

Islamic Insurance in Sudan

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1- Abstract

This paper is intended to give an overview of how Islamic insurance was created and developed in Sudan. It will cover the regulatory and supervisory frameworks and governance of this type of insurance which came as an alternative to Conventional Insurance which is not acceptable from the Sharia' point of view.

The paper will shed light on the basic principles that differentiate Islamic Insurance from Conventional Insurance and some other issues such as capital, business model, accounting, reinsurance, investment and surplus.

By examining all these areas, the paper aims at showing that the Sudanese experience in Islamic Insurance is the most genuine and acceptable experience that is consistent with Sharia'.

2- Brief Historical Background

Incorporated in August 1977, Faisal Islamic Bank (Sudan) was the first Islamic bank in Sudan. Soon after commencing its operations in May 1978, the bank encountered the problem of insuring its assets and operations when the Sharia' Supervisory Board of the bank ruled out that it is not acceptable for the bank to deal with the commercial insurance companies existed in the Sudanese market at that time in view of non-compliance of this type of insurance with the Sharia' principles and provisions.

The management of the bank responded to the Sharia' Supervisory Board by maintaining that it is extremely difficult for the bank to operate without having insurance cover in place to mitigate the risks involved in its operations.

To get out of this dilemma, the Sharia' Supervisory Board of Faisal Islamic Bank (Sudan) came with the solution that the bank has to establish an insurance company on the basis of cooperative insurance which is fully conforms with the principles and provisions of Sharia'. Based on that Fatwa,

Faisal Islamic Bank (Sudan) established the Islamic Insurance Company in 1978 which started its operations in January 1979 as the first Islamic Insurance Company in the world.

That was followed by Al Baraka Insurance Company established by Al Baraka Bank in 1985 followed by the National Cooperative Islamic Insurance Company (now renamed Taawuniya) established by the Islamic Cooperative Development Bank in 1989 followed by El Salama Insurance Company established by the Sudanese Islamic Bank in 1992.

As may be noticed, all these companies were established by Islamic banks which indicate the important role played by Islamic banks in the promotion and development of the Islamic Insurance Industry.

Shiekan Insurance and Reinsurance Company, established in 1983, voluntarily converted to an Islamic insurance company in 1990. All the other companies were converted by law in 1992 following the Ministerial Decree of the Minister of Finance No. 219 for the year 1992 which mandated the conversion of all the conventional insurance companies to Islamic companies.

The following table shows the full list of insurance companies operating in the Sudanese insurance market which are all Islamic since the year 1992.

List of Sudanese Insurance & Reinsurance Companies

Name	Year of Establishment	Remarks
Shiekan Insurance & Re Co.	1983	Voluntarily converted to an Islamic Insurance Company in 1990.
Islamic Insurance Co.	1978	Started operations in 1979 as the first Islamic Insurance Company in the world .
Juba Insurance Co.	1984	Converted to an Islamic Insurance Company by law in 1992.
Middle East Insurance Co.	1981	Converted to an Islamic Insurance Company by law in 1992.
United Insurance Co.	1968	Converted to an Islamic Insurance Company by law in 1992.
EL Baraka Insurance Co.	1985	Started operations as an Islamic Insurance Company.
EL Salama Insurance Co.	1992	Started operations as an Islamic Insurance Company.
Savanna Insurance Co.	1989	Converted to an Islamic Insurance Company by law in 1992.
EL Nelein Insurance Co.	1980	Converted to an Islamic Insurance Company by law in 1992.
General Insurance Co.	1961	Converted to an Islamic Insurance Company by law in 1992.
Sudanese Insurance & Re Co.	1967	Converted to an Islamic Insurance Company by law in 1992.
Taawuniya Insurance Co.	1989	Started operations as an Islamic Insurance Company.
Blue Nile Insurance Co.	1965	Converted to an Islamic Insurance Company by law in 1992.
National Reinsurance Co.	1973	Converted to a Retakaful Company by law in 1992.
P.T.A - Sudan.	2002	Retakaful window of Zep Re

3- The Legal Framework

3.1 Formation and Registration

In Sudan, the formation and registration of companies is governed by rules prescribed in the Companies Act, 1925. Any two persons or more can incorporate a private company while a minimum of seven is required for the formation of a public company.

Before starting operation, any newly formed company is to register with the Commercial Registrar General where the Memorandum and the Articles of Association of the company is retained. The Memorandum should state the name of the company, the place in which the registered office of the company is situated, the objectives of the company and the amount of the capital and the total number of shares into which the capital is divided. The Articles of Association should outline the rules and provisions which govern the management of the company.

3.2 Basic Principles for the Formation of an Islamic Insurance Company

To fit in the legal framework of the formation and registration of a new company as outlined above, the Sharia' Supervisory Board of Faisal Islamic Bank dictated the following principles;

- a) The formation of a Sharia' Supervisory Board to govern and guide the practice.
- b) Segregation of funds of the shareholders and the policyholders by maintaining two distinct and separate accounts, an account for each party.
- c) Investment of funds in Sharia' compliant instruments.
- d) Underwriting surplus (if any) is to be distributed to the policyholders only in the manner decided by the Board of Directors and approved by the Sharia' Supervisory Board and the Policyholders General Assembly.

4- The Regulatory and Supervisory Framework

4.1 Insurance Supervisory Authority (ISA)

Insurance Industry, throughout the world is regulated and supervised by governments with the primary objective of protecting the interests of insurance consumers. In many countries in the region insurance supervision and control is carried out by units within government ministries. Insurance supervision and control in Sudan rests with the Insurance Supervisory Authority (ISA) which falls under the direct supervision of the Minister of Finance and National Economy.

Up to 1992, the insurance industry in Sudan was regulated by the Controller of Insurance Act, 1960 which remained in force and applicable to all conventional and Islamic insurance companies. This act was repealed in 1992 following the adoption of the Supervision and Control Act, 1992 which in turn repealed following the introduction of Insurance Control Act, 2001.

All these changes were made so as to accommodate the changes involved the entire economy of Sudan, including the insurance industry, which was mandatory governed by the provisions and principles of Islamic Sharia' since 1992.

The Insurance and Takaful Act, 2003 was introduced to define the scope, subject and parties of insurance and takaful contracts so as to be used as a reference in courts. It is worth mentioning that the term takaful is used in Sudan to refer to life insurance as distinct from general insurance.

4.2 The High Sharia' Supervisory Board (HSSB)

In accordance with Article 7 of the Supervision and Control Act, 1992 and consistent with the resolutions and decrees issued by the government to free the entire economy from non-Islamic transactions, the Minister of Finance and National Economy issued the Ministerial Resolution No. 219 for the year 1992 to form the High

Sharia' Supervisory Board (HSSB) of the Insurance Supervisory Authority (ISA) with the following primary objectives;

- To issue fatwa on matters raised by the Insurance Supervisory Authority (ISA).
- Purify insurance operations from non-Islamic transactions.
- Unify and harmonize the vision of the Sharia' Supervisory Boards of the different insurance companies operating in the market.

The HSSB has the authority to look into and scrutinize any documents, records, records or correspondence pertaining to the Supervisory Insurance Authority or any other body regulated by the Insurance Supervisory Authority. It has also the authority to inspect and monitor the operations of all the companies operating in the market to ensure their compliance with the Sharia' rules and principles.

Fatwas issued by the HSSB on Sharia' matters are obligatory and overrule any fatwa issued by any of the Sharia' Supervisory Boards of the companies operating in the market.

4.3 Licensing and Registration

Despite any conditions contained in the Companies Act 1925 to the contrary, no insurance company is allowed to commence or continue operation without obtaining a license from the Board of Directors of the Insurance Supervisory Authority (ISA). Besides it is not allowed to register at the Commercial Registrar General before the applicant obtains the provisional approval of the Board of Directors of the ISA to this effect.

It is worth mentioning that the license can be obtained to transact all classes of insurance as delineated in Schedule A, General Insurance and Schedule B, Takaful (Life) annexed to the Insurance Control Act, 2001.

5- Governance

5.1 The General Assembly

As per the Articles of Association of each insurance company, the General Assembly is the supreme authority in the company which is fully empowered to set the general policies and rules of how to govern and manage the company particularly the approval of Board of Directors annual report and the financial statements of the company, the appointment of the External Auditor and the election of the members of the Board of Directors.

5.2 The Policyholders' Assembly

Each insurance company is to form a Policyholders' Assembly as set out in its Articles of Association. The Policyholders' Assembly is formed of the policyholders whose annual contributions exceed a minimum amount decided by the Board of Directors and has the authority to discuss the Board of Directors annual report and the financial statements as well as the surplus/ deficit statement, the External Auditor's report and the Sharia' Supervisory Board's report and submit its recommendations to the General Assembly.

The Policyholders' Assembly is also authorized to elect a minimum of two of its members to represent the policyholders in the Board of Directors.

5.3 The Sharia' Supervisory Board (SSB)

As per the Articles of Association of every insurance company, a Sharia' Supervisory Board of a minimum of three members is to be appointed by the General Assembly based on the recommendation of the Board of Directors. The SSB is fully authorized to monitor the Sharia' compliance of all the operations of the company and its role goes beyond the issuing of fatwa to include the review of all the policy wordings and contracts issued by the company as well as the investment policy and instruments of investment. It is also authorized to submit an annual report on all the activities of the

company to the Policyholders' Assembly and the General Assembly and attend their meetings. The Chairman or his representative has the right to participate in the Board of Directors meetings.

5.4 The External Auditor

Appointed by the General Assembly, each insurance company has an External Auditor who is fully empowered to audit the accounts and the financial statements of the company as well as the profit and loss account of the shareholders and the surplus and deficit account of the policyholders and present his report to the Policyholders' Assembly and the General Assembly of the company.

5.5 Other Organs of Governance

Although it is not mandatory or required by regulations, some companies have in place competent and independent internal audit departments directly reporting to the Audit Committee at the Board of Directors and Sharia' audit sections directly reporting to the Sharia' Supervisory Board as well as compliance officers to ensure full governance and compliance with the ethical and statutory obligations.

5.6 Corporate Social Responsibility (CSR)

In recognition of the takaful nature of cooperative insurance and to serve the interest of society, most of the insurance companies operating in the market voluntarily finance community based projects in the fields of health, education and many other areas of community development programmes as well as donations to individuals and local charitable organizations to assist in improving the quality of life of the local community and society at large.

6- Operational Framework

6.1 Business Model

The Sudanese experience in Islamic insurance is based on the pure cooperative model where capital is just a legal requirement to incorporate the company and stands not to gain or lose from insurance operations. Therefore, the shareholders are not entitled to any share in the underwriting surplus, if any, and the management expenses are fully borne by the policyholders. However, the shareholders, as a Mudarib, are entitled for a percentage in the returns of the investments of the policyholders' funds to be decided by the Board of Directors and approved by the Sharia' Supervisory Board.

Deficit, if any, in the policyholders' fund is to be covered from the general reserve set out from the surplus. In case of inadequacy or non-existence of this reserve, this deficit is to be covered from the shareholders' fund by way of Qard Hassan (free of interest loan) to be repaid from future surpluses.

6.2 Segregation of Funds

As per its Articles of Association, each insurance company is required to maintain two distinct separate accounts, one for the shareholders, known as the Shareholders' Account, and the other for the policyholders, known as the Policyholders' Account. This entails separate and segregated reporting of transactions and balances relating to the shareholders and the policyholders. All risks and rewards relating to capital are attributable to the shareholders while all risks and rewards arising from insurance operations are attributable to the policyholders and the financial statements are to be drawn up accordingly.

6.3 Reinsurance (Retakaful)

Reinsurance was one of the issues which faced the Islamic Insurance Industry in its early beginnings in Sudan. In view of necessity it was allowed to deal with conventional reinsurers subject to the satisfaction of certain Sharia' requirements (no ceding commission, no interest rate on reinsurers' reserves ... etc.). Now, with the growing number of fully fledged Retakaful Operators and opening of Retakaful Windows by leading international and regional reinsurers, reinsurance is no longer an issue.

6.4 Surplus

Surplus is one of the basic characteristics of Islamic insurance as practiced in Sudan. All policyholders are entitled to have a share in the underwriting surplus realized at the end of each year. Shareholders are not allowed to have a share, whatsoever, in the surplus. However, as Mudarib, they are entitled for a share in the investment returns of the accumulated retained surplus. This share is expressed as a percentage decided by the Board of Directors and approved by the Sharia' Supervisory Board and the Policyholders' General Assembly.

The portion to be retained from the annual surplus is usually decided by the Board of Directors and approved by the Policyholders' General Assembly to strengthen the financial position of the Policyholders' Fund and cater for any future contingencies.

The accumulated retained surplus over the years can substitute the role of capital and serve solvency requirements in addition it may serve as a first defense line in case of deficit in the Policyholders' Fund and reduce the possibility of resorting to Qard Hassan from the Shareholders' capital.

6.5 Investment

In insurance operations, investment is essential for the benefit of both the shareholders and policyholders. As per the SSB's Fatwa, the shareholders can invest the insurance funds available for investment

on behalf of the policyholders as a Mudarib in return for a certain percentage of the profits generated to be fixed by the Board of Directors. In this case a separate and an independent investment unit is to be formed and the expenses are to be borne by the shareholders.

Alternatively, investment can be managed by the company with a lower percentage of the returns to the shareholders.

All investments must be Sharia' compliant and as per investment governing laws. As per the Insurance Supervisory Authority regulations, investments in real estate should not exceed 50% and 40% for bank deposits, sukuk and government certificates and 10% for shares.

7- Market Performance

7.1 Total Gross Contributions

The table below shows the total gross contributions for general insurance and takaful (life), written by the 13 direct insurance companies operating in the market for the years 2010, 2011 and 2012. The figures indicate a consistent growth of 18.5% for 2011 and 41.2% for 2012.

Sudanese Insurance Market
Total Gross Contributions for the years 2010, 2011 and 2012
General Insurance and Takaful (Life)
Currency SDG

Company	2010	2011	2012
Shiekan Insurance Co	422,292,781	453,119,010	601,243,846
Islamic Insurance Co	99,405,391	128,303,430	181,571,767
Juba Insurance Co	48,390,604	49,443,764	66,788,301
Middle East Ins. Co	23,038,352	26,672,478	51,408,714
United Insurance Co	30,972,740	40,170,612	55,214,100
El Baraka Insurance Co	17,930,489	22,605,515	31,460,656
El Salama Insurance	23,323,069	25,091,846	32,688,017
Savanna Insurance Co	10,691,026	18,958,245	21,191,516
El Nelein Insurance	5,411,214	6,415,954	17,647,514
General Insurance Co	1,796,035	1,955,780	2,109,719
Sudanese Ins. Co	35,545,520	37,123,235	42,169,955
Taawuniya	16,770,909	36,252,663	48,700,188
Blue Nile Ins. Co	30,699,608	62,121,630	130,433,436
Total	766,267,738	908,234,162	1,282,627,729

7.2 Takaful (life) Gross Contributions

The table below shows a consistent growth in the takaful (life) gross contributions of 12.2% for the 2011 and 14.3% for the 2012. However, as it is the case in many other countries in the region, general insurance total gross contributions continue to outgrow takaful (life) total gross contributions which only constitute 5.2%, 4.9% and 4% of the total gross contributions written in the market for the years 2010, 2011 and 2012 respectively.

Sudanese Insurance Market

Gross Takaful (Life) Contributions

For the years 2010, 2011 and 2012

Currency SDG

Company	2010	2011	2012
Shiekan Insurance CO.	32,835,186	36,442,543	42,652,835
Islamic Insurance CO.	6,090,096	6,624,019	6,754,031
Taawuniya Insurance CO.	77,439	718,493	604,126
Al Baraka Insurance CO.	888,360	966,908	1,140,996
Total	39,891,081	44,751,963	51,151,988

Source: Insurance Supervisory Authority (ISA)

7.3 Gross Surplus

The table below shows a consistent growth in the gross surplus realized in the market over the last three years which has increased from 44.9% in 2011 to 105.8% in 2012.

Sudanese Insurance Market

Total Gross Surplus for the years 2010, 2011 and 2012

Currency	SDG		
	2010	2011	2012
Shiekan Insurance Co	12,263,031	26,955,665	71,797,370
Islamic Insurance Co	10,960,918	11,687,909	15,877,797
Juba Insurance Co	4,604,471	3,960,910	5,002,801
Middle East Insurance	2,381,545	2,578,259	2,997,581
United Insurance Co	2,459,419	3,615,226	8,994,567
EL Baraka Insurance Co	1,503,751	1,933,023	3,298,129
EL Salama Insurance Co	769,721	826,147	2,265,888
Savanna Insurance Co	1,553,466	1,718,995	2,364,611
EL Nelein Insurance Co	296,233	199,364	2,242,464
General Insurance Co	157,650	343,611	172,152
Sudanese insurance Co	3,651,108	2,376,681	2,906,686
Taawuniya Insurance Co	929,311	5,127,899	9,871,795
Blue Nile Insurance Co	3,077,719	3,272,922	5,192,742
Total	44,608,343	64,632,611	132,984,583

8- Challenges

As in many other markets, lack of qualified and well trained personnel within the Sudanese insurance market in addition to the lack of financial independence and attractive working conditions within the Insurance Supervisory Authority, remain the main challenges that have very much affected the overall performance of the insurance industry in Sudan.

9- Conclusion

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