

The Application of Wakalah Contract in Takaful: Perceptions of Practitioners

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ABSTRACT

Since its establishment in the 1980s, takaful has grown significantly in Malaysia, making the nation a global leader in Islamic banking. In 1984, the industry saw the founding of Syarikat Takaful Malaysia Berhad, first propelled by regulatory support and increasing awareness of Shariah-compliant products. Wakalah is the most widely used model in Malaysian takaful industry. However, there were some issues highlighted in the wakalah contract, such as the fees being charged multiple times, which gives more return to the takaful operators. This will defeat the basic purpose of mutual cooperation in Takaful. The main purpose of this study is to explore the perceptions of the practitioners on the application of wakalah contract in the takaful operation. This study employed qualitative methodology. Ten semi-structured interviews were conducted involving selected product development officers and strategy communications officers which directly involved in the development of a takaful product. Thematic analyses were adopted to analyse the data. It can be deduced that there is a gap between the expectations of the shariah committee and the actual practice of shariah audit which provides the area of improvement in the future. These findings provide useful insights for takaful operators to enhance alignment with shariah governance, particularly through improving communication and standardising audit practices.

Keywords: Shariah Audit, Takaful, Gap Analysis, Shariah Committee

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INTRODUCTION

In the development of Islamic Financial Institutions (IFIs), compliance with shariah is the most important feature that distinguishes IFIs from other subdivisions of the global financial system. Failure to comply with shariah can damage public trust in the purity of IFI activities and thus reduce their market capitalization. Shariah non-compliance risk is the possibility of loss resulting from the failure of the IFIs to comply with the rules and principles of shariah laid down by the shariah board or the relevant authority in the jurisdiction in which the IFI works.

In regard to ensuring the shariah compliance for IFIs, the shariah audit function demonstrates an additional governance framework in accordance with its islamic financial accountability and the interest of stakeholders. On the same ground, shariah committees (SCs) play a crucial role for the issuance of a quality shariah compliance assurance in the annual shariah report of IFIs. Due to prior to the issuance of Shariah Governance Framework (SGF) 2011 which is now replaced with Shariah Governance Policy Document 2019, the role of ensuring shariah compliance was under the responsibility of the shariah committee. The shariah committee is the one who will assess the work carried out by the shariah audit in order to ensure compliance with shariah matters which form part of their duties in providing the assessment of shariah compliance and assurance information in the annual report.

Despite the existence of a governance framework, there appears to be a disconnect between the expectations of shariah committees and the actual implementation of shariah audit practices. This misalignment raises concerns about the effectiveness of the current shariah audit mechanisms and their ability to deliver the assurance required by the stakeholders and uphold shariah integrity. However, limited empirical research has been conducted to systematically identify or analyze this gap, particularly in the context of the takaful industry.

The focus area for this study is the Takaful industry because most of the previous studies focused on the Islamic banking sector. Besides, the takaful area is deemed to be the leading field because Malaysia has emerged as the world's largest family takaful market. Previously, there are a few issues which have been determined in related to the takaful industry such as shortage of human capital, inadequate technology capabilities, lack of innovation in the business model for new market niches, and ineffective governance practices (Moheeb, 2011; Deloitte, 2015; Mohd Fauzi et al., 2016). These highlighted issues of shariah governance in the takaful industry have also become a motivational factor in selecting takaful operators as the main attention. The issue associated with this research is ineffective governance practices, which subsequently expose the takaful operators in their operations and activities to the risk of shariah non-compliance.

This study is undertaken based on the premise of the importance of having a good internal control of shariah non-compliance risks for the purposes of developing a robust shariah governance framework in the Islamic financial system and the crucial role of SCs which is to oversee shariah matters for IFIs. Hence, the main objective of this paper is to identify the gap between the expectations of the shariah committee and the actual practice of shariah audit. This study is also conducted to address these three research questions; 1) What are the expectations of the shariah committee on the shariah audit practice? ;2) How is the actual practice of shariah audit? and 3) What are the gaps that exist in the practice of shariah audit?

This paper is divided into four main sections. Literature review section discusses the development of Malaysian takaful industry, regulatory framework for shariah governance, shariah audit practices in Malaysia and the role of the shariah committee. Section three features the elaboration on the methodology and design of study involved. Then, section four presents the substantial findings, and the final section contains the concluding comments.

LITERATURE REVIEW

Development of Malaysian Takaful Industry

The development of takaful in modern times was initially undertaken in Sudan in 1979 and Malaysia in 1984. The takaful industry development in Malaysia in 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 the Islamic bank that was established in 1983. The first takaful operator, Syarikat Takaful Malaysia Berhad, was set up in 1984 to provide complementary services to Bank Islam.

The Malaysian government enacted the first dedicated act for takaful in the world, known as the Takaful Act 1984, to regulate the takaful and retakaful industry as a measure to ensure the orderly development of takaful which is premised on a different legal and philosophical framework and to nurture takaful into a strong and well-developed business on par with its conventional counterpart. As a result of the introduction of the Takaful Act 1984, Malaysia has been recognized as a pioneer of takaful in Southeast Asia (Lambak & Tahir, 2013). The Takaful Act provides for the regulation of the takaful business in Malaysia and other purposes related to takaful.

Bank Negara Malaysia (BNM) initiated the Financial Sector Master Plan (2000–2010) with the aim that the takaful industry and Islamic banking will contribute at least 20% of the total market share of the financial sector. Subsequently, the Financial Sector Blueprint (2011–2020) targeted to increase the market share of Islamic banking and finance in Malaysia to at least 40% by the year 2020. The development of the takaful industry in Malaysia has shown remarkable performance. From a single takaful operator in 1984, BNM has extended the award of takaful licenses to conventional financial institutions. To date, Malaysia has a total of fifteen (15) takaful operators for family and general takaful businesses.

Takaful Model in Malaysia

In the Malaysian context, there are two basic takaful models that exist for protecting an individual and property, namely, a takaful model wakalah and mudharabah (Kawangit et al., 2012). There is also a wakaf-based takaful model that underpins the takaful operations of several foreign countries, namely South Africa and Pakistan (Rosele & Johari, 2016; Eldaia et., 2020).

Wakalah Takaful Model

According to scholars of islam, it means that one hands over a business to another so that he can act as a representative on his behalf while the representative is still alive. The subject represented must be something that can be represented (Al-Khin, Al-Bugho & Al-Sharbaji, 1992). Basically, it's a relationship between the representative and the person who represents.

In takaful operations, the wakalah contract that applied is wakalah bil al-ajr (representative with fee). Through this contract the participant as a group is a representative while the operator of the takaful is appointed as a delegate to handle the affairs related to takaful which are in principle donated by the participants. Takaful operators will also be paid a fee for the services provided. Wages can be charged as a fixed value or based on an agreed ratio. Under the model, the income of a takaful operator consists of performance fees, excess shareholding of the takaful money group and also investments in shareholders' funds (Pasha & Hussain, 2013; Eldaia et., 2020).

Mudharabah Takaful Model

Mudharabah means a partnership agreement between two or more parties on the profit taken capital from the owner of the property while the business or work is from the entrepreneur. The profit-sharing between the two is in accordance with agreement and agreed terms (Al Buhuti, 1999).

In the takaful context, the participant is as a *rabbul mal* which is the provider of wealth committed to monthly contribution. The monthly contribution will be the capital of a takaful operator who is a *mudharib* that is an entrepreneur against a business or investment carried out. If there is a profit, it will be shared on the basis of the ratio agreed at the beginning of the agreement (Mustafa & Rahman, 2015).

Under this model, the income of a takaful operator consists of shareholding of the excess of the takaful money group as well as investments from the shareholders' funds. Nevertheless, this model is not the choice of takaful operators as the source of revenue offered by the model is rather limited in addition to the existence of risks that a possible takaful operator will not get any share if the effort done does not generate a profit (Archer, Karim & Nienhaus, 2009; Sha'aban dan Salleh, 2021).

Hybrid Takaful Model (Wakalah and Mudharabah)

Generally, this model is the most dominant model in the takaful market worldwide including in Malaysia (Noor & Zakaria, 2010). Under this model, a group of participants as takaful fund owners appoint a takaful operator as their representative to handle the fund's resources at a certain fee as a management salary. Meanwhile, the takaful operator is responsible for managing the investment activities of the fund and the profits obtained will be divided between the takaful operator and the participant on the basis of a certain ratio agreed in the contract (Ali, Odierna & Ismail, 2008; Hassan et al., 2020). In short, an agent's contract is used for collateral activities and a mutual asset contract is also used for investment activities of takaful funds (Noor & Zakaria, 2010).

Wakaf Based Model

This takaful model is based on the wakaf fund in establishing a takaful risk fund. Based on this model, a takaful operator or company should set up a wakaf fund. Takaful participants will make a donation to the Wakaf fund and directly the fund becomes the property of the general public. In short, the participant will be a waqif (contributor) and the takaful operator will be an agent and waqf fund manager, i.e. a representative of the party to manage the wakaf cash (Salleh et al., 2020). Generally, this model is not profit-oriented like the other

takaful models such as the mudharabah, wakalah and hybrid models. This is because the money disbursed or the wakaf fund will be used as compensation to the takaful participants who suffered the disaster. This wakaf fund will also be used for investments and returns will be redirected to the wakaf's takaful account for charity purposes as well as forming the true wakaf objective (Zakaria et al., 2019).

Zakat Based Model

Another model similar to the wakaf has also been proposed is the zakat-based takaful model, in which the model is in collaboration between the takaful operator and the institute of zakat management. This takaful fund is based on a zakat fund to protect the takaful participants (Mikail, Ahmad & Adenkule, 2017).

Wakalah and Its Legality

In understanding the operational structure of the takaful industry in Malaysia, it is essential to delve into the shariah-compliant contracts that underpin the models in use. Among these, the wakalah (agency) model plays a central role in the management of takaful funds. While the previous section outlined the various models implemented in Malaysia, the following discussion will focus specifically on the wakalah shariah basis for its legality within the context of takaful practices.

The fuqaha stated wakalah is permitted in Islam as long as it fulfills its rules and pillars. Here are the evidence concerning of wakalah:

Al-Quran,

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمًا مِنْ أَهْلِهَا إِنْ يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Translation: “And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted (with all things)”

(Surah an-Nisa' 4:35)

Hadith,

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، أَنَّهُ سَمِعَهُ يُحَدِّثُ قَالَ: أَرَدْتُ الْخُرُوجَ إِلَى خَيْبَرَ فَأَتَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَسَلَّمْتُ عَلَيْهِ، وَقُلْتُ لَهُ: إِنِّي أَرَدْتُ الْخُرُوجَ إِلَى خَيْبَرَ فَقَالَ: «إِذَا أَتَيْتَ وَكَيْلِي فَخُذْ مِنْهُ خَمْسَةَ عَشَرَ وَسَقًا، فَإِنْ ابْتَعَى مِنْكَ آيَةً، فَضَعْ يَدَكَ عَلَى تَرْفُوتِهِ»

Narrated Jabir Ibn Abdullah: I intended to go (on expedition) to Khaybar. So I came to the Holy Prophet (ﷺ), greeted him and said: I am intending to go to Khaybar. He said: When you come to my agent, you should take from him fifteen wasqs (of dates). If he asks you for a sign, then place your hand on his collar-bone

(Hadith Sunan Abu Dawud, Vol 6. 3632)

According to the Hadiths, wakalah was also the practice of the Prophet Muhammad SAW in his various affairs. For example paying debts, representing camel management, providing animal cages and so on.

According to *ijma'*, the scholars agreed to allow the practices of wakalah and encourage it. This is because it emphasizes the concept of helping.

There are two types of wakalah, namely wakalah muqayyadah and wakalah mutlaqah. wakalah muqayyadah refers to a representative contract that has limits or restrictions on the representative's actions based on certain conditions (Mohammad Deen, 1995). While wakalah *mutlaqah* refers to the appointment of a representative without binding the representative with anything and without placing certain conditions (Al-Zuhaili, 1985).

Meanwhile, the wakalah pillars are divided into four, namely (An-Nawawi, 2003):

1. The person who represents (al-muwakil)

A person represented or authorizing should have the right and authority over the matter to be delegated.

2. Representative (al-wakil)

A representative is a person who has the ability to carry out the assigned matter as long as it does not violate the conditions and does not conflict with the shariah affairs.

3. Represented object

The thing or object that is represented must be feasible and permitted by the Shariah.

4. Ijab and qabul (sighah)

Having a two-party agreement orally or otherwise.

In addition, wakalah with wages is also allowed in Islam following the hadith of the Prophet Muhammad SAW:

عَنْ عُقْبَةَ بْنِ غَامِرٍ رَضِيَ اللَّهُ عَنْهُ، "أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَعْطَاهُ غَنَمًا يَفْسِمُهَا عَلَى صَحَابَتِهِ، فَبَقِيَ عَنُودٌ، فَذَكَرَهُ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ: صَحَّ بِهِ أَنْتَ".

(Hadith Bukhari, Vol 3. 2300)

Narrated `Uqbah bin Amir: that the Prophet had given him sheep to distribute among his companions and a male kid was left (after the distribution). When he informed the Prophet of it, he said (to him), Offer it as a sacrifice on your behalf.

The above hadith tells that Uqbah bin Amir had represented the Prophet to divide the goats among the companions of the Prophet and the rest of the goats were given to him for sacrifices. This is the wage received by Uqbah.

Nevertheless, wakalah can also be done without any pay. It is voluntary for good and ta'awun which is highly encouraged in Islam (Mohammad Deen, 1995).

Issues in Wakalah Contract in Takaful Operation

In the takaful model, the issue of fee or *ujrah* has been associated. Htay and Zaharin (2011) stated that the participant's fee has many layers of charges charged by the takaful company. Participants are required to pay twice the fee, i.e. the fee for the contribution and the fee of the share of the investment (Redzuan et al., 2009). In the context of the National Bank of Malaysia (2010), the takaful model allows for a fixed fee to be charged along with the participant's contributions. Warranty fees are for covering fund management expenses and as commissions of a takaful company. This explains that there is no special provision for duplication of employment charges by takaful companies. It even shows that takaful companies are more focused on profit alone than on emphasizing the concept of *taawun* in takaful. According to Akhter (2010) participants are also required to pay the takaful company's wage fee at the beginning of the period before making the participant's contribution payment. This issue is questioned when there is a situation in which participants withdraw from takaful in the middle of the takaful period. Then there is the question of whether the takaful company has a right to the agent's fee or otherwise and how to reimburse the payment to the participant after the takaful company explains the commission to the agency.

Next, the issue of underwriting surpluses is the question of surplus funds. In the basic concept of the workforce model, the surplus investment and savings will be reallocated to the participants, in other words any surplus funds will be owned entirely by the participants (Archer, 2009). Obviously, the takaful company has no right to share the surplus amount of profits with the participants. It's because they've received a fee or a share of their profits (Isa et al., 2017). Although the excess is named as *intense* to the takaful company it remains guilty on the side of the law (Htay & Salman, 2013).

Next, according to Hassan (2019), profit sharing is limited to participants and is not valid for use as income to takaful companies. This is because the takaful company is the trustee and fund manager appointed by the participants. However, some argue that partnership is permitted to takaful companies if the claim rate is less than the participant (Isa et al., 2017). Nevertheless, Akhter (2010) insists that the issue of profit sharing is illegal to participants and takaful companies as is the case in the *mudharabah* model. From the shariah angle when a donation or *donation* has been made, the participant cannot receive any profit from it. Thus, the combination of the model of takaful *mudharabah* and *wakalah* has been introduced by the scholar of islam and the experts of takaful industry to address all the issues that arise.

METHODOLOGY

The purpose of this study is to explore the perspectives of shariah committee members and Shariah auditors on current practices. A qualitative approach was employed, utilizing in-depth interviews to gather evidence. While qualitative methods allow for detailed and comprehensive exploration of issues, data collected from human experiences is often more compelling and insightful compared to quantitative data (Rahman, 2017). Additionally, in-depth interviews provide a platform for researchers to capture participants' experiences, views, and beliefs concerning a particular research question or phenomenon (Ryan et al., 2009). This study adopts a basic qualitative research design, also referred to as a basic interpretive study, which aims to understand how individuals make sense of their experiences.

A purposive sampling strategy was employed to engage respondents who were willing to participate in the study. A total of ten (10) semi-structured interviews were conducted with key individuals, including shariah officers, product development officers, heads of shariah departments, and vice presidents of shariah departments involved in takaful operations. Although there is no specific sample size that fits all situations in determining data saturation, most research aiming to explore general perceptions and experiences among a relatively homogenous group suggests that 6 to 12 interviews are typically sufficient (Guest et al., 2006, 2017, 2020). Therefore, a sample of 10 experienced practitioners from the takaful industry was selected, as it was considered sufficient to achieve data saturation in this study.

The details of the respondents are presented in Table 1 below. Given their extensive knowledge, vast experience, and significant roles within their respective organizations, these respondents provided valuable insights. The interviews were conducted face-to-face using a semi-structured format, beginning with a set of predefined questions and expanding based on the discussion's progression. Each session was audio-recorded and lasted between 45 minutes to an hour and a half. The collected qualitative data was validated using Creswell's recommended processes (2009).

The recorded interviews were transcribed and subsequently analyzed. The data was reviewed multiple times to identify emerging themes and concepts, which were then categorized according to the interview questions. A combination of within-case and cross-case analysis was applied, with the results synthesized and pattern-coded. Pattern coding involves grouping summaries into fewer sets, themes, or constructs, allowing for the reorganization and condensation of multiple initial analytic elements into key outputs. To ensure the validity of the findings, respondents were provided with transcribed interviews via email for verification, giving them an opportunity to review and raise any concerns regarding the data. This approach was inspired by Braun and Clarke's (2006) six-step thematic analysis process, which includes familiarization with the data through transcription, generating initial codes, identifying themes, reviewing themes, defining and naming themes, and producing the final written report.

Table 1
Details of Interviewees

Interviewees	Gender	Highest Qualification	Role	Years of experience in industry
Respondent 1	Male	Bachelor degree	Shariah Officer	16-20 years
Respondent 2	Male	Bachelor degree	Shariah Officer	16-20 years
Respondent 3	Male	Bachelor degree	Shariah Officer	6-10 years
Respondent 4	Male	Bachelor degree	Head Shariah Officer	16-20 years
Respondent 5	Female	Master degree	Product Development Officer	11-15 years
Respondent 6	Male	Bachelor degree	Product Development Officer	11-15 years
Respondent 7	Female	Bachelor degree	Product Development Officer	11-15 years
Respondent 8	Female	Bachelor degree	Product Development Officer	11-15 years
Respondent 9	Male	Bachelor degree	VP of shariah department	11-15 years
Respondent 10	Female	Bachelor degree	Product Development Officer	11-15 years

FINDINGS

This section discusses the perceptions of the practitioners on the application of wakalah contract in takaful operation based on the research questions. Analysis will be conducted at the end of the study to identify whether the application of wakalah contract should be maintained and the benefit of wakalah contract to the takaful operator.

Should Takaful Operator Maintain the Application of Wakalah Contract?

Based on the interview analysis, all takaful operators in the opinion that they should maintain the application of wakalah contract. Most of them are in the opinion that this is the best contract that takaful Operators should apply based on the characteristics of the product. Besides, this contract aligned with the Shariah principles. The wakalah contract adheres to Shariah principles, which emphasise ethical openness and fairness. In a wakalah arrangement, the takaful operator serves as an agent (wakil) on behalf of the participants, managing their contributions in a manner that meets their risk coverage requirements while adhering to Islamic law. The wakalah model differs from traditional insurance models in that it structures the operator's function as an agent, whilst the insurer accepts the risk directly and profits from underwriting. Instead, the takaful operator is reimbursed solely for their services as a fund and process manager, not as a risk taker, which is consistent with the shariah principle of risk sharing rather than risk transfer.

Furthermore, this structure contributes to conformity with the shariah governance framework that governs takaful operations. Shariah boards or advisers often favour wakalah contracts because they provide clarity about the operator's income (agency fees) and prevent profit-seeking behaviour that could jeopardise the takaful arrangement's ethical integrity. This obvious agreement with shariah values ensures stakeholders, including participants and regulatory authorities, that the takaful operator's business strategy is based on Islamic financial principles.

Thus, they agreed to maintain the application of wakalah contract as the wakalah contract is helpful to takaful operators because it fits with Shariah principles, increases transparency, supports a cooperative risk-sharing model, ensures financial stability, and allows for flexibility in adapting to market needs. By acting as agents, operators enhance takaful's ethical base while avoiding profit-driven methods that may conflict with Islamic finance norms. The benefits from this contract will be discussed further. The study conducted by Muhammad Zuki, Ishak and Roja (2024) proved that there is a positive relationship between the takaful business model with the performance of the business and for the time being the application of wakalah contract would give high average of profit after tax and the return on assets.

This finding relates to research question 1, as it reflects the expectations of shariah committee members on upholding transparency and ethical conduct in line with Islamic principles. It also links to research question 2, by presenting how these expectations are already implemented and perceived by operators.

How Wakalah Contract Can Give Benefit to Takaful Operators?

There are few themes derived from the benefits of wakalah contract to the takaful operators. The first theme is distribution channels. Takaful operators can access a larger customer base

by utilising a variety of distribution channels, including bancassurance, agency networks, internet platforms, and retail partnerships. This wider reach increases the number of takaful plan participants, resulting in higher total contributions to the takaful pool. As the number of participants rises, the operator can keep or increase the amount of fees received, ensuring a consistent income to support the wakalah fee arrangement.

Besides, this multi-channel distribution makes it easier for potential customers to get takaful products, which can boost enrolment rates. Customers can sign up effortlessly from home using digital platforms, whereas agencies or branches offer in-person support to those who prefer face-to-face encounters. Takaful operators can increase customer acquisition and retention, resulting in a consistent source of fees from a broad participant base. Diversified distribution channels also decrease the risk of being overly reliant on a single group of players. For example, if one channel performs poorly (as physical agencies do during economic downturns), digital channels or bancassurance agreements might help compensate. This diverse approach ensures that takaful operators have different revenue streams that contribute to overall fee income, resulting in more stable fees received under the wakalah model and more sustainability.

This theme supports research question 2, by illustrating the actual strategies used in operationalising wakalah contracts. At the same time, it links to research question 3, as differing levels of digitalisation and channel diversity across operators reveal inconsistencies in implementation practices

The second themes derived is lower risk. In a wakalah contract, the takaful operator is paid a fixed management or agency fee for managing the takaful fund. This fee is not based on the fund's investment performance or underwriting outcomes, reducing the operator's exposure to market volatility and claim fluctuations. Regardless of the claims or investment results, the operator's revenue is predictable and stable, ensuring financial security and reducing company risk. Unlike traditional insurers, takaful operators in a wakalah arrangement also do not directly face the underwriting risk. Instead, participants in the takaful pool share the risk collectively. The operator's responsibilities are confined to

maintaining the fund and handling claims. This structure protects the operator from potential losses caused by high claim frequencies or unfavourable risk events, as any fund surplus or deficit impacts participants rather than the operator.

This finding addresses research question 2, by showing the actual risk-mitigation advantages practiced through wakalah. It also touches research question 3, since some operators reported varying interpretations on surplus-sharing and fee calculation, revealing practice gaps.

There is also limited investment risk in wakalah contract. Because the operator is largely funded by the wakalah charge, they rely less on the fund's investment income. While the operator runs the fund in accordance with shariah principles, they do not receive a portion of the investment profits unless using a hybrid Wakalah-Mudarabah model. This structure reduces the operator's exposure to investment risks and protects them from losses during poor market conditions, thus lowering their total risk profile.

The third theme is fair charge. It is agreed by the respondents that using wakalah contract obviously would require transparent fee structure. The wakalah model requires that the management or agency fee charged by the takaful operator be fully defined and agreed upon

at the start of the interaction. This transparency guarantees that participants understand how much they will be paid for the administration and management of their contributions. Unlike models with hidden fees or complex profit-sharing, wakalah contracts are clear, allowing participants to better understand the cost of their participation. This upfront disclosure prevents misunderstandings or disagreements and promotes conviction between participants and the operator.

On the same ground, there is justification for all fees pay by the participants. The fees charged to participants in a wakalah contract are designed to pay the operating costs of managing the takaful fund, processing claims, and delivering services. Charges are intended to be reasonable and represent the value of the services provided. Takaful operators must remain competitive, so they set fees that are reasonable and appealing to participants while also paying their expenditures. If costs are excessively expensive without delivering comparable value, participants are likely to seek out alternative takaful providers, ensuring that fees remain competitive.

This addresses research question 1, by highlighting that shariah committees expect clarity and fairness. It relates to research question 2 by detailing how fees are disclosed in current practice. It further informs research question 3, since the study revealed variations in fee justifications and potential overlaps in charges among operators.

The next theme is interest protection. The wakalah contract establishes a clear division of roles and responsibilities, which helps protect the interests of both the takaful operator and participants. The takaful operator acts as an agent (wakil) tasked with managing the participants' contributions and overseeing the fund's operations. This defined role ensures that participants know what services they are paying for, fostering transparency and trust. For the takaful operator, the predetermined agency fee structure provides a clear income model that enables them to manage their operations effectively without relying on surplus distributions.

Using wakalah contract also promotes fair compensation and unfair practices. The wakalah contract provides takaful operators with a fair and sustainable revenue stream through agreed-upon administration fees. This regular income enables operators to cover administrative costs, invest in service improvements, and maintain financial stability while avoiding the risks associated with underwriting or investment volatility. On the other hand, participants are protected from excessive or hidden charges, because the fees must be revealed and justified beforehand.

This theme addresses research question 1, where expectations centre on ethical safeguarding of participants' interests. It also reflects research question 3, because not all operators adhere uniformly to agency fee disclosure, revealing room for regulatory tightening.

Last but not least, the final theme is upholding the principles in takaful. Wakalah contract emphasis on mutual cooperation and risk sharing. One of the fundamental ideas of takaful is mutual aid (ta'awun) and shared accountability among participants. The wakalah contract strengthens this by designating the takaful operator as an agent (wakil) who manages the takaful fund on the participants' behalf. While members combine their contributions to cover potential risks, the operator ensures efficient administration and claims processing. This cooperative framework means that all participants share the risk jointly, based on the notion of mutual solidarity rather than individual profit-making. The operator ensures that claims are paid properly, so enhancing the common welfare of the group.

This final theme ties back strongly to research question 1, showing that Shariah expectations around fairness, trust, and ethical roles are well understood. It also addresses research question 2 by illustrating the operators' role implementation. Gaps mentioned under research question 3 include varying hybrid practices (e.g. Wakalah-Mudarabah) that may dilute the core principles of ta'awun if not well-regulated.

The wakalah contract also provides transparency into its fee structure by establishing the operator's pay up front via an agreed-upon agency fee. This ensures that participants are aware of the costs connected with managing their contributions and prevents any unexpected or excessive fees. Such transparency upholds the takaful principle of fairness and fosters confidence between participants and operators. The explicit disclosure of fees is consistent with Islamic finance's emphasis on ethical business practices and safeguards participants from misconduct by ensuring they understand where their contributions are going and how the operator is paid.

The wakalah contract preserves Shariah principles by requiring the takaful operator to act responsibly and in the best interests of the participants. The operator is driven not by underwriting profits, but by a service-oriented fee, which promotes careful and responsible fund management. Furthermore, the contract must be shariah compliant and certified by a shariah board to verify that all procedures are free of prohibited elements such as gharar (extreme uncertainty) and riba (interest). This ethical and compliant framework protects Islamic financial principles and strengthens participants' trust in the system. In conclusion, the wakalah contract preserves takaful values by encouraging mutual assistance and risk-sharing, providing transparent and fair pay, and sticking to shariah-compliant and ethical methods. This paradigm promotes trust, justice, and solidarity among participants, with the operator serving as a responsible steward, protecting the collective's welfare. Table below summarizes the themes with the quottaions by the respondents.

Table 2
Theme and Quotations by The Respondents

Themes	Quotations
Distribution channels	“ ..varieties distribution channels that allow us to guarantee the fees..(R1)
Lower risk	“...this contract is among the low risk contract for TO..”(R7) “..of course..this is the best model which offer low risk..”(R10)
Fair charge	“..we can charge to the participants with reasonable charges..(R2)
Protect interest	“..the model already protect the interest of TO and the participants..” (R3) “..this is the best contract that fair enough for both parties..” (R6) “ we can get upfront payment..by using this contract..”(R9)

DISCUSSION AND CONCLUSION

The findings of this study highlight several gaps between the expectations of takaful practitioners and the actual implementation of the wakalah contract in takaful operations. These gaps include: (i) the standardization of wakalah fee structures, (ii) transparency in fee disclosure, (iii) compliance with shariah governance requirements, (iv) variations in operational practices among takaful operators, and (v) inconsistencies in regulatory enforcement. These gaps, however, provide opportunities for refining and enhancing the current application of the wakalah contract in takaful. Acknowledging these discrepancies is

crucial, as they directly influence the sustainability and ethical compliance of Takaful practices.

The primary cause of these gaps is the absence of a standardized regulatory framework that provides explicit guidelines on wakalah fee structures and operational execution. Existing guidelines provide only general principles, leaving room for varied interpretations among takaful operators. Additionally, discrepancies arise due to differing institutional approaches in implementing Wakalah-based Takaful models. Moreover, there is a pressing need for capacity building in the Islamic finance sector to address the shortage of skilled professionals capable of integrating both shariah compliance and financial expertise. Given these challenges, several recommendations are proposed to improve Wakalah-based Takaful operations: (i) establishing a standardized wakalah fee structure to ensure fairness and transparency, (ii) implementing robust regulatory oversight mechanisms, (iii) enhancing shariah governance frameworks to reinforce compliance, and (iv) integrating advanced digital solutions for greater transparency and operational efficiency.

As with many empirical studies, this research has certain limitations. Firstly, the study is confined to the perspectives of takaful practitioners, without incorporating viewpoints from regulators and policymakers. A broader investigation that includes regulatory bodies such as Bank Negara Malaysia could provide a more holistic understanding of the challenges and opportunities in the wakalah contract application. Secondly, the study is limited to the takaful sector, while other segments of Islamic finance, such as banking and investment, may present different operational dynamics. Lastly, this research does not assess the financial performance impact of wakalah contracts in takaful operations, which could be explored in future studies.

Despite these limitations, the study provides valuable insights into the current application of the wakalah contract in takaful, particularly in relation to its governance and operational execution. The findings contribute to the body of knowledge on shariah governance and provide a basis for refining regulatory and operational frameworks. Future research could explore the perspectives of policymakers on the standardization of wakalah practices or assess the financial sustainability of different takaful models. Ultimately, enhancing the implementation of wakalah contracts can contribute to the broader objectives of ethical and sustainable Islamic financial practices, ensuring greater trust and confidence among stakeholders. Therefore, regulators such as Bank Negara Malaysia are encouraged to issue more detailed and specific guidelines on the operational responsibilities of shariah committees. This could ensure greater consistency in shariah audit implementation across the takaful industry, thereby strengthening governance, transparency, and stakeholder confidence.

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