Model:** This hybrid model combines the features of two different models: *wakalah* and *mudarabah*. The *wakalah* contract is used for the underwriting in which the *wakalah* fee is an up-front fixed fee charged by the TO while the *mudarabah* contract is adopted for investing the participants' fund in the Islamic finance market and sharing the outcomes of investment.

The structure of the *Wakalah-Mudarabah* Hybrid model is presented in *Figure 8* above:

1. The participants contribute to the *Takaful* fund through *tabarru'* contract;
2. The participants appoint the TO as agent and *mudarib*;
3. The TO will deduct up-front fee which is called the *wakalah* fee to manage the fund;
4. The remaining amount will be invested by the *mudarib* in *Shari'ah*-compliant investments;
5. The profit of the investment will be divided between the *Takaful* fund and TO, or *mudarib,* based on the pre-agreed ratios; and
6. Claims, reserve and *Re-Takaful* will be deducted from the *Takaful* fund, and the surplus goes to the participants or shared with TO.

Takaful Models in Türkiye

FIGURE 8: WAKALAH-MUDARABAH HYBRID MODEL



Notes: The figure presents two parties – Participants and TO. Takaful Fund and Shareholders' Fund are both managed by the TO. *Source: Source: Adapted from PwC (2008).*

Development of Takaful Industry in Türkiye

Similarly, *Takaful* is developing parallel to the Islamic financial industry, and overall Islamic finance is growing with *Takaful* in Turkey. *Table 17* shows the list of full-fledged *Takaful* companies and windows in the Islamic insurance sector of Turkey.

TABLE 17: FULL-FLEDGED *TAKAFUL* COMPANIES AND WINDOWS IN TURKEY AS OF END 2018

Company Name	*Takaful* Type
Neova Insurance	General *Takaful*
Katilim Pension and Life	Family *Takaful*
Bereket Insurance	General *Takaful*
Bereket Pension and Life	Family *Takaful*
Güneş Insurance	Window
Unico Insurance	Window
Groupama Insurance	Window
Vakıf Pension and Life	Window
HDI Insurance	Window
Ziraat Insurance	Window
Ziraat Pension and Life	Window
Doga Insurance	Window

Source: Authors : COMCEC

Figure 25 shows the total market share of the *Takaful* sector in Turkey. As of 2018, the share of *Takaful* was TRY2.23 billion while it was only around TRY 383 million in the year 2014. In terms of total market share, it accounted for only 1.51% market share in total insurance sector in year 2014. Then, it substantially increased to 4.31% by year 2018.

FIGURE 25: TOTAL *TAKAFUL* MARKET SHARE IN TURKEY

Source: IAT : COMCEC

Issues and Challenges in Türkiye

There are many issues and challenges that stand as obstacles in the way of the development of
Takaful in Turkey. The following are examples to mention:

- **Global Developments**: Premium inflation caused by the increase of reinsurance costs after the excessive appreciation of the US Dollar with the currency crash.
- **Multinational Companies**: Carrying out the effect of uncertainties arising from local economies.
- **Economic Outlook**: The pressure of financial scarcity on growth in Turkey's economy.
- **Interest Rate**: Economic slow-down caused by a lack of long-term investment because of interest rate fluctuations.
- **Banking Sector Performance**: Negative effect of low performance in the banking sector, one of the main distribution channels for insurance, on policy production and premium volume.
- **Minimum Wage Increases:** Contingency inflation caused by uncorrelated increases in the minimum wage with the growth rate.

Issues and Challenges in Türkiye, Cont…

Verdicts: Unexpected contingency expenses caused by the court decisions which increase the insurance coverage.

- **Ageing Population**: Increasing contingency expenses caused by social security supplementary products.
- **Legal Regulatory**: Absence of Islamic finance act and central *Shari'ah* board.
- **Taxation**: Lack of proper taxation framework related to *Takaful* underwriting surplus.
- **Academic**: Dearth of academician in every academic sector, especially universities, lack of enough research and publication, insufficient conferences, seminars, and symposiums.
- **Technical**: Absence of *Re-Takaful* industry, accounting standard related to *Takaful*, and main *Takaful* software.

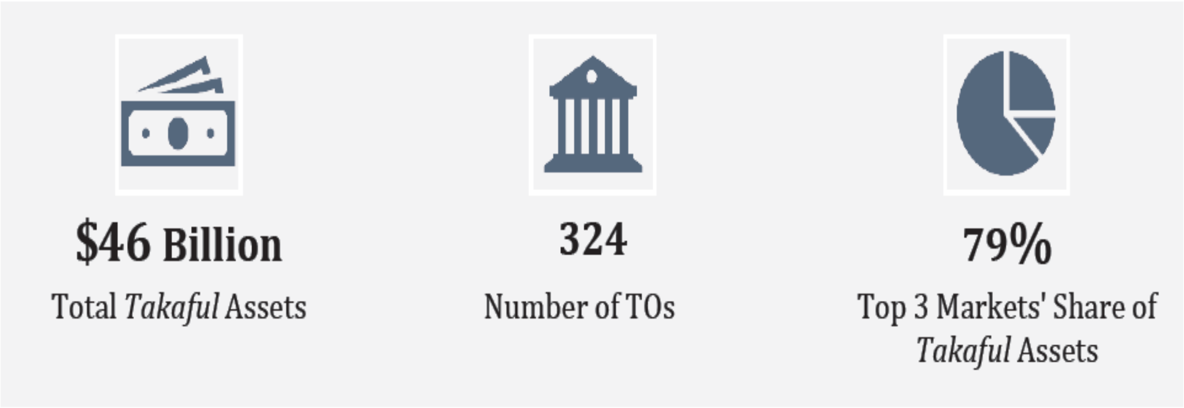
The Global *Takaful* Industry

Obviously, the *Takaful* market has gained a high momentum, although *Takaful* contribution is small compared to other markets in the Islamic finance industry. The total *Takaful* assets grew up to US$ 46 billion in 2017 with 324 *Takaful* companies operating around the world in 2017 (see *Figure 9*).

However, *Takaful* remains the smallest contributor to the Islamic finances industry in terms of assets. Moreover, the top three *Takaful* markets – Saudi Arabia, Iran, and Malaysia - make up 79% of the market's share of total *Takaful* assets in 2017 (see *Figure 11*). Also, there were more than 112 general TOs and 76 life TOs around the world in 2017. For composite *Takaful*, there were 113 composite TOs and 21 RTOs around the world in 2017 based on the total assets in the global *Takaful* market.

According to Thomson Reuters (2018), Saudi Arabia is the most significant market that contributed US$ 15 billion in total assets for *Takaful* markets with 35 TOs, including *Takaful* windows in 2017 (see *Figure 10*).

FIGURE 9: TOTAL *TAKAFUL* ASSETS IN 2017



Source: Thomson Reuters (2018)

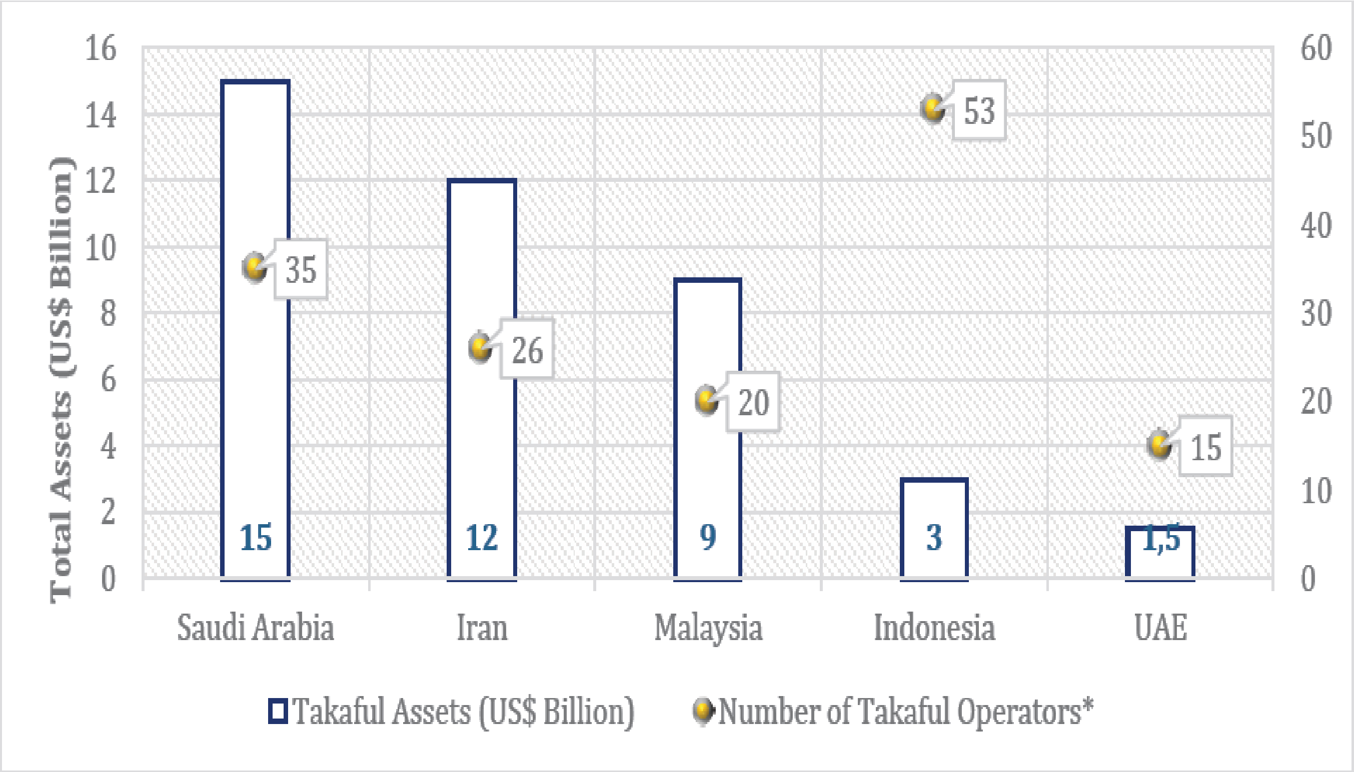
FIGURE 10: TOTAL NUMBER OF *TAKAFUL* OPERATORS - 2017

Source: Thomson Reuters (2018)

The Global *Takaful* Industry

Similarly, Malaysia contributed more than US$ 9 billion in total assets with 20 *Takaful* companies operating in Malaysia, including *Takaful* windows. *Takaful* market in Iran is growing slowly by US$ 12 billion in assets with 26 TOs, including *Takaful* windows. The other two countries that contribute to *Takaful* markets are Indonesia and the UAE. Indonesia is the second Asian country after Malaysia, which provides more than US$ 3 billion to global *Takaful* markets.

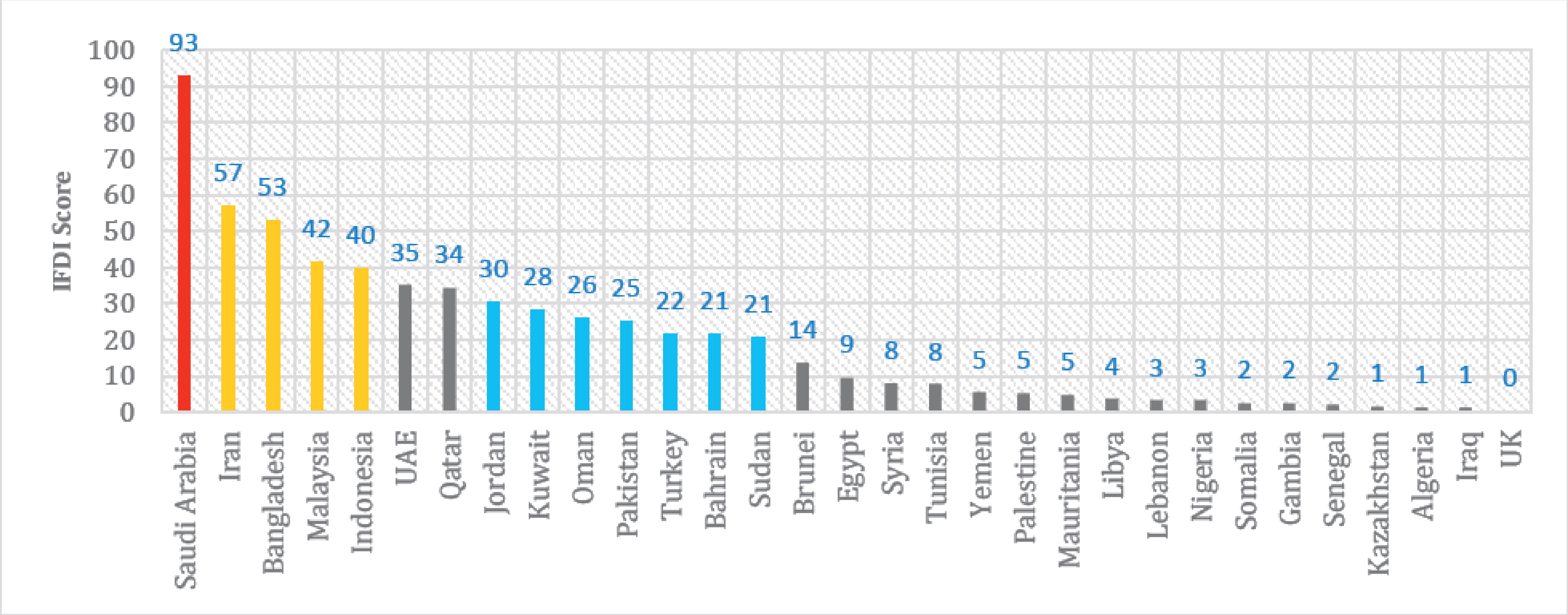
FIGURE 11: TOP GLOBAL *TAKAFUL* MARKETS 2017



Source: Thomson Reuters (2018)

The Global *Takaful* Industry

FIGURE 1: *TAKAFUL* INDUSTRY DEVELOPMENT SCORE



Source: IFDI in the year of 2019COMCEC

Takaful Model Insurance Used in the World:

Takaful Model Principles and Practice

Participation Insurance Company (Takaful Operator):
It manages the risk fund in return for a management fee and lends the fund interest-free if the fund is insufficient for payments. In principle, it is only an intermediary. In practice, it can take on the risk like a traditional insurance company.

Insured (Customers):

Compensation or Savings/balance refund

Premium/ Donation

Management Fee

Karzı Hasan

Risk/Gift Fund:

Premiums paid as gifts / Damages are paid with donations.

Not providing coverage for issues and risks that are not legitimate by religion.

Evaluation of premiums and other financial assets according to participation principles.

Advisory Committee

Türkiye Model Participation-Based Insurance (Katılım)

Functioning of the Türkiye Model:

Participation Insurance Company

It evaluates the premiums collected from customers within the framework of participation principles and makes the necessary compensation payments. It does not provide insurance coverage or services to issues and areas that are not religiously legitimate.

Premium

Compensation

Insured (Customers):

Not taking into consideration religiously illegitimate issues and risks

Evaluation of premiums and other financial assets according to participation principles

Advisory Committee

Private Pension System (BES) in Türkiye

- Private Pension System is a private retirement system that enables individuals to save during their working lives for a comfortable retirement period and provides additional income to retirement income as a complement to the Social Security System.

- In this way, a second retirement right is obtained.

System Operation

- It's based on the principle of collecting and evaluating savings and paying a lump sum or salary to the person.
- Evaluated in retirement investment funds
- The State Contribution is 30% from 1 January 2023. For example: for 1,000 TL, receive 300 TL state contribution.
- Staying in the system for 10 years and turn 56 years old, you will be eligible for retirement.
- Once the retirement right is obtained, the savings can be taken or evaluated collectively or within the framework of a specific program.

Participation Insurance System in Türkiye

The Ministry of Treasury and Finance is the sole regulatory actor for licensing, regulating, and supervising the overall insurance sector. The Ministry has two separate departments for regulating and supervising the industry. The first is General Directorate of Insurance and the second is Insurance Supervision Board.

The existing regulation on *Takaful* in Turkey was issued in 2017 by the Ministry of Treasury and Finance (Resmi Gazete, n.d.). The Regulation on Working Principles and Procedures of Participation Insurance (No. 30186) mainly regulates the operating models and the governance of *Shari'ah* Advisory Committee. The rest falls under the common legislation (Insurance Law No. 5684) with conventional insurance. The Regulation has two emphases: one is about technical issues, and the second one is on compliance and governance.

Main Updates made in the 2017 Regulation

- **Regulation on Insurance and Private Pension Activities within the Framework of Participation Principles**:
- Principles Regarding Application
- Principles Regarding the Advisory Committee
- Regarding issues related to the training to be given by the advisory committee: It is obliged to give educational training to the relevant people once a year.

- **Private Pension Savings and Investment System Law No. 4632, dated 28/3/2001**
- **Insurance Law No. 5684, dated 14/6/2007**

1 TAKAFUL

The Takaful model, which is grant (hibah)-based and based on the separation of funds, has been removed from the axis of the regulation (Anyone who wishes can still apply it).

2 INDIVIDUAL RETIREMENT

Participation-based private pension activities and reporting processes also gained a legal basis.

3 ADVISORY COMMITTEE

Advisory committee structure and reporting processes have been improved. Supported by Sharia Corporate Structure.

- Easy to apply
- Low operational burden
- Easily understandable and explainable
- Consistent with its principles
- Self-monitoring

Main Updates made in the 2017 Regulation... Cont.

4 ORİGİNAL APPLICATION FORM

The application method specific to Turkiye was taken as basis. Different models deemed appropriate by the Advisory Committee can be applied, while complying with the following 3 issues.

- **Establish an Advisory Committee**
- **Not to insure areas that are not considered legitimate by religion.**
- **Applying interest-free investment principles**

6 PARTICIPATION COMPLIANCE UNIT

The participation compliance unit function was introduced to monitor the compliance and supervision of the participation principles.

7 PARTICIPATION INTERNAL AUDIT REPORT

In order for the system to self-audit, the requirement to prepare a Participation Internal Audit Report was introduced.

8 HUMAN RESOURCES

A training-exam-certification mechanism was introduced to train company personnel and intermediaries in this field.

- **Training and Exam**

All insurance and private pension intermediaries

- **Certification and Exam**

All relevant company and organization employees.

9 INSURANCE POOLS

TARSİM, DASK, Assurance Account, TMTB and Turkish RePools, which are affiliated with participation insurance companies or provide exclusive services, are also included in the scope.

Participation Based Insurance and Private Pension Certificate Program

SEDDK

SİGORTACILIK VE ÖZEL EMEKLİLİK DÜZENLEME VE DENETLEME KURUMU

Insurance and Private Pension Regulation and Supervision Agency (SEDDK)

TRAINING and EDUCATION: HUMAN RESOURCES

Participation Based Insurance and Private Pension Certificate Program

Module (Course) Title

- Basic Concepts of Islamic Law
- Usul al-Fıqh, Principles of Islamic Jurisprudence
-  Contracts in Islamic Law
- Qawaidi Kulliyyah- Prohibited Transactions
- Islamic Ethics Rules in Services
- Shariah Corporate Governance and Shariah Risk Management
- Islamic Economy and Participation Banking
- Islamic Capital Markets - Participation Funds
- Participation Based Insurance and Private Pension Certificate (BES) Legislation
- Participation Based Insurance Models
- Participation Based Company Processes

TOTAL CLASS HOURS : 36

The insurance contract has been compared to the following contracts:

- ❑ **Compared to Sale Contract**:
    - ❑ Price is not known, so gharar: Not permissible.
    - ❑ It’s acceptable gharar (gharar yasir, not-fahish): permissible

- ❑ **Muwâlât** (being guardians of each other),
- ❑ **Wadîa** (preservation),
- ❑ **Zimmah** (embezzlement contract with minorities),
- ❑ **Âkila** system for paying diet (compensation).

Contracts (Uqud) in Islamic Law

- MUÂMELÂT FIKHI (FINANCIAL RULES, TRANSACTIONS)
- CONTRACT AND ITS ELEMENTS
- KHIYARAT IN THE CONTRACTS (FREEDOM, RIGHT OF OPTION)
- THE CONCEPT OF UNCERTAINTY AND RISK IN CONTRACTS
- SPIRIT AND FORM OF CONTRACTS
- INSURANCE CONTRACT
- CONTRACT TYPES
- SOME TRANSACTION PROHIBITIONS
- CONTRACT-RELATED ISSUES

Exam

Those who score above 70% pass.

Teşekkür Ederim

متشكرم

Thank You