

Islamic Insurance in Sudan

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Historical Background

- First Islamic bank in Sudan (Faisal Islamic Bank, 1977)
- Problem of insuring its assets and operations: commercial insurance companies didn't comply with the Sharia' principles and provisions.
- Solution: The Sharia' Supervisory Board of Faisal Islamic Bank (Sudan) established an insurance company on the basis of cooperative insurance which fully conforms with the principles and provisions of Sharia':
- The Islamic Insurance Company (est. 1978) became the first Islamic Insurance Company in the world.

Historical Background

- Other companies established by Islamic Banks:
 - Al Baraka Insurance Company, 1985
 - The National Cooperative Islamic Insurance Company (now renamed Taawuniya), 1989
 - El Salama Insurance Company, 1992
- Shiekan Insurance and Reinsurance Company, incorporated in 1983 voluntarily converted to an Islamic insurance company in 1990.
- Ministerial Decree of the Minister of Finance No. 219 mandated the conversion of all the conventional insurance companies to Islamic companies in 1992.
- There are currently 13 direct insurance companies, one reinsurance company and one retakaful window (all Islamic since 1992)

The Legal Framework

Formation and Registration of Companies in Sudan:

- The Companies Act, 1925: 2+ persons can incorporate a private company, 7+ required for a public company.
- Newly formed companies to register with the Commercial Registrar General.
- Memorandum should state the Company name, place of registered office, objectives, amount of capital and number of shares into which the capital is divided. The Articles of Association should outline the rules and provisions which govern the management of the company.

The Legal Framework

Basic Principles for the Formation of an Islamic Insurance Company:

- The formation of a Sharia' Supervisory Board to govern and guide the practice.
- Segregation of shareholders and policyholders funds: two distinct and separate accounts.
- Investment of funds in Sharia' compliant instruments.
- Underwriting surplus (if any) is to be distributed to the policyholders as decided by the Board of Directors and approved by the Sharia' Supervisory Board and the Policyholders General Assembly.

The Regulatory and Supervisory Framework

- Insurance Supervisory Authority (ISA) under the direct supervision of the Minister of Finance and National Economy
- Controller of Insurance Act, 1960 – 1992 (conventional and Islamic insurance companies)
- Supervision and Control Act, 1992 – 2001. Insurance industry governed by the provisions and principles of Islamic Sharia' since 1992
- Insurance Control Act, 2001
- The Insurance and Takaful Act, 2003 defines the scope, subject and parties of insurance and takaful contracts
- In Sudan, the term takaful refers to life insurance only.

The Regulatory and Supervisory Framework

The High Sharia' Supervisory Board (HSSB) of the Insurance Supervisory Authority (ISA).

- Objectives:
 - To issue fatwa on matters raised by the Insurance Supervisory Authority (ISA).
 - Purify insurance operations from non-Islamic transactions.
 - Unify and harmonize the vision of the Sharia' Supervisory Boards of the different insurance companies in the market.
- Authority to look into and scrutinize documents, records, records or correspondence pertaining to the ISA and regulated bodies.
- Authority to inspect and monitor operations of companies in the market to ensure Sharia' compliance.
- Fatwas issued by the HSSB on Sharia' matters are obligatory and overrule any fatwa issued by any of the Sharia' Supervisory Boards of the companies operating in the market.

The Regulatory and Supervisory Framework

Licensing and Registration

- No insurance company is allowed to commence or continue operation without obtaining a license from the Board of Directors of the Insurance Supervisory Authority (ISA).
- Provisional approval of the Board of Directors of the ISA to register at the Commercial Registrar General.

Governance

The General Assembly

- The supreme authority in the company
- Fully empowered to set general policies and rules of how to govern and manage the company (approval of Board of Directors annual report and financial statements of the company, appointment of the External Auditor and election of the Board of Directors)

Governance

The Policyholders' Assembly

- Formed by policyholders whose annual contributions exceed a minimum amount decided by the Board of Directors.
- Authority to discuss the Board of Directors annual report, financial statements, surplus/ deficit statement, the External Auditor's report and the Sharia' Supervisory Board's report and submit its recommendations to the General Assembly.
- Authorized to elect a minimum of two of its members to represent the policyholders in the Board of Directors.

Governance

The Sharia' Supervisory Board (SSB)

- Minimum of three members
- Appointed by the General Assembly based on the recommendation of the Board of Directors.
- Fully authorized to monitor the Sharia' compliance of all the operations of the company
- Issuing of fatwa and also review policy wordings and contracts issued by the company, investment policy and instruments of investment.
- Annual report on all the activities of the company to the Policyholders' Assembly and the General Assembly
- SSB Chairman or his representative has the right to participate in the Board of Directors meetings

Governance

The External Auditor:

- Appointed by the General Assembly
- Audit accounts and financial statements of the company, profit and loss account of the shareholders, surplus and deficit account of the policyholders
- Present his report to the Policyholders' Assembly and the General Assembly of the company.

Independent internal audit departments:

- Not mandatory or required by regulations
- Directly report to the Audit Committee at the Board of Directors and Sharia' audit sections directly reporting to the Sharia' Supervisory Board
- Ensure full governance and compliance with the ethical and statutory obligations.

Governance

Corporate Social Responsibility (CSR)

- Takaful nature of cooperative insurance and to serve the interest of society
- Most Sudanese insurance companies voluntarily finance community based projects (health, education, community development and donations to individuals and local charitable organizations)
- Assist in improving the quality of life of the local community and society at large.

Operational Framework

Business Model

- Pure cooperative model
- Capital as a legal requirement to incorporate the company, not to gain or lose from insurance operations.
- Shareholders are not entitled to any share in the underwriting surplus
- Management expenses fully borne by policyholders.
- Shareholders as a mudarib are entitled to a percentage in the returns of the investments of policyholders' funds.
- Deficit in the policyholders' fund to be covered from the general reserve set out from the surplus. In case of inadequacy or non-existence of this reserve, deficit to be covered from the shareholders' fund by way of Qard Hassan (free of interest loan).

Operational Framework

Segregation of Funds

- Two distinct separate accounts (Shareholders' Account, and Policyholders' Account).
- Separate and segregated reporting of transactions and balances.
- Shareholders: All risks and rewards relating to capital
- Policyholders: All risks and rewards arising from insurance operations

Operational Framework

Reinsurance (Retakaful)

- In the early beginnings of the industry, in view of necessity, it was allowed to deal with conventional reinsurers subject to the satisfaction of certain Sharia' requirements (no ceding commission, no interest rate on reinsurers' reserves ... etc.).
- Growing number of fully fledged Retakaful Operators and opening of Retakaful Windows by leading international and regional reinsurers, Reinsurance is no longer an issue.

Operational Framework

Surplus

- All policyholders are entitled to have a share in the underwriting surplus realized at the end of each year.
- Shareholders are not allowed to have a share in the surplus. However, as Mudarib, they are entitled for a share in the investment returns of the accumulated retained surplus (Percentage decided by the Board of Directors and approved by the Sharia' Supervisory Board and the Policyholders' General Assembly).
- The portion to be retained from the annual surplus is decided by the Board of Directors and approved by the Policyholders' General Assembly.
- Accumulated retained surplus over the years can substitute the role of capital, serve solvency requirements and be a first defense line in case of deficit in the Policyholders' Fund (less likely to resort to Qard Hassan from the Shareholders' capital)

Operational Framework

Investment

- As per the SSB's Fatwa, the shareholders can invest the insurance funds available for investment on behalf of the policyholders as a Mudarib in return for a certain percentage of the profits generated to be fixed by the Board of Directors.
- Separate and an independent investment unit formed and expenses borne by the shareholders.
- Investment can also be managed by the company with a lower percentage of the returns to the shareholders.
- All investments must be Sharia' compliant and as per investment governing laws.
- As per the Insurance Supervisory Authority regulations, investments in real estate should not exceed 50% and 40% for bank deposits, sukuk and government certificates and 10% for shares.

Market Performance

Total Gross Contributions

Sudanese Insurance Market Total Gross Contributions for the years 2010- 2012 indicate a consistent growth of 18.5% for 2011 and 41.2% for 2012 (In SDG)

	2010	2011	2012
Total (13 direct insurance companies in Sudan)	766,267,738	908,234,162	1,282,627,729

Market Performance

Takaful (life) Gross Contributions

Consistent growth in Takaful (life) gross contributions: 12.2% for 2011 and 14.3% for 2012.

General insurance contributions however continue to outgrow takaful (life) which only constitute 5.2%, 4.9% and 4% of the total gross contributions for 2010, 2011 and 2012 respectively.

	2010	2011	2012
Total	39,891,081	44,751,963	51,151,988

In SDG, Source: Insurance Supervisory Authority (ISA)

Market Performance

Gross Surplus

Consistent growth over the last three years
(from 44.9% in 2011 to 105.8% in 2012)

	2010	2011	2012
Total	44,608,343	64,632,611	132,984,583

Challenges

- Lack of qualified and well trained personnel within the Sudanese insurance market
- Lack of financial independence and attractive working conditions within the Insurance Supervisory Authority

Conclusion

- Over the past 35 years, Islamic insurance as practiced in Sudan, has proved itself as a genuine solution to provide an acceptable Sharia' compliant alternative to the conventional insurance which is followed by other markets with some deviation here and there
- Despite the many challenges that still exist, the Sudanese experience will continue to remain the truest Islamic insurance experience.