Index

affordability 316, 320–21, 323
AIG (American International Group) 142–3, 193, 198
aqilah (shared responsibility) 4, 7, 23, 63, 310
arbitrage, shari'ah 291
arbitration 149–51, 154
autonomy
and independence
as features of CIC 266
as features of cooperatives 120, 261
and government supervision 279
maintaining balance between central regulation and local 296–8
Bahrain 6, 10, 124–5, 129, 136, 147, 311
Bank Muamalat Malaysia Bhd v. Sophisticated Pipe Industry Production Sdn. Bhd. 146
capital guarantee and capital protection 225–7, 235–7
capital raising 278
case law review 140–49
cash endowments
historical role of 85
permissibility of 77–8
permissibility of donor deriving benefit from 78–80
charity
of cooperatives 269, 287
dilemma of micro-takaful 317
donation of surplus to 106
and endowments 78–9, 82, 90
fund 272–3, 322
and takaful 24–5, 70, 311
CIC see Commercial Islamic Cooperative (CIC)
commercial credit takaful see trade credit insurance
Commercial Islamic Cooperative (CIC)
business model 267–8
features
autonomy and independence 266
concern for community 267
cooperation among cooperatives 266
democratic member control 266
member economic participation 266
value added services 266
voluntary and open membership 265–6
income allocation
charity fund 272
distribution between categories 272
main purposes 271
mechanism 272, 274–5
main strengths
community development 277
double bottom line objective 275–6
efficient financial intermediation 277–8
enhanced financial inclusion 276–7
lower default risk 278
reduced market failure 277
SME development 277
management 271
model 264–5
operational mechanism (members) 269–70, 273
potential uses 279
commission, retakaful 182, 187–8, 190
common interest 23, 63, 105–6, 108, 213, 277, 310
commutative contract 67, 69–75, 82, 87, 108
see also non-commutative contract
contract form
conducting financial transactions at unfair prices 56
and justice 57
medieval 162
nature of practices of institutions using 60–61
riba, hidden through forgery of 50
unimportance of, to consumers 165–6
contractual particulars
fatwa
dealing with conventional insurance 164–5
and regulatory capture 163–4
undue emphasis on 162–3
unimportance of contract form 165–6
contractual relationships
critical observations on 98–100
in donation-based takaful 98
in proposed model for takaful 103–5
contributions and claims
disparity between 190
management 26–7
contributions and compensation
29–30, 36, 175
conventional insurance
benefits of 42–4
commutative contract used in 73–4, 82
deficits absorbed from shareholders’ reserves 13
dominant model of 249
fatwa dealing with 156, 164–5, 167
lifetime annuity 225
penetration 20–21, 66
permissibility 166, 206, 214, 309
qard and risk transfer 38–41
reserves 32
risk in, v. risks in retakaful 180–83, 189
shari‘ah arguments against 37–8
and takaful
advantages, in comparison with 95
differences with 24, 31, 40, 90, 94, 105
dispute resolution 140, 149–50, 153
growth rates 192
legal case 145–6
micro, as alternative to 303, 311, 316
milestones in journey to 5–6, 14
as shari‘ah-compliant alternative to 93, 171
similarities 62–3, 100, 108, 111, 156, 164
statutory protection 144
trade credit insurance 206, 214
‘windows’ 65
theoretical underpinnings for prohibition of 66–7
validity, in context of shari‘ah acceptability 3, 5, 8
waqf model
as same as 86
as viable alternative to 62, 76, 80–82
cooperation
as akin to majority decisions 27
among cooperatives 266, 277
as enshrined in principles
underpinning shari‘ah-compliant contracts and financing 115
and nihd 104
norm of spiritual unity based on 289
takaful based on concept of 3–4, 7, 22–4, 157, 212
cooperative principles 3, 5, 7, 120, 265–7
cooperatives
challenges and recommendations
capital raising 278
high risk 279
mutual interests 279
Commercial Islamic Cooperative 264–78
cooperative model 260–62
description 121
guiding principles 120
Index

in Indonesia 283–4, 294–5
poverty alleviation
and economic growth, role in
initiatives 259–60
see also mutual and cooperative
financial services
credit default swaps (CDSs) 218–20
credit risk 55–6, 193–7, 199–200,
207–12, 222–3, 235
crowd capital 255–6
customer retention 316, 323
deficit
actual and technical 186
cumulated 36–7
and HWFs 235–7
pool 186, 189
problem 14, 30–32
and qard 10, 13–14, 16, 39, 107, 176
in takaful fund
as important shari’ah issue 107–9
operator not responsible to policy
holders for 95, 109
treatment according to proposed
takaful model 109–11
takaful treatment 39–40, 88
and TOs/RTFs/RTOs 182, 184, 187,
189
use of reserves 32
dispute resolution
Alternative Dispute Resolution
(ADR) 137, 149
legal landscape 133–7
mediation and arbitration 149–51,
154
nature of takaful disputes 137–8
case law review 140–49
early forms of insurance 138–9
emerging issues in takaful and
insurance-based litigation 140
takaful segment of industry 132–3
towards sustainable mechanism for
feasibility of online resolution 153
governing law conundrum 150–51
takaful ombudsman scheme 151–3
takaful v. conventional insurance
149–50
disruptive innovation 3, 15
diya (blood money) 138–9
donation-based takaful model see
tabarru (donation) model of
takaful
economic growth
early concern about use of money 6
financial inclusion enhancing 300,
304
and poverty reduction 259–60
role of cooperative in 262–4
trade credit insurance for 194, 208
Emergency Economic Stabilization Act
(EESA) 142
empathy dimension 24–5, 28, 40, 256
endowments see cash endowments
equity instruments, options as 227–32
ethical dimension
of micro-takaful 315–16
of shari’ah-compliant investment
products 116, 121, 177
of takaful 3, 17–19, 21
exchange
balance through equity in 53
contract 25, 30, 69–70, 72, 174, 180,
190, 212
for coverage 158, 164
and gharar 96–7, 100, 174
and hibah 86
Islamic finance transactions 205–6
justice in 49–50, 53–5, 57–8, 60
rules of riba mandating equal 57, 66
and waqf 102–3
factoring 222
family takaful
capital guarantee and capital
protection 225–7
High Watermark Funds 232–8
lifetime annuity 238–45
options as equity instruments
227–32
fatwa
and contract form 165–6
dealing with conventional insurance
164–5, 167
in journey of insurance to takaful
5–6
nature of 156–7
on permissibility of donor deriving
benefit from endowments 79
Takaful and Islamic cooperative finance

redux 160–62
and regulatory capture 163–4
undue emphasis on contractual particulars 162–3

financial inclusion as challenge for Indian policy makers 300
enhanced, as strength of CIC 276–7
of Indian population 315
initiatives for 316–17
insurance as effective alternate tool for 302
micro-takaful for 303, 312, 315–16
for poverty alleviation 46, 304–6
and Reserve Bank of India 301, 306
and sustainable development, literature review 304–7
and takaful 44–7

gambling

correlation with insurance 37, 93 as haram activity 264
Islamic cooperatives 264, 267
and lifetime annuities 239–40
option trading as 229
see also gharar; maysir
GCC see Gulf Cooperation Council

gharar (uncertainty)
as actuarial issue 161
and conventional insurance 67, 70, 119, 156, 160
and conventional reinsurance 175
and donation 93–4
excessive, in contracts 30, 93, 174
high watermark guarantees 237
and insurance
gambling 95–6
major involvement 96–7
tolerated in donation-related contracts 97–9
mutualization providing solution to 57
non-commutative models to avoid 69, 75, 82
not applicable to charitable donations 157, 213
and options 230
as prohibition 3, 48, 115
and promises 236

rendering transactions invalid 70, 72–4, 99–101, 103–4
takaful conditions pertaining to 110–11
and technical deficit 186
tolerable 31
and trade credit insurance 206
unified theory of 54–7
governing law conundrum 147–8, 150–51

guarantee
capital 225–7, 235–6
high watermark 232–8
and insurance 220–21
joint 284, 290, 303
kafala 206
in risk transfer and risk sharing 184, 186
shari’ah standard on 214
takaful based on concept of 23
takaful products 190

Gulf Cooperation Council (GCC)

i ssues with mutual model within regulatory environment 129–30
potential areas for growth 130
potential market 116–19
states of
development of trade credit takaful 197–9
financial services regulation in 116, 122–9, 133–5
main hub for Islamic finance 210
need for more takaful products within 122
requirement for founding banks in 116
riba instrument popular in 49–50
takaful companies 14
trade credit insurance for bank expansion 193

haram (prohibited) activity 156, 166, 175, 264

hibah (conditional gift) 86, 144–5
High Watermark Funds (HWFs) 232–8
hybrid reality 34–7

ibaha 103–5, 107, 109–10
IBF (Islamic banking and finance) sector 280–81, 290–91, 293–4, 299
Index

IFSA see Islamic Financial Services Act
IFSB see Islamic Finance Services Board
imam (belief) 23
IMFIs see Islamic microfinance: institutions
inclusive finance see financial inclusion
indemnification see kafala
India, micro-takaful in
determinants for
affordability and customer retention 316
demand, need and benefits 315–16
implementation 316
initiatives for financial inclusion 316–17
ISM-based model of drivers 318–20
legal and regulatory hurdles 317
political and social factors 317–18
viability and sustainability 316
financial inclusion
as challenge for policy makers 300
of Indian population 315
initiatives for 316–17
insurance as effective alternate tool for 302
Reserve Bank of India 301, 306
and sustainable development,
literature review 304–7
findings from client survey 320–21, 323
literature review
financial inclusion and sustainable development 304–7
insurance for poor 307–10
takaful and micro-takaful 310–12
objectives 312
poverty in India
access to credit 301
insurance as effective alternate tool for 302, 307–10
micro-takaful as solution to 303
prevalence of 300
proposed model for 322–3
research methods
Interpretive Structural Modeling analysis 313–14
interview of experts and service providers 312–13
limitations 315
responses from expected clients 314–15
risk profile 302–3
see also micro-takaful
Indonesia
background 282
evaluating components of Islamic framework for poverty reduction in
holistic and integrated approaches 287–9
institutionalizing supportive socio-legal structures 291–2
leveraging socio-religious norms 289–91
shari'ah as enabler for social improvement 285–6
government policy as enabler for IMFIs
integration into National Poverty Reduction Framework 293–4
maintaining balance between central regulation and local autonomy 296–8
simplification of legal policy 294–6
Islamic microfinance in 281–2
microfinance services
microcredit programs 283–4
microinsurance programs 284–5
need for effective IMFIs 299
insurance
economic functions of 43–4
surplus
possible forms of distribution 107
treatment according to tabarru model 105–6
treatment according to proposed takaful model 106–7
treatment according to waqf model 106
takaful 155–6
see also conventional insurance
International Cooperative Alliance (ICA) 120, 261, 265
International Cooperative and Mutual Insurance Federation (ICMIF) 203, 249
Interpretive Structural Modeling analysis (ISM) definition, purpose and concepts 313–14 main steps 318–20 model of drivers of micro-takaful in India 320
Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC) 195, 199–201, 204–5, 214–16, 222–3
Islamic Development Bank (IDB) 19–20, 199, 215, 227
Islamic economics 42, 55–6, 59, 150
Islamic finance additional bases for trade credit insurance in 210–12 based on assets 278 basic instruments of cooperative 264, 266, 277, 290 bastion of 193, 197 benefits of trade credit insurance for 208–10, 222 CIC grounded in fundamentals of 264, 278 criticisms of 61, 63–5 debate for need for 7 expected growth of assets 21 fundamental problem with 50 future for 18–20, 196 generally based on trade 205 as good for People, Planet and Profit 3 holding welfare of society important 267 important centres for 198 for inclusive growth 263 initiatives to standardize 317 litigation 140–41, 147, 149, 154 lukewarm response to starting in India 311 mudaraba used extensively in 158 origins 48, 264 prevalence of board positions in 163 profit and loss sharing 50–51, 251 recognition of debt-based financial transactions 206–7 rejection of interest in 206 revival of ombudsman 151 rhetoric of 60 risk management tools of 191 size of global industry 15 within Sultanate of Oman 126–7 transactions 199, 205–6, 223 use of options 228–9, 231 weak connectivity with takaful 194, 199
Islamic Financial Services Act (IFSA) 135–6, 144–5
Islamic Financial Services Board (IFSB) 45, 184, 317
Islamic insurance, parameters for 110–12
Islamic law charitable contributions 158 compensation 161–2 cooperative and mutual principles accepted under 303 definition of 286 establishing validity of tabarru model of takaful 70–72 fundamental principle 182–3 of inheritance 243 takaful deemed acceptable under 311 transactions 69 and waqf model of takaful 76, 80–82, 86–7, 101
Islamic microfinance current situation 46–7 in Indonesia importance of 281–2 microcredit programs 283–4 microinsurance programs 20, 284–5 institutions (IMFIs) approaches institutionalizing supportive socio-legal structures 291–2 definition of 295 holistic and integrated approaches 287–9 integrating IMFIs into national poverty reduction framework 293–4 maintaining balance between
<table>
<thead>
<tr>
<th>Term</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>central regulation and local autonomy</td>
<td>296–8</td>
</tr>
<tr>
<td>mutuality lacking</td>
<td>290–91</td>
</tr>
<tr>
<td>role in poverty reduction</td>
<td>280–81, 299</td>
</tr>
<tr>
<td>simplification of legal policy</td>
<td>294–6</td>
</tr>
<tr>
<td>mass penetration</td>
<td>20</td>
</tr>
<tr>
<td>joint indemnity</td>
<td>23, 63, 310</td>
</tr>
<tr>
<td>‘juristic person’</td>
<td>33, 80–82</td>
</tr>
<tr>
<td>justice</td>
<td></td>
</tr>
<tr>
<td>in exchange</td>
<td>49–50, 53–5, 57–8, 60</td>
</tr>
<tr>
<td>shari’ah dictating</td>
<td>264</td>
</tr>
<tr>
<td>as socio-religious norm</td>
<td>289–90</td>
</tr>
<tr>
<td>takaful</td>
<td></td>
</tr>
<tr>
<td>built on principle of 18</td>
<td></td>
</tr>
<tr>
<td>as more consistent with norms of 95</td>
<td></td>
</tr>
<tr>
<td>kafala (indemnification)</td>
<td></td>
</tr>
<tr>
<td>possible problem with implementation</td>
<td>207–8</td>
</tr>
<tr>
<td>questions surrounding validity of 18</td>
<td></td>
</tr>
<tr>
<td>shari’ah position on 190, 206</td>
<td></td>
</tr>
<tr>
<td>takaful derived from 4, 63, 250</td>
<td></td>
</tr>
<tr>
<td>Karim v. Hanifa</td>
<td>143–4</td>
</tr>
<tr>
<td>Kevin Murray v. United States</td>
<td></td>
</tr>
<tr>
<td>Department of Treasury, et al.</td>
<td>142–3</td>
</tr>
<tr>
<td>Kingdom of Bahrain</td>
<td>6, 10, 124–5, 129, 136, 147, 311</td>
</tr>
<tr>
<td>Kingdom of Saudi Arabia</td>
<td>6, 8, 10, 19, 106, 122–4, 127–8, 132, 136, 142, 200–201, 204</td>
</tr>
<tr>
<td>Koperasi Serbaguna Pekerja-Pekerja Malaysia Bhd v. Takaful Nasional Sdn Bhd</td>
<td>145–6</td>
</tr>
<tr>
<td>Kuwait</td>
<td>90, 125–6</td>
</tr>
<tr>
<td>legislation</td>
<td></td>
</tr>
<tr>
<td>case law review</td>
<td>140–49</td>
</tr>
<tr>
<td>emerging issues in takaful and insurance-based litigation</td>
<td>140</td>
</tr>
<tr>
<td>in GCC states</td>
<td>117–18, 126, 128–31, 210</td>
</tr>
<tr>
<td>governing law conundrum</td>
<td>150–51</td>
</tr>
<tr>
<td>legal and regulatory hurdles in India</td>
<td>317</td>
</tr>
<tr>
<td>legal policy, simplification of</td>
<td>294–6</td>
</tr>
<tr>
<td>nature of takaful disputes</td>
<td>137–9</td>
</tr>
<tr>
<td>ombudsman scheme</td>
<td>151–3</td>
</tr>
<tr>
<td>trends and developments in takaful industry</td>
<td>133–7</td>
</tr>
<tr>
<td>‘lemon problem’</td>
<td>55–6</td>
</tr>
<tr>
<td>letters of credit (L/Cs)</td>
<td>221</td>
</tr>
<tr>
<td>leveraging</td>
<td></td>
</tr>
<tr>
<td>crowd capital</td>
<td>255–6</td>
</tr>
<tr>
<td>socio-religious norms</td>
<td>289–91</td>
</tr>
<tr>
<td>lifetime annuity</td>
<td>238–45</td>
</tr>
<tr>
<td>Malaysia</td>
<td></td>
</tr>
<tr>
<td>Bank Islam Malaysia</td>
<td>9</td>
</tr>
<tr>
<td>Bank Negara Malaysia</td>
<td>10, 144, 178</td>
</tr>
<tr>
<td>as first to introduce takaful regulations</td>
<td>6</td>
</tr>
<tr>
<td>gradual expansion of takaful</td>
<td>132</td>
</tr>
<tr>
<td>importance of government policy</td>
<td>293</td>
</tr>
<tr>
<td>insurance industry affected by cultural and religious factors</td>
<td>159</td>
</tr>
<tr>
<td>introduction and prohibition of conventional insurance</td>
<td>5</td>
</tr>
<tr>
<td>Islamic Financial Services Board</td>
<td>45, 184, 317</td>
</tr>
<tr>
<td>legislation</td>
<td></td>
</tr>
<tr>
<td>Central Bank of Malaysia Act</td>
<td>2009, 147</td>
</tr>
<tr>
<td>domination of case review literature</td>
<td>138</td>
</tr>
<tr>
<td>Financial Mediation Bureau</td>
<td>140–41</td>
</tr>
<tr>
<td>Islamic Financial Services Act</td>
<td>144</td>
</tr>
<tr>
<td>legal cases</td>
<td>144–7</td>
</tr>
<tr>
<td>Malaysian Rules of Court</td>
<td>2012, 148–9</td>
</tr>
<tr>
<td>Malaysian Takaful Act</td>
<td>22, 135, 173–4</td>
</tr>
<tr>
<td>takaful</td>
<td>135–6</td>
</tr>
<tr>
<td>Malaysia Berhad</td>
<td>89, 146, 199, 201, 222</td>
</tr>
<tr>
<td>offering takaful to low-income households</td>
<td></td>
</tr>
<tr>
<td>penetration of takaful industry</td>
<td>20</td>
</tr>
<tr>
<td>surplus sharing</td>
<td>35</td>
</tr>
<tr>
<td>Swiss Re Takaful</td>
<td>178</td>
</tr>
<tr>
<td>takaful ombudsman scheme</td>
<td>151</td>
</tr>
</tbody>
</table>

Malaysia

Bank Islam Malaysia
Bank Negara Malaysia
banks established
as first to introduce takaful regulations
gradual expansion of takaful
importance of government policy
insurance industry affected by cultural and religious factors
introduction and prohibition of conventional insurance
Islamic Financial Services Board
legislation
Central Bank of Malaysia Act
domination of case review literature
Financial Mediation Bureau
Islamic Financial Services Act
legal cases
Malaysian Rules of Court
Malaysian Takaful Act
Takaful
Malaysia
Malaysia Berhad
offering takaful to low-income households
penetration of takaful industry
surplus sharing
Swiss Re Takaful
Takaful ombudsman scheme
Takaful and Islamic cooperative finance

example 201

growth 198

viewed as largest center for Islamic finance outside Middle East 63

waqf model in 87–9

management of CIC 271

management office

advantages to establishing 26

contribution and claims 26–7

and legal personality 28

move towards mutual corporate structure 29–34

and solidarity contracts 27–9

marine policy 147–8

maysir (gambling) 3, 119, 174–5, 194, 206, 239, 311

mediation 27, 149–51, 154

micro, small and medium-sized enterprises (MSMEs) 281–2, 287, 299

micro-takaful

access to 45–6

socio-economic impact 46–7

trade credit 199, 201–4

see also India, micro-takaful in microcredit

aligned with Islamic principles 290

definition 280

institutions working together for provision of 288

programs 283–4

microfinance see Islamic microfinance

microinsurance

bearing of religion, culture and moral economy on 296

impact of recent legislative changes 295

institutions working together for provision of 288

largely adhering to shari‘ah norms 290

penetration 20

possible destruction of traditional resilience 291–2

programs 284–5

typical risks covered 280

models

characteristics of ideal 75–6

current issues with 16–17

evolution of 8–14

framework for analysis 69

major categories of 68

proposed, for takaful parameters for 110–11

structure, and contractual relationships 103–5

treatment of deficit in takaful fund 109–10

treatment of insurance surplus 106–7

see also mudaraba model; tabarru (donation) model of takaful; waqf-wakalah model

Mortgage Redemption Terms Assurance Policy (MRTAP) 146

mudaraba model

argument of kafala 184

hybrid 10–11, 68, 75, 125, 129

for investment activities 110, 125

limitation 16

modified 9–10

profit and loss sharing 158, 165, 176–7

pure 8–9

for risk management 84

mudaraba (silent partnership)

capital guarantee and capital protection 226

as commutative contract 98, 108

as contract of participation 207

and conventional banking practice 52

encouraging sharing of resources and expertise 115, 120

forbidden aspect 165

income allocation 272, 274–5

as instrument of cooperatives 264, 266, 269–70, 277

investing fund assets through 98–9, 102, 110, 212

issues in application of 83–4

as preferred mode of Islamic finance 207

profit sharing 50–51, 82–3, 291, 322

reimbursement problem 164

retrakaful model structured on principles of 177

as shari‘ah-compliant contract 8, 117

S. Nazim Ali and Shariq Nisar - 9781785363368
Downloaded from PubFactory at 09/16/2023 09:56:17AM via free access
Index

when capital employed in deferred sale 207
murabaha
adaptations allowed 52
contract used for 203–4
as debt-based transaction 207, 291
finance 49–50, 53, 56
as instrument of cooperatives 264, 266
as shari’ah-compliant contract 8
skepticism of 57
as synthetic loan structure based on credit sales 291
use of governing clause in contract 147
musharaka (full partnership)
as contract of participation 207
as contractual relationship in tabarru model of takaful 98
difference with mudaraba 51
encouraging sharing of resources and expertise 115
income allocation 272, 274–5
as instrument of cooperatives 264, 266, 269–70, 277
mutuals likened to 120
as preferred mode of Islamic finance 207
profit and loss sharing 50, 291
as shari’ah contract 117
takaful as form of 250, 253
when capital employed in deferred sale 207
mutual and cooperative financial services
attitude of regulators as critical element 123
financial services regulation in GCC states 122–31
potential areas for growth 130
potential for shari’ah-compliant Gulf Cooperation Council 116–19
mutuals and cooperatives 119–21
principles and prohibitions 115–16
shari’ah-compliant use of 121–2
see also cooperatives
mutuality
abilities and limitations 57–9
definition 26–7
during drafting process of financial services model 129
enshrined in shari’ah-compliant contracts 115
ideal of 34–7
insurance in Islam based upon principle of 310
lacking in IBF and IMFI sectors 290–91
move from centrally managed contracts 29–34
mutual assistance in waqf 82
as no panacea 59–61
obstacles to 159–60
principle of, at cornerstone of takaful 122, 157
as recommendation for cooperatives 262, 279
relationship between members of mutual society 120
takaful characterised by three aspects of 22
v. commercial aspects 15–16
non-commutative contract 59, 69, 73, 75, 82, 175, 180, 184, 190
see also commutative contract
Oman 6, 126–7, 135–6
ombudsman scheme 151–3
online dispute resolution 153
options, as equity instruments 227–32
Organisation of Islamic Cooperation (OIC) Fiqh Academy 6, 19, 24, 37–8, 174–5, 214, 317
‘People, Planet, Profit’ paradigm 3–4, 18
poverty alleviation
and access to finance 259–60
and CIC model 269, 275–6
cooperative financing models for 260, 262–4
as cornerstone of development policies 259
definition 259
financial inclusion for 46, 304–6
in India
extent of poverty in 300
financial inclusion for 304–6

S. Nazim Ali and Shariq Nisar - 9781785363368
Downloaded from PubFactory at 09/16/2023 09:56:17AM
via free access
Takaful and Islamic cooperative finance

findings from client survey 320–21
insurance as effective alternate
tool for 302
limited access to credit 301
microinsurance for 309
risks faced by poor 302–3
in Indonesia

evaluating components of Islamic
framework for 285–92
extent of poverty in 282
government approach 282, 294,
297
integrating IMFIs into national
framework 293–4, 297, 299
microcredit programs 283–4
microinsurance programs 284–5
need for umbrella regulatory
authority 296
prerequisites for 296–7
Islamic approach to 280–81
limitations of Schulze's model 264–5
microcredit takaful for 195, 199,
201–2, 222, 283–4, 316
zakat for 139
prohibitions see gharar (uncertainty);
maysir (gambling); riba
psychological dimension 42–3

qard
CIC member deposits collected
under modes of 272–3
CIC offering products on basis of
266, 269–70
concept of 13–14
hasan 56–7, 107, 122, 206, 323
income computation under 274
as instrument of cooperatives 264
prohibited by Saudi Arabian
Monetary Authority 128
provision by RTOs 176
and risk transfer in takaful 38–41
and risks in Islamic contract of loan
56
Qatar 117, 127, 131
qimar 62, 66–7, 311
Qur'an 6–7, 52–3, 115, 138, 157, 162,
230, 250

Re Ismail bin Rentah deceased 144
reciprocity 25, 53, 58–9, 262, 284, 311
regulation
financial services regulation, within
GCC states 122–31
of insurance industry 164, 166,
309–10
of Islamic microfinance institution
activities and forms in
Indonesia 295
maintaining balance between central,
and local autonomy 296–8
takaful
dispute resolution 134–6, 152
need for, on trade credit 205
specific, in jurisdictions 6
windows 65
regulatory capture
concept of 155
and fatwa 163–4
religious edicts 156–7
Reserve Bank of India (RBI) 301,
306
reserves
addressing deficit problem 32–4
in general takaful principles 213
and high watermark 236
within models 9, 11, 13
shareholder 13–14
retakaful
avenues for future research 190–91
definition of 173–4
enlarging capacity 20
funds 176–7, 181–90
literal meaning of 172
nature of 171–2, 175
operation of 176–7
operators 171–3, 176–9, 181–91
origin of word 172
risk and risk transfer in
concept of risk 179–80
conventional insurance v. retakaful
180–82
shari'ah-related issues
commission 187–8
risk transfer and risk sharing
182–9
significance to takaful industry
cost-effective substitute for capital
178

S. Nazim Ali and Shariq Nisar - 9781785363368
Downloaded from PubFactory at 09/16/2023 09:56:17AM
via free access
Index

covers against catastrophic losses 177
expands into new markets/product lines 178
provides additional underwriting capacity 177
provides value added services and expertise 178
structure and functions of 174–5
summary of research findings 189–90
tabarru-based contract 171, 174, 182–6, 189, 191
and wakala-waqf hybrid business model 178–9

riba
amelioration through non-commutativity 75
application to voluntary transactions 70
concept of 48–50
and conventional insurance 37, 156, 160, 174–5, 206
definition 66–7
eliminated in waqf model 86
high watermark schemes 240
implications of 115, 118–19, 190, 230, 238–9
injustice through partnerships, sales, leases 50–53
and mutualization 57, 59
negating challenges of 157
and permissibility of financial transactions 182
present in tabarru model 72 as prohibition 3, 5
Qur’an on 162
retakaful structures evading 175
takaful addressing 311
and trade credit insurance
  debt conversion 211
  debt transactions 206
  factoring 222
unified theory of 54–7
risk
concept of 179–80
in conventional insurance v. retakaful 180–82
faced by poor households 302–3, 307–9
within gharar 67
health-related 321
high, of cooperatives 260, 279
in HWF 234–5
longevity 238–42, 244
lower default risk of CIC 278
management
  micro-takaful as excellent instrument for 311–12, 322–3
within mudarabah model 84
within tabarru model 137
protecting sukuk through takaful 216
and gaud 13–14
shari’ah non-compliance 231–2
typically covered by microinsurance 280
within unified theory of riba 55–6
see also credit risk
risk protection
  and behaviour 43
  collective schemes 44–5
risk sharing
  and retakaful 171–2, 175, 180–82
  and risk transfer 182–7, 189–91
risk transfer
  and gaud, in takaful 38–41
  and risk sharing 182–7, 189–91
RoSCAs (rotating savings and credit associations) 57–8
RTFs (retakaful funds) 176–7, 181–90
RTOs (retakaful operators) 171–3, 176–9, 181–91
sadqas/sadaqah (charity) 46, 269–70, 273, 276
Saudi Arabia 6, 8, 10, 19, 106, 122–4, 127–8, 132, 136, 142, 200–201, 204
Seah Cheoh Wah v. Malayan Banking Bhd & Anor 146
Shamil Bank of Bahrain EC v. Beximco Pharmaceuticals Ltd and others 147
shared responsibility 4, 7, 23, 63, 310
shari’ah
  analysis of insurance 95–8
  arbitrage 291
arguments against conventional insurance 37–8
Board 122, 126, 155, 157, 160, 163, 167, 179, 184, 196, 214, 227, 271, 296
classification of contributions as conditional donations 41
compliance of waqf-wakalah model 62, 66, 91
compliant credit takaful 192–7, 199–201, 206, 208, 210–12, 214, 217, 221–3
compliant high watermark protected lifetime annuity 227–40, 243–5
compliant use of mutual and cooperative 121–2
deficit in takaful fund as issue for 107–9
as enabler for social improvement 285–6
perspective of retakaful 172–82, 189–91
commission 187–8
risk transfer and risk sharing 182–7
Shari’ah Advisory Council (SAC) 144, 147–8, 178
silent partnership see mudaraba
SME (small and medium enterprises) development through CIC 277
financing 130–31
supporting, in Saudi Arabia 200
social banking
business model 252–5
future direction of 256–8
leveraging crowd capital 255–6
takaful as 251–2
takaful, terminology of 249–50
socio-legal structures, institutionalizing supportive 281, 291–2, 299
socio-religious norms, leveraging 281, 289–91, 299
solidarity
from centralized management to mutual corporate structure
deficit problem 30–32
reserves 32–4
responsibility for raising funds 29
exchange and charity 24–5
group 262, 290
and mutuality 120
from networks to centralized management 28–9
risk bearing as process of 323
from spontaneous to managed networks 25–7
in takaful 22–4, 63, 183, 240, 250, 310–11
as value for cooperatives 261
spiritual dimension 22–4, 41, 292
State of Kuwait 90, 125–6
State of Qatar 117, 127, 131
sukuk
AAOIFI standard 108–9, 214
availability 234
default 235
highly rated corporate 42
ijarah 227, 234
issuances 233
protecting through takaful 215–17, 220, 224
retakaful (catastrophe bonds) 191
sovereign 227, 233, 244
and trade credit insurance 195–6, 199, 221, 224
Sultanate of Oman 6, 126–7, 135–6
sustainable development 304–7, 312, 323
tabarru (donation)
conflict with mudaraba 10
and contract legitimacy 30
contributions as conditional donations 30, 41
fund, in micro-takaful in India 322–3
and kafala 182, 184
made by Sukuk holders 214
as major category of takaful 68, 186, 194, 250
no expectation of return on donation 12, 93–4, 100
risk component 225
rules of 97–8
and takaful/retakaful 182–5, 189
timing of 12
TOs generating more funds 177
TOS generating more funds 177
treatment of liabilities 174
as voluntary contribution of non-commutative nature 69, 82
tabarru (donation) model of takaful analysis of 70–72, 98
based on charitable contribution in exchange for coverage 158, 164
conclusions on 74–5
contractual relationships 98–100
core structural problem of 100
disadvantages to 91
and gharar 93, 97
and hibah 86
implementation in United States 90
legal classification of 69
ownership issues in 72–4, 81
risk management framework 137
solution to problems with 75
strongly resembling conventional insurance 82
treatment of insurance surplus 105–6
takaful
crudely concept and structure of 94–5
crudely concept of risk in context of 179–80
and conventional insurance
comparison of advantages 95
gard and risk transfer 38–41
shari’ah arguments against 37–8
definition 22, 212–13
disputes
nature of 137–49
towards mechanism for resolution 149–54
emerging issues in 140
financing 130
funds
deficit in 107–10
investing 110
managing 110–11
general principles 213–14
insurance 155–6, 158–62
introduction to 62–7
journey
future of 18–20
history of 4–7
introduction 3–4
potential of 21
present situation 14–18
mutual ideal and hybrid reality 34–7
obstacles to mutuality 159–60
ombudsman scheme 151–3
operators 171, 173–4, 176–9, 181–7, 189–91
possible reasons for less-than-expected growth
ethics 17–18
models 16–17
mutual v. commercial 15–16
protecting sukuk through 215–17
significance of retakaful to 177–8
social impact of
general insurance benefits 42–4
inclusive finance 44–7
solidarity
from centralized management to mutual corporate structure 29–34
exchange and charity 24–5
from networks to centralized management 28–9
from spontaneous to managed networks 25–7
‘spiritual dimension’ in 22–4, 41
structures 157–61
terminalogy of 249–50
trends and developments in 133–7, 192
windows 65
see also family takaful; micro-takaful in India; models; social banking; trade credit insurance
tawarruq (monetization of the non-monetary) 50, 53, 207
Teng Gia Hwa & Anor v. Syarikat Takaful Malaysia Bhd 146–7
TFs see takaful: funds
TOs see takaful: operators
trade credit insurance
as absent component of takaful 194
addressing credit risk management 195, 222
alternative products 217
definition 217, 218–20
benefits of 192–5, 208–12, 222
and credit default swaps 218–20
and guaranteed 220–21
and guarantee 220–21
and future development of Islamic finance 196
growing use of 197–9
letters of credit 221
Takaful and Islamic cooperative finance

micro 201–4
need for, and its underdevelopment 199–201
opportunities for growth 197–9
as priority for takaful 192–3
protecting sukuk through takaful concerns 195–6, 216–17
features of product 216
introduction 215
risks to be covered 216
recommendations
for growth 196–7
for takaful 222–4
regulator support of 204–5
scope of 205–8
shari'ah compliance and principles 194
takaful definition 212–13
takaful principles
general 213–14
specific 214

uncertainty see gharar
underwriting
account, management of 11
activities
combined wakala model for 125
managing 10
annual and accumulated balances 36
and credit default swaps 219
deficit 10, 13, 30, 39, 88, 182, 184–5, 190
loss 10, 183, 188, 190, 323
management companies directing 158
outsourcing 290
philosophy 17
policies 194
poor 13
retakaful providing additional capacity 177
returns 17, 84
risks 13, 41, 84, 183, 185
surplus 9–10, 12–13, 15, 30, 41, 76, 83–4, 93, 158, 171, 183, 185, 188, 190
TFs and RTFs as ‘common underwriting fund’ 183, 189
United Arab Emirates (UAE) 6, 116–17, 128–9, 132, 193
usurpation 156–7, 160
UWD see underwriting: deficit
UWL see underwriting: loss
UWS see underwriting: surplus
takaful
value added services
in different types of cooperative 261–2
feature of CIC 266, 268, 276
fund 271
mandatory 267, 276
in member groups 269–70
retakaful provision 178

wakala model
combined, for underwriting activities 125, 129
early users of 10
micro-takaful model based on 322
pure 10–11
takaful arrangement based on 254
wakala fees 16
wakil 184
wakala-mudaraba model 10–11, 177

waqf
Board 294–5
cash 243–5, 289
as charity 99, 158
concept of 243–5
fund 12–13, 62, 81, 83–4, 86, 89, 101–2, 106, 179, 244–5, 322
as major category of takaful 68
role as juristic person 80–82

waqf model
advantages of 81–2, 85–6
applying, in United States 90
considerations for implementing 87–91
history of 76–7
objections to 86–7
permissibility
of cash endowment 77–8
of donor deriving benefit from endowment 78–80
treatment
of deficit in takaful fund 107–8
of insurance surplus 106
variations of 82–4
waqf-wakalah model
advantages of 84–5, 91–2
Index

challenges in implementing 91
critical review of 102–3
as hybrid retakaful business model 178–9
introduction to 84–5
investing takaful fund 110
operation of 12–13

shari‘ah compliance 62, 66, 91
takaful insurer fee 158
as viable alternative to conventional insurance 62

zakat (obligatory alms) 46, 72–3, 75, 138–9, 269–70, 273, 276, 287–9, 292, 294–6, 323