

**WAQF OF INSURANCE BENEFIT
UNDER PERSPECTIVE OF FATWA DSN MUI NO 106/DSN-
MUI/X/2016
(STUDY IN TAKAFUL KELUARGA RO KHALIFA AGENCY
MALANG)**

THESIS

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MALANG
2018**

STATEMENT OF THE AUNTENTICITY

In the name of Allah (SWT),

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

WAQF OF INSURANCE BENEFIT

UNDER PERSPECTIVE OF FATWA DSN MUI NO. 106/DSN-MUI/X/2016

(Study in Takaful Keluarga RO Khalifa Agency Malang)

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UNDER PERSPECTIVE OF FATWA DSN MUI NO. 106/DSN-MUI/X/2016

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









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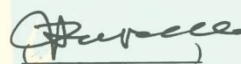
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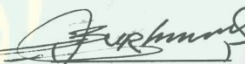
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MOTTO

فَإِذَا فَرَغْتَ فَانصَبْ ۖ وَإِلَىٰ رَبِّكَ فَارْغَبْ

Then if you are have done (for some business), keep working hard (for other business)



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All praise to Allah SWT, The Cherisher and Sustainer of all the worlds. There is neither might nor power but with Allah SWT as the highest power. Only with His blessing and guidance, The author is able to finish this thesis entitled “WAQF OF INSURANCE BENEFIT UNDER PERSPECTIVE OF FATWA DSN MUI No. 106/DSN-MUI/X/2016 (Study in Takaful Keluarga RO Khalifa Agency Malang)”. *Shalawat* and *Salam* praise to our beloved Prophet Muhammad SAW, the messenger as well as the one who brings good news to human life. May we together with those who believe and receive intercession from Him in the day in judgement. Aamiin.

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Hopefully, by imparting what has been learned during the course of study in the Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim of Malang, it will benefit all readers and the researcher her self. The author realized that there are many error and deficiencies which exist in this thesis, therefore suggestion, critics and constructive feedback is needed in the thesis for the improvement and perfection of this thesis.

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TRANSLITERATION GUIDANCE

A. General

The transliteration guidance which is used by the Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim Malang is the EYD (*Ejaan Yang Disempurnakan*). This usage is based on the Consensus Directive (SKB) from the Religious Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated 22 January 1998, No. 158/1987 and 0543. b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

Arab	Latin	Arab	Latin
ا	A	ط	Th
ب	B	ظ	Zh
ت	T	ع	'
ث	Ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	Kh	ك	K
د	D	ل	L
ذ	Dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	هـ	H
ش	Sy	ء	'

ص	Sh	ي	Y
ض	Dl		

C. Vocal, Long-pronounce, and Diphthong

In every written Arabic text in the *latin* form, its vowels *fathah* is written with “a”, *kasrah* with “i”, and *dlommah* with “u”, whereas elongated vowels are written as such:

Elongated (a) vowel = â example قال comes *qâla*

Elongated (i) vowel = î example قيل becomes *qîla*

Elongated (u) vowel = û example دون becomes *dûna*

Specially for the pronouncing of *ya' nisbat* (in association), it cannot be represented by “i”, unless it is written as “iy” so as to represent the *ya' nisbat* at the end. The same goes for sound of a diphthong, *wawu* and *ya'* after *fathah* it is written as “aw” da “ay”. Study the following examples:

Diphthong (aw) = و example قول becomes *qawlun*

Diphthong (ay) = ي example خير becomes *khayrun*

D. Ta' Marbûthah (ة)

Ta' marbûthah is transliterated as “t” if it is in the middle of word, but if it is *Ta' marbûthah* in the end of word, it transliterated as “h”. For example: الرسالة للمدرسة will be *al-risalat li al-mudarrisah*, or in the standing among two words that in the form *mudlaf and mudlafilayh*, it transliterated as “t” which is enjoined with the previous word, for example في رحمة الله *fī rahmatillah*.

E. Auxiliary Verb and *Lafadh al-Jalalah*

Auxiliary verb “al” (لا) written with lowercase form, except if it located at the beginning of word, while “al” in *lafadh al-jalalah* which located in the middle of two words or being or become *idhafah*, it removes from writing. Study the following:

1. Al-Imâm al-Bukhâriy said ...
2. Al-Bukhâriy explains, in the prologue of his book ...
3. *MasyâAllâhkânawamâ lam yasya" lam yakun.*
4. *Billâhi ,,azzawajalla.*

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ملخص البحث

عزة النسوة، ١٤٢٢٠٠٥٢، ٢٠١٨، الأوقاف على فوائد التأمين منظور بفتوى فتوى ديوان الشريعة الوطني
لمجلس العلماء الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦ (البحث في التكافل كلوورغى رؤ
خليفة أجنسي مالانج)(Takaful Keluarga RO Khalifa Agency). الحكم الإقتصادي
الإسلامي، كلية الشريعة، جامعة مولانا مالك إبراهيم الإسلامية الحكومية مالانج.

المشرف : دكتور الحاج محمد نور ياسن، M.Ag., S.H.

الكلمات الرئيسية : وقف، فوائد التأمين، فتوى

الأوقاف على فوائد التأمين هو وقف بشكل من أشكال بوالص التأمين الإسلامية حيث قيمة فوائد
الاستثمار أو التأمين متوقف على كتبها رائد المؤمن بعلم وارث عندما فوائد بوليصة سحل خلال أوتوفي الوقف.
جمع الوقف مع التأمين الإسلامية كنقطة انطلاق من أجل التمكين الاقتصادي. لتعزيز تنمية هذه المعاملة ثم
أصدر فتوى ديوان الشريعة الوطني لمجلس العلماء الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦ عن الأوقاف
على فوائد التأمين وفوائد الاستثمار التأمين الحياة الشريعة. يصبح هذا ضروريًا لمعرفة التنفيذ في الواقع.

البحث بعنوان الأوقاف على فوائد التأمين منظور بفتوى فتوى ديوان الشريعة الوطني لمجلس العلماء
الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦ (البحث في التكافل كلوورغى رؤ خليفة أجنسي مالانج)،
أخذت مشكلة البحث كيف تنفيذ النظام الأوقاف على فوائد التأمين في التكافل كلوورغى رؤ خليفة أجنسي
مالانج، وكيف الأوقاف على فوائد التأمين في التكافل كلوورغى رؤ خليفة أجنسي مالانج بمراجعة فتوى ديوان
الشريعة الوطني لمجلس العلماء الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦. وكان الهدف من هذا البحث
لمعرفة تنفيذ نظام الأوقاف على فوائد التأمين في التكافل كلوورغى رؤ خليفة أجنسي مالانج ولمعرفة الأوقاف على
فوائد التأمين في التكافل كلوورغى رؤ خليفة أجنسي مالانج يستعرض فتوى ديوان الشريعة الوطني لمجلس العلماء
الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦.

هذا البحث هو بحث قانوني تجريبي. مصدر البيانات المستخدمة هي البيانات الأولية والثانوية من
الكتب أو المجالات المتعلقة بالوقف بوليصة التأمين. النهج المستخدم هو قانوني اجتماعي.

وبناءً على تحليل البيانات الذي تم إنجازه، تم استنتاج أن الأوقاف على فوائد التأمين في التكافل
كلوورغى رؤ خليفة أجنسي مالانج تحمل اسم "تكافولينج سلام وقف". هذا هو شكل تخطيط الوقف إذا مات
الزبون فعليًا تكون ناحية التأمين واكلا متوقف علي أقصى ٤٥٪ من فوائد التأمين و ٣/١ من فوائد الاستثمار.
إن تطبيق تحيات "التكافولينج سلام وقف" في التكافل كلوورغى رؤ خليفة أجنسي مالانج يتوافق مع الفتوى
ديوان الشريعة الوطني لمجلس العلماء الإندونيسي رقم ١٠٦/١٠٦/X/DSN-MUI/٢٠١٦.

ABSTRACT

Izzatun Niswah, 14220052, 2018 **Waqf of Insurance Benefit Under Perspective of Fatwa DSN MUI No. 106/DSN-MUI/X/2016 (Studi in Takaful Keluarga RO Khalifa Agency Malang)**. Thesis, Department of Sharia Business Law, Sharia Faculty, The State Islamic University Maulana Malik Ibrahim Malang.

Supervisor : Dr. H. Mohamad Nur Yasin, S. H., M. Ag.

Keyword: Waqf, Insurance Benefit, Fatwa

Waqf of insurance benefit is waqf of insurance policy in the form of sharia, where the value of the investment or insurance benefits donated by major insured with the knowledge of the heirs when the benefits of the policy is due or wakif died. Waqf which combined with sharia insurance considered as a stepping stone for the empowerment of the people's economy. To strengthen the development of this muamalah then issued Fatwa DSN MUI No.106/DSN-MUI/X/2016 on the benefits of insurance and the benefits of sharia life investment. It's becomes necessary to know the implementation in the field.

The research titled Waqf of Insurance Benefit Under Perspective of Fatwa DSN MUI No.106/DSN-MUI/X/2016 (Study in Takaful Keluarga RO Khalifa Agency Malang), has a formulation of the problem how the system of implementation of waqf insurance policy in Takaful Keluarga RO Khalifa Agency Malang, and how waqf of insurance policy in Takaful Keluarga RO Khalifa Agency Malang under perspective of fatwa DSN MUI No.106/DSN-MUI/X/2016. The purpose of this research are to know the implementation system of waqf insurance benefit in Takaful Keluarga Malang, and to know the waqf of insurance benefit in Takaful Keluarga Malang under perspective of fatwa of DSN MUI No.106/DSN-MUI/X/2016.

This research is an empirical juridical research. The Sources of data are used primary and secondary data which taken from books or journals related to waqf of insurance benefit. The approach used is sociological juridical.

Based on data analysis, it is concluded that waqf of insurance benefit in Takaful Keluarga Malang have name of Takafulink Salam Wakaf. That is the form of waqf planning if the customer dies then automatically the insurer becomes *wakiil* to donate a maximum of 45% of insurance benefits and 1/3 of the benefits of investment. As for the implementation of the Tafulink Salam Wakaf in Takaful Keluarga Malang is in accordance with the fatwa of DSN MUI No.106/DSN-MUI/X/2016.

ABSTRAK

Izzatun Niswah, 14220052, 2018 **Wakaf Manfaat Asuransi Ditinjau Dari Fatwa DSN MUI No. 106/DSN-MUI/X/2016 (Penelitian di Takaful Keluarga RO Khalifa Agency Malang)**. Skripsi, Jurusan Hukum Bisnis Syariah. Fakultas Syariah, Universitas Islam Negeri (UIN) Maulana Malik Ibrahim Malang.

Pembimbing : Dr. H. Mohamad Nur Yasin, S. H., M. Ag.

Kata Kunci : Wakaf, Manfaat Asuransi, Fatwa

Wakaf manfaat asuransi adalah wakaf berupa polis asuransi syariah yang mana nilai investasinya dan atau manfaat asuransi diwakafkan oleh tertanggung utama dengan sepengetahuan ahli waris ketika manfaat polis jatuh tempo dan atau *wakiif* meninggal dunia. Wakaf yang dikombinasikan dengan asuransi syariah dianggap sebagai batu loncatan untuk pemberdayaan ekonomi masyarakat. Untuk memperkuat perkembangan muamalah ini maka dikeluarkanlah Fatwa DSN MUI No. 106/DSN-MUI/X/2016 tentang wakaf manfaat asuransi dan manfaat investasi jiwa syariah. Hal ini menjadi perlu untuk diketahui pelaksanaannya di lapangan.

Penelitian dengan judul Wakaf Manfaat Asuransi Perpektif Fatwa DSN MUI No 106/DSN-MUI/X/2016 (penelitian di Takaful Keluarga RO Khalifa Agency Malang), memiliki rumusan masalah bagaimana sistem pelaksanaan wakaf manfaat asuransi di Takaful Keluarga RO Khalifa Agency Malang, dan bagaimana wakaf manfaat asuransi di Takaful Keluarga RO Khalifa Agency Malang tinjauan fatwa DSN MUI No 106/DSN-MUI/X/2016. Tujuan penelitian adalah untuk mengetahui sistem pelaksanaan wakaf manfaat asuransi di Takaful Keluarga Malang, dan untuk mengetahui wakaf manfaat asuransi di Takaful Keluarga Malang tinjauan fatwa DSN MUI No 106/DSN-MUI/X/2016.

Penelitian ini merupakan jenis penelitian yuridis empiris. Sumber data yang digunakan adalah data-data primer dan sekunder dari buku-buku atau jurnal yang berkaitan dengan wakaf manfaat asuransi. Adapun pendekatan yang digunakan adalah yuridis sosiologis.

Berdasarkan analisa data yang dilakukan, diperoleh kesimpulan bahwa wakaf manfaat asuransi di Takaful Keluarga Malang memiliki nama Takafulink Salam Wakaf. Yaitu bentuk perencanaan wakaf yang nantinya apabila nasabah meninggal maka secara otomatis pihak asuransi menjadi *wakiil* untuk mewakafkan maksimal 45% dari manfaat asuransi dan 1/3 dari hasil manfaat investasi. Adapun pelaksanaan takafulink salam wakaf di Takaful Keluarga Malang sudah sesuai dengan fatwa DSN MUI No 106/DSN-MUI/X/2016.



CHAPTER I

INTRODUCTION

A. Background of Research

Islam is a comprehensive way of life. It provides a dynamic and straightforward guide to all aspects of life including the business sector and transactions.¹ On the other hand, in accordance with the development of human civilization, thanks to the advancement of science and modern technology, many emerging forms of transactions that have not met the discussion in the classical fiqh treasures. In this cases, of course, a Muslim

¹ Muhammad Syafi'i Antonio, *Bank Syari'ah dari Teori ke Praktik*, (Jakarta : Gema Insani, 2001), cet ke-1, p.v.

must consider and take into account whether the emerging transaction in accordance with the fundamentals and principles muamalah of shariah / Islam.

Islam teachings in matters of muamalah not rigid, narrow and old-fashioned, but a doctrine that is flexible and elastic, which can accommodate a various of modern transaction development, as long as not conflicting with the texts of Qur'an and Sunnah.² For example buying and selling, leasing, cooperation cultivating rice fields, insurance, waqf, zakat, debt, wadi'ah, etc.

The development of the type and form of muamalah carried out by humans from the past until now in line with the development of human needs and knowledge it self. On that basis, met in various type and forms of muamalah diverse, whose essence is mutual social interaction in an effort to meet the needs of each. God's said:

قُلْ كُلْ يَعْمَلْ عَلَىٰ شَاكِلَتِهِ (الإسراء: 84)

" Say: Each one does according to his condition each.... "³

The issue of muamalah is a fundamental and an important goal of Islam in an effort to improve the human life. On that basis, the sharia of muamalah revealed by Allah only in global form and generally speaking, by suggest various perspectives and norms that can guarantee the principle of justice in muamalah each other. The rules that specifically discuss muamalah are as follow:

² Nasrun Haroen, *Fiqh Muamalah*, (Jakarta : Gaya Media Pratama, 2007), p.v.

³ QS. Al-Isra' (17) : 84.

الأصل في المعاملة الإباحة إلا أن يدل دليل على تحريمها

Meaning: the law of origin of all muamalah is permissible unless there is a proposition that forbid it.⁴

Indonesia is country with the largest muslim population in the world. Countries with these advantages should be able to provide new breakthroughs in muamalah (transaction) to improve the economy of the community. One of them is waqf. Waqf in terminology is *waqafa* which means "hold back" or "stop" or "stay still."⁵ While in term, the jurists differed opinions. According to Abu Hanifah's argue, waqf is to hold an object which according to the law that still belongs to the *wakif* to use its benefits for kindness. According to Syafi'i and Ahmad ibn Hambal's argue, waqf is the release of the wealth which is represented from the *wakif* ownership, after perfect procedure of waqf.⁶

In the history of Islam, waqf is known since the time of Prophet Muhammad SAW because waqf is prescribed after the Prophet Muhammad SAW emigrated to Madinah, in the second year of Hijriyah. There are two opinions that developed among Islamic jurisprudence experts (*fuqaha'*) about who was the first to implement syariat of waqf. According to some opinions of clerics say that the first carrying out of waqf is Rasulullah SAW, waqf of land owned by Prophet Muhammad SAW for built mosque. This opinion is based on a hadith narrated by Umar bin Syabah from Amr bin Sa'ad bin Mu'ad, he said : "And narrated

⁴ A. Djazuli, *Kaidah-kaidah Fikih*, (Jakarta : Kencana, 2007), cet ke-1, p. 130.

⁵ *Fiqih Wakaf*, (Jakarta : Direktorat Pemberdayaan Wakaf, Direktorat Jenderal Bimbingan Masyarakat Islam Departemen Agama RI, 2007), p. 1.

⁶ *Fiqih Wakaf*, p. 3.

*from Umar bin Syabah, from Umar ibn Sa'ad bin Mu'ad said: we asked about first waqf in islam? the muhajirin say it is the umar's waqf, the ansor people say is the Rasulullah SAW's waqf. "*⁷

Rasulullah SAW in the third year of Hijriyah ever waqf of seven gardens palm in Madinah, among them are the garden A'raf, Shafiyah, Dalal, Barqah and other gardens . In the opinion of some scholars say that the first time implementing sharia waqf is Umar bin Khattab. This opinion is based on the hadith narrated by Ibnu 'Umar ra, he said:

عن ابن عمر رضي الله عنهما أن عمر بن الخطاب أصاب أرضا بخير فأتى النبي ﷺ يستأمره فيها فقال يا رسول الله إني أصبت أرضا بخير لم أصب مالا قط أنفس عندي منه فما تأمر به قال إن شئت حبست أصلها و تصدقت بها عمر أنه لا يباع ولا يوهب ولا يورث وتصدق بها في الفقراء وفي القربى وفي الرقاب وفي سبيل الله وابن السبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف ويطعم غير متمول قال فحدثت به ابن سيرين فقال غير متأثل مالا .

*From Ibn Umar ra said that friends Umar ra obtained a piece of land in Khaibar, then Umar ra. go to Rasulullah SAW for guidance. Umar said "O Rasulullah SAW, I got a piece of land in Khaibar, I have not got such good treasure yet, then what do you command me?" Rasulullah SAW said: if you like, you hold (the ground), and you are donate (the result). Then Umar gave away (the land to be managed), not sold, not granted and not inherited. Ibn Umar said "umar donate (results of land management) to the needy, family, slave, sabilillah, ibn sabil and guests. And there isn't prohibition for those who manage waqf (nadzir) to eat from the result in a good way (proper) or feed others with no intention of accumulating wealth."*⁸

Then the Shari'a waqf that has been done by Umar bin Khattab followed by Abu Thalhah who waqf his favorite garden, Bihara garden. Next followed by other friends of the Prophet, such as Abu Bakar who inaugurated (waqf) a plot of land in Mecca which is destined to

⁷ Asy-Syaukani : 129.

⁸ Fatwa DSN MUI No 106/DSN-MUI/X/2016 about waqf of insurance benefit and investment benefit of sharia life insurance.

children whose offspring are coming to Mecca. Usman gave his wealth to Khaibar. Ali bin Abi Thalib waqf his fertile land. Mu'adz bin Jabal gave his house, popularly known as "*Dar al-Anshar*". Then the implementation of waqf was followed by Anas bin Malik, Abdullah bin Umar, Zubair bin Awwam and 'Aisyah, wife of Rasulullah SAW.⁹

Practice of waqf became more widespread during the Umayyah and Abasiyah dynasties. Everyone flocks to carry out waqf, waqf not only for the poor people and needy, but waqf becomes the capital to build educational institutions, build libraries and pay the salaries of its staff, teacher's salaries and scholarships to students and students of university. Society Enthusiasm to the implementation of the waqf has attracted the attention of the state to regulate the management of waqf as a sector to build a social solidarity and economic society.¹⁰

Since the time of the Prophet, the caliphate, and the periods of the dynasties of Islam until now, waqf still implemented from time to time in the all of muslim countries, including in Indonesia. This is evident from the fact that the waqf institution originating from the religion of Islam has been accepted into the customary law of the Indonesian nation it self. In fact that in Indonesia there are many waqf objects, whether waqf of moving objects or immovable objects.

If we look at other Muslim countries, waqf gets considerable attention so that waqf becomes a social charity that is able to provide

⁹ Depag RI, *Fiqih Wakaf*. Direktorat Pemberdayaan Wakaf, Direktorat Jenderal Bimbingan Masyarakat Islam Departemen Agama RI. (Jakarta:2007), p. 5-6.

¹⁰ Depag RI, *Fiqih Wakaf*, p. 6.

benefits to the public a lot. In the course of waqf history continues to evolve and will always evolve with the pace of changing times with various relevant innovations. The needs of today's society are so great that they need substantial funds to improve their welfare. In Indonesia it self, now waqf has variation. Among the cash waqf, productive waqf, and now there is a breakthrough new waqf, is the waqf of insurance benefit.

Waqf of insurance benefit is a waqf in the form of sharia insurance policy where the value of its investment and or its insurance benefits are represented by the main insured with the knowledge of the heirs when the benefits of the policy is due and or the *wakif* dies. Program of waqf of insurance benefit is designed specifically to meet the needs of the *wakif* hereafter investment through productive waqf and religious waqf and other social activities.

The potential of Indonesia with the majority of Muslims is a major potential in the movement of this insurance benefit. Waqf of sharia insurance benefit is a combination of waqf with insurance. In the insurance it self has obtained the legal provisions of the DSN MUI with NO:21/DSN-MUI/X/2001 and regulation No. 40/2014 about insurance, it means that have obtained legal from the MUI then whatever happens in the insurance process that already has a strong legal sharia law so that when the insurance policy is represented already worth a strong law.

One of the insurers in Malang who apply waqf of insurance policy is Takaful Keluarga RO Khalifa Agency Malang .He stood in 1994. Takaful Keluarga is the pioneer of sharia insurance in Indonesia. Various

insurance products are in there, including waqf of sharia insurance benefit. Waqf of insurance benefit is a new product in Takaful Keluarga RO Khalifa Agency Malang, considering the potential applied or produced from the product is very large, a waqf that is bridged with insurance institutions. In the era of modern times, of course many people who have joined the insurance institutions, so this product can be *wasilah* for them or customers who want charity *jariyah*, not only for him but also for his family. As has been issued the fatwa of DSN-MUI No. 106 / DSN-MUI / X / 2016 related waqf of insurance benefit.

Waqf are combined with this insurance benefit is an improvement, when an institution can guarantee that we have planned value. If it is related to the Qur'an Surah Al-Baqarah verse 261 that *"the parable of the one who puts his treasure in the way of Allah as a grain that grows seven stems, on every stem there are hundred seeds. God multiplies for whom He will, and Allah is All-Knowing."*¹¹ This means that if we are waqf in the form of this insurance benefit can be a leap that can be called the quantum waqf or acceleration of waqf. Related to the new breakthrough related to the waqf of this insurance benefit, it has issued a fatwa of DSN MUI No.106/DSN-MUI/X/2016 about waqf of insurance benefits and investment benefits on sharia life insurance. In the fatwa explained the general provisions of the implementation of waqf of insurance benefit. Waqf is declared allowed by the MUI during the implementation / practice in accordance with the Fatwa DSN MUI No.106/DSN-MUI/X/2016.

¹¹ QS. Al-Baqarah (2) : 261.

The greatness gained from the existence of waqf of insurance benefit in the empowerment of the community, it is necessary to know how the practice in the field, so the authors are interested to raise the title "Waqf of Insurance Benefit under perspective of Fatwa DSN MUI No.106/DSN-MUI/X/2016 (Study in Takaful Keluarga RO Khalifa Agency Malang)."

B. Scope and Limitation

In order for this research to be more targeted and to achieve the desired goal, the writer only limit the related waqf of insurance benefit in accordance with general provisions of Fatwa DSN-MUI No. 106/DSN-MUI/X/2016.

C. Formulation of Problem

Based on the background explanation above, then the formulation of the problems are as follow:

1. How is the practice of waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang?
2. How is the waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang under perspective of fatwa DSN-MUI No.106/DSN-MUI/X/2016 ?

D. Purpose of Research

Based on the problem formulations above, the purpose of this study are as follow:

1. To know the practice of waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang.
2. To know the waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang under perspective of the Fatwa DSN MUI No. 106/DSN-MUI/2016.

E. Advantage of Research

1. Theoretically

This research is expected to be able to contribute in developing and enriching the sciences of the related sciences of Sharia Business Law especially about waqf of insurance benefit.

2. Practically

The results of this study are expected to be used as a discussion material, material considerations and perfecting subsequent research with the same theme, or can be beneficial to the interests of parties who conduct research on waqf of insurance benefit.

F. Operational Definition

1. Waqf

Waqf in termonology is *waqafa-yaqifu* which means stop, the opposite of the word *istamâra*. Waqf by term is detention of the property / treasure that has been taken the benefit without loss and for

the use of the *mubah* and is intended to get the blessings of Allah SWT.¹²

2. An insurance policy is an insurance agreement or other document similar to an insurance agreement, as well as other documents that constitute an inseparable part of an insurance agreement, which is made in writing and load an agreement between the insurer and the policyholder.¹³

3. Fatwa DSN MUI No 106 / DSN-MUI / X / 2016

Fatwa is a term of opinion or commentary on a subject relating to the law of Islam. Fatwa it self in Arabic means it is advice, answers, or opinions. The meaning of this, is the decision or official advice taken by an institution or individual knowledged by its authority, submitted by a mufti or cleric, in response to the question posed by a fatwa requester (*mustafti*) who has no attachment. Thus the fatwa requester does not have to follow the contents or law of fatwa given to him.¹⁴

DSN-MUI is an institution formed by MUI which is structurally under MUI and is tasked with dealing with issues related to sharia economy, whether directly related to syariah financial institutions or other.¹⁵

Fatwa DSN MUI No.106/DSN-MUI/X/2016 discusses about the benefits of insurance and investment benefits on sharia life insurance.

¹² Depag RI, *Pedoman Pengelolaan dan Pengembangan Wakaf*, p. 25.

¹³ Peraturan Otoritas Jasa Keuangan Nomor 23/POJK.05/2015 tentang Produk Asuransi dan Pemasaran Produk Asuransi, p. 3.

¹⁴ http://Fatwa-Wikipedia_bahasa_Indonesia_ensiklopedia_bebas.htm, accessed on 10 April 2018.

¹⁵ <http://dsnmui.or.id/>, accessed on 10 April 2018.

4. PT Takaful Keluarga RO Khalifa Agency is an institution of sharia insurance company which one of its products is waqf of insurance benefit.
5. Waqf of insurance benefit is a waqf in the form of sharia insurance policy where the value of its investment and / or its insurance benefit is represented by the principal insured with the knowledge of the heirs when the benefit of the insurance policy is due and or the *wakif* dies. Waqf of insurance benefit program is designed specifically to meet the needs of the *wakif* hereafter investment through productive waqf and religious waqf and other social activities.

G. Discussion Structure

To facilitate the discussion and understanding of issues raised, the authors divide into 5 chapters consisting of sub-chapters that are interconnected and arranged systematically according to the order of the discussion of existing problems. Each chapter has the quantity and compression points of each material as described below:

The first chapter is an introduction, this chapter contains some of the basic elements of this study, including backgrounds that provide the basic thinking of the importance of this study, the formulation of the problem that became the main point of the study, the purpose of research that describes the reasons or *statements* of the holding of this study, elaborated on the usefulness of the research which contains the usefulness and contribution of research results to the parties referred to in this study.

Next is the operational definition of the research that the writer adopts, and in the last chapter of this section explains the systematics of writing that describes briefly the existing writing sequences in this study, so that the basic description of this research can be clearly understood.

The second chapter contains a review of the literature that includes previous research and theoretical framework. Previous research contains research that has been studied by several researchers on the same great theme, whether in the form of published books or in the form of dissertations, theses, published or unpublished theses, and journals that substantially have an outline theme. Then in this chapter also discusses the theory of studies related to the issue of waqf of insurance benefit. So with the study theory aims to facilitate researchers in analyzing the problems to be studied.

The third chapter discusses research methods, which serve as an instrument for research to produce more systematic and directed research. In the research method will be explained in full about the type of research used to determine the space for research, research approach, research location, data sources obtained by researchers to solve problems in this study. Furthermore, data collection methods that contain the order how data collection is done by researcher. After the data obtained by the researchers then that data processing so that researchers get the validity of data.

The fourth chapter, on the results of research and discussion which contains explanation and description of data obtained from various data

collection methods. This section describes the Waqf of Insurance Benefit Under Perspective of Fatwa DSN MUI No. 106/DSN-MUI/X/2016 (Study in Takaful Keluarga RO Khalifa Agency Malang).

The fifth chapter, is the last chapter of this research that is conclusion. In it contains the conclusions and suggestions from the results of such research. The conclusion is a brief description of the problem formulation that has been presented. Suggestion are suggestions to the parties concerned or to the community for the common good in the future.





CHAPTER II

LITERATURE REVIEW

1. Previous Research

After the authors conducted several literature reviews, there has not been found a scientific paper that discusses the implementation of waqf of insurance benefit, so far only found thesis writers by title waqf of insurance policy, such as:

- a. Thesis compiled by students Aswin Zahru Fikri student at State of Islamic University of Tulungagung, faculty of Shariah and Law in 2016 entitled "*Analisis Wakaf Wasiat Polis Asuransi Menurut Hukum Islam* ", in this thesis describes the testament waqf of insurance policy system under perspective of Islamic law. The system of this waqf of insurance

policy use two contracts in the implementation, namely: (1) contract of waqf for productive waqf is a part of insurance policy covering sum insured and cash value at maturity; (2) contract of charity for the benefit of waqf, wakif's family, general provisions, part of the value of the insurance policy (UP and Value of Cash) is due. According to the Islamic law, the system of contract of testament waqf of insurance policy has not fulfilled the validity of the contract, because the contract used is not perfect and still have shortcomings due to fasid agreement, and must be canceled. In this case the object being represented shall be property, free of any encumbrances, ties, and disputes. In the system does not meet the principles that must be contained in the transaction system within the Islamic insurance company because there is elements of uncertainty (*gharar*). It is a differentiator or one of the **differences** between the thesis written by Aswin Zahru Fikri with the writer, that more to the implementation of waqf of insurance benefit. The **similarity** is discussions about waqf of insurance policy in outline.

- b. Journal written by Muhammad Luthfillah Habibi and Ana Tony Roby Chandra Yudha, students at State Islamic University of Sunan Ampel Surabaya, Faculty of Economics and Islamic Business, Department of Economics, published on July 26, 2017. It's called *"Membangun Integrated Takaful Dan Wakaf Model Dalam Upaya Meningkatkan Kemanfaatan Pemegang Polis"*. In this journal discusses that many potential benefits that can be obtained with the implementation of integrated takaful and waqf include (1) For policyholders, he will get the

benefits of the world and hereafter. Worldly benefit can be obtained by the surplus of contribution and / or claims of funds in the event of a death for himself by the heirs. In addition, the policyholder is also to get the benefit of *ukhrowi* (hereafter), the number of fund that are represented will continue to flow the reward in the waiting time (grave) until he faces *illahi* or his god on the day of judgement (*mahsyar*). (2) For takaful institution, the implementation of takaful products by integrating with cash waqf will present a pattern of marketing with better market segmentation. Over time, the increasingly educated community will certainly choose that what it does can give us benefit in the world and hereafter. These needs can be accomadating and mediated by the presence of this product. In addition, takaful institution can also enjoy the *ujrah* (fee) of each fund of waqf is submitted to the institution of waqf. This *ujrah* (fee) can increas the fee based income belongs to Takaful Institution. (3) For the waqf institution, implementing takaful products by integrating with cash waqf can encourage the growth of waqf funds managed effectively and efficiently. Marketing of waqf funds from the growth of waqf funds will be bigger. Waqf funds are profitable. From the profit of the invested waqf funds, *roi'ul wakif* can be used for the empowerment of the Muslims in Indonesia. An explanation regarding this journal, it is clear that the **difference** between this journal and the title of the writer regarding the implementation of waqf of insurance benefit under perspective of fatwa DSN MUI No.106/DSN-MUI/X/2016, in this journal further highlight the benefit of waqf of insurance policy,

while the writer wrote is the practice of waqf of insurance benefits with the match of fatwa DSN MUI No.106/DSN-MUI/X/2016. The **similarity** is to discuss the implementation of the waqf of insurance policy.

- c. Thesis written by a student of State Islamic University of Syarif Kasim Riau, named Uskar Nuari, Faculty of Shariah and Law Science, majoring in Sharia Economics, 2011. Entitled "*Tinjauan Hukum Islam Terhadap Aplikasi Aqad Pada Produk Takaful Dana Wakaf (Ful Wakaf) di PT Asuransi Takaful Pekanbaru*". In this thesis more to discuss related aqad on the product of waqf in the PT Takaful Insurance Pekanbaru which is analyzed by Islamic law. Review of Islamic law against the contract on product takaful waqf fund (ful waqf) in PT Takaful Insurance Pekanbaru is the application of the contract which is used in products takaful and waqf are 3 contract at once, namely contract of *tabarru'* (*akad tabarru'*), contract of *mudharabah* (*akad mudharabah*), and *wakalah bil ujah*. All of contracts contained in the provisions of Islamic law, except contract of *tabarru'* (*akad tabarru'*) and *contract of wakalah bil ujah* which is a new discourse and has no provisions. *Akad tabarru'* in muamalah can be equated with a *hibah* contract because it includes giving, so it is allowed. And contract (*akad*) of *wakalah bil ujah* which provision of wage giver is not in the Islam provision, because contract of *wakalah* is contract of mutual help that without any element expecting material reward, it is permitted as long as the reward does not exceed limit. While the **different** with the writer is the implementation of waqf of insurance benefit under perspective of fatwa DSN MUI No. 106/DSN-

MUI/X/2016. The **similarity** both of this thesis is to discuss the related waqf contained in the insurance company.

- d. Journals written by Siska Lis Sulistiani, Ilham Mujahid, Yandi Maryandi, Sharia Faculty, Islamic University of Bandung. It is entitled "*Wakaf Polis Asuransi Perspektif Ekonomi Islam Untuk Pemberdayaan Umat.*" This journal explained that the waqf of insurance policy is a part of the value that will be accepted if the insurance policy that is owned now has been disbursed. Waqf is a part of the Islamic philanthropy that should be managed be productive, the core assets do not decrease and should increase in value and usefulness. Waqf of policy as the mechanism of distribution of waqf other immovable objects set forth in article 32-39 UU (regulation) No. 41 of 2004 about Waqf, although the waqf of insurance policy is also included in the category of cash waqf in essence, but the recording according to the rules in force. Waqf of sharia insurance policy is part of the breakthrough waqf in digging the economic potential of the people to distribute the treasures in a right on target and effective. Needed synergy of waqf management between individual *wakif*, institution as nazir or government or related parties to manage, supervise and protect the development of waqf property in order to remain productive, trustworthy and useful for economic empowerment especially in real sector. So it is clear the **difference** between this journal and the research made by the writer, that is in this journal explains how Islamic economics assess the wisdom of insurance policy and for the benefit of the people both short and long term. While written by the

author is the implementation of waqf of insurance benefit perspective of fatwa DSN No. 106/DSN-MUI/X/2016. The similarity both of them are discussing about the waqf of insurance policy.

From the description above shows that the thesis raised by the author has not been much discussed in scientific papers. Title written by the writer is waqf of insurance benefit under perspective of fatwa DSN MUI No. 106/DSN-MUI/X/2016 (Study in Takaful Keluarga RO Khalifa Agency Malang). It was written by Izzatun Niswah, a student of State Islamic University of Maulana Malik Ibrahim Malang, sharia faculty, and Sharia Business Law department.

Table 1. Similarities and differences of previous research.

No	Name / university / year	Title	similarities	Difference
1.	Aswin Zahru Fikri, State Islamic University of Tulungagung, Faculty of Syaria and Law, 2016.	Analisis Wakaf Wasiat Polis Asuransi Menurut Hukum Islam	Waqf of insurance policy	Testament of insurance policy perspective Islamic law.
2.	Journal written by Muhammad Luthfillah Habibi and Ana Tony Roby Chandra Yudha, students at State Islamic University of Sunan Ampel Surabaya, Faculty of Economics and Islamic business, the	Membangun Integrated Takaful Dan Wakaf Model Dalam Upaya Meningkatkan Kemanfaatan Pemegang Polis	Implementatio n of the waqf of insurance benefit	implementatio n of integration model between takaful and waqf institution in managing waqf fund so that managed fund will be optimal when the policyholder dies, the highlighted is

	Department of Economic, published on July 26, 2017.			the benefit obtained by the policyholder.
3.	Uskar Nuari, Student of the State of Islamic University of Syarif Kasim Riau, Faculty of Sharia and Law Science, majoring in islamic Economics, 2011.	Tinjauan Hukum Islam Terhadap Aplikasi Aqad Pada Produk Takaful Dana Wakaf (Ful Wakaf) Di PT Asuransi Takaful Pekanbaru	waqf in the insurance company.	discusses the related aqad on the waqf product in PT Takaful Insurance Pekanbaru which is analyzed by Islamic law.
4.	Siska Lis Sulistiani, Ilham Mujahid, Yandi Maryandi, faculty Syariah, Islamic University of Bandung.	Wakaf Polis Asuransi Perspektif Ekonomi Islam Untuk Pemberdayaan Umat	Waqf insurance policy.	economic Islam assess the waqf of insurance policy and for the benefit of the people in short and long term.

2. Theoretical Framework

A. Definition of Sharia Insurance

The word of insurance originally came from the Latin, namely *assecurare* which means convincing people. The word insurance then became known as *assurance* in French. In Dutch legal terms insurance is termed *assurantie* (insurance) and *verzeking* (coverage). Insurers in Dutch are called *assuradur*, while the insured is a *geassureeder*. English from insurance is an insurance which is then adopted into the Indonesian language into insurance with the equivalent of the word

"coverage".¹⁶ Insurance serves as a deduction from the risk by moving and uniting the uncertainty of the existence of an unexpected losses.

In Indonesia there are two systems used in insurance business, namely conventional insurance and sharia Insurance. Constitution No. 2 of 1992 concerning Insurance Business describes conventional insurance as a coverage in which there is agreement between 2 (two) parties or more, namely the insurer binds it self to the insured, by receiving insurance contribution, to provide reimbursement to the insured due to loss, damage or lost profits are not expected.

From the above understanding can be concluded that in the insurance there are three main elements, namely the insurer, the insured and the uncertain events. In addition, an explanation of insurance is also contained in article 246 of the Civil Code, namely an agreement, where by an insurer binds him self to an insured with a contribution to reimburse him for a loss, damage or loss of unexpected profits, which he may suffer from an event that is not certain. Understanding insurance in article 246 of the Civil code almost the same as the definition contained in Law no. 2 of 1992 concerning Insurance Business. Relationship between Law no. 2 of 1992 on Insurance Business with the Book of Trade Law in accordance with the legal principle *lex specialist derogat lex generalis*.

That is, the rules contained in the Insurance Business Act take precedence not to override the more general rule, namely the Book of

¹⁶ AM. Hasan Ali, *Asuransi Perspektif Hukum Islam: Suatu Tinjauan Analisis Historis, Teoritis, & Praktis* (Jakarta: Kencana, 2004), p. 57.

Commercial Law. Therefore, the definition contained in Insurance Laws refers to the Book of Commercial Law. The second understanding of the insurance, according to Ali Ridho only applies to insurance losses because it involves a loss of value as a measure of reimbursement for a loss that is not certain.¹⁷

With the percentage of 88% of the followers of Islam in Indonesia and the widespread application of sharia principles, it affects the emergence of sharia insurance which then develops and competes with conventional insurance. In the literature of Jurisprudence classic and al-Qur'an is not found a study on sharia insurance. However, to develop the economy of Islam or Islamic economics in the modern era, many cleric who conduct studies related to Islamic or sharia economy. The study on sharia insurance is the result of contemporary cleric who live in modern times such as Ibn Abidin, Muhammad Nejatullah al-Siddiqi, Muhammad Muslehuddin, Fazhlur Rahman, Mannan, Yusuf al-Qardhawi, and Mohd. Ma'shum billah.¹⁸ The clerics are then reviewing the sharia insurance in terms of management and performance mechanisms and management of sharia insurance.

To respond to the development of sharia insurance and the number of studies conducted in the case of sharia insurance, the fatwa board of the National Sharia Council issued the first fatwa in Sharia Insurance, namely the fatwa of DSN MUI No. 21/DSN-MUI/X/2001 on General

¹⁷ Bagus Irawan, *Aspek-aspek Hukum Kepailitan Perusahaan dan Asuransi* (Bandung: Alumni, 2007), p. 101.

¹⁸ Andri Soemitra, *Bank dan Lembaga Keuangan Syariah* (Jakarta: Prenada Media Grup, 2009), p. 248.

Guidelines for Insurance. According to the fatwa of the DSN MUI No 21/DSN-MUI/X/2001 on the General Guidelines of Insurance, sharia insurance (*ta'min, takaful or tadhamun*) is a mutual protection effort and help among a number of people / parties through investment in the form of assets and / or tabarru' provide a pattern of return to deal with certain risks through contracts (contracts) in accordance with the principles of sharia. In that sense there are three words as the equivalent of the word sharia insurance, that is takaful, *ta'min and tadhamun*. The three equivalents of the word will be described as follows:

1. Takaful

In Indonesia, the term sharia insurance is known as Takaful. Takaful comes from the Arabic word, كفل.¹⁹ Word كفل in the Arabic dictionary means to bear or guarantee. Takaful comes from the word *kafala-yakfulu-kafaalatan*, which means bear. And it has the meaning that one bears with the other. In the sense of muamalah, takaful is social protection among each Muslims, so that between one another willing to bear each other risk.²⁰

2. *Al-ta 'min*

Al-ta'min comes from the Arabic word *amana* which means to provide protection, tranquility, security and freedom from fear.

As the word of Allah SAW in QS. Quraysh (106): 4 as follow :

¹⁹ Zainuddin Ali, *Hukum Asuransi Syariah*, (Jakarta: Sinar Grafika, 2008), p. 3.

²⁰ Burhanuddin S, *Aspek Hukum Lembaga Keuangan Syariah* (Yogyakarta: Graha Ilmu, 2010), p. 98.

الذي أطعمهم من جوع وآمنهم من خوف (قریش: 4)

*"Who gave them food to eliminate hunger and secure them from fear."*²¹

In *al-ta'min* the call is called *mu'ammin*, while the insured is called *mu'amman lahu or musta'min*. Peace and protection will be obtained if a person someone bind themselves with the values of faith to God SAW. Someone with a way to pay some money in installments which aims to give some money to the beneficiary as agreed and/or provide compensation for possessions lost due to the risk of uncertainty. The goal is to eliminate the fear of an undesirable event, in the presence of such harmony, the fear will be disappeared with the presence of a sense of sheltering self-insurance participants.

3. *Al-tadlamun*

Al-tadlamun comes from the word *dlamana* which has the meaning of mutual bear. The purpose of *al-tadlamun* is to cover the losses on an uncertain event and disaster. A person who bears a substitute for the borne because of a disaster that befell the insured. Helpfulness (*ta'awun*) is the meaning that exists in *al-tadlamun* so there is a sense of necessity to help each other among the members of the society who are struck by disaster.

²¹ QS. Quraisy (106): 4.

B. The legal basis of Sharia insurance

In the Qur'an there is no word that mentions the term insurance such as *takaful*. However, al-Qur'an describes the concept and practice of insurance. As in QS. Al-Hashr (59) : 18 which reads as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَلْتَنْظُرْ نَفْسٌ مَّا قَدَّمَتْ لِغَدٍ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ (الحشر):

(18)

*"O you who believe! Be fearful of Allah, and let every one see what He has done for tomorrow; and be fearful of Allah, Allah is the knoweth all that you do."*²²

The above verse explains that God encourages his people to pay attention and prepare for their future. The purpose of this future preparation is to protect it self so that a person will be better prepared if faced with an unpredictable disaster. However, this will not diminish the greatness of God that Allah is the Knower of when it will come.

In addition, there are still many verses related to the concept of insurance, as in QS. Al-Maidah (5): 2 and QS. Al-Baqarah (2): 185 which explains God's command to help each other and help and cooperate; QS. Al-Quraysh (106): 4 and QS. Al-Baqarah (2): 126 describes God's command to protect each other in times of trouble; and QS. Al-Taghaabun (64): 11 QS. Luqman (31): 34 describes God's command to put his trust and optimism in the endeavor. Legal sources of Islam are second only to al-Qur'an is the Hadith. The hadith

²² QS. Al-Hashr (59) : 18.

is all the words (sayda), deeds and decrees and approval of Prophet Muhammad SAW which is used as a decree or law in Islam.

This is a hadith from An-Nu'man bin Basyir underlying the principle of mutual bearing, mutual protection, and mutual help to help between Muslims :

عن النعمان بن بشير قال: قال رسول الله ﷺ: مثل المؤمنين في توادهم وبراحمهم وتعاطفهم مثل الجسد إذا اشتكى منه عضو تداعى له سائر الجسد بالسهر والحمى (رواه المسلم)

"An Nu 'man bin Bashir says that the Rasulullah SAW said: the believer's belief in love, empathy, and empathy as one body. If one of the members feel pain then the whole body also feel it by watching and feeling the fever." (HR.Muslim)²³

C. Mechanism of managing contribution (*premi*)

The funds mentioned here are contributions. The contribution element in Sharia comprises elements of tabarru' and saving (for life insurance), and tabarru elements only (for insurance losses and term insurance on life). Tabarru element in the soul, the calculations are taken from the tables of mortality (life expectancy), amount depends on the age and duration of the agreement. The higher the age and the longer the duration of the agreement, the greater the value of tabarru'. The amount of life insurance contributions in sharia insurance is called tabarru' is in the range of 0.75 to 12 percent. Meanwhile, the magnitude of the tabarru' on loss insurance refers to the standard RTE made by DAI (Board of Insurance Indonesia (Dewan Asuransi Indonesia)).²⁴

²³ Muhammad Syakir Sula, *Asuransi Syariah*, (Jakarta : Gema Insani, 2004), p. 33.

²⁴ Muhammad Syakir Sula, *Asuransi Syariah*, p. 311.

Some sharia insurance experts such as MM Billah mention this contribution with the term contribution or in fiqh language called *al-musahamah*.²⁵ Billah said the *al-musahamah* or contribution in the sharia insurance agreement is a financial consideration (*al-'iwad*) of the participant's part is an obligation arising from the agreement between the participants and the manager. Sharia insurance agreement in mutual cooperation, consideration is needed not only from one party but both of parties. Thus, managers are also simultaneously bound by the agreement, both in terms of compensation and profit. The concept of mutual cooperation with this *musahamah* agreement in accordance with the word of God in surah Al-Maidah verse 2:

وتعاونوا على البر والتقوى (المائدة: 2)

"Please help you in kindness and taqwa".²⁶

Premiums (contributions) to sharia insurance are also called *net premiums* because they only consist of mortality (life expectancy), and there is *no loading* element (agent commission, administrative fees and others). Sharia Insurance there is no element of interest. Because that is a profit-sharing calculation if using a *mudharabah* contract at the end of the contract period based on the business reality that occurs.²⁷

²⁵ Mohd. Ma'sum Billah, Principles of Contracts Affecting Takaful and Insurance : A Comparative Analysis. Makalah Disampaikan dalam Internasional Conference on Takaful Insurance, Tgl 23 Juni 1999, Hilton Hotel, Kuala Lumpur, p. 14.

²⁶ QS. Al-Maidah (5) ayat : 2.

²⁷ Muhammad Syakir Sula, *Asuransi Syariah*, p. 312.

The operational system of sharia insurance is responsible for each other, helping, and protecting each other among the participants.²⁸ Sharia insurance corporate given trust or mandate by the participants to manage contributions, developing the halal way, and provide compensation to the unfortunate in accordance with the contents of the deed of agreement. The company's profit is derived from profit sharing of participant funds developed under the *mudharabah* principle (profit sharing system). Sharia insurance participants are domiciled as capital owners (*shahibul mal*) and sharia insurance companies function as holder of trust (*mudharib*). The profit gained from the development of the fund is shared between the participants and the company in accordance with the agreed (*nisbah*) terms.

The fund management mechanism of participants (contributions) is divided into two systems, namely:

1. System on saving products

Each participant is required to pay a certain amount of money (contribution) regularly to the company. The amount of contribution paid depends on the participant's finances. However, the company determines the minimum amount of premium to be paid. Each premium paid by the participant will be split into two different accounts.²⁹

- a. The participant's savings account, which is the funds belonging to the participant, paid when:

²⁸ Muhammad Syakir Sula, *Asuransi Syariah*, p. 176.

²⁹ Muhammad Syakir Sula, *Asuransi Syariah*, p. 177.

- 1) The agreement expires;
- 2) Participants resign;
- 3) Participants died.

b. Account *tabarru'*, which is a collection of funds of virtue that have been intended by the participants as a contribution of funds of virtue for the purpose of mutual help, will be paid when:

- 1) Participants died
- 2) The agreement has expired (if there is a surplus of funds).

The mechanism of fund management used in Islamic Insurance is fund paid by the participant, then *mudharabah* (profit sharing) between *mudharib* (manager) and *shahibul mal* (participant) occurs. Then the sharia fund invested to sharia bank and other sharia investment, then deducted from operational cost (such as claim, reinsurance, commission, broker, etc). Furthermore, surplus (profit) is done for the result between *mudharib* (manager) and *shahibul mal* (participant) in accordance with skim for pre-determined results (60:40). The 60 percent share for the 'corporate' *mudharib* was deducted by administrative and management expenses, the rest being profit shareholders. While another 40% share of surplus for participant surplus profit sharing for participants.³⁰ The percentage of *mudharabah* comparison is made in a fixed ratio based on the

³⁰ Muhammad Syakir Sula, *Asuransi Syariah*, p. 249.

cooperation agreement between the company and the participants, for example by 70: 30, 60:40, and so on. (More clearly can be seen in the table of Fund Management Mechanisms with Products Containing Savings Elements) .

The benefits of sharia insurance on savings products earned by the participants or their heirs are as follows:³¹

a. If a participant is doomed to die within the contract period, then the heirs are as follows:

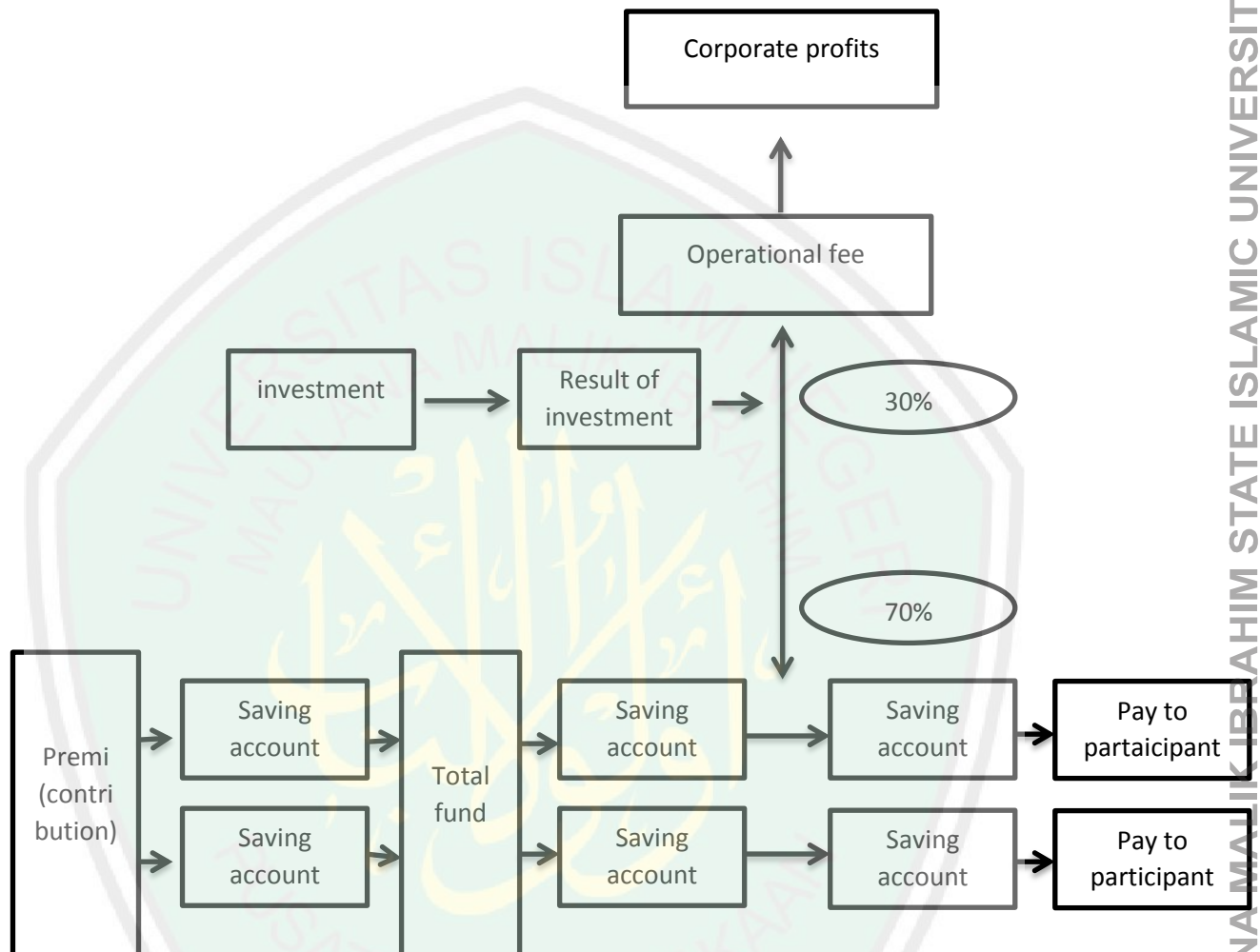
- 1) Saved deposit account funds,
- 2) The share of profit on *mudharabah* investment returns from savings accounts,
- 3) Difference from initial insurance benefit (saving plan) with contribution already paid.

b. If the participant resigns before the agreement expires, the participant will get:

- 1) Saved deposit account funds,
- 2) The share of profit on *mudharabah* investment returns from savings accounts.

³¹ Muhammad Syakir Sula, *Asuransi Syariah*, p. 179.

Table 2. Fund Management Mechanisms on Products
Containing Savings Unsuits (*Mudharabah Relations*)³²



2. System on non saving products

Any contributions paid by the participant, will be included in the account of tabarru'. That is a collection of funds that have been intended by the participants as a contribution and a virtue for the purpose of helping each other, and will be paid when:³³

³² Muhammad Syakir Sula, *Asuransi Syariah*, p. 178.

³³ Muhammad Syakir Sula, *Asuransi Syariah*, p. 178.

- a. Participants die;
- b. The agreement has expired (if there is a surplus of funds).

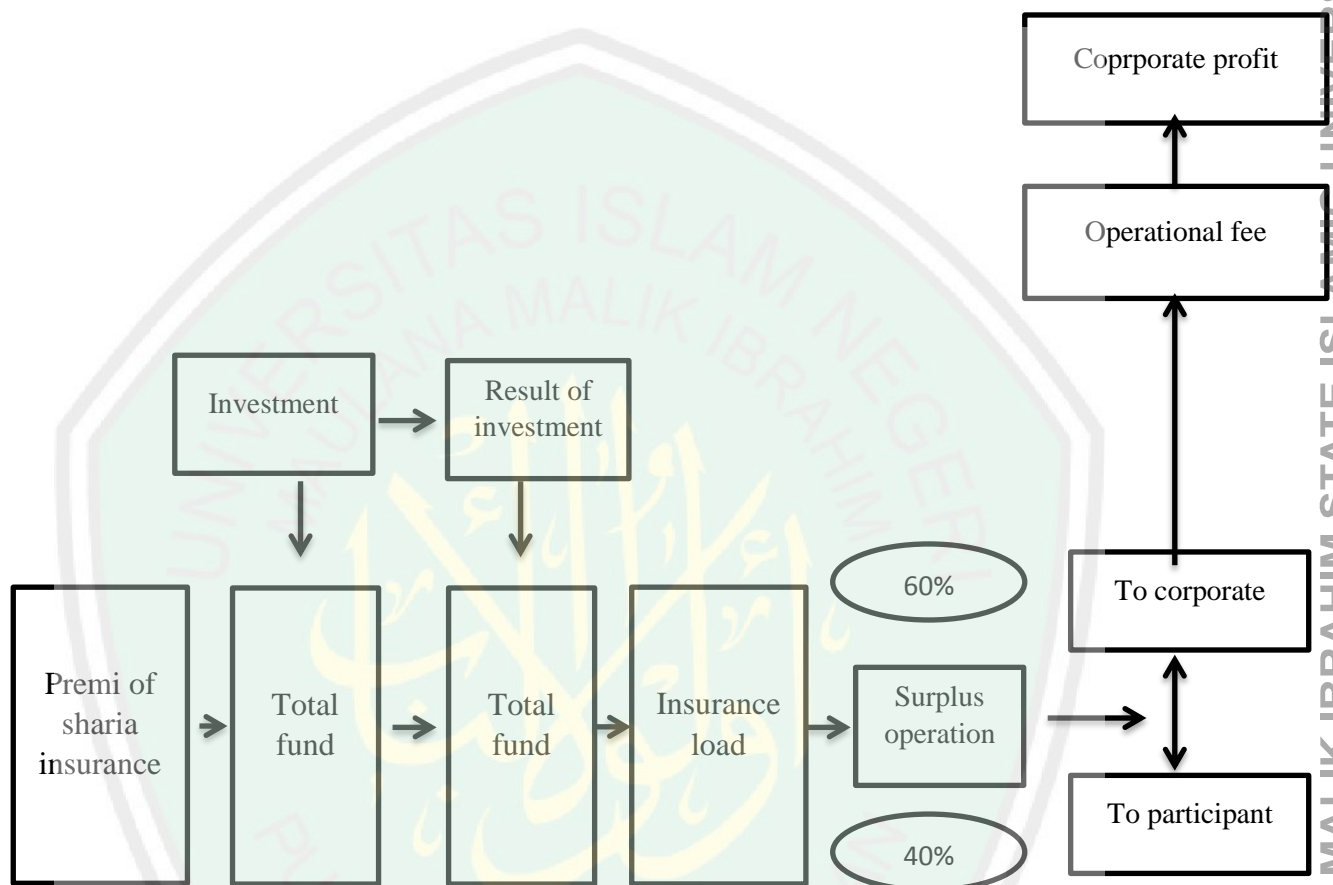
This fund of participants will be invested in accordance with the Islamic Shari'a. Profit return on investment after deducting the insurance expense (claims and reinsurance premium), will be divided between participants and companies according to *al-mudharabah* principle in a fixed ratio based on the cooperation agreement between the company and the participant. (More clearly seen in table 2, Fund Management Mechanisms on Products Containing Savings Elements).

The benefits of Takaful insurance on non saving products obtained by the participants or their heirs are as follows: ³⁴

- a. If the participant is doomed to die during the term of the agreement, the heirs will receive death funds from the company, in accordance with the number of participants planned,
- b. If the participant lives, until the agreement expires, the participant will get a share of the profit on the tabarru' account specified by the company under the *mudharabah* scheme.

³⁴ Muhammad Syakir Sula, *Asuransi Syariah*, p. 180.

Table 3. Fund Management Mechanism of Non-Saving Element

Product. (*Mudharabah* Relationship)³⁵

D. The definition of an insurance policy is insurance agreement or consensual responsibility (there is an agreement, made in writing in a deed of the party who has entered into an agreement). In the deed that has been written is called a policy, so the policy is a proof of agreement in the coverage that becomes written proof. The

³⁵ Muhammad Syakir Sula, *Asuransi Syariah*, p. 179.

understanding of waqf of insurance policy is to give some of the value that will be accepted if someone own's policy has been disbursed.³⁶

E. Waqfs and General Provisions

1. Understanding waqf

Waqf is a language derived from the word *waqafa-yaqifu* which means stop, the opposite of the word *istamâra*. This word is often equated with *al-tahbîs* or *al-tasbîl* which means *al-habs tasarruf*, is preventing from managing. Waqf's words are also known in terms of science *tajwid* which means to stop reading, either onward or to take a breather temporarily. Even waqf with the meaning of dwelling place also associated with *wukuf* that dwells in Arafat on 9 Dzulhijjah when performing hajj worship.³⁷ Waqf by term is the retention of the treasures taken without immediate destruction and for the use of the *mubah* and is intended to obtain Allah SWT's blessing.³⁸ While in fiqh books, clerics differ in giving waqf understanding. These differences bring different consequences to the law that is found. The definition of waqf according to expert of fiqh is as follows:

- a. Waqf according to Abu Hanifah is to hold an object which according to the law, still belongs to the *wakif* in order to use

³⁶ Jurnal Wakaf Polis Asuransi Perspektif Ekonomi Islam Untuk Pemberdayaan Umat, accessed on 16 Desember 2018 pukul 09.57.

³⁷ Farid Wadjdy dan mursyid, *Wakaf Dan Kesejahteraan Umat (Filantropi Islam Yang Hampir Terlupakan)*, (Pustaka Pelajar, 2007), p. 29.

³⁸ Depag RI, *Pedoman Pengelolaan Dan Pengembangan Wakaf*, p. 25.

its benefits for virtue. Based on that definition, the ownership of waqf property can not be separated from the *wakif*, even he justifiably pull it back and he may sell it. If the *wakif* dies, the treasure becomes the inheritance of the heirs. So what arises from waqf is simply "contributing benefits". Therefore Hanafi defining waqf is not to perform an action on an object, the status remains as property rights, the benefits to a party to give virtue (social), both now and will come .

- b. The Maliki's argue that the waqf does not release the property represented from the *wakif* ownership, but the waqf prevents *wakif* from taking actions that can relinquish ownership of the property to others and *wakif* is obliged to give its benefit and not to recall its waqf. So in this case the waqf prevents *wakif* using his waqf property for a certain period in accordance with the wishes of the *wakif* when pronouncing akad (*sighat*). So basically this representation applies to a certain period, and therefore should not be required as an eternal waqf (forever).
- c. The Syafi'i and Ahmad bin Hambal argues that waqf is the release of the wealth that is represented from the *wakif* ownership, after the waqf is perfect procedure. *Wakif* should not do anything to the property represented, such as the treatment of the owner by way of ownership to others, either by exchange or not. If *wakif* passes away, the property represented can not be inherited by the heirs. *Wakif* channeled

the benefits of his property to *mauquf 'alaih* (who was given waqf) as a binding alms, which *wakif* could not prohibit the distribution of his contribution. If *wakif* forbade it, then *Qadli* has the right to force it to give it to *mauquf 'alaih*. Therefore the Syafi'i defines waqf as : "Not to perform an act on an object, which is the status of Allah, by giving its benefit to a (social) virtue".³⁹ While waqf in Law no. 41 of 2004 about Waqf, it is mentioned that waqf is a *wakif* legal action to separate or hand over some of his property to be exploited forever or for a certain period in accordance with his interests for the purposes of worship and general welfare according to sharia.⁴⁰

2. Legal basis of waqf

a. Al-Qur'an

In the text and clearly the waqf is not contained in the Qur'an and as-Sunnah, but the meaning and content of the waqf are contained in the two sources of Islamic law. In the rule often states a waqf with a phrase that states about a treasure (*infaq*) in the public interest. Whereas in the hadith we often encounter the phrase waqf with the phrase "hold" (*habs*).⁴¹ The legal basis of the Qur'an that describes the waqf are:

يَا أَيُّهَا الَّذِينَ آمَنُوا ارْكَعُوا وَاسْجُدُوا وَاعْبُدُوا رَبَّكُمْ وَافْعَلُوا الْخَيْرَ لَعَلَّكُمْ تُفْلِحُونَ

³⁹ Depag RI, *Fiqih Wakaf*, p. 1 -3.

⁴⁰ Undang-Undang No. 41 Tahun 2004, about Waqf, Bab I pasal I.

⁴¹ Depag RI, *Pedoman Pengelolaan Dan Pengembangan Wakaf* (Jakarta: Ditjen Bimas Islam Dan Penyelenggara Haji, 2004), p. 25.

Which means: *O you who believe! bow, bow down, worship your God and do kindness, so you get a victory.*⁴²

لن تنال البر حتى تنفقوا مما تحبون وما تنفقوا من شيء فإن الله به عليم

Meaning : *"You are not to the virtue (the perfect one), before you spend some of your loved wealth ones. And every wealth you spend, then Allah surely knows.*⁴³

مثل الذين ينفقون أموالهم في سبيل الله كمثل حبة أنبتت سبع سنابل في كل سنبلة مائة حبة والله يضاعف لمن يشاء والله واسع عليم

It means: *"The parable of those who spend their wealth in the way of Allah is like a seed that grows seven ears, in every ear there are hundred seeds. God multiplies (rewards) for whom He will. and Allah Almighty (His reward) is all-knowing."*⁴⁴

b. Hadith

Hadith which became the basis and the proposition of waqf is a hadith that tells the story of Umar bin Al-Khattab when obtaining land in Khaibar. After he asked the Prophet for guidance about the land, the Prophet advised to withhold the origin of the land and to give the result.

عن ابن عمر رضي الله عنهما أن عمر ابن الخطاب أصاب أرضا بخيبر فأتى النبي ﷺ يستأمره فيها فقال: يا رسول الله إني أصبت أرضا بخير لم أصب مالا قط أنفس عندي منه فما تأمرني به قال: إن شئت حبست أصلها وتصدق بها, قال فتصدق بها عمر أنه لا يباع أصلها ولا يبتاع ولا يورث ولا يوهب قال فتصدق بها عمر في الفقراء وفي القربى وفي الرقاب وفي سبيل الله وابن سبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف ولا يطعم غير متمول مالا (متفق عليه)

From Ibn Umar ra. Saying that friend Umar R.A. Obtained a piece of land in Khaibar then turned to the Rasulullah SAW to ask for guidance Umar said: O Rasulullah, I get a piece of land in

⁴² QS. Al-Hajj (22) : 77.

⁴³ QS. Ali-Imran (3) : 92.

⁴⁴ QS. Al-Baqarah (2) : 261.

Khaibar, I have never got such a good treasure yet, then do you command me? Rasulullah replied: If you like, you hold (the ground), and you give away (the result). Then Umar did shadaqah, not sold, not granted and nor inherited. Said Ibn Umar: Umar gave it to the fakir, relatives, slaves, sabilillah, ibn sabil and guests. And there isn't prohibition for those who control the waqf land to eat from the result in a good way (proper) or eating with no intention to accumulate wealth (HR Bukhari).⁴⁵

3. Cash waqf

Cash waqf is a direct translation from the popular *Cash Waqf* in Bangladesh, where A. Mannan initiated his idea. In some other literature, *cash waqf* is also interpreted as cash waqf. Only, the meaning of cash is often misinterpreted as opposed to the word of credit, so that the meaning of *cash waqf* as cash waqf becomes less fit. For that, *cash waqf* more suitable with the meaning of money waqf. Furthermore, the cash waqf in another definition of the Department of Religion is a waqf made by a person, group of people, and institutions or legal entities in the form of money. Thus, the cash waqf is one of the forms of waqf which is given a *wakif* to *nadzir* in the form of cash. This is in line with the definition of waqf issued by the Indonesian Council of Ulama Committees on the money waqf.⁴⁶

الوقف هو حبس مال يمكن الانتفاع به مع بقاء عينه بقطع في رقبتة على مصرف مباح موجود

Waqf is the holding of assets which can be exploited without the disappearance of the object or the point, by not taking legal action to the thing (selling, giving, or inheriting), to be distributed (the result) on something mubah (not haram) that exists.

⁴⁵ Depag RI, *Fiqh Wakaf*, p. 12-13.

⁴⁶ Sudirman Hasan, *Wakaf Uang Perpektif Fiqih, Hukum Positif, dan Manajemen*, (Malang : UIN-Maliki Press, 2011), p. 20-22.

Waqf is no longer limited to objects that remain their form, but waqf can be a fixed object of value or essence. Money goes in the category of things that remain essentially. Thus the definition of MUI above provides the legitimacy of permissibility of cash waqf. The definition of the latest money waqf is the version of the ministerial regulation number 4 of 2009 on the administration of cash waqf registration, article 1 number (1). Cash waqf in PMA is defined as a *wakif* legal action to separate and / or surrender some of his money to be used forever or for a certain period in accordance with his interests for the purposes of worship and / or general welfare according to sharia.

4. Pillar (*rukun*) and requirements of waqf

Pillar and requirements of waqf are declared valid if it has fulfilled harmonious and the conditions. As for the pillars of waqf there are 4 kinds, while the conditions exist in each of these pillars, namely :⁴⁷

- a. *Wakif* (the person who donates).
- b. *Mauquf bih* (goods are represented)
- c. *Mauquf 'Alaih* (person or institution given waqf / allotment waqf).
- d. *Shighat* (declaration or pledge of *wakif* as a will to forgive his property).

⁴⁷ Depag RI, *Fiqih Wakaf*, p. 21.

While the terms of waqf consist of:

a. Terms of *wakif*

The person in charge is required to act in the expense of his property. The skills to act here include 4 kinds of criteria, namely:⁴⁸

- 1) Independent
- 2) Sensible.
- 3) Adult.
- 4) Not under ability (wasteful / negligent).

b. Terms of *Mauquf bih*

The items represented are legitimate if fulfilled the following conditions:

- 1) It must have value.
- 2) Moving objects or fixed objects that are justified to be represented.
- 3) Objects represented must be certain (known) when a waqf occurs.
- 4) It belongs to the *wakif*.

c. Terms of *Mauquf 'Alaih*

Persons or legal entities entitled to receive waqf property.

The terms are:

- 1) It should be stated explicitly at the time of pledging waqf, to whom / what is intended for the waqf.

⁴⁸ Depag RI, *Fiqh Wakaf*, p. 22.

2) The purpose of the waqf should be for worship.

d. Terms of *Shighat Akad*

Any speech, writing or gesture from a person who is committed to expressing the will and explaining what he wants.

The requirement of shighat is valid:

- 1) Shighat must *munjazah* (happen instantly).
- 2) Shighat is not followed by a false requirement.
- 3) Shigat is not followed by certain time restrictions.
- 4) Does not contain an understanding to revoke the waqf that has been done.⁴⁹

In addition to the requirements and pillars must be met, in waqf as mentioned above, the presence of *nazhir* as the party who is given trust to manage the wealth of waqf is very important. Although the *Mujtahids* do not make *nazhir* as one of the pillars of waqf, but the clerics agree that *wakif* should refer to *nazhir* waqf, both individual and institutional. *Nazhir* as the party in charge of maintaining and managing waqf has a very important position in waqf. So that the functioning of the waqf depends on the *nazhir* it self. For that reason, as an important instrument in the representation, *nazhir* must meet the conditions that allow, so that waqf can be empowered properly.

Nadzir may include individuals, organizations, and legal entities. In article 10 of Law no. 41 of 2004 on Waqfs describes the

⁴⁹ Faishal Haq, dan A. Saiful Anam, *Hukum Wakaf dan Perwakafan di Indonesia*(Pasuruan: GaroedaBuana Indah, 1993), p. 17.

requirements of *nadzir*. If *nadzir* is individual, it must meet the following requirements:

- a. Indonesian citizens
- b. Be Muslim
- c. Adult
- d. *Amanah*
- e. Able physically and spiritually, and
- f. Not hindered by legal action.⁵⁰

If *nadzir* is an organization, then the following conditions must be met, including:

- a. The board of the organization concerned meets the requirements of the individual *nadzir* as mentioned above.
- b. Organizations engaged in the social, educational, social and / or religious of Islam.⁵¹

If *nadzir* is a legal entity, then to become *nadzir* must meet the following requirements:

- a. The management of the legal entity concerned meets the requirements of an individual *nadzir*. (as discussed earlier).
- b. Indonesian legal entity established in accordance with the prevailing laws and regulations.
- c. The legal entity concerned is engaged in social, educational, civic, and / or Islamic religious affairs.⁵²

⁵⁰ Ps. 10 ayat (1) UU No 41 Tahun 2004 About Waqf.

⁵¹ Ps. 10 ayat (2) UU No 41 Tahun 2004 About Waqf.

⁵² Ps. 10 ayat (3) UU No 41 Tahun 2004 About Waqf.

5. Various kinds of waqf

When viewed from the aspect of designation shown to who waqf it, then waqf can be divided into two kinds:⁵³

a. *Waqf Ahli*

That is a waqf shown to certain people, someone or more, the *wakif's* family or not. Waqf like this, also called *waqf dzurri*. If there is someone who donates a parcel of land to his son, then to his grandchild, his waqf is valid and the rightful beneficiaries are those appointed in the waqf statement. In one sense, *waqf dzurri* is very good, because the *wakif* will get two goodness from the charity of waqf worship, also the goodness of the relationship to the family given waqf property.

b. *Waqf Khairi*

Waqf that is expressly for the interest of religion or society (common virtue), such as waqf which is submitted for the need of mosque, school, bridge, hospital, orphanage and others. In the review of its use, this type of waqf is far more beneficial than the type of *waqf ahli*, because it is not limited to those who benefit. This type of waqf is actually the most appropriate for the purpose of waqf it self in general. In this type also, the *wakif* can take advantage of the wealth that is represented, such as waqf mosque then the

⁵³ Depag RI, *Fiqih Wakaf*, p. 14-17.

wakif may worship there, or donate the well, then the *wakif* may take water from the well as has been done by Prophet Muhammad SAW and friend of Ustman bin Affan. Substantially, this is a waqf which is one of the aspect, how to spend it (use) treasure in the way of Allah SWT. Of course, the benefits of its usefulness is one of the means of development both in the religious field, especially its worship, economic, culture, health, security and so forth.⁵⁴

F. Fatwa DSN-MUI No.106/DSN-MUI/X/2016 about Waqf of Insurance Benefits And Investment Benefits On Sharia Life Insurance.⁵⁵

Waqf of insurance benefit is the type of the latest of waqf by some insurance and waqf institutions , because according to some economists in this type of waqf the potential for community empowerment. However, due to the absence of legal that overshadowed this type of waqf, then some institutions filed to the DSN-MUI to provide a fatwa about the model waqf insurance benefit. So the birth of Fatwa DSN-MUI No.106/DSN-MUI/X/2016 about Waqf of Insurance Benefit and Investment Benefit on Sharia Life Insurance.

⁵⁴ Depag RI, *Fiqih Wakaf*, p. 14.

⁵⁵ Fatwa DSN MUI No. 106/DSN-MUI/X/2016 About Waqf of Insurance Benefit And Investement Benefit of Sharia Life Insurance

In the fatwa, it is stated that waqf is to withhold the assets which can be utilized and / or terminated without their disappearance, by not selling, granting, and / or bequeathing, and the results are channeled to something muted to the beneficiaries of the waqf. The requirements of waqf objects according to the cleric's views, among others, are the property represented to be valuable / valuable property in sharia (*mutaqawwam mall*), the property represented must be clear and measurable property (*ma'lum*), and the property represented must be treasure which has become the full property (*milk tam*) for the *wakif* at the time the contract waqf done.

The insurance benefit in this fatwa is explained in the amount of funds sourced from tabarru' funds which are handed over to the party who experienced the disaster or the person who experienced the disaster or the person appointed to receive it. While the benefits of investment is the amount of funds submitted to the participants of the insurance program derived from the contribution of investment participants and their investment results. In principle, insurance benefits are intended to mitigate the risk of participants or appointed parties. Benefits of insurance and investment benefits on sharia law insurance may be subject to the provisions contained in the fatwa No.106/DSN-MUI/X/2016.

The special provisions that discuss about waqf of insurance benefits are: *first*, the party appointed to receive insurance benefits declare a binding promise (*wa'd mulzim*) to *donate* insurance benefits.

Second, the insurance benefits that represented at most 45% of the total insurance benefits. *Third*, all prospective beneficiaries of the designated or substituted insurance shall declare their consent and agreement; and *Fourth*, the pledge of waqf shall be executed after the insurance benefit in principle has become the right of the designated party or its successor.

Related to the special provision of investment waqf in this fatwa there are two provisions, *first*, the benefits of investment may be represented by the insurer. *Secondly*, the amount of investment benefits that may be represented is at most one-third (1/3) of total wealth and / or *tirkah*, unless otherwise agreed by all heirs. While the provision of *ujrah* associated with waqf products is in the first year at most 45% of regular contributions, and the accumulation *ujrah* next year at most 50% of regular contributions.

(To find out the fatwa of DSN MUI No. 106 / DSN-MUI / X / 2016 will be attached on the next page).



CHAPTER III

RESEARCH METHOD

A. Types of Research

Research is a search for true (scientific) knowledge because the results of this search will be used as an answer to a particular problem.⁵⁶

The type of research used to prepare the thesis is empirical juridical research, research that seeks to find primary data obtained directly from the implementation activities of waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang.

Empirical research commonly known as field research or research that uses approach, done in real life. In essence, this research is aimed to

⁵⁶ Amirudin Dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta :Rajawali Press, 2006), p. 19.

find out specifically and realistically about what is going on in the community.⁵⁷

B. Research Approach

In the preparation of this thesis the writer uses sociological juridical approach. The approach it self is a problem related to the way a person's review and in what way he approaches the sissue according to the knowledge he have. While the sociological approach is a method of research conducted to get primary data and find the truth by using the method of inductive thinking and criteria of truth correspondent and the fact that is used to perform the process of induction and truth testing in correspondence is an up-to-date fact.⁵⁸

The law as a theoretical idea is a norm containing commands, prohibitions, permits and dispensations. So the legal norms talk about what should and shouldn't, or what will, what is and what has happened. Where as the social facts discussing something connected with the law should be considered as a descriptive factor that adheres to cause and effect analysis. Starting from this view as jurists are guided that the issues that occur in law are social issues that require a sociological approach to analyze legal issues. The sociological juridical approach to

⁵⁷ Mardalis, *Metode Penelitian Suatu Pendekatan Proposal*, (Jakarta : PT Bumi Aksara, 1999), p. 28.

⁵⁸ Seorjono Soekanto & Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, (Jakarta : Rajawali Pers, 2001), p. 13.

law can be done by understanding the lack of public participation in spontaneous social control against certain formal law violations.⁵⁹

C. Research sites

The location of research related waqf of insurance policy is in Takaful Keluarga RO Khalifa Agency Malang, located on Simpang Soekarno Hatta Street Kav 1F Jatimulyo Lowokwaru Malang. Previously, the office of Takaful Keluarga Malang is located at Jalan Soekarno Hatta Kav 82 D. Its location in the city so easy to find.

D. Data sources

Data is the most essential in solving or answering research problems. The data sources used in this study are as follows:

a) Primary data

Primary data is data sourced from informants who know clearly and detailed about the problem being studied. This primary data is the primary data source that usually takes the form of words and actions. To get the primary data is the authors conducted interviews on informants, namely Mrs Imama Zuhro as chairman, business owner and sales manager in Takaful Keluarga RO Khalifa Agency Malang.

⁵⁹ Bahder Johan Nasution, *Metode Penelitian Hukum*, (Bandung : Mandar Maju, 2008), p. 126.

b) Secondary data

Secondary data is data not collected by the author it self, where the data comes from second, third, and so on. This means that passing one or more parties that are not authors them selves, so it takes more precision to avoid mistakes.⁶⁰ This secondary data helps the authors to obtain evidence as well as materials to be studied, so that the authors can solve or complete a good premises research because it is supported from books, or journals that have been published.

E. Data Collecting Technique

In this study, the author uses several methods, including:

a. Interview

Interviews are conversations with a specific purpose. The conversation was conducted by two parties, namely the interviewer (interviewer) who asked questions and interviewees (interviewee) who provide answers to the question. In this case the author will conduct an interview to the Takaful Keluarga RO Khalifa Agency Malang.

Excavation of primary data source is done by semi-structured interview because the interview is done by making a list of questions that are arranged, but in practice more flexible. This is due to the interviewer to get more detailed information about the problem.

⁶⁰ Marzuki, *Metodologi Riset*, (Yogyakarta : PT. Prasetia Widia Pratama, 2000), p. 56.

b. Documentation

Documentation is a data collection technique aimed at the subject of research. Secondary data source excavation is done by documentation of books, articles and some other references that discusses about waqf of insurance benefit to better complement the data required by the researcher.

F. Data Analysis Technique

In managing the over all data must be a procedure of management and data analysis in accordance with the approach used. The data analysis used by the researcher is based on Miles and Huberman model, which consists of three simultaneous activity flow, are data reduction, data presentation, and conclusion.⁶¹

a. Data Reduction

Data reduction is a sensitive thinking process that requires high intelligence, breadth and depth of insight. In this early stage, the researcher will correct the data obtained from interviews and data from documents of books, articles and other references that discuss about waqf of insurance benefit.

b. Data Display

After the data is reduced, the next step displays the data. In qualitative research, the presentation of data can be done in the form of brief descriptions, charts, relationships between categories, and

⁶¹ Sugiyono, *Metode Penelitian Pendidikan*, (Bandung : Alfabeta, 2011), p. 337.

flowchart. The most commonly used to present data in qualitative research is narrative text.

Thus, in this process the writer arranges the results of interviews and documents of books, articles and other references about waqf of insurance benefit to be easily understood. Furthermore, writer build and describe through analysis and reasoning, so that in the end can be obtained a description about the practice of waqf of insurance benefit contained in Takaful Keluarga RO Khalifa Agency Malang.

c. Conclusion Drawing / Verification

According to Milles and Huberman the first conclusions are still transient, and will change if no evidence found to be strong and supportive in the early stages, supported by valid and consistent evidence when researchers return to the field to collect data, the conclusions drawn are conclusions which is credible. So all the data that has been through the above stages, then will be drawn conclusions in accordance with the facts that occur.

G. Data Validity Technique

In applying the validity of the data, it is necessary to inspect techniques, which are based on certain criteria. According Moleong, there are four criteria used, namely the *degree of trust (credibility)*, *expertise (transferability)*, *dependability*, and *certainty (confirmability)*.⁶²

⁶² Lexy. J. Moleong, *Metodologi Penelitian Kualitatif*, (Bandung : Remaja Rosda Karya, 2005), p. 324.

Furthermore, of the four criteria the writer use three criteria to check the validity of data, due or on the grounds that these three criteria can be used as a benchmark to be able to guarantee the validity of data obtained in the study.

a. Credibility

Credibility can be used in this study to prove the appropriateness between the observed results and the reality in the field. In this case, the writer refer to the recommendations of Lincoln and Guba (1985) which provide seven techniques for achieving credibility of data, namely (a) Extending observation, (b) Continuous observation, (c) Triangulation, (d) Talking with colleagues, (e) Analyzing negative cases, (f) Using reference materials, (g) Conducting member checks.

Of the seven achievements of the credibility, the author chose the following steps:

1. Extension of observation

The writer lives in the same city as the research location until data collection is achieved. Namely in the city of Malang, Takaful Kelurga RO Khalifa Agency. The research location is located at Simpang Soekarno Hatta Street Kav 1F Jatimulyo Lowokwaru Malang. With an extension of the writer's observation will enable the increased degree of confidence of the data collected.⁶³ With the extension of this observation, the writer check back whether the data obtained or given by this

⁶³ Lexy. J. Moleong, *Metodologi Penelitian Kualitatif*, p. 248.

informant is correct or still something is wrong, so if there is any wrong or not correct, then the writer will go down to the field again by doing more observations more broad and deep to obtain the exact data.

2. Observational perseverance

Make observations or continuous observation of the subject of study to understand the phenomenon more deeply, so knowing the aspect importantly, focused and relevant to the research topic.

3. Triangulation

The technique of examining the validity of data by utilizing various sources outside the data as a comparison material. Triangulation used by researchers are three, namely:

- a) Triangulation of data, that is by comparing data of result of observation with result of interview, data result of interview with documentation, and data of result of observation with documentation. The results of this study are expected to unite the perception of the data obtained.
- b) Triangulation method done by researcher to search data about phenomenon which have been obtained by using different method that is interview, observation, and documentation. The results obtained by using different methods that by comparing and concluded so as to obtain data that is trusted.

c) Triangulation of sources by the writer by comparing the truth of the phenomenon based on the data obtained by the author both seen from the dimension of time and other sources.

c. Depentability

To avoid mistakes in formulating the results of research, the conclusions and interpretations of data written will be consultation with various parties to examine the process of research conducted by the author, so that the findings of the authors can be justified scientifically. One of the participants who examined in this study was supervisor.

d. Confirmability

Confirmability in the study is done simultaneously with depentability, the difference is assessment orientation. Confirmability is used to assess the result of research product. Depentability is used to assess the research process, start collecting data up to structured report form is good. With this depentability and confirmability, it is expected that the research results will meet the qualitative research standards.



CHAPTER IV

FINDING AND DISCUSSION

A. Data Exposure

1. PT Takaful Keluarga RO Agency Malang City

Takaful Keluarga is the pioneer of sharia life insurance companies in Indonesia. Beginning its operation since 1994, Takaful Keluarga develops various products to fulfill sharia insured needs including life protection, health protection, child education planning, elderly planning, and become the best partner in investment planning

In order to improve operational and service quality, Takaful Keluarga has obtained ISO 9001: 2008 certification from Det Norske Veritas (DVN), Norwegia, in November 2009 as the latest international standard for quality management system. Takaful Keluarga is registered

and overseen by the Financial Services Authority (OJK) and has a marketing force licensed by the Asosiasi Asuransi Syariah Indonesia (AASI). The positive performance of Takaful Keluarga from year to year is evidenced by the achievement of prestigious awards given by various institutions.

Starting from a sincere concern, some parties agreed to build sharia economy in Indonesia. On the initiative of Ikatan Cendekiawan Muslim Indonesia (ICMI) through Abdi Bangsa Foundation, along with Bank Muamalat Indonesia Tbk., PT Asuransi Jiwa Tugu Mandiri, the Ministry of Finance, and some Indonesian Muslim businessmen, and technical support of Syarikat Takaful Malaysia Bhd. (STMB), Indonesian Sharia Insurance Formation Team (TEPATI) established PT. Syarikat Takaful Indonesia (Takaful Indonesia) in February 1994, as a pioneer company of the development of sharia insurance in Indonesia.

Furthermore, on May 5, 1994 Takaful Indonesia established the Takaful Keluarga Insurance (Takaful Keluarga) as the first sharia life insurance company in Indonesia. Takaful Keluarga was inaugurated by the Minister of Finance, Mar'ie Muhammad and began operating since August 25, 1994. In order to complete the services in the loss insurance sector, PT. Asuransi Takaful Umum (General Takaful) was established as a subsidiary of Takaful Keluarga inaugurated by Prof. Dr. BJ. Habibie, as chairman and founder of ICMI, and operated in June 1995.

Now, as the growth of Islamic insurance industry in Indonesia, Takaful Keluarga continue to work hard to run the mandate of all the ideals of the founders to participate in the strengthening of the vertices of the sharia economic development in Indonesia.⁶⁴

In Takaful Keluarga RO Khalifa Agency Malang City has a product element saving and non saving elements. The element of saving is paid funds will go into tabarru', company, and savings. Among the elements of saving elements are takaful salam and takafulink salam (Fulnadi). Takaful salam can be used for pensions, health packages and also heirs. And fulnadi for education. While the element of non saving is the premium (contribution) of funds that come partly to the tabarru and operational, so if there is no claim then the customer does not get any funds at all. Then the non saving element is al-khairat for accident, health and death. But the most followed by customers in the takaful keluarga saving products such as takaful salam.

2. Organizational structure

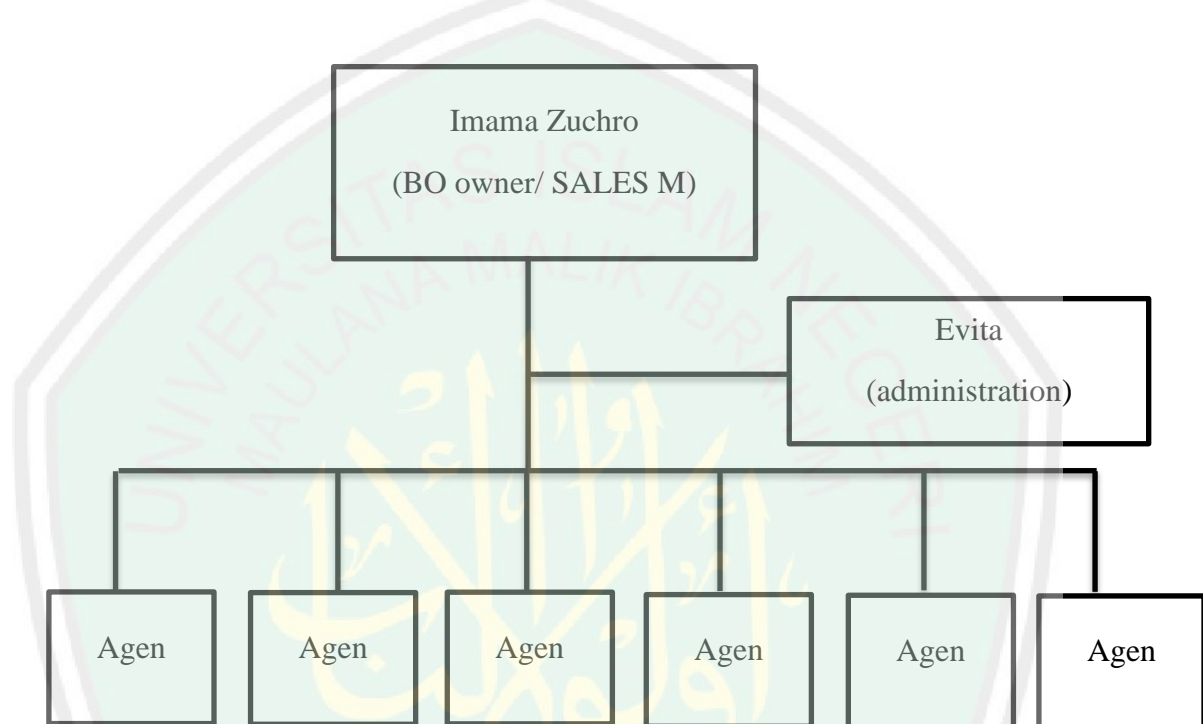
Organizational structure is a form of the effectiveness of an organization or agency. Which has a function to facilitate the way to work of an organization, so that everyone has a responsibility to his position or to his work. Not walking like a one man show or one who works, but all help each other because they have their respective positions to carry out their duties. If its run well, it will help the company to compete with others to provide good service.

⁶⁴ <http://www.takaful.co.id/profil-perusahaan> accessed on 13 April 2018.

The following authors present the organizational structure of PT Takaful Family RO Khalifa Agency Malang:⁶⁵

Figure 1

Organizational Structure



3. Vision and Mission of Takaful Keluarga Malang

Vision:

Becoming a leading sharia life insurance company in service, operations and growth of sharia business in Indonesia with professional, trustworthy, and beneficial to society.

Mission:

- Organize the sharia insurance business professionally by having excellence in operational standards and services.

⁶⁵ Processed by Interview with Imamah Zuhro, on 17 April 2018.

- Creating a reliable human resource through sustainable human resource development program.
- Utilizing technology that is integrated with oriented on service and speed, convenience and informative.

B. Waqf of Insurance Benefit In Takaful Keluarga RO Khalifa Agency.

Indonesia is country with the largest muslim population in the world. Countries with these advantages should be able to provide new breakthroughs in mualamah to improve the economy of the community. One of them is waqf. Waqf is derived from the word *waqafa* which means "to withhold" or "stop" or "stay still."⁶⁶ While in term, the jurists differed opinions. According to Abu Hanifah argue, waqf is to hold an object which according to the law still belongs to the *wakif* in order to use the benefits for virtue or kindness. According to Syafi'i and Ahmad ibn Hambal argues, waqf is the release of the wealth which is represented from the *wakif* ownership, after the waqf is perfect procedure.⁶⁷

Along with the development of science and human needs, so was born various type of waqf, such as cash waqf, productive waqf, and the new is waqf of insurance benefit. Waqf of insurance benefit is waqf on an insurance policy in the form of sharia where the value of the investment or insurance benefits donate to by major insured with the knowledge of the

⁶⁶ *Fiqih Wakaf*, (Jakarta : Direktorat Pemberdayaan Wakaf, Direktorat Jenderal Bimbingan Masyarakat Islam Departemen Agama RI, 2007), p. 1.

⁶⁷ *Fiqih Wakaf*, p. 3.

heirs when the benefits of the policy is due or *wakif* died.⁶⁸ Waqf combined with insurance is expected to be a breakthrough in community empowerment. Seeing the usefulness offered by product of waqf of insurance benefit, so this product adopted by Takaful Keluarga RO Khalifa Agency Malang .

a) Advantages and disadvantages of waqf of insurance benefit in Takaful Keluarga RO Khalifa Malang.

Waqf product of insurance benefit issued in Takaful Keluarga RO Khalifa Agency Malang is still fairly new, so far there is little who participated in this product. Waqf of insurance benefit in Takaful Keluarga RO Khalifa Agency Malang has own name, namely takafulink salam wakaf. The advantages offered from these products in Takaful Keluarga RO Khalifa Agency are as follows:⁶⁹

1. Beneficiaries consist of :
 - a. Waqf institution (maximum of 45% of death benefit and 33% of fund balance)
 - b. Receiver beneficiaries who have family relationships.
2. Maximum life-protection benefits
 - a. Takafulink salam wakaf provide maximum life protection benefits of up to 80 years with benefits that can be adjusted to get the best for participants.

⁶⁸ <http://www.wakafalazhar.or.id/produk/9-Wakaf+Wasiat+Polis+Asuransi/> accessed on 18 April 2018.

⁶⁹ Brosur of Takafulink Salam Wakaf, PT Takaful Keluarga.

b. Takafulink salam wakaf provides the benefits of extension of additional protection such as:

- Personal accident insurance / PA (protection against risk of death by accident).
- Additional insurance in the form of payment of contributions due to critical illness (49 diseases).
- Additional insurance in the form of waiver of contribution payments due to total permanent disability due to illness or accident.

3. Optimal investment benefits

Since starting the protection, takafulink salam wakaf gives positive investment value since the first year and then increase from year to year. Participants can choose the type of investment according to the participant's investment profile. Takafulink salam wakaf offers 4 types of investments that can suit the needs of the participants. Among the investment offered are:

a. Istiqomah (money market and *sukuk*)

The investment allocation for this type of investment includes:

- Minimum 80%: Sharia fixed income effect
- Maximum 20%: Sharia currency instruments

b. Mizan (balanced)

Allocation of investment in this type of investment include:

- 50% - 70%: Sharia fixed income effect
- 20% - 40%: Sharia shares

- Maximum 20%: syariah money market instruments

c. Ahsan (aggressive balance)

Allocation of investment in this type of investment include:

- 20% - 40%: fixed income effect of sharia
- 50% - 70%: Sharia shares
- Maximum 20%: syariah money market instruments

e. Alia (aggressive)

Allocation of investment in this type of investment include:

- Minimum 80%: Sharia shares
- Maximum 20%: syariah money market instruments.

In addition to the advantages offered, then there are some benefit or advantage provided by the Takaful Keluarga products Takafulink salam wakaf related to the participants, including:⁷⁰

1. Can be owned from the age of 17th years until the age of 65th years with the age of the policyholder equal to the age of the participant.
2. Can choose the period of payment of contribution in accordance with the ability of the participants and make sure the participants pay contributions regularly. The longer of participants pay the contribution so greater the return on investment that the participants get.
3. Affordable basic contributions can be paid on an annual, quarterly, quarterly, monthly and even basis, and participants

⁷⁰ Brosur of Takafulink Salam Wakaf, PT Takaful Keluarga.

can combine with periodic top ups to increase the participant's investment funds.

4. Irragular top ups can be done anytime to increase the participant's investment fund.
5. Free administration fee for the first 12 months.
6. Participants may transfer and withdraw funds at any time.
7. Participants may take leave of contributions after the 5 year.
8. Participants may receive transaction reports on investment returns at least once a year.
9. The development of takafulink value can be seen in the print media, www.takaful.co.id or contact takaful customer care.
10. God willing, the participant's investment will be safe and clean because it will be counted against the participant *zakah maal*.

Among the various advantages by takafulink salam wakaf not directly make this product in demand among the community. The absence of a good response from the community compared with the waqf moving and immovable objects. This is due to lack of public understanding of the position of the waqf of insurance benefit. As mentioned earlier, the waqf of insurance benefit has great potential for empowerment of society. Same with the cash waqf, it's just waqf of insurance benefit provides convenience to donate (waqf) although one day the *wakiif* (customers) died in the policy period and pay a premium (contribution) only a few months, but the insurer acts as a

representative to donate to amount of money as already stated in *wakif's* policy.

b) Opportunities and threat of Takafulink Salam Waqf in Takaful Keluarga RO Khalifa Agency Malang.

Indonesia is a country whose majority are Muslims, so that waqf have a unique opportunity of create investments in the fields of religion, education and social services. Various types of waqf are proclaimed to continue to provide prosperity to the community. Welfare it self literally means security, a concept that shows the circumstances, which everyone, individually and as a member of society can easily meet their needs. For that must be available goods and services that can be obtained with a relatively cheap price. Welfare is the condition of people living safe and peaceful and can meet the needs of his life.⁷¹ Thus , the waqf of insurance benefit comes with an offer to provide convenience to the public in representing. Waqf combine with insurance have a great opportunity in the empowerment of the society the same with the benefits of cash waqf. Takaful Keluarga is the first sharia insurance company in Indonesia, it can be said pioneer of Sharia insurance in Indonesia. Various awards have been obtained. So this becomes an opportunity to attract people join with Takaful Keluarga in planning waqf (takafulink salam wakaf).

The challenge of Takaful Keluarga are many sharia insurance companies that also make waqf of insurance benefit as one of his

⁷¹ Farid Wadjdy dan Mursyid, *Wakaf dan Kesejahteraan Umat (Filantropi Islam yang Hampir Terlupakan)*, (Yogyakarta : Pustaka Pelajar, 2007). p. 76.

products. Here, the public will choose which sharia insurance companies they are more confident with the various advantages offered by each company. In addition to the rival sharia insurance companies, the next challenge is the people who are still foreign to the waqf of insurance benefit because it is still not comprehensive information related to waqf of insurance benefit. So it becomes a challenge for Takaful Keluarga RO Khelifa Agency Malang to socialize the product to the community so that more and more people join and realize the benefits derived from waqf of insurance benefit (takafulink salam wakaf) for him self and the society's economy in the future.

C. Review of the Fatwa DSN-MUI No. 106 / DSN-MUI / X / 2016 about Waqf of Insurance Benefit in Takaful Keluarga RO Khalifa Agency Malang.

Waqf derived from the word *waqafa-yaqifu* which means stop, the opposite of the word *istamâra*. Waqf by term is the arrest of the treasures taken without immediate destruction and for the use of the *mubah* and is intended to obtain the blessings of Allah SWT.⁷² Sharia insurance is an effort to protect each other and mutual help between a piece of people through investment in the form of the assets and / or tabarru' which provide a pattern of return to face certain risks through a contract that is in accordance with sharia principles. While an insurance benefit is an insurance agreement or other document similar to an insurance agreement,

⁷² Depag RI, *Pedoman Pengelolaan Dan Pengembangan Wakaf*, p. 25.

as well as other documents that constitute an inseparable part of an insurance agreement, which is made in writing and contains an agreement between the insurer and the policyholder.⁷³ Thus waqf of insurance benefit is waqf in the form of sharia policy where the value of the investment or insurance benefits donate to by major insured with the knowledge of the heirs when the benefits of the policy is due or *wakif* died.

Waqf is fairly new, so it is expected with this product can improve the economy of the community. Where the waqf of this insurance benefit has been adopted by various insurance institutions of sharia in Indonesia, including PT Takaful Keluarga RO Khalifa Agency Malang . If viewed from Islmic ecomics, this is a part of Islamic philanthropy that should be managed productively, the core asset forbidden to decreased and actually must increased the value and usefulness.⁷⁴ This product can be regarded as a springboard in the Islamic economy, due to a combination of insurance with waqf. In this modern era make people think more and prepare for life in the future, so not a little who have joined the insurance companies from the conventional sharia insurance to prepare for family life in the future.

Seen from the distribution, waqf of insurance benefit is as expected in an cash waqf meaning that waqf that do a person, group of people, and the institution or legal entity in the form of money . Similarly, waqf of insurance benefit, which when its due or *wakif* (customers) died then automatically partially insurance benefits and investment benefits in the

⁷³ Peraturan Otoritas Jasa Keuangan Nomor 23/POJK.05/2015 About Produk Asuransi dan Pemasaran Produk Asuransi, p. 3.

⁷⁴ Jurnal Wakaf Wasiat Polis Asuransi Perspektik Ekonomi Islam.

waqf in accordance with the written in contract or policy, thus the form of the policy represented is already disbursed as money. Waqf with money, seen as one of an option that can make waqf achieve more results. Because in cash waqf, money is not only used as a medium of exchange only. More than that, it is a commodity that must have a yield and useful for the development of other economic activity.

Economically, cash waqf is very big potential to be developed, because with cash waqf model the reach and mobilization will be much more evenly in the midst of society compared with the traditional waqf model (waqf in the form of land and building). For waqf of land and buildings can only be done by families or individuals who are fairly capable (rich) only.⁷⁵ Based on the exposure related to the cash waqf, the waqf of this insurance benefit is seen as a derivative of cash waqf, which provides a wider and better utilization, for the *wakiif* and the *mauquf alaih*. Among the greatness offered by the waqf of insurance benefit is adpoted by sharia insurance companies in Indonesia.

Takaful Keluarga RO Khalifa Agency Malang has name which is different from other related waqf of insurance benefit, that is by the name of takafulink salam wakaf. This product is relatively the same with other salam products in terms of contract and management, it is based on the explain of Imamah Zuhroh as owner Takaful Family RO Khalifa Agency Malang.

⁷⁵ Suhrawardi K. Lubis, dkk., *Wakaf Dan Pemberdayaan Umat*, (Jakarta : Sinar Grafika, 2010), p. 109.

" *Takafulink salam wakaf is relatively the same as salam product. As the core contract is tabarru 'or mutual help, so essentially if something happens to the customer, tabarru' or the fund of mutual help this will move to lighten the family burden .* " ⁷⁶

So the writer describe, contracts (akad) that is used in takafulink salam wakaf there are 3 akads, namely tabarru', *mudharabah*, and *akad wakalah bil ujah*. Akad tabarru' is a contract done with the purpose of kindness and help, where participants sincerely provide some funds to be used to help others or for social activities. The second contract is the *mudharabah* contract, which is profit sharing. So here the participants positions as *shahibul maal* (owner of capital) and insurance company as *mudharib* (receiver of payment from participants to be administrated and invested in accordance with sharia principles), with the percentage of profit sharing agreed by both of parties. As for the investation as described above, prospective participants can choose their own product which investment which will be selected, so that participants are given the freedom to invest in accordance with the provisions set by the company.

Akad tabarru' which has the main goal is to realize the mutual help attitude between participants with mutual risk sharing. While contract of *mudharabah* goal is profit and loss sharing. The point is to share the benefits and disadvantages. If there is a loss, then the loss will be shared, if your benefit from the investment, it will be divided in accordance with the agreement or agreement of both of parties.

⁷⁶ Interview, Imamah Zuhroh, Date 17 April 2018.

In practice, akad tabarru' will be put together in one account which is devoted to the fund of mutual help when one of the participants suffered losses. Also with *mudharabah* agreement, the funds of participants who collected in the insurance company will be invested in the form of business projected to generate profits (profit).

The last is akad *wakalah bil ujah*, as already regulated in fatwa No 52 / DSN-MUI / III / 2006, *wakalah bil ujah* is giving authorization from participant to insurance company to manage participant fund and / or doing other activities such as administration, managing funds, payment of claims, underwriting, risk portofolio management, marketing and investment. *Wakalah bil ujah* can be applied to insurance products that contain elements of saving and non saving.

Waqf of insurance benefit is one of the programs or products that use saving system. That is every participant must pay a some of money (premium) regularly to company. The amount of contribution paid depends on the participant's finances. However, the company determines the minimum amount of contribution to be paid. Each contribution paid by the participant will be split into two different accounts.⁷⁷ *First*, the participant's savings account, which is the funds belonging to the participant, paid when the agreement expires, the participant resigns, and dies. *Second*, tabarru' account is a collection of the virtue funds that have been devised by the participants as a contribution of the benevolent fund for the purpose of mutual help and mutual assistance, paid when the

⁷⁷ Muhammad Syakir Sula, *Asuransi Syariah*, p. 177.

participant dies, and the agreement has expired (if there is a surplus of funds). The mechanism of fund management in saving system can be seen as follows: (see table 4: Fund Management Mechanism In Products Containing Savings Elements).

In the registration process the participant in the takafulink salam wakaf is the same as when listing in other insurance product. The distinguishes is the utilization. Namely takafulink salam wakaf for social activities not only for families / heirs but can be for the general public.⁷⁸ Takafulink salam wakaf or generally language is a waqf of insurance benefit, the application in PT Takaful Keluarga RO Khalifa Agency Malang as like explained by Imamah is as follows:

*" In terms of investment funds, the company's position as a deputy, with the akad of wakalah Ujroh bil. Then there are two circumstances, namely Investment returns if nothing happens to the customer until the end of the contract period, then the investment or the management of funds or the final balance is a maximum of 1/3 used for waqf, in accordance with the testament law of a maximum of 1/3. And if something happens during the agreement, if in conventional insurance there is a sum insured, if in takaful the name al-khairat (fund). Dana al-Khairat if from fatwa DSN-MUI to takafulink salam wakaf max 45% use for waqf. So if something happens then the investment of 1/3 and from al-khairatnya is 45% . "*⁷⁹

Example:

Someone who pays a contribution of Rp. 1.000.000,- every month, while he wants al-khairat funds of Rp. 500.000.000,- if something happens to the customer (died) then that can be represented is 45% from al-khairat funds of Rp. 500,000,000 and 1/3 of the benefits investment.

⁷⁸ Interview, Imamah Zuhroh, Date 17 April 2018.

⁷⁹ Interview, Imamah Zuhroh, Date 17 April 2018.

Takafulink salam wakaf is as a form of planning offered by insurance companies Takaful Keluarga to facilitate customers or people who want waqf.⁸⁰ Also can be called a waqf tube. So whatever the customer wants to be represented, takaful will help plan how much contribution to be paid each month in accordance with the customer's ability. Not necessarily every month, in this Takaful Keluarga provide variations of payment that can ever month, quarter, semester, or a year. The minimum contribution in this product that must be paid by the customer is Rp. 300.000,- same with other salam products.⁸¹ The distinguishes is the *ujrah* for the company it self (Takaful Keluarga) according to Imamah is *ujrah* for this product is smaller than the *ujrah* in other products, although not yet known what the nominal or percentage. And inside the policy there is the name of the heirs, the foundation to be addressed or additional form for nadzir. The mechanism taken by Takaful Keluarga in the management of takafulink salam wakaf product is as follows:⁸²

1. Part of the contributions that participants deposit will be allocated for investment purposes using unit mechanisms, where the units are referred to as unit values. The unit valuation is conducted every exchange day using the market method applicable to each investment instrument (which will be published every subsequent business day).

⁸⁰Interview, Imamah Zuhroh, Date 17 April 2018.

⁸¹Interview, Imamah Zuhroh, Date 17 April 2018.

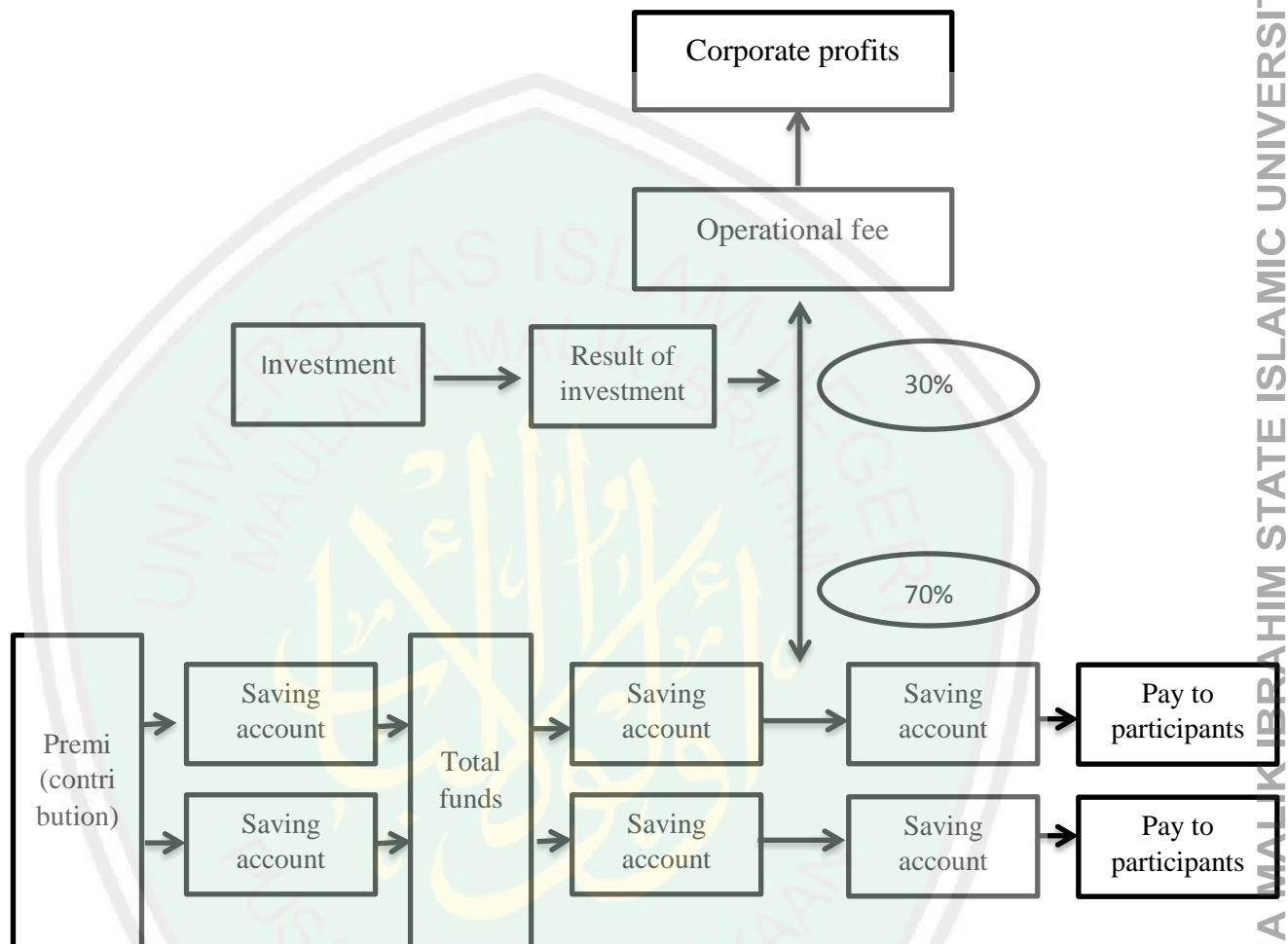
⁸² Brosur of Takafulink Salam Wakaf, PT Takaful Keluarga.

2. *Ujrah* (acquisition costs) will be charged from contributions that participants deposit in the early years of participation.
3. 'Tabarru' (insurance fee) and administration fee are charged monthly by cutting unit balances (tabarru' size is determined based on age, gender and amount of takaful benefits taken).
4. Administration fee of Rp. 25.000, - per month, cut from investment unit starting from second year
5. No withdrawal fees
6. Free look fees, redirects and withdrawals will only apply if you make the withdrawal.

Waqf of insurance benefit or takafulink salam wakaf is relatively new in Takaful Keluarga RO Khalifa Agency Malang , there is little customer incorporated in that product.⁸³ However, it does not preclude the spirit of employees or insurance agents and their staff to continue to socialize to the public.

⁸³ Interview, Imamah Zuhroh, Date 17 April 2018.

Table 4: Fund Management Mechanisms on Products Containing Savings Elements (*Mudharabah Relations*)



From the scheme above, we can see that in sharia life insurance there are two accounts provided, namely savings account and special account. Separation of accounts is done to answer the problem of uncertainty (gharar) on conventional insurance practices from the side of claims payments. Well from tabarru' funds that is called the insurance benefits that can donate to maximum 45%, and from the benefits of investing only 1/3 of total wealth, and this is equated with the will, due to the heirs who are entitled to receive it.

To answer the question of waqf of insurance benefit that has not had legal related to the implementation and also to fulfill human need related muamalah that majority of population in Indonesia is muslim, then released Fatwa DSN MUI No.106/DSN-MUI/X/2016 about Waqf Benefit of Insurance And Benefits of Investing in Sharia Life Insurance. Among the general provisions of the fatwa are:

First , in principle, the insurance benefit is intended to mitigate the risk of the participant or the appointed party. *Second* , the benefits of insurance and the benefits of investment in legal life insurance may follow the provisions contained in this fatwa.

From the provisions of fatwa in second point, it is very clear that the application of waqf of insurance benefit is allowed under conditions must be in accordance or follow the provisions of fatwas about the benefits of insurance and investment benefits on sharia life insurance. The reason for this is allowed by various considerations, such as the DSN-MUI Fatwa Number: 21/DSN-MUI/X/2001 on General Guidelines of Sharia Insurance, DSN-MUI Fatwa Number: 51/DSN-MUI/III/2006 on *Akad Mudharabah Musytarakah* Sharia Insurance (Second Rule, Legal Provision, number 2), Fatwa DSN-MUI NO: 85/DSN-MUI/XII/2012 About Promise (*Wa'd*) In Financial Transactions and Sharia Business , fatwas and laws on cash waqf, and so forth.

Fatwa DSN MUI No.106/DSN-MUI/X/2016 explains the ability of waqf in 2 forms, namely waqf of insurance benefits that can be treated as tabarru' funds, and investment benefits. Both of the components

described in the fatwa on the theme "*general provisions*". Among the provisions are as follows:

First, Waqf is to withhold treasures that can be utilized and / or dismissed without disappearance, by not selling, granting, and / or passing it on, and the proceeds channeled to something muted to the beneficiaries of the waqf. **Second, Benefit of Insurance** is the amount of funds sourced from Tabarru' Fund which is handed over to the affected party or the appointed party to receive it. **Third, Investment Benefit** is the amount of funds handed over to the participants of the insurance program derived from the participant's investment contribution and the investment returns.

Based on the explain of the related understanding of insurance benefits and investment benefits on sharia life insurance can be used as a benchmark for insurance companies that makes the product of waqf of insurance benefit as one of the products in his company. Benefits of insurance is tabarru funds that are in sincere funds by participants to help others not for trade or trade that can produce. So must be provided separate accounts, special funds tabarru so not mixed with *tijarah* funds. While the benefits of insurance investment here comes from the contribution of participants and their investment returns. In that fatwa not mentioned investment in what form, so here the insurance company can help invest and free invest to financial institutions or other institutions that have been provided by the insurance company and certainly not contrary to Islamic Shari'a. Takaful Keluarga RO Khalifa in Malang

Agency it self offer the various forms of investment, including the following:

1. Istiqomah (money market and sukuk)

The investment allocation for this type of investment includes:

- Minimum 80%: Sharia fixed income effect
- Maximum 20%: syariah money market instruments

2. Mizan (balanced)

Allocation of investment in this type of investment include:

- 50% - 70%: Sharia fixed income effect
- 20% - 40%: Sharia shares
- Maximum 20%: syariah money market instruments

3. Ahsan (aggressive balance)

Allocation of investment in this type of investment include:

- 20% - 40%: fixed income effect of sharia
- 50% - 70%: Sharia shares
- Maximum 20%: syariah money market instruments

4. Alia (aggressive)

Allocation of investment in this type of investment include:

- Minimum 80%: Sharia shares
- Maximum 20%: syariah money market instruments.

Related to the nominal provisions or percentage of the benefits of insurance and investment benefits on sharia life insurance that is allowed to be represented is explained in the third point of Fatwa. 106 / DSN-

MUI / X / 2016 regarding "Special Terms", among its provisions are as follows:

First, Provisions of Waqf of Insurance Benefit: (a) The appointed party to receive the insurance benefit states a binding promise (*wa'd mulzim*) to donate to insurance benefits; (b) insurance benefits that may be represented at most 45% of the total insurance benefit; (c) All of the designated insurance prospective beneficiaries or their successors express their consent and agreement; and (d) the waqf scheme is implemented after the insurance benefit in principle has become the right of the appointed party or its successor. **Second**, Terms of Waqf of Investment Benefits : (a) The benefits of investment may be represented by the insurer; (b) The amount of investment benefits that may be represented at most one-third (1/3) of total wealth and / or *tirkah*, unless otherwise agreed by all heirs. **Third**, *Ujrah* Provisions relating to wakaf products : (a) First year's grant of 45% of regular contributions; (b) The accumulation of *ujrah* next year shall be at most 50% of the regular contribution.

The point that there are parties who want to donate insurance benefits and investments have a binding agreement, so that when something happens like a participant dies, then the policy will automatically be disbursed and insurance benefits and the benefits of the investment is given to the appointed party or in accordance with the names listed in the policy. Benefits of insurance that can be represented is a maximum of 45%. Must not exceed the provisions, because it is a

special participant funds by participants to help others when one of the participants experienced the disaster. However, for the benefit of the invests it is allowed to be represented at most 1/3 of the total wealth and / or tirkah unless there is another agreement by the heirs. This is equated with the wills which in the provisions of the testament may only entail 1/3 of the wealth. For ujahnya alone can only makismal 45% of regular contributions and should not be more than the provisions are for the first year, and for the next year is greater than the first year of the accumulation of a maximum of 50% of the regular contribution .

In the implementation of waqf of insurance benefit, when the *wakif* dies, then the company PT Takaful Keluarga RO Khalifa Agency Malang role as *waakil*, namely the party representing for waqf from the *waakif*, people or institutions that represent participants to manage funds that will be is represented is due or when the *wakif* dies. Waqf is one of the good deeds which will be a *jariyah* charity for those who do it. But of course with the condition of Indonesian society that is not all upper middle economy, then this waqf suitable for those who want to waqf but don't have a lot of money. Because it will be difficult when someone wants to waqf and must at that time also much money already in the hand. The existence of this waqf planning is felt to facilitate the community to plan waqf funds, when something happens with the *waakif* (death) then automatically what is desired to waqf will be realized by the insurance even though participants only pay the premium / contribution a few months or years, by disbursing a maximum of 45% of insurance benefits

and investment benefits of 1/3 of the total wealth or 33% of the balance of investment funds. Thus, so takafulink salam wakaf in PT Takaful Keluarga RO Khalifa Agency can be said that the management is in accordance with the Fatwa DSN MUI No. 106/DSN-MUI/X/2016 about Waqf of Benefits Insurance and Benefits Investment Sharia Life Insurance. In terms of management is similar to Fatwa and there is no significant difference related to its implementation.

Table of validity of takafulink salam wakaf with the fatwa of DSN MUI NO. 106/DSN-MUI/X/2016.

NO	FATWA DSN MUI NO 106/DSN-MUI/X/2016	TAKAFULINK SALAM WAKAF
1.	Waqf is to withhold the assets which can be utilized and / or terminated without their disappearance, by not selling, granting, and / or bequeathing, and the results are channeled to something muted to the beneficiaries of the waqf.	✓
2.	The object of waqf are insurance benefits and investment benefits	✓
3.	The existence of a binding agreement	✓
4.	Waqf of insurance benefits max 45%	✓
5.	Waqf of investment benefits max 1/3	✓
6.	Approval of the heir	✓
7.	The waqf promise is implemented after the insurance benefit in principle has become the right of the designated party	✓
8.	First year wages max 45%	✓

9.	The next wages max 50%	✓
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Although it is in accordance with the fatwa of DSN MUI No. 106/DSN-MUI/X/2016, it is necessary to study about the arguments in the implementation of insurance benefit waqf. Judging from the laws of the compilation of civil code article 1320, the legal requirements for an agreement are four. Among them :

1. Agreed. Those who bind themselves are parties who enter into an agreement must agree on the contract that will be implemented, without any coercion, oversight, and fraud.

The insurance company before the contract between the customer, firstly explains about takafulink salam wakaf along with its provisions. So there is no coercion or fraud. If the customer feels agreed with what is offered, then there is a contract between them.

2. Proficiency. The parties that enter into an agreement be competent according to law, and have the right and authority to enter into an agreement.

The insurance will really recognize the customer because of the element of caution. And it is proper for every insurance company to know which person is capable of making an agreement or not to avoid the risk that will occur later. The criteria for those who are capable of law are found in article 1330 of civil code, namely :

- a. An immature person
- b. Under supervision
- c. Wife. This provision has been cased because of the law No. 1 of 1974 concerning marriage. Because article 31 of this law states that

the right and position of husband and wife are balanced and has the right to do legal action.

3. Object. The point is an object that is promise. Then it is clear that the object promised in takafulink salam wakaf is to donate the insurance benefit or investment benefits from sharia life insurance in accordance with what was agreed.
4. A halal reason . the contents and purpose of an agreement must on matters that are not contrary to law, decency and public order (article 1337 Civil Code). In article 1335 yhe civil code also determines that an agreement is made without a cause that is false or forbidden is not having legal force. Waqf of insurance benefit is something that can provide community empowerment, it is something that is allowed in Islam and regulated by law.

If viewed from the aspect of the legal requiremenets aspect of an agreement, then the agreement contained in the Takaful Keluarga RO Khalifa Agency Malang in its application is in accordance with the civil code article 1320.

CHAPTER V

CONCLUSION AND SUGGESTION

A. Conclusion

1. Implementation system of waqf of insurance benefit is waqf in the form of sharia insurance policy, where the value of the investment or insurance benefits donate to by major insured with the knowledge of the heirs when the benefits of the policy is due or *wakif* died. This waqf in Takaful Keluarga RO Khalifa Agency Malang named Takafulink Salam Wakaf. This product is a waqf planning provided by Takaful Keluarga with the aim of facilitating the community to realize their desire in waqf although the money has limited. Takafulink salam wakaf can be said as a stepping stone in the Islamic economy, because of the merger between insurance with waqf. This product provides various advantages to the customers, such

as maximum life protection benefits and optimal investment benefits. Even like that, still the lack of customers who join this product because this is a new in Takaful Keluarga. As for the benefits of insurance that may be donate (waqf) in PT Takaful Keluarga RO Khalifa Agency is a maximum of 45% and of insurance investment benefits that may be represented is 1/3 of the total wealth / 33% of the balance of investment funds. With lower fee (*ujrah*) than other salam product.

2. In a review of the Fatwa DSN-MUI 106/DSN-MUI/X/2016 on Waqf of Benefits Insurance and Insurance Benefits Invesment, takafulink salam waqf (waqf of insurance benefit) in Takaful Keluarga RO Khalifa Agency Malang has similarities with the fatwa. **Benefits of Insurance** is the amount of funds sourced from Tabarru' Fund which is handed over to the affected party or the appointed party to receive it. **Investment Benefits** is the amount of funds handed over to the participants of the insurance program derived from the contribution of the participant's investment and the investment proceeds. Insurance benefit that can be represented at most 45% of total insurance benefits. The levels of the benefits of investment may to donate (waqf) at most one-third (1/3) of the total wealth and / or tirkah, unless otherwise agreed by all the heirs.

B. Suggestion

From the research conducted during this time, the researcher want to give advice to the Department of Islamic Business Law The State of University of Maulana Malik Ibrahim Malang, practitioners, the sharia Insurance Company, especially Takaful Keluarga RO Khalifa Agency Malang / insurance institutions , and further research as follows:

1. For Sharia Business Law majors, with this research may be a material for curriculum preparation of the next course.
2. For practitioners, socialization efforts from various circles such as Muslim scholars and cleric, as well as religious and da'wah organizations are needed, so that the public can understand the urgency of the waqf of insurance benefit in an effort to build the eternal financial resources of the Ummah, whose benefits will flow like water never stop and in turn will be able to give birth to the benefit of Muslims. In addition, the reward will also continue to flow to the *wakif* even died.
3. For insurance institutions, Takafulink salam waqf products (waqf of insurance benefit) is a product that is not only for the benefit of the world, but it also affects the afterlife, the Hereafter. For the existence of the charity jariyah that continues to flow to the *wakif* because what of the represented. So hopefully PT Takaful Keluarga RO Khalifa or other insurance institutions to socialize waqf of insurance benefit to the public so that they know and can attract attention so that it can increase the number of participants that exist for the future.

4. For the next researcher, this research is expected to be a stepping stone in deeper study related to takafulink salam wakaf (waqf of insurance benefit) , so that can find something new for research.



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APPENDIXES

FATWA
DEWAN SYARIAH NASIONAL - MAJELIS ULAMA INDONESIA
 NO: 106/DSN-MUI/X/2016
 Tentang
WAKAF MANFAAT ASURANSI DAN MANFAAT INVESTASI
PADA ASURANSI JIWA SYARIAH

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Dewan Syariah Nasional-Majelis Ulama Indonesia (DSN-MUI) setelah,

Menimbang :

- a. bahwa masyarakat, lembaga wakaf, dan Lembaga Keuangan Syariah (LKS) memerlukan penjelasan dari segi syariah tentang hukum mewakafkan manfaat asuransi dan manfaat investasi pada asuransi jiwa syariah;
- b. bahwa ketentuan hukum mengenai mewakafkan manfaat asuransi dan manfaat investasi pada asuransi jiwa syariah belum diatur dalam fatwa DSN-MUI;
- c. bahwa atas dasar pertimbangan huruf a dan b, DSN-MUI memandang perlu menetapkan fatwa tentang wakaf manfaat asuransi dan manfaat investasi pada asuransi jiwa syariah untuk dijadikan pedoman;

Mengingat :

1. Firman Allah Swt.
 - a. Q.S. Al-Maidah (5):1

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوفُوا بِالْعُقُودِ...

"Hai orang yang beriman, Penuhilah akad-akad itu "

- b. Q.S. al-Isra' (17): 34

...وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مُمْسَقًا

" ...Dan penuhilah janji; sesungguhnya janji itu pasti diminta pertanggung jawabannya..."

- c. Q.S. Ali Imran (3): 92

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تَحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

"Kamu sekali-kali tidak sampai kepada kebajikan (yang sempurna), sebelum kamu menafkahkan sebagian harta yang kamu cintai. Dan apa saja yang kamu nafkahkan, maka sesungguhnya Allah mengetahuinya".

d. Q.S.AI-Baqarah (2): 267

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفَقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ

"Hai orang-orang yang beriman, nafkahkanlah (di jalan Allah) sebagian dari hasil usahamu yang baik-baik dan sebagian dari apa yang Kami keluarkan dari bumi untuk kamu..."

e. Q.S. Al-Maidah (5): 2

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

"Dan tolong-menolonglah kamu dalam (mengerjakan) kebajikan dan takwa dan jangan tolong-menolong dalam berbuat dosa dan pelanggaran. Dan bertakwalah kamu kepada Allah, sesungguhnya Allah amat berat siksa-Nya."

2. Hadis Nabi s.a.w.:

a. Hadis Nabi riwayat al-Nasa'i:

عن ابن عمر قال : قال عمر للنبي ﷺ : إن المائه سهم لي بخير لم أصب مالا قط أعجب إلي منها , قد أردت أن أتصدق بها , فقال النبي ﷺ : إحبس أصلها وسبل ثمرتها

"Diriwayatkan dari Ibn Umar ra, ia berkata: Umar ra berkata kepada Nabi saw., 'saya mempunyai seratus bagian (tanah/kebun) di Khaibar, belum pernah saya mendapatkan harta yang paling saya kagumi melebihi tanah itu; saya bermaksud menyedekahkannya. 'Nabi saw. berkata: 'tahanlah pokoknya dan sedekahkan hasilnya pada sabilillah'."

b. Hadis Nabi Riwayat Imam al-Bukhari

عن ابن عمر رضي الله عنهما أن عمر بن الخطاب أصاب أرضا بخيبر فأتى النبي صلى الله عليه وسلم يستأمره فيها فقال يا رسول الله إني أصبت أرضا بخيبر لم أصب مالا قط أنفسي عندي منه فما تأمر به قال إن شئت حبست أصلها و تصدقت بها عمر أنه لا يباع ولا يوهب ولا يورث وتصدق بها في الفقراء و في القربى وفي الرقاب وفي سبيل الله وابن السبيل والضيف لا جناح على من وليها أن يأكل منها بالمعروف ويطعم غير متمول قال فحدثت به ابن سيرين فقال غير متأثل مالا

Dari Ibnu Umar RA, bahwa Umar RA memperoleh sebidang tanah di Khaibar, kemudian menghadap kepada Rasulullah untuk mohon petunjuk. Umar berkata: Ya Rasulullah! Saya mendapatkan sebidang tanah di Khaibar, saya belum pernah mendapatkan harta sebaik itu, maka apakah yang engkau perintahkan kepadaku? Rasulullah bersabda: bila kau suka, kau tahan tanah itu dan engkau sedekahkan. Berkata Ibnu Umar; 'Kemudian Umar mensedekahkan tanah tersebut, (disertai persyaratan) tidak dijual, tidak diwariskan dan tidak juga dihibahkan, selanjutnya Umar menyedekahkannya kepada orang fakir, kaum kerabat, hamba sahaya, sabilillah, ibnu sabil, dan tamu. Dan tidak dilarang bagi yang mengelola tanah wakaf itu (pengurusnya) makan dari hasilnya dengan cara yang baik dengan tidak bermaksud menumpuk harta.

c. Hadis Nabi Riwayat Muslim:

عن أبي هريرة أن رسول الله ﷺ قال : إذا مات الإنسان انقطع عنه عمله إلا من ثلاثة إلا من صدقة جارية أو علم ينتفع به أو ولد صالح يدعو له

"Dari Abu Hurairah ra, Rasulullah saw. bersabda: 'Apabila seorang manusia meninggal dunia, terputus darinya amalnya kecuali dari tiga hal (yaitu): dari sedekah jariyah, ilmu yang bermanfaat, atau anak saleh yang mendoakannya. "

d. Hadis Nabi riwayat Imam al-Tirmidzi:

عن عمرو بن عوف المزني رضي الله تعالى عنه أن رسول الله صلى الله عليه وسلم قال : الصلح جائز بين المسلمين إلا صلحا حرم حلالا أو أحل حراما. والمسلمون على شروطهم, إلا شرطا حرم حلالا, أو أحل حراما

"Dari 'Amr bin 'Auf al-Muzanni, bahwa Rasulullah SAW bersabda, "Sulh (penyelesaian sengketa melalui musyawarah untuk mufakat) boleh dilakukan di antara kaum muslimin kecuali sulh yang mengharamkan yang halal atau menghalalkan yang haram; dan kaum muslimin terikat dengan syarat-syarat mereka kecuali syarat yang mengharamkan yang halal atau menghalalkan yang haram. "

3. Kaidah fikih :

الأصل في المعاملات الإباحة إلا أن يدل دليل على تحريمها

"Pada dasarnya, segala bentuk muamalat itu boleh dilakukan kecuali ada dalil yang mengharamkannya. "

Memperhatikan :

1. Penjelasan para fuqaha mengenai Mauquf bih.

- a. Wakaf adalah menahan harta yang dapat dimanfaatkan dan/atau diistisarkan tanpa lenyap bendanya, dengan tidak menjual, menghibahkan, dan/atau mewariskannya, dan hasilnya disalurkan pada sesuatu yang mubah kepada penerima manfaat wakaf yang ada.
- b. Syarat-syarat obyek wakaf menurut pendapat ulama, antara lain adalah:
 - 1) harta yang diwakafkan harus harta yang berharga/bernilai secara syariah (*mal mutaqawwam*);
 - 2) harta yang diwakafkan harus harta yang sudah jelas dan terukur (*ma'lum*); dan
 - 3) harta yang diwakafkan harus harta yang sudah menjadi milik penuh (*milik tam*) bagi wakif pada saat akad wakaf dilakukan.
2. Surat-surat terkait, yaitu:
 - a. Surat dari Sun Life Financial Syariah No. 01/E/SHD/11/2015 tanggal 27 Februari 2015 perihal Surat Konfirmasi Program Manfaat Investasi Asuransi Jiwa Syariah untuk Wakaf.
 - b. Surat dari Lembaga Wakaf AI-Azhar No.019/Dir-Wakaf/III/2014 tanggal 26 Maret 2014 perihal Permohonan Ketetapan Aspek Syariah atas Produk Wakaf Wasiat Polis Asuransi.
 - c. Keputusan Rapat Kerja DSN-MUI tanggal 11-13 Februari 2016 yang dilaksanakan di Bogor.
3. Fatwa DSN-MUI:
 - a. Fatwa DSN-MUI Nomor: 21/DSN-MUI/X/2001 tentang Pedoman Umum Asuransi Syariah;
 - b. Fatwa DSN-MUI Nomor: 51/DSN-MUI/III/2006 tentang Akad Mudharabah Musytarakah pada Asuransi Syariah (Ketentuan Kedua, Ketentuan Hukum, angka 2); dan
 - c. Fatwa DSN-MUI NO: 85/DSN-MUI/XII/2012 Tentang Janji (*Wa'd*) Dalam Transaksi Keuangan Dan Bisnis Syariah
4. Fatwa MUI tentang Wakaf Uang tanggal 11 Mei 2002
5. Pendapat peserta Rapat Pleno DSN-MUI tanggal 01 Oktober 2016

MEMUTUSKAN:

Menetapkan :FATWA TENTANG WAKAF MANFAAT ASURANSI DAN MANFAAT INVESTASI PADA ASURANSI JIWA SYARIAH

Pertama : Ketentuan Umum

Dalam fatwa ini yang dimaksud dengan:

1. Wakaf adalah menahan harta yang dapat dimanfaatkan dan/atau diistitsmar-kan tanpa lenyap bendanya, dengan tidak menjual, menghibahkan, dan/atau mewariskannya, dan hasilnya disalurkan pada sesuatu yang mubah kepada penerima manfaat wakaf yang ada.
2. **Manfaat Asuransi** adalah sejumlah dana yang bersumber dari Dana Tabarru' yang diserahkan kepada pihak yang mengalami musibah atau pihak yang ditunjuk untuk menerimanya.
3. **Manfaat Investasi** adalah sejumlah dana yang diserahkan kepada peserta program asuransi yang berasal dari kontribusi investasi peserta dan hasil investasinya.

Kedua : Ketentuan Hukum

1. Pada prinsipnya Manfaat Asuransi dimaksudkan untuk melakukan mitigasi risiko peserta atau pihak yang ditunjuk
2. Mewakafkan Manfaat Asuransi dan Manfaat Investasi pada asuransi jiwa syariah hukumnya boleh dengan mengikuti ketentuan yang terdapat dalam Fatwa ini.

Ketiga : Ketentuan Khusus

1. Ketentuan Wakaf Manfaat Asuransi

- a. Pihak yang ditunjuk untuk menerima manfaat asuransi menyatakan janji yang mengikat (*wa'd mulzim*) untuk mewakatkan manfaat asuransi;
- b. Manfaat asuransi yang boleh diwakafkan paling banyak 45% dari total manfaat asuransi;
- c. Semua calon penerima manfaat asuransi yang ditunjuk atau penggantinya menyatakan persetujuan dan kesepakatannya; dan
- d. Ikrar wakaf dilaksanakan setelah manfaat asuransi secara prinsip sudah menjadi hak pihak yang ditunjuk atau penggantinya.

2. Ketentuan Wakaf Manfaat Investasi

- a. Manfaat investasi boleh diwakafkan oleh peserta asuransi;
- b. Kadar jumlah manfaat investasi yang boleh diwakafkan paling banyak sepertiga ($\frac{1}{3}$) dari total kekayaan dan/atau tirkah, kecuali disepakati lain oleh semua ahli waris.

3. Ketentuan Ujrah terkait dengan produk wakaf

- a. Ujrah tahun pertama paling banyak 45% dari kontribusi reguler;
- b. Akumulasi ujrah tahun berikutnya paling banyak 50% dari kontribusi reguler.

Keempat

: Ketentuan Penutup

1. Jika salah satu pihak tidak menunaikan kewajibannya atau jika terjadi perselisihan di antara para pihak, maka penyelesaiannya dilakukan melalui lembaga penyelesaian sengketa berdasarkan syariah setelah tidak tercapai kesepakatan melalui musyawarah.
2. Fatwa ini berlaku sejak tanggal ditetapkan dengan ketentuan jika di kemudian hari ternyata terdapat

kekeliruan, akan diubah dan disempurnakan
sebagaimana mestinya.

Ditetapkan di : Jakarta

Pada Tanggal : 29 Dzulhijjah 1436 H.

1 Oktober 2016 M.

**DEWAN SYARIAH NASIONAL-
MAJELIS ULAMA INDONESIA**

Ketua,

Sekretaris,

DR. K.H. MA'RUF AMIN

DR. H. ANWAR ABBAS, MM, M.Ag.



Interview with Mrs. Imamah Zuhro at Takaful Keluarga RO Khalifa Agency
 Malang, 17 April 2018.



FORMULIR PERMOHONAN PESERTA INDIVIDU PT. ASURANSI TAKAFUL KELUARGA



NO.SERI: DD16346

HARAP DIISI SENDIRI OLEH CALON PESERTA DENGAN HURUF CETAK
Bismillaahirrahmaanirrahiim

DISI OLEH
PETUGAS

Tanggal Aplikasi

Kode Kantor

Nomor Base Kode

Kantor Penagihan

DATA PRIBADI CALON PESERTA

Yang bertanda tangan dibawah ini saya, Calon Peserta (diisi sesuai Identitas Diri) :

1. Nama Lengkap (Sesuai Identitas yang Dilampirkan)
2. Tanggal Lahir (DD-MM-YYYY)
3. No. KTP/SIM/Paspor *)
4. Kewarganegaraan ☐ Indonesia ☐ Asing
5. Agama ☐ Islam ☐ Non Islam
6. Jenis Kelamin ☐ Pria ☐ Wanita
7. Status Perkawinan ☐ Menikah ☐ Belum Menikah ☐ Janda/Duda *)
8. Pendidikan ☐ s.d. SMU ☐ Diploma ☐ S1 ☐ S2/S3
9. Nama Ibu Kandung
10. Saat ini, tinggi badan anda/calon peserta cm Berat Badan kg
11. Perokok ☐ Ya ☐ Tidak ☐ Batang perhari

PEKERJAAN

1. Pekerjaan
 2. Uraian Pekerjaan
 3. Nama Perusahaan
 4. Kelas Pekerjaan
- Tabel Kelas Pekerjaan
- ☐ Kelas I (Pekerjaan yang bersifat administrasi atau semacamnya)
Misal : Pimpinan dan pegawai/karyawan yang bersifat administrasi dari kantor pemerintah dan swasta, bank, asuransi, hotel, toko, akuntan, pengacara, notaris, dosen/guru, rumah sakit dan lain-lain.
- ☐ Kelas II (Pekerjaan-pekerjaan yang sifatnya hampir sama dengan kelas I, tetapi sering melakukan perjalanan atau dinas luar ataupun melakukan tugas dengan tenaga fisik)
Misalnya : Salesman, penagih rekening/premi asuransi, selebritis, aktor/aktris, kontraktor, pelayan bioskop/restoran, hotel, toko/supermarket, penjahit, dokter, bidan, petugas lapangan rumah sakit, wartawan, photographer dan lain-lain.
- ☐ Kelas III (Pekerjaan-pekerjaan lapangan atau para teknisi/pekerja yang bekerja dengan secara manual atau pekerjaan dengan menggunakan mesin-mesin ringan)
Contoh: Nelayan, ABK, Nahkoda kapal, satpam, Kontraktor, Pilot komersil, buruh pada pabrik alat-alat pertanian, insinyur pelaksana pekerjaan pendingin/pemanas udara dan teknisi, insinyur, montir dan pekerja lain di pelabuhan udara, pengemudi (sopir pribadi serta sopir dan kondektur bus umum) pekerja pada pabrik sepatu dan lain-lain.
- ☐ Kelas IV (Pekerjaan-pekerjaan kasar atau yang sifatnya berbahaya atau pekerjaan-pekerjaan dengan menggunakan mesin-mesin berat)
Misalnya : Pekerjaan-pekerjaan pada galangan kapal, pekerjaan pada dok, pekerjaan tambang, operator crane/lori pekerja pada pergudangan, pekerja yang menggunakan bahan peledak dan lain-lain.

Untuk jenis pekerjaan kelas III dan IV, wajib melampirkan Form Spesifikasi Pekerjaan

ALAMAT

Alamat Rumah (Sesuai KTP) : RT / RW :

Kel/Kec : Kota Kode Pos

Telp. Hp

YANG DITUNJUK

Apabila saya sebagai Peserta ditakdirkan meninggal dunia sebelum Akad berakhir

1. Ahliwaris yang diberi amanah untuk menerima Manfaat Takaful :

No.	Nama Lengkap	P / W	Tanggal Lahir	Hubungan Keluarga	Untuk Non Muslim Manfaat Takaful (%)
1.					
2.					
3.					
4.					

2. Sebagai Penerima Hibah (apabila yang diambil program Takaful Dana Pendidikan)

Nama Lengkap	P / W	Tanggal Lahir	Duduk di Kelas	Hubungan Keluarga

*) Coret yang tidak perlu

FR-ATK-NBS/TI.05/2015 Rev.01

Dengan ini mengajukan permohonan menjadi Peserta PT. ASURANSI TAKAFUL KELUARGA dengan ketentuan sebagai berikut :

DATA KEPESERTAAN

1. Produk			
2. Mata Uang	<input type="checkbox"/> Rupiah Indonesia (IDR)	<input type="checkbox"/> Lainnya	
3. Periode akad	<input type="checkbox"/> Tahun	Masa Pembayaran Kontribusi	<input type="checkbox"/> Tahun
4. Cara Pembayaran Kontribusi	<input type="checkbox"/> Sekaligus	<input type="checkbox"/> Tahunan	<input type="checkbox"/> Semesteran <input type="checkbox"/> Triwulan <input type="checkbox"/> Bulanan
5. Cara Setor Kontribusi	<input type="checkbox"/> Auto Debet	<input type="checkbox"/> Online Payment	<input type="checkbox"/> Transfer Bank <input type="checkbox"/> Virtual Account
6. Kontribusi Dasar			
7. Biaya Polis			
8. Manfaat Takaful *)	<input type="checkbox"/> Alkhairat / Term	IDR	
	<input type="checkbox"/> PA	IDR	
	<input type="checkbox"/> Kesehatan	IDR	

*) Diisi untuk produk nonsaving

INFORMASI TAMBAHAN

1. Jumlah Tanggungan Keluarga	<input type="checkbox"/> Orang	
2. Pendapatan Tiap Bulan	<input type="checkbox"/> s.d Rp 5,000,000	<input type="checkbox"/> Rp 5,000,001 s.d 10,000,000
	<input type="checkbox"/> Rp 10,000,001 s.d 25,000,000	<input type="checkbox"/> Diatas Rp 25,000,000
3. Sumber Pendapatan	<input type="checkbox"/> Gaji	<input type="checkbox"/> Bisnis Pribadi <input type="checkbox"/> Bonus/Insentif/Komisi
	<input type="checkbox"/> Pasangan (Suami/Istri)	<input type="checkbox"/> Hasil Investasi
4. Sumber Pendapatan selain diatas, sebutkan jika ada		
5. Tujuan pengajuan asuransi	<input type="checkbox"/> Proteksi	<input type="checkbox"/> Tabungan <input type="checkbox"/> Pendidikan
	<input type="checkbox"/> Pensiun	<input type="checkbox"/> Lainnya
6. Alamat Surat Menyurat	RT/RW : _____	
	Kel/Kec. : _____	Kota _____ Kode Pos _____
	Telp. _____	Hp _____
7. No Rekening Calon Pemegang Polis yang digunakan untuk Transaksi :		
Nama Bank	No. Rekening:	
Cabang	Atas Nama:	

UJRAH

Saya Calon Peserta telah membaca dan memahami ketentuan dibawah ini :

1. Jenis Asuransi Dengan Unsur Tabungan

Berdasarkan Akad *Wakalah Bil Ujah*, biaya untuk pengelolaan Dana *Tabarru'*, kegiatan investasi Dana *Tabarru'*, kegiatan investasi Dana Tabungan Peserta, Kegiatan administrasi, klaim, Seleksi Resiko dan pemasaran adalah sebagai berikut :

- | | | |
|--|---|--|
| 1.1 Biaya Polis | : IDR 25,000,- | (diluar dari Kontribusi Dasar) |
| 1.2 Biaya Administrasi Bulanan | : IDR 15,000,- | Perbulan yang diambil dari Dana Tabungan Peserta mulai tahun kedua |
| 1.3 Biaya Pengelolaan | | |
| A. Kontribusi Dasar (Tahunan, Semesteran, Triwulan, Bulanan) | | |
| - Tahun Pertama | : 75% | Dari Kontribusi Dasar |
| - Tahun Kedua dst | : 30% | Dari Kontribusi Dasar |
| - Tahun Ketiga dst | : 0% | Dari Kontribusi Dasar |
| B. Kontribusi Sekaligus | : 7,5% | Dari Kontribusi Sekaligus |
| 1.4 Biaya Administrasi Klaim | : 1% dari nilai klaim, maksimal Rp 50.000,- | |
| 1.5 Biaya Free Look | : IDR 100.000,- | |

2. Jenis Asuransi Tanpa Unsur Tabungan

Berdasarkan Akad *Wakalah Bil Ujah*, biaya untuk pengelolaan Dana *Tabarru'*, kegiatan investasi Dana *Tabarru'*, kegiatan administrasi, Klaim, Seleksi Resiko dan pemasaran adalah sebagai berikut :

- | | | |
|----------------------------------|----------------|--------------------------------|
| 2.1 Biaya Polis | : IDR 25,000,- | (diluar dari Kontribusi Dasar) |
| 2.2 Biaya Pengelolaan Kontribusi | : 40% | Dari Kontribusi Dasar |

AKAD

A. Akad Peserta dengan PT Asuransi Takaful Keluarga

1. Jenis Asuransi dengan Unsur Tabungan

Berdasarkan akad *Wakalah bil Ujah* :

- Saya memberikan amanah kepada PT. Asuransi Takaful Keluarga untuk mengelola Kontribusi yang saya setorkan menjadi Dana Investasi Peserta, Dana *Tabarru'* dan *Ujah*.
- Saya setuju memberikan biaya (*ujrah*) atas pengelolaan (termasuk kegiatan investasi) Dana *Tabarru'* kepada PT. Asuransi Takaful Keluarga sesuai ketentuan produk dan biaya tersebut akan mengurangi dana tabungan saya.

Berdasarkan Akad *Mudharabah*

- Saya memberikan amanah kepada PT. Asuransi Takaful Keluarga untuk menempatkan dana tabungan dalam program investasi
- Saya setuju membagi hasil investasi dengan nisbah 85% Peserta dan 15% Perusahaan.

2. Jenis Asuransi Tanpa Unsur Tabungan

Berdasarkan Akad *Wakalah bil Ujah* :

- Saya memberikan amanah kepada PT. Asuransi Takaful Keluarga untuk mengelola Dana *Tabarru'*.
- Saya setuju memberikan biaya (*ujrah*) atas pengelolaan (termasuk kegiatan investasi) Dana *Tabarru'* kepada PT. Asuransi Takaful Keluarga sesuai ketentuan produk.

B. Akad sesama Peserta Asuransi

1. Berdasarkan Akad *Wakalah bil Ujah* :

- Saya memberikan amanah kepada PT. Asuransi Takaful Keluarga untuk mengelola Dana *Tabarru'* (dana kebajikan).
- Saya setuju memberikan biaya (*ujrah*) atas pengelolaan Dana *Tabarru'* kepada PT. Asuransi Takaful Keluarga sesuai ketentuan produk

2. Berdasarkan Akad *Tabarru'* :

- Saya hibahkan kontribusi yang saya setorkan sebagai Dana *Tabarru'* untuk tujuan tolong menolong sesama peserta bila ada yang mengalami musibah.
- Saya setuju jika terdapat surplus underwriting Dana *Tabarru'* maka alokasinya adalah : sebagai cadangan Dana *Tabarru'*, dibagikan kepada peserta yang memenuhi ketentuan, dan untuk PT Asuransi Takaful Keluarga dengan nisbah sesuai ketentuan produk.
- Jika terdapat Defisit Underwriting Dana *Tabarru'* maka perusahaan akan menutupi defisit tersebut dari dana pemegang saham dalam bentuk pinjaman (*Qordul Hasan*) dan pengembaliannya akan diperhitungkan terhadap Surplus Underwriting Dana *Tabarru'* yang akan datang.

[illegible]

RIWAYAT KESEHATAN KELUARGA CALON PESERTA

Hubungan		Masih Hidup		Sudah Meninggal		
Keluarga		Umur	Kondisi Kesehatan	Umur Ketika Meninggal	Tahun Meninggal	Sebab-sebab Meninggal
Ayah Kandung						
Ibu Kandung						
Suami/Istri						
Saudara Pria	JML	Tertua				
		Termuda				
Saudara Wanita	JML	Tertua				
		Termuda				
Anak Kandung	JML	Tertua				
		Termuda				
Keterangan :						

KETERANGAN TAMBAHAN

- | | | Beri tanda (V) | |
|----|--|--------------------------|--------------------------|
| | | Ya | Tidak |
| 1. | Pernahkah permintaan asuransi jiwa saudara ditolak, ditangguhkan, dikenakan tambahan premi, atau dengan persyaratan khusus ?
Jika 'Ya' mohon jelaskan waktu dan penyebabnya : _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Apakah Anda memiliki polis asuransi jiwa yang masih berlaku ? Jika 'Ya' mohon isi kolom dibawah ini : | <input type="checkbox"/> | <input type="checkbox"/> |

Nomor Polis	Mulai Asuransi	Besar Manfaat Asuransi	Nama Perusahaan Asuransi

Dengan selalu mengharap ridha dan ampunan Allah SWT, saya dengan ini menyatakan bahwa :

- Semua keterangan dalam Formulir ini saya berikan dengan benar. Apabila diantara keterangan ada yang tidak benar atau terdapat hal yang saya sembunyikan, maka PT. Asuransi Takaful Keluarga berhak **membatalkan Akad** asuransi yang telah berjalan dan tidak wajib membayar klaim yang timbul atas dasar Akad Asuransi ini dan hanya mengembalikan dana sesuai ketentuan produk.
- Saya memberikan kuasa kepada PT. Asuransi Takaful Keluarga untuk memperoleh keterangan tambahan dari Dokter atau Rumah Sakit tentang kesehatan saya dan penyebab meninggal apabila saya telah meninggal dunia.
- Saya memberikan kuasa kepada PT. Asuransi Takaful Keluarga untuk memotong langsung Dana Tabungan sebagai Kontribusi Tabarru' dan biaya-biaya yang telah ditetapkan untuk menjamin agar Polis tetap berlaku, dalam hal bila setelah kelonggaran pembayaran Kontribusi berakhir, kontribusi lanjutan belum saya bayar.
- Saya memahami semua keterangan dalam Formulir ini merupakan dasar Akad asuransi saya dan merupakan bagian yang tidak terpisahkan dari Polis.
- Saya telah membaca, memahami, menyetujui dan karenanya tunduk serta mengikatkan diri pada ketentuan dalam Polis yang dikeluarkan oleh PT Asuransi Takaful Keluarga.
- Saya setuju bahwa Akad ini berlaku mulai tanggal akseptasi yang tercantum dalam Polis.
- Saya memahami dan menyetujui bahwa apabila terjadi Surplus Underwriting Dana *Tabarru*, maka alokasi/ pembagian dari surplus tersebut dialokasikan sebagai berikut :
 - Jenis Asuransi dengan unsur tabungan :
Peserta 0%, Perusahaan 0%, Dana Tabarru' 100%.
 - Jenis Asuransi tanpa unsur tabungan :
Peserta 40%, Perusahaan 50%, Dana tabarru 10 %

PERHATIAN !!!

- Pembayaran kontribusi yang sah adalah dengan Kuitansi Resmi PT. Asuransi Takaful Keluarga.
- Pembayaran melalui Bank, Slip Transfer merupakan bukti yang sah. Untuk ini agar dicantumkan Nomor Aplikasi/Polis dan Nama.
- Harap dibaca dengan seksama dan teliti sebelum menandatangani Formulir ini.
- Mohon tidak menandatangani formulir ini dalam keadaan kosong atau belum diisi.

Dibuat di Tgl

Calon Peserta

Apakah Calon Peserta sudah membaca dan memahami manfaat dan ketentuan produk serta seluruh isi Formulir ini ?

Ya Tidak

☐ ☐

Apakah Calon Peserta mempunyai hubungan saudara dengan Anda.

☐ ☐

Berdasarkan Pengamatan saya, Calon Peserta

- Mengambil jumlah Manfaat Takaful sesuai dengan penghasilannya
- Dalam keadaan sehat walafiat, tidak sedang menderita suatu penyakit
- Tidak memiliki kelainan fisik dan mental
- Mempunyai kebiasaan hidup yang baik

☐ ☐
☐ ☐
☐ ☐
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Dibuat di Tgl

Tanda Tangan Penutup

Mengetahui Agency Leader

Petugas Administrasi Pelayanan

Nama Jelas

Nama Jelas

Nama Jelas

No. Agen :

No. Agen :

No. Lisensi :

No. Lisensi :

SELEKSI RESIKO**Kesimpulan**

- Diterima ☐
 Ditangguhkan ☐
 Ditolak ☐

Tanda Tangan**Keterangan**

CURRICULUM VITAE



Name : Izzatun Niswah

Birthday : Gresik, 30 August 1996

Adress : Jalan H. Imam Wahib Rosyidi No 36 RT 02 RW 01
Sembunganyar Dukun Gresik.

Addres in Malang : Perumahan Ikip Tegalondo Asri 3H4 Karangploso

No. Hp : 085850167466

Email : izzah4699@gmail.com

Religion : Islam

Educational Background

No	School	year
1.	MI YKUI Maskumambang	2002-2008
2.	MTs YKUI Maskumambang	2008-2009
3.	MA YKUI Maskumambang	2011-2014