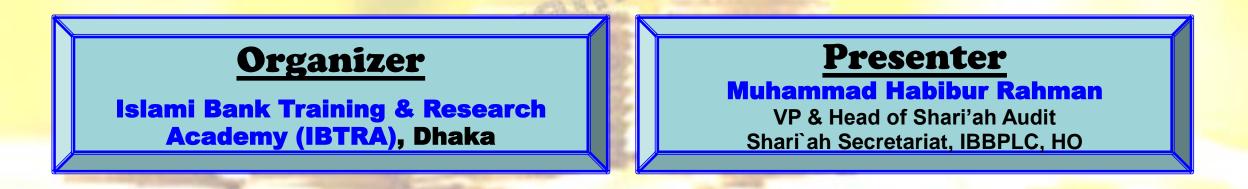
## Diploma in Islamic Banking (DIB), Part-I Exam: April'24 Code :101 (Alternative Financial System)

### **Sukuk: Definition, Features, Classifications, Process Takaful: Concept, Features, Historical Development**

**SESSION-II** 



Date : 09.03.2023 (Saturday)

**Venue: Virtual Platform** 

## **Session overview**

The following topics will be covered from Chapter 6 (Sukuk Market) and chapter-7 (Takaful) of Code-101 of DIB Part-I:

- 1. Concept of Sukuk
- 2. How does Sukuk differ from Conventional Bond
- 3. Features of Sukuk
- 4. Securitization
- 5. Types of Sukuk
- 6. Prospect of Sukuk in Bangladesh
- 7. Recapping Sukuk

- 1. Risk concept in Shari'ah
- 2. Takaful
- 3. Why is Conventional insurance not acceptable by Shari'ah
- 4. Historical Development of Takaful as an alternative to conventional insurance
- 5. Types of Takaful business models
- 6. Differences between Islamic and conventional insurance
- 7. Recapping Takaful

## **1.1 Meaning and Definition of Sukuk**

Sukuk is plural for Arabic word Sakk (صك). This word was used mostly in the Middle Ages to refer to "certificates" or papers denoting financial obligations from commercial activities.

AAOIFI Shari'ah Standard No. 17 "Investment Sukuk" defines Sukuk in the following manner: "Investment Sukuk are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or (in the ownership of) the assets of particular projects or special investment activity." [Ref.: AAOIFI Shari'ah Standard No. 17, Sec. 4/1/2/11]







## **2. How does Sukuk Differ from Conventional Bond?**

	Sukuk	Bonds
Ownership	Partial ownership of an asset.	Debt obligation.
Compliance	The assets that back sukuk should be compliant with Shariah.	Compliance with laws of country/locality they are issued in.
Pricing	The face value of a sukuk is priced according to the value of the assets backing them.	Bond pricing is based on credit rating, i.e. the issuer's credit worthiness.
Rewards and risks	<ul> <li>Sukuk holder receives a share of profits from the underlying asset</li> <li>Sukuk holder accepts a share of any loss incurred</li> </ul>	<ul> <li>Returns from bonds correspond to fixed interest (making them <i>riba</i>)</li> <li>Their principal is guaranteed to be returned at the bond's maturity date</li> </ul>
Effects of costs	Sukuk holders are affected by costs related to the underlying asset. Higher costs may translate to lower investor profits and vice versa.	Bond holders generally aren't affected by costs related to the asset, project, business, or joint venture they support. The performance of the underlying asset doesn't affect investor rewards.
Sales	Sale of ownership in the assets backing them.	Sale of debt.

## 4. Securitization

- Before understanding the mechanism of Sukuk, it is important to understand the concept of and need for securitization.
- Securitization is the process of packaging a pool of assets into tradable securities that can be sold to investors (through Sukuk) in the capital market.
- AAOIFI defines securitization as:
  - "... a process of dividing ownership of tangible assets, usufructs or both into units of equal value and issue securities as per their value. [AAOIFI Shari'ah standard no. 17: Investment Sukuk – Appendix (C)]
- Securitization allows an entity to utilize non-marketable assets on its balance sheet by packaging them into a pool of assets and transforming them into marketable assets.

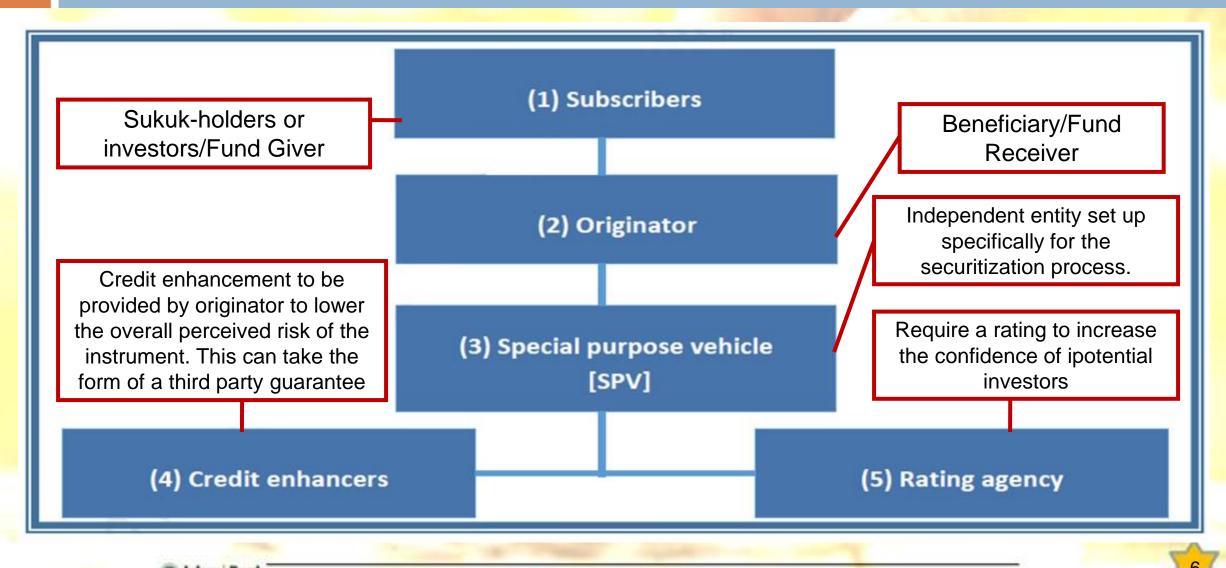
Security

Investor

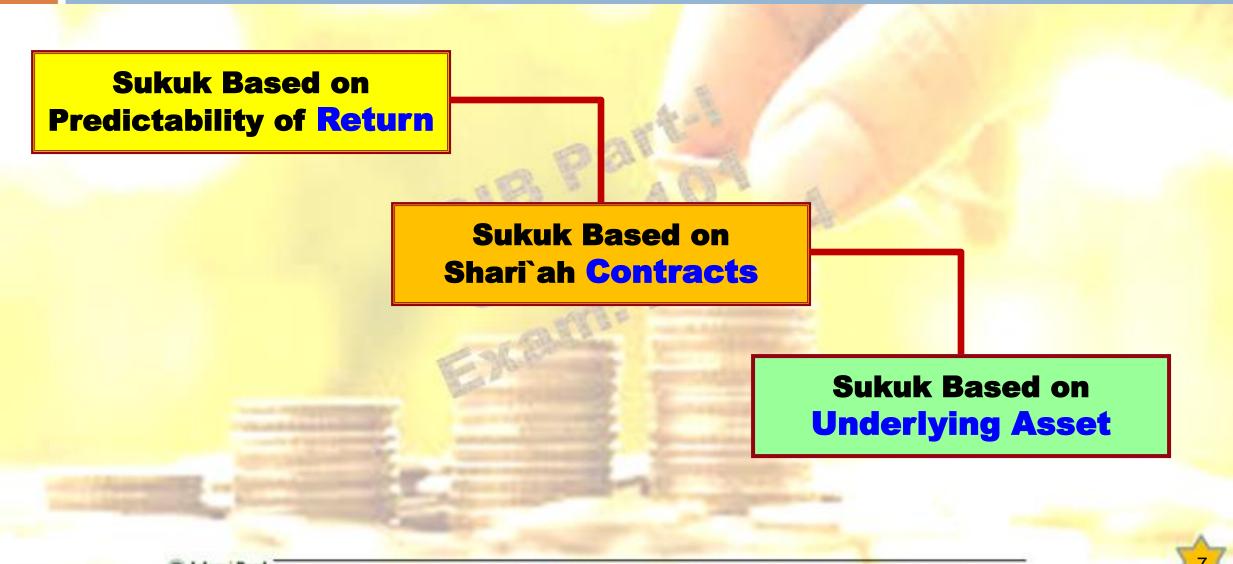
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Issuer

## **4.1 Schematic presentation of Securitization**



## **5. Types of Sukuk**

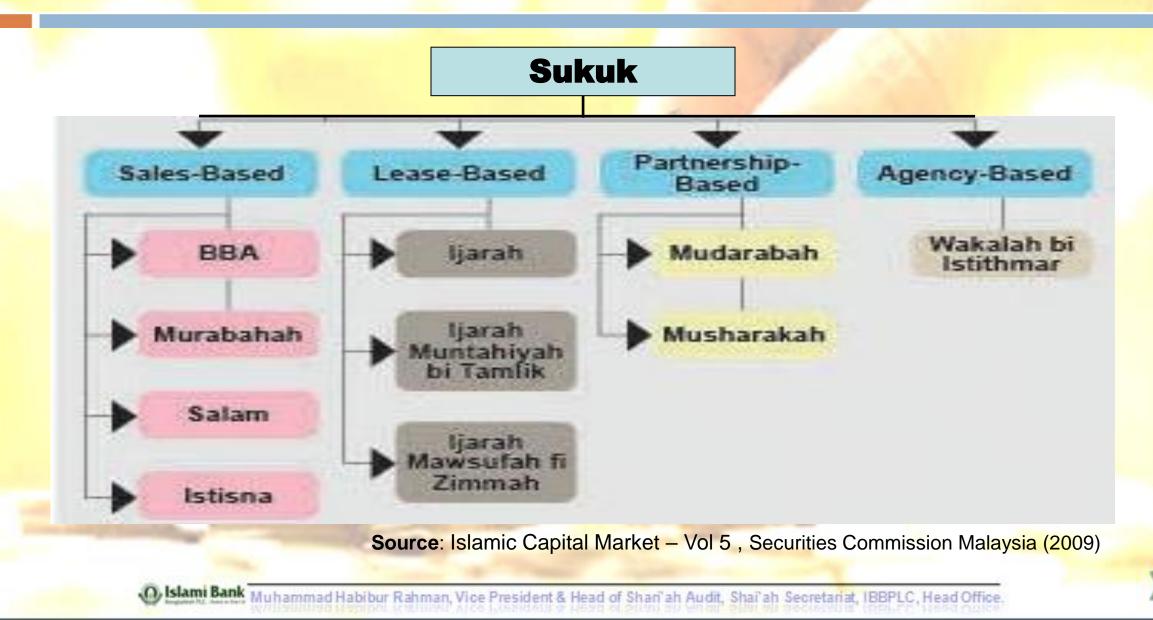


## **5.1 Types of Sukuk** (Based on Predictability of Return)

Debt type instruments	Debt-type instruments are investments that have terms providing fixed or determinable payments of profits and capital to the holder of instrument	Murabaha Sukuk	
		Salam Sukuk	
		Istisna'a Sukuk	
		ljarah Sukuk	
Equity type instruments	Equity type instruments are investments that do not exhibit features of debt-type instruments and include instruments that evidence a residual interest in the assets of an entity after deducting al its liabilities	Musharaka Sukuk	
		Mudaraba Sukuk	

Source: AAOIFI Shari'ah Standard No. 17 "Investment Sukuk" & AAOIFI Financial Accounting Standard No. 25 "Investment in Sukuk, shares and similar instruments

## **5.2 Types of Sukuk** (Based on Shari`ah Contracts)

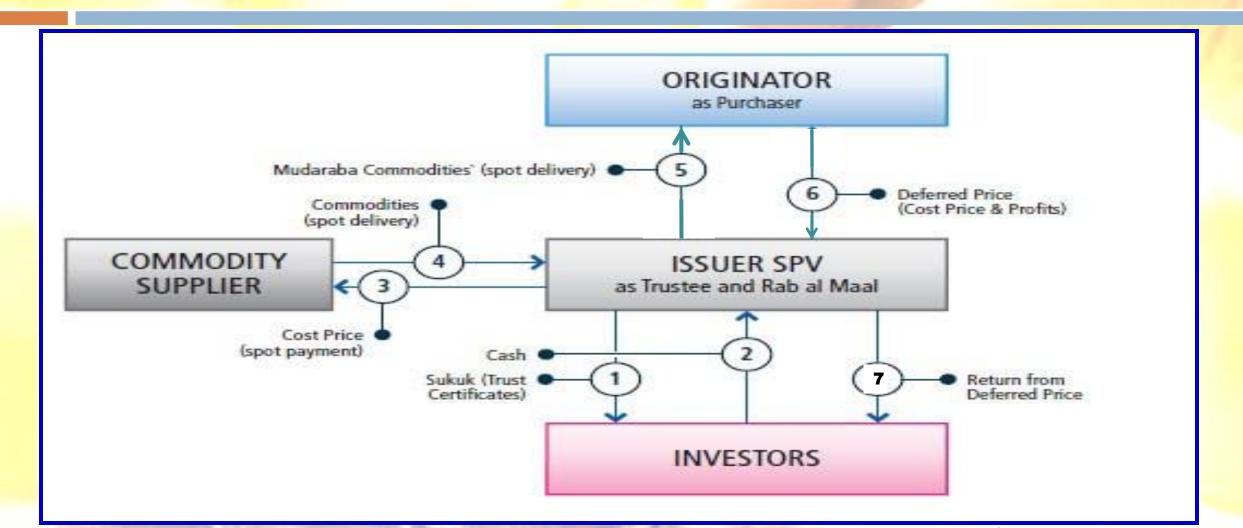


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## **5.3 Types of Sukuk** (Based on Underlying Asset)

	Asset-backed Sukuk	Asset-based Sukuk
Issuer	SPV	SPV
Process	Securitization of tangible assets	Securitization of receivables
Characterization V	Equity-like	Debt-like
Sources of payment	The revenues generated by the underlying asset	The originator's/obligor's cash flows
Sukuk holder's ownership	Legal ownership with right to dispose of underlying assets	Beneficial ownership with no right to dispose of underlying assets
Recourse	Sukuk holders have recourse only to underlying assets but cannot recourse to the originator	Sukuk holders can recourse to the originator if there is a shortfall in payments

## **5.1 Murabaha Sukuk: Process Flow**

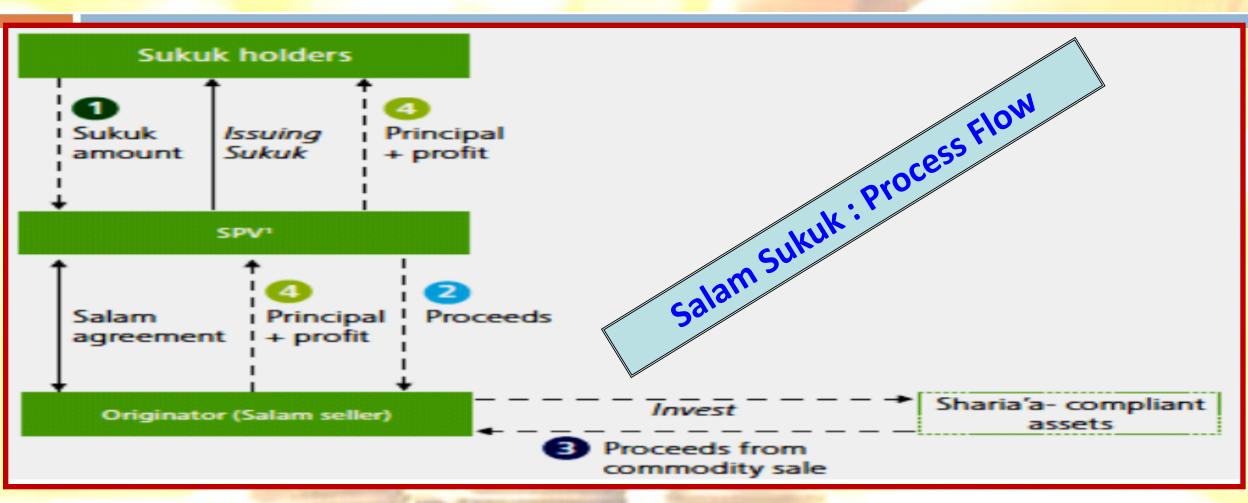


This cannot be traded in the secondary market since it is a debt obligation and Shari'ah prohibits the buying and selling of debt instruments.

## 5.1 Murabaha Sukuk: Process Flow (Contd.)

- (1) The Issuer SPV issues Sukuk, which represent an undivided ownership interest in an underlying asset or transaction.
- (2) The Investors subscribe for Sukuk and pay the proceeds to the Issuer SPV (the "Principal Amount"). who acts as Trustee on behalf of the Investors.
- (3) The Originator (as Purchaser) enters into a Murabaha agreement with the Trustee (as Seller). The Trustee purchases the Commodities from a third party Commodity Supplier for a Cost Price representing the Principal Amount for spot payment.
- (4) The Commodity Supplier makes spot delivery of the Commodities to the Trustee in consideration for the Cost Price.
- (5) The Trustee (as Seller) on-sells to the Originator the Commodities upon delivery from the Commodity Supplier in accordance with the terms of the Murabaha agreement.
- (6) The Originator (as Purchaser) makes payments of deferred price at regular intervals to the Trustee (as Seller).
- (7) The Issuer SPV pays each deferred price installment to the investors using the proceeds it has received from the Originator.

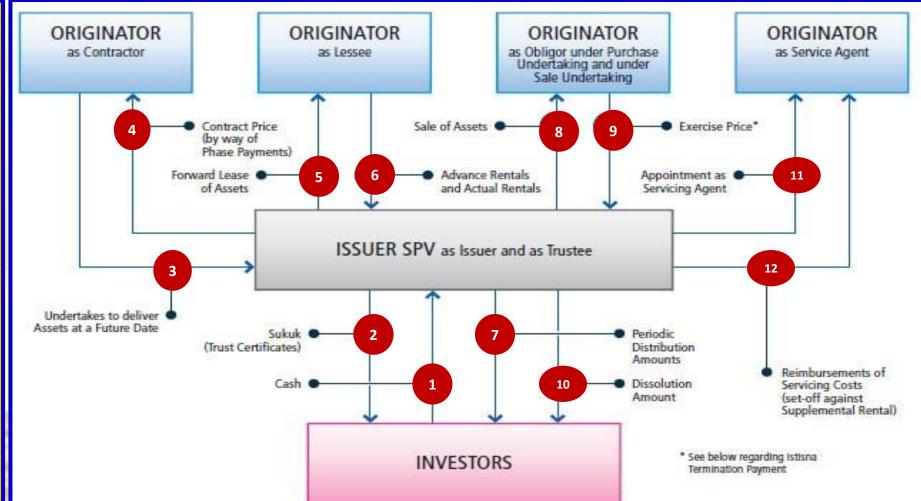
## **5.2 Salam Sukuk**



Salam Sukuk certificates cannot be traded until the asset is in a tangible form and delivered at maturity.

## **5.3 Istisna'a Sukuk**

Trading of these debt certificates in the secondary market other than on face value is prohibited in Shari'ah. Istisna'a is therefore a less popular structure for Sukuk.



#### Istisna'a Sukuk : Process Flow

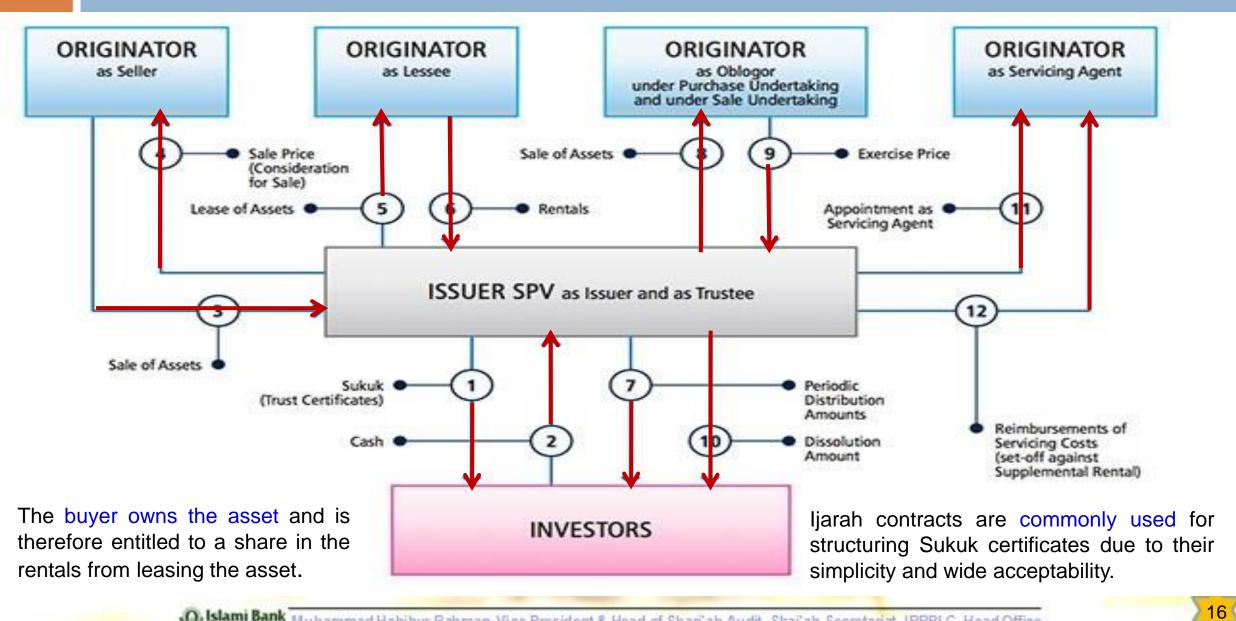
## 5.3 Istisna'a Sukuk (Contd.)





- Iargest ever Sukuk issuance from Bangladesh's private sector under Istisna'a
- Total Size: BDT 30 Billion
- The face value of this Sukuk is Tk100 per unit.
- Purpose: construction of Solar Projects of Teesta Solar Limited and Korotoa Solar, the two subsidiaries of BEXIMCO and financing and refinancing (non-interest bearing) of machinery and equipment required for the expansion of textile division of BEXIMCO Limited.
- Tenure : 5 Years
- Lowest periodic distribution rate of 9%
- Why it is called GREEN?

## **5.4 Ijarah Sukuk: Process Flow**



## 5.4.1 Example: Govt. Ijara Sukuk



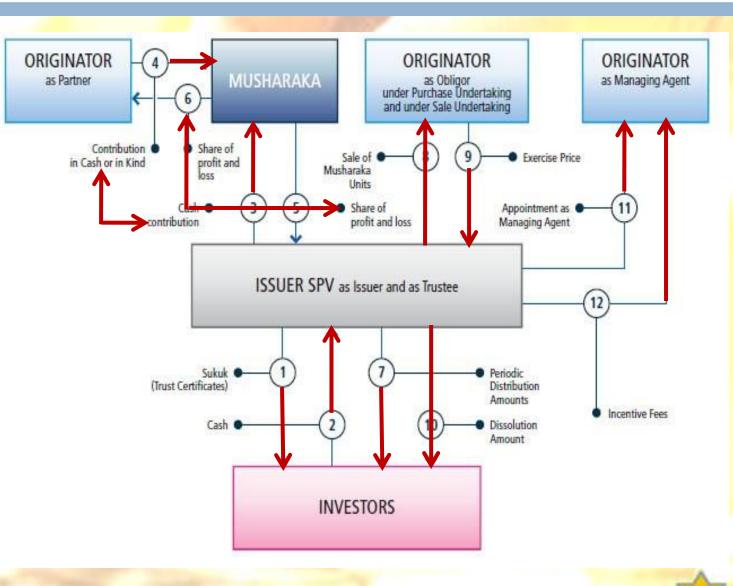
Investment open to both corporate institutions and individuals



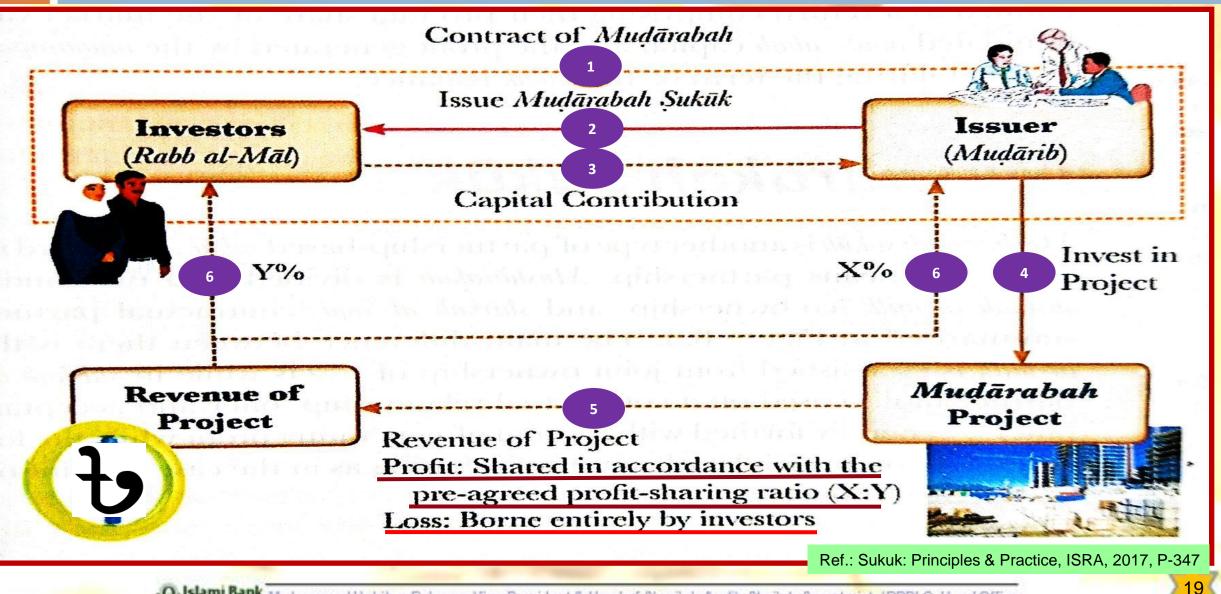
- The first Govt. Sukuk in the country was issued by the Bangladesh Bank on December 28, 2020
- Total tk 4,000 crore collected for the projects through an auction. Investors submitted bids worth Tk 15,153 crore during the auction (about 4 times over)
- In June 9, 2021, a second auction was held to generate the remaining BDT 40.00 billion for the fund, which was again over 8 times oversubscribed.
- Purpose: for financing safe water supply projects across the nation
- Tenure : 5 Years
- Rent : 4.69%
- On December 29, 2021, the third auction was performed in order to raise BDT 50.00 billion for a government elementary school project. It was five times oversubscribed.

## 5.5 Musharaka Sukuk (Contd.)

- Musharaka Sukuk represent ownership of the investors in the underlying asset to be purchased for a Shari'ah compliant activity.
- Sukuk holders (investors) have a right to the periodic distribution amount and the dissolution amount.
- Musharaka Sukuk can be traded in the secondary market. However, trading these certificates is not allowed if the Musharaka venture is still in the shape of cash or receivables.
- The general principles of the Musharaka contract are applicable on Musharaka Sukuk.

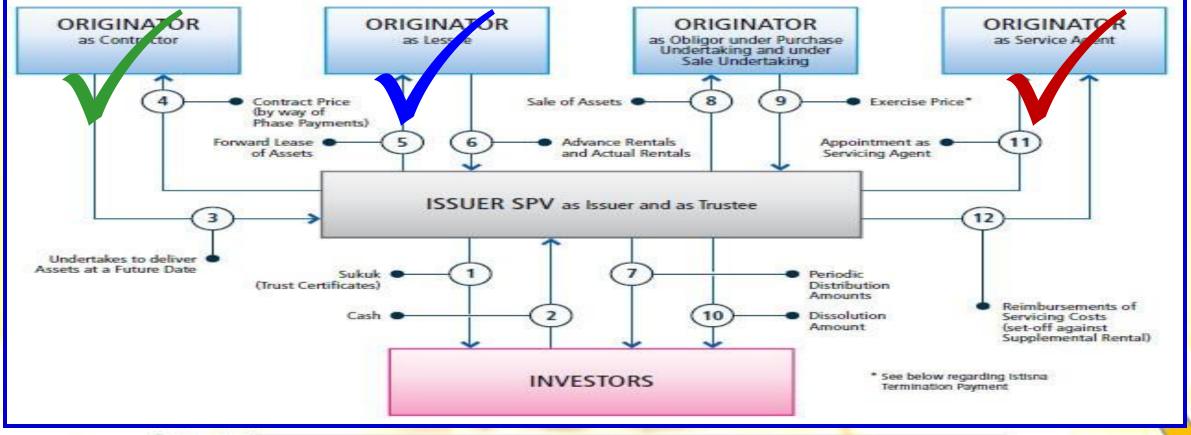


## **5.6 Mudaraba Sukuk**



## **5.7 Hybrid Sukuk**

This is a type of Sukuk in which two or more Islamic finance contracts are used. The above mentioned Istisna structure may also be an example of hybrid sukuk. Because, the Istisna, Ijara and wakala contract are used in that structure:



## **6. Prospect of Sukuk in Bangladesh**

- Now, Many mega projects are developing in Bangladesh. Such as Metro Rail, mass rapid transit (MRT), Extension Project of Hazrat Shahjalal International Airport etc. There is a need for more investment. The demand for this investment can be met through Sukuk bonds.
- Long-term finance for the development of the private sector is necessary. We are mostly dependent on commercial banks for any financing but banks are not supposed to provide funds for the long term,
- Besides the above, There are many opportunities to launch Sukuk in Bangladesh. It is possible to get good returns from this Shari`ah compliant instrument.
- The massive oversubscription implies that the Sukuk market in Bangladesh has a bright future.

## Takaful

**Concept, Features, Historical Development** 

## **Introduction to Takaful**

#### Risk is inherent in every human act.

- Individuals and companies are invariably exposed to unexpected tragedies such as loss of a bread earner, disabilities, accidents and destruction to business and wealth.
- Planning to protect oneself against unforeseen events is not only natural but also encouraged in Shari'ah.
- To satisfy this intrinsic need for self-preservation via Shari'ah compliant means, Takaful has emerged as an alternative to conventional insurance.
- Takaful, through its base model of promoting cooperation and mutual indemnification of losses amongst members, expunges all Shari'ah repugnant elements such as speculation, gambling and interest from prevailing practices in conventional insurance..

## **1. Risk concept in Shari'ah**

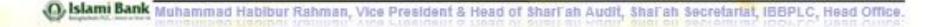
- The Islamic concept of risk is often explained using two Arabic words: Khatar (خطر) and Gharar (غَرَرٌ).
- Khatar is the modern translation of risk, its origins refer to respect and also recklessness or danger.
- Gharar on the other hand, refers to any uncertainty, ignorance, deception or speculation that may exist in a transaction.
- Islamic principles advocate the reduction of Gharar and Khatar to an acceptable level, or else the transaction would be considered impermissible.
- Therefore, risk management becomes vital for the legitimacy of transactions with the broad objective being the promotion of social and economic wellbeing.
- Takaful provides essential support within this Shari'ah compliant risk management model. As a mutual assistance solution, Takaful accepts a group of risks from participants that contribute to a Takaful risk fund.

## **1.1 Risk Share & Risk Transfer**

**Risk Share:** Risk Sharing involves distributing potential risks and their associated costs among multiple parties. Risk sharing is the norm in Islamic finance. Islamic financial institutions do not provide their customers fixed returns in exchange for their deposits or investments. Instead, the underlying structure is based on risk sharing. In theory, this scenario of shared risk and reward seems ideal and Shari`ah compliant.

**Risk Transfer :** Risk Transfer involves shifting the responsibility for a particular risk from one party to another. The transfer technique moves the impact of the risk to an external party. This is a more complicated strategy and is appropriate where the impact of the risk can be clearly measured and fully addressed by an external party.

In general, IFIs shall not resort to risk transfer techniques.



## 2. Takaful

Allah SWT says

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقُوَى <sup>ح</sup>ُوَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

"And cooperate in righteousness and piety, but do not cooperate in sin and aggression"

(Sura Mayedah: 2)

- Islamic insurance is commonly referred to as **'Takaful'** (النكافل), an Arabic word derived from the word 'Kafalah' (الكفالة) which means 'guaranteeing each other'.
- Islamic insurance is essentially based on the concept of mutual help, brotherhood, solidarity and mutual assistance with respect to any calamity that a beneficiary may experience, e.g. loss of property, life, etc.
- Islamic insurance or Takaful is a form of risk management

AAOIFI defines Islamic insurance as: ... a kind of cooperative insurance, which covers all types of risks, under the management of a specialized company that adheres to the rules and principles of Islamic Shari'ah. The contract of Islamic insurance is based on mutual assistance and donations, whereas the compensation received in case of loss or damage associated with risk faced, is shared voluntarily among the participants. (AAOIFI Shari'ah Standard No. 26 "Islamic Insurance")

## 3. Why is conventional insurance not acceptable by Shari'ah

#### **Prohibited elements in conventional insurance**

#### i. Riba

Both direct and indirect Riba can be found in insurance transactions

#### Direct Riba

Direct Riba is evidenced in the sale of a right for a premium paid. Essentially it is sale of some money (premium) by the insurer for more money (payment by insurance company in case of a loss event). This exchange of money for money of unequal amounts is direct Riba.

# RIRA

#### Indirect Riba

Indirect Riba exists when premiums are invested by insurance companies in interestbearing securities such as fixed-term interest deposits, bonds and derivatives. Interest from these investments is often used in claim payouts to the policyholders.

## 3. Why is Conventional insurance not acceptable by Shari'ah (Contd.)

#### ii. Gharar

In conventional insurance, neither the insured nor the insurer knows when the loss will occur, what the amount of loss will be or whether it will ever occur at all. The level of uncertainty is therefore significantly high.

The prohibition of *Gharar* in Shari'ah implies that any commutative or sale contract involving significant uncertainty and/or lacking transparency would be invalid.

#### iii) Qimar

*Qimar* is defined as an arrangement in which the acquisition of property is contingent upon the occurrence of an uncertain event, as is the case in gambling. In conventional insurance, the policyholder stands to lose all the premiums paid if the risk does not materialize. On the other hand, he/she stands to receive more should a misfortune occur whilst paying a small premium.

## **4. Historical Development of Takaful as an alternative to conventional insurance**

Takaful is not a new concept. Islamic society has been practicing similar methods of risk protection for centuries. However, in its modern form the introduction of Takaful is a recent phenomenon.

In fact, it was practiced by the Arabs of pre-Islamic Arabia and continued after the advent of Islam.

The formal practice of Takaful can be traced to the second century of the Islamic era when Muslim Arabs, while expanding their trade into Asia, mutually agreed to contribute to a fund to protect themselves in the event of a mishap or piracy along their numerous sea voyages (marine insurance).

The modern Takaful industry is only a few decades old. The first Takaful company was established in 1979 in Sudan and the second in 1984 in Malaysia.

The Grand Council of Islamic Scholars in Makkah and the Majma Al Fiqh al Islami played a major role in the development of Takaful when, in 1985, they declared that conventional commercial insurance was Haram (forbidden) and only insurance based on the application of Shari'ah compliant cooperative principles and charitable donations was Halal (permissible).

## 4.1 Historical Development of Takaful : Perspective Bangladesh

Islamic insurance was introduced in Bangladesh on December 12, 1999. Islami Insurance Bangladesh Ltd. is the first full fledged Islamic insurance in Bangladesh.

Presently, there are eight full-fledged Islamic insurance companies and 13 Islamic insurance windows operating takaful in Bangladesh. Each takaful company and its windows have *Shari'ah* boards to monitor takaful activities. All directors and *Shari'ah* boards of each takaful company and its windows gathered in June 20, 2002, in order to regulate and standardize the system across all operators. They met again in August 13, 2002 to establish the Central *Shariah* Council for Islamic insurance of Bangladesh.

Bangladesh is the third biggest Muslim country in the world. It can be hoped that there are ample opportunities for Islamic insurance companies and grow in Bangladesh.

## 4.2 Contemporary practice of Takaful (Islamic Insurance)

The practice of Takaful differs from one jurisdiction to another in terms of which business model is deployed. However, the fundamental operational nuances remain the same. The following basic practices form the foundation of Takaful:

- 1. Takaful fund: Contributions (donations or Tabarru) from members who wish to participate in the Takaful protection (policy holders) are used to create a fund which will be used to provide financial help at the occurrence of specified losses. All participants contributing funds are partners in indemnifying each other under specified risks.
- 2. Takaful operator: The Takaful fund requires management. Contributions need to be collected and accounted for, whilst claims made by participants need to be verified and subsequently paid out. The management of the Takaful enterprise is handed over to a Takaful operator.
- 3. Management contract: The Takaful operator has no claim over the profit or loss incurred by the fund and is in fact a separate entity to the Takaful fund. The Takaful operator is mandated by the participants of the Takaful fund to manage the fund through a management contract. The Takaful operator is remunerated for its efforts through fees against services.

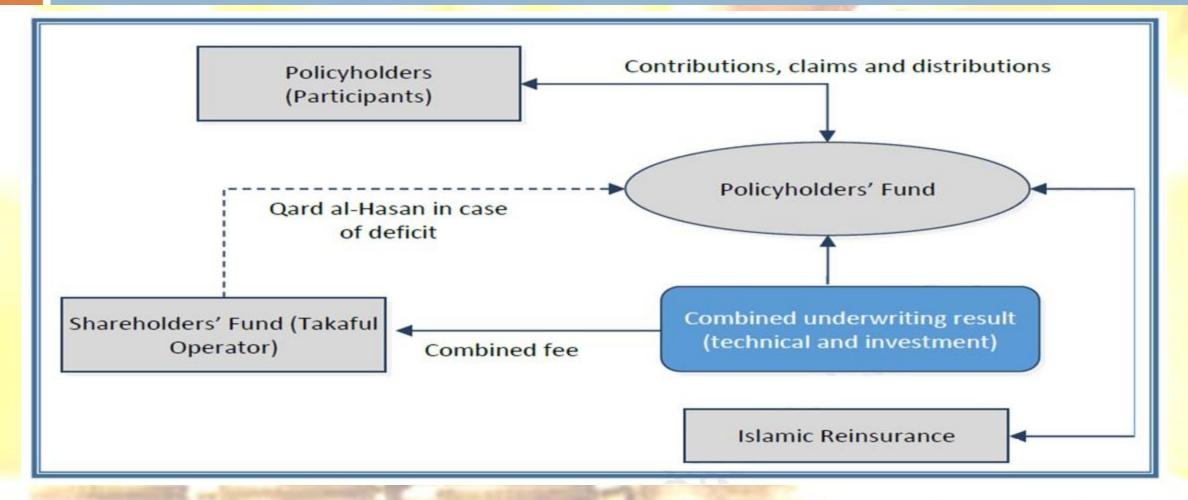
## **5. Types of Takaful business models**

#### 5.1 : Mudaraba

Under the *Mudaraba* model, the operator and policyholders enter into a contract of *Mudaraba*. The policyholders are considered *Rab al-maal*, and the operator is considered the *Mudarib*. The basic features of the *Mudaraba* model are as follows:

- The Takaful operator manages the Takaful fund and makes investments in Shari'ah compliant avenues;
- Profit from the investments is divided according to a mutually agreed ratio between the fund and the Takaful operator;
- Losses are borne by the fund. In case of deficit, the Takaful operator provides funds to the policyholder fund on the basis of Qard al-Hasan to tackle temporary deficits that can be covered out of future surplus; and
- Note that the Takaful operator's remuneration does not directly depend on the underwriting surplus or shortfall of the fund.

## **5.1.1 Mudaraba model: Process Flow**



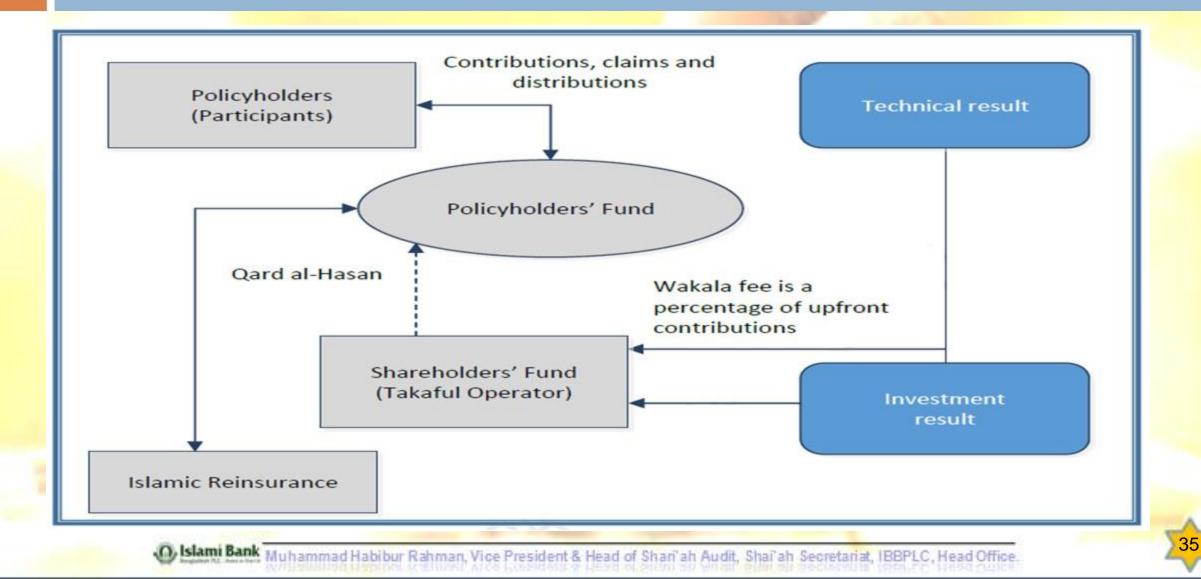
The Mudaraba model is the most popular model in different countries.

## **5.2 Wakalah Model**

Under the Wakala model,

- The Takaful operator acts as an agent (of the participants) who manages the fund for a fixed fee.
- As an agent, the operator is entitled to an agency fee (remuneration) and a performance fee (as commission).
- The surplus of the participants' investment funds goes to the participants. The agency fee rate is fixed annually in advance in consultation with the Shari'ah board of the Takaful operator.
- The performance fee, which is related to the level of performance, is given as an incentive for good administration and governance of the participants' fund.

### **5.2.1 Wakalah Model: Process Flow**

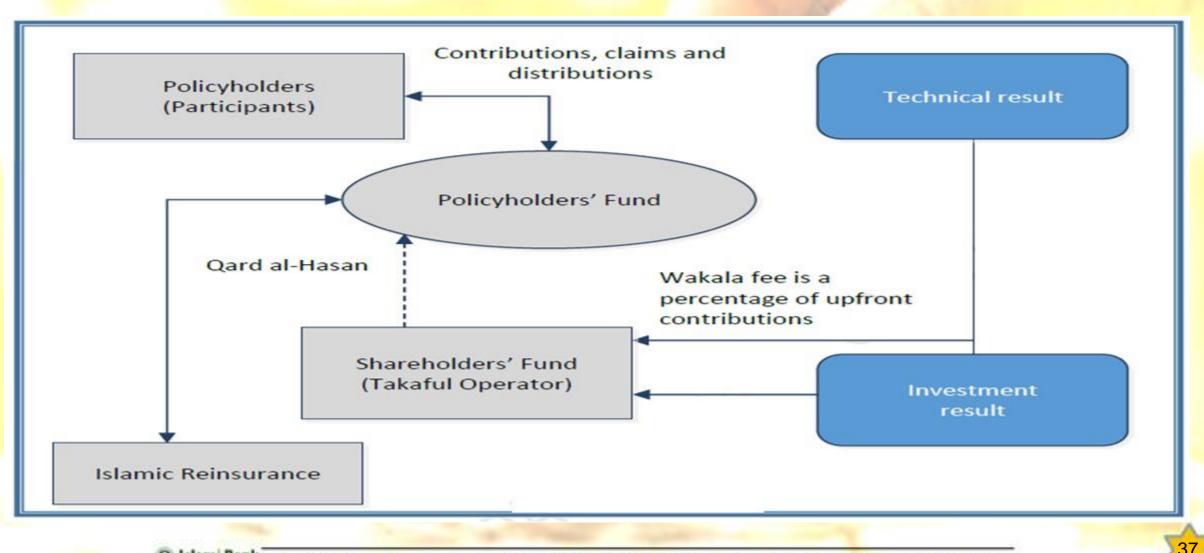


## **5.3 Hybrid Wakala-Mudaraba**

Under the Hybrid Wakala-Mudaraba model,

- The Wakala principle is applied in the underwriting activities while a Mudaraba contract is used in the investment of the Takaful funds.
- The Takaful operator is entitled to both an agency fee for managing the fund as the Wakeel (agent) and a share of the profit for managing the investment of the fund as Mudarib.
- This approach is widely adopted in United Arab Emirates.

### **5.3.1 Process Flow of Hybrid Wakala-Mudaraba**



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# 6. Differences between Islamic and conventional insurance

	Islamic insurance	Conventional insurance
Type of contractual obligations	Based on non-commutative (non- commercial) contract. Premium belongs to Takaful fund and the risk is shared in proportion to the premium contributed by each participant.	Based on commutative or commercial contract. Premium belongs to the insurance company and the risk is sold in exchange for premium paid by the participants.
Concept	Islamic insurance is based on mutual co-operation.	Conventional insurance is based solely on commercial terms.
Shari'ah non- compliant elements	Islamic insurance is free from interest (Riba), excessive uncertainty (Gharar) and gambling (Qimar). (Gharar is allowed in a non-commercial contract)	Conventional insurance includes elements of interest, excessive uncertainty (in a commercial contract) and gambling.
Risk sharing or transfer	Risk is shared among policyholders.	Risk is transferred from policyholders to the insurance company.

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# 6. Differences between Islamic and conventional insurance (contd.)

Investment	Investments made by Islamic insurance companies are based on Shari'ah principles.	Investments made by conventional insurance companies do not conform to Shari'ah requirements and may generate Shari'ah prohibited returns.
Ownership	The ownership of premium remains with the fund.	The insurance company owns the premiums paid by policyholders.
Surplus	Any surplus can be distributed among policyholders, retained in the fund as reserves or paid in charity.	Any surplus or deficit in conventional insurance pertains to the company's shareholders.
Compliance	Islamic insurance companies are required to remain compliant with governing laws as well as Shari'ah principles.	Conventional insurance companies are only subject to the governing laws of the land.
Fund	There is a segregation between the accounts of the participants of the Takaful fund and those of the shareholders.	No such segregation is in place in conventional insurance.

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### Diploma in Islamic Banking (DIB), Part-I Exam: April'2024 Code :101 (Alternative Financial System)

# **Session-IV**

Risk management , Corporate Governance (CG), Islamic CG, Challenges faced by IFIs and Short Notes



Venue : Virtual Platform

### **Session overview**

The following important topics will be covered as per chapter 8 (risk management), chapter 9 (regulation, supervision and governance of the alternative financial system) and chapter 10 (opportunities, issues and challenges) of Paper-101 of DIB Part-I:

- Concept of Risk, Risks faced by financial institutions, Unique Risks faced by IFIs, Risks in Islamic contracts, Risk management & its Shari`ah basis, Risk management Process etc.
- Corporate Governance (CG), Islamic CG, Shari`ah governance, Importance of CG for IFIs
  - Challenges faced by IFI
  - Short Notes

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`Risk' is a well known term widely used especially in the business and financial arena.

- The Risk arises when there is a possibility of more than a single result and the ultimate result is mostly unknown.
- Though all businesses face uncertainty, financial institutions face some special kinds of risks given their nature of business.
- Definition of Risk : Risk means uncertainty, danger, chance, jeopardy, peril etc.
- Risk is essentially anything that threatens or limits the ability of an organization to achieve its objectives. It implies future uncertainty about deviation from expected earnings or expected outcome.

### N.B: 'Risk concept in Shari'ah' has been discussed in session-III

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# **1.1 Risks faced by financial institutions**

Financial institutions can face different types of risks. **Financial risk** is the umbrella term used for multiple types of risks associated with financing and related transactions. Some major risks are:

- 1. Credit risk: This is the risk that arises due to debtor's nonperformance. It is the potential that a counterparty will fail to meet its obligations in accordance with agreed terms
- 2. Liquidity risk: This is the potential of loss to a financial institution arising from their inability to either meet their obligations or inability to easily exit a position without incurring unacceptable costs or losses.



3. Market risk: Also known as Systematic risk. This is the risk of losses in on- and off-balance sheet positions arising from movements in market prices i.e. fluctuations in values in tradable, marketable or leasable assets, F. Currency fluctuation, poetical instability.

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### 1.1 Risks faced by financial institutions (Contd.)

- 4. Operational risk: This risk is defined as the risk of loss resulting from inadequate or failed processes, people, systems or from external events. One of the operational risks which is only relevant to IFIs is Shari'ah non-compliance risk.
- 5. Rate of return risk: This risk is associated with overall balance sheet exposures where mismatches arise between assets and balances from fund providers. It gives rise to displaced commercial risk.
- 6. Displaced commercial risk: The risk that IFIs may be under market pressure to pay a return that exceeds the rate that has been earned on assets financed by investment account holders when the return on assets is under-performing as compared with competitors' rates.

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# **1.2 Unique Risks faced by IFIs**

Besides the above common risks, the IFIs may face the following unique risks:

- **1.2.1 Shari`ah non compliance risk :** The Shari'ah non Compliance Risk refers to the risk that arises from the bank's failure to comply with the Shari'ah rules and principles determined by the relevant Shari`ah regulatory councils. (Ref, *The Risk Management Guidelines (December 2014) of IFSB*)
- 1.2.2 Inventory risk : Inventory risk, in the context of Islamic Finance Institutions (IFIs), refers to the potential financial exposure or uncertainty associated with holding physical commodities or goods as part of their business operations. Inventory risk can arise due to factors such as price fluctuations, damage, spoilage, theft, or changes in market demand.
- **1.2.3 Equity investment risk :** equity investment risk as the risk arising from entering into a partnership for the purpose of undertaking or participating in a particular financing or general business activity as described in the contract and in which the provider of finance shares in the business risk. (Ref. *http://www.ifsb.org/standard/ifsb1.pdf*)
- 1.2.4 IT adaptation risk : isk associated with the implementation and integration of Information Technology (IT) systems and solutions within the framework of Islamic finance. It pertains to the challenges and uncertainties that arise when adopting and using IT infrastructure and software while ensuring compliance with Islamic principles and Shari'ah guidelines.

# **1.2 Unique Risks faced by IFIs (Contd.)**

1.2.5 Efficiency risk : It refers to the risk associated with the potential inefficiency or suboptimal utilization of resources, leading to decreased operational effectiveness and financial performance. This risk is particularly relevant to IFIs as they strive to operate in a manner that is both financially sound and compliant with Islamic principles.

- 1.2.6 Customer acceptance risk : Customer acceptance risk in Islamic Finance Institutions (IFIs) refers to the potential risk that arises when IFIs onboard new customers or clients who may not fully understand or accept the Islamic finance principles, products, or services offered by the institution.
- 1.2.7 Differentiation of opinion (of SSC) risk: the potential risk that arises when the Shari'ah supervisory committees of various IFIs hold differing opinions or interpretations regarding the permissibility (or non-permissibility) of certain financial products, transactions, or practices within the context of Islamic finance.
- 1.2.8 Communication risk: potential risk associated with the way IFIs communicate with their stakeholders, including customers, investors, regulators, and the general public, regarding their Shari'ah-compliant financial products, services, and operations.

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### **1.2.1 Areas of Shari`ah non compliance in IFIs**

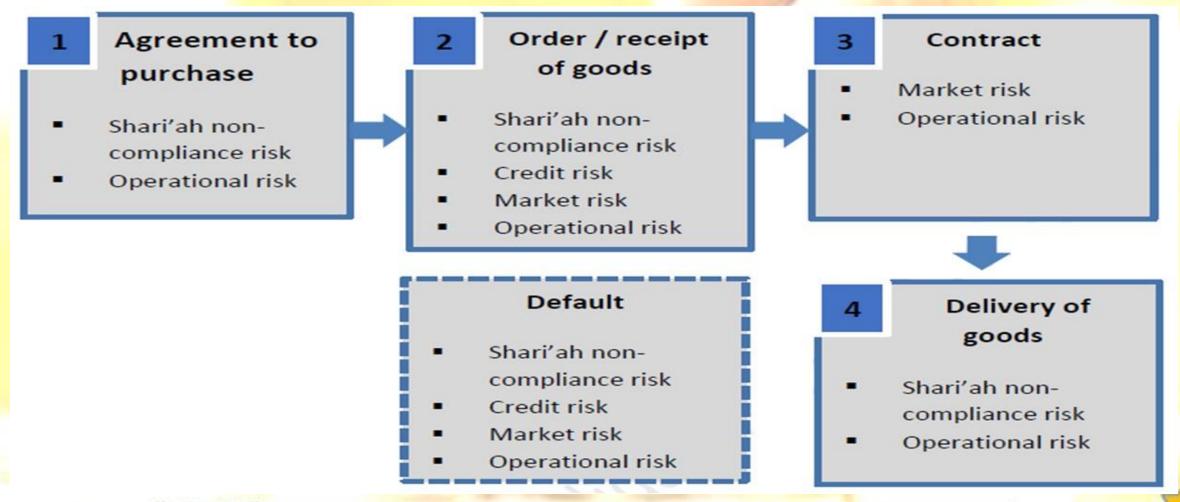
As an Islamic financial institution Shari`ah non compliance may occur in any form of the banking operations. Such as:

- i. Policy, statutes, rules, agreement and procedures of the bank.
- ii. Financial Statements
- iii. Product Structure/design, approval and implementation
- iv. General Banking portfolios of the bank.
- v. Investment portfolios of the bank.
- vi. Foreign Exchange operations.
- vii. Treasury Service
- viii. Shari`ah Governance
- ix. Miscellaneous Services rendered by the bank.
- x. Other areas

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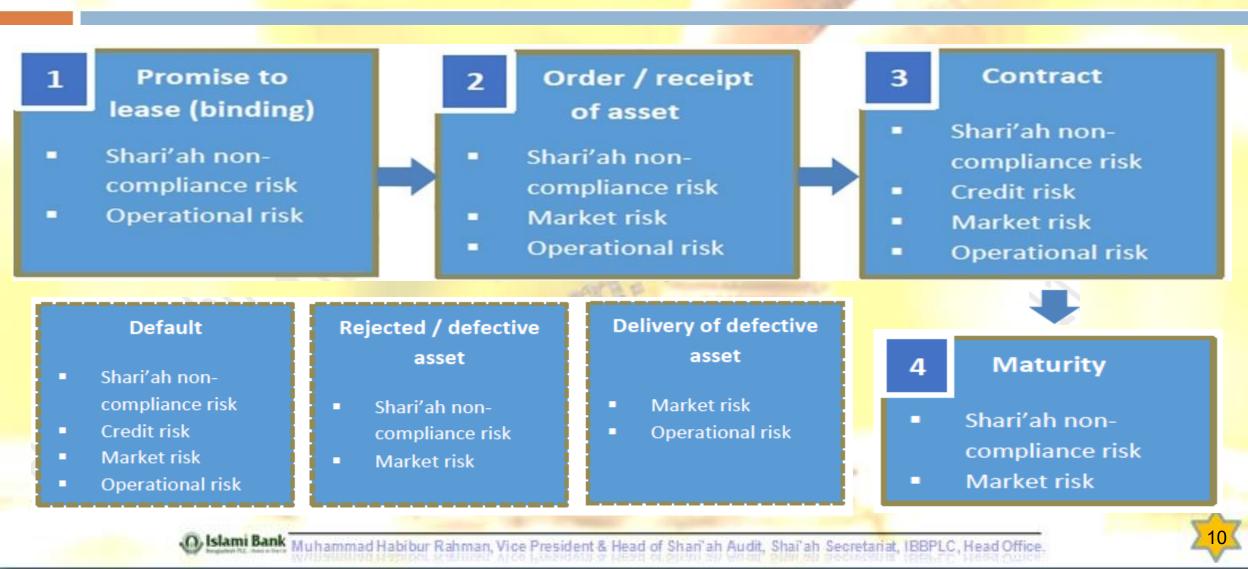


## 1.3 Risks Associated with Islamic Mode of Finance: Bai Modes



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## 1.4 Risks Associated with Islamic Mode of Finance: Ijara Modes



### **1.5 Risk management**

**Risk management** is a process of identifying potential risks before they occur, assessing the possible impact of the risks when they materialize and setting procedures and taking action to avoid the risk entirely or minimize its potential impact.



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### **1.5.1 Shari`ah Basis of Risk management**

Islam encourages manage/mitigate the risk resulting from uncertain events to avoid loss. Because, without risk management it is nothing but driving into darkness with the headlights turned off.

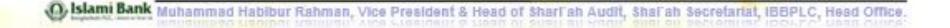
Allah SWT says in the Holy Quran:

"And he said, O my sons, do not enter from one gate but enter from different gates; and I cannot avail you against [the decree of] Allah at all. The decision is only for Allah ; upon Him I have relied, and upon Him let those who would rely [indeed] rely". (Sura Yusuf: Verse 67)

We should not leave everything for Allah SWT to manage. We must try to manage things to our best. It is mentioned in the Holy Quran,

"That is because Allah would not change a favor which He had bestowed upon a people until they change what is within themselves. And indeed, Allah is Hearing and Knowing."

(Al Anfal: 53)



### 1.5.1 Shari`ah Basis of Risk management (Contd.)

Prophet (pbuh) once asked a Bedouin (a nomadic Arab) who had left his camel untied, "Why do you not tie your camel?" The Bedouin answered, "I put my trust in Allah". Prophet (pbuh) then said, "tie up your camel first then put your trust in Allah".

The history of the Prophet (pbuh) peace be upon him is also full of lessons, how Muslims should manage the risks.

For instance, the Prophet (pbuh) initiated his sacred mission right from home and then moved to the people closely associated with him. This is to reduce the risk of rejection.

At the time of Prophet (pbuh)'s migration to Madinah, he (pbuh) reduced the risk of getting killed by asking Ali (R) to sleep in his bed during the night of emigration. The assassins posted by Quraish around the Prophet (pbuh)'s house were waiting to kill him at the moment he left his house early in the morning, peeping now and then through a hole in the door to make sure that he was still lying in his bed.

He (pbuh) also reduced the risk of being attacked with enemies through setting out on foot for the southward Yemen leaving the busy northward path to Madina.



### **1.5.2 Risk management Process**

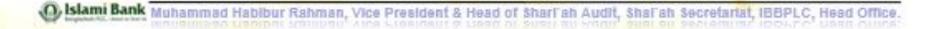
Islamic financial Institution can protect the interest of depositors and investment accountholders through following proper Risk Management Processes:



### **1.5.3 Risk management Process in IFIs:** IFSB Requirement

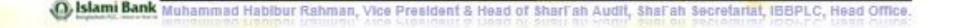
The general requirements prescribed by IFSB relating to the risk management process are as follows:

- IFIs shall have in place a sound process for executing all elements of risk management, including risk identification, measurement, mitigation, monitoring, reporting and control.
- This process requires the implementation of appropriate policies, limits, procedures and effective management information systems for internal risk and reporting and decision making that are commensurate with the scope, complexity and nature of the IFIs' activities.
- IFIs shall ensure an adequate system of controls with appropriate checks and balances is in place. The controls shall:
  - Comply with Shari'ah rules and principles;
  - Comply with applicable regulatory and internal policies and procedures;
  - Take into account the integrity of risk management processes.



### 1.5.3 Risk management Process in IFIs: IFSB Requirement (Contd.)

- IFIs shall ensure the quality and timeliness of risk reporting available to regulatory authorities. IFIs must be prepared to provide additional and voluntary information needed to identify emerging problems possibly giving rise to systematic risk issues. When appropriate, the information contained in the report shall remain confidential and shall not be used for public disclosure.
- IFIs shall make appropriate and timely disclosures of information to investment account holders so that the investors are able to assess the potential risks and rewards of their investments and to protect their own interests in their decision making process. Applicable international financial reporting and auditing standards shall be used for this purpose.





# **2. Corporate Governance (CG)**

Corporate Governance, in brief CG refers to the system of structuring, directing and controlling a corporate body with the objective of achieving long-term strategic goals which satisfy shareholders, creditors, employees, customers and other stakeholders.

The International Chamber of Commerce (ICC) defines:

"Corporate governance is the relationship between corporate managers, directors and the providers of equity, people and institutions who save and invest their capital to earn a return. It ensures that the board of directors is accountable for the pursuit of corporate objectives and that the corporation itself conforms to the law and regulations."

Although the scope of CG in IFIs is larger than in conventional FIs, the overall concept of CG is the same.



### **2.1 Islamic Corporate Governance**



### **Components of Islamic CG**

# 2.2 Importance of Corporate Governance for IFIs

AAOIFI has laid down various underlying reasons for pursuing effective CG in its Governance Standard No. 6 'Statement on Governance Principles for IFIs'. Such as,

- i) Enhancing confidence : The financial services industry (whether conventional or Islamic) is one in which 'trust' is vital. Sound governance practices serve to enhance public confidence. (para. 16)
  - Confidence in an IFI cannot be developed without several important measures, one of which is a transparent governance structure. (para. 19)
  - The Board of Directors, Shari'ah Supervisory Board, management, employees and other parties dealing with or working for an IFI must strive to enhance confidence and trust which are vital to the survival and growth of its business. (para. 20)
- ii) Shari'ah compliance : Governance in the context of an IFI goes well beyond the boundaries of 'CG' in the conventional context since it also has religious connotations attached to it.

Typically, a stakeholder associates himself with an IFI for two reasons; its efficiency or competence, and its Shari'ah compliance. It is therefore important to have a governance mechanism in place to ensure the latter. (para. 21)

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# 2.2 Importance of Corporate Governance for IFIs (Contd.)

#### iii) Business model

The business model of an IFI is characterized by contracts that are designed to be compliant with Shari'ah. The risks associated with such contracts are unique and unlike a typical conventional lending contract. It is important that both the IFI and its clients recognize the distinguishing features. (para. 23)

#### iv) Stakeholders' interests

It is important for those charged with governance to understand who their key stakeholders are. This understanding allows for the establishment of a governance structure which is characterized by high levels of accountability. (para. 25)

An IFI's interaction with stakeholders has much to do with dissemination of timely and sufficient financial and non-financial information regarding its operations and performance. (para. 27)

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# 2.2 Importance of Corporate Governance for IFIs (Contd.)

#### iv) Social responsibility

The principles of Shari'ah strike a balance between the interests of the individual and those of the society to which he or she belongs. Thus, the governance structure of an IFI should align, to the extent possible, the interests of the stakeholders, of those charged with governance and of the society. IFIs are established to assist in using wealth and financial resources in a manner beneficial to investors as well as to the community at large.

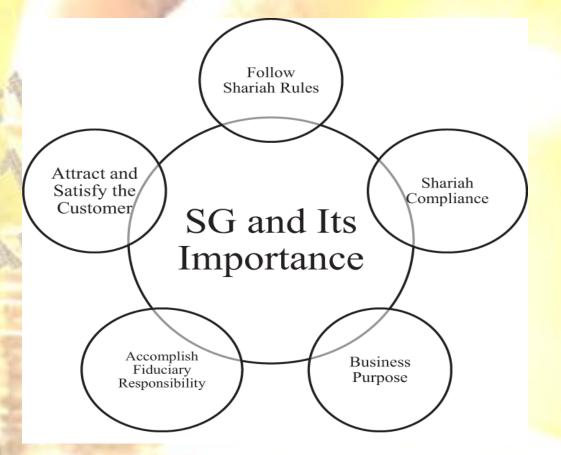
#### vi) Business ethics and culture

Codes of ethics in an IFI comprise values that are derived from Shari'ah. Such values underpin the behaviour of all persons employed by or associated with the IFI in carrying out or undertaking their respective duties or obligations to the institution. (part 32)

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### **2.3 Shari`ah governance**

A proper Shari`ah governance framework would ensure strict Shari`ah compliance in all practices of the industry. This would give credibility to the industry and instill public confidence. It would also promote operational and financial stability, since it would ensure that the value propositions of Islamic finance are implemented in practice.



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## **2.3.1 Shari`ah governance in IFIs**

### Definition

As per IFSB-AAOIFI Revised Shari`ah Governance Framework 2022: "Shari'ah Governance Framework which encompasses a set of institutional and/or systemwide arrangements for the effective and independent oversight of Shari'ah compliance of its products/services, processes and business operations.".

#### **Elements of Shari'ah governance**



### **2.3.2 Shari`ah Supervisory Board/Committee in IFIs**

### Definition

- AAOIFI defined "A Shari'a supervisory Board (SSB) is an independent body of specialised jurists in Fiqh Al-Mua'malat (Islamic commercial jurisprudence)." (AAOIFI GS-1, Sec. 2)
- As per IFSB-AAOIFI Revised Shari`ah Governance Framework 2022: "An independent body of specialized Shari`ah scholars (and experts, as the case may be) set up by an IIFS to provide oversight on the Shari`ah compliance of the IIFS".

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### 2.3.2 Shari`ah Supervisory Board/Committee in IFIs (Contd.)

### **Role & Responsibilities**

- The SSB is entrusted with the duty of directing, reviewing and supervising the activities of the Islamic financial institution in order to ensure that they are in compliance with Shari'ah rules and principles. The fatwas, and rulings of the Shari'ah supervisory board shall be binding on the Islamic financial institution. (AAOIFI GS-1, Sec. 2)
- The SSB must be vested with appropriate power and authority as may be necessary to perform its duties and responsibilities effectively
- The report of the Shari'a supervisory board shall be published in the annual report of the Islamic financial institution

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### 2.3.2 Shari`ah Supervisory Board/Committee in IFIs (Contd.)

As per IFSB-AAOIFI Revised Shari`ah Governance Framework 2022, The SSB must supervise the IIFS's operations, transactions and processes to ensure compliance with Shari`ah principles and rules. Accordingly, the following shall apply:

- All relevant documentation for products and services, including contracts, agreements, operational
  documentation used in the IIFS's business transactions, must be approved by the SSB.
- All policies and procedures relating to the IIFS must be reviewed and approved by the SSB, with regard to any Shari`ah compliance consideration.
- The SSB must oversee and approve the profit/loss calculation and distribution to the IAHs.
- The SSB must review and approve the accounting treatment of products and services with regards to Shari`ah.
- The SSB must review and approve the IIFS's annual zakāh calculations on behalf of the shareholders.
- The SSB must review the reports internal Shari`ah audit function and provide advice on such reports.
- The SSB must provide their input to the annual plans of internal Shari`ah audit..
- The SSB must specify the means of disposal of earnings that have been realised from sources or by means prohibited by Shari`ah principles and rules.

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# **3. Challenges faced by IFIs**

## **3.1 So Many compliance Issues**

As a Shari`ah based financial institution IFIs have to abide by so many compliance issues. It is the biggest challenge of IFIs for all times. Such

- Shari`ah compliance issues
- Money Laundering and terrorist finance issues
- Ethical Issues
- Compliance of Central Bank policies/circulars/guidelines.
- Compliance of govt. laws/policies/guidelines
- Combating cyber issues.

### **3.2 Default Culture & Investment Reschedule**

One of the foremost challenges confronting the banking sector in Bangladesh is the pervasive culture of willful default among many clients. This issue particularly impacts Islamic banks more severely compared to conventional banks. Unlike conventional banks, Islamic Financial Institutions (IFIs) cannot consider late payment charges, compensation, and penalties as regular income, which compounds the losses they incur due to defaults.



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### **3.3 Limitation of Islamic Money Market & Capital Market Instruments**

IFIs have not yet been successful in devising an interestfree mechanism to place their funds on a short-term basis.

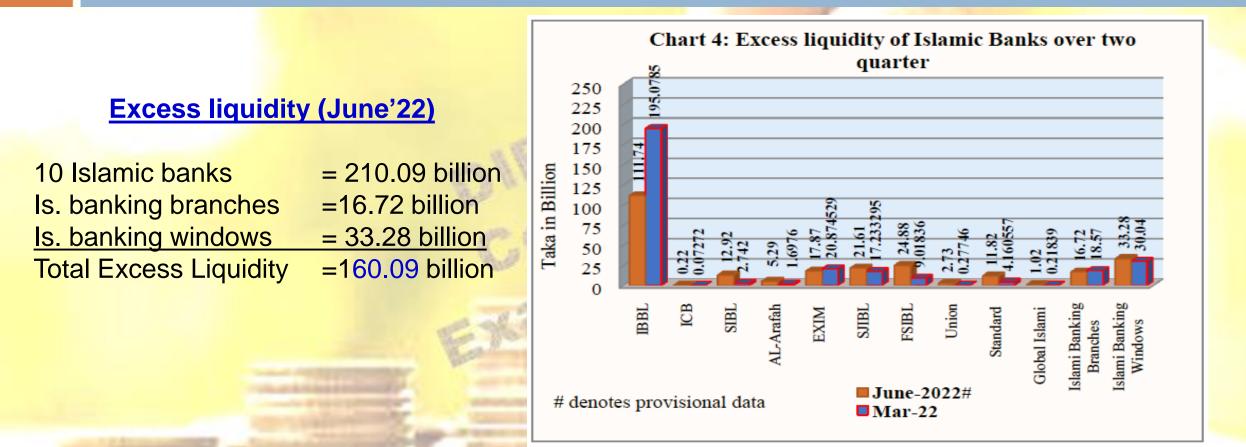
In the Capital market of Bangladesh, there are limited tradable Financial Instruments. For that reason, the Islamic bank can't deploy their excess liquidity. That's why they are being deprived of the benefit from the income. Islamic banks can't invest in the traditional Instruments as those are interest based. Therefore:

- Bank's excess liquidity remains idle.
- CRR and SLR reserve can't be deployed due to unavailability of interest free instrument.



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# 3.4 Limitation of Islamic Money Market & Capital Market Instruments (Contd.)



(Ref. Developments of Islamic Banking Segment in Bangladesh (April-June 2022), available at https://www.bb.org.bd/pub/quaterly/islamic\_banking/islamic\_apr-jun2022.pdf)

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Being interest free, Islamic bank can't take part in the field where there is a sing of interest. Bank can't include their income from reschedule investment as compensation charge to income account as this income is treated as 'Haram' in the eye of Shariah principles. As a result, depression of profit incurs here. Such as

- Income from Foreign currency clearing A/C is treated as interest.
- Income from 'Nostro Account' is treated as interest.
- Shariah non-compliant income derived from inspection by Muraqib is treated as doubtful and is kept aside to 'Charity Fund'.
- Incomes from defalcated investment as compensation/penalties are not included to banks profit.

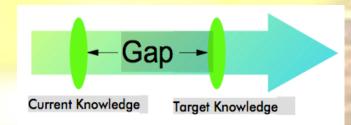
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# **3.6 Shortage of trained and efficient manpower committed to Islamic Banking**

There is a shortage of Islamic Finance and Shariah knowledge based manpower to appraise, monitor, evaluate and audit the projects they are required to finance who can answer the quarry of the clients with full satisfaction.



### **3.7 Knowledge gap among the mass people**



Though Bangladesh is a Muslim majority country, but still is gap of knowledge regarding Islamic banking system among the people of different levels. They find hardly difference between two systems without name.

# **3.8 Mismatching between business needs and existing investment products of IFIs**

Most of the cases IFIs practice the products copying the conventional system after necessary modifications. Often the business needs of the clients can not be met by the existing product line of IFIs. Such as

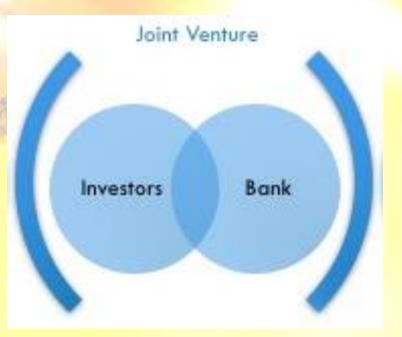
- The cash requirement of the client can not be met in some cases.
- Forward Booking in case foreign exchange business
- Financing in case of Bidding the tender.
- Financing in the service sectors
- Financing Mobile Financial Services (MFS) like Mcash, bKash etc.

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### **3.9 Moral Hazards in practicing PLS Mode of Finance**

A moral hazard is an economic term that describes a scenario in a transaction in which one party can indulge in risky behavior because they know that the terms of the agreement will require the other party to assume any negative consequences.

The moral Hazards risk involved in profit-sharing mode of finance seems to be so high that most of the banks have resorted to those techniques of financing which bring them a fixed assured return. As a result, there is a lot of criticism that the IFIs have not abolished interest but have in fact only changed the nomenclature of their transactions.



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### **3.10 Accounting system challenge**



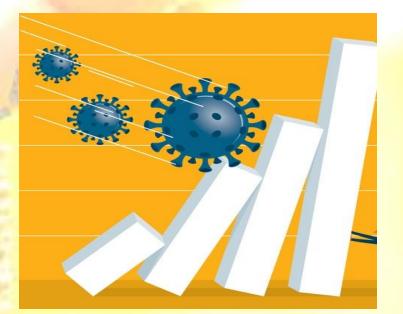
Islamic Banks have to apply the interest based Accounting system that as there is no separate Islamic accounting system. In most of the cases title of accounts treatment of income differs among conventional, local and international standard.

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### 3.11 COVID-19 Pandemic created New Challenges for IFIS

The COVID-19 pandemic is damaging economies across the world. For banks in particular, the pandemic generates multifaceted crises, mostly through increases in default rates. Bangladesh's banking sector already has a high level of non-performing loans (NPLs).

The pandemic is likely to worsen the situation having a profound impact on IFIs. Because regulatory authority continuously extended the borrowers' repayment time and it is known to all that the IFIs can not imposed any profit on the old liabilities of the clients.



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### **4.1 AAOIFI Shari`ah Standards**

The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) is an international not for profit body established in 1991 that is responsible for developing and issuing these standards to promote transparency, consistency, and compliance within the Islamic finance industry. AAOIFI Shari'ah Standards are a set of guidelines and principles designed to ensure that financial transactions and practices in Islamic financial institutions comply with Shari`ah principles

AAOIFI Shari'ah Standards play a vital role in promoting the integrity and growth of the Islamic finance industry. They provide a clear and standardized framework for conducting financial transactions in accordance with Islamic principles. AAOIFI issued total 61 Shari`ah Standards such as **Trading in Currencies**, Debit Card, Charge Card and Credit Card, Procrastinating debtor etc.

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### **4.2 AAOIFI Governance Standards**

Governance is a system that provides a framework for managing organizations. AAOIFI Governance Standards act as guidance on Shari'ah compliance and supervision processes and framework for IFIs. AAOIFI issued total 13 Governance Standards as follows:

GSIFI 2 "Shari'a Review"	
GSIFI 3 "Internal Shari'a Review"	
GSIFI 4 "Audit and Governance Committee for Isla	amic Financial Institutions"
GSIFI 5 "Independence of Shari'a Supervisory Boa	ird"
GSIFI 6 " Statement on Governance Principles for	Islamic Financial Institutions"
GSIFI 7 "Corporate Social Responsibility, Conduct	and Disclosure for Islamic Financial Institutions"
GSIFI 8 "Central Shari'ah Board"	
GSIFI 9 "Shari'ah Compliance Function"	
GSIFI 10 "Shari'ah Compliance and Fiduciary Ratin	ngs for Islamic Financial Institutions"
GSIFI 11 "Internal Shari'ah Audit"	$\sim \sim $
GSIFI 12 "Sukuk Governance"	

### **4.3 Weightage and ISR for Mudaraba Profit Distribution**

**Weightage**: The weightage system is a concept of profit distribution in Mudaraba. Here are some salient features of the weightage system in mudaraba profit distribution:

The weightage system assigns different weightages or multipliers to the capital contributed by the investor (rab al-maal). These weightages are used to calculate the share of profits for each party. In this system, the depositors (mudarib) are given provisional profit which is adjusted after accounts finalization. It is called double tier profit Calculation System.

The weightage system can be customized to suit the specific needs and preferences of the parties involved in the mudaraba arrangement. The profit-sharing ratio and weightages can be adjusted through mutual agreement. This system is mostly practiced by Full Fledged Islamic banks of Bangladesh

**ISR/IISR:** Income Sharing Ratio (ISR) is another concept in the profit distribution mechanism of Mudaraba contracts in Islamic banking. The profits generated from the venture are shared between the two parties based on the agreed-upon Income Sharing Ratio. In this system, no provisional profit is declared. It is called Single tier profit Calculation System.

### **4.4 AI Wadeeah and Amanah**

Deposits in current accounts with Islamic banks are regarded as Al Wadeeah and Amanah. If the bank obtains authority to use the funds in the current accounts to invest in its business, *Amanah* transforms into a loan from the depositor to the bank and the bank is liable to repay the full amount in the current account, irrespective of profit or loss made by the bank.

Base for Difference	Al Wadeeah	Amanah
Meaning	Custody, safekeeping	Trust, reliability, trustworthiness, loyalty, honesty
Definition	safe-keeping of a sum of money with permission to use and refund on demand	refers to deposits in trust. Holding property in trust for another,
Liability	keeper and trustee of funds becomes wholly responsible and liable for its safekeeping.	entails the absence of any liability for loss, except for breach of duty.
Reward	The bank may offer reward the customer with a payment in the form of Hibah as appreciation for keeping the funds with the bank	No relevancy with this 41

### **4.5 CRR & SLR**

#### **Cash reserve requirement (CRR)**

CRR or cash reserve ratio is the minimum proportion / percentage of a banks deposits to be held in the form of cash. Banks have kept these as cash with Central Bank.

All banks (conventional & Islamic) have to keep CRR of 4.00% of their deposits as per regulations.

When a bank's deposits increase by tk.100 crore, and considering the present cash reserve ratio of 4%, bank will have to hold additional tk 4 crore with central Bank and will be able to use only tk. 96 crore for investments and lending. Therefore, higher the CRR, lower the amount that banks can lend. Thus Central Bank can control the Liquidity by changing the CRR i.e. increase CRR to reduce the lendable amount and vice-versa.

#### Statutory. Liquidity Ratio (SLR)

SLR is the reserve requirement that banks are required to maintain in the form of cash, gold reserves and central bank-approved securities before disbursing loans to the customers.

Islamic banks have to keep SLR of 5.5 per cent of their deposits, whereas for conventional banks it is at least 13 per cent as per regulations.

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### 4.6 Bangladesh Government Islamic Investment Bond (BGIIB)

Conventional banks have been maintaining their excess liquidity through Government Treasury Bills and Bonds while the Islamic banks cannot invest their surplus liquidity in these monetary instruments due to interest bearing nature of these instruments. However, considering the excess liquidity problems of Islamic banks government of Bangladesh introduced Bangladesh Government Islamic Investment Bond (BGIIB) in 2004 with the objective to develop a sound foundation for the Islamic bond market and also to convert excess liquidity into investment through Islamic bonds.

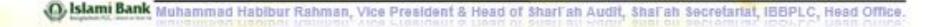
#### **Features of Government Islamic Investment Bond GIIB**

- a. Can be purchased by any individual, private or public companies, IFIs for a minimum investment of Taka 100,000.
- b. Can be used as collateral for a loan or investment from any financial institution.
- c. Considered as qualified securities for the purpose SLR of the Bank

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### **4.7 Islamic Trust Receipt**

- A trust receipt is a notice of the release of merchandise to a buyer from a bank but these goods remain hypothecated to the bank. The buyer is allowed to hold the merchandise in trust for the bank, for manufacturing or sales purposes.
- This arrangement often falls under a letter of credit financing. The trust receipt serves as a
  promissory note to the bank that the loan amount will be repaid upon sale of the goods.
- An Islamic trust receipt is a financial instrument used in Islamic finance that facilitates trade transactions while adhering to Islamic principles. In an Islamic trust receipt arrangement, a bank or financial institution purchases goods on request of a customer, after acquiring ownership and possession over the goods the bank sells the goods to the customer at an agreed-upon price, which includes a profit margin. The customer takes possession of the goods but bank's control remains over the goods until they have fully paid the price of the goods to the bank. The customer may use the goods for their business purposes while making installment payments to the bank.
- This type of transaction helps to reduce the costs and risks associated with storage of the goods and products for Islamic banks



### **4.8 Murabaha to the Purchase Orderer**

A Murabaha transaction may be concluded without a prior promise to buy, in which case it is called an ordinary Murabaha. If it is concluded with a prior promise to buy, submitted by a person interested in acquiring goods through the IFI, it is called a "banking Murabaha" or "Murabaha to the purchase orderer". AAOIFI defines Murabaha to the purchase orderer as:

"... the sale of an item by the institution to a customer (the purchase orderer) for a pre-agreed selling price which includes a pre-agreed profit mark-up over its cost price, this having been specified in the customer's promise to purchase. Normally, a Murabaha to the purchase orderer transaction involves the institution granting the customer a Murabaha credit facility.

The practical application of Murabaha to the purchase orderer (MTPO) transaction involves a prior promise to buy or a request made by the customer interested in acquiring goods on deferred payment terms. Murabaha is the most common contract used by Islamic banks globally. On the asset side, its practical applications include working capital finance, auto finance, housing finance and other fixed assets finance. It is also used in trade finance.

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### 4.9 Wakalah

- Wakalah is a contract in Islamic finance where one party acts as an agent (the wakil) on behalf of another party (the principal) to perform specific tasks or transactions. Wakala in Islamic banking refers to a contractual arrangement where one party acts as an agent (the wakil) on behalf of another party (the principal) in conducting specific financial transactions or managing assets. In the context of Islamic banks, wakala contracts are commonly used for various purposes, including investment management, fund administration, and agency services. The agent may receive a fee or commission for their services, but the contract must avoid elements of riba (interest), gharar (uncertainty), and maysir (gambling), which are prohibited in Islamic finance.
- Wakala contracts provide a mechanism for Islamic banks to offer a range of financial services while adhering to Islamic principles. Additionally, wakala contracts help Islamic banks efficiently allocate resources and mitigate risks by leveraging specialized expertise and services provided by agents.
- Overall, wakala contracts play a vital role in the functioning of Islamic banks, enabling them to provide diverse financial solutions to their clients in a manner that is consistent with Shariah principles and values.

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### **4.10 Bancassurance**

- Bangladesh Bank issued "Bancassurance Guidelines for Banks" vide BRPD Circular No.18 dated 20 December 2023 to allow banks to work as corporate agents of insurance companies to sell their insurance products on the market. This system of selling insurance services to bank customers is known as bancassurance.
- Here, banks will simply work as corporate agents, let their customers know about insurance policies, and sell insurance products to interested customers.
- Bangladesh has 81 insurance companies, of which 35 deal with life insurance and 46 with non-life insurance. (Ref. Daily Star, 02.01.24)
- Any commercial bank in Bangladesh, fulfilling the eligible criteria for Bancassurance Business stated in the Guidelines, will be the Corporate Agent/Distributor to channelize the insurance products to the customers at their service points i.e. Branches, Sub-Branches, Agent Outlets and Digital Platform. The eligible banks can make agreement with maximum 3 Life Insurance and 3 Non-Life Insurance Companies at the same time.
- The commercial banks can earn more ancillary income and expand services to more customers through this service, which will also contribute to our National Economy as well as GDP.

## **ALLAHHAFEEZ**

## THE END