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GOVERNANCE OF TEMPORAL WAQF: A PROPOSED MODEL FROM MALAYSIAN CONTEXT

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Outline for presentation

- ▶ Introduction of Waqf, cash Waqf and Temporal Waqf
- ▶ Permissibility of cash and Temporal Waqf
- ▶ The Objective of Waqf al-Muaqqat
- ▶ A Proposed Model of Combined Cash and Temporal Waqf
- ▶ The management of these models
- ▶ Conclusion

Introduction

- ▶ The literal meaning of Arabic word Waqf is to stop, prevent, hold, detain, or to take custody.
- ▶ Technically, Waqf is defined as a “to hold up the root and spread its usufruct”.
- ▶ The institution of Waqf mainly aims to realize two objectives. In terms of spirituality, Waqf serves a channel for perpetual reward for a Waqif, and on the other side it contributes in the socio-economic development of the whole Muslim society in general, and the underprivileged section in particular.

Cash Waqf

- ▶ As per Mohsin, “Cash *Waqf* can be defined as the confinement of an amount of money/cash from the founder and the dedication of its usufruct, according to the founder’s condition (s), in perpetuity to the welfare of the society”.
- ▶ Cash endowment was legitimated during the era of Ottoman caliphate by the late *Ḥanafī Fuqahā*,
- ▶ Contrary to this view, the concept of cash *Waqf* not approved by the vast majority of *Shāf‘aī* and *Ḥanbalī* schools

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- However, in the recent years, contemporary *Fatāwā* issued in favour of legitimacy of cash *Waqf* by the renowned bodies such as: international *Fiqh* Academy and Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), etc.

Temporal Waqf

- ▶ The word *al-Mu'aqqat* is derived from a 'Arabic word '*Aqqata* or *Waqqata*, which means limitation of time.
- ▶ It is defined as “the *Waqf* that subjected to the specific period of time or limitation that set up by the founder”.

Juristic Boundaries for Temporal Waqf

- ▶ **First opinion:** not allowed
- ▶ Their evidences are as follows:
- ▶ *Ḥadīth* of ‘Umar (RA) in which the Prophet (ﷺ) ordered him to tie up the property and apply its usufruct for human benefit.
- ▶ *Waqf* property is dedicated to the ownership of Allah (ﷻ) or the ownership of beneficiaries as per Ḥanblī. This also requires the perpetuity in *Waqf* due to that transferring of ownership would be considered as valid when it is perpetual not temporal.
- ▶ Both *‘Itq* and *Waqf* are equal in terms of *Isqāṭ al-Milk*, as expressed by jurists, and temporary is not allowed in any type of *Isqāṭat*, consequently, it would not be allowed in *Waqf* as well (Yūsuf, 2006; Haza, 2006).
- ▶ There is no single statement of any companion which justifies the temporary in *Waqf* (Yūsuf, 2006).

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- ▶ **Second opinion:** it is allowed
- ▶ *Waqf* is one type of *Ṣadaqah* in the sense of its meaning and its objective, and it is well-known that temporary in *Ṣadaqah* is allowed like the perpetuity.
- ▶ *Waqf* refers to transferring the ownership of usufruct to the beneficiaries, and *Waqf al-Manāf'e* is permissible in the case of perpetuity, so, same should be allowed with limited period of time as well.
- ▶ The ultimate objective of *Waqf* is to get reward from Allah (ﷻ) and to guarantee the beneficiaries of *Waqf* to get the benefits from the *Waqf*. This will include all type of assets that provide benefits either in form of perpetuity or temporary.

The objectives of Waqf al-Muaqqat

- ▶ Shariah is based on the attainment of public interests, and the prevention and reduction of evil
- ▶ The temporary Waqf can be considered one of the complements of the Waqf. Whoever is unable to donate his money in the direction of perpetuity, he may donate it for a specific time
- ▶ The Waqf in all its forms contributes to the realization of its specific goal that benefit the Waqif and money (Maal), and its general goals that benefit the society.

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- ▶ Specific objective
 - ▶ It is represented in the interests that benefit the Waqif in closeness to God and obtaining reward in this world and the hereafter
 - ▶ It is represented in the blessing of God that settles in money wherein the purpose of growth is achieved in
- ▶ General objective
 - ▶ The purpose of Takaful in cooperation between the rich and the needy
 - ▶ The goal of justice in circulating of money
 - ▶ Five main objectives of the Sharī'ah which are protection of Dīn (faith), Nafs (life), Nasl (progeny), 'Aql (intellect), and Māl (wealth)

A proposed model of combined Cash and Temporal Waqf 1

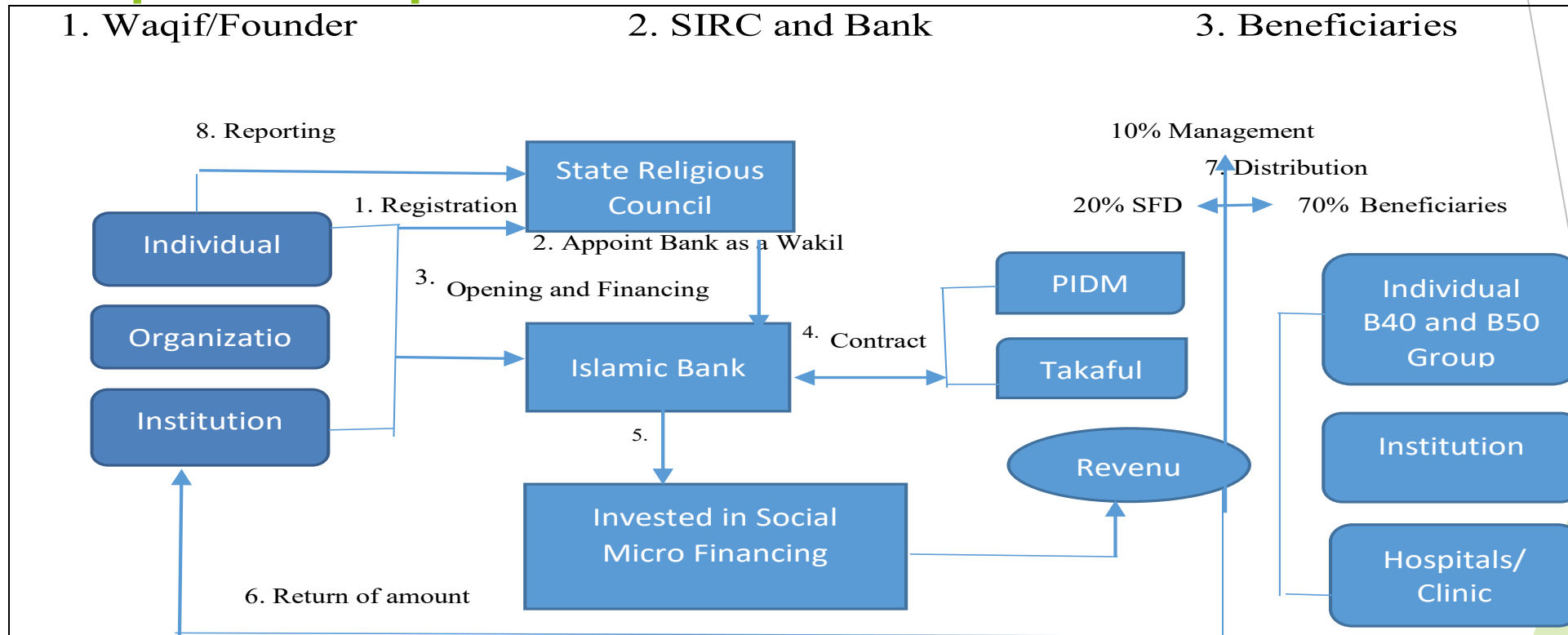


Figure 4. Indirect TCWA Model

A proposed model of combined Cash and Temporal Waqf 2

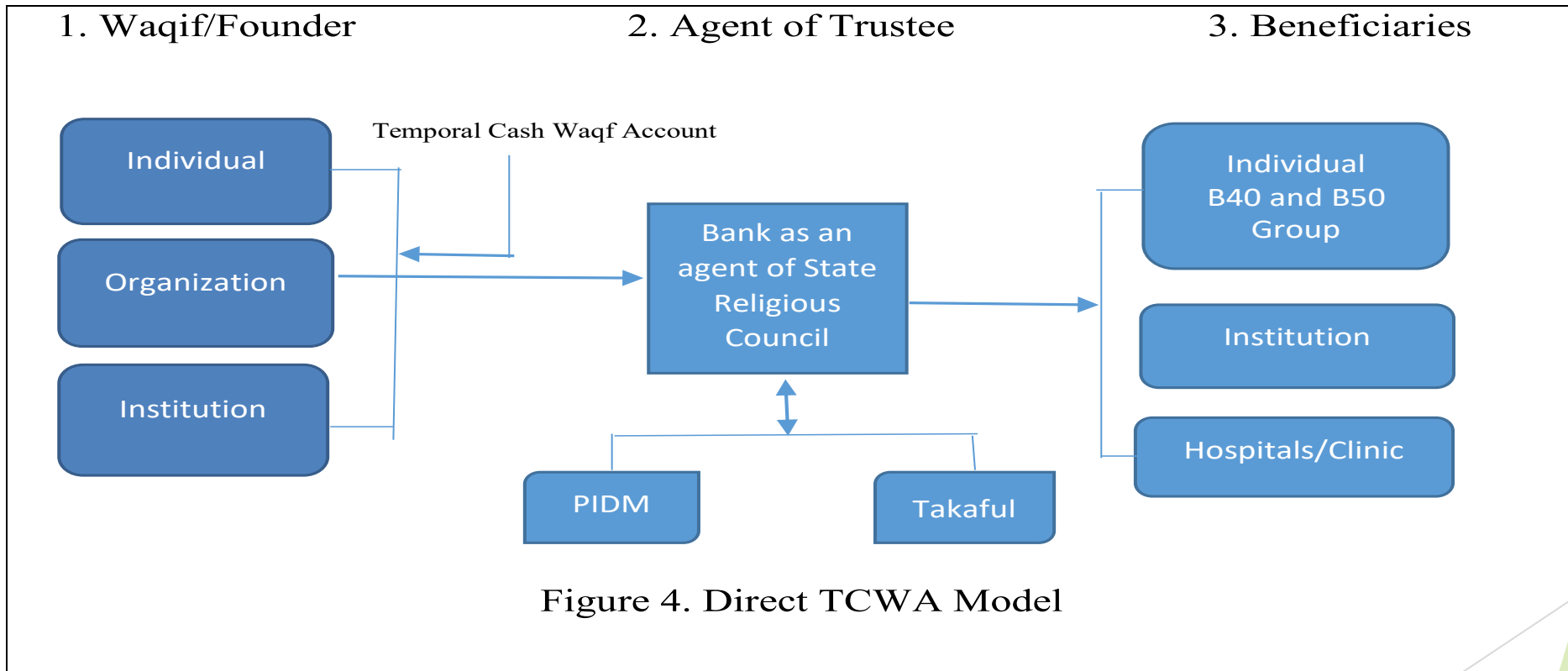
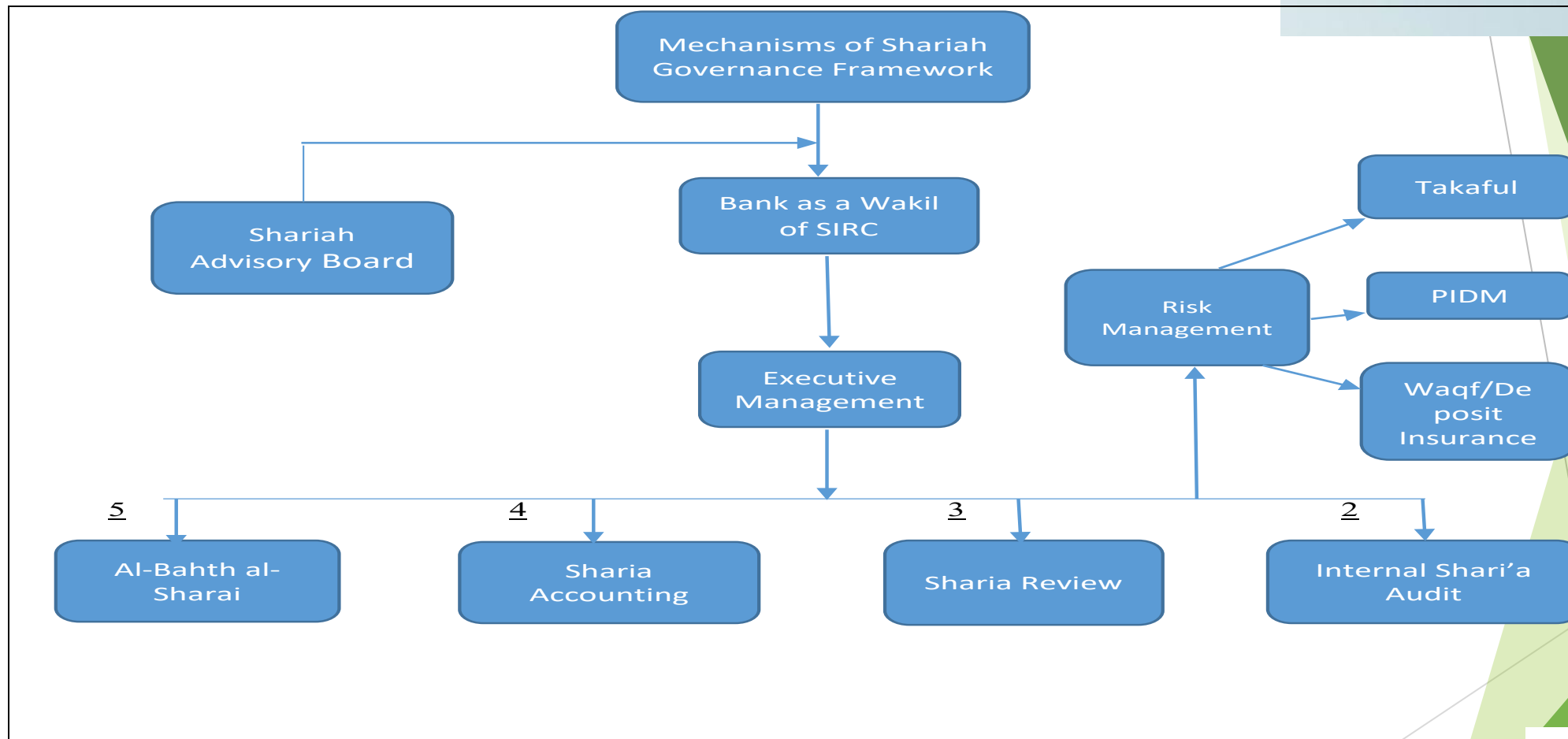


Figure 4. Direct TCWA Model

Governance of these two models



Management of these models

- ▶ In Malaysia, the administration of Islamic religious affairs including Waqf is given to Majlis Agama Islam or the State Islamic Religious Council (SIRC). The SIRC is responsible to advise the Head of Islamic Religion in all Islamic matters.
- ▶ The SIRC's play a very important role in promoting, driving, assisting and initiating the economy, social development and well-being of Muslim community in Malaysia, in line with Shariah laws.
- ▶ SIRC's act as the sole trustees of all Waqf assets in their respective states in Malaysia.
- ▶ The purpose of appointing the councils as the sole trustee is to ensure that the management of Waqf is effective and efficient.

Conclusion

- ▶ Both cash and temporary *Waqf* could lead to alleviate the poverty from society and help in quality education, which are among the goals of Sustainable Development Goals (SDG).
- ▶ In fact, it also can benefits the government and contributes to the development of the country.
- ▶ This model of combined cash and temporal *Waqf* which will help people to donate frequently and distribute among the beneficiaries effectively
- ▶ The application of this combined model of cash and temporary *Waqf* do not have any problems from the Islamic scholars perspective
- ▶ Due to the development of science and technology nowadays, the researchers claim that the application of this combined model can widen the opportunities for a better future.

THANKS

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