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KOBİ'LER İÇİN PARA VAKFINA DAYALI KREDİ GARANTİSİ MODELİ: SEÇİLMİŞ VAKALAR VE MODEL ÖNERİSİ

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ÖZ

Bu kavramsal makalede, öncelikle, seçilmiş devlet kurumlarında kredi garantisinin (CG) mevcut uygulamaları üzerinde durulmaktadır. Makalede iki ayrı CG hükümet programı incelenmiştir. Teorik çözümlemede, başta kefalet sözleşmesi ve para vakfı olmak üzere temel kavramlar ele alınmıştır. Bu hususta, Şer'i akademi ve kuruluşların son zamanlardaki önerge ve hükümleri dikkate alınarak kefalet uygulamalarındaki ücretlendirme Şer'i perspektiften değerlendirilmiştir. Çalışma kapsamındaki çözümlemeler aracılığıyla, para vakfına dayalı kavramsal bir CG çerçevesi ortaya konmuştur. Çalışmada nitel araştırma metodu kullanılmış olup mevcut literatürün kapsamlı bir incelemesi yapılmıştır. Çalışma sonucunda, Malezya'nın özel bir İslami yapıya sahip CG programı sunduğu anlaşılmıştır. Bu CG programı, müşterilere kefalet ücretlerinin değişken oranlarla doğrudan yansıtıldığı Kafalah bil-ujrah yaklaşımını benimsemiştir. Bu makalede, bir finansman kaynağı olarak para vakıflarının CG sağlamak için son derece uygun olduğu savunulmaktadır.

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CASH WAQF-BASED CREDIT GUARANTEE (CG) MODEL FOR SMES: SELECTED CASES AND A PROPOSED MODEL

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ABSTRACT

This conceptual paper primarily explores the current applications of credit guarantee (CG) in selected government institutions.Two CG government programs have been selected. The theoretical discussions have covered the underpinning concepts, mainly kafalah contract and cash waqf. To this effect, the shariah stand on charging fees for kafalah has been highlighted, along with the latest resolutions and decisions of shariah academies and institutions are cited. The discussions of the paper resulted in a conceptual CG framework based on cash waqf. The qualitative method is used, and an extensive literature review has been conducted. This paper found that the Malaysian CG program has a special Islamic scheme to offer CG, nonetheless, the program uses the concept of Kafalah bil-ujrah where it charges fees directly from the client with various rates. This paper argues that cash waqf perfectly fits as a source of funding for providing CG.

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INTRODUCTION

SMEs constitute the backbone of economies, not only in developing countries but also in developed countries. In the EU, SMEs represent 99% of all businesses (https://ec.europa.eu). In Latin America, 95% of its business fabric is SMEs (Lalangui, et al.,018). In Turkey, SMEs, make up 91.9 percent of all enterprises; this represents approximately 78 percent of all employment and constitutes 55 percent of overall GDP and 50 percent of total investment (Başçı and Durucan, 2017). According to OECD (2018) SMEs consist of roughly 45% of total employment and 33% of the GDP in the emerging economies. SMEs are often given incentives such as convenient taxation. However, compared to big companies, SMEs are often encountered many financial constraints. Such constraints subsequently affect their operations (Nulkar, 2019). For example, one-third of small businesses in Latin America identify access to finance as a serious restriction. As such, enabling SMEs is essential to aid productivity and enhance more inclusive and sustainable growth (OECD, 2018). SMEs usually have limited financial capacities in particular their limitation in respect to providing collateral and security to creditors. As such, SMEs become less favorable to banks and financial institutions compared to big and more established companies (Liberti and Sturgess 2018). In other words, lack of credit guarantee represents a major challenge for businesses in general particularly for SMEs (Deng et al., 2014).

To overcome this challenge, governments establish CG Schemes with the two-fold objectives; for SMEs, it aims at alleviating the credit constraints encountered by SMEs and assisting them in acquiring financing from banks and financial institutions. On the other hand, for lenders, such credit guarantee schemes provide credit risk protection against any possible default by SMEs (Chatzouz et al., 2017). In Malaysia for instance, Credit Guarantee Corporation Malaysia Berhad (CGC) was established in 1972. CGC is jointly owned by Bank Negara Malaysia and commercial banks in Malaysia with 78.65% and 21.35% respectively. (https://www.cgc.com.my). The main objective of CGC is to assist Micro, Small and Medium-Sized Enterprises (MSMEs) with inadequate or without any collateral or track record to acquire credit and financing from financial institutions. Up to date, CGC has facilitated over 470,000 guarantees and financing to MSMEs valued over RM75 billion (USD18 Billion) ((https://www.cgc.com.my). CG is crucially important to SMEs especially during the ongoing COVID-19 pandemic that has hit hard economic growth with SMEs the most effected (Molloy, 2020). In response, extensive packages of SMEs credit guarantee have been created by governments as part of COVID-19 crisis responses (Kresic, et al., 2020). For example, in Germany, the German Development Bank (KfW) has initiated two guarantee schemes totalling EUR 400 billion of loans to encourage financial institutions to lend SMEs and large firms. According to the schemes, the guarantee shall cover up to 90 percent of loans catered to SMEs and up to 80 percent of loans catered to large firms. The scheme shall provide full coverage of loans up to EUR 500,000 for small enterprises. Similar CG schemes are also initiated in France worth of EUR 300 billion (Kresic, et al., 2020).

Against this backdrop, unfortunately, CG is not always available for SMEs. The lack of CG for SMEs is very serious in developing countries and emerging markets where financial limitations restrict governments' abilities to avail such schemes or to scale it up to cover many businesses. The World Bank estimates that approximately 68% of formal SMEs in emerging markets are either unserved or underserved by financial institutions. This has resulted in a credit gap of about $1 trillion (World Bank, 2020). Zooming into Muslim-majority countries the credit gap looks more persistent. This is because the majority of them fall under the category of developing countries and emerging markets.

An additional challenge would be the Shariah compliance of many existing CG schemes. According to the Islamic financial system, guarantee is equivalent to the Arabic term of kafalah which is originally a benevolent act and cannot be charged for. However, some contemporary scholars have allowed charging fees for guarantee under several justifications primarily necessity justification and the need to cover operational expenses. Allowing charging fees for guarantee is the common practice in Malaysia where the Kafalah standard issued by the Central Bank allows charging such fees (BNM, 2017). OIC Fiqh Academy adopted more reserved view. It disallows charging any fees for providing a guarantee. However, the resolution allows charging only actual expenses on guarantee (Islamic Fiqh Academy of the OIC, 2000). Cash waqf has been proposed as the source of funding in many studies and models. For instance, Kachkar and Omar (2016) have proposed an integrated Cash Waqf Micro-Enterprise Support Model for Enhancing Refugee Livelihood, which is called the "Cash Waqf Micro Enterprises Support for Refugees" (CWMES-R) model. Sulaiman et al. (2020) has suggested that unit trust waqf can be an innovative instrument to encourage more benevolent activities inside the society.

This paper proposes using cash waqf as the main source of funding to offer CG to SMEs. The details of the conceptual model and the operational model are provided in section 4. Before moving to the research methodology and the literature review, the following discussion will highlight the research objectives, research questions and problem statement.

Research Objectives

This research aims at achieving the following objectives:

1. Surveying the current practices of selected CG programs
2. Exploring the Shariah stand on charging fees for providing a guarantee.
3. Proposing a model of Shariah-compliant CG for SMEs by utilizing funds generated from cash waqf.

Research Questions

1. What are the current practices of CG government agencies?
2. What is the Shariah stand on charging fees for a guarantee?
3. How can CG model be structured based on cash waqf?

Problem Statement

The importance of this study stems from the importance of SMEs as the backbone of economies and the importance of supporting them with credit guarantee to facilitate their access to finance. Credit guarantee is often offered by government agencies at the request of commercial banks to guarantee SMEs that apply for credit but do not afford collateral or any required securities. CG issue is exceptionally significance in light of the ongoing COVID19 pandemic where SMEs are considered the most effected business and many of them have closed down due to a lack of cash flow and liquidity. The vast majority of CG schemes charge fees on offering CG. Charging fees on providing guarantee is considered unacceptable from the shariah perspective. Guarantee or in Arabic Kafalah is a benevolent act that fees cannot be charged for according to the opinion of the majority shariah scholars. Additionally, many SMEs are left without any access to CG service due to the limited capacities of government agencies to provide CG. This paper suggests the usage of cash waqf as a potential source of funding to offer CG for SMEs. The proposed model is conceptualized to sole the outstanding two major issues: 1. Shariah controversy in existing schemes and 2. The lack of funds to offer CG.

RESEARCH METHODOLOGY

This conceptual paper aims to develop the Waqf Credit Guarantee (WCG) model for SMEs; thus, the qualitative method is used to address the research questions and objectives. It comprehensively reviews the literature related to cash waqf (Islamic endowment) to construct the WCG model, Shariah stands on charging fees for the guarantee, current practices of guarantee CG for SMEs institutions, and the kafalah contract in government agencies. Secondary data are zanalyzed from published papers online material, including published studies and articles. Comparative analysis has been used in selecting the institutions covered in the research. The CG institutions are selected based on the availability of data on their website. Conceptual framework of the proposed model has been formulated to provide an alternative possible mechanics for maximizing the benefits that can be potentially generated from cash waqf. Additionally, the proposed model extends some sensible investment methods which might serve the very objective of waqf, which is security of the principal amount of waqf funds while generating sustainable returns to the beneficiaries.

LITERATURE REVIEW

Definition of Credit Guarantee

The World Bank has defined it "credit guarantee scheme provides third-party credit risk mitigation to lenders through the absorption of a portion of the lender's losses on the loans made to SMEs in case of default, typically in return for a fee" (the World Bank and FIRST Initiative Report, 2015). In other words, CGS is a guarantee on debt to the debtor which provides "third-party debt risk mitigation to lenders by covering a part of the default risk of the loan in case of default, usually, this service is offered in return for a fee" (Vienna Initiative, 2014). The World Bank Group considers accessing funds for SMEs is a high priority and of great interest for policymakers, which could contribute significantly to achieve the goals of poverty eradication enhance prosperity and economic growth. Yet, SMEs have difficulties in acquiring funds. To be more specific, "in emerging markets, between 55 percent and 68 percent of formal SMEs are either unserved or underserved by financial institutions, with a total credit gap estimated in the range of US$0.9 trillion to US$1.1 trillion" (the World Bank and FIRST Initiative Report, 2015).

Overview of Shariah Ruling on Charging Fees on Kafalah Definition of Kafalah Contract

Literally, the word kafalah means surety, bail, guarantee, responsibility, or amenability (Khan, 2003 and Ibn Rushd, Circa 1198, printed 2006). This meaning is clearly stated in the holy Qur'ān where Allah says: (***بِقَبُولٍ رَبُّهَا فَتَقَبَّلَهَا زَكَرِيَّا وَكَفَّلَهَا حَسَنًا نَبَاتًا وَأَنبَتَهَا حَسَنٍ***) (Surah Ali- 'Imran, 3: 37). Kafalah contract provides an assertion that an obligation of the guaranteed party will be fulfilled. Kafalah might relate to a person (kafalah al-nafs), finance (kafālah bi al-mal) or performance of an act (kafalah wajh) (Bank Negara Malaysia (BNM), 2015). According to Monzer Kahf (2015), Kafalah is an old contract developed by man to close the gap which may occur in financial dealings as a result of the parties' lack of confidence in one another. Traditionally, the essential objective of a kafalah contract is to strengthen a debt by ensuring that there is a mitigation in the default risk of the guaranteed. So Kafalah contract is an instrument of risk mitigation and risk management (Kahf, 2015).

Kafalah is applied in Islamic banks in various forms, namely by the Letter of Guarantee (LG) and Letter of Credit. (LC) According to Bank Islam Malaysia Berhad (BIMB, 1994) Kafalah contract in Islamic financial institutions is a pledge made by the institution (usually the Islamic bank) to a third party (the creditor or the supplier). In the event of default by the customer to fulfill his obligation toward the third party, the financial institution (the guarantor) undertakes to pay the agreed sum (partial or full amount).

Therefore, the Islamic bank, in regard to Kafalah contract, can play one of two roles: the role of a guarantor, in which Islamic bank offers several guarantee services to the customer, such as standby letter of credit, shipping guarantee, Performance LG, Advance Payment LG and Payment Undertaking LG, (Kahf and Ibrahim, 2017). The second role of Islamic bank is in the capacity of a beneficiary, in which the IB demands from the customer the guarantee for the financing facilities it extends to clients. This guarantee contract is used as a kind of risk mitigation instrument used by IB to "supplement various primary Islamic financial products, such as, Muḍarabah, Murabaḥah, Salam, Istisna, Ijarah and Tawarruq" (BNM, 2015).

Fiqhi Discussion on Charging Fees for Guarantee

Charging fees on providing guarantee (kafalah bil-ujrah) is one of the debatable issues among Shariah scholars. Majority of classical and contemporary scholars in general disallowed charging fees on guarantee. In other words, imposing ujrah (fee) on kafalah is not allowed by mainstream mezahib in the Islamic jurisprudence including Hanafi, Shafii, Maliki, and Hanbali mezhab. (Al-Buhuti, 1982; Ibn Qudamah, 1998; Al-Imam Malik, 2005). Prohibition view is adopted by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) (Appendix 1) and the International Islamic Fiqh Academy IFA-OIC (Appendix 2). However, they have excluded charging administrative expenses from the prohibition of charging fees on guarantee. On the other hand, some contemporary Shariah scholars such as Sheikh Nazih Hamad (Hammad, 1997) has adopted the view of permissibility. In addition, this view is adopted by the Shariah Advisory Council (SAC) of Bank Negara Malaysia (the Central Bank) (Appendix 3). Accordingly, the current practice in Malaysia is the permissibility of charging fees on guarantee, but the permissibility is subject to certain terms and conditions. this paper adopts the opinion of International Islamic Fiqh Academy and AAOIFI which permits the financial institutions to charge only the 'actual expenses' and 'Administrative expenses' from the clients. Details of the main arguments of both parties (who allow and disallow charging fees for guarantee) are beyond the scope of this paper.

Brief Overview on Cash Waqf

The word waqf been used in the Arabic language to denote several meanings "causing a thing to stop and standstill', 'detention', 'holding' or keeping". As such, waqf sector usually devoted to the benefit of the community "to retain or hold back"(ISRA, n.d.), Waqf has been defined clearly by Kahf (1998) as "holding a maal (an asset) and preventing its consumption for the purpose of repeatedly extracting its usufruct for the benefit of an objective representing righteousness or philanthropy" The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), in its Standard No. 33 on waqf 2008, has defined waqf as "the confinement of a certain property against any disposition that may lead to transfer its ownership, and donating the usufruct of that property to certain beneficiaries" (AAOIFI Sharia Standards, 2009). The word Habs is used in North and West Africa to refer to waqf (Kahf, 2003). Interestingly, the previous definitions accommodate several new forms of waqf that were not discussed in the classical literature, such as the waqf of financial rights and waqf of usufruct which are derived from the meaning of the word Maal (asset). (Monzer Kahf, 1998). On the other hand, in western culture, the expression of "non-profit trusts" is equivalent to waqf meaning (Cizakca, 2011).

Many contemporary studies have spotted the substantial role of the waqf as the third sector that complements the public and private sectors in the Islamic economy in promoting and enhancing socio-economic development. Waqf as the third sector in the Islamic economy is distinct from the profit-motivated private sector and the authority-based public sector, the third sector (waqf) has been devoted to develop education, health, and social, poverty alleviation and environmental welfare (Kahf,1998).

Regarding waqf assets, cash waqf (movable asset) is different from ordinary real estate waqf (immovable asset), in the latter one Al Waqif (founder) endows real state, for instance, land, mosque, while in the former on, Al waqif endows cash. Cash waqf started in primeval Mesopotamia, Greece, and the Roman Empire. The legality of cash waqf is Islamic history might be rooted back to the fatwa of Imam Zufar in the eighth century. Imam Zufar holds the opinion that measurable or weighable properties could be given as Waqf, it was reported that one of the Zufar's companions asked Zufar, how are the dirhams to be acted upon? He replied "they should be invested in business (mudarabah) and the profits should be given in charity. Cash waqf notion was not really popular till the 16th century, cash waqf have evolved during the Ottoman's time and was used by the Ottomans Sultans to finance the expansion of Islam in Europe (Cizakca, 2004, 2010), (Othman, 1982).

Cash waqf has been defined as "the confinement of an amount of money/cash from the founder and the dedication of its usufruct, according to founder's condition(s), in perpetuity to the welfare of the society" (Abdel Mohsin, 2007). Some scholars have named cash waqf as monetary waqf (Zarka, 2007), and other contemporary scholars have considered cash waqf as sustainable, innovative methods that contribute considerably to revive the role of waqf in developing the society through sustainable development projects. (Nadwi and Kroessin, 2013). Regarding the cash waqf legality, Muslims scholars were divided into two groups, the proponents of the cash waqf who regards it permissible are Maliki school, (Al-Thamali, nd), followed by the Hanafi school, then the Hanbali school, Ibn Taymiyyah had favored the saying that the cash waqf is allowed. As for the Shafi'i school of thought, it is the least supportive of the cash waqf. (Abu Al-Saud, 1997). Contrary, the opponents of cash waqf such as Abu Hanifa, Abu Yusuf and Shafi'i in the correct view, the Hanbalis in another saying and Ibn Shas from the Malikis, argue that the waqf expression (form) must be perpetual, therefore, they stipulate that the subject matter of waqf should be not a perishable object after usage, and money cannot be used except by consuming itself, hence the cash waqf is not permissible according to them (Al-Thamali, nd).

To conclude the previous discussion, the preferred opinion is the permissibility of cash waqf because it is included in the general meaning of al- Sdaqah (charity). And because there is no clear text in the Qur'an and Sunnah prohibiting the cash waqf, and the essential rule in any issue is the permissibility unless an explicit text contradicts it. Also, the reward for the waqif (donor) reaches the waqif and the benefit of cash waqf goes to the beneficiaries. The Islamic Fiqh Academy (OIC) in its fifteenth session in Oman 1425, stated that: "cash waqf permissible according to Sharia." (Al-Mayman, 1430). Moreover, the permissibility of cash waqf has been spotted out in the Shari'ah standard 33 of AAOIFI, "The basic characteristics of waqf is perpetuity. However, temporary waqf is acceptable if the founder (waqif) specifies the period after which the title will be returned to him." The same standard states that it is allowed to donate waqf in cash. However, the principal amount should be used in a way that does not lead to its consumption. Cash waqf should be invested to generate income. Waqf property can be developed either by direct investment, through legitimate financing modes, or by acquiring financing from Islamic financial institutions. This provision enables individuals to establish a waqf even if they do not own any real estate. And that will support the proponent of cash waqf argument which emphasize that distinction between the perpetuity of the object itself and its "dedication" of benefits ", which can lead to reviving the waqf institution in contemporary economies (Mohammad et al., 2006).

The cash waqf accesses the accumulation and the circulation of the liquidity in the industry and enhance the employment opportunities. Moreover, cash waqf could significantly serve and improves the market performance by increasing business activities and boosts the local economy by financing small businesses in the industry. It gives the opportunity to all classes of society to contribute to charitable work and not limit it to the rich people, which contributes to advancing sustainable development projects that benefit the general community. Through the use of this new tool, funds can be raised and invested, which facilitates ways to finance and invest money (Lahsasna, 2010).

Nowadays, several waqf models have been implemented in many Muslim countries also the technological advancement, more sophisticated structures could be adopted for efficient waqf management.

Proposed and Existing Models of Cash Waqf

At the present time, cash waqf has witnessed a huge interest that aims to revive and activate the role of the waqf institution in general in Islamic societies. This led to the emergence of new innovative forms of waqf models which could cater especially to the socio-economic development objectives. (Johari and Alias, 2013). Many Muslim countries have taken the initiative to tap on the potentiality of cash waqf in particular in development and socio-economy. Consequently, the utilization of cash waqf has rapidly expanded in several Muslim countries such as Malaysia, Syria, Turkey, South Africa, Singapore, Pakistan and Egypt. (Hasan and Najib, 2008). For instance, there are six states in Malaysia offered cash waqf schemes (Ibrahim et al., 2013), as such the Islamic religious councils in Malaysia have resorted to cash waqf to generate financial resources for the purpose of financing investment in waqf properties. The people can dedicate some money to the council, and this money will be put in a special waqf fund. This fund can be used for social and charitable activities, including investment. Furthermore, the Malaysian government has provided a tax incentive for any donation given including a cash waqf in section 44(6) the Income Tax Act 1967 (Reference no. LHDN.01/35/42/51/179-6.5621 Government Gazette No. 14369 dated 27.07.2004).

Mohsin (2013), mentions six main schemes of cash waqf which are commonly used in Muslim countries. These schemes are1. Waqf shares scheme, 2. Deposit cash waqf scheme, 3. Compulsory cash waqf scheme, 4. Corporate waqf scheme, 5. Deposit product waqf scheme, and finally 6. Co-operative waqf scheme.

In the same context, cash waqf has been integrated into several models in order to serve the socio-economic development and poverty alleviation efforts. Mohsin (2019) has introduced different models such as "Waqf Shares Model, Compulsory Waqf Model, Mutual Fund Waqf Model, Equity Crowdfunding

Model, Direct Waqf Model, Deposit Product Waqf Model, Crowdfunding Cash Waqf Model (Direct), P2P Crowdfunding Model, Mobile Waqf Model, Cooperative Waqf Model, Crowdfunding Cash Waqf Model (Indirect)". And these models have been utilized in several studies as mentioned by Kachkar, et al. (2016): Cash waqf model for micro enterprises' human capital development (Asmy et al., 2019); Cash waqf for SMEs Asmy (2015); Cash waqf for MEs Duasa, and Thas Thaker (2015); Hasan, 2011; Lahsasna (2010); for Micro enterprises Kahf (2004) and Ahmed (2003); for health care services Ahmed (2013) and cash-waqf micro enterprise support for refugees (CWMES-R) model to enhance their livelihood and self-reliance (Kachkar and Omar, 2016). Some of these models will be discussed more in the following section.

Cash waqf has been employed by Shabana (2011) to propose a model of a co-operative to support SMEs in Singapore. Two methods have been utilized to raise the required funds in this cooperative model, cash waqf certificates, Shariah savings, and takaful reserves. Collected funds will be channelled to provide financing to SMEs by way of qard hasan. Moreover, the proposed model of a co-operative might also involve in some investment activities through mudrabah, musharakah, ijarah, etc.

Kachkar and Omar (2016), have proposed an integrated Cash Waqf Micro-Enterprise Support Model for Enhancing Refugee Livelihood, the proposed model is called the "Cash Waqf Micro Enterprises Support for Refugees" (CWMES-R) model. The aim of this model is to transform refugees from donor dependency to becoming self-employed by tackling the major challenges facing the MEs for Refugees, such as legal challenges, low prevalence of microfinance and microcredit programs, lack of marketing assistance, and high financing costs due to high-interest rate. The essential mechanisms used in this model were temporary cash waqf to ensure the highest possible level of participation and perpetual cash waqf.

Cash waqf model for micro enterprises' human capital development has been proposed by Mohamed Asmy Thaker et al. (2019); the model suggested to employ the advantage of cash waqf instrument to design "integrated cash waqf micro-enterprises investment" (ICWME-I) model. Accordingly, the ICWME-I model will enhance the development of micro-enterprises performance in Malaysia. This will lead to increase the overall income of the national economy and contribute to prosperity of the society. Moreover, the proposed ICWME-I model will be advantageous for SME sector in Malaysia.

Muhammad et al. (2019) used the cash waqf model by combining skills development and entrepreneurship which will provide the beneficiaries the skills as well as capital for starting their businesses. The study has suggested that the revenue generated from cash waqf investment will be channelled for developing the skills of beneficiaries through technical and professional training. This cash waqf mechanism may be utilized for micro entrepreneurs' HCD programs.

Sulaiman et al. (2020) has suggested that unit trust waqf can be an innovative instrument to encourage more benevolent activities inside society. Therefore, this paper has introduced conceptual models of unit trust waqf to collect more cash waqf from investors. Additionally, the parameters for the model application have been developed by the author in order to ensure the sustainability of the waqf capital in the form of unit trusts.

To sum up, cash waqf as an innovative tool for fundraising has been employed by NGOs and NPOs to mount up funds by issuing shares and certificates. Thus, these (NGOs and NPOs) institutions act as a mutawalli (trustee) who manages the funds and invested. The mutawalli should take into account the importance of diversify the investment portfolio to minimize the risk of loss (Sulaiman et al., 2019). Then the investment returns will be distributed to the specified charitable purposes (Nadwi, and Kroessin, 2013).

Application of CG in CG Institutions

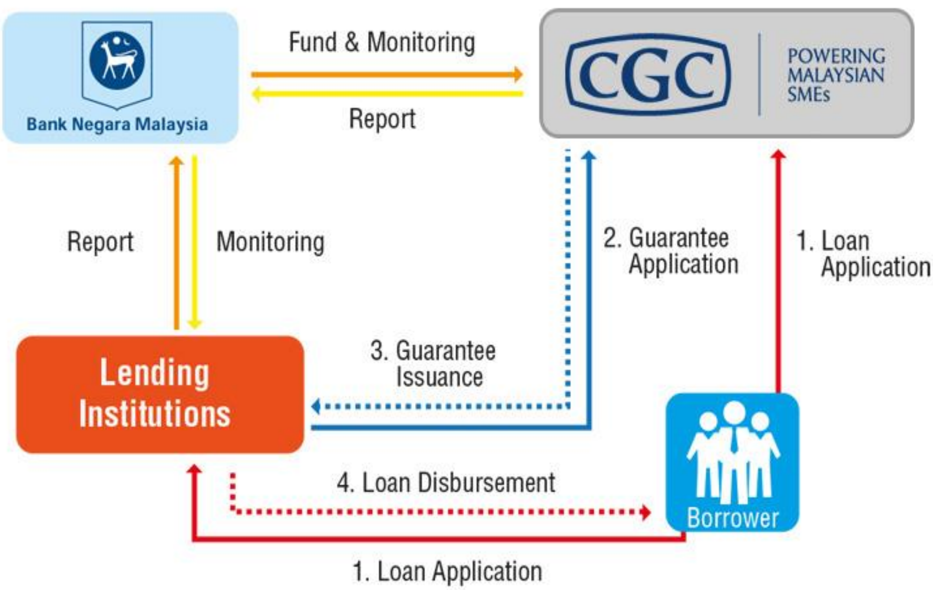
Credit Guarantee Corporation - Malaysia

In order to enhance and promote the growth and development of local SMEs, Credit Guarantee Corporation Malaysia Berhad has launched CGC powering Malaysian SMEs program. The program's objective is to assist Micro, Small and Medium-Sized Enterprises (MSMEs) that lack or have neither collateral nor a track record to obtain financial services from financial institutions. The program will provide such guarantee cover. In the same context, CGC introduces several services, for instance credit information and credit rating services. These services are offered through its subsidiary Credit Bureau Malaysia. The Bureau enables CGC to assist MSMEs build credit history and track record to foster their credibility and bankability. The program also extends Shariah-compliant CG facility which assists borrowers to obtain financing offered by Islamic financial institutions.

CGC program was launched in 1972 and Bank Negara Malaysia has 78.65% of the shares and 21.35% owned by the commercial banks in Malaysia. CGC has provided over 470,000 guarantees and financing to MSMEs valued over RM75 billion since its establishment. In 2019, Bank Negara Malaysia and the Agensi Kaunseling and Pengurusan Kredit (AKPK) (Credit Counseling and Management Agency) established MyKNP. Interestingly, the program contains advisory services to MSMEs. It has established Khidmat Nasihat Pembiayaan platform (MyKNP) (Platform Financing Advisory Services) to provide financial advisory and recommendations to foster the MSMEs eligibility and the factors that enhance their applications for funds.

In addition, CGC supports Green Technology Financing Scheme (GTFS) and the Bumiputera (local) Entrepreneur Project Fund (TPUB-i) with a total allocation of RM3.5 billion and RM300 million, respectively. Furthermore, CGC has managed a total of 45 guarantee and financing schemes including 16 government-backed schemes. At present, twelve (12) Commercial Banks, fourteen (14) Islamic Banks, and eight (8) Development Financial Institutions (DFIs) are taking part in CGC's guarantee schemes in through their over 2,600 branches nationwide (https://www.cgc.com.my/overview/). The following figure 1. illustrates how the program is delivered to Malaysian SMEs.

Figure 1: *How CGC Powering Malaysian SMEs (PMS) Program is Delivered*



Source: https://www.cgc.com.my/overview/

1. The SME will apply for a loan from the financial institution, a copy of the application will also be forwarded to CGC Powering Malaysian SMEs (PMS)
2. Upon the receipt of the loan application from the SME, the lending institution requests a guarantee from CGC PMS
3. CGC PMS issues the guarantee letter to the lending institution
4. The lending institution disburses the loan to the SME.

The above process is completely monitored by the Central Bank of Malaysia where both the lending institution and the CGC must report their transactions to the Central Bank of Malaysia. The CGC Powering Malaysian SMEs (PMS) program provides two different products conventional products and Islamic products. Regarding the Islamic one, CGC introduces three different schemes, BizJamin-i Scheme, BizJamin-i NRCC Scheme, and BizJamin Bumi-i Scheme. The following table explains the main differences and similarities between the three schemes.

From table 1. The three schemes provide guarantee with a maximum financing limit up to RM15.0 million. Also, the schemes provide several financing facilities such as Term Financing-i, - Cash Line Facility-i, - Letter of Credit-i, - Trust Receipt-i - Bills Purchased-i, - Bank Guarantee-i, Export Credit Refinancing-i (ECR-i), etc. also it's noticeable that the three schemes differ in the rate of guarantee coverage, for instance, the guarantee coverage for BizJamin Bumi-i scheme ranges between 30% and 90%, (a maximum cover of RM5.0 million) for unsecured portion, while there is no capping imposed on the secured portion. In contrast, for BizJamin-i NRCC scheme the guarantee coverage ranges between 50% and 70% (a maximum cover of RM5.0 million) for unsecured portions while there is no capping imposed on the secured portion for secured portion. Similarly, the Guarantee fees vary in these three schemes for example the guarantee fee in the BizJamin Bumi-i scheme is between 0.75% to 4.00% per annum for the unsecured portion and 0.50% to 3.20% per annum for the secured portion. While the guarantee fee in the BizJamin-i NRCC ranges between 1.00% to 4.00% per annum for the unsecured portion and 0.75% to 3.20% per annum for the secured portion.

Table 1: *Islamic Schemes Provided By the CGC Powering Malaysian SMEs (PMS) Program*

	BizJamin Bumi-i	BizJamin-i NRCC	BizJamin-i
Maximum Financing Limit	RM15.0 million		
Financing Facilities Covered	- Term Financing-i, - Cash Line Facility-i, - Letter of Credit-i, - Trust Receipt-i - Bills Purchased-i, - Bank Guarantee-i, - Export Credit Refinancing-i (ECR-i) - Accepted Bills-i, - Shipping Guarantee-i, - Hire Purchase-i, - Leasing-i - Any other financing facilities determined from time to time by CGC		
Financing Rate	-The annual profit rate is up to 2% above the Base Financing Rate (BFR) of the financial institutions. -Financial institutions are free to quote the profit rate if the guarantee cover is 50% or less.	The annual profit rate is up to 2% above the Base Financing Rate (BFR) of the financial institutions.	-The annual profit rate is up to 2% above the Base Financing Rate (BFR) of the financial institutions. - Financial institutions are free to quote the profit rate if the guarantee cover is 50% or less
Participating Financial Institutions	1- Participating Development Financial Institutions (DFIs) 2- Islamic Banks		
Guarantee Coverage	**between 30% and 90%** subject to the following: - Unsecured Portion **– Up to 90%** (a maximum cover of RM5.0 million) - Secured Portion – **Up to 90%** (no capping imposed on secured portion)	**between 50% and 70%** subject to the following: - Unsecured Portion **– Up to 70%** (a maximum cover of RM5.0 million) - Secured Portion – **Up to 70%** (no capping imposed on secured portion)	**between 30% and 90%** subject to the following: - Unsecured Portion **– Up to 80%** (a maximum cover of RM5.0 million) -Secured Portion – **Up to 90%** (no capping imposed on secured portion)
Guarantee Fee	- Unsecured Portion – **0.75% to 4.00% per annum** - Secured Portion **– 0.50% to 3.20% per annum.**	- Unsecured Portion **– 1.00% to 4.00% per annum** - Secured Portion **– 0.75% to 3.20% per annum.**	- Unsecured Portion **– 0.75% to 4.00% per annum** - Secured Portion – **0.50% to 3.20% per annum.**
Payment of Guarantee Fee	**-** New Letter of Guarantee (LG) – Payable upon request for LG by Financial Institution but subject always to full payment of the Guarantee Fee - Anniversary LG – Payable on or before LG anniversary date, together with the annual Guarantee Fee		
Refund of Guarantee Fee	- Refund of Guarantee Fee will be pro-rated on monthly basis and applicable for LG cancelled or amended by CGC based on the unutilised period of the LG. -The utilised period is calculated from the month of LG/anniversary LG until the month of receipt of cancellation/ approval of amendment by CGC.		

Source: (CGC 2020) https://www.cgc.com.my/overview/ *prepared by author*

Kafalah Program, Kingdom of Saudi Arabia

Kafalah program is a comprehensive program concerned with activating the role of small and medium enterprises due to their positive effects on the economic and social levels. Guarantee Program for Small and Medium Enterprises was established pursuant to the Minister of Finance Decision No. (1166) dated 05/04/1425 AH. (2006) with the aim of overcoming obstacles to financing small and medium enterprises that are economically viable and that do not have the ability to provide the required guarantees to financing agencies. Thus, the program intends to overcome the obstacles to financing small and medium enterprises that have the ingredients for success but do not possess the necessary guarantees to obtain financing. The program covers a percentage of the total financing in the event of default by the SME. Ultimately encourage banks to finance this type of establishments.

To achieve these goals, the Saudi Industrial Development Fund (SIDF) will be responsible for managing the Small and Medium Enterprises Financing Guarantee Program as a joint development initiative between the Ministry of Finance and the commercial banks cooperating with the program.Kafalah program has commenced with ambition to provide products and services with quality and efficiency compatible with the needs of the small and medium enterprises sector for all sectors and in the various regions of the Kingdom (https://www.kafalah.gov.sa/About/Pages/default.aspx).

Kafalah program is a comprehensive program concerned with activating the role of small and medium enterprises due to their positive effects on the economic and social levels. Based on the act No. (1166) dated 05/04/1425 , so the Saudi Industrial Development Fund (SIDF) will be responsible for managing the Small and Medium Enterprises Financing Guarantee Program as a joint development initiative between the Ministry of Finance and the commercial banks cooperating with the program.

Kafalah Program Objectives

The program aims to assist small and medium enterprises in obtaining the necessary financing from commercial banks and various financing agencies to develop and expand their activities and to encourage financial institutions to deal with the small and medium enterprises sector. In addition, it is attracting a new segment of owners of small and medium enterprises that are not accustomed to dealing with financing agencies in order to develop and cultivate the sector. This effort will help to achieve the vital role of small and medium enterprises in the national economy through their contribution in creating new job opportunities and developing the municipalities that are less economically active (https://www.kafalah.gov.sa/About/Pages/default.aspx).

Table 2: *The Guarantees were approved during the Q3-2020 and Cumulated Since the Beginning of the Program According to Economic Activity.(Saudi Riyal)*

The economic activity	The third quarter of 2020				Cumulative from the start of the program			
	Finance request	Value of guarantees	Funding value	Number of enterprises	Finance request	Value of guarantees	Funding value	Number of enterprises
Wholesale retail and trade	1,592	2,688,610	3,315,615	1,422	6,105	8,003,585	12,066,774	3,373
Construction	618	1,973,202	2,853,378	560	6,312	8,652,808	16,157,664	2,602
Accommodation services activities and tourism activities	365	464,057	530,053	336	954	1,144,946	1,539,723	709
Manufacturing industry	332	912,261	1,113,163	301	1,919	2,801,127	4,278,556	1,023
Administrative and support services	216	371,804	468,125	197	1,264	1,637,170	2,774,342	550
Transportation and storage	103	212,363	245,624	97	455	621,451	904,391	304
Professional technical and scientific activities	109	257,503	325,035	101	815	1,103,031	2,015,176	325
Human health and social work activities	105	250,947	298,303	98	386	569,662	802,643	286
Information And communication	70	240,952	314,248	65	167	390,423	617,590	101
Education	42	99,196	120,429	39	193	301,878	574,928	142
Other service activities	33	28,628	36,110	32	135	151,771	224,569	86
Arts, entertainment, and leisure	26	18,702	20,337	26	119	125,699	197,340	70
Real estate activities	14	80,310	87,771	12	42	114,113	139,447	28
Water supply, sanitation activities and waste management	24	65,497	98,451	23	54	117,508	183,909	28
Mining and quarrying	7	24,995	31,460	7	22	42,709	63,178	14
Financial and insurance activities	4	3,847	4,753	4	63	82,016	143,629	34
Agriculture, forestry, and fishing	9	11,055	13,850	8	42	75,817	161,087	27
Electricity and gas supply	3	12,218	13,750	3	19	24,475	33,747	14
Public administration and defence, and mandatory social security	0	0	0	0	13	25,299	38,043	7
Total	**3,672**	**7,716,144**	**9,890,454**	**3,328**	**19,079**	**25,985,490**	**42,916,735**	**9,721**

Source: *Translated by author from Arabic,* According to the National Classification of Economic Activities (ISIC4). *https://www.kafalah.gov.sa/About/Pages/UpcomingProjects.aspx*

Table 3: *The performance of the cumulative program from its beginning in 2006 until the end of the third quarter of the year 2020*

Year	Fund request			Guarantees value	Fund value	number of guarantees	Total number Of enterprises (Each year)
	New enterprises	Previous enterprises	Total				
2006	23	-	23	14,279	31,770	32	23
2007	127	15	142	84,356	185,795	184	138
2008	181	12	193	112,986	259,939	273	192
2009	164	77	241	141,241	364,515	362	234
2010	299	169	468	268,394	709,993	775	452
2011	350	275	625	524,538	1,107,839	1,014	591
2012	427	385	812	840,858	1,573,025	1,455	779
2013	696	553	1,249	1,362,834	2,486,602	2,637	1,174
2014	753	694	1,447	1,627,624	3,332,057	3,509	1,377
2015	763	924	1,687	1,838,445	3,771,310	4,036	1,602
2016	815	926	1,741	1,816,326	3,538,655	3,376	1,652
2017	750	1,077	1,827	1,823,312	3,352,068	3,220	1,730
2018	951	1,233	2,184	2,996,551	4,934,556	3,395	2,000
2019	1,347	1,433	2,780	4,817,602	7,378,157	3,889	2,481
2020	2,086	1,586	3,672	7,716,144	9,890,454	4,639	3,328
Total	9,721	9,358	19,079	25,985,490	42,916,735	32,796	-

Source: *Translated by author, https://www.kafalah.gov.sa/About/Pages/UpcomingProjects.aspx*

From the two tables above, we can notice that the Kafalah Program, Kingdom of Saudi Arabia has covered several economic activities such as professional technical and scientific activities, human health and social work activities, Information and communication education and other service activities. The total number of new enterprises has significantly increased from 23 in 2006 to reach 9,721 in 2020, Moreover, the number of guarantees inclines from 32 guarantees in 2006 to 4,639 in 2020 by the end of the third quarter. The net number of enterprises reached 721.9 from the beginning of the program until the end of the third quarter of 2020.

Processes of Guaranteed Financing Programs

1. The enterprise applied for financing from one of the financing agencies cooperating with the program.
2. The financing authorities study the client's request for financing, and in the event that the funding is required to provide guarantees to cover

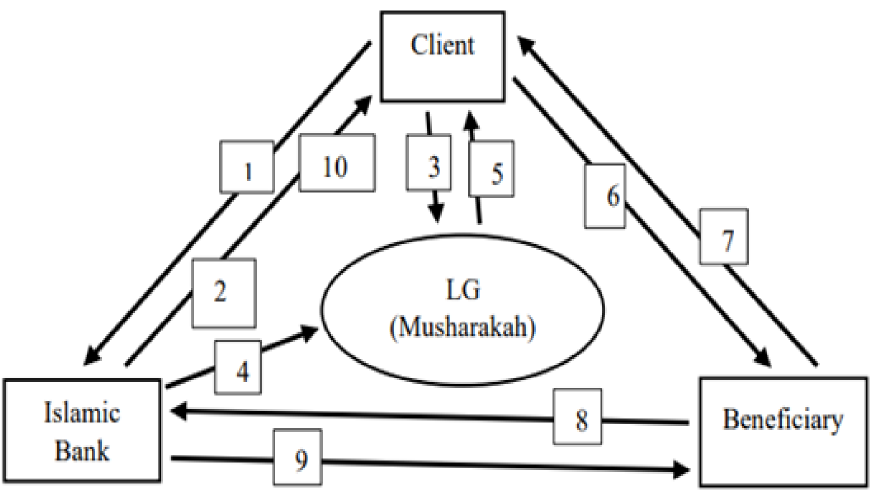
the risks, it is transferred to a guarantee program to study the guarantee request.

3. The Kafalah program studies the application, and in the event of approval of the program, a guarantee is issued to the funding body according to the products provided and approved.

A Proposed Shariah Compliant LG

An interesting study conducted by Monzer Kahf and Abdul-Jalil (2017) proposed alternative ways of Shari'ah-compliant structuring a LG by IB. They suggested new approaches of structuring LG as a service under wakalah bi-ujr or as a reputation-based partnership (Sharikatu al Wjuh). They argue that LG may be considered as a service and consequently IBs are allowed to charge certain fees on the LG service. Such fees shall include both direct and indirect costs. The authors further proposed to use (Sharikatu al Wjuh) whereby IB will enter into a partnership contract on the basis of profit and loss sharing. The IB's contribution will be its creditworthiness and capability of issuing the LG and accordingly it will be entitled to a specific agree share of the profit. Nonetheless, clients and projects should be screened adequately in a process includes a robust feasibility study and KYC. To mitigate profit risk and may be other risks, takaful can be arranged with an Islamic insurance provider.

Figure 2: *Steps of Musharakah LG*



Source: Kahf and Abdul-Jalil (2017)

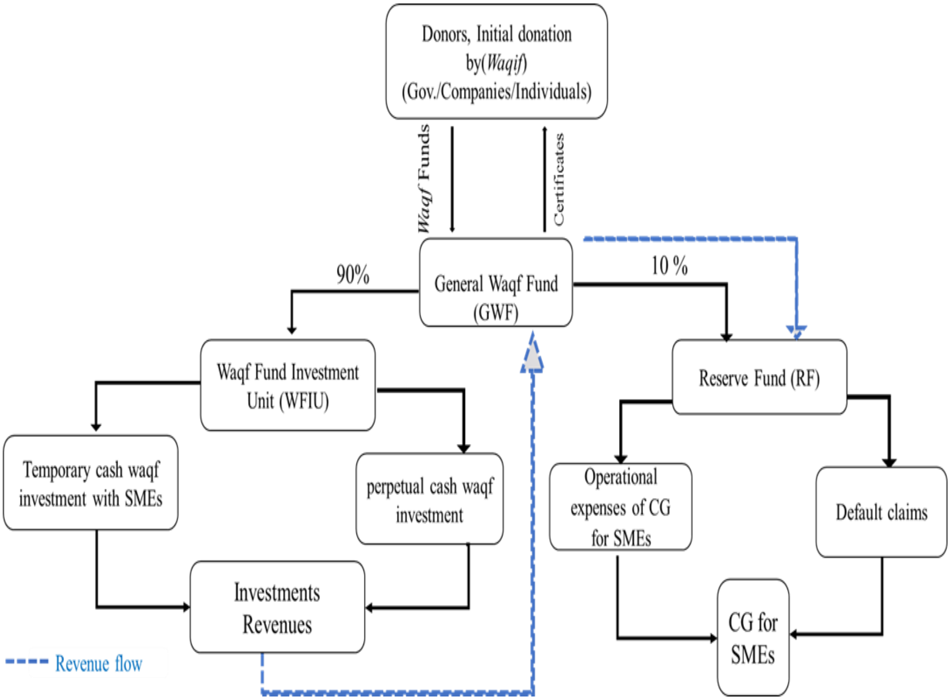
The authors explained that "the client approaches the IB in stage 1 for a LG. The IB then assesses the client in stage 2 and decides whether to go ahead with the request. At stage 3, the IB, when satisfied with the client, will propose a partnership with the client to form a musharakah for the purposes of the client's LG need. The client contributed capital will be determined at this stage. The IB also contributes to the LG at stage 4 by agreeing to guarantee the client's performance in the project in question. The client then meets the LG requirement of the project and presents it to the beneficiary in stage 6. The beneficiary then goes ahead to advance dealings with the client at stage 7. If there is a default by the client at stage 8, the beneficiary will notify the IB and the bank will make payment on behalf of the client at stage 9. The bank then, as a result of negligence or contract violation/abuse, pursues collection of the paid amount from the client at stage 10. The LG is terminated on project completion or on recovery of the money paid to the beneficiary." (Kahf and Abdul-Jalil ,2017).

WAQF CREDIT GUARANTEE (WCG) FOR SMES MODEL

Conceptual Framework

The proposed model in this paper suggests tapping on cash waqf. As such, cash waqf will be employed in designing this model in order to overcome the main challenges encountered by SMEs to acquire CG, it has been mentioned in the previous section that the majority of CG existing schemes charge fees on providing credit guarantee, which is considered debatable issue among Muslim scholars. Since the majority of Muslim scholars regard the guarantee or in Arabic Kafalah is benevolent act that fees cannot be charged for. Another challenge that is aimed to be overcome by the proposed model is the lack of funds as a result of the limited capacities of government agencies to provide CG. This paper aims to provide a comprehensive and sustainable waqf CG model to extend CG for SMEs. Firstly, in order to raise the required funds, cash waqf certificates will be extended to collect the required funds from individuals, institutions, and government donors. Figure 4 below illustrates the conceptual model.

Figure 3: *Waqf Credit Guarantee (WCG) for SMEs*



Source: *Developed by authors*

To ensure the highest level of participation, two types of cash waqf will be utilized in this model, temporary and perpetual cash waqf. The full details of the proposed model (WCG) are provided within the following points:

1. Cash waqf is accepted from individual as well as institutional donors
2. Donors/waqf founders are given waqf certificates to prove their contributions; these certificates are used later to obtain tax exemption or to redeem their cash waqf back as the case in the temporary cash waqf.
3. The collected cash waqf funds are divided into the waqf investment fund and the reserve fund,
4. The objective of the waqf investment fund is to invest the collected cash waqf funds in shariah-compliant projects and business activities,
5. The objective of the reserve funds is to pay for the defaulted amounts to banks on behalf of the guaranteed SMEs,
6. Adequate funds must always be maintained in the reserve fund according to the agreed professional threshold.
7. Returns generated from the waqf investments must constitute a major source of funds to top up any shortages in the reserve funds.

8. Surplus funds, if any after full top-up of the reserve fund, should be channelled to cover the operational expenses; otherwise, a specific percentage of the donated funds, such as 5-10 % can be deducted upfront from the principal cash waqf donation upon a clear notification to the donors to this effect. Additionally, a nominal fee can be charged from SMEs applicants, these fees will be directed to the operational expenses.

Components of the Conceptual Framework

General Waqf Fund (GWF)

The general waqf fund is a pool in which all collected cash waqf funds are kept. The (GWF) combines two types of cash waqf, i.e., permanent and temporary waqf. Donations coming to the GWF may be offered by individual and government and institutional donors. The GWF will consequently have two sub-divisions, the waqf investment fund (WIF) and the reserve fund (RF). Functions of the GWF can be explained as the following:

1. Issues cash waqf certificates (perpetual and temporal) and collects the funds from the donors in the form of cash waqf.
2. Channel the raised funds to waqf investment fund
3. Maintain an adequate level of funds in the reserve funds,
4. Receive CG applications from SMEs
5. Conduct feasibility studies and know your customer (KYC) on applicant SMEs,
6. Issue CG to successful applicant upon the request of the commercial bank
7. Pay guaranteed amounts on behalf of the defaulting SMEs to the commercial bank

Waqf Fund Investment Unit (WFIU)

This unit is established to invest waqf funds professionally, efficiently, and effectively in the potential investment opportunities. The mandate of this unit is to manage the collected cash funds through the following functions:

a) Design the investment policies and strategies of the Fund
b) Look for potential investment opportunities. Investment opportunities could be in any of the following forms:
   I. Projects initiated and managed by the Fund.
   II. Projects are run and managed by external parties, such as government entities and the private sector.

III. Projects are run and managed by applicant SMEs.

c) Prepare feasibility studies, make investment decisions, and follow up with investment partners

Waqf Reserve Fund (WRF)

Waqf Reserve Fund (WRF), this fund will constitute roughly 10% of the total GWF. The money of this fund will be used to pay for two expenses:

a) Default payments that any of the applicant SMEs failed to pay to the commercial bank
b) Operational expenses incurred by the managing entity.

Deficit in the reserve fund will be compensated for by revenues generated from investments, membership contributions are paid by the members of the proposed model and nominal service fees.

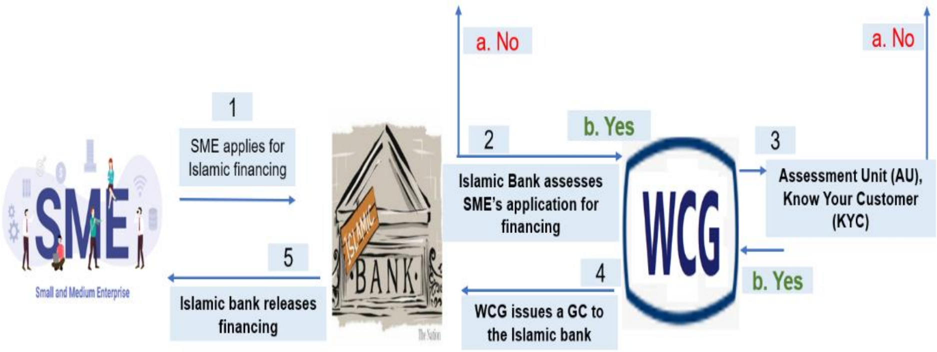
Operational Model

Providing shariah-compliant CG is the main objective of the proposed Waqf Credit Guarantee (WCG) for SMEs model. three key players are identified in the operational model

1) the SME applicant
2) the waqf CG entity
3) the financial institution (banks)

The SMEs will apply to acquire CG through the administration office, after that, the applications will be forward to the Assessment Unit (AU), Know Your Customer (KYC) to be subject to a feasibility study, to be more specific the SMEs applications ought to pass several criteria to be eligible to acquire the CG approval, for example, SMEs should have at least three years of experience, have good planning and organizational skills, keep detailed records (at least for three years), understand the risks and plan for it and analyze the business' competition. The operational model will describe the main steps for the SMEs to apply and receive the CG) as follows:

Figure 4: *Waqf Credit Guarantee (WCG) Model for SMEs: Operational Model*



Source: *Author's own*

Transaction Flow

Prior to starting with the explanation of the flow of the CG transaction, it is worth noting that the application shall be submitted online via a common platform that combines the Islamic commercial bank as well as the WCG entity. The details of the transaction flow are provided below:

1. SME applies for financing from Islamic commercial banks (with collateral if any)
2. Islamic Bank assesses SME's application
    a. No, rejected
    b. Yes, approves SME application and requires CG from the WCG; upon the approval, a notification from the Islamic bank is sent to the WCG, likewise, WCG creates an application to the SME with a special code and the SME uploads all required documents.
3. WCG assesses application as part of the know your client (KYC), a visit or an interview may be conducted by the WCG with the SME to make an informed decision
    a. No, rejected,
    b. Yes approves,
4. WCG issues CG letter to the Islamic bank and one copy to the client,
5. The Islamic bank releases financing to clients.

Functions of WCG Entity and Islamic Bank in the Above Model

WCG Entity

In the proposed model, WCG entity will:

1. Establish a new waqf fund in which all the collected cash waqf donations are kept in that fund.
2. Ensure Shariah compliance of fund investments.
3. Conduct due diligence process on the client.
4. Issue the letter of guarantee (LOG) to Islamic bank if the application is approved and after fulfilling all the requirements and settling all the fees.
5. Pay the guaranteed amount to Islamic bank in case the client defaults, the payment shall be in accordance with the agreed ratio.
6. Recover the payment (if any) from the client through the liquidation of the collateral.

The Islamic Bank

In the proposed model, the Islamic bank will:

1. Receive and assess the client's application for financing
2. Upon receiving the LOG, extend financing to client
3. In the event of default, the Islamic bank shall liquidate the collateral, if any as required and collect the outstanding amounts from the client.

CONCLUSION & RECOMMENDATIONS

The lack of credit guarantee represents a major challenge for businesses in general particularly for SMEs (Deng et al., 2014). Their substantial limitation stems from their inability of providing required collateral and security to creditors, mainly financial institutions and commercial banks. As such, SMEs become less favorable to banks and financial institutions compared to big and more established companies (Liberti and Sturgess 2018). Furthermore, even if the SMEs received a credit guarantee still the banks charge fees for providing guarantee which is debatable issue from sharia perspective. The significance of this proposed cash waqf model stems from its contribution in solving the existing challenges in current CG programs from the Shariah perspective as well as in its contribution in securing an additional source of funding for new CG programs for SMEs.

This model consists of a conceptual and operational framework. The components of the conceptual framework are the general waqf fund (GWF), Waqf Fund Investment Unit (WFIU), and waqf reserve fund (WRF). The GWF is a pool in which all collected cash waqf funds (permanent and temporary) are kept. The GWF has several functions, including the issuance of cash waqf certificates and collection of the funds from the donors, directing the raised funds to the waqf investment fund, receiving CG applications from SMEs, issuing CG to the eligible applicants upon the request of the commercial bank and paying guaranteed amounts in default cases. The Waqf Fund Investment Unit (WFIU) is designed to professionally invest waqf funds in potential investment opportunities. Waqf reserve fund (WRF) constitutes roughly 10% of the total GWF. The money of this fund will be used to pay for two expenses, the default payments if any of the applicant SMEs failed to pay to the commercial bank and operational expenses incurred by the managing entity. Three key players are identified in the operational model, the SME applicant, the waqf CG entity, and the financial institution (banks).

The proposed conceptual framework is conceived to achieve a two-fold objective, availing the required funds for CG programs and at the same time, providing a Shariah-compliant CG scheme. The beauty of cash waqf in the context of CG is that cash waqf will not be consumed because what is provided by the WCG entity is not the financing but the guarantee backed by cash waqf. Various aspects of the proposed WCG framework are potentially in need of further investigation and improvements. These aspects include the legal, regulatory, and operational requirements needed in real environments.

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APPENDICES

Appendix 1

A- AAOIFI Shariah Standard No. 5: Guarantees

AAOIFI expressly ruled that: 3/1/5 "It is not permissible to take any remuneration whatsoever for 3/1/5 It is not permissible to take any remuneration whatsoever for providing a personal guarantee per se, or to pay commission for providing a personal guarantee per se, or to pay commission for obtaining such a guarantee. The guarantor is, however, entitled obtaining such a guarantee. The guarantor is, however, entitled to claim any expenses actually incurred during the period of to claim any expenses actually incurred during the period of a personal guarantee, and the Institution is not obliged to a personal guarantee, and the Institution is not obliged to inquire as to how the guarantee produced has been obtained inquire as to how the guarantee produced has been obtained by the customer. [see item 7/1/1 and 7/1/2)]"

Appendix 2

B- Islamic Fiqh Academy Resolution N° 12 (12/2), on the Letter of Guarantee OIC

The resolution has resolved:

"**First**: It is not permitted to charge a fee for issuing a letter of guarantee (in which, customarily, the amount and the period of guarantee are considered) whether it is with or without cover.

Second: The administrative expenses for issuing a letter of guarantee of both kinds are permissible by *Shari'a,* provided they do not exceed actual expenses for services of the same kind. In the event a partial or total cover is presented, it is permissible to take into account, when estimate of expenses is determined, the possible effort which may be required to provide the cover." (Islamic Fiqh Academy of the OIC, 2000).

Appendix 3

C- The Sharia Advisory Council in Malaysia (2005),

The Sharia Advisory Council in Malaysia in its 54th meeting (2005) has stated the permissibility of charging fees on guarantees provided by CGC, this opinion has built on following arguments:

1- "Charging ujrah (fees) on kafalah shall be permissible on the basis of maslahah and public needs, currently it is unusable to obtain a free-of-charge guarantee. Also, based on the opinion presented by some contemporary scholars in OIC Fiqh Academy that although kafalah contract originally is a type of tabarru (voluntary contract), charging fees on the guarantee is permissible. In addition, Kafalah (dhaman) contract is not considered as Qard as it falls under istithaq contract. Thus, accepting fees (ujrah) for the Kafalah service is not prohibited since dhaman contract is different from qard contract and".

2- "Qiyas on akhz al-ajr `ala al-jah referring to fees that are permissible to be collected on utilizing someone's reputation and also to charge fee on performing incantation (treatment/medication) using Quran (akhz al-ju`l `ala ruqyah mina al-Quran). Some classical scholars permitted imposition of fee in both situations and this permissibility could be extended to the imposition of ujrah on guarantee as both have similarities in terms of the services provided".