Analyzing the sharia'h compliant issues currently faced by Islamic Insurance

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Abstract

The idea of Sharia'h-compliant insurance popularly known as Takaful and Cooperative insurance was conceived in an international conference on 'Islamic Economics' held in Makkah in 1976. Hence Sharia'h-complaint insurance embedded with Sharia'h principles emerged as the real solution for the Muslims who have been avoiding conventional insurance because of its non-compatibility with Sharia'h. Renowned scholars' industrious effort has made it possible to devise an insurance system that conforms to the Sharia'h principles. However, there is still found skepticism among many minds as they view that transformation from conventional insurance to Sharia’h-compliant is not that simple as it seems on first sight. They envisage certain aspects of conventional insurance still persisting and cannot immediately be avoided until suitable alternatives are established. The article therefore attempts to highlight those residuals of conventional insurance that are still present in Sharia’h-compliant insurance either by compulsion or as doctrine of necessity.

Key words: Insurance, Takaful, Cooperative and Conventional Insurance.

Sharia'h: Sharia'h is the law of Islam, based upon the Koran, the Sunnah, Hadeeth and parallel traditions and work of Muslims scholars in the two first century of Islam.

1. INTRODUCTION

Insurance is a mechanism whereby individual or business enterprises by paying out contribution (termed ‘premium’ in insurance) transfer some of the uncertainty of risks to the insurer. Insurer in the event of loss from insured peril compensates the victim (insured) out of the contribution so gathered from large numbers of insured. The contribution is usually a very small amount compared to the amount of protection available. The concept of insurance is basically an arrangement to mutually help one another in the event of an
unfortunate event causing loss to any of the member(s). In short the mechanism of insurance inter alia brings about peace of mind, social stability and economic growth.

The world economies were benefiting from insurance but Muslims were not mainly due to the conventional insurance entailing aspects not within the jurisdiction of Islamic principles. The question is when insurance is so much beneficial then why conventional insurance is unacceptable under the Sharia'h? It is very important to note that Sharia'h is not against any mechanism that provides protection. Dawood Taylor 2008 quoted the Hadeeth of prophet Muhammad (PBUH), which he told to a Bedouin Arab, who left his camel untied to the will of Allah, “tie the camel and then leave it to the will of Allah”. Thus the saying suggests the importance given by Prophet Muhammad (PBUH) to the concept of protection.

Taylor (2006) mentioned about the roots of Takaful system in “Pre Islamic Arab tribal practices to share the risk during hazardous trade journeys hilf (confederation); aqila (pooling of resources); and daman al tarik (surety)”. He further referred to the first constitution of Madinah (622BC) contained references to social insurance: al diyah and al-aqila (blood-money) and fidyah (ransom for prisoners of wars). He quoted historical examples of Takaful practices such as Dawania-Mutual indemnification amongst officers working in the same department during the rule of Umar Ibn Al Khattab (the 2nd Caliph). Diyyah and Aqila-Blood money and the concept of removing hardship inflicted on the family of the victim by payment of Diyyah, on a mutual basis, by the relatives of the offender.

1.1. **Why conventional insurance is unacceptable in Shariah?**

From Shariah perspective conventional insurance simply does not fall within the jurisdiction of Islamic principles. In 1985, Islamic Fiqh Academy, Jeddah confirmed the earlier rulings by scholars prohibiting Muslims from engaging in conventional insurance and reinsurance. After studying the concept and operations of conventional insurance in great details, the Muslim scholars concluded that the overall idea of insurance is good. However, the presence of few elements in it makes it against Shariah. These elements as mentioned by Pillsbury (1998) are:

i. **Presence of Riba:** Riba is lending and borrowing funds/investment at fixed interest.
ii. **Presence of Gharar**: uncertainty of terms resulting in deception or lack of clear conditions and terms.

iii. **Maisir**: Speculation or gambling.

The Muslim scholars worked out in great depth to study first to highlight the above issues that make conventional insurance unacceptable and then endeavor to find out an alternative mechanism permissible under the Sharia'h. This has led to the development of a viable Sharia'h-Compliant insurance mechanism. The following section presents the concept of Islamic insurance:

### 2. OVERVIEW OF CONCEPT OF SHARIA’H-COMPLIANT INSURANCE

The elements which were against the Shariah in conventional insurance were subject to great deliberation and discussion to ensure that social and mutual protection mechanism like insurance can be used by 1.57 billion Muslim population with great freedom and without the worries of religious constraint for the greater social and economic benefits. As mentioned aspects like interest, uncertainty and gambling were cardinals to exit to make insurance Sharia’h-compliant. Beside these elements as per Wikipedia following principles are the essence of Sharia’h-compliant insurance:

- Policyholders cooperate among themselves for their common good.
- Every policyholder pays his subscription to help those who need assistance.
- Losses are divided and liabilities spread according to the community pooling system.
- Uncertainty is eliminated with respect to subscription and compensation.
- No advantage can be derived at the cost of others

Mahmood (2008), Sharia'h-compliant insurance is based on principles of mutual cooperation (*ta'awun*) and donation (*tabarru’*), where the risk is shared collectively and voluntarily by the group of participants. It is derived from an Arabic word meaning ‘joint guarantee’ or ‘guaranteeing each other’. Redzuan, Rahman & Aidid (2009), the majority viewpoint by many contemporary Islamic jurists and scholars is that, for an insurance system to be acceptable by Islamic tenets, it must be founded on the principles of (1) mutual cooperation (2) tabarru (donation). These are the essence of Sharia'h insurance, which embraces the elements of mutual guarantee, mutual protection and shared responsibility. Tabarru means donation, gifts or contribution. Participants in a Sharia’h insurance scheme mutually agree to relinquish as donation, a certain proportion of their
contributions, into a Shariah fund, to provide financial assistance to any members of the group suffering from a loss. Under Shariah insurance, each participant contributes a certain proportion of the full amount of his contribution as tabarru. Obaidullah (2005) said donations from all participants are accumulated into a common fund called ‘tabarru fund’ or ‘risk fund’, from which compensation or indemnification is paid to participants suffering a defined loss. Jching (2008) said Shariah-compliant insurance is also built on the principle of mutual cooperation where each participant participates in each other’s losses and the Shariah insurance operator facilitates this cooperation using its expertise.

The participants assume all the risk involved in the operation of Shariah insurance business. If the operation results in surplus, they would be entitled to the whole sum, or to a certain pre-agreed percentage (depending on the Shariah insurance model adopted discussed in next section).

2.1. Development of Shariah Compliant Insurance (Islamic Insurance)

Thompson and Flower (2007) confirmed that the concept of Shariah compliant insurance was first introduced in Sudan in 1979, inspired by the growing needs of the Muslim consumers for an insurance protection that conforms to the Shariah law. Shariah-compliant insurance is now readily accessible to the Muslims. Presently there are over 250 Shariah-compliant insurance companies globally. Saudi Arabia and Malaysia are the leaders in operating Islamic insurance. Thus the following section presents in brief the status of Islamic Insurance in these countries. Veysey (2009) mentioned that two largest markets for Sharia Compliant insurance are Saudi Arabia which had contribution of $1.7 billion in 2007, and Malaysia, which had contribution of $797 million in 2007.

Saudi Arabia currently enjoys the leading position in the Shariah-compliant insurance activity though the development is a recent phenomenon in this part of the world. Hodgins and Beswetherick (2009) mentioned that insurance sector in Saudi Arabia was unregulated prior to the passing Control of Cooperative Insurance Companies Law, which came into force on 20 November 2003 along with its implementing regulations published on 23rd April 2004 (together the “Cooperative Insurance Regulations”).

Redzuan, Rahman & Aidid (2009) mentioned that the development of the Takaful industry in Malaysia started in the 1980s when the need of the Muslim consumers for an alternative to the conventional life insurance prevailed as the result of a fatwa (decree) issued by the Malaysian National Fatwa Committee which ruled that conventional life
insurance is a void contract due to the presence of the elements of Maisir, Gharar and Riba’ (Central Bank Report, 2005). In conjunction with this fatwa, the Takaful Act was enacted in 1984 and Syarikat Takaful Malaysia Berhad was formed. As per Jamal (2005) during the period of 1986-2000, Takaful fund assets of both family Takaful and general Takaful have registered an annual average growth of 68 percent. Over the same period, total Takaful contribution recorded an average annual growth of 47 percent.

Thus Muslim countries started replacing the conventional insurance with Shariah-compliant insurance to benefit the Muslims from insurance who has been avoiding insurance due to the religious constraint. Thompson & Flower (2007) mentioned that the Shariah-compliant markets are primarily domiciled in Middle and Far Eastern countries. Saudi Arabia is the foremost country hosting Shariah-compliant companies, with Bahrain, Malaysia and Sudan tied in second place. According to the ARIG directory together, the four countries accounted for roughly 75% of all Shariah-compliant institutions between 2002 and 2004. However the concepts couldn’t develop much in Western countries as highlighted by Dawjee (2007) Europe and North America share less than 1% of the Shariah-compliant market.

As mentioned by Boudkeev & Harris (2006), the Sharia’h-compliant insurance in recent years has recorded premium growth rates of around 20 percent. Earnest & Young (2009), mentioned in their report that the total contribution has grown from $ 1.4 billion in 2004 to over 3.4 billion in 2007 and are expected to reach $ 7.4 billion by 2012.

Since its introduction Shariah compliant insurance has developed in length, breadth and depth. Still the overall growth is not very encouraging. Parker (2006) mentioned that Shariah-compliant insurance business has not taken off as much and as quick as it was initially contemplated. The Islamic countries insurance penetration level does not exceed 1% of GDP, says Catherine Stagg-Macey, senior analyst and author of the report " An Overview of Islamic Insurance: Market Trend and Technology".

2.2. **Forms of Sharia’h compliant insurance**

Sharia-compliant insurance can take the following two forms:

2.2.1. **Cooperative Insurance**

Essentially a cooperative risk-sharing plan, Shariah insurance system aims to provide insurance protection against risks such as premature death, illness and disability,
and property damages. It embraces the elements of mutual help, mutual protection and shared responsibility among participants, bolstered by the principle of tabarru. Maysami and Kwon (1999) said Shariah insurance is a type of joint-guaranteed insurance mechanism, based on the law of large number, in which members pool their financial resources together against certain loss exposures.

2.2.2. **Takaful Insurance**

Ahmed Nordin (2007) said if the fund is insufficient, participants would not be asked to pay additional premium. Instead, Shariah insurance operator will provide interest-free loan, known as *Qard Hassan*, from the shareholders’ fund, to meet the deficit.

Islamic insurance is operational for the last 30 years. There are two main operational models for Islamic insurance:

- **a) Mudharaba model**

  The model essentially is a basis for sharing profit and loss between the Takaful operator and the policyholders. The Takaful operator manages the operation in return for a share of the surplus on underwriting and a share of profit from investment. The proportionate share in profits is determined by mutual agreement between Takaful operator and the policyholders. The sharing of such profit (surplus) may be in a ratio of 5:5, 6:4, 7:3, but the loss if any is born by the shareholders in which case the Takaful operators gets nothing. In the event of loss the shareholder provides loan (*Qard Hassan*) to meet the deficit. This *Qard Hassan* is repaid by the policyholders in times of profit.

- **b) Wakalah model**

  This model replaces surplus sharing with performance fee. The Takaful operator in this case acts as an agent (*Wakeel*) for participants and manages the Takaful fund in return for a defined fee. Under the Al Wakalah too, underwriting surplus of the Takaful fund, if any shall be distributed back to the participants only, based on the premise that the funds actually belong to the participants.

  Under both models above, the contributions received by the insurance companies from insured are invested in profitable investments. According to Shariah, these investments should be in Shariah compliant investment projects. However there is doubt
about these investments whether insurance companies really invests in Shariah compliant insurance or not.

The other doubtful area in the Shariah compliant insurance is the reinsurance. The scarcity of the Shariah compliant reinsurance companies compels the Shariah compliant reinsurance companies to buy reinsurance from convention reinsurance companies from world over. Thus, the researchers in this paper attempts to highlight the present state of these areas.

3. TAKAFUL AND COOPERATIVE BATTLING ISSUES

Despite the fact that Islamic insurance was introduced according to the requirements of Shariah in this paper the researcher intends to analyze the fact whether the present insurance companies operating on Shariah basis are really able to comply with the requirements of the Shariah. Thus, the researchers have identified two areas where the scholars raise their doubt. These two areas are:

- Investment of the Takaful Fund
- Reinsurance by the Shariah compliant insurance companies

3.1. Investment of Takaful Fund

Fisher and Taylor (2008) made a very interesting comment that to check whether a company's operation is Shariah-compliant or not look into its investment portfolio. They mentioned when faced with the issue of determining if a cooperative insurance company can be considered as Shariah-compliant or not, the first question to be asked before considering all of the other important, but to a degree less significant features is, “are the investments undertaken by the company fully and totally Shariah-compliant?” Only if the answer is affirmative it is necessary to move on to consider the other Shariah-compliant features detailed to determine if an insurance operation is Shariah-compliant or not. If an insurance operation fails this initial Shariah-compliant investment “litmus test”, it cannot be Shariah-compliant, even if it is co-operative. This shows that investment into permissible areas under Shariah is very important and crucial element in order to stay as Shariah-compliant.
The following figure shows the difference between the conventional and Shariah-compliant investments:

![Difference between Conventional and Shariah-compliant investment](image)

*Figure - 1*

Arshad and Raize (2008) highlighted that Sharia'h Insurance works on the basis of an agreement made by the participants of the insurance scheme. Each agrees that he or she is one of the insured as well as one of the insurers. Each pays a premium to the scheme which is then invested in Shariah acceptable areas.

Malaikah (2003) mentioned that Shariah-compliant investment means controlling and limiting exposure to certain activities that are 'Halaal' in other words allowed in Shariah. The derivation of (Halaal) activities can be summed-up as all activities not falling into prohibited activities.

**Prohibited activities:** in service industries the examples of prohibited activities are interest based financial institutions, conventional insurance companies and entertainment industry involved in pornography, gambling etc. Likewise in manufacturing, processing & trading the prohibited areas are alcoholic beverages, tobacco products, pork or using any ingredient/s obtained from pork and arms & ammunitions. There are some financial limitations also such as avoid association with interest, leverage i.e. debt equity ratio, cash & receivables to total assets ratio. The above list is not exhaustive.

Some of the instruments that are available for Takaful operators to invest in include equities; Islamic private debt securities such as Sukuk; Islamic financing facilities; property; deposits; government Islamic issuance; and Islamic unit trusts.
It is interesting and relevant to consider at this stage what mechanism and measures has been introduced to ensure that Sharia'h-compliant insurance activities especially the investment aspects are being run in accordance with Sharia'h principles:

3.1.1. Statutory measures to ensure for Shariah compliant investments

As detailed by the Institute of Islamic Banking and Insurance, the Shariah Supervisory Board is to be formed by the operators and their role is to review the operations, supervise its development of Shariah insurance products, and determine the Shariah compliance of these products and the investments. The Shariah Supervisory Board have to carry their own independent audit and certify that nothing relating to any of the operations involve any element that is prohibited by Shariah.

Kuen (2007) said Shariah-compliant financial institutions must adhere to the best practices of corporate governance however they have one extra layer of supervision in the form of religious boards. The religious boards have both supervisory and consultative functions.

The day-to-day application of Shariah by the Shariah Supervisory Boards is two-fold. First, in the increasingly complex and sophisticated world of modern finance they endeavor to answer the question on whether or not proposals for new transactions or products conform to the Shariah. Second, they act to a large extent in an investigatory role in reviewing the operations of the financial institution to ensure that they comply with the Shariah.

Shaikh Yusuf Talal DeLorenzo, a Shariah scholar, says that unless a financial product or service can be certified as Shariah compliant by a competent Shariah Supervisory Board, that product's authenticity is dubious. At that point, it will be the responsibility of the individual investor or consumer to determine on his or her own that the product complies with the principles and precepts of the Shariah.

It is important to note that the investment decisions for Shariah funds are normally guided by two main principles. Firstly, all investments must only be made into Shariah approved securities. Compliance to such requirements is usually exercised through statutory act, which normally requires the setting up of a Shariah committee within the Takaful Company. This committee will be held responsible to ensure that all investments made are Shariah-compliant. As a trustee to certificate holders and shareholders, Takaful operators
must also make sure that they diversify their investments to match the risk objectives and expected returns for each type of funds. They are responsible to ensure that all investment activities are safe and are able to meet the required investment objectives.

We will now look into the two major markets for Shariah-compliant insurance that is Saudi Arabia and Malaysian. The reason for choosing these two countries is not only because of the size of the market but also other countries in the world follow their Shariah model. We will see who regulates and ensures the activities especially the investments of the Shariah-compliant insurance and how the transparency is being maintained to abide by the laws of Shariah.

**Malaysia:** Syarikat Takaful Malaysia Berhad mentioned that in Malaysia the operation of Takaful is licensed and regulated by the Takaful Act 1984. To ensure compliance with Shariah principles the Memorandum and Articles of Association, Takaful Malaysia prefaces that "all businesses of the Company will be transacted in accordance with Islamic principles, rules and practices. In this respect Section 8, Takaful Act 1984 states that. "A Religious Supervisory Council, whose members would be made up of Muslim religious scholars in the country, shall be established to advise the Company on the operations of its Takaful business in order to ensure that they do not involve any element which is not approved by the Shariah." Accordingly, in the Articles of Association of the Memorandum there is a provision which specifies that. "The Director General shall also refuse to register an applicant unless he is satisfied".

**Saudi Arabia:** As mentioned earlier the Shariah-compliant insurance development is a recent phenomenon. The Cooperative Insurance Companies Law, came into force on 20 November 2003 along with its implementing regulations on 23rd April 2004 (together the “Cooperative Insurance Regulations”). However, since the enforcement of the regulations, Saudi Arabia has emerged as the leading Shariah-compliant insurance market. All the Shariah-compliant insurance companies have to follow the implementing regulations monitored by the Saudi Arabian Monetary Agency (SAMA). Some of the Articles of the implementing regulations relates to the investment to ensure that the company investment adheres to the Shariah principles. Not only the SAMA does the auditing of the company's investment but the company has to have a supervisory board consisting of Shariah scholars whose job amongst other is to ensure that company's investment activities abide by the Shariah principles.
Thus the foregoing discussion above clarifies that all the insurance companies must follow certain rules, regulations and procedures to strictly adhere to Shariah in these two major Shariah-compliant markets.

Though Shariah-compliant insurance companies are operating in accordance with Shariah principles there seems lack of transparency to the prospective customers about the investments venues. Though the Shariah Company promises that the investments are being made in Shariah-compliant areas and there is in place Shariah Supervisory Board besides statutory laws but what is missing is that mostly customers remain blindfolded and unaware about the investment venues. This is creating ambiguity in many prospective customers’ mind. This is also creating a barricade in new successful transactions between Shariah-compliant insurance and prospective customers. Other aspect as also mentioned by Bhatti (2001) is the common consensus for a system to determine profits (or surplus) distributable to participants and shareholders. The system of redistribution of investment returns among the stakeholders is also not transparent to the stakeholder's satisfaction. The time demands global standardization in Shariah-compliant operations not only in respect of disclosing the Shariah-compliant investment venues to the participants but also having a common consensus for a system to determine redistribution of investment returns and profits (or surplus) to participants and shareholders.

Although every operator has its Shariah Supervisory Board to monitor the activities of the companies at national level but no platform is established as yet at global level to standardize Shariah-compliant operational activities. If this could be done probably the huge segment of the market which still remains untapped could be convinced to improve the Islamic countries insurance penetration level which is currently discouraging standing below 1% of the GDP.

3.2. **Reinsurance by shariah compliant insurance**

Sharma (2007) mentioned Shariah-compliant insurance companies require reinsurance facility to transfer the risk, reduce aggregation, limiting claims volatility and protection of assets. The numbers of Shariah compliant reinsurance providers are not enough to cater for the reinsurances of all Shariah compliant insurance companies. As such still many Shariah-compliant insurance companies placing their reinsurances with conventional reinsurers under the 'doctrine of necessity'. However, this is being done as a
result of the doctrine of necessity but strictly speaking this provision cast doubt among many Muslims as to the compliance of the insurance with Shariah in its fullest form.

As we know the participants in insurance pay contribution which is then passed by Shariah-compliant insurance company to the conventional reinsurers. The funds of the Islamic investment product and those of the financial institution in which Shariah provisions are not observed must be completely segregated. Even if the reinsurance is placed with conventional reinsurance as a 'doctrine of necessity', the funds of investors who are very diligent and anxious to earn income from only according to Shariah should not be mingled with those of conventional investors who are not observant of the Shariah.

Yaquby (2009) raised a very important point. He said that conventional financial institution’s ‘Articles of Association’ do not mandate compliance with the tenets of Shariah law. To attract the Islamic insurance companies conventional reinsurers set up Shariah reinsurance window, or fund that often claims their transactions and dealings fully complying with the provisions of the Shariah. But when subjected to scrutiny and examination, this proves otherwise.

Shariah-compliant insurance companies are required to reinsure their risks with Shariah-compliant reinsurers for instance on Re-Takaful basis. According to the Islamic Banking and Insurance Encyclopedia (IIBI, London 1998) due to the meager reinsurance capacity of Retakful operators, latitude has been granted by Shariah Advisors to cede primary Takaful premiums to conventional re-insurers. Such dispensation is understood to be for a temporary period and lay down the challenge to Takaful and Retakaful operators alike to work towards for a swift resolution of these anomalies.

Islamic insurance and investment report mentioned that Reinsurance of Takaful business on Shariah principles has been an area of much debate. Reinsurance on Shariah principles is known as Retakaful. The problem has been as mentioned the lack of Takaful companies in the market. This has left the Takaful companies with a dilemma of having to reinsure on conventional basis, contrary to the customer's preference of seeking cover on Shariah principles. The Shariah scholars have allowed dispensation to Takaful operators to reinsure on conventional basis so long as there was no Re-Takaful alternative available. Takaful companies therefore actively promote co-insurance. A number of large conventional reinsurance companies from Muslim countries take on retrocession. Still there is a lack of capacity within the Takaful industry worldwide. A
certain proportion of risk is placed with international reinsurance companies that operate on conventional basis. The retrocession from Takaful companies’ ranges from some 10% in the Far East where Takaful have relatively smaller commercial risks (so far), to the Middle East where up to 80% of risk is reinsured on conventional basis.

It should be noted that Sharia'h-compliant insurer pass contribution to conventional reinsurer who may then invest these funds in the areas and in the manner not permissible in Shariah. In this regard it is important to note that cooperation and overlap between Shariah and conventional financial institutions in managing investments has taken several forms. These include the following:

An Islamic financial institution (IFI) offers an investment portfolio, backed by its Shariah expertise, but vests management of this portfolio in an external investment manager who undertakes to comply with the IFI's conditions and applies the criteria and standards laid down by the IFI when managing investment. This is permissible under the Shariah if the investment manager complies with the Islamic conditions and his or her success has been proven in more than one instance.

Alternatively, a conventional financial institution or reinsurance opens the "Sharia'h window" on its premises, introduces an investment product marketed as "Shariah-compliant," such as a fund, or sets up Shariah reinsurance.

Some scholars believe that this is not permissible, because conventional financial institutions or reinsurance do not comply, in the first place, with the Shariah in terms of their incorporation and statutes. If they do not comply with Shariah law in their basic charters, how can they claim to comply with it in their funds, branches, or windows?

In addition, the funds of these conventional financial institutions or reinsurance are drawn from prohibited earnings, so how can they invest unlawful funds in Shariah products? The rationale cited by scholars is that these financial institutions are only intent on exploiting practicing Muslim investors and in so doing unfairly compete with Shariah financial institutions.

Moreover, the claim that traditional financial institutions desire to unfairly compete with Sharia'h financial institutions can be refuted by saying that competition is always in favour of the most suitable, efficient, and fittest. This kind of competition may prompt Shariah financial institutions to exercise more diligence and care to introduce better quality
products and conduct their activities more efficiently. This is in fact evident in many nations in which competition exists.

On the other hand, conventional financial institutions may gradually convert into full-fledged IFIs if they find this viable and if they have acquired adequate practical experience and Shariah practices in this field. There are practical examples to substantiate this argument.

Among scholars and jurists who hold this view are Yusuf Al Qaradawi, Abdul-Sattar Abu Ghuddah, M. Taqi Usmani, Nazih Hammad, Abdullah Al Muslih, and Abdullah bin Sulaiman Al Manea. Economists who also espouse this view include M. Ali Elgari and Monzer Kahf. They all concur that the required conditions, outlined below, necessitate strict compliance.

The dilemma has been the very slow growth in numbers of Shariah compliant reinsurers. The Middle East Shariah-compliant insurance company's reinsurance has mostly been placed with European conventional reinsurers and these reinsurer does not follow Sharia'h principles.

However, the situation is gradually changing; though very slow, as renowned conventional reinsurers now forming the Sharia'h compliant reinsurance arrangement to cater for their customers need. Some of these major conventional reinsurers who have formed Retakaful pool/Arms/Division are under:

- Swiss Re
- Mitsui Sumitomo
- Munich Re
- Hannover Re
- Tokio Marine Re-Takaful
- Labuan Re
- Trust Re

Khan (2000), though the sharia'h reinsurance is being established, the issues are still immense as highlighted below:

- Only few globally active companies
- Capacity constraints
- Large initial capital required
Need for strong and committed sponsors
Reliance on retrocession
Different models

4. CONCLUSION

The above discussion presents the facts about Sharia'h compliant insurance. It shows that over the period of time the Sharia'h insurance has evolved as a comprehensive system mainly by removing the features objectionable in conventional insurance. In this article two aspects of insurance were presented i.e. reinsurance and investment of insurance funds. From the given background it can safely be concluded that though the concept of Sharia'h insurance has developed, still in these two areas the insurers are facing problem in meeting the requirements of Islamic laws.

As mentioned above the first issue is reinsurance. Considering that Sharia'h reinsurance has not developed as much as the Shaira'h Insurance companies causing significant problem for the companies operating as Sharia'h-compliant insurers. Due to the unavailability of Sharia'h reinsurance the Sharia'h insurance companies compelled to share their risk portfolio with conventional reinsurance. This however, against the Islamic laws as not only the conventional reinsurance formation does not abide by the principles of Islamic laws but also when conventional reinsurance receive the risk premium from Sharia'h-compliant companies they largely invest in the areas prohibited in Islamic laws. When Sharia'h insurers receive these funds back in the face of claims or reinsurance commission or profit commissions, it is already tainted by the investment by conventional insurers in prohibited areas.

Second issue is of investment by the Sharia-compliant insurance company. Theoretically, the funds of the insurance companies shall be invested in only Sharia'h compliant investments. Though, the Sharia'h compliant insurance companies generally investing in Islamic permissible sectors and the majority of countries have some kind of supervisory board monitoring board to monitor the investment, however, there appears to be no concerted effort by the counties to jointly standardize and draw distinct set of rules, regulations and auditing of the investments by Sharia'h compliant insurance companies. In this what is happening that everyone has evolved its own individual Shariah compliant investment policies.
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