

Oversight of Takaful insurance institutions in Algeria

الرقابة الممارسة على هيئات التأمين التكافلي في الجزائر

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Abstract:

Due to the specific nature of Takaful insurance—particularly its legal and Shari’ah foundations—the Algerian legislator has established a dedicated oversight framework through Executive Decree No. 21-81. Under this framework, Takaful insurance companies and Takaful windows are subject to a dual system of oversight : internal oversight exercised by the Board of Directors, the Shari’ah Supervisory Committee, and the Shari’ah auditor, and external oversight exercised by the Insurance Supervision and Control Committee and the National Shari’ah Board for Fatwas in the Islamic Financial Industry.

This framework aims to ensure compliance with regulatory and Shari’ah requirements while enhancing transparency and protecting stakeholders.

Keywords : Takaful insurance; oversight; Takaful companies; Takaful windows; regulatory framework.

ملخص:

في ضوء خصوصية التأمين التكافلي من حيث أسسه القانونية والشرعية، أقرّ المشرّع الجزائري إطارًا خاصًا للرقابة بموجب المرسوم التنفيذي رقم 21-81، المنظمّ لنشاط التأمين التكافلي. حيث تخضع شركات التأمين التكافلي وكذا النوافذ لنظام مزدوج من الرقابة، يتمثل في رقابة داخلية يمارسها كل من مجلس الإدارة ولجنة الإشراف الشرعي وكذا المدقق الشرعي، ورقابة خارجية تتولاها لجنة الإشراف والرقابة على التأمينات، إلى جانب الهيئة الشرعية الوطنية للإفتاء للصناعة المالية الإسلامية.

ويهدف هذا الإطار الرقابي إلى ضمان الامتثال لأحكام الشريعة الإسلامية والمتطلبات التنظيمية، وتعزيز الشفافية، وحماية مصالح المتعاملين، بما يساهم في تدعيم الثقة في قطاع التأمين التكافلي.

الكلمات المفتاحية: التأمين التكافلي؛ الرقابة؛ شركات تأمين تكافلي؛ نوافذ؛ الإطار الرقابي.

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Introduction:

Algeria introduced Takaful insurance through Article 103 of the 2020 Finance Law, which inserted Article 203 bis into Ordinance No. 95-07 relating to insurance, as amended and supplemented by Law No. 06-04. This provision delegated the determination of the applicable conditions and procedures to subsequent regulations.

Accordingly, Executive Decree No. 21-81 of 23 February 2021 was enacted to define the conditions and procedures governing the practice of Takaful insurance. The decree is structured into three main chapters: general provisions, operational conditions, and the organization and management of Takaful insurance companies.

Under article 3 of this decree, Takaful insurance is defined as a cooperative insurance system based on mutual assistance among participants. These participants – whether natural or legal persons – contribute donations (referred to as “contributions”) to a common fund known as the participants’ Fund. This fund is used to compensate members in the event of risk or upon maturity of the contract. All Takaful operations must comply with the principles of Islamic Shari’ah.

Takaful insurance may be conducted either through fully dedicated Takaful companies or through “windows” established within conventional insurance companies. A distinction is also made between family Takaful (linked to personal insurance) and general Takaful (linked to damage insurance).

As an alternative to conventional insurance, which may involve elements such as uncertainty and interest, Takaful insurance institutions are subject to a comprehensive oversight framework. This framework aims to ensure compliance with both regulatory requirements and Islamic Shari’ah principles, from establishment through ongoing operations.

In addition to regulatory oversight applicable to the insurance sector, Takaful institutions are also subject to specific Shari’ah oversight, exercised by both internal and external bodies. This dual system of oversight plays a crucial role in ensuring compliance, transparency, and the proper functioning of Takaful operations.

Research problem: This study seeks to address the following main questions:

To what extent is the oversight exercised over Takaful insurance companies and windows effective, and which institutions are responsible for exercising this oversight?

To answer this question, the study adopts a descriptive and analytical approach and is structured into two main sections :

Section I: Internal Oversight of Takaful Insurance Institutions

In order to ensure that Takaful insurance companies operate in compliance with Islamic Shari’ah principles, protect stakeholders, and promote a stable and trustworthy Takaful market, the Algerian legislator -through Executive Decree No. 21-81- issued on February 23, 2021¹ has established a dual system of oversight: internal and external.

Internal oversight is exercised by the following bodies:

1. The Board of Directors
2. The Shari’ah Supervisory Committee
3. The Shari’ah Auditor

The roles and functions of these bodies are examined in the following subsections.

A . Oversight by the Board of Directors:

Takaful insurance activities are carried out either through dedicated Takaful companies or through windows within conventional insurance companies, in accordance with the applicable legal framework (Article 4, Decree No. 21-81 mentioned above, in accordance with the provisions of Article 203, Order No. 95-07 issued on January 25, 1995, as amended and supplemented by Law No. 06-04 issued on February 20, 2006²).

Regardless of their legal form—whether joint-stock companies or mutual entities—Takaful insurance institutions are governed by a Board of Directors. This board constitutes the highest internal oversight authority and is ultimately responsible for the company’s governance framework.

The Board of Directors is responsible for :

- Establishing and overseeing the implementation of governance policies
- Ensuring effective risk management and internal control systems
- Safeguarding the interests of stakeholders, particularly participants
- Monitoring compliance with legal and regulatory requirements³.

In addition, the Board plays a central role in ensuring that Shari’ah compliance is integrated into all aspects of the institution’s operations. It must ensure that all contracts, transactions, and policies are consistent with Islamic Shari’ah principles in both form and substance.⁴.

Although certain responsibilities may be delegated to committees or management, such delegation does not relieve the Board of its ultimate accountability. The Board remains responsible for reviewing the effectiveness of governance arrangements and addressing any deficiencies⁵.

B. Oversight by the Shari’ah Supervisory Committee :

The Shari’ah Supervisory Committee constitutes one of the most essential internal mechanisms within financial institutions offering Islamic services, including Takaful insurance companies. The claim that such institutions operate in compliance with Islamic Shari’ah cannot be deemed credible unless it is validated through an effective Shari’ah oversight mechanism. Accordingly, it has become a matter of legal policy to prohibit any financial institution from offering Islamic financial services without establishing a dedicated Shari’ah oversight body.

The function of Shari’ah oversight in insurance companies and other financial institutions aligns with the higher objectives (Maqasid) of Islamic Shari’ah, particularly the preservation of wealth. This objective is realized by safeguarding wealth from loss and protecting it from corruption. Such a function falls within the broader principle of promoting public interest (maslahah) and preventing harm, which are central to the concept of enjoining good and forbidding evil.

Reflecting the Algerian legislator’s recognition of the importance of this body, Article 15 of Executive Decree No. 21-81 requires Takaful insurance companies to establish an internal body known as the “Shari’ah Supervisory Committee.” This Committee is entrusted with overseeing all operations related to Takaful insurance and issuing opinions and decisions concerning their

compliance with the principles and rules of Islamic Shari'ah. Notably, its decisions are binding upon the company.

The Shari'ah Supervisory Committee is an internally appointed body responsible for ensuring independent Shari'ah oversight over the institution's activities, transactions, and products. Its mandate extends to ensuring compliance with Shari'ah principles across all aspects of the company's operations.

According to Articles 16 and 17 of Decree No. 21-81, the Committee must consist of no fewer than three members of Algerian nationality who possess demonstrable expertise in Islamic finance. Members are appointed by the General Assembly upon nomination by the Board of Directors for a renewable term of three years. The Committee shall elect a Chairperson from among its members.

The requirement of a minimum of three members aims to ensure that Shari'ah rulings (fatwas) are issued collectively rather than individually. In cases of disagreement between two members, no single opinion prevails, thereby preserving the collective nature of the decision-making process⁶.

Members of the Shari'ah Supervisory Committee must maintain full independence. They may not be shareholders, employees of the company, or participants in the participants' fund. Their relationship with the company is governed by a service contract, and their remuneration is determined by the General Assembly upon proposal by the Board of Directors (Article 18).

Such independence is essential to guarantee objectivity in the Committee's decisions, ensuring that they remain free from material or moral pressures that could compromise their integrity.

The Takaful insurance company is required to provide the Committee with all necessary information and documentation to enable it to perform its duties effectively. In turn, Committee members are bound by strict confidentiality obligations regarding all information and documents they access (Article 19).

In cases where Takaful insurance companies resort to conventional (non-Takaful) reinsurance due to necessity, they must notify the Shari'ah Supervisory Committee in advance. The Committee may approve such arrangements by issuing a formal decision (Article 25).

It is noteworthy that the legislator did not regulate certain procedural aspects of the Committee's functioning, such as meeting procedures, decision-making processes, or the authority to invite external participants. Instead, the focus was placed on its composition, qualifications, appointment procedures, independence, and remuneration.

As an internal Shari'ah oversight body, the Committee derives its rulings by referring to established juristic opinions within recognized schools of Islamic law, while ensuring consistency with Shari'ah standards and resolutions issued by the Supreme Shari'ah Authority (the National Shari'ah Authority for Fatwas in the Islamic Financial Industry).

The Committee's role is primarily confined to the design and structuring of contracts and transactions, including the issuance of fatwas and the approval of documentation. The execution of these contracts, however, remains the responsibility of the company's management.

Given its limited time and resources, the Committee relies significantly on internal reports and institutional functions to assess the extent of Shari'ah compliance in day-to-day operations⁷.

The role of the Shari'ah Supervisory Committee should not be restricted to formal contract review. Rather, it must also consider the broader objectives and social implications of financial transactions. Profit maximization should not override the need to evaluate the long-term societal impact of such contracts.

A key strength of the Shari'ah Supervisory Committee lies in the binding nature of its fatwas. Without such binding force, the Committee would merely function as an advisory body rather than a genuine Shari'ah oversight authority.

The obligation to adhere to the Committee's fatwas is grounded in both Shari'ah principles and contractual commitments. From a Shari'ah perspective, compliance is mandatory as Islamic law governs all aspects of life, and financial institutions must avoid engaging in prohibited activities.

From a contractual standpoint, Shari'ah compliance is embedded in:

- the relationship between shareholders and management, as stipulated in the company's constitutional documents; and
- the relationship between the company and its clients, who engage with the institution on the basis that its products (insurance contract) are Shari'ah-compliant.

Failure to uphold this commitment would amount to misleading clients⁸.

The competencies of the Shari'ah Supervisory Committee may be summarized as follows:

- Monitoring the institution's compliance with Shari'ah principles and reviewing its operations accordingly;
- Participating in the development and amendment of contracts and financial models to ensure their Shari'ah compliance;
- Providing legal opinions and advisory services;
- Preparing periodic Shari'ah audit reports;
- Proposing Shari'ah-compliant alternatives for non-compliant transactions;
- Promoting awareness of Shari'ah principles among employees and clients⁹.

Finally, given that the oversight exercised by the Shari'ah Supervisory Committee alone is insufficient, it is necessary to complement it with additional internal mechanisms, particularly the role of the Shari'ah auditor, as will be discussed in the following subsection.

C. Oversight Exercised by the Shari'ah Auditor :

Auditing constitutes a fundamental pillar in ensuring the integrity of the products—particularly insurance contracts—offered by Takaful insurance and reinsurance companies, including Takaful insurance windows. It also plays a central role in verifying their compliance with the fatwas and decisions issued by the Shari'ah Supervisory Committee. If this function is neglected or marginalized, the effectiveness and credibility of Shari'ah oversight are significantly undermined.

In order to reinforce the binding nature of the decisions and fatwas issued by the Shari'ah Supervisory Committee, Takaful insurance companies are required to appoint a Shari'ah auditor. This auditor is specifically tasked with monitoring the extent to which Takaful-related operations comply with the rulings of the Committee. In carrying out this function, the auditor must also ensure adherence to Takaful standards and regulatory principles, and prepare periodic reports to be submitted

to both the Shari'ah Supervisory Committee and the Board of Directors (Article 20, Executive decree No. 21-81).

Similarly, Supreme Islamic Council Resolution No. 20-01 mandates that institutions offering Shari'ah-compliant products must appoint a Shari'ah auditor to ensure the proper implementation of the recommendations, opinions, and fatwas issued by the Shari'ah Supervisory Committee¹⁰.

The Shari'ah auditor is an independent professional appointed by the Board of Directors upon the recommendation of executive management. The auditor's primary responsibility is to assess the extent to which Takaful insurance companies comply with the decisions and opinions of the Shari'ah Supervisory Committee.

To safeguard objectivity, the internal audit function must remain fully independent from management and other control functions, and must not be involved in operational activities. This independence is essential to ensure that the auditor can perform duties impartially and without undue influence¹¹.

Accordingly, the Board of Directors must grant the internal audit function adequate authority, including the power to:

- access and review any records or information deemed necessary to conduct audits or reviews;
- initiate audits of any department or function within the scope of its mandate;
- require appropriate responses from management, including corrective or risk-mitigation plans; and
- decline assignments that conflict with its mandate or with the audit strategy approved by the Board. In such cases, the auditor must report to the Board or the audit committee and seek further guidance.

The Shari'ah auditor submits reports to both the Board of Directors and the Shari'ah Supervisory Committee. These reports typically address:

- the annual or periodic audit plan and any significant amendments thereto;
- factors that may affect the auditor's independence or effectiveness;
- material findings arising from audit activities; and
- the extent to which management complies with corrective measures addressing identified deficiencies or violations¹².

This discussion pertains to internal Shari'ah oversight mechanisms within Takaful insurance companies. However, such internal oversight is complemented by external oversight frameworks, which will be examined in the following section.

Section II : External Oversight of Takaful Insurance Companies

In addition to the internal oversight exercised within Takaful insurance institutions, external oversight is carried out by regulatory and supervisory authorities. Such oversight generally follows the same standards and methodologies applied to conventional insurance companies, while taking into account the specific characteristics of Takaful operations, which must remain consistent with the principles and rules of Islamic Shari'ah.

In order to strengthen the protection of Takaful markets, promote fairness, ensure financial stability, and safeguard the interests of policyholders, external oversight mechanisms have been established. These mechanisms also aim to ensure that claims of Shari'ah compliance by Takaful institutions are grounded in credible and verifiable foundations.

Within this framework, external Shari'ah oversight is primarily exercised through specialized regulatory bodies, most notably:

- 1- the Insurance Supervision and Control Committee; and
- 2- the National Shari'ah Authority for Fatwas in the Islamic Financial Industry.

Each of these bodies plays a distinct yet complementary role in ensuring the effective regulation and Shari'ah compliance of Takaful insurance companies. They will be examined in detail in the following subsections.

A. Insurance Supervision and Control Committee :

Takaful insurance activities, similar to conventional commercial insurance, are subject to external oversight by the Insurance Supervision and Control Committee, which operates as a regulatory authority within the insurance administration under the Ministry of Finance.

This Committee exercises state oversight over all insurance activities—whether conventional or Takaful—with the primary objective of protecting the interests of insured persons and beneficiaries in conventional insurance, as well as participants in Takaful funds. This is achieved by ensuring the legality of insurance operations, the financial soundness of insurance institutions, and the proper functioning of the national insurance market. Additionally, the Committee contributes to the development and regulation of the insurance sector in a manner that supports broader economic and social objectives (article 209, Insurance Law).

The Committee is composed of five members, including a Chairperson, selected on the basis of expertise in insurance, law, and finance. Its composition is determined by presidential decree upon the proposal of the Minister of Finance. It includes two judges nominated by the Supreme Court, a representative of the Ministry of Finance, and an insurance expert. Decisions are adopted by a majority vote, with the Chairperson holding a casting vote in the event of a tie (Article 209 bis – 209 bis 2).

The Committee is responsible for ensuring that licensed insurance and reinsurance companies, as well as brokers—whether operating in conventional or Takaful insurance—comply with all applicable legislative and regulatory provisions. It also ensures that these entities fulfill their contractual obligations and maintain the financial capacity to do so. Furthermore, the Committee verifies the sources of funds used in the establishment or capital increase of insurance and reinsurance companies, including Takaful and Retakaful entities.

The scope of the Committee's oversight extends to insurance and reinsurance companies, Takaful and Retakaful operators, branches of foreign insurance companies, authorized brokers, and Takaful windows within conventional insurance companies. This oversight is exercised through on-site and documentary inspections conducted by sworn inspectors, who may intervene at any time. In cases of detected violations, inspection reports are prepared and signed by at least two inspectors and the concerned party. These reports may be transmitted to the Public Prosecutor where criminal proceedings are warranted (Article 212).

Insurance companies and their managers are required to provide all relevant information to the Committee and to report any serious deficiencies identified in the course of their activities. Where the Committee determines that the management of a company threatens the interests of insured persons or Takaful participants, it may adopt a range of corrective measures, including:

- restricting the company's activities in specific insurance branches;
- limiting or suspending the disposal of company assets until corrective measures are implemented; and
- appointing a provisional administrator with full managerial powers to restore the company's financial and operational stability. Where necessary, such an administrator may declare cessation of payments (Article 213).

The Committee also oversees the financial solvency of insurance institutions by ensuring that they are able, at all times, to justify the technical provisions they are required to maintain—such as reserves, technical balances, and liabilities—which must be matched by equivalent admissible assets. Where necessary, the Committee may appoint independent experts to assess these assets and liabilities, with the costs borne by the concerned company (Article 224 and 224 bis).

Insurance and reinsurance companies, including foreign branches, are required to submit annual financial statements, activity reports, statistical data, and all relevant documentation to the Committee no later than 30 June each year, unless an extension is granted under exceptional circumstances.

In addition, the general conditions of insurance contracts are subject to prior approval by the Committee, which may impose standard clauses. All documents intended for public use must also be submitted for prior review, and the Committee retains the authority to request amendments at any time (Article 227).

With specific regard to Takaful insurance, the general conditions of Takaful contracts require prior approval by the Committee. Such approval is contingent upon the submission of a certificate confirming Shari'ah compliance, issued by the National Shari'ah Authority for Fatwas in the Islamic Financial Industry (Article 14, executive decree No. 21-81).

The Committee must also be notified in advance of any agreements between insurance companies relating to tariffs, contractual conditions, competition, or financial management, failing which such agreements may be deemed null and void.

Moreover, the Committee exercises prior approval over significant shareholdings, including any participation exceeding 20% of the company's capital or own funds (Article 228 bis, Insurance Law).

It also plays a regulatory role in determining, where necessary, the remuneration mechanisms of Takaful operators—whether based on agency (*wakalah*), profit-sharing (*mudarabah*), or hybrid models (Article 13, Executive Decree No. 21-81).

The transfer of insurance portfolios—whether partial or total—between companies is likewise subject to the Committee’s approval, particularly in light of the need to protect the interests of insured persons and Takaful participants.

In addition, the Committee supervises restructuring operations within the insurance sector, including mergers and concentrations involving insurance and brokerage companies, whether conventional or Takaful (Articles 229-230, Insurance Law).

Finally, the Committee exercises specific oversight over Takaful windows operated by conventional insurance companies. These entities are required to maintain strict separation—technical, financial, and accounting—between Takaful and conventional operations. Such separation constitutes a fundamental safeguard to ensure the integrity and credibility of Takaful activities

B. The National Shari’ah Board for Fatwas in the Islamic Financial Industry (NSBFIFI) :

One of the key regulatory policies to harmonize the work of Shari’ah oversight bodies and reduce discrepancies in their fatwas is the establishment of a supreme Shari’ah authority in each country. Such a body serves as the ultimate reference for all Shari’ah oversight institutions operating within the country.

The National Shari’ah Board for Fatwas in the Islamic Financial Industry (NSBFIFI) is responsible for issuing certifications that confirm the compliance of Takaful insurance products with Islamic Shari’ah, in accordance with Article 14 of Executive Decree No. 21-81. As such, it constitutes an external oversight body that examines the extent to which Takaful insurance companies and Islamic insurance windows comply with Shari’ah principles.

The proposal to establish NSBFIFI was submitted by the Supreme Islamic Council on 17 December 2017. Following consultations among the President of the Republic, the Prime Minister, and the Minister of Finance, the Board was established under the Supreme Islamic Council. It reviews the conformity of Islamic banking products offered through Islamic windows with Shari’ah provisions. The Bank of Algeria issued regulations defining Islamic banking operations and their implementation by banks and financial institutions¹³, while Article 14 stipulates that Shari’ah compliance certificates are to be issued by NSBFIFI. Subsequently, the President of the Supreme Islamic Council issued Decision No. 20-01, dated 1 April 2020, establishing the Board to support the localization of Islamic finance in Algeria¹⁴.

- Composition and Appointment :

Members of NSBFIFI are appointed by the President of the Supreme Islamic Council. Each member must:

- Hold a doctorate in Islamic jurisprudence or an equivalent specialization;
- Be a jurist specializing in Islamic financial transactions or an expert with sufficient knowledge of such transactions;
- Not serve as a manager, executive officer, or shareholder in any bank or financial institution to ensure independence.

When necessary, the Board may seek expertise from external specialists¹⁵. The current Board consists of five members, including the Chairman of the Supreme Islamic Council, Dr. Abdullah Ghulam Allah, a rapporteur, and three regular members.

- Meetings and Functions :

The Board meets periodically at the end of each quarter or whenever necessary, either at the invitation of the Chairman or at the request of two-thirds of the members. Meetings are held at the headquarters of the Supreme Council or any approved location (Article 6, Resolution No.20-01).

NSBFIFI's mission is to issue Shari'ah compliance certificates for banks, financial institutions, Takaful insurance companies, and Takaful insurance windows. This includes entities established exclusively for Takaful insurance, such as the Algerian General Takaful Company, and United Algerian Takaful Insurance Company¹⁶, as well as conventional insurers offering Takaful windows, such as General Mediterranean Insurance Company (GAM) and Cardif Algeria (CARDIF EL DJAZAIR). GAM provides general Takaful, while Cardif Algeria offers family Takaful¹⁷. Similarly, the Central Reinsurance Company operates a Takaful reinsurance window alongside traditional reinsurance operations.

For Takaful insurance companies, NSBFIFI issues Shari'ah opinions on Takaful products, financing contracts, formulas, and various Islamic financial transactions previously approved by the companies' Shari'ah Supervisory Committees. The Board evaluates these transactions for compliance with Shari'ah provisions and issues recommendations for corrections where necessary (Article 2, Resolution No. 20-01).

- Advisory Role and Shari'ah Standards :

NSBFIFI also provides guidance on practices inconsistent with Shari'ah, studies emerging issues, addresses practical difficulties in Takaful operations, and recommends solutions aligned with Shari'ah principles. The Board reviews all matters presented by Takaful companies and windows, including referrals from the Supreme Council's presidency, and approves Shari'ah standards applicable to Takaful products. It further promotes research and development of Islamic financial instruments rooted in national jurisprudential heritage.

- Application Process for Shari'ah Compliance Certificates :

To obtain a certificate, Takaful companies or windows must submit an application to the Chairman of NSBFIFI, accompanied by the following documents (Article 9, Resolution No. 20-01):

- An official application requesting a Shari'ah compliance certificate, along with operational procedures and contracts;
- Contractual documents and product regulations, including general and special conditions of Takaful policies;
- Any additional information or documents deemed necessary by the Board.

The Board acknowledges receipt of the application and forwards it for review. It may seek external expert assistance and issues a reasoned evaluation report on the compliance of products, procedures, and contracts, recommending amendments as required. Fatwas and opinions are documented in minutes, copies of which are sent to the Insurance Supervision and Control Committee and the company concerned.

NSBFIFI issues its opinion as a final, conditional, or non-conformity certificate, within a maximum period of three months from the date of submission. The Board's decisions are binding on the Shari'ah Supervisory Committees of Takaful insurance companies¹⁸.

Conclusion :

Through this study, we have sought to highlight the importance of oversight exercised over Takaful insurance institutions and its various forms. This oversight varies between internal oversight conducted by the company's Board of Directors, as a core component of management controls, which is responsible for approving all internal policies of Takaful insurance institutions. The Board establishes the framework of controls and ensures their implementation.

Another type of internal oversight is exercised by a dedicated committee within the Takaful insurance or reinsurance company, represented by the Shari'ah Supervisory Committee. This committee is tasked with monitoring and following up on all operations related to the company's Takaful activities. It exercises Shari'ah oversight over all products and operational processes of the entity. In addition, the Shari'ah Auditor ensures that Takaful insurance institutions properly implement the recommendations, opinions, and fatwas issued by the Shari'ah Supervisory Committee.

As for external oversight, Takaful insurance institutions, as providers of insurance services, are subject to state supervision through the Insurance Supervision and Control Committee. This oversight protects the interests of Takaful participants and promotes and purifies the national insurance market, integrating it into broader economic and social activity. These institutions are also subject to oversight by the National Shari'ah Board for Fatwas in the Islamic Financial Industry (NSBFIFI), which grants Takaful insurance products a certificate of conformity with Islamic Shari'ah. This certification follows a detailed review of the extent to which Takaful insurance and/or reinsurance companies' products comply with Shari'ah provisions.

We conclude that the primary objective sought by the legislator in imposing oversight over Takaful insurance and/or reinsurance is to establish these markets on a solid Islamic foundation, ensuring the protection of stakeholders, including participants, partners, and all parties interacting with these institutions. Oversight supports fairness, security, and stability in these markets by ensuring that claims of Shari'ah compliance are based on sound and verifiable principles.

It is noteworthy that oversight over Takaful institutions has a distinctive nature due to the presence of two separate funds within each institution: one for participants and one for partners. Oversight must focus on the observance of this fund separation, the methods of fund management, and the adherence to Shari'ah principles throughout the management process.

Regarding Takaful insurance windows, oversight emphasizes the technical, accounting, and financial separation of Takaful operations from conventional commercial insurance operations.

The oversight framework for Takaful insurance institutions is comprehensive, encompassing both internal and external supervision. It includes prior review processes related to the issuance of fatwas and Shari'ah approvals before product launch, as well as subsequent oversight through internal Shari'ah audits and reporting.

Shari'ah supervision in Takaful companies is not limited to issuing fatwas or monitoring compliance. Its ultimate goal is to achieve public interest by safeguarding funds, preventing corruption, and protecting wealth from harmful influences, which aligns with the Islamic principle of enjoining what is right and forbidding what is wrong—the essence of the religion.

However, certain shortcomings have been identified :

- The legislator did not specify the duties of the Board of Directors of Takaful insurance institutions as an internal regulatory body.
- The legislator did not provide detailed guidance on the duties of the Shari'ah Supervisory Committee, such as meeting procedures, decision-making processes, or powers of summons.
- The legislator did not define the Shari'ah auditor's profession, despite its importance, nor detail the auditor's responsibilities.
- Takaful insurance and/or reinsurance institutions are subjected to the same external oversight framework as conventional insurers, without accounting for their specificities.

Based on these observations, the following key recommendations are proposed :

1. The legislator should clearly define the duties of the Board of Directors of Takaful insurance institutions, given its central role in setting internal policies and supervising their implementation.
2. The duties and operating procedures of the Shari'ah Supervisory Committee should be detailed to ensure its effective functioning.
3. A regulatory framework should be established for the Shari'ah auditor profession, similar to that defined for the Shari'ah Supervisory Committee.
4. Considering the specificities of Takaful insurance, national legislation should be strengthened through dedicated legislative texts—either by issuing legislation specific to Takaful insurance or by amending the existing Insurance Law—to address points not covered by Executive Decree No. 21-81.

Citations:

¹JR n° 14 issued on 28 february 2021.p.7.

² JR no. 15, issued on 12 March 2006. p. 3.

³ Islamic Financial Services Board (IFSB), Standard No. 27: Core Principles for Islamic Finance Regulation (Takaful Segment), December 2022, p. 89-90.

⁴ Islamic Financial Services Board (IFSB): Guiding Principles for Takaful Insurance Regulations, December 2009, p.13.

⁵ AAOIFI, Exposure draft of governance standards: Shari'ah Supervisory Board - Review and Report. p. 15.

⁶ يوسف بن عبد الله الشبيلي، الرقابة الشرعية على شركات التأمين التعاوني، كتاب منشور عبر الموقع الإلكتروني: <https://www.noor-book.com-pdf> تم الإطلاع عليه بتاريخ : 25 مارس 2025، على الساعة : 15.21.

⁷ AAOIFI, Exposure draft of governance standards, op.cit. p. 14.

⁸ يوسف بن عبد الله الشبيلي، المرجع السابق، ص 34.

⁹ طاهر علي محمد الشاوش، آليات الرقابة الشرعية في شركات التأمين التكافلي، مقال منشور بمجلة البحوث الأكاديمية، العدد التاسع، 2017، ص 514.

¹⁰ Article 16 of Resolution No. 20-01 of April 1, 2020, Information Guide of the National Shari'ah and Fatwa Authority for the Islamic Financial Industry, Council Booklets, Issue 14, April 2020, Publications of the Supreme Islamic Council, p. 31.

¹¹ Islamic Financial Services Board (IFSB) standard No 27, op.cit, p. 109.

¹² Islamic Financial Services Board (IFSB), op.cit, p. 109-110.

¹³ Bank of Algeria Regulation No. 20-02 issued on March 15, 2020, JR no. 16, issued on March 24, 2020.

¹⁴ جريدة عمريو، لجنة الإشراف الشرعي في التأمين التكافلي، مقال منشور بمجلة البحوث في العقود وقانون الأعمال، المجلد 7، العدد 3، 2022، ص 95.

¹⁵ Articles 3, 4 and 5 of Resolution No. 20-01 issued on April 1, 2020, establishing the Shari'ah Board for Fatwas in the Islamic Financial Industry, Council brochures, Information Guide for the National Shari'ah Board for Fatwas in the Islamic Financial Industry, Publications of the Supreme Islamic Council, Issue 14, April 2020, p. 34.

¹⁶ Algerian General Takaful, the first public institution specializing in general Takaful insurance in Algeria, known as "Algeria Takaful." United Takaful Insurance Company of Algeria practices family Takaful insurance. Both established in 2022, following Executive Decree No. 21-81 of 2021 regulating Takaful insurance activity in Algeria.

¹⁷ Decision issued on November 4, 2021, supplementing the decision issued on July 8, 2006, approving the insurance company "Mediterranean General Insurance", JR n° 94, issued on December 15, 2021, p. 14.

Decision issued on November 4, 2021, supplementing the decision issued on October 11, 2006, approving the company "Cardif Algeria", JR n° 95, issued on December 23, 2021, p. 26.

¹⁸ Articles 10, 11, 12, 13, and 15, Resolution No. 20-01 issued on April 1, 2020, establishing the Shari'ah Board for Fatwas in the Islamic Financial Industry.

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