

# Takaful Practice in Nigeria: History, Present and Future

Abubakar Aliyu Ardo <sup>a</sup>, Buerhan Saiti <sup>a,\*</sup>

<sup>a</sup> *Institute of Islamic Banking and Finance, International Islamic University Malaysia, Kuala Lumpur, Malaysia*

\* *Corresponding author at: Email: [borhanseti@gmail.com](mailto:borhanseti@gmail.com)*

**Abstract** - The development of a robust financial system is an important objective especially for a country like Nigeria, being a formidable force on the African continent. As the country aspires to become a major international financial centre in the continent by the year 2020, the development of Takaful as a major segment of Islamic finance remains paramount. Despite government's effort and the huge potentials for such a unique service, the growth in Takaful operations is still at a nascent after over a decade of existence. Takaful ought to have recorded great success in Nigeria considering several positive factors, unfortunately, which has not been the case. Using a qualitative library research method, this paper provides an overview of Takaful with emphasis on its practice in Nigeria over the years. The paper also further explores the challenges hindering the development of Takaful in Nigeria especially on the legal aspect. Consequently, certain recommendations have been made to reverse the ugly trend. As a matter of urgency, the issues raised need to be addressed to facilitate accelerated development of Takaful operations and contribute towards achieving the much-needed revitalization of the Nigerian financial system.

**Keywords:** *Islamic Finance; Takaful; Conventional Insurance; Nigeria*

## 1. INTRODUCTION

Nigeria is the most populous nation in Africa with the population of about 186 million, 50% of whom, are Muslims [9]. International Monetary Fund (IMF) projection predicts that the population will increase to about 210 million by 2021 [21]. Furthermore, Nigeria emerged as the largest economy in Africa in 2015 with an estimated GDP of \$1.1 trillion [8]. As far back as 2007, the Central Bank of Nigeria (CBN) unveiled the Financial System Strategy 2020 (FSS 2020) as a blueprint aimed at repositioning the country to become Africa's major International Finance Centre (IFC) by the year 2020 [6]. This move was greatly motivated by the optimistic "Next 11" forecast by Goldman Sachs which reported Nigeria as one of the 11 countries with enormous growth potentials that will possibly rival the G7 in future [5].

A robust financial system is essential to support Nigeria's quest for a vibrant economy. Accordingly, the Insurance industry witnessed a recapitalization exercise in 2007 aimed at repositioning the sector for greater efficiency and effectiveness. Takaful being an integral part of the Islamic financial system is therefore an important component that needs to be captured in this development. The CBN in 2012 initiated the National Financial Inclusion Strategy to serve as a road map towards significantly increasing the access and use of financial services by the year 2020 due to the realization of severe financial exclusion especially in the Muslim dominated Northern region [7]. Consequently, the National Insurance Commission of Nigeria (NAICOM) issued Takaful-Insurance operational guidelines in 2013 to facilitate the development of the Takaful industry to enhance financial inclusion.

However, despite the large market potentials and governments commitment, the growth of Takaful operations in Nigeria has not been impressive. As such, this paper aims at exploring the history, present status as well as challenges impeding the development of Takaful industry with a view to proffering effective solutions to the problems. Takaful operation in Nigeria has not grown as much as desired considering the great prospects it holds. Despite the large population, legal provisions for mandatory insurance in several product classes and severe financial exclusion in predominantly Muslims regions, the viability of Takaful has not translated into practice. The market trend shows an evident apathy for insurance products as policy holders comprise mainly of corporate clients and few retail customers subscribing to the compulsory insurance products [13]. In spite of the numerous indicators suggesting Nigeria as a good market for insurance business, the huge potentials in the sector remain largely untapped with insurance density (insurance premiums as a percentage of GDP) of only about 0.225% in 2015 [23].

Similarly, gross written premiums in the country in the year 2015 was worth less than 1% of GDP [26], a huge chunk of which were from the South

West region, specifically Lagos state leaving out the Muslim dominated northern region with barely any form of insurance services. This ought not be the case almost 15 years after the introduction of Takaful operations in the country in 2004. Moreover, only one (1) Takaful subsidiary, two (2) windows and a recently licenced full-fledged Takaful operator are in the market upto now. This ugly scenario deserves to be explored to assess the situation and identify the major problems being encountered so far with a view to unlocking the great prospects that remain untapped in the Nigerian Takaful industry.

This study was necessitated by the apparent lack of scholarly literature on Takaful operations in Nigeria. It aims to arouse peoples' curiosity thereby initiating much needed brains-storming on the reasons and solutions for the slow growth with a view to facilitating rapid development of Takaful operations in the Nigeria. Moreover, Takaful operations in Nigeria is an interesting topic because Takaful operators carried out their activities without any specific legal framework guiding their operations for the entire first decade of their existence. As such, it is important to review the Takaful operations now that some regulatory guidelines have been in place for about four (4) years.

#### Research Objectives

- To provide a basic explanation of the nature of Takaful operations
- To present an overview of the history and current-status of Takaful operations in Nigeria
- To analyse the problems hindering rapid development of Takaful in Nigeria with emphasis on evident legal flaws in the regulations

The research is important in furtherance of the development of awareness for Takaful operations among the general populace in Nigeria. The research is also important to the government agency in charge of regulating the operations Takaful in understanding the reasons behind the slow development of the sector despite its potentials considering impressive performance it has recorded in other jurisdictions. Similarly, the research is important to Takaful operator in having a better understanding of the environment in which they operate to guide them in making sound decisions that will promote their services. Most importantly, this research highlights legal and other issues hindering the development of Takaful in Nigeria with recommendations for a way out.

## 2. OVERVIEW OF TAKAFUL

### 2.1 Definition and general overview of Takaful

Takaful is an Arabic word derived from the word *Kafala*. Basically, Takaful refers to an arrangement of joint guarantee by a group of participants based on mutual-agreement to indemnify one another in the event of a defined loss. Investopedia website defines Takaful as Islamic insurance which entails members contributing money into a pool of funds to be utilized in mutually guaranteeing members against loss or damage [14]. Takaful concept is based on *Shariah* provisions aimed at fulfilling the responsibility of individuals in cooperating to protect one another.

According to the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), Takaful otherwise called Islamic insurance is an arrangement whereby a group of persons undertake to manage injuries resulting from a specified risk to which all members of the group are vulnerable. To facilitate this arrangement, members of the group donate in form of contribution to establish a common insurance fund as a legal entity with independent financial liability to be utilized in indemnifying participants in the event of injury subject to certain stipulated conditions. In carrying out this task, the fund is managed by a group of the participants or a joint stock company that manages the fund for a specific fee [1]. Similarly, the National Insurance Commission of Nigeria (NAICOM) defines Takaful-insurance as a form of insurance that is compatible with *Shariah* provisions based on the principles of *Tabarru* (donation/contribution) and *Ta'awun* (cooperation) [17].

The development of Takaful became necessary in view of the gross violations of *Shariah* principles concerning *Riba* (interest), *Gharar* (excessive uncertainty) and *Maisir* (gambling) inherent in the operations of conventional insurance. Takaful serves as a *Shariah* compliant alternative to conventional insurance just as Islamic banking serves as an alternative to the conventional interest based banking system. Ideally, Muslims are supposed to give unconditional patronage to Takaful as it thrives to uphold the noble virtues of brotherhood and cooperation.

Several provisions of the *Shariah* encourage cooperation and solidarity in helping those in difficulty as practiced in Takaful. Despite Muslims unwavering believe in destiny, they are highly encouraged to take precautionary measures within their power to minimize the effects of tragic events through mutual-cooperation and high spirit of brotherhood. This is contrary to the erroneous ideology of believing in destiny without making conscious effort to mitigate risk. As such, good understanding of the *Shariah* would lead to a



stronger sense of brotherhood which would imply the practice of Takaful principles. The operation of Takaful is in line with the command in Quran 5:2 quoted below:

“...And cooperate in righteousness and piety, but do not cooperate in sin and aggression...”

Similarly, ample evidence from the hadith of the prophet imply the significance of many noble attributes inherent in a Takaful arrangement. Some of such hadiths as cited in [29] are presented below:

“Allah will always help his servant for as long as he helps others” (Narrated by Imam Ahmad and Imam Abu Daud)

“The place of relationship and feelings of people with faith, between each other, is just like the body: when one of its parts is afflicted with pain, then the rest of the body will be affected”. (Narrated by Imam Al-Bukhari and Imam Muslim)

“One true Muslim (Mu'min) and another true Muslim (Mu'min) is just like a building whereby every part in it strengthens the other part”. (Narrated by Imam Al-Bukhari and Imam Muslim)

“By my life, which is Allah’s power, nobody will enter Paradise if he does not protect his neighbor who is in distress”. (Narrated by Imam Ahmad)

For effective compliance with the commandments of these hadiths, it is certainly important to establish and promote Takaful institutions. The *Shariah* as a comprehensive guide to man has as part of its objectives (*Maqasid ash-Shariah*) the preservation of property (*hifz al-mal*). In this regard, Takaful plays a vital role in promoting the *Shariah* objective of property preservation.

2.2 *Shariah violations in conventional insurance*

The prohibition of conventional insurance in Islam and the resultant need for Takaful stems from the obvious *Shariah* violations inherent in conventional insurance. Despite having the same noble objective of providing protection against losses, the mode of operation of conventional insurance contains fundamental *Shariah* violations. These include *Riba* (interest), *Gharar* (excessive uncertainty) and *Maisir* (gambling) as explained in Table 1.

TABLE 1. PROHIBITED ELEMENTS IN TAKAFUL OPERATION

Elements	Description
<i>Riba</i>	This is considered as one of the greatest sins in Islam being the only sin Allah which categorically declared war upon. Several verses of the Quran (2:275-279, 3:130, 4:161 and 30:39) and quotations from the hadiths of the prophet forbid engaging in transactions that have elements of <i>Riba</i> . Conventional insurance companies invest premiums in interest bearing investments in violation of <i>Shariah</i> whereas Takaful contributions are only invested in <i>Shariah</i> compliant activities.
<i>Gharar</i>	Basically, <i>Gharar</i> refers to excessive uncertainty which can lead to adverse effects to the parties involved in a contract and increase in the chances of conflict. When conventional insurance is contracted, neither the insurance company nor the policy holder knows the outcome of the contract. Excessive uncertainty is more clearly seen in the case of life assurance whereby compensation amount depends on the time of death of the insured thereby leading to ambiguity. The element of <i>Tabarru</i> in Takaful eliminates the possibility of such uncertainty
<i>Maisir</i>	This refers to gambling, the prohibition of which is contained in Quran (5:90). In conventional insurance, there is a clear manifestation of this prohibited element. The outcome of a conventional insurance policy is always a zero-sum game with no chance of a mutually beneficial result. The outcome is either in favour of the policy holder alone in the case where he makes a claim or in favour of the insurance company when no claim is made by the policy holder. Therefore, a policy holder is engaged in a sort of gambling as the outcome of the contract may either favour him completely or he loses his premium completely. The element of <i>Tabarru</i> in Takaful effectively solves this problem.

2.3 *Comparison between Takaful and conventional insurance*

In this section, we are going to compare and construct the similarities and differences between conventional insurance and Takaful. In order to provide a clear picture about them, we have summarized the differences between Takaful and conventional insurance in Table 2. [30] and [3] also cited similar features of Takaful.

TABLE 2. SUMMARY OF DIFFERENCES BETWEEN TAKAFUL AND CONVENTIONAL INSURANCE

	Takaful	Insurance
Contract	<i>Shariah</i> contract. A combination of <i>Tabarru</i> contract and agency or profit sharing.	An exchange contract. The sale and purchase of policy cover between the insurer and the insured.
Responsibility of participants/ policy holders	Participants contribute to the scheme and mutually guarantee each other with the pool of funds.	Policy holder pays premium to the insurer
Liability of the operator/insurer	Takaful operator manages the pool of funds and makes payment of claims from the pool. If the pool of funds is inadequate to settle claims, the operator offers an interest free loan.	Insurer is liable to pay claims from its assets

Investment of funds	Takaful operator is bound to invest only in <i>Shariah</i> compliant avenues.	Insurer not compelled to invest in <i>Shariah</i> compliant avenues.
Risk treatment	Takaful is based on mutuality so risk is spread among participant not transferred to the Takaful operator.	Risk is transferred from the policy holder to the insurer in exchange for premiums paid.
Surplus	Any surplus from the pool of funds belongs to the participants.	Surplus belongs to the insurer.
<i>Shariah</i> non-compliant elements	Strict prohibition of <i>Shariah</i> non-compliant elements such as <i>Riba</i> , <i>Gharar</i> and <i>Maisir</i>	No restriction on <i>Shariah</i> non-compliant elements.
Governance	Requires <i>Shariah</i> governance in addition to corporate governance	No requirement of <i>Shariah</i> governance.

#### 2.4 History of Takaful practice

The practice of Takaful concept pre-dates the time of the prophet. During the Jahililyah (before the coming of prophet Muhammad) period, the Arab society practiced a similar concept as part of their culture and tradition. They were found of mutually collaborating mostly to help the family of a deceased person in fulfilling funeral rights and provide financial assistance to such families. In some cases, it involved contributing towards the payment of compensation for the murder of a member of another tribe. After the coming of the prophet, some of the Jahiliyyah practices were upheld provided they did not violate principles of Islam. The practice of mutual help in mobilizing compensation for murder was among the practices that were maintained as it was a virtuous idea which significantly contributed in reducing tension among Arab tribes who were initially more inclined to revenge rather than accept compensation [30].

Eventually, the concept of mobilizing compensation (*diyat*) by the relatives (*Aqilah*) of the culprit and making the payment to the heirs of the victim became more organised. Furthermore, the process was recognised in the constitution of Medina [28]. With the growth of Muslim economies due to expansion of trade networks, the practice of Takaful became more like the modern-day practice as merchants engaged in mutual assistance to protect their merchandise against any mishap while on transit through the seas.

### 3. OVERVIEW OF INSURANCE SECTOR IN NIGERIA

Despite the lack of a unified framework for mandatory insurance in Nigeria, the government supports the insurance sector through several laws enacted to serve as market development strategies by making certain insurance products compulsory. Such provisions are presented in Table 3.

TABLE 3. MARKET DEVELOPMENT STRATEGIES IN NIGERIAN INSURANCE INDUSTRY

Provision	Details
Group life insurance policy	Section (4) sub-section (5) of the pension reform act 2014 makes this insurance product mandatory by the following clause: "every employer shall maintain a group life insurance policy in favour of each employee for a minimum of three times the annual total emolument of the employee and premium shall be paid not later than the date of commencement of the cover" (National Pension Commission, 2014).
Employers liability	The employees' compensation act 2010 was enacted to make mandatory provisions for compensations in case of death, injury, disease or disability arising out of or in the course of employment; and for related matters (Nigeria Social Insurance Trust Fund, 2010).
Buildings under construction	Section 64 (1) of the insurance act 2003 makes provision for compulsory insurance of certain category of buildings under construction as stated: "No person shall cause to be constructed any building of more than two floors without insuring with a registered insurer his liability in respect of construction risks caused by his negligence or the negligence of his servants, agents or consultants which may result in bodily injury or loss of life to or damage to property of any workman on the site or of any member of the public" (National Insurance Commission, 2003).
Public buildings	Section 64 (1) of the insurance act 2003 makes insurance mandatory for public buildings as stated: "Every public building shall be insured with a registered insurer against the hazards of collapse, fire, earthquake, storm and flood" (National Insurance Commission, 2003).
Third party property damage	Section 68 (1) of the insurance act 2003 makes provision for compulsory insurance against third party property damage in the case of motor vehicle as stated: "No person shall use or cause or permit any other person to use a motor vehicle on a road unless a liability which he may thereby incur in respect of damage to the property of third parties is insured with an insurer registered under this act" (National Insurance Commission, 2003).
Health care professional indemnity insurance	Sequel to the enactment of the National Health Insurance Scheme (NHIS) act, health care professional indemnity insurance becomes compulsory for health care providers as stated: "A health care provider (medical centre, institution or professional) shall be required to take a professional indemnity cover from an insurance company approved by the council" (National Health Insurance Scheme, 1999).
Agricultural Insurance	The Nigerian agriculture insurance corporation decree NO. 37 of 1993 imposes a mandatory insurance requirement for beneficiaries of agricultural loan as stated in section 13: "...where the farmer is also a beneficiary of an agricultural loan or credit from the Government, a bank or other financial institution (in this Decree referred to as "lending institution") he shall take out an insurance cover under the scheme" (Nigerian Agriculture Insurance Corporation, 1993).

In view of the aforementioned legal provisions, it is apparently clear that the Nigerian government has duly exercised its powers in facilitating the development of the insurance industry by enacting several laws which create a market for insurance.



#### 4. TAKAFUL IN NIGERIA: HISTORY AND CURRENT-STATUS

Unlike the experience of most countries where Takaful is established after the introduction of Islamic banking, the story is unique in Nigeria where Takaful preceded Islamic banking by about a decade [2]. The history of Takaful in Nigeria began in 2004 when African Alliance Insurance Company Limited introduced Takaful services to the public in addition to its conventional insurance services. Being the oldest life assurance company in the country, African Alliance Insurance Company offered family Takaful package comprising of protection and savings element as a *Shariah* compliant alternative to conventional life assurance scheme [15]. Eventually, Niger Insurance Plc and Cornerstone Insurance Plc followed suit in view of the great potentials for Takaful operations in the Nigerian market. Very recently, Noor Takaful obtained license to commence full-fledged operations. Unconfirmed reports indicate that several other companies have signified interest and many have reached advanced stages in the process of obtaining license to establish Takaful in Nigeria. Major motivating factor for the Takaful operators is the huge untapped potentials for Takaful due to its uniqueness in fulfilling the needs of conscious Muslims and also the opportunity to increase insurance penetration which has been very poor [31].

Niger Insurance Plc provides family Takaful services. Due to its dominance in the Nigerian market, Niger Insurance Plc has been able to offer a variety of services through a range of innovative products under Niger Mutual Halal Plan. The plan provides a savings and investment package specially designed to cater for events future events such as marriage, pilgrimage, *Eid*, retirement etc. [22]. Another Takaful operator, Cornerstone Insurance Plc, provides Takaful services through its subsidiary. The subsidiary, *Halal* Takaful Nigeria, serves the needs of Muslims and non-Muslims alike. *Halal* Takaful stands out from the other Takaful window operators as the only independent subsidiary focused on Takaful business. This Takaful operator was the first to obtain a composite licence as far back as 2013 thereby offering both family and general Takaful [11].

The National Insurance Commission of Nigeria (NAICOM) is vested with the responsibility of administering and enforcing the provisions of the 2003 insurance act as stated in section 86 of the act: thereby being the regulatory body for Takaful and insurance generally. Unfortunately, there is a glaring omission of the express mention of Takaful or Islamic insurance in the entire document. In 2013, NAICOM launched the “2013 Takaful-Insurance Operational Guidelines”. This serves as the first national guideline for the operation of

Takaful in the country. The guideline serves as the legal basis and reference for all matters concerning Takaful operations. It clearly spells out prudential, operational, governance and basic *Shariah* standards to be adopted by all operators in this line of business [17]. Albeit belated, coming after about a decade of Takaful experience in the country, it is a great milestone that has potentials to reinvigorate the Takaful market.

The guidelines specify duties and responsibilities of all parties involved in a Takaful contract in addition to disclosure standards and other basic requirements. The guideline specifies the requirement of Takaful operators to constitute a *Shariah* advisory committee (Advisory Council of Experts) as well as an internal *Shariah* unit to ensure strict adherence to the provisions of the *Shariah* in the discharge of their duties. In the meantime, NAICOM undertakes to provide *Shariah* consultation services to Takaful operators yet to find credible and duly qualified persons to serve as members of their advisory councils of experts through the regulators own *Shariah* advisory council.

The guideline presents three business models (*Mudharabah*, *Wakala* and Hybrid *Wakalah-Mudharabah*) to be adopted by Takaful operators [15]. Takaful promises to serve as an effective avenue for enhancing financial inclusion and promotion of savings and investments in Nigeria especially in the Muslim dominated Northern region which has been faced with enormous security challenges and resultant impoverishment of the people.

Takaful holds great potential in the Nigerian market especially in Northern Nigeria where majority of the population are Muslims. According to the CIA World-Fact Book, Muslims constitute 50% of the Nigerian population of about 186million [9]. Moreover, the Muslim dominated Northern region is expected to patronise Takaful in-view of the apathy for conventional insurance which aggravates financial exclusion in the region. The Muslim population is projected to grow faster due to the prevalence of polygamy in the Northern region.

Due to religious reasons, conventional underwriters and other intermediaries find it difficult to market their products in the Muslim dominated northern region. Information from the website of NAICOM shows that 54 out of the 60 currently registered insurance and re-insurance companies have their headquarters in the southern region, Lagos State precisely [19]. This skewed distribution is largely due to religious reasons which constraints Muslims from participating in conventional insurance. Therefore, it is expected that the introduction of Takaful will go a long way in attracting customers who hitherto abhor conventional insurance. Takaful operators have

developed unique marketing strategies to create a niche in the Nigerian market through alliances with Islamic organisations and Hajj tour operators to protect their various risk exposures [31].

#### 4.1 Takaful Legislation in Nigeria

Takaful operations in Nigeria are governed by the 2013 Operational Guidelines for Takaful-Insurance Operators effective March 2013 unveiled by NAICOM. This document provides a detailed structure for all matters concerning Takaful operations in the country. Section 1 of the document features a general overview which includes introduction, objectives, scope, implementation and concept of Takaful-Insurance. Primarily, the guidelines seek to increase insurance penetration and financial inclusion in Nigeria through Takaful. The guideline provides a framework within which Takaful operators shall successfully carry out their business efficiently and effectively. The scope of the guidelines covers the regulation of commercial Takaful activities and all related operations conducted within Nigeria [17]. Section 2 of the guidelines presents the general provisions and procedure for adopting an operating model by prospective Takaful operators in either of the two classes of business; family Takaful or general Takaful. Furthermore, this section specifies three (3) operating models; *Mudharabah* based, *Wakalah* based and a Hybrid *Wakalah-Mudharabah* model comprising of both *Wakalah* and *Mudharabah*. Documentation and disclosure requirements relating to the operating model adopted by the Takaful operator is also contained in this section of the guidelines [17].

In section 3, the guideline presents governance standards for Takaful operators. This entails the requirement for Takaful operators to have an Advisory Council of Experts (ACE) as well as their required competency and code of conduct. Similarly, it includes the duties and responsibilities of the ACE and the Takaful operator, inclusion of the ACE opinion in annual report, disclosure requirements by the Takaful operator, accessibility of the ACE to the public, the regulators Takaful Advisory Council (TAC), *Shariah* compliance and other relevant requirements [17].

The 2013 Takaful-Insurance operational guidelines provide three (3) business models for Takaful operators. These include *Mudharabah* contract (profit sharing), *Wakalah* contract (agency) and Hybrid *Wakalah-Mudharabah* contract (agency-profit sharing). These models are explained in Table 4.

For effective oversight, Takaful operators must obtain approval from the NAICOM after the approval of their ACEs and Board of Directors for the business model they intend to adopt. To promote innovation and product development, Takaful operators may propose to adopt a different

model apart from the three models provided subject to final approval by NAICOM.

TABLE 4. THREE BUSINESS MODELS OF TAKAFUL OPERATIONS

Contract	Explanations
<i>Mudharabah</i> contract (profit sharing)	In this structure, the Takaful operator functions as the <i>Mudarib</i> (entrepreneur/manager) while the participant is the <i>rabbul-maal</i> (owner of capital). The Takaful operator manages the fund and carry out investments and underwriting activities. Pre-agreed profit sharing ratio is decided by the two parties and financial losses are solely borne by the participant except in case of proven negligence or breach of contract terms by the Takaful operator. Otherwise, the losses for the Takaful operator will be limited to his wasted time and effort.
<i>Wakalah</i> contract (agency)	In this model, the Takaful operator manages investment and underwriting activities as an agent ( <i>wakeel</i> ) of the participant ( <i>Muwakkil</i> ) for a fee ( <i>Wakalah</i> fee) mutually agreed upon at the beginning of the contract. Depending on the details of the contract, the Takaful operator may be entitled to a performance related incentive ( <i>Jualah</i> ) for effective management of the fund.
Hybrid <i>Wakalah-Mudharabah</i> contract (agency-profit sharing)	This model is a combination of <i>Wakalah</i> (agency) and <i>Mudharabah</i> (profit sharing) between the participants and Takaful operator. In this case, <i>Wakalah</i> is applied for managing underwriting activities while <i>Mudharabah</i> is applied in the investment activities.

#### 4.2 Takaful development in Nigeria: Issues and recommendations

The following points are the problems hindering rapid development of Takaful in Nigeria as cited by [4], [27], [12], [2] and [31].

##### 4.2.1 Legal/regulatory flaws

The slow development of Takaful operations in Nigeria can be attributed to ambiguity and apparent lack of synergy between major regulatory provisions such as insurance act 2003 and 2013 operational guidelines for Takaful. It is important to note that the insurance act has become obsolete in-view of several transformations that have taken place in the insurance sector since its enactment. The legislation has failed to evolve accordingly to accommodate significant changes particularly regarding Takaful. A glaring discrepancy noticed in the 2003 insurance act is the omission of an express mention of Takaful or Islamic insurance in the insurance act. Takaful has gained much prominence in the global financial system such that it becomes necessary to accord it due recognition in the insurance act being the supreme legislation for the Nigerian insurance sector. This obvious regulatory gap gives room for ambiguity and legislative uncertainty thereby discouraging serious investors due to the resultant legal risks.

A manifestation of the consequences of omitting Takaful in the insurance act is seen in section 10 (1-2) of the act which requires a prospective insurer to deposit 50% of his paid-up share capital with the Central Bank of Nigeria (CBN) as statutory



deposit. Upon successful registration, the CBN returns 80% of the statutory deposit with interest to the insurer within 60 days from registration date. The act failed to specify any exception to this provision which violates the fundamental requirements of Takaful operations being an end to end *Shariah* compliant activity.

Another regulatory issue is the capital requirement for Takaful operators. Although the Takaful guidelines scaled down the minimum paid up capital for Takaful operators, a problem arises considering the provisions of the insurance act in section 9 (4) which limits the powers of NAICOM to upward review of paid up share capital only and not downward review. Therefore, a controversy still lingers as to whether the power of NAICOM to implement an upward review also implies a discretion to effect a similar downward review when the need arises.

The 2003 Insurance act holds supremacy over any other enactment concerning insurance practices in Nigeria as stipulated in section 100 of the act. By implication, the provisions of the act prevail over any provision in other enactments which contradict it. As such, it is important to ensure harmony between the insurance act and Takaful guidelines. These problems and many others relating to legal provisions can only be solved by putting in place a comprehensive Takaful act as in more established Takaful markets such as Malaysia. In the absence of a distinct Takaful act, the current insurance act should be adequately amended to cater for Takaful. This will ensure effective regulatory certainty and entrench confidence in the market. Furthermore, a distinct Takaful act is paramount in the quest to gain acceptance among the populace and attract competent market players [27].

#### 4.2.2 Inadequate Manpower

Shortage of skilled manpower poses a great challenge to the development of Takaful in Nigeria. The availability of competent personnel with knowledge in both *Shariah* and Islamic finance, particularly Takaful is limited. Shortage of competent manpower is a global phenomenon which Nigeria also faces in staffing and ACE membership of Takaful operators [31]. Most staff are only conversant with conventional insurance while ACE members who are mandated to ensure *Shariah* compliance are mostly weak in insurance operational matters. Due to the apparent shortage of skilled manpower for ACE membership, NAICOM undertakes to provide *Shariah* guidance to Takaful operators through its Takaful Advisory Council until the Takaful operators find eminently qualified people to serve as members of ACEs.

An effective solution to address the manpower shortage in Takaful would require much more than the current practice of organizing in house trainings

for Takaful operators staff. A better solution would entail collaboration between regulators, Takaful operators and leading tertiary institutions to introduce specially tailored Takaful courses for both staff and ACE members. This measure will serve to complement their knowledge of conventional insurance or pure *Shariah* as the case maybe. Furthermore, the establishment of a Takaful association will help in enhancing knowledge sharing between Takaful operators for the benefit of the industry.

#### 4.2.3 Acceptability of Islamic Finance Product and Services by non-Muslims

Just as the introduction of Islamic banking faced stiff opposition from a section of non-Muslims, Takaful is not an exception to this primitive ideology of opposing noble ideas based on religious sentiments. Phobia for anything tagged Islamic by non-Muslims due to the activities of several terror groups falsely using the name of Islam in their heinous activities also contributes to the problem [12]. This negative attitude poses a threat to the growth of Takaful despite the immense viability of the concept. Such a problem bothering on wrong perception requires much sensitisation by all stakeholders in Islam. Beyond sensitisation, a more effective approach is the exhibition of noble character traits by Muslims to discredit the erroneous notion.

#### 4.2.4 Low consumer awareness

In spite of government's commitment to increase financial inclusion by deepening the penetration of financial services such as insurance and Takaful, lack of basic understanding of the operations and benefits of Takaful still prevails. Takaful services are often wrongly considered as being meant for wealthy people. This is due to the ignorance of the fact that family Takaful incorporates a savings and investment element capable of reducing the effects of poverty. The belief also indicates lack of understanding of the nature of *Tabarru* as a *Shariah* concept. Similarly, a segment of the society hold a wrong notion of relying on Allah and accepting destiny without making conscious effort to cushion the effects of a likely misfortune.

The development of insurance in general is hindered by limited awareness and scepticism; and distrust from enlightened people especially urban dwellers due to several cases of failure to pay genuine claims [13]. The average Nigerian suffers from lack of awareness about insurance process [27].

The problem of consumer awareness can only be solved through concerted efforts by the regulator and Takaful operators to hold enlightenment

campaigns aimed at reversing the deeply rooted negative notion of insurance among the populace. The uniqueness of family Takaful which incorporates an investment element for the participants can be a good selling point especially when advertising to lower income segment of the society who mostly view insurance as a luxury due to their ancient belief: “if you have nothing, you have nothing to lose” which discourages them from participating in any form of insurance. More importantly, there should be more sensitisation on the underlying principle of *Tabarru* being the bedrock of Takaful operations.

#### 4.2.5 Limited Shariah compliant investment avenues

Takaful operators are required to ensure end to end compliance with *Shariah* as much as possible. This means they can only invest in *Shariah* compliant avenues. The availability of such avenues is still very limited due to slow development of the Islamic capital markets in Nigeria. The dominance of interest based investment options over *Shariah* compliant alternatives limits the investment options for Takaful operators to mostly *Shariah* compliant stocks listed on Nigeria’s Lotus Islamic Index [31]. This problem is a serious one as it affects the profitability and subsequent continuity of Takaful operations. To achieve the much-needed end to end *Shariah* compliance, there needs to be a revitalization of the financial markets to provide efficient and profitable *Shariah* compliant investment alternatives for Takaful operators and other non-interest financial institutions.

#### 4.2.6 Inadequate re-Takaful capacity

Effective functioning of Takaful requires support from re-Takaful operators who provide cover for the Takaful operators. Lack of adequate re-Takaful services significantly limits the capacity of Takaful operators as they need such services to attain optimal operation capacity and function effectively. A major challenge for present and prospective Takaful operators is the lack of re-Takaful services to protect their risk exposure and absorb shocks in the industry [2]. Because of this problem, Takaful operators are compelled to patronise conventional re-Insurance companies as a last resort. This inhibits the ideal practice of ensuring end to end *Shariah* compliance. Therefore, the establishment of re-Takaful companies is a matter of urgency for the growth and development of Takaful operations.

## 5. CONCLUSION

This research provides an overview of Takaful operations in Nigeria. Generally, the potentials for growth are very impressive although the actual

growth has not been as impressive. The research identified several challenges as the factors inhibiting Takaful operations in Nigeria. Although the challenges have persisted over the years, effective implementation of the proffered solutions will certainly contribute significantly to enhancing the efficiency and viability Takaful operations in the country. Notably, there is an urgent need for a comprehensive regulatory framework, attractive incentives, awareness creation and *Shariah* compliant investment products among other necessities.

The need for concerted effort to promote Takaful is paramount considering the potential benefits it holds for the Nigerian populace and its vital role in making the Financial System Strategy 2020 a reality. Nigeria as a country arguably referred to as the giant of Africa needs to take proactive measures to ensure that it indeed remains the giant of Africa. This requires keeping up with developments in the global financial system of which Islamic finance generally is gaining prominence. As such, Nigeria should not be left out especially in view of the need for a robust financial system that will support the country’s quest to attain greater heights. Despite the slow growth experienced in the Takaful sector over the years, the future holds great prospects for Takaful operations in Nigeria.

## REFERENCES

- [1] Accounting and Auditing Organisation for Islamic Financial Institutions. (2015). *Shariah Standards*. Manama: Dar al-Maiman Publishing and Distributing.
- [2] Ado, A. (2014). Nigeria: Where are we? In S. Thiagaraja, A. Morgan, A. Tebbutt, & G. Chan, *The Islamic Finance Handbook: A practitioners guide to the global markets* (pp. 355-367). Singapore: John Wiley & Sons Singapore Pte Ltd.
- [3] Ali, E. R., & Odierno, H. S. (2008). *Essential Guide to Takaful (Islamic Insurance)*. Kuala Lumpur: CERT Publications Sdn. Bhd.
- [4] Aliyu, M. B., & Ahmad, I. M. (2014). Shariah Compliant Insurance Product: an overview of problems and prospects of Takaful-Insurance in Nigeria. *Unilorin Shariah Journal*.
- [5] Beyond the BRICs: a look at the "Next 11". (2007). In S. Lawson, D. Heacock, & A. Stupnytska.
- [6] Central Bank of Nigeria. (2007). *Financial System Strategy 2020*. Central Bank of Nigeria.
- [7] Central Bank of Nigeria. (2012). *National Financial Inclusion Strategy*. Central Bank of Nigeria. Retrieved February 23, 2017, from <https://www.cbn.gov.ng/Out/2012/publications/reports/dfd/CBN-Summary%20Report%20of-Financial%20Inclusion%20in%20Nigeria-final.pdf>
- [8] Central Intelligence Agency. (2016). Retrieved February 22, 2017, from Central Intelligence Agency Web site:



- <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>
- [9] Central Intelligence Agency. (2016). Retrieved November 28, 2016, from Central Intelligence Agency Web Site: <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>
- [10] Central Intelligence Agency. (2016). *CIA World FactBook; Nigeria*. Retrieved November 23, 2016, from Central Intelligence Agency: <https://www.cia.gov/library/publications/the-world-factbook/geos/ni.html>
- [11] Cornerstone Insurance Plc. (2016). *Subsidiaries: Cornerstone Insurance Plc*. Retrieved December 5, 2016, from Cornerstone Insurance Plc Web Site: <https://cornerstone.com.ng/corporate/subsidiaries.php>
- [12] Dewa, N. (2013). *The Introduction of Takaful in Nigeria*. Retrieved November 13, 2016, from Academia Web site: [https://www.academia.edu/5539219/THE\\_INTRODUCTION\\_OF\\_TAKAFUL\\_IN\\_NIGERIA\\_09132013](https://www.academia.edu/5539219/THE_INTRODUCTION_OF_TAKAFUL_IN_NIGERIA_09132013)
- [13] Dias, D., Garand, D., & Swinderek, D. (2013). *Towards Inclusive Insurance in Nigeria: An analysis of the market and regulations*. access to insurance initiative.
- [14] Investopedia. (2016). *Takaful*. Retrieved December 5, 2016, from Investopedia Web Site: <http://www.investopedia.com/terms/t/takaful.asp>
- [15] Ismail, E. (2015). *Takaful: The great potential in Nigeria*. Retrieved December 2, 2016, from [meinsurancereview.com](http://meinsurancereview.com)
- [16] National Health Insurance Scheme. (1999). *National Health Insurance Scheme Act 1999*.
- [17] National Insurance Commission of Nigeria. (2013). *2013 Takaful Insurance Operational Guidelines*. Abuja: National Insurance Commission.
- [18] National Insurance Commission. (2003). *Insurance Act 2003*.
- [19] National Insurance Commission. (2016). Retrieved December 5, 2016, from National Insurance Commission of Nigeria Web Site: <http://naicom.gov.ng/companies>
- [20] National Pension Commission. (2014). *Pension Reform Act*. Retrieved February 27, 2017, from [http://www.pencom.gov.ng/docs/1448643400\\_PRA\\_2014.pdf](http://www.pencom.gov.ng/docs/1448643400_PRA_2014.pdf)
- [21] National Population Commission of Nigeria. (2016). Retrieved November 5, 2016, from National Population Commission Web Site: <http://www.population.gov.ng/>
- [22] Niger Insurance Plc. (2016). *Niger Mutual Halal Plan*. Retrieved December 5, 2016, from Niger Insurance Plc Web Site: <http://www.nigerinsurance.com/index/general/productdetails.php?id=3&subid=4&pid=4>
- [23] Nigeria Reinsurance Corporation. (2016). *Insurance Industry Outlook for 2016*. Nigeria Reinsurance Corporation.
- [24] Nigeria Social Insurance Trust Fund. (2010). *Employees compensation act 2010*. Retrieved February 27, 2017, from <http://www.nsitf.gov.ng/ecs3/ECA%202010.pdf>
- [25] Nigerian Agriculture Insurance Corporation. (1993). *Nigerian Agricultural Insurance Corporation Decree No. 37*.
- [26] Oxford Business Group. (2017). *Low Insurance Penetration Rates in Nigeria Suggest Growth for Local Players*. Retrieved February 23, 2017, from Oxford Business Group Web site: <https://www.oxfordbusinessgroup.com/overview/eye-s-prize-low-penetration-rate-suggests-future-growth-local-insurers>
- [27] Saleh, M. M., Balan, S. a., & Ruslan, M. K. (2016). Learning from the Malaysian Experience: Overcoming the regulatory challenges in the nascent Takaful practice in Nigeria. *Journal of politics and law*, 9, 142-159.
- [28] Tahir-ul-Qadri, M. (2012). *The Constitution of Medina*. London: Minhaj-ul-Quran Publications.
- [29] Takaful Ikhlas. (2016). *The concept and benefits of Takaful*. Retrieved February 23, 2017, from Takaful Ikhlas Web site: <http://www.takaful-ikhlas.com.my/corporate-info/concept-benefits-takaful>
- [30] Yusuf, T. O. (2012). Prospects of Takaful's (Islamic Insurance) Contributions to the Nigerian Economy. *Journal of Finance and Investment Analysis*, 217-230.
- [31] Yusuf, T. O., & Babalola, A. R. (2015). Takaful in Nigeria: Penetration challenges and the way forward. *Journal of Islamic economics, banking and finance*, 11(2), 133-148.

## Editor in Chief

Prof. Paolo Pietro Biancone, University of Turin, Italy

## Editorial Board

Prof. Dian Masyita, University of Padjadjaran, Indonesia

Prof. Abdulazeem Abozaid, Qatar Faculty of Islamic Studies – Qatar

Prof. Ahmad Aref Almazari, King Saud University, Saudi Arabia

Prof. Nidal A. Alsayyed, Inayah Islamic Finance Research Institute, USA

Prof. Roberta Aluffi, University of Turin - Italy

Prof. Ghassen Bouslama, NEOMA Business School - Campus de Reims, France

Prof. Nazam Dzol Karnaini, Salford University, UK

Prof. Kabir Hassan, University of New Orleans, USA

Prof. Khaled Hussainey, University of Plymouth, UK

Prof. Rifki Ismal, University of Indonesia

Prof. Tariqullah Khan, Hamad bin Khalifa University, Qatar

Prof. Ali Khorshid, ICMA Centre Reading University - UK

Prof. Amir Kia, Utah Valley University, USA

Prof. Laurent Marliere, Université Paris-Dauphine France

Prof. Federica Miglietta, University of Bari - Italy

Prof. Hakim Ben Othman, University of Tunis - Tunisia

Prof. Mohamed Ramady, King Fahd University of Petroleum and Minerals, Saudi Arabia

Prof. Mamunur Rashid, Nottingham University, Malaysia

Prof. Younes Soualhi, International Islamic University Malaysia

Prof. Laurent Weill, University of Strasbourg, France