

Analysis of the Effectiveness of Waqf Policy Management for Tafakulink Salam Products at PT Tafakul Keluarga, Medan Branch, in Accordance with the Fatwa of DSN MUI Number 106 of 2016

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ABSTRACT

Waqf in Islamic insurance, especially in products like Takafulink Salam, exhibits significant differences from conventional waqf, which typically involves the preservation of buildings or land by past communities. The research aims to analyze the role of waqf in Sharia-compliant insurance products and to comprehend the concept of waqf as a worship and social instrument in the context of Sharia insurance. The research methodology involves in-depth interviews and documentation techniques focusing on the waqf pledge within Sharia life insurance policies, fee provisions within policies, and other aspects regulated by relevant regulations and fatwas. The research findings indicate that waqf pledges are made on various occasions, such as the end of the agreement period, redemption by policyholders, or the death of the main participants. Financial aspects, including fees, are regulated by the Financial Services Authority Regulation (POJK) Number 69/POJK.05/2016. Fatwa DSN No.52/DSN-MUI/III/2006 provides guidelines regarding the contract of agency with a fee in Sharia insurance. The research concludes by emphasizing the important role of waqf in Sharia insurance, creating social and worship benefits, and illustrating the integration of waqf in Sharia insurance products such as Takafulink Salam. Although related to insurance, the concept of waqf remains distinct as a form of worship that supports social development.

ABSTRAK

Wakaf dalam asuransi syariah, khususnya dalam produk seperti Takafulink Salam, memiliki perbedaan signifikan dengan wakaf konvensional yang umumnya terkait dengan pelestarian bangunan atau tanah oleh masyarakat masa lampau. Penelitian ini bertujuan untuk menganalisis peran wakaf dalam produk asuransi syariah dan memahami konsep wakaf sebagai instrumen ibadah dan sosial dalam konteks asuransi syariah. Metode penelitian melibatkan wawancara mendalam dan teknik dokumentasi yang berfokus pada ikrar wakaf dalam polis asuransi jiwa syariah, ketentuan ujarah dalam polis, dan aspek-aspek lain yang diatur oleh peraturan dan fatwa terkait. Hasil penelitian menunjukkan bahwa ikrar wakaf dilakukan pada berbagai kejadian, seperti masa perjanjian berakhir, penebusan oleh pemegang polis, atau meninggalnya peserta utama. Aspek keuangan, termasuk ujarah, diatur dalam Peraturan Otoritas Jasa Keuangan (POJK) Nomor 69/POJK.05/2016. Fatwa DSN No.52/DSN-MUI/III/2006 memberikan pedoman terkait akad wakalah bil ujarah dalam asuransi syariah. Kesimpulan penelitian menekankan peran penting wakaf dalam asuransi syariah, menciptakan manfaat sosial dan ibadah, serta menggambarkan integrasi wakaf dalam produk asuransi syariah seperti Takafulink Salam. Meskipun terkait dengan asuransi, konsep wakaf tetap terpisah sebagai bentuk ibadah yang mendukung pembangunan sosial.



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INTRODUCTION

The launch of Sharia-compliant insurance waqf has been regulated by the Fatwa of the National Sharia Board of the Indonesian Ulema Council (DSN MUI) Number 106 of 2016 concerning the Waqf of Insurance Benefits and Investment Benefits, which applies to Sharia Life Insurance products. Waqf in Sharia insurance products differs from conventional waqf, which is typically associated with the preservation of buildings or land by past communities. In Sharia insurance waqf, the concept enables communities to participate more easily, both in terms of benefiting from insurance products and investing in Sharia insurance. The concept of waqf in Sharia insurance products is realized through Sharia insurance policies, encompassing both insurance benefits and investment value that can be waqf-ed by policyholders with the consent of heirs. The insurance benefits aim to transfer or mitigate risks for participants or designated beneficiaries receiving the waqf. Sharia insurance waqf falls under the category of movable property waqf, which can be in the form of cash (Faolina, 2019). This activity is considered part of economic endeavors within the Sharia context, prompting the National Sharia Board to issue a fatwa permitting Sharia insurance waqf under specific conditions.

Waqf in Sharia-compliant insurance is one of the modern and intelligent solutions to support the Islamic community in developing waqf in Indonesia. Besides providing self-protection from disasters and future risks, Sharia insurance waqf introduces an investment system managed according to Sharia principles. The compatibility of investment management with Sharia principles is crucial as a form of servants' obedience to Islamic teachings, as it relates to the vertical relationship with Allah SWT (*habluminallah*). The waqf program significantly facilitates insurance participants in fulfilling their waqf obligations by channeling them through insurance companies, contributing to addressing Indonesia's current socio-economic challenges. According to the Shafi'i and Ahmad bin Hambal schools of thought, waqf involves relinquishing the ownership of the endowed property from the waqif after completing the waqf procedures. It must be managed by incorporating modern business management practices. Thus, managed waqf can become a productive asset that yields benefits for both the trustees as managers and the beneficiaries (*mauquf alaihi*) who are entitled to use the waqf benefits. It can also fund operational expenses for maintaining the waqf assets (Hamli Syaifullah, 2019). The waqif is not allowed to treat the endowed property as their own or transfer it to others, whether by exchange or otherwise. In the event of the waqif's death, the endowed property cannot be inherited by their heirs. The waqif directs the benefits of the endowed property to the *mauquf alaihi* (the recipient of the waqf) as binding charity, where the waqif cannot prohibit the distribution of their donation. If the waqif attempts to prohibit it, the Qadli (Islamic judge) has the right to compel them to give it to the *mauquf alaihi*.

Waqf is one of the teachings of Islam that pertains to communal life as part of collective worship (social worship). Since waqf is an act of worship, its primary purpose is devotion to Allah SWT and sincerity in seeking His pleasure (Yenni, 2021). The plural form of waqf is *awqaf*. The associated verb is *wagafa*, which literally means to hold back (*al-habs*) (Ibn Manzur, n.d.: 9/359, al-Jawhari, 1978: 4/1440). As for the technical definition of waqf,

Muslim scholars differ depending on their positions on various elements and conditions of waqf (al-Sarakhsi, 1989: 12/27, al-Hattab, : 6/18, Ibn Qudimah, 1984: 6/206). However, they agree on the basic concept of waqf, which is the permanent dedication of a portion of one's wealth for the pleasure of Allah. This means that a portion of one's wealth is separated from them and transferred to Allah. In other words, ownership thus 'transfers from the person making the waqf to Allah. Therefore, it cannot be inherited, gifted, pawned, etc. The essence of this scheme is that the corpus of the property remains intact while the income derived from it, or the property itself, is used for specific philanthropic activities for the sake of Allah. This is considered as continuous charity (*sadaqah jariyah*).

The general purpose of waqf includes assisting those in need, helping the oppressed, improving the living standards of the underprivileged, economic regulation, enhancing the standard of living of the people, and spreading knowledge. There are many verses in the Qur'an that generally encourage Muslims to give a portion of their wealth for charitable purposes. There is no dispute among Muslim scholars that waqf is considered a form of charity. Among these verses is one found in Surah Ali 'Imran which states: "You will never attain righteousness until you spend [in the way of Allah] from that which you love. And whatever you spend - indeed, Allah is Knowing of it." (Qur'an, 3:92) When this verse was revealed, one of the Prophet's companions, Abu Thalhah, approached the Prophet (peace be upon him) regarding donating his beloved date palm orchard known as Bayrala. The Prophet (peace be upon him) then said: "This is a profitable property. I have heard what you said and I suggest that you distribute it among your relatives." Upon hearing this, Abu Thalhah said: "O Messenger of Allah, I will do so." He then distributed the orchard among his relatives and cousins (al-Bukhari, 1987: 2/814). Another verse that indicates the validity of waqf is: "And establish prayer and give zakah and loan Allah a goodly loan. And whatever good you put forward for yourselves - you will find it with Allah. It is better and greater in reward." (Qur'an, 73:20) The phrase "goodly loan" has been interpreted by Muslim scholars as charity for the sake of Allah (al-Tabari, 1954: 11/682, Ibn Kathir, 1989: 4/564, al-Qurtubi, n.d: 17/216). The utilization of zakat by institutions that receive and distribute zakat funds will be directed towards efforts to develop the economic conditions of the impoverished people, thus serving as a means to alleviate poverty among the community. Compared to individual zakat payments, channeling zakat through institutions can ensure more equitable distribution of zakat funds and provide development assistance and support to help recipients break free from poverty (Yenni, 2022).

Takaful Keluarga is a pioneer in Sharia-compliant life insurance companies in Indonesia. Operating since 1994, Takaful Keluarga has developed various products to meet Sharia-compliant insurance needs, including life protection, health protection, children's education planning, retirement planning, and serving as the best partner in investment planning. In order to improve operational quality and service, Takaful Keluarga obtained ISO 9001:2008 certification from DetNorske Veritas (DNV), Norway, in November 2000 as the latest international standard for quality management systems. Takaful Keluarga is registered and supervised by the Financial Services Authority (OJK) and has marketing agents licensed by the Indonesian Life Insurance Association (AAJI) and the Indonesian

Sharia Insurance Association (AASI). The positive performance of Takaful Keluarga has been recognized with prestigious awards over the years, as evidenced by various institutions.

RESEARCH METHODS

Based on this research, the phenomenon is investigated using field research with a qualitative approach. Researchers delve into the field to conduct direct interviews with the subjects and review literature to gather concrete data on all occurring phenomena. Qualitative research is descriptive in nature, prioritizing direct data such as written and oral records as well as observable behaviors (Neolaka, 2014). This study analyzes data using descriptive and normative juridical analysis methods to draw accurate conclusions regarding the contract and the compliance of waqf features with the Fatwa of the National Sharia Board of the Indonesian Ulema Council (DSN MUI). Data is sourced from various outlets to ensure representation and enhance data validity. Data collection methods employed in this study include in-depth interviews and documentation techniques.

RESULTS and DISCUSSION

A. Mechanism of Tafakulink Salam Waqf Management

Waqf funds are accumulated from participants through investment returns. Participants can pay premiums in installments and receive protection in case of adversity by filing a claim with the takaful insurance provider. Takaful insurance offers waqf products, with waqf products falling under the Takafulink Salam category, providing optimal protection and investment. Waqf management in Takaful insurance is overseen by BWI (Indonesian Waqf Board). The mechanism for managing waqf funds at BWI involves customers contributing funds to Takaful insurance, which is then invested by the Takaful insurance provider. Subsequently, the Takaful insurance provider transfers these funds to BWI for management. Waqf funds are managed by BWI, an entity with official legal status, by determining the percentage of participants' contributions allocated to BWI. Takaful insurance establishes regulations on the distribution of waqf funds, typically ranging from 10% to 35% for participants who survive the term of the contract and withdraw funds from the accumulated balance, and from 10% to 55% for beneficiaries in the event of the participant's demise, drawn from the death benefit. Waqf funds are transferred to BWI when the customer or participant's contract expires or in the event of the participant's demise. These funds are received by institutions collaborating with BWI or by designated foundations. The waqf targets middle to upper-class individuals, with priority given to those willing to contribute to waqf initiatives. The general provisions for this insurance product encompass various aspects. Firstly, the entry age for policyholders and participants ranges from 17 to 65 years old, with a minimum insurance term of 5 years and a maximum until participants reach the age of 80. Premium payments can be made regularly, either monthly, quarterly, semi-annually, or annually, or in a lump sum payment. The premium payment period ends when the participant reaches 80 years of age. The minimum basic contribution for regular payments varies depending on the payment period, while for lump sum payments, there is a separate minimum amount. Additionally, supplementary contributions (TOP UP) are allowed with certain minimum and maximum amounts, which can be made at any time without any arrears of basic contributions. Finally,

each regular payment receipt has its own minimum contribution, which is Rp. 300,000.

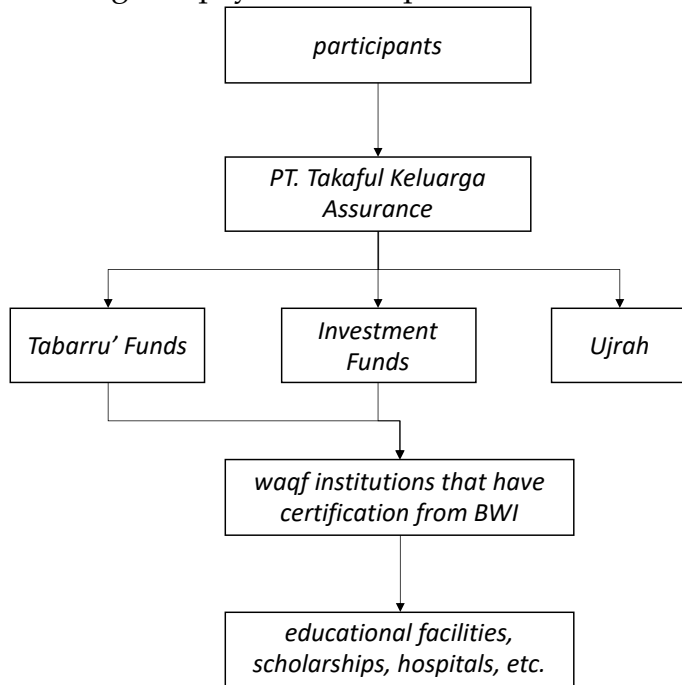


Figure 1 Waqf Management Mechanism

Benefits of Takaful

1. How to pay regular premiums Takaful Benefit Amount Multiplication of the basic contribution a year with conditions:

Table 1 Basic Contribution Multiplier Based on Entry Age of Participants

Entry Age of Participants	Min	Max
17 – 20 thn	5 X	200 X
21 – 30 thn	5 X	200 X
31 – 40 thn	5 X	170 X
41 – 45 thn	5 X	120 X
46 – 50 thn	5 X	110 X
51 – 55 thn	5 X	90 X
56 – 60 thn	5 X	80 X
61 – 63 thn	5 X	60 X
64 – 65 thn	5 X	50 X

2. Pay as a lump sum Maximum 125% x lump sum contribution

B. Investment Withdrawal and Transfer Provisions

Investment involves placing assets, whether in the form of property or funds, into something expected to yield income or increase in value in the future. This investment system refers to the activity of depositing funds for long-term purposes and as reserve funds to cope with disasters or adversities. This system serves as an Islamic alternative to various contemporary life insurance systems. The primary goal of investment policies in a company is to implement planned programs to achieve positive returns, with the highest

probability, from available assets to be invested. Basic principles of investment: As a trustee, the company is obliged to invest the accumulated participant funds, and these investments must comply with Sharia principles. The objective of investment is to gain profit, but according to Islamic views, profits must have holistic aspects, including: Material or financial aspect

- Halal aspect
- Social and environmental aspect
- Aspect of seeking Allah's pleasure.

2. Management of investment funds in Sharia insurance: Insurance companies can invest these funds in any form of investment as long as they do not contain any prohibited elements in Sharia. If the investment is in the form of equity participation in a company, the insurance company must ensure that the company does not trade in prohibited goods. If the investment is in the form of deposits, the insurance company must ensure that the bank where the funds are invested operates according to Sharia principles or does not use an interest-based system but instead operates on a profit-sharing basis. In Takaful Keluarga Insurance Company, one of the products containing investments is Takafulink Salam, a flagship program designed to provide comprehensive life and health protection benefits while also helping to optimize investments for various future purposes, including retirement preparation. Takafulink Salam offers four types of investments that can be combined according to needs, namely Istiqomah (money market and sukuk), Mizan (balanced), Ahsan (balanced aggressive), and Alia (aggressive).

- a) Istiqomah The Istiqomah investment model is provided for potential participants who desire optimal investment results with minimum risk. The majority of Sharia-compliant fixed-income securities are placed. The investment allocation in the Istiqomah investment model includes Sharia-compliant Fixed Income Securities (min. 80%) and Sharia Money Market Instruments (max. 20%);
- b) Mizan Mizan investment is for medium-term investments. It is provided for those who desire optimal investment results with medium-level risk. Suitable for customers seeking investment results slightly above Istiqomah investment. The investment allocation includes Sharia Income Securities (50% - 70%), Sharia Stocks (20% - 40%), Sharia Money Market Instruments (max 20%), with investment rates ranging from 6%, 10% to 15%;
- c) Ahsan (Balanced Aggressive) Ahsan investment is for short-medium-long-term investments. It is provided for customers seeking maximum investment results with proportionate risk levels. The investment allocation includes Sharia Income Securities (20% - 40%), Sharia Stocks (50% - 70%), Sharia Money Market Instruments (max 20%), with investment rates ranging from 5%, 13% to 20%;
- d) Alia (Aggressive Investment) Alia investment is for long-term investments. It is provided for customers seeking maximum investment results with relatively high risk levels. Suitable for customers with aggressive investment profit who are willing to take risks to obtain higher returns, with investment rates ranging from 3%, 15% to 25%.

Withdrawal Terms:

- The policy status must be active and at least one year old.
- Minimum withdrawal amount from savings: Rp. 1,000,000
- Minimum remaining savings balance: Rp. 1,500,000.

Transfer Terms:

1. Can be done at any time.
2. The transferred funds can be 100% or a minimum of Rp. 2,000,000.
3. If the transferred funds are not 100%, then the minimum funds remaining in the initial investment type must be Rp. 1,500,000.

Beneficiaries:

1. Beneficiaries include individuals, legal entities, organizations certified/registered by the Indonesian Waqf Board (BWI).
2. Participant's heirs or designated parties.
3. Participants.

Benefit Terms:

If the Participant passes away during the insurance period, the heirs or designated parties and the Waqf will receive Takaful Benefits and Investment Funds.

Table 2 Benefits of Takaful and Investment Funds for Participants in the Event of Death

Deceased	Alive
<p>a. Takaful Benefits (insurance):</p> <ul style="list-style-type: none"> - For the Waqf Nazhir: In the event of the Participant's death, the Waqf beneficiary will receive a maximum of 45% of the Takaful Benefit. - For the Participant's heirs or designated parties: If the Participant passes away, the heirs will receive a minimum of 55% of the Takaful Benefit. 	<p>a. Until the end of the contract period, the Investment Fund will be paid out at the net asset value according to the number of units held by the Participant.</p> <ul style="list-style-type: none"> - The Waqf Nazhir receives a maximum of 33% of the investment fund balance. - The Participant receives the remaining balance of the funds after deducting the benefits received by the Waqf.
<p>b. Investment Benefits:</p> <ul style="list-style-type: none"> - The Waqf Nazhir receives a maximum of 33% of the investment fund balance. - The Participant's heirs or designated parties receive the remaining balance of the funds after deducting the benefits received by the Waqf. 	<p>b. Withdrawals during the contract period will be paid out from the Investment Fund at the net asset value according to the number of units held by the Participant.</p> <ul style="list-style-type: none"> - The Waqf Nazhir receives a maximum of 33% of the investment fund balance. - The Participant receives the remaining balance of the funds after deducting the benefits received by the Waqf.

Table Source: Primary data, processed by researchers (2024)

Additional Benefits:**1. Personal Accident (PA):**

Personal Accident insurance provides protection to an individual against accidents, offering coverage for death, permanent disability, or medical expenses resulting from an

accident. In practice, this insurance can protect the policyholder from accidents that may occur anytime and anywhere. Personal Accident insurance can also serve as a transfer of risk or a means of mitigating unwanted events, as life is inherently uncertain. If the participant passes away due to an accident, the Takaful Benefit will be paid out, up to a maximum of 100% of the basic benefit (maximum 1M).

2. Payor Critical Illness (CI):

If the participant is diagnosed with one of the critical illnesses covered in the policy, the Takaful Benefit will be paid out, up to a maximum of 100% of the basic benefit (maximum 1M).

3. Pay or Total Permanent Disability (TPD):

If the participant experiences Total Permanent Disability due to illness or accident, rendering them unable to work and earn income, the Takaful Benefit will be paid out, up to a maximum of 100% of the basic benefit (maximum 1M).

Ujrah and Commission: [Further details can be added here, if applicable].

Table 3 Payment method of Ujrah

Payment Method	UJRAH			
	Years 1	Years 2	Years 3	Years 4
Regular	45%	30%	20%	-
All at once	7.50%	-	-	-
Regular Top Up	5%	5%	5%	-
Regular Top Up	5%	5%	5%	5%

Table Source: Primary data, processed by researchers (2024)

Table 4 Commission Payment Methods

Payment Method	COMMISSION			
	Years 1	Years 2	Years 3	Years 4
Regular	15%	10%	7.50%	-
All at once	2.50%	-	-	-
Regular Top Up	2.50%	2.50%	2.50%	2.50%
Regular Top Up	2.50%	2.50%	2.50%	2.50%

Table Source: Primary data, processed by researchers (2024)

Other Fees:

a. Administrative Fee: Rp. 25,000/month

b. Investment Management:

- Maximum 2.5% per year of NAV

- Maximum 0.25% per year of NAV for Custody

- Switching Fee: Free twice a year (policy year); thereafter, 1% of the transferred funds (maximum Rp. 50,000) will be charged.

c. Freelook Fee: Rp. 100,000

d. Tabarru Fund Management Fee: 25% of Risk Contribution

C. Compliance of Takafulink Salam Wakaf Product with DSN Fatwa No.106/DSN-MUI/X/2016

PT. Family Takaful Insurance, one of the life insurance companies in Indonesia, has also launched a wakaf insurance product called Takafulink Salam Wakaf. Takafulink Salam Wakaf is a sharia life insurance product accompanied by investment, providing protection against the risk of the participant's death while realizing their intention to worship by waqfing a portion of the insurance benefits for the development and empowerment of the community. The waqf in this insurance product is an integral part that cannot be separated so that participants who choose this product truly have the intention to waqf up to 45% of the insurance benefits with the approval and agreement of the beneficiaries (for the benefit of the community). Although waqf is included in the insurance product, the contract is separate because waqf is one of the ways of worshipping Allah SWT that can be used for social development to build prosperous communities, while insurance is for risk mitigation against the death of participants to ensure that the left-behind families remain prosperous. Therefore, the contracts used for life insurance are tabarru (participants), wakalah bil ujah (participants to the company), and mudharabah (for the investment of tabarru funds), while for waqf, a release statement from the beneficiaries (heirs) in the form of a gift is used at the time of SPAJ (contract initiation), and waqf implementation is carried out when the participant passes away (claims), where the insurance benefits are paid by the company to the heirs and the nazhir. Here is the researcher's analysis of wa'ad mulzim in waqf, the limits of insurance benefits waqf, the formation of investments from contributions, investment beneficiaries, waqf pledges, cumulative fees, and dispute resolution in the Takafulink Salam Wakaf product based on fatwas and regulations:

1. Compliance of Mulzim Wa'ad in Waqf Benefits Insurance

The designated party to receive insurance benefits declares a binding promise (wa'd mulzim) to endow the insurance benefits. In this regard, Allianz Life Sharia Unit has prepared a waiver form (wa'd). The waiver form aims to specify the percentage of endowment assets and appoint heirs and waqf institutions (nazir) to receive the benefits of the endowment. The waiver form is binding (muzlim), involving four parties: the policyholder (waqif), heirs, waqf management institution (nazir), and Sharia insurance company. All four parties declare that they understand, agree, and promise to fulfill all the provisions outlined in the waiver form (wa'd).

2. Limitations of Waqf Benefits Insurance in Takafullink Waqf Salam Products

In Fatwa DSN-MUI No. 106/DSN-MUI/X/2016, endowing insurance benefits and investment benefits to waqf institutions agreed upon by insurance participants and insurance companies is permitted. The fatwa also states that the maximum insurance benefits that can be endowed are 45% of the total insurance benefits, while the maximum investment benefits that can be endowed are 1/3 of the total wealth and/or profit or investment benefits obtained by participants. In the Takafullink Waqf Salam Policy of PT. Takaful Keluarga, it is stated that the waqf beneficiary (nazhir), namely Bina Tsaqofah Foundation, will receive an endowment of 10% of the total insurance benefits and 10% of the investment benefits. With these provisions, it can be seen that the company has

complied with the provisions in the DSN-MUI Fatwa regarding Waqf Benefits Insurance and Investment.

3. Investment Benefit Recipients

Insurance products linked to investment, commonly known as unit-linked products, provide minimal protection against death risks and offer benefits based on investment returns from a pool of funds specifically created for insurance products, whether expressed in units or not. Unit-linked insurance products provide returns if the contract term ends and the policyholder remains healthy, in which case they will receive a refund of funds derived from their investment portion. This aligns with the provisions stated in Fatwa DSN-MUI No. 106/DSN-MUI/X/2016 concerning Waqf Benefits Insurance and Investment in Sharia Life Insurance, which stipulates that investment benefits are a sum of funds transferred to insurance program participants from their investment contributions and returns. Therefore, it can be observed that the participant's ownership of the investment value or benefit is absolute. According to the legal provisions in the Fatwa of the National Sharia Board of the Indonesian Ulama Council, endowment of Insurance Benefits and Investment Benefits is permissible under three conditions: the consent of heirs, the benefit claim cannot be taken by the Nazhir when the insurance claim occurs but only when it is transferred and approved by the heirs in writing, and if the participant has pledged from the outset that if they pass away and their benefit claim is endowed, then it is permissible. The National Sharia Board of the Indonesian Ulama Council addresses the issue of the contribution money being endowed, where in this case, waqf products only exist in the Tafakulink Salam Waqf policy and are only allowed for users of Sharia life insurance policies. Based on this explanation, in endowing benefits from insurance and investment, Takaful Keluarga respects the decision of the DSN MUI fatwa.

4. Provisions on Waqf Declaration

According to Article 6 of Law No. 41 of 2004 concerning Waqf, waqf is carried out by fulfilling one of its elements, namely the waqf declaration. The Waqf Declaration is the expression of the waqif's intention, orally and/or in writing, to endow his property to the nazhir. Regarding the waqf declaration, the DSN-MUI Fatwa states that the waqf declaration is carried out after the insurance benefits have become the right of the appointed party or its replacement. The Waqf Law also mentions that one of the elements in waqf implementation is waqf property. Waqf property can only be endowed if lawfully owned and controlled by the waqif. In the case of insurance and investment benefit waqf, the waqf property referred to is the benefits or assistance derived from tabarru' funds and the benefits from investment funds. The provisions regarding waqf declaration in this sharia life insurance policy are generally in accordance with the regulations and the DSN-MUI Fatwa, but there are still some shortcomings regarding the certainty of the parties involved and other technical aspects of the implementation of the waqf declaration. The policy does not directly specify who will act as the waqif. To determine who will be the waqif of the waqf property in this sharia life insurance policy, we can refer to the provisions stated in Article 31 paragraph (3). According to this provision, the parties likely to receive insurance benefits (waqf property) are the policyholder or the beneficiary or the

beneficiary's heirs. Therefore, it can be understood that the party acting as the waqif in this waqf declaration is the policyholder or the beneficiary or the beneficiary's heirs. The waqf declaration is made when the insurance benefits have become the right of the appointed party or its replacement. In this sharia life insurance policy, the waqf declaration is made when the contract period ends, the policyholder redeems, the main participant passes away, and other circumstances stated in the policy endorsement.

5. Fee Provisions in the Policy

Regarding the fee or remuneration that can be obtained by sharia insurance companies, it is stipulated in POJK (Financial Services Authority Regulation) No. 69/POJK.05/2016 concerning the Implementation of Business Activities of Insurance Companies, Sharia Insurance Companies, Reinsurance Companies, and Sharia Reinsurance Companies, as amended by POJK No. 38/POJK.05/2020 and DSN-MUI Fatwa No. 106/DSN-MUI/X/2016. In POJK No. 69/POJK.05/2016, it is mentioned that the total service income obtained by sharia insurance companies from all fee-based business activities is prohibited from exceeding 50% (fifty percent) of the total fee (fee) received by sharia insurance companies from general sharia insurance or sharia life insurance activities in one fiscal year period based on audited annual financial statements. In the Fatwa of the National Sharia Council No. 52/DSN-MUI/III/2006 Regarding the Wakalah bil Ujrah Contract in Sharia Insurance and Sharia Reinsurance, its provisions are outlined as follows:

Firstly, concerning general provisions, it defines insurance as comprising life insurance, property insurance, and Sharia reinsurance, with participants being either insurance policyholders or insurance companies in Sharia reinsurance; Secondly, regarding legal provisions, it allows for Wakalah bil Ujrah between insurance companies and participants. Wakalah bil Ujrah entails participants granting authority to insurance companies to manage their funds in exchange for a fee. This arrangement applies to products involving savings or non-saving elements; Thirdly, pertaining to contractual provisions, it mandates the use of the Wakalah bil Ujrah contract covering administrative tasks, fund management, claims payment, underwriting, portfolio management, marketing, and investment. The contract must specify the rights and obligations of participants and insurance companies, the amount, method, and timing of fee deductions from premiums, and other agreed-upon conditions based on the type of insurance; Fourthly, regarding the positions and terms of the parties in the Wakalah bil Ujrah contract: The insurance company acts as an agent (with delegated authority) to manage the funds, Individual policyholders (participants) act as principals (grantors) in savings and charitable contributions (tabarru'), while groups or entities act as principals in tabarru' accounts, Agents are not permitted to delegate their authority to others without the principal's consent, The Wakalah contract is a trust (yad amanah) and not a liability (yad dhaman), meaning the agent does not bear the risk of investment losses by reducing the received fee unless due to negligence or default, Insurance companies, as agents, are not entitled to receive a share of investment returns since the contract used is Wakalah; Fifthly, concerning investments, insurance companies, as trustees, are obliged to conduct investments in accordance with Sharia principles. Both tabarru' and savings fund management can be conducted through the Wakalah bil Ujrah contract following the aforementioned provisions; Sixthly, regarding the closing provisions,

if either party fails to fulfill its obligations or disputes arise, resolution occurs through the Sharia Arbitration Board after failed negotiations.

In the event that dispute resolution through amicable settlement and negotiation cannot be achieved, this insurance policy provides the policyholder with the freedom to choose from several dispute resolution options, including the Indonesian Insurance Mediation and Arbitration Agency (BMAI), the Sharia Arbitration Board (BASYARNAS), the Religious Court (PA), or submitting a request to the Financial Services Authority (OJK) by the policyholder to facilitate the resolution of policyholder complaints if dispute resolution is not pursued through BMAI, BASYARNAS, or PA. Regarding the provision for dispute resolution through BMAI as one of the alternative dispute resolution mechanisms for Sharia insurance disputes, the author finds it to be in compliance with and guided by Law Number 40 of 2014 concerning Insurance.

Article 54 paragraph (1) stipulates that insurance companies, Sharia insurance companies, reinsurance companies, and Sharia reinsurance companies must be members of mediation institutions responsible for resolving disputes between insurance companies, Sharia insurance companies, reinsurance companies, or Sharia reinsurance companies, and policyholders, insured parties, participants, or other parties entitled to insurance benefits. By considering this provision, it can be understood that the inclusion of BASYARNAS as one of the alternative dispute resolution options in this insurance policy is not contradictory to regulations; rather, it is considered the best choice as an alternative institution outside the judiciary specialized in handling and possessing the best expertise in the Sharia economic sector, especially Sharia insurance.

Regarding the dispute resolution through submitting a request to OJK by the policyholder to facilitate the resolution of policyholder complaints, the author has not found specific regulations governing the policyholder's request for dispute resolution facilitation to OJK.

CONCLUSIONS

Wakaf refers to assets that can be utilized without diminishing the principal, involving no buying or selling, with its proceeds directed towards the beneficiaries of the wakaf. Shariah insurance companies have the flexibility to invest funds in various forms as long as they adhere to Shariah principles. Takafulink Salam, a flagship product of Takaful Family Insurance, offers a comprehensive program combining life protection, health coverage, and investment opportunities. The element of wakaf in this product is integral, with participants allowed to allocate a maximum of 45% for wakaf, subject to agreement by the beneficiaries. Although wakaf is part of insurance products, its contractual arrangement is distinct because wakaf represents a religious act close to Allah SWT, aimed at social development. Life insurance contracts involve tabarru, wakalah bil ujah, and mudharabah for investing tabarru funds. The declaration of wakaf occurs upon the termination of the agreement, policyholder redemption, demise of the main participant, and other circumstances specified in the policy's endorsements. The stipulations on ujah in the policy are governed by POJK No. 69/POJK.05/2016, which mandates that the total income from fees should not exceed 50% of the total ujah received by Shariah insurance companies. The

general provisions for wakalah bil ujarah contracts in Shariah insurance are outlined in Fatwa DSN No. 52/DSN-MUI/III/2006, involving participants, insurance companies, fee structures, and other conditions tailored to the type of insurance.

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