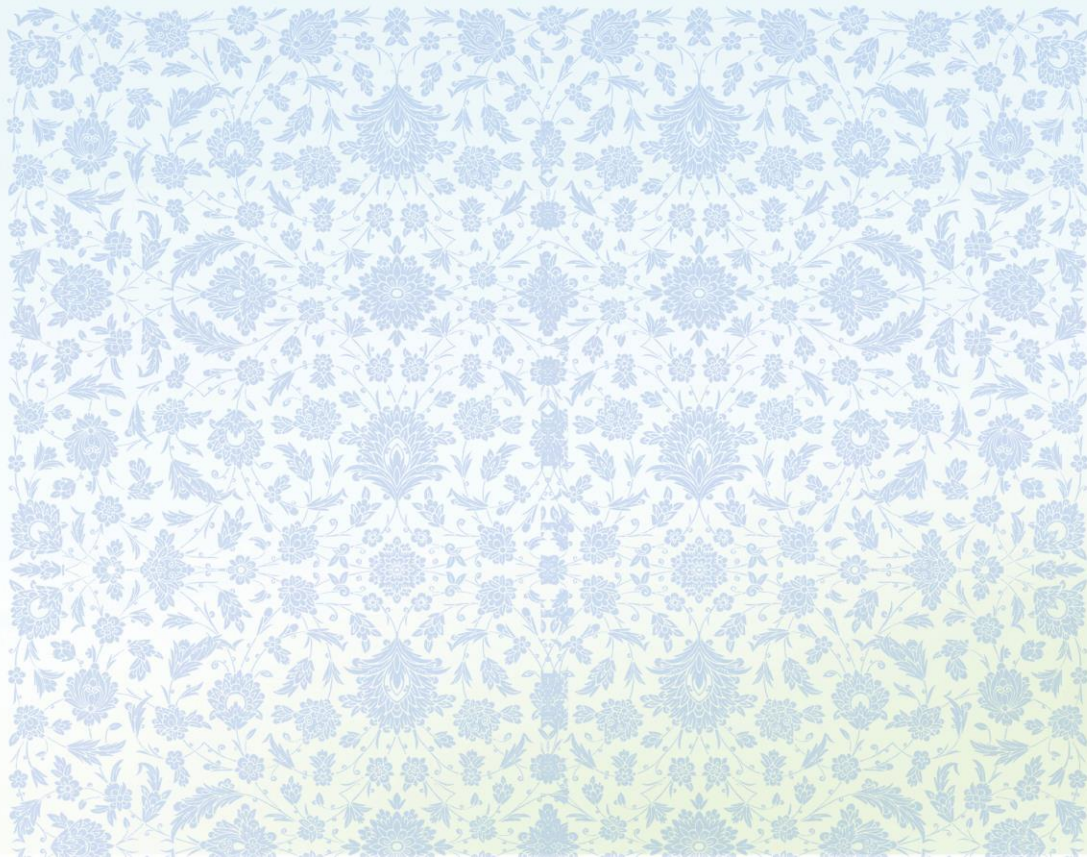


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IRAN INSURERS SYNDICATE



INSURANCE AND
DEVELOPMENT CONFERENCE

30th National and 11th International Conference on Insurance and Development (ICID 2023)

The Evolution of Insurance Industry Ecosystem

(Takaful, Governance, Modern Technologies)



IRC Workshop – Operationalizing Takaful in Iran

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December 2023 – 11th ICID 2023



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Agenda: Introduction



- ❑ Iran is a unique country. Unlike other countries, the **Islamic Finance framework is PART OF the system**
- ❑ Commercial Takaful is Insurance that is devoid of **Gharar, Maysir, and Riba**. Gharar, Maysir & Riba is the basis of **Islamic Finance Principles**
- ❑ The Council of the International Islamic Fiqh Academy of the Organization of the Islamic Conference in Jeddah, Saudi Arabia (22–28 December 1985) first decreed that Insurance is **forbidden by sharia**



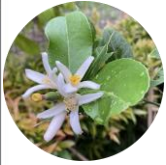
Agenda: Introduction



- ❑ The Council of the International Islamic Fiqh Academy Resolution No 9 (9/2) of the Organization of the Islamic Conference (22–28 December 1985) decreed:
 - ❑ **First:** The commercial insurance contract with a fixed periodical premium, which commercial insurance companies commonly use, is a contract that contains **major elements of deceit** that void the contract and is therefore prohibited by Shariah.
 - ❑ **Second:** The alternative contract, which is compliant to Shariah in this matter, is **the contract of cooperative insurance**, founded on the basis of **charity and cooperation**. Similarly, it is a case of reinsurance based on the principle of cooperative insurance.



Agenda: Introduction



- ❑ The solution should have **been fixing the “ elements of deceit” in the system** but the pioneers decided to form a totally new system & called it Takaful.
- ❑ In **1984, the Takaful Act** was first established in Malaysia, and this was the legal basis for the formation of Takaful in Malaysia. The word **Takaful** was first legally used by Malaysia.
- ❑ From here, several business models to support **Commercial Takaful** was experimented
 - ❑ Mudarabah
 - ❑ Wakalah
 - ❑ Hybrid of the two



Agenda: Introduction



- ❑ Later **Wakalah** became the accepted model as Mudarabah posed too many challenges (financially, operationally & regulatory capital management)
- ❑ Subsequently, the **Kafalah Business Model** was accepted* in 2005 and in reaffirmed in 2009 and one insurance company was allowed to use this model.
- ❑ However, BNM **maintains legally** that all licensed Takaful company is to use the **Wakalah business model** and issued **Takaful Operational Framework**



Agenda: Introduction



- ❑ Insurance and takaful are highly regulated businesses. The strategy for moving forward in Iran starts with
 - ❑ **Analyse** of the existing Regulations.
 - ❑ **Deploying appropriate strategy that fits the existing regulations**
 - ❑ **Selective copying of** other countries' experience
 - ❑ **Adopt & develop** the IFP Resolution related to Iranian Financial and select foreign resolution is accepted by Iranian Scholars



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This section provides a Macro Assessment
of Iranian Insurance law



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Agenda: Iran Legal Framework



- Approving Authority: Supreme Council of Insurance
- Many regulations – Over 68 regulations

Primary Regulation: Insurance Transaction Law



Agenda: Iran Legal Framework



- ❑ Insurance is **defined** in Iran

Insurance Law: Insurance Transaction

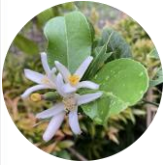
Article 1:

Insurance is a contract in which one party **undertakes to indemnify the loss** sustained by the other party caused by the **occurrence of specific events**, in consideration of **receipt of a certain sum** or sums of money from the other party.

The **undertaking party** is named the **Insurer**, the other party the Insured, the money paid by the insured to the insurer is termed premium and the **subject of insurance is termed interest**.



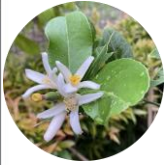
Agenda: Iran Legal Framework



- Unlike in many markets (including Malaysia), insurance is never defined. **Iran is unique as Iran regulators defined it.**
- In many markets, it is assumed that **Insurance is a contract of sale** (Al-Muawadah). It does not meet the principle of Al-Muawadah but is a **Contract of Indemnity.**
- Iran has got it right and has legally defined it.



Agenda: Iran Legal Framework



- When the law has defined insurance as a form of **indemnity business**, it is easier to set up Takaful [**Insurance that complies with Islamic Finance Principles (IFP)**].
- We only need to manage the contract to ensure that Gharar, Maysir & Riba are addressed **ADEQUATELY**.



Agenda: Iran Legal Framework



IFP values are accepted by **other Global Orthodox religion¹**
and the IFP risk in insurance can be managed

- **Gharar** (Uncertainty, risk, or hazards) contracts – resolved by
 - Having an **acceptable** contract between parties
 - **Easily understood and transparent** by both parties
 - **Clear obligations** by parties
 - Have clauses on **dispute resolutions**
 - **Independent** claims department

¹ Orthodox Jews, Orthodox Christians, Hindus, Buddhist & Sikhism



Agenda: Iran Legal Framework



Maysir (Earnings from Speculation or Gambling)

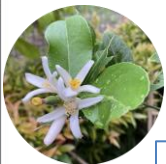
- **Maysir** addressed by
 - Having a transparent contract
 - Avoidance of speculative elements in contracts
 - Managing Investment process
- **Riba** addressed by
 - **Understanding** the concept of Riba
 - Avoidance in **financial transactions**
 - Avoidance by **contract design**
 - **Riba is already addressed in Iran Legal Framework**



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Agenda: Setting Up Takaful in Iran



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Agenda: Iran Legal Framework



- IFP has been ingrained in the Iran Legal system. Implementing Takaful are much easier There are several options:
 - Setting up a new company & calling it Takaful
 - Make Takaful an industry product



Agenda: Iran Legal Framework



❑ What is Takaful?

❑ A **modified mutual insurance** model devoid of the elements of Gharar, Maysir & Riba.

❑ First introduced and Practiced in Malaysia and copied by many countries around the world.

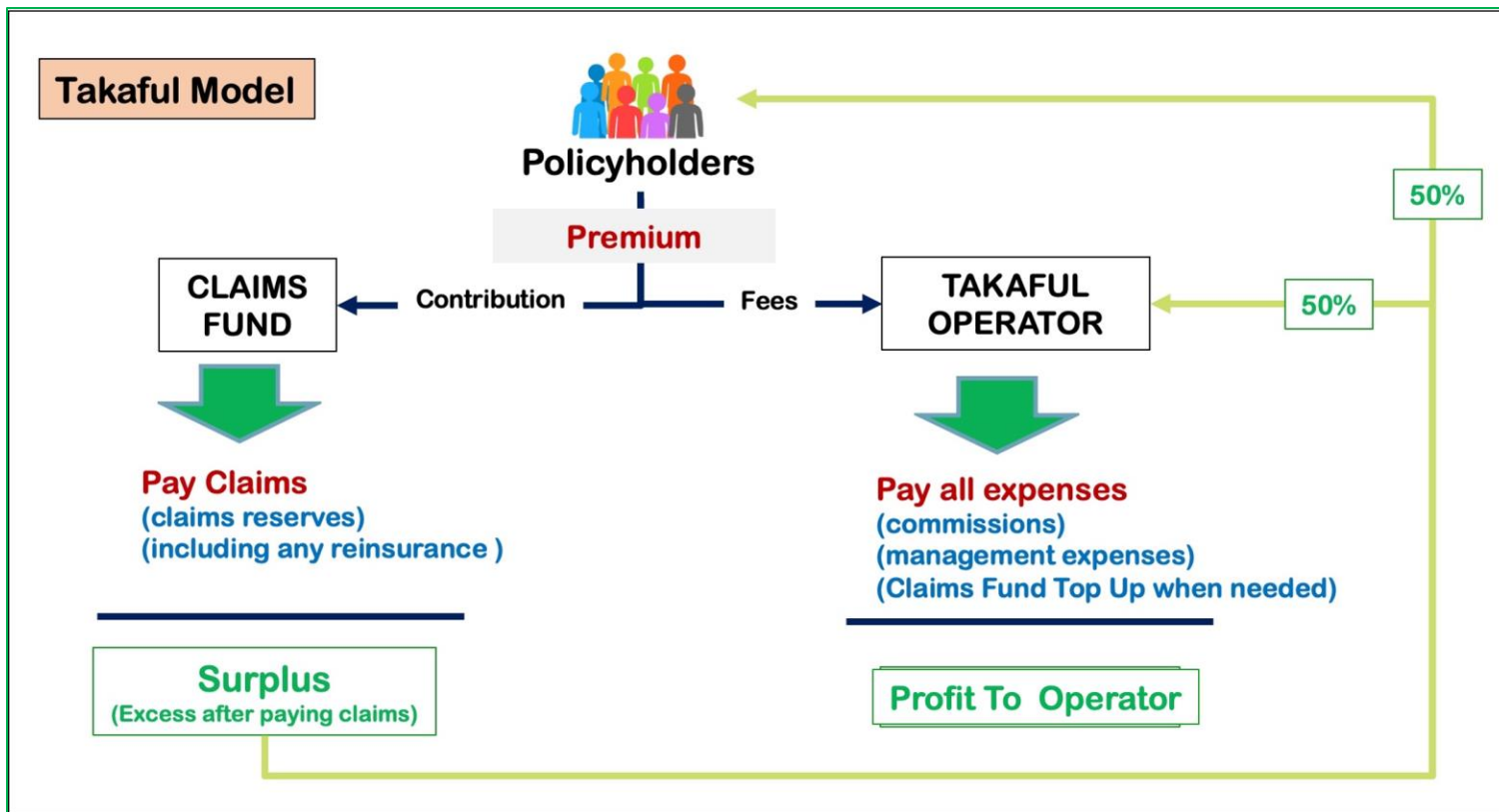
❑ Takaful Vs Iran Islamic Insurance Framework

❑ Companies in Iran need to decide what they want **to do in the marketplace and ensure it complies with Iranian Financial Regulation**



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Agenda: Iran Legal Framework



❑ Setting up Takaful **Company Vs A window**

- ❑ In countries with **secular regulations** in plural societies, a separate takaful companies make sense to send a message that their product is aligned with IFP.
- ❑ In Iran where Islamic regulation is in place, having a separate Company or window makes little **economic sense**.
- ❑ Other than the benefit of having **separate corporate, accounting & tax benefits**, it may create confusion in the Iranian marketplace



Agenda: Iran Legal Framework



- ❑ Takaful (Islamic Mutual Insurance) as a **product** in Iran
 - ❑ Depending on the selected business model, takaful can be a new product structure.
 - ❑ Have a UW surplus allocation
 - ❑ Hibah for Charity allocation



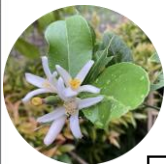
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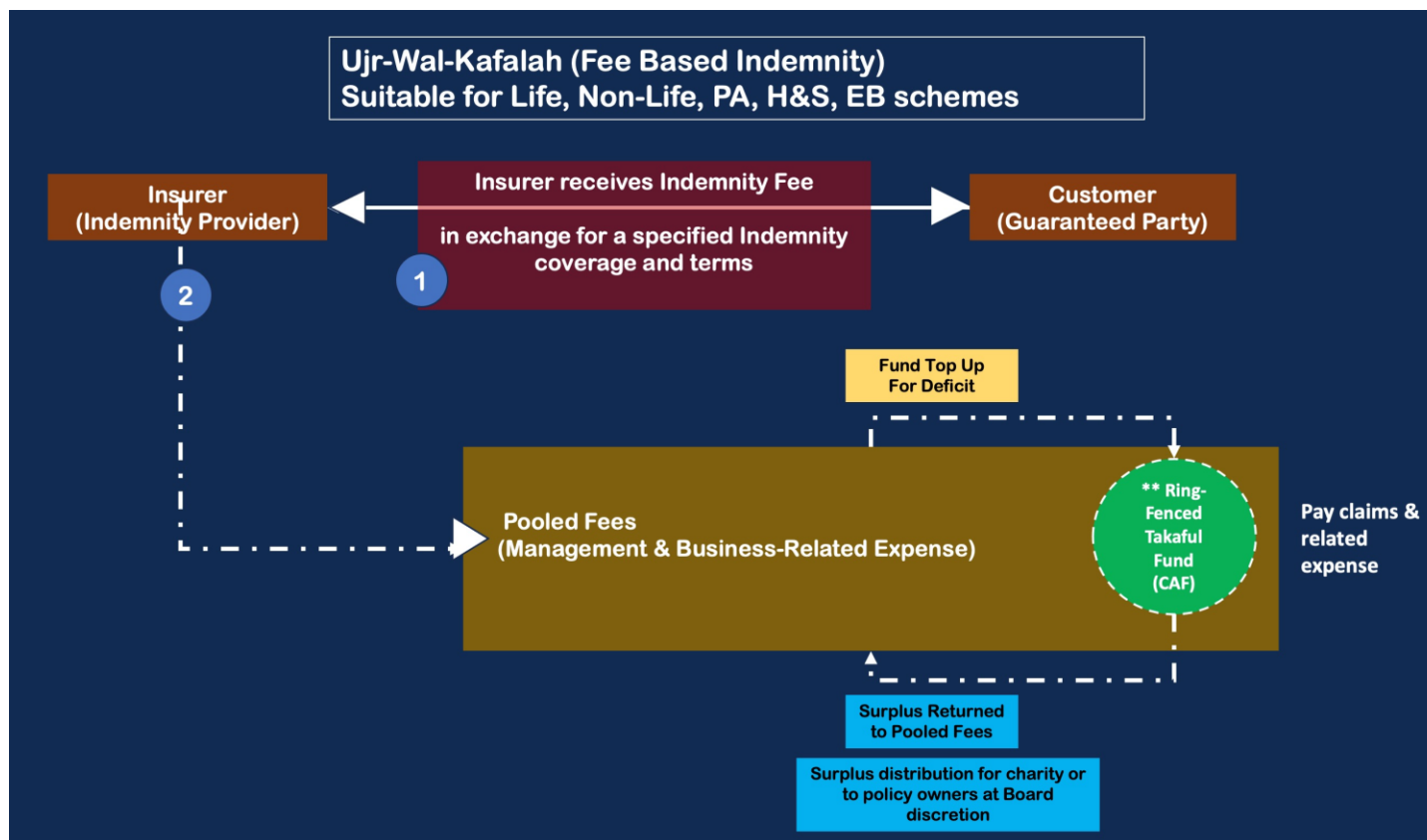
- ❑ **Maintain Islamic Insurance **product with modifications** in Iran**
 - ❑ Depending on the selected business model, takaful can be a new product structure.
 - ❑ Kafalah Model (Indemnity Model) (already practiced in Iran) but introduced new components in the product structure.
 - ❑ **Surplus sharing**
 - ❑ **Charitable elements**



Agenda: Iran Legal Framework



- Maintain Islamic Insurance **product with modifications** in Iran





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Selecting a business model



- The question of which model and approach to be used in Iran is a **BUSINESS** decision that affects
 - Regulatory requirements**
 - Operational efficiency**
 - Internal business disruption**
 - Added cost of doing business**
 - Market demands and product attraction**



Selecting a business model



Wakalah

- This is Modified Mutual Insurance compliance to IFP
- Two fund structures with different fund owners.
- Cost vs. profitability consideration.
- New to the Iranian market. This may create market issues.
- This may create many operational challenges.

Kafalah

- This is already practiced in Iran's Insurance system.
- Single fund structure belongs to the company.
- Cost vs. profitability consideration.
- Modified Kafalah products with elements of profit sharing (surplus sharing) or CSR components may attract new customers.
- Easier acceptance



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Agenda: Surplus



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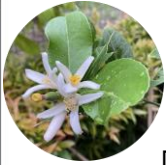
Agenda: Surplus & Surplus Sharing



- ❑ Surplus refers to “extra” or ”excess” and in Takaful it refers to the underwriting surplus from CAF (or tabarru fund).
- ❑ In accounting terms, this refers to the excess of money in the Tabarru fund from contribution & investment returns after paying claims and setting aside reserves.
- ❑ The surplus-sharing concept was first approved by BNM and copied worldwide. It came about as life companies complained about not getting any upside income **and limited to fixed fees charged.**



Agenda: Surplus & Surplus Sharing



- ❑ Surplus is not a Sharia matter, but **surplus sharing** based on the Wakalah model is **a Sharia concern** but was approved **by the regulator** with **BNM SAC dispensation**.
- ❑ Surplus sharing can be used as a **marketing tool** and **product differentiation to enhance sales**.
- ❑ **Surplus can also be used for social and charitable purposes**

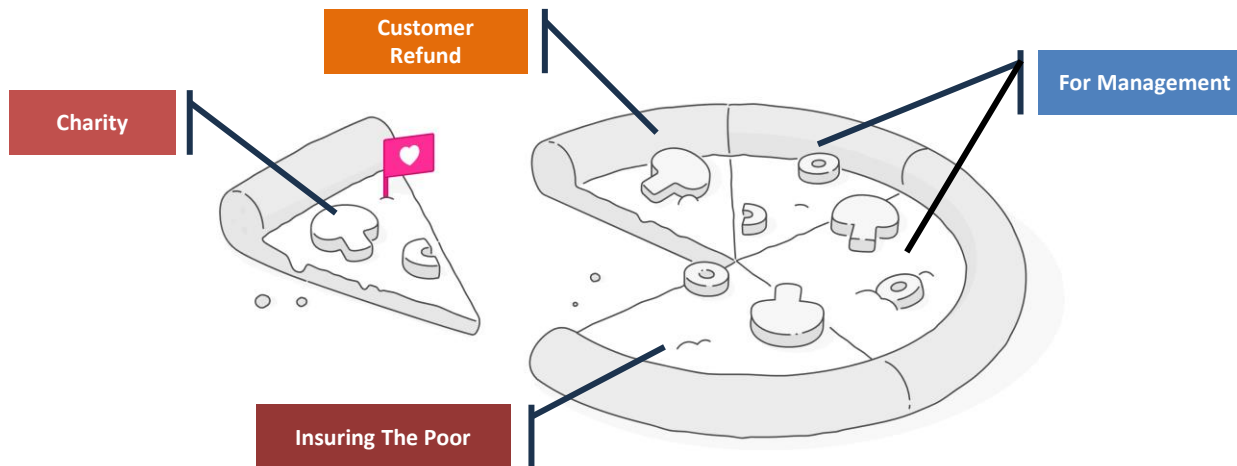


Agenda: Surplus & Surplus Sharing



❑ Surplus distribution

- ❑ In Iran, there is **no regulation on surplus**. Therefore, companies **can share** distributable surplus according to their **company policy and product design**.
- ❑ This includes companies allocating surplus for **CSR purposes**

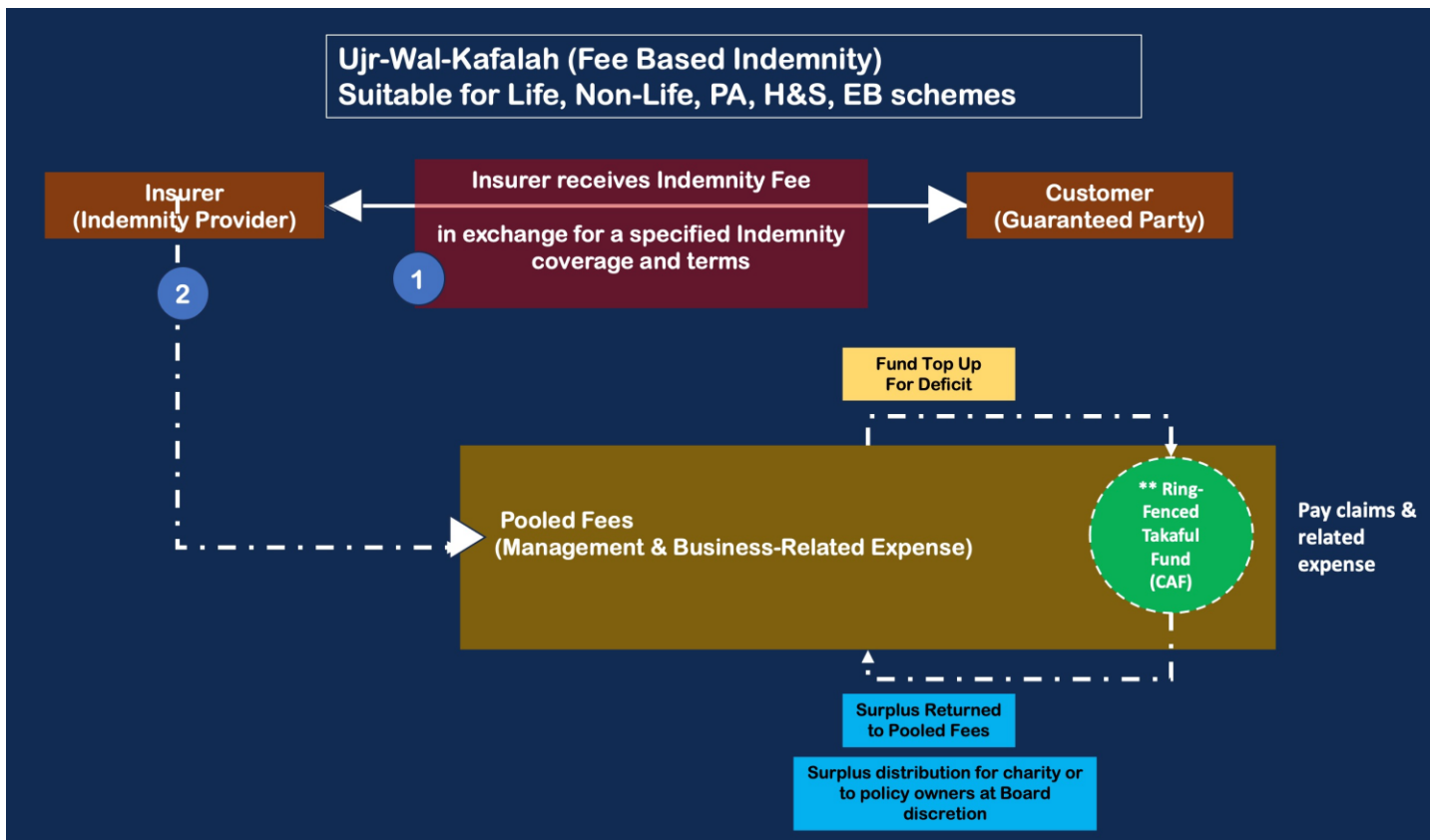




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Agenda: Surplus & Surplus Sharing



- ❑ In the Iranian system, the concept of **claims fund and surplus** can be developed to enhance consumer acceptance.



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Agenda: Compliance to IFP



- ❑ In Islamic Finance, the key element is the usage of **UNIVERSALLY ACCEPTED BUSINESS VALUES** in the marketplace.
- ❑ **Fair to contractual parties, Transparent, Clear, Arms-length transactions, and avoidance of RIBA** are the key elements of IFP and have been demanded by **Prophet Abraham** and all prophets that come after him.
- ❑ As a result, these values are found in Orthodox Judaism & Christianity.
- ❑ Companies **that dwell in IFP** can develop any business model, provided it is **accepted by the regulator** and marketplace and **provides the opportunity** for investors to make money.



Agenda: Compliance to IFP



- ❑ Therefore, Takaful is not limited to the use of the Wakalah Model. Prior to the Wakalah Model, the Mudarabah model was used.
- ❑ The Mudarabah model falls out because operationally it is challenging. Similarly, **market players should not stop developing new models.**



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Agenda: Conclusion



❑ Conclusion

- ❑ In Iran, insurance is defined as a **Contract of Indemnity** and not Al-Muawadah.
- ❑ Iran already practice Islamic Insurance but based on Indemnity contract whereas many countries use the Modified Mutual Insurance (Wakalah) model
- ❑ There is **no regulation related to surplus in Iran**. Companies can modify their business model to enhance transparency and introduce surplus.
- ❑ Companies **can share** a portion of the underwriting surplus according to their **company policy and use it as part of product differentiation and marketing advantage**.



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Agenda: Q&A



Thank You

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