A Comparison Between Shariah Law and EFU Hemayah Family Takaful Applications: An Analytical Studies

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Abstract

Like economies around the world, Pakistan's insurance industry has evolved amidst opportunities and challenges. The Pakistani government has taken many steps to initiate reforms in the insurance industry. The Securities Exchange Commission of Pakistan (SECP) has introduced new rules allowing traditional insurance companies to operate Islamic insurance through takaful windows. At present, many local and foreign insurance companies in Pakistan such as Jubilee Life Insurance Limited, EFU Insurance Limited, American Life Insurance Limited, etc. are actually operating takaful windows. Here we will discuss an analytical study of the Comparison between Shariah Law and EFU Hemayah Family Takaful Applications.

Keywords: EFU Hemayah, Family Takaful, Applications, Shariah Law.

1.1 INTRODUCTION TO EFU HEMAYAH FAMILY TAKAFUL

EFU stands for Eastern Federal Union Insurance Company Limited. In 1990, the Pakistani government reopened the life insurance business to private sector organizations. EFU Life Insurance Limited started operations in November 1992 as the first private-sector life insurance company. In early 1993, EFU Life launched its group life business and in March 1994 the company began underwriting its individual life business.[1] It is the first insurance company in Pakistan to achieve ISO 9001 2025 certification. It has also been awarded the Consumer Demand Award 2022, a prestigious award for Best Life Insurance Company for the 16th Consumer Choice Awards 2021-22.

EFU Life is Pakistan's first family-owned Takaful Window operator licensed by the Securities and Exchange Commission of Pakistan (SECP). It was released as "Hemayah" in February 2015.

The word "Hemayah" derives from the word "Hamiyat" which means "protection" and "support" in Arabic.[2] It is a policy that protects and supports a family's future at every stage of life.

The Family Takaful's growth in Pakistan's life insurance industry is only 5% in terms of gross premiums. A leading life insurance company with insurers for over 20 years, JCR VI'S. EFU Life's 'AA' (Outlook: Stable) financial

[1]EFU Hemayah takaful online available at: https://www.efuhemayahtakaful.com/about-us/ retrieved on 11-2-2023

[2] First window family takaful operations online available at:https://www.efuhemayahtakaful.com/efu-life-launches-first-window-family-takaful-operations-2/ retrieved on 21-02-2023

strength rating, through its Window Family Takaful operations, aims to provide a much-needed stimulus to the domestic takaful market give in order to exploit its full potential.[3] The company offers a wide range of takaful operations such as Takaful Protection, Education, Financial Planning for Children, Investments, Savings, and Retirement plans for Individuals and Corporates.

This research review examines the Family Takaful Applications of EFU Hemayah, the model and in relation to current regulations, as well as the company's financial policies, the role of the Sharia Advisor, and how it compares to Sharia Law.

Here we aim to inspect the current practice of Family Takaful operations adopted by the EFU Hemayah.

1.1 MANAGEMENT

Chairman of EFU Hemayah takaful company is Rafique R. Bhimjee. The Managing Director & Chief Executive of Hemayah is Taher G. Sachak. The Head of Window Takaful Operations is Muhammad Ali Ameen.

1.2 SHARIAH ADVISOR

Articles and Memorandum of agreement of Takaful companies regarding investment and further activities must comply with Shariah principles. Hence, every company has Shariah Advisors who ensure different takaful products and drafts follow Shariah Law.

The Sharia Advisor for EFU Hemayah Family Takaful is Mufti Muhammad Ibrahim Isa' a respected scholar of Jamia Darul Uloom Karachi who

[3] First window family takaful online available at : https://www.efuhemayahtakaful.com/wp-content/uploads/2016/04/EFU-Life-launches-first-Window-Family-Takaful-Operations.png retrieved on 21-02-2023

specializes in Takaful and Islamic Finance. He is a renowned Sharia Scholar with experience in conducting Sharia Compliance audits for all takaful companies operating in Pakistan. He has written more than two thousand Fatwas on various subjects.[4]

1.3 APPLICATIONS MODEL

EFU Life follows a refined hybrid model named the **" Wakalah Waqf "** Family Takaful Model, which is an approved takaful model by Shariah scholars in Pakistan. The foundation of this model is based on the Shariah concept of Waqf.

This is a model where the fund is set up as a separate legal entity because it is dedicated. The endowment fund is directly related to the participants and the operator. Here, in this model, an operator "recommends" the fund and the participants contribute to the waqf fund as a Tabarru (donation).

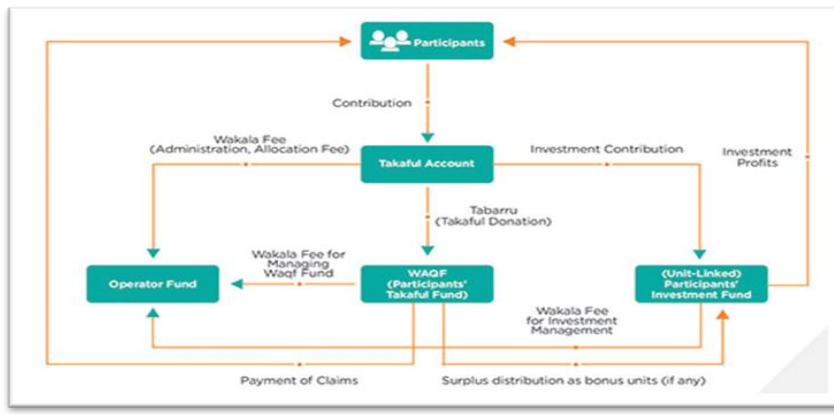


Figure 1.3: EFU Hemayah Family Takaful Model

As a first step, EFU Life - WTO shareholders have created a Waqf Fund, a risk pool for the Takaful participants. By creating this Waqf Fund, the shareholders have become the Waqif of the Fund. Under the takaful

[4] EFU Hemayah Shariah Advisor online available at: https://www.efuhemayahtakaful.com/takaful/Shariah-advisor/ retrieved on 22-02-2023

regulations, the Waqf Fund is called Participant's Takaful Fund (PTF), and membership to any individual who wants to benefit from it for risk mitigation purposes. The shareholders of EFU Life – WTO, under their legal role as Waqif, have also formulated detailed rules for the operations of the PTF. These rules lay down the requirements for membership in the PTF, the foremost being that only those Participants will be able to benefit from the pool who contribute to it.[5]

The contribution by the Participants to the PTF comes under the definition of Tabarru (donation). To obtain membership for takaful benefits, it must be paid into the fund. Once this donation is given to the PTF, it becomes the property of the Waqf, and the benefits payout, such as Takaful claims, the fund will be as per rules determined by the Waqif. The responsibility for payment of all Takaful claims rests with the PTF. To fully comply with Shariah requirements, the funds of the PTF are invested in Shariah-compliant instruments. The investment profits are returned to the PTF.[6]

As mentioned above, the Participants enter a takaful scheme by contributing to the PTF and obtaining membership. This membership gives them access to a risk mitigation tool, which provides them the Takaful claims in their time of need. The investment element is the second benefit level available in a savings takaful plan. Participants can also contribute to a Participant's Investment Fund (PIF), which is a unit-linked investment fund set up by EFU Life - WTO. This fund is called EFU Takaful Funds and follows a balanced asset allocation strategy focused on Sharia-compliant investments.[7]

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[5] Hemayah Policy online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2021/02/Hemayah-Profile-new.pdf retrieved on 14-02-2023
[6] ibid
[7] ibid

1.4 TAKAFUL MEMBERSHIP PROCESS FLOW

1.4.1 The Participants make contributions to their Takaful plan.

1.4.2 The purpose of the Takaful account is to determine the various components of the gross contribution.

- Contribution to the PTF
- Contribution to the PIF
- Wakalah Fee for the takaful operator

1.4.3 The contribution for the PTF is transferred to it. This is the Tabarru (donation). By payment of this contribution, the Takaful membership of the Participant becomes active.

1.4.4 The portion of the contribution allocated for investments is transferred to the Participant's Investment Account (PIA) within the PIF.

1.4.5 The Wakalah Fee is transferred to the Operator Fund.

1.4.6 Wakalah Fee on the PTF is transferred from the PTF to the Operator Fund.

1.4.7 Wakalah Fee on the PIF is transferred from the PIF to the Operator Fund.

1.4.8 In the event of a claim:

1.4.9 The PTF pays the Takaful benefit.

1.4.10 Depending on the benefit structure of the Takaful plan, the PIF pays the Cash Value.[8]

[8]Hemayah Profile online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2021/02/Hemayah-Profile-new.pdf retrieved on 7-03-2023

1.5 DEFINITIONS

1.5.1 Beneficiary

When the person participating died, the Takaful membership proceeds are payable to the participant's nominee.

1.5.2 Claim

Notify the Takaful Operator about the payment of an amount due under a contract of Takaful, arising from the occurrence of a covered event.

1.5.3 Commission

Wages for services such as issuing guiding and assisting Takaful Plans to Takaful Mediators.

1.5.4 Contributions

Monetary contribution paid as a lump sum or periodically by a Participant to a Takaful Operator to obtain Takaful Benefits.[9]

1.5.5 Participant

The person who participates in a Takaful program and to whom is issued a takaful contract.

1.5.6 Participant's Investment Fund (PIF)

The unit-linked investment fund in which a proportion of the gross contribution is invested. A separate group of assets forms a sub-fund of a statutory fund of a Takaful Operator, which is used to determine the benefit payable under Takaful Policies.

[9] Hemayah Glossary online available at: https://www.efuhemayahtakaful.com/glossary/ retrieved on 14-02-2023

1.5.7 Takaful Account

An initial account where the Regular Contribution paid by the participant will be divided and allocated to the IFPTF, WTO fund, and the PIF, net of any related charges.

1.5.8 Takaful Operators Fund

The fund specified by the WTO shall undertake all transactions the operator undertakes transactions other than those which pertain to TFP/PIF Fund specified for the WTO.

1.5.9 Wakalah Fee

The Takaful Operator charges the fee for managing the Waqf Fund or for Mediating as a Wakeel, (Manager of PTF or PIF).[10]

1.6 SURPLUS SHARING

This is a model where the fund is set up as a separate legal entity because it is dedicated. The relationship between the participants and the operator is direct with the endowment fund. Here, in this model, an operator is the "proponent" of the fund and the participants contribute as Tabarru (donation) to the Waqf fund.

Takaful offers participants a unique additional trading feature on top of the risk reduction benefits. Participant by contributing Tabarru (Donation) to the Takaful Fund (Waqf/PTF Fund), the Participant is entitled to an additional portion of the Fund, if any. At the end of each year, EFU Hemayah determines the surplus in the Waqf Fund according to the methodology approved by the Sharia Experts and the Appointed Actuary. Follow the advice of the Sharia Assessor and Appointed Actuary:

[10] Hemayah Glossary online available at: https://www.efuhemayahtakaful.com/glossary/ retrieved on 14-02-2023

1.6.1 Part of the excess amount can be distributed to participants as bonus units by allocating additional units to the Participant Investment Account (PIA).

1.6.2 The additional amount or part of it can also be used to strengthen the PTF.

1.6.3 The rest (a small part) can be used for charity.[11]

EFU Hemayah will distribute 80% of its EFU Hemayah (Ventana Takaful Operations) surplus in 2020 to its Individual Family Takaful participants for the year ending December 31, 2020. This is the company's fourth consecutive year of distributions. Additional units will be distributed to all active participants in proportion to their respective takaful contributions to the IFPTF (Individual Family Participant Takaful Fund) by each participant.[12] EFU Hemayah is the first window Family Takaful Retailer to reach this surplus distribution milestone in a very short time after starting operations in 2015. If there is a shortage of PTF, the takaful trader pays Qard-e -Hasna (interest-free credit) to the PTF, which helps them to fill this shortage. This Qard-e-Hasna (interest-free loan) is then repaid to takaful operators with a future PTF surplus.

1.7 RISK COVERED

The EFU Family Takaful Waqf Fund (PTF) is divided into two sub-funds:

a) The Individual Family Participants Takaful Fund (IFPTF)

[11] EFU Hemayah Surplus sharing online available at: https://www.efuhemayahtakaful.com/takaful/surplus-sharing/ retrieved on 23-02-2023

[12] EFU Life Hemayah Surplus Distribution 2020,online available at: https://www.efulife.com/efu-life-hemayah-surplus-distribution-2020/ retrieved on 23-02-2023

b) The Group Family Participants Takaful Fund (GFPTF)

The PTF and each sub-funds (IFPTF and GFPTF) will cover the following risks:

- Death due to any cause
- Death due to accident
- Natural disability
- Accidental disability
- Illness[13]

2.1 A CRITICAL STUDY OF EFU HEMAYAH FAMILY TAKAFUL APPLICATIONS

1.5 EFU HEMAYAH FAMILY TAKAFUL

EFU Hemayah provides a full range of Shariah-Compliant Family Takaful applications for individuals and corporates. Here we will discuss these applications comprehensively.

EFU Hemayah family takaful offers different types of takaful, which are as follows:

- Individual Family Takaful (IFT)
- Group Family Takaful (GFT)
- Bancatakaful
- PRIMUS by Hemayah

[13] EFU Life Hemayah Surplus Distribution 2020,online available at: https://www.efulife.com/efu-life-hemayah-surplus-distribution-2020/ retrieved on 23-02-2023

2.1.1 INDIVIDUAL FAMILY TAKAFUL (IFT)

A contract providing for takaful benefits to be paid to the participant out of regular income upon the death/permanent total disability or retirement of a person.[14]

Hemayah is based on the principle of the Individual Family Takaful Wakalah Waqf. Community Members deposit into a Waqf Fund managed by a Takaful Trader to protect themselves from future financial losses.

2.1.1.1 Individual Family Participants Takaful Fund (IFPTF)

The collective fund under the EFU Family Takaful Waqf Fund into which all Individual Family Takaful Contributions are pooled for charitable purposes.[15]

2.1.1.2 Surplus Distribution (IFPTF)

The mechanism for surplus distribution of the Individual Family Participants Takaful Fund(IFPTF) is as follows:

- The distributable surplus will be distributed at least annually
- Distributable surplus will be distributed to all Participants who have in-force Memberships at the time of distribution.
- The share of each Participant in the Distributable Surplus will be in proportion to their Takaful Donations paid during the year.
- The Distributable surplus will be distributed:

1. For takaful plans which are unit linked, in the form of additional units in the Participants Investment Account.

[14] Hemayah Glossary online available at: https://www.efuhemayahtakaful.com/glossary/ retrieved on 14-02-2023
[15] Ibid

2. For takaful plans which are pure protection, either as a cash payment or a credit against the next contribution due.[16]

2.2 Takaful Plans

Individual Family Takaful offers eleven (11) takaful plans which are as follows:

- EFU HFT Emerald Plan
- EFU HFT Group Savings Plan
- EFU HFT Guaranteed Acceptance Plan
- EFU HFT Humsafar Plan
- EFU HFT Nisa Savings Plus Plan
- EFU HFT Pilgrimage Plan (For Hajj, Umrah & Ziarat)
- EFU HFT Savings Plan
- EFU HFT Child Savings Plan
- EFU HFT Khushhali Plan
- EFU HFT Saving Plus Plan
- EFU HFT Capital Growth Plan

Here we will discuss a few of the above plans comprehensively.

2.2.1 HEMAYAH TAKAFUL PILGRIMAGE PLAN (FOR HAJJ, UMRAH & ZIARAT)

It is a plan that not only provides takaful protection but also covers the opportunity to accumulate savings for Hajj, Umrah, or Ziarat needs. It also provides benefits for the accidental death of participants during the pilgrimage.

[16] Participants Takaful Fund Policies online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2016/02/PTF-Policies.pdf retrieved on 23-02-2023

2.2.1.1 Eligibility Criteria

The Participants should be between the ages of 18 to 55. The minimum plan contribution is Rs. 30,000. The contribution payment term can vary from 10 -15 years. The maturity of the plan will be at the age of 65.

2.2.1.2 Charges

The following charges apply to the Hemayah Takaful Pilgrimage Plan based on the principle of Wakalah-tul-Istismar:

- Administration Charge: Rs. 150 per month
- Investment Management Charges:
  0.125 % of the net contribution per month
- Bid/Offer Spread: 5% of the net contribution
- Allocation charges: For 5 policy years, it is 10% of the regular annual contribution; for 10 policy years, it is 20%; for 15 policy years, it is 50 % of the regular annual contribution.
- Takaful Donation (Waqf Donation) An age-based Takaful Donation applies for the Takaful cover each year and depends on the sum at risk. No Takaful Donation charges apply in years where cash value exceeds the sum covered.
- Wakalah Charge from Waqf Fund: 40% of the Takaful donation.[17]

2.2.1.3 Inflation Protection

This plan will be automatically updated in line with inflation regardless of health. The regular contribution, the sum of risk from PTF, and additional

[17] Hemayah Takaful Pilgrimage Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/02/Hemayah-Takaful-Pilgrimage-Plan.pdf retrieved on 13-03-2023

benefits will be increased annually by 5%. This benefit will only be available till 55 years of age.

2.2.1.4 Death of Participant

In case of unfortunate death during the membership period, Participants will have benefits which are as follows:

The sum at risk and surplus (if any) from the Participants Takaful Fund (PTF) + The Basic Cash Value of the Participant's Investment Account (PIA) + The Cash Value of Fund Acceleration Contributions in the Participant's Investment Account (PIA).[18]

2.2.1.5 Maturity

Maturity benefits will be payable after the membership term while the policyholder is still alive. Maturity benefit that will be paid-

The Basic Cash Value of PIA plus The Cash Value from Fund Acceleration Contributions in the Participant's Investment Account (PIA).

2.2.1.6 Additional benefits

The plan offers additional benefits, which are as follows:

- Hajj-e-Badal Benefit: If the participant cannot perform the Pilgrimage due to disability, a nominee can perform Hajj on his behalf.
- Kafalat Benefit: This benefit ensures that a monthly income is paid to the family in case of the unfortunate death of the participant during the plan term.[19]

[18] Hemayah Takaful Pilgrimage Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/02/Hemayah-Takaful-Pilgrimage-Plan.pdf retrieved on 2-03-2023

[19] ibid

2.2.1.7 FUNDS

Three types of funds are categorized with their risk profiling as per the investment criteria:

1. **Balanced**

EFU Takaful Growth Fund: This fund aims to maximize the growth of capital with a medium risk rate by investing in a wide range of investments such as Islamic mutual funds, approved equities, and term deposits in Islamic banks and Sukuk bonds.

2. **Income Fund**

EFU Takaful Conservative Fund is a conservative investment allocation strategy with low risk. The fund aims to provide stable investment returns with minimal risk and is suitable in times of volatile stock markets.[20]

3. **Aggressive Fund**

EFU Takaful Aggressive Fund: It aimed to maximize capital growth by using investment with an aggressive market outlook and high-risk rate.

4. **Multiple Funds Options**

Participants also have a right to select a mix of two unit-linked funds of the plan. It can be selected in multiples of 10%. In this case, the funds will be split into 90/10, 80/20, 70/30, 60/40, or 50/50.

2.2.2 HEMAYAH TAKFUL KHUSHHALI PLAN

It is an investment-linked takaful product, providing an opportunity for investment and financial protection. It also gives an opportunity to grow savings on a medium to long-term basis.

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[20] Hemayah Takaful Pilgrimage Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/02/Hemayah-Takaful-Pilgrimage-Plan.pdf retrieved on 7-03-2023

2.2.2.1 Main Features

- Minimum Takaful Contribution is Rs.10,000 annually.
- The investment of funds taken from Participant's account is made in compliance with Shariah.
- Investment can be made through Fund Acceleration Contributions to boost savings.
- Access to saving at any point in time while the policy is in force.
- Bonus units are allotted at the time of maturity to the participants because of long term investments.[21]

2.2.2.2 Charges

- Administration Charge: Rs.60 monthly.
- Investment Management Charges: 0.125 % of the net contribution monthly.
- Bid/Offer Spread: 5% of the net contribution.
- Takaful Donation (Waqf Donation): An age – based Takaful Donation applies for the Takaful cover each year and is dependent on the sum at risk. No Takaful Donation charges applies in years where cash value exceeds sum covered.
- Allocation charges:

POLICY YEAR	% Allocation of Basic Contribution	Allocation Charges *
1	30%	70%
2	75%	25%
3	85%	15%
4 and 5	100%	0%
6 - 10	103%	0%
11 and onwards	105%	0%

[21] Hemayah Khushhali Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/01/Hemaya-Khushali-Plan.pdf retrieved on 7-03-2023

- Wakalah Fees: 40% of the Waqf Donation.[22]

2.2.2.2.1 Takaful benefits

In the event of the death of a participant, the details of the benefits are as follows:

The Sum at Risk and surplus (if any) from Participants' Takaful Fund. The Basic Cash Value of Participant's Investment Account (PIA). Plus, The Cash Value of Fund Acceleration Contributions in the Participant's Investment Account (PIA).[23]

2.2.2.2.2 Accidental death benefit

This additional benefit pays out in case of the first accidental death of either of the Takaful Participants.

2.2.2.2.3 Maturity benefit

At the end of the membership term, the Participant will get the cash values from his investments in the Participant Investment Account (PIA) as maturity benefit.

2.2.2.2.4 Eligibility criteria

This plan is suitable for individuals who are between the age of 18 to 65 years. The minimum term of this plan is 10 years and maximum term is 40 years, to a maximum age of 70 years at maturity.

2.2.2.2.5 Contribution

The minimum contribution for Basic plan is Rs.10,000 and maximum contribution is Rs. 24,999 per annum.

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[22] Hemayah Khushhali Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/01/Hemaya-Khushali-Plan.pdf retrieved on 7-03-2023

[23] ibid

2.2.2.2.6 Fund Acceleration Contribution

In case the participant has extra funds available, the plan provides flexibility to invest these to provide a boost to savings. These lump-sum contributions are called Fund Acceleration Contributions (FAC) and can be paid anytime while the policy is in force.[24]

2.2.3 GROUP FAMILY TAKAFUL

It is a Family takaful on a group of people under a master certificate. It is typically issued to an employer for the benefit of employees, or to members of an association.[25]

2.2.3.1 Surplus distribution

The Surplus Distribution Procedure for the Takaful Family Group is as follows:

- The Distribution Surplus is distributed at least annually.
- Each Participant's Distributable Surplus is calculated by dividing the last Distributable Surplus Rate (calculated in the GFPTF as the total Distributable Surplus during the Interval Period) paid by the Participant by the Net Contribution. No plan losses are carried forward to a plan year. For participants who terminate the Plan at any time prior to the Plan Anniversary, their entitlement to the Distributable Excess will be determined by multiplying the current Distributable Excess rate from the Plan Inception Date to the Plan Termination Date.

[24]Hemayah Khushhali Plan online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2023/01/Hemaya-Khushali-Plan.pdf retrieved on 7-03-2023

[25] Glossary online available at: https://www.efuhemayahtakaful.com/glossary/ retrieved on 14-02-2023

- Each participant's share of the distributable surplus is proportional to the net tax paid by it.
- The Takaful Operator can pay out the excess in cash or offset it against future contributions. However, in the event that a member no longer wishes to participate in the GFPTF, that participant must pay an additional amount in cash commensurate with their eligibility.[26]

2.2.3.2 Takaful Plans

EFU Hemayah Family Takaful provides nine (9) benefit plans which are given below:

- Group Term Family Takaful
- Group Takaful Critical Illness Cover
- Group Family Takaful Salary Continuation Plan
- Group Family Takaful Provident Fund Scheme
- Group Family Takaful Fee Continuation Plan – For Employers
- Group Family Takaful Fee Continuation Plan – For Educational Institutes
- Group Family Takaful Credit Protection Scheme – For Employers
- Group Family Takaful Credit Protection Scheme – For Financial Institutions
- Group Family Takaful Hospital Cash Plan

Here we will discuss few takaful plans comprehensively:

2.2.4 GROUP TAKAFUL CRITICAL ILLNESS COVER

This benefit pays a one-off cash lump sum that can provide the means to help pay for specialist equipment, cover day to day expenses, fund private

[26] Participants Takaful Fund Policies online available at: https://www.efuhemayahtakaful.com/wp-content/uploads/2016/02/PTF-Policies.pdf retrieved on 23-02-2023

treatment or provide an income. The benefit is payable if anyone suffers from or undergoes any one of the 10 specified critical illnesses:

- Heart Attack
- Coronary Artery Surgery (by-pass surgery)
- Paralysis
- Major Organ Transplant
- Cancer
- Multiple Sclerosis
- Blindness
- Stroke
- Renal Failure
- Deafness[27]

2.2.4.1 GROUP FAMILY TAKAFUL SALARY CONTINUATION PLAN

The continuation of salary allows the family to maintain the quality of life they have been accustomed to. Furthermore, the plan gives employees the peace of mind in knowing that their families will be financially secured should any misfortune occur.[28]

The Salary Continuation Plan offers the following:

- Salary linked Takaful cover that can be tailored according to the employee's need.

[27] Hemayah Critical illness Cover Plan online available at : https://www.efuhemayahtakaful.com/group-family-takaful/group-takaful-critical-illness-cover/ retrieved on 16-02-2023

[28] Hemayah Salary Continuation Plan online available at: https://www.efuhemayahtakaful.com/group-family-takaful/group-famlily-takaful-salary-continuation-plan/ retrieved on 8-03-2023

- Salary escalations that may be added to the cover to counter the effects of inflation.
- Flexibility in contribution that may be made annually or monthly.
- High value of member's loyalty and retention may be achieved.
- Exclusion free Takaful cover in case of natural death.[29]

2.2.4.1.1 Accidental disability Benefits

This plan provides Accidental Disability Benefit for the full payment of basic sum if the employee has a permanent disability by accidents which prevents him from his own occupation or any other occupation similar or not.

2.2.4.1.2 Natural Disability Benefit

This benefit provides for the payment of the full sum covered if permanent disability is caused by natural causes.

2.2.5 BANCATAKAFUL

The majority of the customers incline toward the acquisition of takaful products through banking channels instead of from free takaful organizations.[30]

Therefore, EFU Hemayah has also tied up with various Banks to bring out the specialized plans that will protect Participants from unforeseen events like disability or even death. These banks are:

- Askari Bank
- Dubai Islamic Bank
- Samba Bank

[29] ibid
[30] Dr. Muhammad Nawaz Iqbal , Influence of Window Takaful In Bancassurance Model of Pakistan: An Exploration of The Factors Using Thematic Analysis, January 2021, Vol 20, P: 4377

- Habib Metropolitan Bank
- UBL
- Faysal Bank
- Standard Chartered Bank
- National Bank

These banks provide a whole range of takaful plans which will protect Participants from unaffordable losses. These takaful plans are Sarmaya plans, child saving plans, Assan bachat plans, Education and marriage plan, Nigehbaan plans etc.

2.2.6 HEMAYAH PRIMUS

EFU Hemayah PRIMUS provides different programs by which Participants can avail discounts on leading brands. These programs are as following:

- PRIMUS Travel Desk
- EFU Life Plan IT
- Health Check up
- Loyalty Program
- Health Services

This application will also provide discounts at hospitals & clinics and medical & diagnostic laboratories across the country. Participants can avail amazing deals, fabulous discounts on lavish food, luxury items, leisure points, etc.

After careful analysis of EFU Hemayah Family Takaful applications, it is observed that in their model Participants and waqf fund are two major entities, without them this system is inadequate. After availing membership of a plan, Participants or Policy holders pay a specific amount of money (Premium) monthly or annually. Some of it is deposited in **Waqf Fund** as

donation and remaining is added to PIA (Participant Investment Fund). Benefits provided by the company or waqf fund depends upon the contribution of each Participant, if the contribution is high the benefits will automatically increase. This contribution is based on the type of coverage they require and vary from plan to plan.

As a Unit-linked family takaful, EFU Hemayah applications pay compensation to beneficiaries if a participant dies or becomes disabled and has maturity benefits if a Participant survives the coverage duration as it is mentioned in Hajj, Umrah Plan, Salary Continuation plan, etc. Age, contribution, income are the major factors of Hemayah takaful plans and a certain age and contribution is required for each plan. Before implementation every plan is carefully examined by Shariah Advisor and approved if it is under jurisprudence of Shariah Law. Customers in Pakistan are more Islamic when they choose takaful products and they prefer Shariah Compliant Products for their investment and family's support or protection. Hence, EFU Hemayah also issue Certificates of Shariah Compliance for different products to satisfy their customers.

2.2.7 CERTIFICATE OF SHARIAH COMPLIANCE

efu LIFE Zaroori Hai

HEMAYAH EFU FAMILY TAKAFUL

بسم الله الرحمن الرحيم

CERTIFICATE OF SHARIAH COMPLIANCE

FOR EFU LIFE ASSURANCE LTD – WINDOW TAKAFUL OPERATIONS

In the capacity of Shariah Advisor of EFU Life Assurance Ltd – **Window Takaful Operations,** I certify that I have reviewed the structure of the Individual and Group Family Takaful products and riders which are based on the **Wakalah-Waqf** takaful model. I have also examined all relevant processes and documents including the Participants Membership Documents. In addition I have reviewed in detail the investments with regard to all Takaful funds.

Based on Shariah rulings and to the best of my knowledge and belief, the **Window Takaful Operations** of EFU Life Assurance Ltd including Individual and Group Family Takaful products and riders, investments of all Takaful funds, relevant documents and processes are compliant from all aspects of Shariah.

In my opinion, it is permissible from the Shariah point of view to obtain Membership in these products and benefit from them.

Mufti Muhammad Ibrahim Essa
Shariah Advisor

مفتی محمد ابراہیم عیسیٰ
شریعہ ایڈوائزر
حمایہ
ای ایف یو لائف۔ ونڈو تکافل آپریشنز

2.3A COMPARISON B/W SHARIAH LAW AND EFU HFT APPLICATIONS

Takaful is kind of pact among a group of people (Participants) and Takaful Operator to establish a Waqf fund and donate money in it to provide a support and protection among themselves and each other against loss or damage.

In principle, Takaful is very similar to conventional mutual insurance in terms of its philosophy and structure. However, it differs significantly from conventional mutual insurance as all its operations should be based on Islamic principles, including investment activities, the establishment of the Shariah board, and causes for legitimate claim, which exclude causes such as suicide and death under the influence of alcohol.[31]

Here we will do a comprehensive comparison between Shariah Law and EFU Hemayah Family Takaful Applications, in order to evaluate whether these applications are in accordance with Shariah law or not.

2.3.1 Main Objective of Waqf

The main objective of Waqf is for everyone to get benefits from it. But by observing terms and conditions of EFU Hemayah Family Takaful Applications we came to know that the benefits from waqf fund can only be availed if they have participated and contributed in waqf fund. For example, a person can get takaful plan's benefits only if he/she enters in EFU Hemayah Family Takaful Plan by contributing a specific amount of money. These benefits will not be shared with those who have not contributed, this is same

[31] Safder Jaffer, Farzana Ismail, Jabran Noor, Lindsay Unwin ,Takaful (Islamic Insurance): Concept, Challenges, and Opportunities, Milliman research report, n.d., P: 27

as **Indemnity Contract** in which the indemnitor agrees to compensate the other (the indemnitee) for any damage or loss only if they have paid the premium which is against the concept of Waqf as in it, everyone is entitled to get benefits regardless of any contribution.

2.3.2 Benefits from Waqf Fund:

Ibn-e-Najeem stated a principle in his book:

" شَرْطُ الْوَاقِفِ كَنَصِّ الشَّارِعِ "[32]

It means endower's terms and conditions are same as decree of Legislator. Hence, we can say that Waqif (Endower) has an authority to impose certain conditions, in which one condition can be that whoever donates to this waqf fund, he/she will be entitled to have benefits from it including himself as per the waqf conditions. Therefore, Waqif himself can get certain benefits from Waqf Fund.

For example, Hazrat Usman (R.A) has waqf a Well of Rumah and also get benefit from it.

Hence, if Participant of Hemayah Takaful Khushhali plan or Pilgrimage plan get benefits from waqf fund then it is permissible and legal according to this principle.

2.3.3 Tabarru (Donation) is unreturnable

It implies that a part or whole donation cannot be return to the Giver (Donor) as it is against the principles of Tabarru. Once a person donates a thing, it will become the property of beneficiary. But we have seen it in EFU Hemayah Family Takaful policies that they practically get their donation

[32] Ibn-e-Najeem, Al- Ashba Wal-Nazaeer, Dar-ul-Kutub al-Illmia,Berut,1990, P:163

back from waqf fund in the time of loss. Though they claim that Policy holders contribute in waqf fund as Donation (Tabarru).

2.3.4 Intension of Participants:

When Participant avail Family Takaful Plan, his/her end purpose is not supposed to have any intension of making money but to share his/her wealth via contributing money as donation (Tabarru) to a Waqf Fund that help others who are in need of any assistance. But contrary to this principle, here if participant enters in any EFU Hemayah Plan he/she will also be eligible to attain different benefits for themselves. For example, if they suffer from any loss or have specific illness or accidental disability or natural disability or they have completed the membership term, then they are entitled to get benefits according to their availed plan. Therefore, we can say that in Hemayah takaful plans all participants only have intension to cover their loss rather to help others which brings in Mu'awada element.

2.3.5 Purpose of Tabarru:

Donation (Tabarru) is for people who are deserving and not able to fulfil their needs, but here in EFU Hemayah Family Takaful, Policy holders are the rich people who have enough money to avail takaful plans and contribute money monthly or annually. For example, Hemayah Takaful Pilgrimage Plan is activated only if Participant contribute 30,000 Rs. This amount can only be payed if the participant has enough money hence, they don't need any donation. On the other hand, common people cannot pay this amount casually and hence, they are not entitled to have any benefit. This thing is against the concept of Tabarru (donation) because the real purpose of Tabarru is for needy to benefit from it, but contrary to this concept here the beneficiaries of the waqf fund established under Takaful are only the rich people who have enough money.

2.3.6 Prohibited Elements

There are three elements which are forbidden in Islamic Finance named as Interest (Riba), Gambling (Maysir) and Uncertainty (Gharrar).

i. **Riba** is lending or borrowing funds at fixed interest.
ii. **Gharrar** is uncertainty of terms which can be resulted in duplicity or lack of clear conditions and terms.
iii. **Maisir** is Speculation or gambling.

These forbidden elements are avoided in this EFU Hemayah Family Takaful application by creating a model on the principles of Donation (Tabarru) and Waqf.

In this model, the pooling does eliminate Gharar, as the uncertainty about future claim events still exists but now is acceptable as the donation (Tabarru') is meant for mutual assistance and not for profit taking or gambling (contracts of charity are not affected by the prohibition of Gharar).[33] Or we can say that till now, uncertainty remains in the takaful contract. Still, since it comes under Tabarru (donation), this uncertainty (gharar) is considered within tolerable limits under Shariah.

Gharar in Shariah is tolerated in Donation (Tabarru) because its existence does not cause any harm to the beneficiaries.[34]

2.3.7 Endowment (Waqf) of cash

Mufti Taqi Usmani has described four principles related to Waqf's Takaful model. One of them is " The Endowment (Waqf) of cash is permissible**."**

[33] Safder Jaffer, Farzana Ismail, Jabran Noor, Lindsay Unwin ,Takaful (Islamic Insurance): Concept, Challenges, and Opportunities Milliman research report, n.d., P:6

[34] Abu Zaid, Abdul Azeem, A Critical Shariah review of Takaful Structures, 2016, P:6,online available at: https://mpra.ub.uni-muenchen.de/93015/

But looks like it is against the principle of Waqf (Endowment), as Hazrat Muhammad (May Allah Bless and Pease Be Upon Him) said:

إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا، وَتَصَدَّقْتَ بِهَا[35]

"If you want, you can withhold its original form as an endowment

and donate its benefits."

It is also stated by Ibn-e- Qadama:

جُمْلَتُهُ أَنَّ مَا لَا يُمْكِنُ الِانْتِفَاعُ بِهِ مَعَ بَقَاءِ عَيْنِهِ، كَالدَّنَانِيرِوَالدَّرَاهِمِ، وَالْمَطْعُومِ وَالْمَشْرُوبِ، وَالشَّمْعِ، وَأَشْبَاهِهِ، لَا يَصِحُّ وَقْفُهُ، فِي قَوْلِ عَامَّةِ الْفُقَهَاءِ وَأَهْلِ الْعِلْمِ[36]

It means we can only endow a fixed asset that can produce a return or provide any benefit. Then according to this principle, endowment (waqf) of cash should not be permissible because we cannot get any benefit by keeping it in its original form. But we observe the model mentioned above of Takaful followed by EFU Hemayah, which is based on the waqf fund. In that case, it is not according to the basic principles of Waqf (Endowment), as they accept endowment in the form of cash while the principles of the endowment do not apply to it.

EFU Hemayah Family Takaful Applications are based on the Wakalah-Waqf model mentioned above. Mufti Taqi Usmani first introduced this model, and on observation, it seems that this model is practical, beneficial and close to Islamic Sharia laws but there are also certain legal and Shariah issues arise from its concepts and operations that remain unresolved.

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[35] Muhammad Bin Ismail Bukhari, Sahih Bukhari, The book of Conditions, Dar-ul- kutub ul- illmia, Berut,1990, Vol:3, P:193

[36] Ibn-e- Qadama, Al- Mugnae, Maktabatul Qaira,1968, Vol:6, P:34