AL-MARSOOS

ISSN(P): 2959-2038 / ISSN(E): 2959-2046

https://www.al-marsoos.com

From Shariah Compliance to Consumer Justice: A Critical Maqāṣid al-Sharīʿah Evaluation of Contemporary Takaful Products and Regulatory Practices

ABSTRACT

Takaful products are intended to provide financial protection through mutual cooperation and collective responsibility in accordance with Islamic principles. However, the expansion of the Takaful industry has brought new challenges relating to product complexity, investment-linked arrangements, disclosure of charges, distribution practices and consumer protection. Some contemporary products resemble conventional insurance in their economic outcomes, despite having different contractual structures. This study critically examines the design and operation of contemporary Takaful products, with particular attention to family Takaful, investment-linked family Takaful, savings-oriented arrangements, credit Takaful and general Takaful. It analyses issues relating to investment risk, allocation of contributions, fees and deductions, surplus distribution, mis-selling and regulatory oversight. The study employs a qualitative and analytical methodology and evaluates these issues in the light of Maqāṣid al-Sharīʿah, particularly the protection of life and wealth, justice, transparency, informed consent and prevention of harm. It argues that the Shariah assessment of a Takaful product should extend beyond its contractual form to examine the information provided to participants, the actual distribution of risk and the protection delivered. The study recommends simpler product structures, clear disclosure, responsible sales practices, stronger regulatory supervision and greater emphasis on affordable protection. It concludes that the future credibility of Takaful depends on ensuring that product innovation remains consistent with its fundamental purpose of mutual assistance and social protection.

***Keywords**: Takaful Products, Family Takaful, Investment-Linked Takaful, Consumer Protection, Maqāṣid al-Sharīʿah, Disclosure, Regulation.*

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Date of Submission: 25-04-2025
Acceptance: 10-05-2025
Publishing: 28-05-2025

Web:https://almarsoos.com/index.php/AMRJ/about
OJS:https://almarsoos.com/index.php/AMRJ/login
e-mail: editor@al-marsoos.com

Introduction

Takaful is an Islamic system of mutual financial protection based on cooperation, donation and collective responsibility. Its purpose is to enable participants to support one another in the event of specified losses and risks. The system is founded on Islamic ethical principles, particularly taʿāwun, justice, transparency and the protection of wealth[1].The Qur'an directs believers to cooperate in righteousness and piety, while Islamic commercial ethics emphasize mutual consent and the prohibition of unjust consumption of wealth[2] .These principles are relevant not only to the contractual foundation of Takaful but also to the way its products are designed, marketed and administered.

As the Takaful industry has developed, institutions have introduced different products to meet the financial needs of individuals, families and businesses. These include family Takaful, investment-linked family Takaful, savings-oriented plans, credit Takaful and general Takaful. Although product innovation can expand access to financial protection, it may also introduce complexity and risks that participants do not fully understand. [3]

A major concern is that some products closely resemble conventional insurance arrangements in their economic outcomes, while their Shariah distinction is primarily expressed through contractual restructuring. Other concerns include high charges, inadequate disclosure, and investment risk, misleading sales illustrations and the prioritization of savings or investment accumulation over actual protection.

This study examines contemporary Takaful products and their Shariah challenges from the perspective of Maqāṣid al-Sharīʿah. It argues that a product should not be evaluated solely on the basis of its contractual terminology or initial Shariah approval. Its actual benefits, risks, charges and consequences for participants must also be considered.

Principles of Shariah-Compliant Takaful Product Design

A Takaful product should be designed in a way that preserves the cooperative and protective purpose of the system. The following principles are particularly important.

Mutual Cooperation (Taʿāwun)

The primary purpose of Takaful is mutual assistance. Participants contribute to a common fund from which eligible claims are paid. Product design should therefore strengthen the collective protection mechanism rather than reduce it to an ordinary investment or savings arrangement.[4]

Donation (Tabarruʿ)

The contribution allocated to the risk fund is structured on the basis of donation. The terms governing this contribution, the covered risks and the payment of claims should be clearly stated. Participants should understand the distinction between risk contribution and any investment allocation.

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[1] AAOIFI, 2015
[2] al-Nisā' 4:29
[3] AAOIFI, Shari'ah Standard No. 26
[4] Qur'an 5:2

Justice and Mutual Consent (ʿAdl and Tarāḍī)

The rights and obligations of participants and operators must be fair and understandable. Product terms should not conceal material costs, transfer disproportionate risks to participants or create misleading expectations. [5]

Protection of Life and Wealth (Ḥifẓ al-Nafs and Ḥifẓ al-Māl)

Takaful products should provide meaningful protection against financial consequences of death, illness, accidents, property damage and other covered risks. The protection component should not be overshadowed by investment features where the product is presented primarily as a protection arrangement.

Transparency and Prevention of Harm (Bayān and Dafʿ al-Ḍarar)

Participants should receive clear information about charges, exclusions, investment risks, surrender values, claim conditions and surplus arrangements. Inadequate disclosure can expose participants to avoidable financial loss and undermine trust. [6]

Contemporary Takaful Products and Their Challenges

Family Takaful

Family Takaful is designed to provide financial support to participants or their beneficiaries in specified circumstances, particularly death and other agreed events. It may also include savings or investment components, depending on the product structure.

Its central Shariah and ethical requirement is that the risk-protection function should remain clear and meaningful. Participants should understand the level of protection, the amount allocated to the risk fund, the deductions made and the conditions under which benefits become payable.

A product may become problematic from a consumer-protection perspective if its marketing emphasizes potential financial returns while giving insufficient attention to the actual protection provided or the limitations of the coverage. [7]

Investment-Linked Family Takaful

Investment-linked family Takaful combines a protection component with an investment allocation. A portion of the contribution is directed to the risk fund, while another portion is invested in selected Shariah-compliant assets or investment units. The participant's investment value may therefore fluctuate according to the performance of the underlying assets and the applicable charges.

The structure is not necessarily objectionable merely because it includes investment. Its Shariah and ethical assessment depend on the contracts used, the nature of the investments, the allocation of risks and the transparency of the arrangement.

Several concerns nevertheless require attention:

[5]Qur'an 4:29

[6]IFSB, 2020, IFSB-25

[7]Parveen et al., 2019

- Participants may not understand the distinction between protection contributions and investment allocations.
- Multiple charges may reduce the investment value or surrender proceeds.
- Sales illustrations may create unrealistic expectations about future returns.
- Participants may bear investment losses while remaining liable for applicable charges.
- The protection component may be relatively limited compared with the overall contribution.

These concerns should be addressed through clear product documentation, realistic illustrations and a proper explanation of the risks and costs.

Savings-Oriented Family Takaful

Some family Takaful products place substantial emphasis on long-term savings and the accumulation of investment value. Such arrangements may be attractive to participants seeking both financial protection and savings[8]. However, the product must clearly distinguish between the savings objective and the risk-protection function. Participants should be informed about the amount of their contribution allocated to each purpose, the relevant fees, the investment risks and the consequences of early withdrawal or discontinuation. If the product is marketed as a protection arrangement but its actual structure primarily serves savings or investment accumulation, the participant may misunderstand its purpose. This can raise concerns regarding informed consent and fairness.

Credit Takaful

Credit Takaful intended to provide protection against specified risks affecting the repayment of financing obligations. It may be linked to housing finance, personal finance or other forms of credit[9]. Its design should ensure that the covered risk, the beneficiary, the claim process and the amount of protection are clearly defined. The relationship between the Takaful arrangement and the underlying financing contract should also be transparent. Where participation is required as a condition of financing, the participant should be informed of the nature and cost of the coverage, the basis of any compulsory requirement and whether alternative arrangements are available under the applicable rules.

General Takaful

General Takaful provides protection against risks involving property, vehicles, businesses and other non-life interests. It is based on mutual contributions to a common fund from which eligible claims are paid. Important issues include the clarity of exclusions, the valuation of losses, claims settlement, treatment of surplus and the management of the risk fund. Delayed claims, unclear exclusions or inadequate disclosure can undermine the purpose of financial protection.

[8]Akhter et al., 2021

[9]SECP, 2012, Takaful Rules 2012

Major Shariah and Consumer-Protection Challenges

1. Replication of Conventional Insurance

A major concern in contemporary Takaful is the replication of conventional insurance products through Shariah-oriented contractual arrangements. Product adaptation may help institutions meet market demand, but it should not result in the loss of Takaful's cooperative character[10]. The relevant question is whether a Takaful product resembles a conventional product for its general purpose. Rather, the assessment should examine whether its contracts, fund arrangements, allocation of risk and actual outcomes are consistent with Shariah principles. A product may satisfy formal contractual requirements while still raising ethical concerns if it provides limited protection, imposes unclear charges or weakens mutual assistance.

2. Excessive or Unclear Charges

Charges are necessary for the administration and operation of Takaful products. However, they should be reasonable, properly justified and disclosed. Participants should be informed about the nature of each deduction and its effect on the value of their contributions. Unclear or disproportionate charges may reduce the financial benefit received by participants and undermine the objective of protecting wealth. Particular attention is required where a product includes several deductions for administration, distribution, investment management and other services.

3. Risk and Misleading Expectations of Investment

Investment-linked products expose participants to market-related risks. The operator should not create the impression that investment returns are guaranteed where they are not. Sales illustrations should be based on clearly explained assumptions and should not be presented as certain future outcomes. Participants must be informed that the value of investment units may rise or fall and that actual surrender values may differ from projected illustrations.

4. Surplus Distribution and Smoothing

The treatment of underwriting surplus is an important feature of Takaful. Participants should be informed about the method used to calculate surplus, the conditions for eligibility and the policy governing its distribution or retention. Surplus smoothing or the use of reserves may be adopted under particular arrangements, but the policy should be transparent and consistent with the applicable Shariah and regulatory requirements. It should not be used in a manner that unfairly benefits one group of participants at the expense of another.

5. Mis-Selling and Inadequate Disclosure

Mis-selling occurs when a product is presented in a misleading manner or sold without adequately explaining its material features. In Takaful, this may involve exaggerating expected returns, understating charges, obscuring investment risks or failing to explain exclusions and surrender conditions. Such practices conflict with the Islamic principles of honesty, trustworthiness and mutual consent. They may also result in financial harm, particularly where participants commit to long-term products without understanding their obligations.

[10]Ali, 2016; Noor, 2013

6. Complexity and Financial Literacy

Complex contractual and investment structures can make it difficult for ordinary participants to understand their rights and responsibilities. Institutions should therefore provide simplified product summaries and explain technical terms in accessible language[11]. Financial literacy is not merely a matter of market development; it is also relevant to Shariah compliance because meaningful consent requires adequate understanding of material contractual terms.

Regulatory and Institutional Framework

Regulation plays an important role in ensuring that Takaful products are financially sound, Shariah-compliant and fair to participants. Regulatory supervision should address not only the solvency of operators but also product disclosure, fund segregation, claims settlement, sales conduct and the protection of participants' rights. International standard-setting frameworks provide useful guidance in this area. AAOIFI Shariah Standard No. 26 addresses Islamic insurance, while relevant IFSB standards cover Takaful governance, solvency, risk management and disclosure. These frameworks provide a basis for strengthening institutional practice and regulatory consistency.

In Pakistan, the Securities and Exchange Commission of Pakistan has undertaken a diagnostic study on the future of Takaful and identified areas requiring attention in the regulatory and institutional framework. The findings of such studies can support a more detailed assessment of local product practices and regulatory gaps.

Effective regulation should include the following measures:

Clear disclosure of contributions, charges, investment allocations and exclusions.
Proper separation of participants' funds and shareholders' funds.
Transparent rules for underwriting surplus and deficit management.
Effective Shariah supervision throughout the product life cycle.
Monitoring of sales practices and prevention of misleading illustrations.
Accessible complaint and dispute-resolution mechanisms.
Periodic review of products after launch to assess their actual effects on participants.Maqāṣid al-Sharīʿah Assessment of Takaful Products

A Maqāṣid-based assessment provides a broader framework for evaluating the ethical and social consequences of Takaful products.

Protection of life (Ḥifẓ al-Nafs): Family, health and other protection-oriented products can help reduce the financial consequences of death, illness and accidents. Product design should ensure that the protection offered is meaningful and accessible. [12]

Protection of wealth (Ḥifẓ al-Māl): Participants' contributions and investment values should be protected through fair charges, transparent investment arrangements and responsible fund management. [13]

[11]Sarfraz & Mian, 2022
[12]Ibn ʿĀshūr, 2001
[13]al-Shāṭibī, 1997

Justice (ʿAdl): Product terms should allocate benefits, expenses and risks fairly. Participants should not be exposed to undisclosed or disproportionate financial burdens. [14]

Transparency (Bayān): Clear disclosure is essential for informed participation. The distinction between risk protection, savings, investment and administrative charges should be understandable. [15]

Trustworthiness (Amānah): Operators and distributors should provide accurate information and act in accordance with their contractual and ethical responsibilities.

Prevention of harm (Dafʿ al-Ḍarar): Product design and sales practices should prevent avoidable losses resulting from misleading marketing, inadequate disclosure or unsuitable product recommendations. [16]

Public welfare (Maṣlaḥah): Takaful should contribute to wider social protection through affordable products and access for individuals and communities that are underserved by conventional financial protection arrangements. [17]

The Maqāṣid approach does not mean that every complex product or investment-linked arrangement is automatically impermissible. Rather, it requires a careful examination of the contractual structure, actual risk allocation, information provided and consequences for participants. [18]

Recommendations for Improving Takaful Products

The following measures may improve the Shariah quality and practical value of contemporary Takaful products:

Protection-oriented design: Product development should give clear priority to genuine risk protection, while presenting savings and investment features as distinct components.

Simplification of contracts: Product documents should use accessible language and clearly explain the rights and obligations of participants.

Transparent charges: All fees and deductions should be disclosed with their purpose and effect on contributions and benefits.

Realistic investment illustrations: Institutions should avoid exaggerated or misleading projections and explain the possibility of investment losses.

Fair surplus policies: The calculation, retention and distribution of surplus should be governed by clear and disclosed rules.

Responsible marketing: Sales staff and intermediaries should explain material risks, exclusions and costs and should not use religious branding as a substitute for full disclosure.

Post-launch Shariah review: Shariah supervision should examine the actual operation and outcomes of products, not only their initial contractual approval.

[14]Qur'an 4:29

[15]Qur'an 4:58; Ṣaḥīḥ al-Bukhārī, no. 7138

[16]Ibn Mājah, no. 2340; al-Shāṭibī, 1997

[17]al-Shāṭibī, 1997

[18]Auda, 2008

Affordable social protection: Institutions should develop accessible family, health, micro-Takaful and other protection-oriented products for underserved groups.

Stronger regulatory supervision: Regulators should monitor product suitability, sales conduct, fund segregation, disclosure and claims settlement.

Consumer education: Takaful operators should provide accessible educational material explaining tabarruʿ, risk sharing, investment risk, fees and participants' rights.

Conclusion

Contemporary Takaful products have expanded the range of financial protection available through Islamic financial institutions. Family Takaful, investment-linked arrangements, savings-oriented plans, credit Takaful and general Takaful can serve important financial and social needs. However, the growing complexity of these products has also raised concerns regarding transparency, charges, investment risk, mis-selling and the protection of participants.

The analysis demonstrates that the Shariah assessment of Takaful products should not be confined to their contractual form. It should also consider the actual protection delivered, the allocation of contributions and risks, the fairness of charges and the quality of information provided to participants. Investment-linked and savings-oriented products are not inherently objectionable; their acceptability and ethical quality depend on their contractual arrangements, investment activities, disclosure and practical consequences.

Maqāṣid al-Sharīʿah provides a comprehensive framework for evaluating these matters. It requires Takaful products to protect wealth and life, promote justice, prevent harm and strengthen mutual assistance. Accordingly, product innovation should be accompanied by clear disclosure, responsible marketing, effective regulation and continuous Shariah oversight.

The future development of Takaful depends on its ability to provide genuine and affordable protection while preserving its ethical and cooperative foundations. Its success should therefore be measured not merely by market growth or product variety, but by the extent to which it fulfils the financial and social needs of participants in accordance with the objectives of Shariah.

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