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APPLICATION OF KHIYĀR (OPTION) IN THE FREE-LOOK PERIOD OF TAKAFUL CONTRACTS: A MALAYSIAN LEGAL AND SHARIAH ANALYSIS

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Abstract Takaful is a contract whereby the participants commit to contribute an amount of money on a regular basis or in one lump sum into a specified fund to mutually guarantee each other in the event of misfortune. The Takaful company is appointed as a fund

manager to manage the fund according to mandate given by the participants. Takaful is a type of contract whereby Takaful participants have the opportunity to mitigate possible financial risk that their families might encounter in case of misfortune. However, there may be instances in which participants change their minds and decide to withdraw from the takaful contract for personal reasons, particularly in the early stages of the contract. This practice is commonly understood in the industry as a free-look period. From the Shariah perspective, this practice seems similar to khiyar (option) in Fiqh Muamalat (a branch of Islamic rulings which deals with trade and business). However, there is a lack of legal and shariah analysis of free-look periods, which this paper aims to contribute. Hence, this paper will study the practice of the free-look period in the takaful industry by examining its relation according to legal perspectives and its connection with khiyar (option) in Fiqh Muamalat. The research found that the most suitable types of khiyar applicable in Free Look Period is Khiyar Al-Shart and the study will compare these principle of khiyar between Shariah Law and Malaysia Takaful Law and practice. In terms of methodology, this study is doctrinal legal research and Shariah research and uses the content analysis method. Reference was made to the provisions in various Takaful and consumer-related statutes in Malaysia, and relevant case laws. This research also consists of library-based research on which the researcher refers to published books, articles, circulars, statutes and other relevant resources such as current industry practices from takaful operators in Malaysia.

Keywords

Author Keywords: [Khiyar](#); [Option](#); [Takaful](#); [Free Look Period](#); [Cooling-Off Period](#)

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