

**Critical comparison on investment of Takaful Funds in Family Takaful;
A case study of PT. Asuransi Takaful Keluarga, and Takaful Ikhlas Sdn. Bhd.**

Cynthia Suci Ayu Yulisia SE., PDIBF

Candidate MSc. IB of IIUM – Institute of Islamic Banking and Finance (IiBF)

Email: suci_ayu_y@yahoo.com

Phone Number: +60103627057

DR. Siti Salwani Razali

Assistant Professor, Department of Business Administration

International Islamic University Malaysia

Email: waniy252000@yahoo.com

Abstract

The increasing awareness of people to transfer and share risk through takaful has made takaful to become an important element of Islamic financial institution. As we know, insurance is a conventional financial system that is free to invest their funds in any financial instrument, without any halal and haram restrictions. In the context of conventional insurance, the insurance company normally invests its funds into conventional investment instruments that generate interest (riba) income.

Takaful serves as an alternative islamically accepted mode of mitigating risk. Takaful has become one of the wealth management instrument in Indonesia and Malaysia that is based on shariah injunction. To fulfill this concept, Takaful is required to give priority to the practices and activities that does not contradict the concept of Takaful itself that is based on the injunction of Al-Quran and Sunnah.

In participant point of view, Takaful operator is expected to be more cooperative (ta'awuniyah) oriented rather than profit maker. However, Takaful operator is expected to generate income by investing some proportion of the fund based on Shariah compliant investment instruments. Therefore, the purpose of this study is to investigate the investment activities of Takaful funds in Indonesia and Malaysia with critical comparison of investment and operational process of two Family Takaful Companies, namely PT. Asuransi Takaful Keluarga in Indonesia and Takaful Ikhlas Sdn. Bhd In Malaysia. The significance of this study is to know the activities of Takaful Companies in Indonesia and Malaysia in terms of contract they use, process of investing the funds, and distribution of surplus underwriting.

1.0. Background of Study

The increasing awareness and enlightenment of the people to transfer and share risk through takaful has made takaful to become an important element of Islamic financial institution. Takaful also acts as a vital agent in the mobilization of funds thereby making it an important component for domestic and international financial system nowadays¹.

Actually insurance is already in existence in the economic system many years ago. As we know, insurance is a conventional financial system that is free to invest funds in any financial instrument, regardless of halal and haram restrictions. Indonesia is a country with the largest Muslims population in the world (plus minus 206 Millions Indonesia citizen's are Muslim), and the neighboring Malaysia is also an Islamic country. As a Muslim, we have to follow the regulation regarding halal and haram in accordance with Qur'an. As we know Allah Swt has mentioned in the Al-Qur'an that He conclusively prohibits all forms of riba.

Those who devour usury will not stand except as stand one whom the Evil one by his touch hath driven to madness. That is because they say: "Trade is like usury," but Allah hath permitted trade and forbidden usury ... (QS.275).

And "o you who believe! Observe your duty to Allah, and give up what remains riba if you are true believers. And if you do not, then are warned of war from Allah and his Messenger ..."
(Qur'an, 2:278-279)

Because Insurance has contains some elements of riba, gharar and maysir, thus based on "Resolution No. 9 on Insurance and reinsurance, takaful remains an alternative contract, which conforms to the principles of Islamic dealings on the basis of charity and co-operation. Similarly with re-Takaful based on the principles of co-operative insurance.

Now, we could see there is an alternative form of contract that was proposed and Takaful can be seen as the Islamic alternative to conventional insurance.² Takaful not the same as insurance but rather an alternative to insurance. It operates on cooperative principles and incorporates with the concept of tabarru (donation or gift). Instead of paying insurance premium, Takaful holders donate their Takaful contribution to a pool of fund and use it as mutually assistance to the members against a defined loss or damage.

When we look at the meaning of donation as a voluntary gift, as it is used in Takaful where there is a binding contract between the insured and the Takaful operator. More so, in Takaful, all participants mutually share the risk. As we know it is so heavy to face the risk alone. The knowledge to manage, and mitigate the risk is important to transfer the risk to another party³. In insurance company, the uncertainty is transferred from individual or business enterprise to the shoulders of others. There is an example in insurance company where the insurance company

¹ www.islamicfinancetraining.com/tpmo08.php

² Frenz (2009). Takaful and Retakaful. Munic RE Retakaful

³ Suma (2006). Asuransi Syariah & Asuransi Konvensional. *Teori, Sistem, Aplikasi & Pemasaran*. Kholam. Tangerang

will cover the loss of whole family over the entire life. The problem is that, we do not know when we will die. As we know, the concept in conventional insurance is that participant buys a policy to cover the loss whereby we do not know when it will happen. It is same with buying something that is uncertainty to happen. And also gharar and gambling that are imposed in the conventional insurance make it non-compliant to the Islamic principle.

In one hand, we known that Islam prohibit riba, gharar and maysir in every economy transaction, including Takaful. Based on that concept, we criticize the system used in *Takaful*, whether it free from riba, gharar and maysir or fulfill the compliance of shariah instrument or not. Legal and contractual aspects should become subject should be given more attention. Thus, this research needs to examine how Takaful Company maintains the investment of Takaful funds, with special focus on legal and contractual aspect in which comparism is made between two Takaful companies, one Takaful company in Indonesia (PT. Asuransi Takaful Keluarga), and one Takaful company in Malaysia (Takaful Ikhlas Sdn. Bhd). This study also uses critical comparison of investment and operational systems in these two Takaful companies. The limitation of this study is that, only Family Takaful in each company is investigated.

1.1. The needs for Takaful in Indonesia

The indicator of desirability to use Takaful to mitigate risks comes from need of the large number of Muslim populations in Indonesia. More emphasize is placed on shariah compliance in operational activities. The readiness of people to use Takaful instrument is also an indicator that necessitate in the using of Takaful, and it is supported by education, seminars, and articles and other form of campaign. The increasing earning level of people, supported by Micro Takaful program for small income group, those widening the object of Takaful in Indonesia also contribute to the awareness.

When we look at the purpose of developing the Takaful itself, which is to indemnify the risk of a group of people who co-operate amongst themselves to establish common resources for the purpose of mutual indemnity. It is added by using Alqur'an and hadith as a basic principle in handling its activities. Takaful is operated based halal, amanah and comfortable point of view, and still has a purpose to maximize the profit. Therefore, Takaful needs to have a good strategy in maintaining the investment and marketing the product. In addition, a strong and pragmatic regulatory framework would have to exist to ensure a smooth and efficient operation for new entrants into this untapped market in Indonesia.

1.2. The needs for Takaful in Malaysia

The development of the Takaful industry in Malaysia since the early 1980s was inspired by the prevailing needs of the Muslim public for a Shariah-compliant alternative to conventional insurance, as well as to complement the operation of Islamic Bank that was established since 1983.

It was, to a large extent, triggered by the decree issued by the Malaysian National Fatwa Committee which ruled that life insurance in its present form as a void contract due to the presence of the elements of gharar (uncertainty), Riba' (usury) And maisir (gambling). A special

task force was established by the Government in 1982 to study the viability of setting up of an Islamic insurance company. Following the recommendations of the Task Force, the Takaful Act was enacted in 1984 and the first Takaful operator was incorporated in Malaysia in November 1984.

1.3. Problem Statements

Takaful that becomes one of wealth management instrument in Indonesia and Malaysia that is expected to be based on Islamic faith and complied with the principle of Islamic Law in all its actions and deeds. To fulfill this concept, Takaful is required to give priority to the practices and activities that do not contradict with the concept of Takaful itself in relation with Al-Quran and Sunnah.

From participant point of view, Takaful operator is expected to be more cooperative (ta'awuniyah) rather than profit maker. However, Takaful operator will still capable to generate income by investing certain portion of the fund based on Shariah investment instruments. This is why in this paper we need to examine the process of investing the fund and the reason why Takaful invests the funds in those instruments.

1.4. Objective of the study

As we know, in the context of conventional insurance, the insurance company normally invests their funds in conventional investment instruments that generate interest (riba) income. On the other hand, investment portfolio and operation activities in Takaful should not involved any riba-based activities. Thus, the purpose of this study is to investigate the investment activities of Takaful funds in Indonesia and Malaysia in which critical comparison of investment and operational process between two Family Takaful Companies, which are PT. Asuransi Takaful Keluarga in Indonesia and Takaful Ikhlas Sdn. Bhd in Malaysia.

Significance of this study is to know the activities of Takaful Companies in Indonesia and Malaysia in terms of contract that is used, process of investing the funds, sharing the profits, and welfare of participants or policy holders.

More specifically, this study is aimed accomplishes the following objectives:

- (i) to study the model used in the companies
- (ii) to examine the method of investing the funds in these companies
- (iii) to criticize the distribution of profit and agreement of distribution of profit between Takaful companies and policy holders.

2.0. Development of PT. Asuransi Takaful Keluarga (Indonesia) and Takaful Ikhlas Sdn. Bhd.

2.1. Company's profile of PT. Asuransi Takaful Keluarga

PT. Asuransi Takaful Keluarga is a subsidiary of PT. Syarikat Takaful Indonesia. It is a shariah compliance life insurance that was established on 4th august 1994. PT. Asuransi Takaful Keluarga was officiated by the Minister of Finance, Mr. Mar'ie Muhammad, and successfully awarded two certificates of ISO 9001:2000 for the highly professional and quality services. One of the award is from Det Norske Veritas (DNV), Dutch and the second from SGS JAS-ANZ, New Zealand. 99.94% of PT. Asuransi Takaful Keluarga is owned by PT. Syarikat Takaful Indonesia share, and 0.06% belong to Koperasi Karyawan Takaful. This composition brings the superior shareholder ownership composition, whereby 56% of the shares of PT. Syarikat Takaful Indonesia is owned by Syarikat Takaful Malaysia, Sdn. Bhd. This gives the opportunity to this company to make the awesome management, and clutched certain appreciation as a result for company's best performance⁴.

2.1.a. products offered in PT. Asuransi Takaful Keluarga

To attract the potential customers to use shariah insurance services in that company, PT. Asuransi Takaful Keluarga gives some services that is needed by the people. The main focus in offering the services is to offer an alternative to some people that need to have insurance protection that is in line with Muamalah and shariah⁵. In addition to that concept, some products that are offered in PT. Asuransi Takaful Keluarga will be elaborated in below:

Individual Services:

There is an individual service that offers optimal investment result. In this investment we can choose the type of investment based on our preferences.

Individual Services	Group Services		
	Takaful Ordinary	Banca Assurance	Health Takaful
- Takafulink - Investment Takaful Fund - Self Accident Takaful - Fulnadi - Takafulink Alia - Takaful Ukhuwah	Takaful Alkhairat Takaful Self Accident Takaful Student Accident Travel Takaful	- Takaful Defrayal	Full Medical Takaful Family Care

Group Services:

In addition to that, there is Group Services offered in PT. Asuransi Takaful Keluarga, in which the participant comes from a group of people that work or do activities in the same group, and willing to protect the group members through using Takaful services. So, in the diagram we can see some of products are available Group Services.

⁴ PT. Syarikat Takaful Indonesia Annual Report 2008

⁵ <http://takaful.com/index.php/produk/list/>

2.2. Company's profile of Takaful IKHLAS Sdn. Bhd.

Takaful Ikhlas Sdn Bhd was incorporated since September 2002, and is a wholly-owned subsidiary of MNRB Holdings Berhad, or Malaysian National Reinsurance Berhad⁶. It is a Malaysia National Reinsurance company that was established in 1965 in order to curtail the ever increasing outflow of reinsurance premium overseas⁷.

Takaful IKHLAS has, within the seven years of its operations, established a strong presence in the provision of Islamic financial protection services based on the Takaful System, which stresses on the spirit of cooperation and joint responsibility among participants. Today, the Company is widely known in the market as a dynamic "brand".

There is an ISO recognition for shariah compliance issue, which describes the shariah checklist that talks about some requirement for any company that need to get indemnification from Takaful IKHLAS Company. It is stated that Takaful IKHLAS does not willing to accept the potential participant if there is non permissible activities conducted in the potential company. As we know, the activities that are not shariah compliance are:

- Related to riba ie commercial conventional or insurance
- Related to maysir i.e. magnum, 4D
- Related to liquor i.e. Carlsberg, Jack Daniels etc
- Related to element of syirik, things related to worshipping other than Allah
- Related to production of impermissible things or things that can be harmful/perilous to the society e.g. tobacco, cigars, drugs
- Related to non-permissible activities i.e. disco, karaoke
- Related to things that can bring bad image or reputation to Takaful Ikhlas Sdn. Bhd.

If there is still a percentage of non permissible activities, the non shariah compliant portions for these activities must not exceed 30% of total income. Actually this percentage follows the shariah screening process that is regulated by Security Commission Malaysia.

Takaful IKHLAS Company is very strict in implementing this concept. For some cases where the company get potential group participant where the owner is Non Muslim, and if the activity of the group with the Non Shariah Compliant activity is more than 30%, the Takaful IKHLAS Company will not hesitate to reject this potential participant.

We can see how that Takaful IKHLAS is following Alquran and Hadits in all its dealing, and how Allah Swt gives the best thing to the company. The fact from this concept is that, the participant number is increasing from time to times.

⁶ <http://www.takaful-ikhlas.com.my/corporateProfile/aboutUs>.

⁷ http://www.mnrb.com.my/aboutUs/corp_bg.asp

2.2.a. Product Offers in Family Takaful IKHLAS Sdn. Bhd.

For individual participant, the Family Takaful IKHLAS services comprised of Rider and Basic, where underwriting process is different from one product to the other products. Products offer in Basic and Rider Family Takaful in Takaful IKHLAS, are:

Family Takaful IKHLAS Sdn. Bhd.	
Basic	Rider
- IKHLAS Savings Takaful	IKHLAS critical illness Takaful Rider
- IKHLAS Education Takaful	IKHLAS Accidental Death & Disability Takaful Rider
- IKHLAS Education Takaful Classic	IKHLAS Waiver of contribution Takaful Rider
- IKHLAS Lifestyle Takaful	IKHLAS Payor Savings Takaful Rider
- IKHLAS Capital Investment Linked Takaful	IKHLAS Term Takaful Rider
- IKHLAS Premier Investment-Linked takaful	IKHLAS Hospital Benefit Takaful Rider
- IKHLAS Wanita Takaful	IKHLAS Immediate Death Takaful Rider
	IKHLAS Family Income Takaful Rider

The Takaful IKHLAS Model allows the Company to optimize the investment returns to the participants. It gives us and our family a safety net, in case we are totally and permanently disabled, or diagnosed with a critical illness within the plan period⁸

2.3. Operational System in PT. Asuransi Takaful Keluarga

2.3.a. Contract that is used in PT. Asuransi Takaful Indonesia

It is stated in the policy that there is an agreement between participant and PT. Asuransi Takaful Keluarga as a Takaful Operator to use Mudharabah Muystarakah and Tabarru' as a contract. In this contract, half of the participant money will put in the special account or tabarru' account, and the remaining will put in saving account. The fund in tabarru' account will be added to the tabarru' account from other participants and later used to cover indemnification for all participant. The money in saving account will be used for investment purposes, and the outcome from the investment will be shared between Takaful operator (PT. Asuransi Takaful Indonesia) and participant based on percentage that has been agreed upfront.

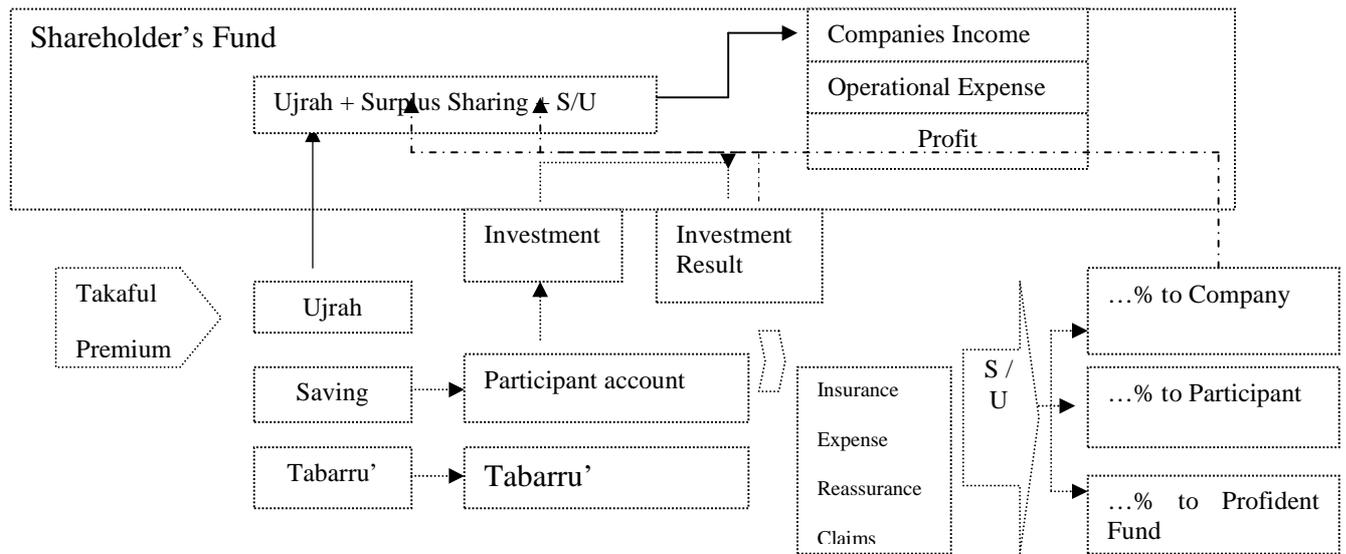
Mudharabah Musytarakah is a contract that gives authority of Takaful operator to become a fund manager and also an entrepreneur of the fund. In Mudharabah Musytarakah contract, besides being an entrepreneur (mudharib), Takaful operator also serve as a fund provider (Shahibul Maal). The purpose of this contract is to create a strong fund for investment, and to make Takaful Operator to be able to increase their percentage in profit sharing. In addition to that, at the end of the year, if there is a profit, it will be distributed based on percentage of capital portion. After distributing the profit, Mudharib (PT. Asuransi Takaful Keluarga) also takes its

⁸http://www.takaful-ikhlas.com.my/downloads/productBrochures_family.asp

portion as a fund manager. In addition, there are three parties involve in the system, namely participants that become the first sahibul maal, mudharib that becomes an entrepreneur, and the hybrid function of mudharib that also becomes the second sahibul maal.

Based on Fatwa Dewan Syariah National (National Shariah Board) DSN – MUI No. 50/DSN-MUI/III/2006 regarding Mudharabah Musytarakah, it is defined as: Mudharabah Musytarakah is a mudharabah contract whereby Takaful operator encloses some capital in infestation.

Below is Mudharabah Musytarakah diagram that is used in PT. Asuransi Takaful Keluarga:



From this diagram we can see that after participant pays the premium, it will be directly divided by three, and put in the three separate account, which are ujarah fee for Takaful Operator (PT. Asuransi Takaful Keluarga), Saving account, and the last is 'Tabarru' Account. Saving account will be mixed with other participants account, and will be invested in shariah compliant instrument. The result from investment will be distributed to participants and Takaful operator based on percentage that is agreed upfront. Profit that is going to participant will be retained in the saving account.

In addition to that, if participant still does not have any claim, there is underwriting process whereby at the end of the year, the accumulation of saving and tabarru' accounts will be deducted for insurance expense, reinsurance, and tax. The remaining of it is called surplus underwriting, and will be distributed to Takaful Operator, participant, and provident fund based on the percentage that is stated in the policy.

2.3.b Investment Activities in PT. Asuransi Takaful Keluarga

To know the investment activities in PT. Asuransi Takaful Keluarga, we have to study the financial statement of that company, and it will be explained over the period of 2005 until 2009.

	Financing	2005	2006	2007	2008	2009
	Mandatory Deposit	10,500	11,000	-	-	-
	Voluntary Deposit	94,991	83,817	-	-	-
	Mudharabah Time Deposit and Certified Deposit	-	-	109,832	114,715	153,447
	Marketable Securities	25,428	58,189	61,379	-	-
	Shariah Bond	17,650	21,250	37,926	70,300	135,610
	Mutual Fund	-	-	-	49,558	77,821
	Direct Investment	15,681	24,284	-	27,067	49,558
	Land and Building	26,308	28,497	22,932	25,216	26,162
	Murabahah Financing	7,353	8,208	6,716	11,012	-
	Mudharabah Financing	5,180	-	-	-	-
	Total of Investment	203,091	235,227	239,842	297,868	442,598

* in millions rupiah

On the other hand, there is a regulation guiding the Takaful Company in Indonesia regarding the percentage of investment in some financial instruments that are available in Indonesia. The regulation explains the percentage of Government limit for each type of instrument. The regulation is described below:

No	Financial Instrument	Government Limit
1	Deposit & Shariah Deposit Certificate	10%
2	Certificate and Certificate of Deposit in BPRS	10%
3	Certificate of Wa'diah in Central Bank	20%
4	Islamic Stock Listed in BEJ (20%)	20%
5	Sukuk listed in BEJ	20%
6	Islamic Stock Listed in Foreign Index	10%
7	Sukuk listed in the foreign trading	10%
8	Direct investment	10%

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⁹ SK Dijen No. Kep. 4499/LK/2000 at 11 September 2000.

Of course when the government made this regulation, the government aim is to make sure that Takaful Company perform effectively. To know whether the PT. Asuransi Takaful Indonesia is following the regulation or not, now we check the percentage of participant funds that is put in each financial instrument one by one. The method is that, we divide the value of each financial instrument with the total of investment each year. After that we will get the percentage of investment in every financial instrument.

No	Financing	2005	2006	2007	2008	2009	Gov. Limit
1	Mandatory Deposit	5.2%	4.7%	-	-	-	10%
2	Voluntary Deposit	46.77%	35.63%	-	-	-	10%
3	Mudharabah Time Deposit&Certified	-	-	45.91%	38.51%	34.67%	10%
4	Marketable Securities	12.52%	24.74%	25.59%	-	-	20%
5	Shariah Bond	8.69%	9.03%	15.81%	23.60%	30.64%	20%
6	Mutual Fund	-	-	-	16.64%	17.58%	20%
7	Direct Investment	7.72%	10.32%	-	9.09%	11.20%	10%
8	Land and Building	12.95%	12.11%	9.56%	8.47%	5.91%	10%
9	Murabahah Fin	3.62%	3.49%	2.8%	3.70%	-	10%
10	Mudharabah Fin	2.55%	-	-	-	-	10%

We can see from the table, in 2005, only voluntary deposit (46.77% over 20%) land and building investment (12.95% over 10%) follows the regulation. The company put 5.2% in Mandatory deposit, 7.72% in direct investment, 3.62% in Murabahah Financing and 2.55% in Mudharabah Financing, wherein the government limit for these instruments were 10%. In addition to that, the company also invests 12.52% in Mandatory Deposit, 8.69% in Shariah Bond, whereas the government limit for these instruments is 20%. Based previous explanation, it is understandable that in 2005, most of the funds were invested in deposit, considering many calamities that happened at that time. It gave rise to higher risk the Takaful Company have to cover at that time.

In 2006, the company still invested 4.7% of the fund in Mandatory Deposit out of 10%. , In spite of this, the company complied with the regulation, because most of the percentage of investments that were put in each financial instrument was above the government limit. For example, the fund put in voluntary deposit was 35.63%, and the government limit is 10%. In addition to that, the fund invested in Marketable Securities was 24.74%, and the government limit for this instrument is 20%.

The next was Direct Investment, were in 2006, the company invested 10.32% of the fund in it, and also for land and building where the company invested 12.11% of fund in these instruments, with the government limit is 10%. However, there were still some instruments, such as Shariah Bond, where the company only invested 9.03% of fund, with the government limit is 20%. More so, murabahah Financing where the company only invested 3.49% of funds, with the government limit is 10%, that still did not follow the regulation.

If we look at shariah bond, where in 2006 there were not many bonds were traded in the market. So it is understandable that the company only put 9.03% in this instrument. In addition to that, the government limit for Shariah Bond instrument is quite high, which is 20%. In our opinion

that there are some reasons why the government ordered the Takaful Company to put at least 20% of their funds in Shariah Bond. However, because of Indonesia financial condition in 2006, so we have to therefore give the reasons for the company performance. When we look at the development of shariah bond, we can see that the percentage of funds invested in Shariah Bonds increased in the year after.

In 2007, the funds that was invested in Mudharabah Time Deposit and Certified Deposit was so high. It was 45.91%, whereas the government limit is only 10%. The company also put 25.59% of its funds in Marketable Securities, and the government limit is only 20%. Actually, at that time, only these two instruments followed the regulation, and the funds invested in other financial instruments were under the government limit. Such as Shariah Bond, where the fund put in it was 15.81% only while government limit was 20%, Land and Building investment was 9.56% out of 10%, and Murabahah Financing was 2.8% out of 10%. So, at those time, not many investments were followed the government regulation.

In 2008, most of the big investment followed the government limit, to the extent that the investment in Mudharabah Time Deposit and Certified Deposit was 38.51%. There was an increasing percentage of investment in Shariah Bond, where the percentage was 23.60% that described the seriousness of the company to maintain its asset liability matching for long run.

Year 2008 was the first year for the company to invest the fund in Mutual Fund. So, at that time, the company began the investment with 16.64% of the fund put in those instruments. Whereas, the government limit for this instrument is 20%. However, because it was a first experience, so invest money within the government limit was quite understandable.

In addition to that, the percentage of investment in direct investment was still not good. The company only put 9.09% of its funds in that instrument. The investment in land and building was only 9.09%, and Murabahah financing was 3.70%, whereby the government limit for these instruments is 10%. As an overall assumption, for investment in the big scale, the company has followed the regulation. But, for small scale investment, the company was still not successful in following the regulation.

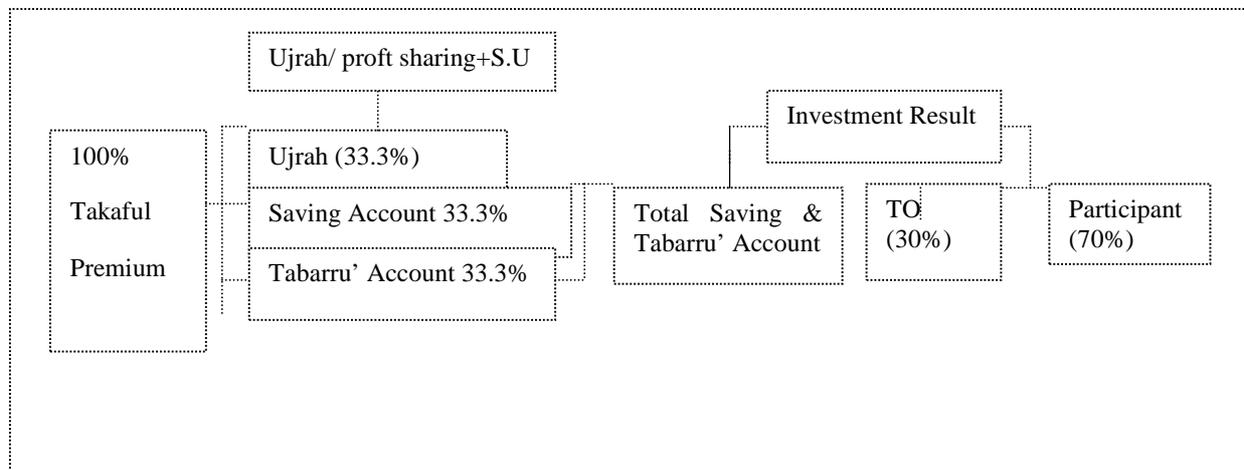
On 2009, the company put 34.67% of funds in Mudharabah Time Deposit and Certified Deposit, whereby the government limit for this investment is 10%. The company also put 30.64% of its

investment in Shariah Bond with government limit of 20%. In addition to that, there was an increasing performance in the company, whereby at that time the company was success to follow the regulation in Direct Investment financing. The company invested 11.20% of its fund in that instrument while the government limit was 10%.

In addition, there were some investments that still did not follow the regulation until 2009, among which were Mutual Fund that constitute investment of 17.58% out of 20%, and also Land and Building has investment of 5.91% out of 10%. On overall, there was a significant success in the company's performance in terms of company's ability in following the government limit. The increasing percentage of money invested in Mudharabah Time Deposit and Certified Deposit, gave some indicator that the company tries to enhance its performance from time to time. Besides that, the study suggests that the company have to give attention to the instruments do not following the regulation.

2.3.c. Sharing the profit and Underwriting Surplus in PT. Asuransi Takaful Indonesia

After the participants fund are invested, based on an agreement stated in the policy, the profit (if any) from the investment activities will be shared between Takaful Operator and participant based on the percentage that is agreed upfront. This is usually done at the end of the year for each year. The percentage of profit sharing in PT. Asuransi Takaful Keluarga that is stated in the policy is 70:30. It means if there is a profit from investment, participants will get 70%, and Takaful operator will take 30% of the profit.



As we know in underwriting process, the tabarru' account will be deducted for insurance expence, retakaful expence, claim and tax. All of them are called underwriting process. The result of underwriting process will be divided in to three elements, which are; the Company shares the participant share while the remaining is put in provident funds.

Actually based on Taqi Utsmany and some other shariah scholar opinions, surplus underwriting ought to be distributed to the participants only, because participants are the real owner of the

fund, and not the company¹⁰. However, based on the umum balwa or public interest, Dewan Syariah Nasional (DSN or National Syariah Council in Indonesia) have made fatwa about it. This fatwa is supported by the Ministry of Finance, and now it has becomes a regulation (PMK No. 18/PMK.010/2010). It means that, based on the interest of the people in Indonesia, the company still needs to get the distribution of underwriting surplus to cover the expenses. Beside that, the surplus are also distributed to the shareholders. Until now the ujah and profit sharing from mudharabah mustarakah is still not enough to support the company's performance.

In addition to the above explanation, the ulama in Indonesia exhibited moderation and flexibility unlike those moderate ulama in UAE in giving the fatwa. Because of that, most of Takaful Companies in Indonesia are using third option. Nevertheless, the company gives 0% surplus to Takaful Operator and tabarru' fund, and a full 100% is given to provident fund.

2.4. Operational System in Takaful IKHLAS Sdn. Bhd.

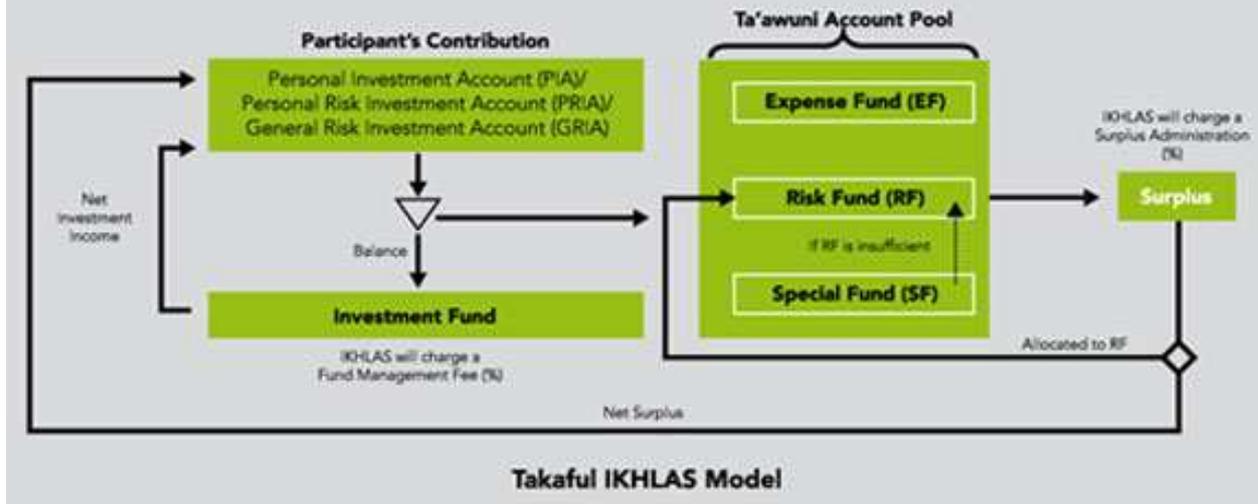
2.4.a. Contract or Akad that is used in Takaful IKHLAS Sdn. Bhd.

In line with the international and local developments in the practice of Islamic financial protection services, Takaful IKHLAS has adopted the Wakalah contract as their system and have modeled their operations accordingly. Wakalah is a form of representative relationship between Takaful IKHLAS and a participant (Principal/Customer). Thus the company, employ the following contracts to govern the business.

When we look at the diagrammatically illustration about the model or contract used in the company that will describe in the diagram in below:

¹⁰ www.takaful.coop/.../Models%20in%20Takaful%20October%202007.pdf

Takaful IKHLAS Model



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We can see from the model, that the contract between the participant and Takaful IKHLAS is Wakalah model. It means participant appoints Takaful IKHLAS to become a wakil or participant representative in managing the fund.

There is an Expense Fund (EF) in the form of Ujrah or fee that is given to the Takaful IKHLAS as a Takaful Operator (TO) that is willing to manage the participant fund. Based on Takaful operator efforts, participant pays the Expense Fund (EF) according to the mood of payment. It can be monthly, quarterly, semi annually or yearly basis.

In addition to that, participant also authorizes the Takaful IKHLAS to conduct the affairs of Takaful business in such that provide protection, investment etc. on his/her behalf. After signing the contract, the contribution funds will be put in to participant contribution pool. In this pool, the fund will be divided in to three specific accounts, which are Personal Investment Account (PIA), Personal Risk Investment Account (PRIA), and General Risk Investment Account (GRIA).

For GRIA, a portion of the contribution in the investment account is set aside for Tabarru' at the onset which will be directed to the Risk Fund (RF). Any investment income derived from this amount shall be allocated to the Risk Fund (RF). In this instance, Takaful IKHLAS will not charge a fund management fee (%). Net surplus distribution will be allocated and administered on an annual basis.

¹¹ <http://www.takaful-ikhlas.com.my/>

2.4.b. Investment activities in Takaful IKHLAS Sdn. Bhd.

Knowing the investment activities in Family Takaful IKHLAS Sdn. Bhd, first we have to look at financial statement in the company. This paper will explain the financial statement from 2005 until 2009.

	2005	2006	2007	2008	2009
Investment	25,255,336	72,418,278	153,296,287	303,227,620	475,161,178
Investment Properties	-	-	-	-	69,965,742
Trade Receivable	2,187,173	9,036,763	17,447,996	30,486,229	28,829,012
Other Receivable	115,795	468,419	2,286,908	4,531,583	7,999,697
Cash & Bank balance	1,873,370	1,779,681	4,908,670	12,170,103	8,559,134
Investment Link Business Asset	-	-	5,947,406	6,554,182	6,662,967
	29,431,674	83,703,141	183,887,267	356,969,717	597,177,730

Actually there is an asset allocation limit, in view of the current market conditions, and the current portfolio holdings, so the tactical limit since financial year 2010/2011 would be as follow:

	Family PRIA Fund	Family PIA Fund	BNM Limit
Low Risk Asset	15%	15%	15%
Equities	5%	20%	30%
Unit Trust Funds	5%	5%	10%
Properties	20%	-	20%
Fix Income Securities	50%	50%	50%
Money Market Instruments	No Limit	No Limit	No Limit

The fund that is coming to Family Takaful IKHLAS will be divided into two specific funds, which are Family PIA (Profit Investment Account) and Family PRIA (Profit Risk Investment Account). Family PRIA is also called tabarru' fund. Commonly Family PRIA is for short term investment purposes, and family PIA is for long term investment basis.

Investment in low risk asset means investment in low risk instrument such as government securities. Based on Takaful Act in Malaysia, low risk asset that must be included in every fund, is at least 15% over the total of the fund. The BNM limit for investment in low risk assets is 15%. As a result, Family Takaful IKHLAS invests 15% of the participant funds in low risk instruments, for Family PRIA fund and also for Family PIA.

In addition to that, the company also invests in equities, which involve investment in shares that are listed in the Security Commission. There is a reason why the company only invests money in Security Commission listed. It is to ensure that, all investment activities that are done by the company are shariah compliance. In spite of this statement, actually the company still has some strategy to invest the funds in equity.

When we look at the composition of equities, the company puts 5% of the participants fund in family PRIA fund, and 20% of funds in family PIA fund. Based on BNM limit, the tactical limit for equities should be 30%. In addition, the sum of equities that put in Family PRIA and Family PIA fund is only 25%. The study believes that the company has a reason for it. We still remember that, the characteristic for family PIA is for long term investment. Maybe because of the current fluctuation in the market, and also because of some specific reason, the company only puts 20% of participant funds in it. For Family PRIA whereby this account is known as tabarru' account, all indemnification expense is taken from this fund, so the company have to secure the liquidity and only capable to invest 5% of PRIA funds to equities investment.

BNM limit for investment in unit trust is 10%. In addition, the company also puts 10% of participant's fund in unit trust. It comprises of 5% from Family PRIA funds and 5% from Family PIA funds. Even though unit trust is unmanaged portfolio of income-producing securities, but it is consider a low risk investment, whereas it is low return also. Because unit trust is considered as fix investment trust, it means the unit trust holders get a fix dividend periodically. In addition to that, investment in unit trust will give more benefit to participant.

BNM limit for investment in properties is 20%. In addition, the company invests 20% in properties investment whereas all of investment is derived from family PRIA fund. We should remember that family PRIA fund is fund for short term period. But, the family PRIA funds that are used to invest in properties are used to buy the two towers. These towers are used as the Takaful IKHLAS offices today. Because the participants are the owners of the tower, so the shareholders as a representative of the company are giving rental income to participants every month for using the towers.

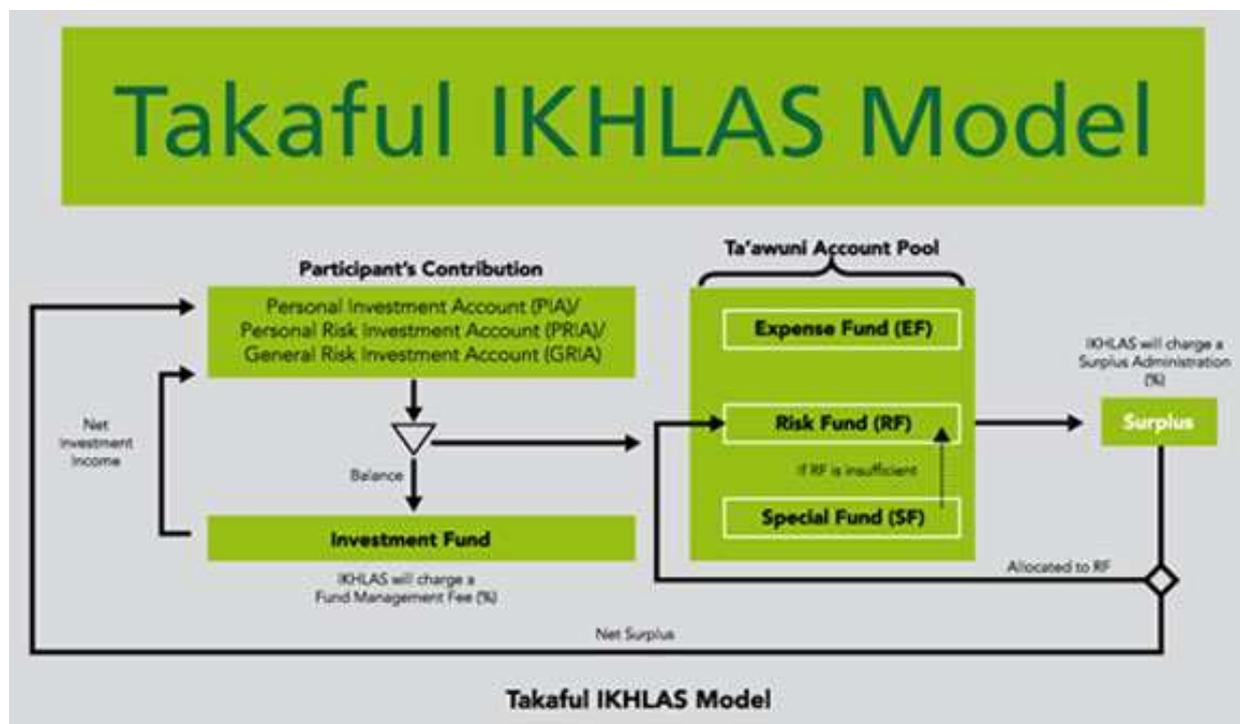
Fix income securities are known as sukuk. BMN limit for fix income securities is 50%. In addition, the Takaful IKHLAS Company puts 50% of Family PRIA fund and 50% of Family PIA fund in it. Fix income securities are excellent financial instrument for Family Takaful. Since Family Takaful has long liability, so the company should make an asset liability matching with investment in long term investment like sukuk. There are retails sukuk in the market. However, the company mostly prefers to invest in long term maturity sukuk (for 15 years) compares to retail sukuk.

Lastly is money market instrument. The BNM limit for money market instrument has no limit. It means the percentage of money market instrument is the balancing amount over the percentage of other financial instrument. When we calculate, the remaining percentage is 5%. It means the

participants fund either from Family PRIA Fund or Family PIA Fund that will be invested in money market instrument is 5% each. Investment in money market instrument is for the liquidity purposes only. MGIA and MSIA are an example of instrument in money market. MGIA is for investment in long term period (3 months, 6 months, 9 months or 1 year), and MSIA is for short term period (1 month, less than one month or 1 day). The MSIA look like overnight market for Takaful investment financing.

2.4.c. Surplus Underwriting in Family Takaful IKHLAS.

When we look at a diagrammatical illustration for the model that is used in Family Takaful IKHLAS, it can be described as below:



We can see from the model that, there is a surplus underwriting process in the system. We have previously discussed that; the participant's contribution will be divided and put in to Ta'awuni Account Pool and investment fund. The investment outcome from the fund will go back to Personal Investment Account (PIA). In addition, Ta'awuni Account Pool is also divided into three funds, which are Expense Fund (EF), Risk Fund (RF), and Special Fund (SF). Each of the type of the fund (except Expense Fund) will be invested in shariah compliance instruments and the outcome from investment will go back to the source of the fund, whether it is from Risk Fund (RF) or Special Fund (SF).

In addition to that, especially for Risk Fund (RF), where Risk Fund contribution will be added by investment income and after that deducted by claim, retakaful contribution and reserve. After the process is done, the company will get gross Surplus. And next, the gross Surplus will be

deducted by Surplus Administration Charge (SAC) as 10% of the Risk Fund contribution. Surplus Administration Charge is like a reward to the company for successfully managed the risk fund. The remaining of Gross Surplus after deduction of SAC is called Net Surplus. At the end, Net Surplus will be distributed to Risk Fund (RF) and Participant Investment Account on annual basis.

There is an issue in Surplus Underwriting that is used in Takaful IKHLAS, which is based on AAOIFI Standard, the surplus underwriting cannot be charged as revenue to Takaful Operator, because the participants are the real owner of the fund, and not the Takaful Operator. It means AAOIFI disallowed the Takaful Operator to take the surplus. On the other hand, there is a different resolution made by Shariah Committee in Takaful IKHLAS where the Shariah committee is allowing the Takaful Operator to take surplus based on the following arguments:

1. Surplus here is not like sharing of surplus in Mudharabah, but charging of surplus based on Al-Ju'alah principle.
2. Surplus here is a reward for the company for successfully managing the risk fund.
3. The company mentions in the contract where the company will obtain Surplus Administration charge from the Net Surplus (if any)
4. Surplus Administration Charge is taken based on risks that have been successfully managed by the company.

Based on that explanation, the contract is binding because the company disclosed about the charging of the surplus administration fee in the contract agreement. It means, the participant knows and agrees with this contract. In addition to that, from that explanation, actually the Takaful Operator will get three revenues from following this model, which are:

1. Revenue from the expense fund
2. Revenue or profit from investment
3. Revenue from Surplus Administration charge.

However, we should remember that charging for Investment Performance Fee is only 10%, and charging for Surplus Administration Charge is also 10%. It means that, the company gives more benefit (the remaining 90%) to participants in term of taking profit or revenue for the company itself. It is like the company prefers to expend welfare to participants compares to the company.

When we compare the Takaful IKHLAS and the Takaful companies in Middle East, where surplus underwriting is disallowed for distribution to the Takaful Operator, we should remember that the expense funds in Takaful Company in Middle East is between 80% and 90%. It is different from Takaful Company in Malaysia or Indonesia where the Takaful Company only takes 10% as an expense fund or investment performance fee. In addition to that, charging the Surplus Administration Expense motivates the company gives better performance in managing the risk in the system.

3.0. Critical comparison on investment of Takaful Funds in Family Takaful

A case study of PT. Asuransi Takaful Keluarga, and Takaful IKHLAS Sdn. Bhd.

In this chapter, the study will do some critical comparison on investment of Takaful Funds in Family Takaful, between PT. Asuransi Takaful Keluarga (Indonesia) and Takaful IKHLAS Sdn. Bhd. After doing the critical comparison, the study hopes that, there will be a feedback from the study that can be used to develop the Takaful Companies in the future. In addition to that, the study will also do comparison in several categories, that will be explained one by one;

3.1. Critical Comparison on Operational Systems that are used in the two companies.

3.1.a. Model or contract is used in two Family Takaful Companies

As we know, the model or contract used in PT. Asuransi Takaful Keluarga is Mudharabah Musytarakah. Based on previous explanation, Mudharabah Musytarakah is a contract that gives authority to Takaful Operator to become a fund manager and also an entrepreneur of the fund. In Mudharabah Musytarakah contract, besides being an entrepreneur (mudharib), Takaful Operator also function as a fund provider (Shahibul Maal).

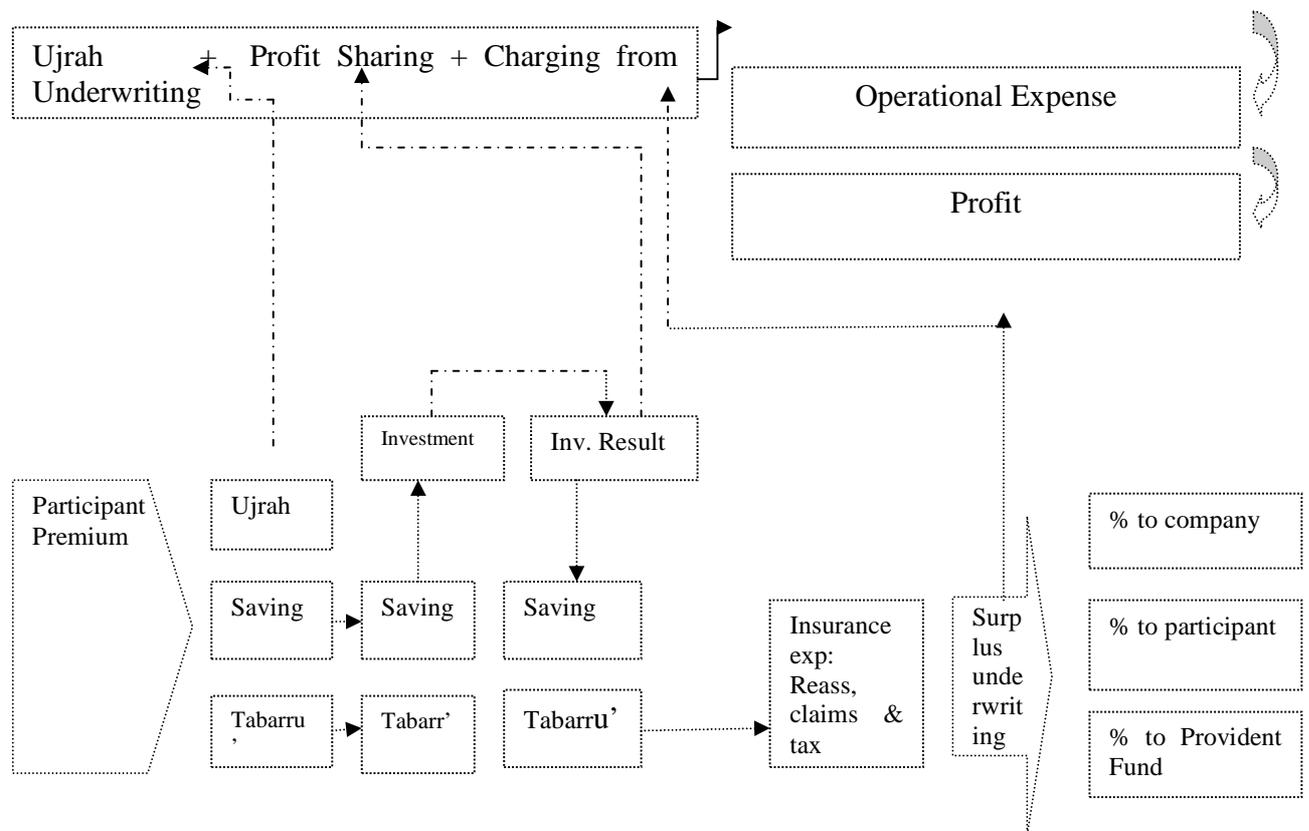
The purpose of this contract is to create a strong fund for investment, and to make Takaful Operator to be able to increase their percentage in profit sharing. In addition to that, at the end of the year, if there is a profit, profit will be distributed based on capital contribution. In the time of distributing the profit, Mudharib (PT. Asuransi Takaful Keluarga or Enterpreneur) also takes its portion as a Sahibul Mall or Capital Provider.

To be added, there are three parties involve in the system, which are participants that become the first Sahibul Maal, Mudharib that becomes an entrepreneur, and the hybrid function of Mudharib that also becomes the second Sahibul Maal.

The good thing in using Mudharabah Musytarakah contract is that, Mudharib fund or shareholder fund (capital or equity in Takaful) can be mixed together with participant's fund. In addition, if there is a deficit, it will be burned together, between participants and Takaful Operator (shareholder).

Shareholder's Fund

Company Revenue



When we look at the diagrammatical illustration once again, where Mudharabah Musytarakah contract is applied, based on the diagram, the study found that the wakalah contract is applied. We could see that after the participant pays the premium, some percentage of this premium will be put in Ujrah account. As we know, Ujrah is a fee given by the participant to Takaful Operator for the successfully managing the funds. In addition, Ujrah is given in Wakalah contract only. It is like participant gives salary to Takaful Operator. On the other hand, Ujrah is not given in Mudharabah contract, since in Mudharabah contract, the revenue for the Takaful Operator come from profit sharing from investment activities. Based on that explanation, the study does not agree if PT. Asuransi Takaful Keluarga defines the model that the company used is Mudharabah model. For that reason, the study proposes PT. Asuransi Takaful Keluarga to change the name of the model to become hybrid model. In hybrid model, the company is allows to take an Ujrah fee as a reward in managing the risk.

In addition to that, the study also does not agree if PT. Asuransi Takaful Keluarga uses “participant premium” as a term for participant fund. As we know, in Takaful, participants agree to donate or contribute to a pool of fund, to cover the indemnification that occurs for every participant’s in the Takaful Company. Based on this statement, the study suggests that, the company to use the world “participant contribution” in place of “participant premium”.

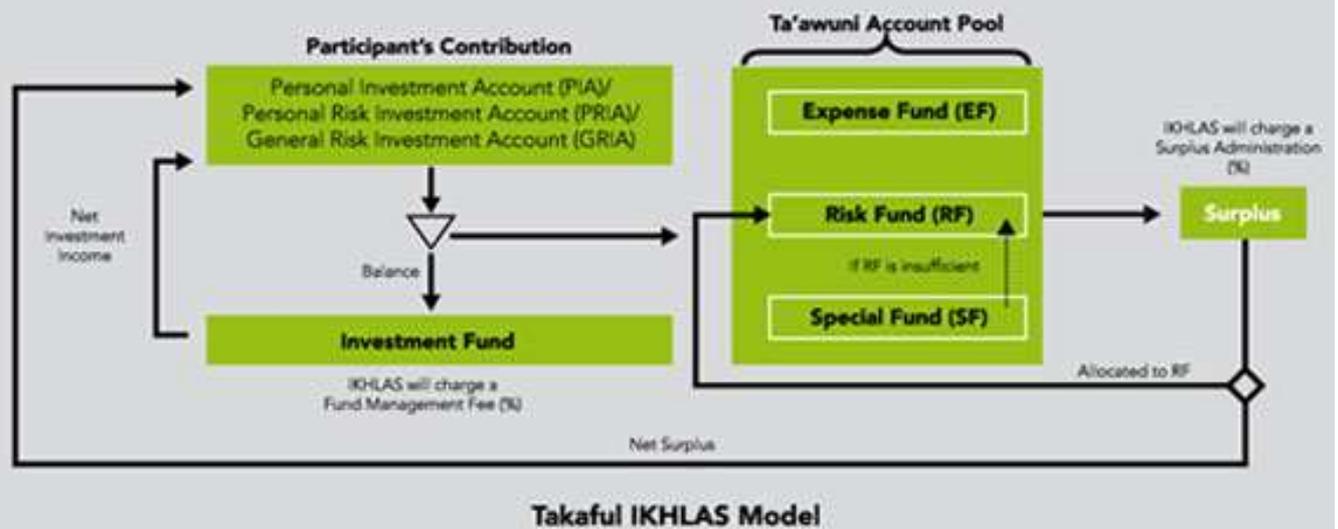
Participant premium or in conventional system called insurance premium is the periodic payment for insurance policy. In addition to that, basically the term “participant premium” is a term that is used in insurance policy. In insurance policy; the policy holders has to pay periodically to cover the risk in the future, whereby the ownership of the fund will be transferred from policy holders to Insurance Company. However, in Takaful, we use concept of mutual indemnification, or taawuni, whereby all participants donate or contribute some of the funds with the purpose of helping one another in the case of peril or hazard. After the fund is collected, participant still owns the fund and Takaful Operator just becomes a manager of the fund only. Because of that, the term participant contribution is preferred be used compares to participant premium.

The next issue is regarding using Mudharabah Musytarakah contract in the company. Based on the study explains in previous chapter, where PT. Asuransi Takaful Keluarga uses Mudharabah contract with profit sharing 70:30, which means that profit that comes from investment activities will be distributed based on 70% for participants and 30% for Takaful Operator. So, the study does not see the capital contribution as an evident for using Musytarakah contract. The study argument is based on the illustration that is used in the company.

This is the illustration that must be explained to participants before entering the contract. And also there are some informations about capital contribution in Akad Mudharabah Musytarakah that also has to be clearly explained to participant before entering the contract. It means that it must be stated clearly in the contract how many percentage of capital contribution is in the contract, and also it must state the percentage of profit sharing between the participant as a capital contribution (1st Rabbul Mal) and Takaful Operator as a Mudharib and also as a second capital contribution (2nd Rabbul Mal). If it is clear, participant will get better picture about the contract that is used in the company. Participant will know how much is the actual company’s capital contribution in the contract. In addition, the participants will be more aware about the percentage of profit sharing that will be distributed to participant and to the company. In addition to that, the study also does not see how much PT. Asuransi Takaful Keluarga charges as ujah fees, which actually are supposed to be declared in the contract.

If we look at the model that is used in Family Takaful IKHLAS Sdn. Bhd. that is called Wakalah model, whereby it is clearly stated that, after the participants give contribution, some part of contribution will be put in the expense fund as an ujah for Takaful Operator. This operational system is in line with the characteristic of Wakalah model itself.

Takaful IKHLAS Model



In addition to the contribution goes to the Ta'awuni Account Pool, some parts of the contribution also go to investment fund. Regarding the name of the fund, the company uses Mudharabah contract for investing the fund. It means that, participants become a capital provider (Rabbul Mal) and family Takaful IKHLAS becomes an entrepreneur (mudharib) for this fund. It is also stated in the contract that Takaful IKHLAS will charge 10% as an Investment Performance Fee. It is likes Takaful IKHLAS where the entrepreneur gets 10% from the profit of the investment.

If we go back to the name of the contract that is used in Takaful IKHLAS, which is Wakalah contract, actually it is not 100% correct, due to the occurrence of investment fund that is invested by Family Takaful IKHLAS. In addition to that, the company also charges 10% as investment performance fee. It means that, in the contract is in form only this concept is contrary to the meaning of Wakalah contract itself. As we know in Wakalah contract, Takaful Operator only gets revenue or Ujrah, as a result for managing the fund. In addition to that, because Takaful Operator also takes ujah, so the study suggests that Family Takaful IKHLAS to use hybrid model in its operational system.

On the other hand, the study still accepts the usage of Wakalah model termed as Takaful IKHLAS even though Mudharabah contract is also used for the investment fund. It happens may be because of the level of people understanding about Takaful model in Malaysia nowadays. If Takaful IKHLAS said that they use hybrid model, people will be confused, and ironically it will make them not interested to give contribution in Takaful IKHLAS, and make them run away to conventional insurance.

3.2. Critical Comparison on Investment activities in PT. Asuransi Takaful Keluarga and Takaful IKHLAS Sdn. Bhd.

If we look at the investment activities in PT. Asuransi Takaful Keluarga, where most of the funds are invested in Deposit. Engage investment of deposit is a kind of proposed instrument that is used to secure the liquidity of funds in Takaful companies. Mandatory Deposit, Voluntary Deposit, Mudharabah Time Deposit and Certified Deposit are the kind of MGIA, which allows the participant to enjoy the dividend or profit sharing every month. MGIA or Mudharabah General Investment Account is a kind of deposit that is invested in short term period (3, 6, 9 or 12 months).

From time to time, PT. Asuransi Takaful Keluarga invests most participant's fund in shariah deposit, or later we called money market instrument. When we compare with Takaful IKHLAS, the percentage the company invests in money market instrument is just the remaining percentage after the funds that is put in other financial instrument over hundred. When we look at the regulation by Bank Negara Malaysia (or later on we called BNM Limit), the BNM is also doing the same thing. Why there is a different things happen in Indonesia?

When we look at the concept of Family Takaful itself, where the protection for indemnification is given for long term period, supposedly the fund should be invested in long term investment, such as Sukuk. However, most of the sukuk that are available in Indonesia nowadays is retail Sukuk with maturity 3 years until 5 years. Usually the risk happens after three years of participant contribution of fund to the company. The issue remained how to cover the risk after the next five or three years if Sukuk that is available in Indonesia is only retail Sukuk? The point is that, doing investment in Sukuk in Indonesia currently is still not in line with the concept of Family Takaful itself. It means, the Family Takaful gives protection for long period, and expected that the Takaful Company in Indonesia also have to invest in Sukuk with long term maturity.

Of course until today, only retail Sukuk and government sukuk with maturity of short term is available in the system. However, participants need Sukuk that can give dividend for long period and appropriate with the concept of Family Takaful itself. In addition to that, it is the duty for Indonesian Government to encourage the local companies to disburse long term Sukuk, in order to help Takaful Company to reduce the problem asset liability-mismatch.

Regarding the deposit instrument, there is an issue whereby the bank that the Takaful Company used to invest the participant's fund is considered as windows banking. In window banking, there is a financial consolidation report at the end of the period that indicates that the revenue derives from activities in conventional and shariah unit are mixed in consolidation statement. Although after consolidation, the revenue is distributed back to the shariah unit based on the percentage of working capital that is injected in shariah unit, but, the issue is that, the revenue derives from conventional and shariah unit is mixed in short period, and made us hesitant to the purely shariah compliance of the investment. In addition, there is a new regulation in Indonesia, called PSAK Number 101 regarding the arrangement for Islamic Financial report. After shariah unit successfully implements PSAK Number 101, now we can become confident that money that is invested in shariah unit (such as shariah unit in public/conventional) is truly shariah compliance.

To make conclusion about the phenomena that happened in Indonesia, even though investing in deposit instrument is just for short period, but the study shows that this is the best thing the Takaful Company can do now to secure the liquidity of the fund, due to lack of Islamic financial instruments in Indonesia.

Invest in marketable securities means invest in shariah financial instrument other than bank. The examples for marketable securities are Islamic stock exchange, Islamic option, Islamic hedging, Islamic hearing purchase, Islamic pawn broking, Sukuk, Islamic cooperation (BMT) and so on. Islamic stock exchange is stock that is traded in shariah market. In Indonesia we called JII or Jakarta Islamic Index. JII has its shariah screening process that becomes a requirement for the stocks to list in JII. In Malaysia, there is FTSE Bursa Malaysia KLCI with his its own shariah screening process.

Islamic option is one of Islamic derivative instrument that protect users against market price volatility that can happen in the future. Islamic option is like bay as salam without asset backed. Actually in shares we sell the value of the company. The issue remained how to measure the value of the company in the future. To measure the value, we have to use time value of money to get estimation value for company's performance in the future. Getting the value, we have to use interest as a benchmark to measure the growth of investment. As we know using interest is prohibited in Islam. In addition to that, to Islamic option more shariah compliant, we estimate the growth based on the estimation revenue which could be taken from the actual goods that we are invested are today. And also Islamic option cannot be traded in secondary market according to international shariah standard¹². In addition to this issues, Dewan Shariah Nasional (Shariah National Council) has to make clear regulation regarding the using of Islamic option in Indonesia to make this instrument truly shariah compliance. May be because of those matters, since 2008 PT. Asuransi Takaful Keluarga did not invest in marketable securities anymore.

In Malaysia, marketable securities we consider are equities. There is a BNM limit for equities, which is 30%. Based on that limit, Takaful IKHLAS Sdn. Bhd. puts 25% of the fund in equities. Like the name, marketable securities are security that are easily tradable. In addition, put a 25% in equities can make participant's more confident about the liquidity of asset in Family Takaful IKHLAS, and such a guarantee to participant that the company can pay the indemnification in whatever condition.

Even though PT. Asuransi Takaful Keluarga is not using marketable securities anymore, but Indonesia still has a regulation to regulate the government limit to invest in marketable securities, which is 20%. If we compare the percentage limit between Indonesia and Malaysia, the study discover that Malaysia government is more ready serious to develop Takaful industries. The 30% BNM limit for equities instrument is quite a lot to prevent all risk that could be coming every time in Takaful Company.

And next is comparing how PT. Asuransi Takaful Keluarga is doing investment in Mutual fund, and how Takaful IKHLAS is doing investment in Unit Trust. Since 2008, PT. Asuransi Takaful Keluarga invests money in mutual fund, and stops investment in marketable securities.

¹² http://www.bnm.gov.my/microsites/giff2007/pdf/iif/Session4_c3.pdf

If we look at the strategy that is used by PT. Asuransi Takaful Keluarga, the company prefers to use shares rather than marketable securities except shares and sukuk. It seems that the company needs to generate more profit instead of securing the liquidity of the fund specifically in shares. Actually it was a good decision, that made participants become more confidence with the performance of the company. However, the difference between the two companies is that, Takaful IKHLAS is following the BNM Limit of 10% in investing in Unit Trust Fund every time. It is likes the company is trying hard to protect the performance of Takaful Companies. Since 2008, PT. Asuransi Takaful Keluarga that was trying to invest in Mutual Fund with a good performance. It invested 16.64% of fund in 2008 and 17.58% of fund in 2009 out of 10%. We hope that the performance would become better in the future.

In properties investment, PT. Asuransi Takaful Indonesia invests participant fund in house that is located in Bogor. The house is used as a storage that is used to store the company's documents or files. On the other hand, for properties investment, Takaful IKHLAS invested the fund to buy two towers in Kerinchi area in Kuala Lumpur that the towers become the main office of the company. If we compare the company's decision, of course both of them invested the fund to buy the offices. But the different is that, Takaful IKHLAS bought the two towers that would be used for their daily activities, meanwhile PT. Asuransi Takaful Keluarga just invested in it, and use as a storage. Now the study is comparing the effectiveness of using participant's fund in the properties investment. The study discovered that properties investment that done by Takaful IKHLAS are more preferable and giving more benefit (or profit) compares to properties investment in PT. Asuransi Takaful Keluarga. The reason is that, first; BNM has already given the limit of 20% of fund that has to be invested in investment properties, and the Takaful IKHLAS also invest it at 20%. It means every year participant's get revenue from 20% of the funds that invested in investment properties. On the other hand, in 2009, PT. Asuransi Takaful Keluarga, only put 5.91% of participant contribution in properties. It means that, participants only get revenue from 5% fund that put in that instrument.

Actually there is a government limit for land and buiding which is 10%. But, at 2009, the company was not following it. When we look at the government regulation itself, that only regulate 10% for land and building investment, the government also not look at the land and building could become a solution in the liquidity problem.

From participant's point of view, Takaful IKHLAS decision in property investment is much better than PT. Asuransi Takaful Keluarga. Regarding to the price of the building that would be increase from time to time, so, if there is a liquidity problem, participant's right will be secured with value of the building in the future. And for criticizing the regulation, BNM has been regulated well to support the performance of Takaful Company in Malaysia, compares to Indonesian Government in properties investment.

The next is fixed income securities that we call Sukuk. In 2009, PT. Asuransi Takaful Keluarga invests 23.60% of participant contribution in Sukuk. In addition to that, the Indonesian Government Limit for investing in Sukuk is 20%. However, BNM limit for Fixed Income Securities is 50%. Based on that percentage, Family Takaful IKHLAS invests 50% of Family PRIA Fund and 50% of Family PIA Fund in Fixed Income Securities.

Based on the above explanation and due the characteristic of family takaful, Family Takaful should prefer to invest more in Sukuk. In participant point of view, of course they need to get

dividend for long term period. 50% investments in sukuk are able to protect a half of participant right if the liquidity problem occurs in the Takaful Company. In addition to that, the study gives suggestion to PT. Asuransi Takaful Keluarga to increase the percentage of investing in Sukuk, even though in 2009 the company invested 23.60%. The study also suggests that Indonesian Government should encourage market players to disburse the long term sukuk in order to help Takaful Company to engage in manage liquidity.

After a critical comparison between investment activities in PT. Asuransi Takaful Keluarga and Family Takaful IKHLAS Sdn. Bhd., this study conclude that, even PT. Asuransi Takaful Keluarga was eight years older than Family Takaful IKHLAS Sdn. Bhd., but PT. Asuransi Takaful Keluarga have to learn more from Family Takaful IKHLAS Sdn. Bhd regarding the operational system in Takaful Company. Even though based on Earns and Young, the growth for Takaful Company in Indonesia is 37% per year or the highest growth in Asia, but in term of protection for participants welfare, PT. Asuransi Takaful Keluarga have to learnt more from Family Takaful IKHLAS Sdn. Bhd. The highest growth of Takaful Company in Indonesia, the study suggest that, it is just because of big populations of Indonesia that already and awareness for using shariah insurance.

The study suggests to the Indonesia Government to make proper regulation, such as increasing the percentage of Government limit for several financial instruments. It is due to management of the liquidity of the company, and to make sure the Takaful Company is able to mitigate all risks in the system. The study also suggests to the government to impose more control to the Takaful Company, to make sure that the Takaful Companies follow the regulation, in order to help them to stay longer in the market.

The study also need to gives opinion to Indonesian Government, to add to the financial institutions that control the development of Takaful in Indonesia. If we do study in Takaful Company in Malaysia, there are six bodies (inside or outside the Takaful Company) that control the activities of Takaful Company, which are:

1. Shariah Committee
2. Shariah Compliance Department
3. Internal Audit
4. Third Party or External Audit
5. Bank Negara Malaysia
6. Security Commission

Especially with Bank Negara Malaysia and Security Commission, every Takaful Company has to give report to those bodies every month. Since there are six bodies all together control the activities and the systems in the Takaful Company, participants become more confident to use the Takaful services, even though the Takaful Company never talk about the types of instrument they used for investing the funds. If Indonesian Government does the same thing, the study believes that Takaful Companies in Indonesia will grow rapidly in the future.

3.3. Critical Comparison on Surplus Underwriting in PT. Asuransi Takaful Indonesia and Takaful IKHLAS Sdn. Bhd.

When we look at surplus underwriting in PT. Asuransi Takaful Indonesia where the Company divided surplus underwriting in to three segments, in which are some percentage goes to the company itself, some percentage goes to participant and another percentage goes to the provident fund. The problem is that, when the study went to the company and saw the contract agreement, which stated that surplus underwriting distributed 100% to provident fund. It is likes the company is not strong enough in handling the business. After 16 years of the company establishment, the company still need 100% surplus underwriting to put in provident fund.

From participant point of view, this sound not so efficient. As we know, in Takaful or in Islamic insurance, surplus underwriting is the participant right, because the participant itself has becomes the owner of the fund. It is good if some of them are put in provident fund, but it cannot for 100%.

In addition to that, the study thinks that, the company decision to put 100% surplus underwriting in provident fund is impose the participant itself. It is not logic for company that after existing for 16 years, they still needs to put 100% of surplus underwriting in provident fund.

Now we can see that, for a whole operational process in PT. Asuransi Takaful Keluarga, participants only take profit resulted from investment activities only, and no surplus is shared to participant. From investment point of view, actually participants need to take more benefit from Takaful activities instead of getting indemnification when hazard comes. It is participant right to get surplus sharing from underwriting process as a true owner of the fund. The study thinks that this issue must be resolved to improve the welfare of public interest. If it is not resolved, there is no different between Insurance and Takaful in Indonesia.

The study also found that, Takaful Participants in Indonesia still does not recognize this issue. The percentage of surplus sharing is stated in the policy. Of course before signing the contract, participant's at least read the document. However, the study thinks participants have no enough knowledge regarding surplus underwriting yet. Even though stated in the policy, participants still cannot defend their right regarding the percentage of surplus underwriting itself.

In addition to that, the study needs to encourage academia in Indonesia to do more study, more writing and seminars about Takaful and operational system in Takaful, to increase the people awareness about Takaful Company. We can start by giving information regarding participant's right and benefit from Takaful, because actually the basic principle of Takaful itself is so good. At the end, lets people confident to use the Takaful services. If another study found another weaknesses in operational system in Takaful, let us give time to Takaful Company in Indonesia to make spick and span in the Company's performance.

When we look at the diagrammatical illustration regarding the operational system in Family Takaful IKHLAS, whereby 10% of surplus underwriting would become a Surplus Administration Charge (SAC) to the company, and the remaining will be distributed to

Participant Investment Account (PIA) and Risk Fund(RF). In this matter, from the remaining surplus underwriting after deducted by SAC, 50% of it will go to PIA and another 50% will go to RF. For example if Net Surplus is RM 100, RM 10 would be charged as a Surplus Administration Charged (SAC), and the remaining will be distributed RM 45 to PIA, and RM 45 to RF.

There is an issue where some scholars said that, the Takaful fund and any profit or surplus sharing arising there from it do not, in principle, belong to the Takaful Operator. They belong to the Takaful Participants collectively. The Takaful Operator cannot take any portion of the contribution monies from the fund. And this concept serves as a fundamental difference between commercial insurance operational model and takaful operational model¹³. When the study do research in Family Takaful IKHLAS, company said that the reason why Takaful Operator take some portion of underwriting surplus is supported by shariah committee in that company. Why Shariah committee supports it? Because in Arab country, Takaful Operator charges expense fund until 80% or 90% from contribution fund. But the Takaful Companies in south East Asia only gets around 10% until 20%of revenue. The problem remains how the company can survive in handling the big claims or risks, at the same time, they only get small return. In addition to that, the company considers that surplus is not like sharing the profit, but as a charging for surplus itself, and achievement in handling the risk fund. Besides that, the company mentions in the contract that the company will charge a Surplus Administration Charge as 10%. And then, profit is derived based on the risks taken by the company (Al-Ghunmu Bil Ghunmi).

When we analyze the operational system in Family Takaful IKHLAS more deeply, risk fund is owned by participant. When there is a deficit imposed, supposedly participant has to bear the risk. However, the company cannot do that. It is not possible for the company to go to the market and meets participants one by one to get the top up. If it is practiced in the Takaful, participants may run away and go to conventional insurance. In addition to that, in the practice, the company or the shareholders themselves bears the deficit with giving Qardhul Hasan to participants. So, in the case of deficit, shareholders will top up. In the case of surplus, why not shareholder gets 10% of it as a Surplus Administration Charge.

On the other hand, there is no deficit occurrence in Takaful IKHLAS yet. So, to be in line with AAOIFI standard that generally disallowed to share surplus sharing with Takaful Operator, why not a whole surplus is given back to participant, but the percentage of expense fund could be higher than today. In addition to that, regarding the deficit that has to be borne by the Takaful Operator when it occurred, actually the study thinks that, it becomes a motivation for the Takaful Company to perform well, so the deficit problem will never occur. However, because Takaful IKHLAS is still an average Takaful Company, so until today the company is not ready to use this concept.

4.0. Conclusion and Recommendation

The study was doing critical comparison in operational systems that comprise of contract or model that is used in the companies, investment activities, and also distribution of surplus

¹³ Ali, Engku Rabiah Adawiah (2008). Essential Guide To Takaful (Islamic Insurance). CERT. Page 42.

underwriting in the two Takaful Companies, which are PT. Asuransi Takaful Keluarga and Takaful IKHLAS Sdn. Bhd.

The study began with giving introduction about Takaful, the difference between conventional insurance and Takaful, the reason why as a Muslim we have to prefer to choose shariah insurance (Takaful) compares to conventional insurance. The study also explained the reason why needed to conduct this research. At the end of introduction, the study explains the three variables that would be discuss in this paper.

The next chapter, the study was explained and discuss about the companies profile, comprises of product offered and operational systems, that also divided in to three part, which are the contract is used, investment activities, and mechanism to sharing the profit and surplus underwriting.

In Chapter three, the study was doing critical comparison on operational system in the two companies. And at chapter four, the study is doing Concussion and Recommendation.

To conclude, the study thinks that there are many things that need to be done to increase the performance in the two Takaful Companies. Especially for PT. Asuransi Takaful Keluarga, the study recommends the company learns how to have good investment strategy from Takaful IKHLAS Sdn. Bhd.

In addition to that, the study suggests to Indonesian Government to do significant controlling development to Takaful Company. Based on Regulation number 21 at 2008, The Central Bank does not have authorization to control the Insurance or Takaful systems in Indonesia. However, Insurance and Takaful are controlled by BAPEPAM (Money Market Superintended Body). There is a new regulation that officially used since 2010, that the new body called “Otoritas Jasa Keuangan” or Financial Services Authority that will supervised the financial services (including Insurance and Takaful) and money market instrument. It means that there will be new financial regulation that more tighten to supervise the performance of Takaful Company. After it is implemented, there will be three body that supervise the development of Takaful Company in Indonesia, which are Dewan Syariah Nasional (DSN or Shariah National Council), BAPEPAM (Money Market Superintended Body, and Otoritas Jasa Keuangan (OJK or Financial Service Authority).

We hope that, the three bodies will apply its functions accordingly. Especially for OJK, we advise to this body to make good superintended system to control the operational activities in Takaful instruments, and doing reinforcement in controlling risk management systems. In addition to that, the regulation describes about the percentage of Government limit for each type of instrument based on SK Dijen No. Kep. 4499/LK/2000 at 11 September 2000. Actually it likes Capital Adequacy Ratio for Takaful Company that have to fulfill by the Takaful Company itself to secure the risks in the system. According to this explanation, the strengthened supervision needs to apply.

For Takaful IKHLAS Sdn. Bhd. the study hopes that the company will improve their performance to be more effective and efficient, to make them able to compete with the best player in the market today. The study also hopes that the company will do intensify research and development efforts to create the range of Takaful products that meets the customer requirement.

At the end, the study suggests to further study to conduct research in General Takaful, and makes critical comparison between General Takaful Companies in South East Asia and Uni Emirat Arab. The study estimates that there will be more knowledge acquired from further study, which can be used to develop Takaful industry in worldwide.

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