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Cash *Waqf* Deposit Account in Islamic Banks – A Proposed Banking Product

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Abstract

Purpose: The main objective of this paper is to propose a deposit account to the Islamic bank based on the cash *waqf* model in order to be part of the banking business operations, and deposit banking structure. The paper includes a discussion on the *Shariah* rules governing the management of the account of the cash *waqf* to ensure the *Shariah* compliance in carrying out business activities of the cash *waqf* account. The cash *waqf* account model is meant to develop and enhance the Islamic finance industry in particular, and realize the public benefit of the *Umma* at large. Cash *waqf* can be used to enhance and facilitate the financial needs in the market place and participate positively to the growth of the Muslim economy globally. The cash *waqf* account model presented in this paper is based on the banking operation model; therefore the concern is to elaborate on its operation aspects in the banking system.

Design/Methodology/Approach - The paper follows comparative analysis method by looking at the banking accounts and applies its feature on the cash *waqf* account to be an operating account in the Islamic bank besides the other banking accounts.

Findings - The result of the research shows that the deposit cash *waqf* account can operate efficiently by looking at the following aspects: 1) *Shariah* rules and regulations to ensure consistency in *Shariah* compliance and better management of the cash *waqf* account. 2) The relationship between the depositors who represent the cash *waqf* account holder and the cash *waqf* account management represented by the Islamic bank. 3) The relationship between the trustee who is holding the fund and the cash *waqf* account management (bank). 4) The rules of cash *waqf* in fund mobilization in order to build the cash *waqf* reserve. 5) The law and regulation governing the contribution to cash *waqf* account. 6) The regulations governing the contractual agreement between the trustee and the *waqf* account holder.

Research Limitations/Implications –

Practical Implications - This paper is very useful for understanding how cash *waqf* operates and function as an additional account in the banking system besides the current and saving accounts.

Originality/Value - The paper provides good knowledge of the cash *waqf* account and how it is applied in the banking system to add value to the banking products offered by the Islamic financial institutions that benefits society.

Keywords - Cash *waqf* account, trustee and Islamic bank.

Paper Type - Research paper

1. Introduction

The Islamic bank has a variety of deposits such as saving, investment and fixed deposit, these accounts are based on specific *Shariah* contracts, the present research is trying to propose additional banking deposit account to expand the business deposit scope, meanwhile integrate the cash *waqf* into the Islamic financial system. The research shows how the cash *waqf* operate, function and structure in *Shariah* compliance manner.

2. Corporate and financial definition of cash *waqf*

The *waqf* can be defined as: The confinement of property, movable or immovable, from the founder (*Waqif*) and the dedication of its usufruct (according to founder's condition) in perpetuity for the welfare of society. The general concept of *waqf* is grounded on the above definition; however the concept of cash *waqf* should be more oriented towards financial and economic dimension in order to suit the corporate need in the industry. Hence the cash *waqf* can be defined as: diverting funds (and other resources) from consumption and investing them in productive assets that provide either usufruct or revenues for future consumption by individuals or group of individuals.¹ This definition seem to be not accurate because the essential element of perpetuity of the *waqf* is not mentioned, this gives some reservation on the definition from *Shariah* point of view, the appropriate definition will be: cash *waqf* is mobilization funds from donors based on perpetuity and investing them in productive assets that provide either usufruct or revenues for future consumption by individuals or groups by taking into account the policy and guideline provided by the donors and receivers.² This definition for cash *waqf* is more comply with the *Shariah* concept of *waqf* and it is financially driven.

3. The benefit of cash *waqf* for Islamic finance

The commercial aspect in cash *waqf* has a multiple objectives, which can be described as follows: The cash *waqf* with its commercial and finance aspect will be more productive for the benefit of customers particularly, and for the society in general. The benefit of cash endowment will include the donor himself at the first place who will be one of the beneficiaries of the *waqf*. Cash endowment creates a great opportunity for the customers by

¹ Islamic world, website: http://www.islamic-world.net/economic/waqf/waqaf_financing.html. Financing the development of awaqf property, p.4.

² This definition is provided by the author.

getting financial reward and profit which can be channel to their needs according to their terms during the establishment of the cash *waqf*. Cash endowment increase the accumulation of liquidity and capital in the industry and create more business opportunity. Improve the market by increasing more business activities. Enhancing the domestic economic by providing the following: Liquidity to the business sector, financing the need of the industry, circulating the fund in the market and creating more employments.

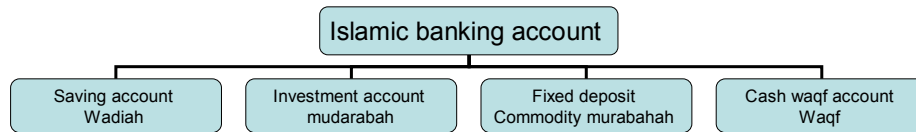
4. Objectives of cash *waqf* account in the bank

According to Mannan (1998), the objectives of cash *waqf* certificate are;

- to equip banks and other *waqf* management institutions with cash *waqf* certificate,
- to help collect social savings through cash *waqf* certificate (cash *waqf* certification can be done in the name of other beloved family member to strengthen family integration among rich families),
- to help transform the collected social savings to social capital, as well as to help develop social capital market,
- to increase social investment,
- to encourage rich communities' awareness on their responsibility for social development in their environment,
- to stimulate integration between social security and social welfare.

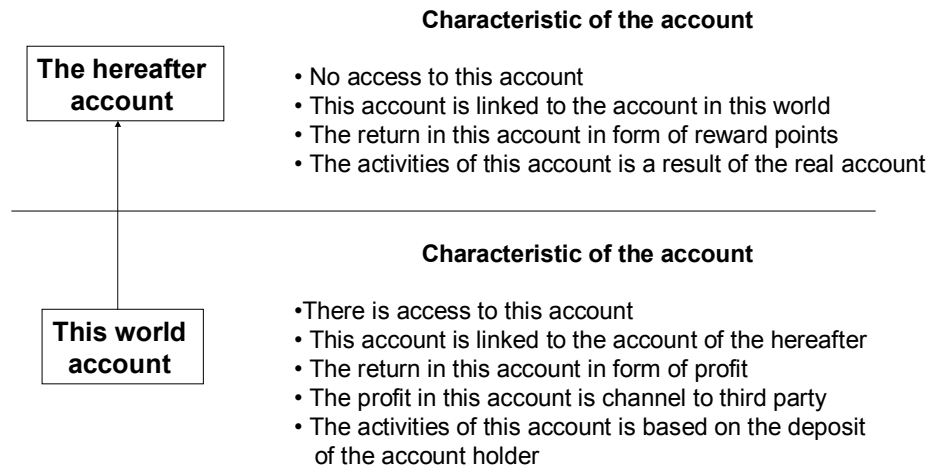
5. The current deposit structure in the bank and propose account

The current banking structure in the Islamic bank includes the saving account based on *wadiah*, investment account based on *mudarabah* and fixed deposit based on commodity *murabahah*, the propose account to be added is the cash *waqf* deposit account, hence the total number will be four banking accounts that co-exist together, these accounts should be offered by the Islamic banks to the depositors in the banking market. The cash *waqf* deposit account will add value to the Islamic banking because it has a hybrid structure which combine between the profit features and social responsibility features where the depositors can demonstrate part of their religion obligation and be more active to promote the voluntary sector that generate reward to them in the hereafter.



6. The feature and the nature of the cash *waqf* deposit

This cash *waqf* deposit has two features, features related to this world and features related to the hereafter, hence it can be divided into two accounts, one account is related to this world and the other account is related to the hereafter. However both are connected and integrated, but the account related to this world is accessible whereas the other account related to the hereafter is not accessible.



6.1. The cash *waqf* deposit account (this world): This account has the similar feature of the others Islamic banking account such as saving and investment, where the depositor can deposit money in his account and have access to it through e-banking system. The deposit in this account is done over the counter (OTC) or through ATM machine, TT, Cheque, or any other means that is acceptable in deposit in the banking system which comply with *Shariah* rules and principles.

However there are some features that the depositor should keep in mind when dealing with this account as follows:

- ✓ The withdrawing is not allowed from this account
- ✓ This account accept deposit
- ✓ This account can be used for investment or for distribution depend on the recommendation of the depositor
- ✓ The bank is the trustee which manage the account
- ✓ The profit generated from the account will be channel according to the agreed upon term and conditions in the deposit account application at the time of the opening of the account

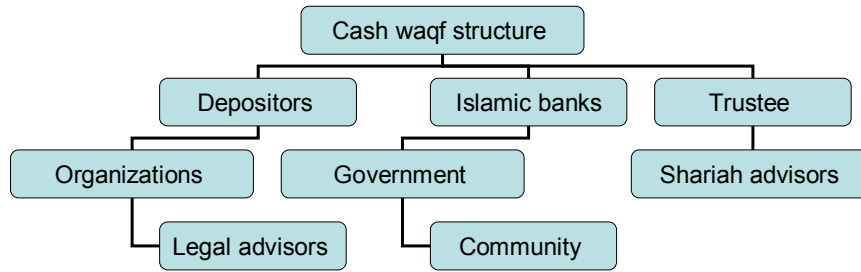
6.2. The cash *waqf* deposit account (the hereafter): This account has a different features compare to the other types of banking accounts, this account is virtual account which is mirror to the physical account, this account generate reward points and have wealth accumulation through the profit generated, but the profit is in form of reward points. This account is influenced by the activities if the real account, as long the real account is active and productive as long as the virtual account is active and generates rewards points and increase the wealth in form of *hasanat*.

There are some features that the depositor should keep in mind when dealing with this account as follows:

- ✓ This account is not accessible physically or through the system
- ✓ This account does not accept deposit directly, but its deposit is a reflection to the deposit activities of the physical account
- ✓ This account is meant for the for the investment in the hereafter
- ✓ Allah (s.w.t) is the trustee who manage this account, the angles are responsible for administration and accounting of this account
- ✓ The profit generated from this account is in form of reward points can be channel to a third party

7. The cash *waqf* account deposit stakeholders

The following represent the stakeholders of the cash deposit account holders



8. Process of the opening of cash *waqf* account

- Step 1: Name of the product: cash *waqf* deposit account
- Step 2: Opening cash *waqf* deposit account
- Step 3: Appointment of Islamic bank as the trustee
- Step 4: Deposit collection of cash *waqf* pool by the Islamic bank
- Step 5: Investment of the fund in Islamic bank activities (debt financing and equity financing)
- Step 6: Profit generated from investment
(Channel in parallel: for building reserve for the cash *waqf* account, profit distribution to recipient recommended by the account holder owner)

9. The rules governing the relationship between the depositors and the cash *waqf* account (bank)

The fund will be deposited in the account of the *waqf* established by the Islamic bank, the customers will participate to the product offered and contribute by opening their account based on cash *waqf*, every depositor will be cash *waqf* account holder. The pool of fund collected will be invested in *Shariah* compliance instrument to generate profit to be distributed to the recipient based on the terms and conditions agreed upon between the bank

as trustee and depositor as donors. The area of channeling the return will include but not limited to education, social services, financing. The trustee will act as fund manager. It is important to note that there is a policy in form of agreement which guide the contribution of depositors to the cash *waqf*, and that policy govern the relationship between the cash *waqf* management (trustee) and the donors. This policy can be described as a guideline for the operation of the cash *waqf* scheme as provided by the social investment bank in Dakah as follows:

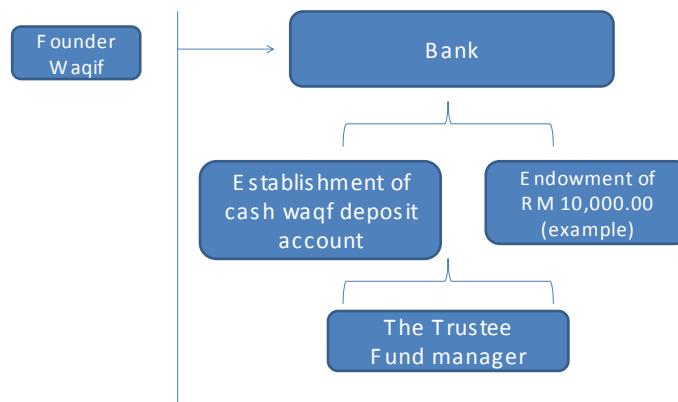
- Cash *waqf* is an endowment in conformity with *Shariah*, the institution manages the *waqf* on behalf of the waqif.
- *Waqfs* are done in perpetuity and the A/c is opened in the title given by the waqif.
- Waqif have the liberty to choose the purpose(s) to be served either from the list provided and identified by the institution, covering (a) family empowerment credits (b) Human resource development (c) Health and sanitation and social utility services or any other purpose(s) permitted by *Shariah*.
- Cash *waqf* amount earns profit at the highest rate offered by the institution from time to time.
- Cash *waqf* amounts remain intact and only the profit amount is spent for the purpose(s) specified by the waqif.
- Unspent profit amounts automatically added to *waqf* amount and earn profit to grow over the time.
- Waqif can also instruct the institution to spend the entire profit amount for the purpose specified by him/her.
- Waqif have the opportunity to create cash *waqf* at a time.
- The deposits can start with any amount.
- Waqif have the right to give standing instruction to the institution for regular realization of cash *waqf* at a rate specified by him/her from any other A/c maintained with the institution.
- The amount in cash *waqf* of account is a perpetual deposit.³

³ Social investment bank, Bangladesh, <http://www.sibld.com/html/homepages.php> . Mannan, New frontiers of Islamic micro finance and voluntary sector banking and finance, p26. (with some amendment).

10. The rules governing the relationship between the trustee and the cash *waqf* account (bank).

The relationship between the fund manager or operator and the cash *waqf* account is based on *mudarabah* or *wakalah* concept, therefore the fund manager will be sharing profit according to ratio agreed up front, the relationship can be similar to Takaful operators in Islamic insurance. However if the concept is based on *wakalah* the fund manager will be entitled for fee.

The relationship between the trustee and Cash waqf



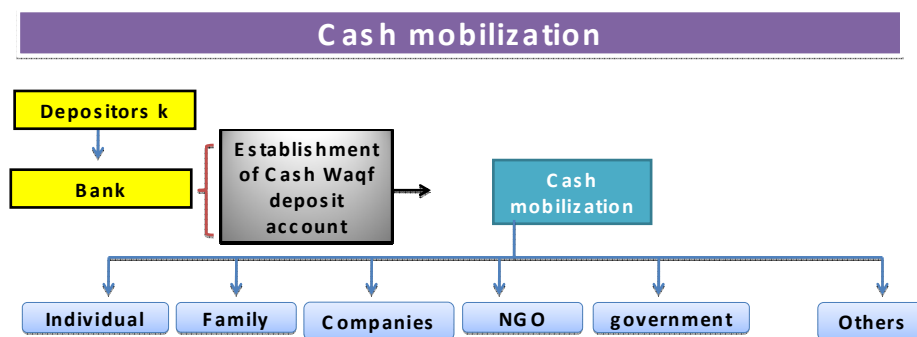
11. Rules of cash *waqf* deposit

This is a very important stage in the structure of the cash *waqf*, it is basically the starting point towards the financial dimension of this product. The mobilization of the fund for the cash wash is based on the prearrangement agreement between the bank as trustee and the depositors as holder of the cash *waqf* account.

12. Stakeholder of deposit account in the banking

- A. **Depositors:** The participation of the depositors is a very important component of having a cash *waqf*, the contribution represent a financial contribution to the fund of cash *waqf* account, this cash will be located to the cash *waqf* funds, and channel to one of the recipient mentioned by the depositors, in case there is no specific recommendation on the allocation the bank will have the mandate to do what is necessary.
- B. **The Islamic bank:** The Islamic bank is the trustee who will manage the account and have the responsibility of the investment and distribution of the return.
- C. **Organizations:** The organizations have a very import role in supporting the cash *waqf*, regardless whether the organization is NGO or government. The organization will be treated as separate identity for the cash *waqf*, and all the terms and conditions apply.
- D. **Corporations:** The companies represent an important segment in the cash *waqf* structure; they should be very active participant in expanding the pool of the cash *waqf*. Also the corporation an important partner for the funds management who run the cash *waqf*, whereby the investment of the cash *waqf* in the market will be through these corporations as well.
- E. **Sharaih advisors:** This corporate body provides *Shariah* advice and consultancy with regards to the activity and operation of the account.
- F. **Legal advisors:** This corporate body provides legal advice and consultancy with regards to the activity and operation of the account.
- G. **Government:** The government is the key player for the successful of the cash *waqf* operation, the importance of the government can be observed in the following:
- Supporting the cash *waqf* as unique instrument and approach in the industry.

- Facilitate the legal framework of the cash *waqf* operating in the financial market, and be part of the national business activities.
- Regulated the function of *waqf* by putting *Shariah* standards that governs the *waqf*, this include *Shariah* aspects, financial aspects, accounting aspects, and managerial affairs accurately.
- Amend the existing legal framework to suit the cash *waqf* business operation.
- The government has the full responsibility to safeguard the interest of cash *waqf* in the nation not by managing the cash *waqf* but by facilitating the cash *waqf* operation in the industry.
- Full responsibility of standardized method to manage the *waqf* marketing, information related, managerial, fees payment, compensations expenses which could be used for auditing, investigation and rating.



13. Regulation for the contribution to cash *waqf* account

The contribution of the above categories including especially the depositors of the

following purpose:

- Participation for the creation of cash *waqf* by seeking the reward from Allah without any further intention of getting the reward in this world which can be in form of collecting benefit generated from the cash *waqf* investment.
- The contribution of the depositors can be in form of supporting the various segments in the industry.
- The contribution of the companies can be as benevolent act for the benefit of the needy that are facing a financial difficulty.
- The contribution can be for the improvement of the member of the society. This improvement includes education development or health care or other social activities.
- The contribution can be also in form of supporting the investment of companies in the industry.
- The contribution can also be in form of supporting the investment of the *waqf* funds by taking care of the investment and ensuring the safety of the *waqf* funds as part of their corporate responsibility for the successes of the *waqf* project.
- The contribution of the government and related organizations and agencies attached to the government will be in similar form of the above mentioned, which means that the government can contribute by donation to support the social activities by providing more support to the investment of the *waqf* funds and ensure the safety of the capital.

The contribution can have two different aspects base on the willing of depositors:

- The first one is social aspect as part of the social responsibility of depositors; this contribution can be in form of supporting the needy of the society at the macroeconomic level and at the level of the individuals as well.
- The second aspect is related to the business activities which include investment in banking, entrepreneurship and capital market and other segment of the market as well.

14. Rules governing the agreement between the trustee and the members of the cash endowment account.

- All the parties involved in the cash *waqf* must honor the policy and the guideline, and the policy will be bound to any contributor for the cash *waqf*.
- The investment must be in halal, and the non halal investment must be avoided at all stages.
- The investment should be in safe investment to safeguard the capital of the *waqf*.
- The trustee should create equalization profit reserve from the profit generate for the safety of the capital in case of loss in the business operation.
- Once the reserve is created the trustee is allowed to invest in micro credit, and micro financing, and partnership financing such as *mudarabah* and *musharakah* in order to assist the entrepreneurship and medium size enterprises.
- The trustee is allowed use the surplus fund to support the voluntary sector and demonstrate the social responsibility of the *waqf* institution; therefore the cash *waqf* should be able to provide hard *hasan* to assist the industry members who are facing financial difficulty.
- The profit of *waqf* is not a *waqf*, but it is property owned by the *waqf*, therefore different rules can be applied to govern the profit generated.
- The profit can be channeled to different business activity which includes high risk investment and social investment.
- In order to ensure the *Shariah* compliant regarding channeling the surplus funds to different business activities, consent of the depositors can be obtained during the creation of cash *waqf* by signing this agreement policy.
- The surplus of the cash *waqf* will be invested in high risk investment for the benefit of the Muslim entrepreneurs and enterprises, which is part of the social responsibility.
- Similar consent can be obtained from the creator of the cash *waqf* that portion of the profit will be located as *qard hasan* for the small and medium enterprise, who cannot get this facilities from the Islamic banks.
- The trustee should adopt the recommendation of the international fiqh academy in its resolution No. 140 (15/6): which is as follows:
 1. When investing the income of *waqf* the following conditions should be observed:

2. Statement and scope of the investment should be *Shariah* compliant.
3. Observation of variation of investment scope in order to diversify business risks, taking guarantees, documentation of the contracts, conducting of feasibility study for the intended investment projects.
4. Selection of the safest modes of investment and keeping away from the high risk investment modes.
5. Investment of *waqf* properties should be according to the *Shariah* compliant and modes suitable to those properties which serves and protects the *waqf* and beneficiary rights. Therefore, if the *waqf* properties are tangible assets the investment should not lead to the termination of their ownership, and if they are in the form of cash they can be invested in any *Shariah* compliant mode of investment, such as *Mudharabah*, *Murabaha*, and *Istisna*, ...etc.
6. There must be an annual disclosure on the investment activities and make such information available to the persons involved.

Conclusion

This research concludes with some finding and recommendation as follows:

- Cash *waqf* deposit as banking account in a very powerful tool for fund mobilization and investment.
- The cash *waqf* deposit as banking account should function on trustee concept and act as financial institution.
- The participants involve in the creation of cash *waqf* can be individual, family, groups, firms, companies, NGO, government.
- The cash *waqf* can accommodate the terms and conditions of waqif within the *Shariah* rules and framework.
- Cash *waqf* management should provide a policy as guideline to govern the relationship between the participant and the cash *waqf*.
- Cash *waqf* can play a crucial role in the improvement of the industry, financial system and the economic growth.
- The investment of cash *waqf* be dedicate to debt financing which has a low risk investment to generate profit and expand the fund of cash *waqf*, and can be

expanded to equity financing as well to assist the medium size enterprises in micro credit and micro financing.

- The cash *waqf* is able to enhance the partnership business organization in banking and finance.
- The cash *waqf* must create a reserve for the purpose of capital safety and allocate fund for high risk investment and hard hasan.
- Cash *waqf* can easily demonstrate the social responsibility in its business activity.
- Cash *waqf* is always guided by the *Shariah* advisory to ensure *Shariah* compliance in the various business activities.