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# ISLAMSKO OSIGURANJE DEPOZITA U TEORIJI I PRAKSI

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**Rezime:** Razvoj i konkurentnost islamskog bankarstva, kao relativno mladog segmenta globalnog finansijskog tržišta, uslovljeni su, pre svega, poverenjem aktuelnih i potencijalnih ulagača u sposobnost islamskih banaka da poverenim ulozima upravljaju u skladu sa ugovorom i dobrom poslovnom praksom. Osiguranje depozita jedan je od bitnih instrumenata pomoću kojih se može jačati poverenje deponentata u stabilnost bankarskog sistema. U ovom radu analiziran je model islamskog osiguranja depozita. Ciljevi rada su da se sagledaju njegova teoretska osnova i odlike njegove prakse, eventualna odstupanja poslovne prakse od teoretskih postulata i izazovi primene islamskog osiguranja depozita u različitim pravnim sistemima. Analizom prakse islamskog osiguranja depozita, dolazi se do zaključka da ona u većini zemalja odstupa od šerijatski usklađenog modela osiguranja depozita. Tome su prevashodno doprineli bankarski propisi koji uglavnom ne prepoznaju specifičnost odnosa koji islamska banka formira sa svojim deponentima i, samim tim, potrebu islamskih banaka za autentičnim pristupom osiguranju depozita.

**Ključne reči :** islamsko bankarstvo, osiguranje depozita, Šerijat, takaful, kafalah bi al ujr

**JEL klasifikacija :** G21, G22, K15, Z12

## Uvod

Konvencionalne banke garantuju svojim deponentima isplatu uloga u punom iznosu (Garcia, 1999, str. 4). Snaga te garancije, pak, uslovljena je poslovnim performansama i perspektivama banke, o kojima su deponenti daleko slabije informisani nego menadžeri i akcionari banke. Nedovoljna informisanost stvara kod deponenata osećaj neizvesnosti, koji ih konačno može voditi paničnom povlačenju uloga (Calomiris, 1990, str. 284). Da bi se sprečila ova negativna pojava i kompletan splet njom izazvanih teških posledica, uveden je eksterni sistem garantovanja uloga u vidu osiguranja depozita (Diamond & Dybvig, 1983, str. 401, 404). Evolucija osiguranja depozita započeta je osnivanjem Sigurnosnog fonda Države Njujork (New York State's safety fund) u 19. veku (Thies & Gerlowski, 1988, p. 678). Međutim, ovaj pokušaj uspostavljanja državnog sistema osiguranja depozita se, kao i slični pokušaji u drugih pet američkih saveznih država u istom periodu, pokazao neuspešnim (Calomiris & Jaremski, 2016, str. 97). Ipak, uvođenje osiguranja depozita na nivou federacije nije imalo podršku saveznih zakonodavaca sve dok se nije desila velika ekonomska kriza 1929. godine, a pre toga, u prvim decenijama 20. veka, i neuspešan pokušaj osam saveznih američkih država da osnuju održive sisteme osiguranja depozita (Ibid). Tek nakon toga je odobreno osnivanje Savezne korporacije za osiguranje depozita (Federal Deposit Insurance Corporation – FDIC). Primena osiguranja depozita u svetu doživljava ekspanziju tek u poslednjih nekoliko decenija, kada su mnoge zemlje započele proces društvene i ekonomske transformacije. Jedan od elemenata tog procesa bilo je i uspostavljanje sistema osiguranja depozita, što je neretko bio plod pritiska Svetske banke, Međunarodnog monetarnog fonda i Evropske unije (Demirgüç-Kunt, Kane & Laeven, 2008, str. 435). Ipak, implementatori osiguranja depozita moraju biti svesni njegovog destabilizacionog potencijala (detaljnije Demirgüç-Kunt & Detragiache, 2002; Demirgüç-Kunt & Kane, 2002; Demirgüç-Kunt, Kane & Laeven, 2008; Anginer, Demirgüç-Kunt & Zhu, 2014), zbog kojeg ga je bivši predsednik Savezne korporacije za osiguranje depozita uporedio sa nuklearnom elektranom.

Koncepcija islamskog bankarstva je, pak, znatno drugačija u odnosu na konvencionalno bankarstvo. Islamske banke ne mogu poslovanje zasnivati na kamati i rizičnim ulaganjima, i njihovo finansiranje i ulaganje se sprovodi po principu podele rizika (Ghosh, 2017, str. 213). Pošto finansiranje islamskih banaka najčešće ne podrazumeva preuzimanje fiksnih obaveza, njihovi zahtevi za obaveznim kapitalom su manji nego u slučaju konvencionalnih banaka (Ibid). Shodno navedenim činjenicama, može se dovesti u pitanje potreba za postojanjem osiguranja depozita islamskih banaka. Međutim, bez detaljnije analize poslovne prakse islamskih banaka i izazova koje im poslovno okruženje nameće, nemoguće je doći do valjanog zaključka po ovom pitanju. Najpre, treba biti svestan činjenice da islamske banke neretko izlaze iz teoretskih okvira šerijatski optimizovanog bankarstva (Ibid). Takođe, treba uzeti u obzir i to da se islamske banke ne razvijaju u jedinstvenom i jednoobraznom pravnom prostoru, već u različitim pravnim sistemima. Ostvarenjem izuzetno visokih stopa tržišnog rasta u različitim zemljama i pravnim sistemima, islamskim bankama je kao uslov održivosti rasta i konkurentnosti nametnuta obaveza osiguranja depozita (interpretirano prema Hamed, 2015, str. 5). S obzirom na to da konvencionalno osiguranje depozita uključuje pojedine elemente, poput kamate (*riba*, detaljnije Islamic Deposit Insurance Group, 2010; Jaffer, et. al., 2010; Hussain & Pasha, 2011) i preterane neizvesnosti (*garar*, detaljnije El-Qalqili, 2017), koji su šerijatski neprihvatljivi, bilo je neophodno kreirati novu koncepciju osiguranja depozita, koja bi bila oblikovana prema šerijatskim principima i čija bi osnovna funkcija zaštite deponenata bila očuvana.

<sup>1</sup> „Sistem osiguranja depozita je kao nuklearna elektrana. Ako ga gradite bez primene mera predostrožnosti, znate da će vas oduvati sa lica Zemlje. Pa čak i ako ih primenjujete, ne možete biti sigurni da neće“ (L. William Seidman, navedeno u Thies & Gerlowski, 1988, p. 677).

U ovom radu analiziran je model islamskog osiguranja depozita. Ciljevi rada su da se sagledaju njegova teoretska osnova i odlike njegove prakse, eventualna odstupanja poslovne prakse od teoretskih postulata i izazovi primene islamskog osiguranja depozita u različitim pravnim sistemima. U skladu sa ciljem rada, kreirana je i njegova struktura. U prvom delu predstavljene su teorijska koncepcija i praktična primena islamskog osiguranja depozita. U drugom delu analizirane su specifičnosti osiguranja depozita islamskih banaka u pojedinim zemljama. Na kraju, u zaključku je dat kratak osvrt na teoriju i praksu islamskog osiguranja depozita i odstupanja koja među njima postoje.

## Teorijska koncepcija i praktična primena islamskog osiguranja depozita

Svrha islamskog osiguranja depozita je da se u skladu sa šerijatskim principima zaštite ulozi deponenata islamskih banaka, što za posledicu treba da ima jačanje poverenja u islamske banke, njihove stabilnosti i konkurentnosti (Hamed, 2015, str. 5). Prema mišljenju većine šerijatskih stručnjaka, najprimereniji oblik islamskog osiguranja depozita je *takaful*, koji funkcioniše po principu uzajamnog osiguranja, gde banke uplaćuju doprinose u zajednički fond i solidarno snose eventualne gubitke, dok fondom upravlja *takaful* operator u svojstvu agenta (detaljnije Lahsasna, 2016; Lekpek & Ibrović, 2021). S druge strane, postoji i *kafalah bi al ujr* oblik islamskog osiguranja depozita, kod kojeg islamske banke uplaćuju naknadu osiguravaču za pružanje usluge osiguranja depozita (Ibid). Preovlađujući stav je da je šerijatska valjanost ovog modela islamskog osiguranja upitna zbog komercijalizacije garancije, koju većina šerijatskih stručnjaka smatra nedozvoljenom (detaljnije Islamic Deposit Insurance Group, 2010; Abubakar, et al., 2016; Hamisu & Hassan, 2017; Noor & Haron, 2018). Zaštitom koju pruža islamsko osiguranje depozita ne mogu biti pokriveni svi depoziti islamskih banaka (navedeno prema Abubakar, et al., 2016; Hamisu & Hassan, 2017; Fendi, 2020). Pravo vlasnika transakcionih depozita na zaštitu njihovih uloga putem osiguranja depozita se među šerijatskim stručnjacima ne dovodi u pitanje. S druge strane, većina šerijatskih stručnjaka smatra da takvo pravo nemaju vlasnici investicionih depozita, koji sa bankom formiraju partnerski odnos i s njom dele profit i gubitke.

Razumevanje potreba islamskih banaka i njihovih deponenata može biti značajan prvi korak u stvaranju valjanog okruženja za njihovo delovanje, a što konačno može finansijskom sistemu doneti brojne koristi, u vidu rasta broja pružalaca finansijskih usluga, raznovrsnosti finansijskih usluga i broja njihovih korisnika. U poređenju sa deponentima konvencionalnih banaka, deponenti islamskih banaka su pod snažnijim uticajem religije, manje su spremni na panično povlačenje uloga i pokazuju veću štedljivost, naročito u periodu privredne ekspanzije (Farooq & Zaheer, 2015, str. 122; Akhtar, Akhter & Shahbaz, 2017, str. 306). Ipak, deponente islamskih banaka<sup>2</sup> ne treba percipirati kao religiozne idealiste koji zaradu na uloge nisko kotiraju na listi prioriteta. Istraživanja su pokazala da promena tržišnih kamatnih stopa i te kako utiče na njihova očekivanja po osnovu prinosa na depozite u islamskim bankama (Akhtar, Akhter & Shahbaz, 2017, str. 306; Aysan, et al., 2018, str. 13). Da bi zadovoljile njihova očekivanja, islamske banke izdvajaju deo profita u posebne rezerve za čijim sredstvima posežu u periodu kada iz redovnog poslovanja ne bi mogle obezbediti deponentima zadovoljavajući prinos (detaljnije Iqbal & Mirakhor, 2009, str. 224-226; Hamza, 2016, str. 34). Postoji stav da se na ovaj način krše šerijatski propisi i narušavaju interni odnosi u banci (Ibid).

<sup>2</sup> Reč je o vlasnicima investicionih depozita, jer vlasnici transakcionih depozita ne ostvaruju prinos na svoje uloge.

U praksi postoje tri modela osiguranja depozita islamskih banaka (Islamic Deposit Insurance Group, 2010, str. 4): a) osiguranje depozita islamskih banaka u okviru konvencionalnog sistema osiguranja depozita, b) postojanje posebnog sistema islamskog osiguranja depozita uz konvencionalni sistem osiguranja depozita i c) postojanje isključivo islamskog osiguranja depozita. Shodno, primenjenom modelu javljaju se različiti pristupi uređenju pojedinih pitanja, poput (Ibid, str. 6): obaveznosti članstva u sistemu osiguranja depozita, razdvajanja premija osiguranja depozita islamskih banaka od premija osiguranja depozita konvencionalnih banaka u fondu osiguranja, usklađenosti upravljanja fondom sa šerijatskim principima, ujednačenosti limita pokrića i premija osiguranja za depozite islamskih i konvencionalnih banaka. Poseban sistem islamskog osiguranja depozita, po drugom ili trećem modelu, ima pet zemalja, pri čemu Sudan, Bahrein i Jordan koriste *takaful*, dok Malezija i Nigerija koriste *kafalah bi al ujr* formu osiguranja depozita (Mustafa & Najeeb, 2018, str. 488-489). Kad je u pitanju osiguranje pojedinih vrsta depozita, transakcioni depoziti su osigurljivi u svim sistemima, dok se praksa osiguranja investicionih depozita razlikuje (Hamed, 2015, str. 12). Primera radi, i u Jordanu i u Sudanu je primenjen *takaful* model osiguranja depozita, međutim, u Sudanu je dozvoljeno osiguranje svih investicionih depozita, dok su u Jordanu osiguranjem pokriveni samo neograničeni investicioni depoziti (Ibid, str. 16), čija namena nije unapred određena dogovorom ulagača i banke (detaljnije Van Greuning & Iqbal, 2008, str. 193-196). U sistemima koji osiguranjem pokrivaju i investicione depozite, doprinosi za njihovo osiguranje u fondu se odvajaju od doprinosa za osiguranje transakcionih depozita (Hamed, 2015, str. 16). Osnovice za obračun premije osiguranja depozita islamskih banaka se razlikuju u različitim zemljama. U Indoneziji se u obzir uzimaju ukupni depoziti, u Jordanu prihvatljivi depoziti, u Sudanu prosečan godišnji iznos osiguranih depozita, a u Turskoj, Maleziji i Jemenu ukupni pokriveni depoziti (Ibid, str. 18). Kad su premijske stope u pitanju, u Jemenu, Indoneziji, Sudanu i Jordanu se koristi proporcionalna premijska stopa, dok u Turskoj i Maleziji koriste premijske stope prilagođene riziku (Ibid, str. 19). Svi sistemi osiguranja depozita koji pokrivaju depozite islamskih banaka imaju unapred definisane izvore pomoćnog finansiranja, za slučaj da fond osiguranja depozita ne raspolaže dovoljnim finansijskim sredstvima za izvršenje svojih obaveza. Nedostajuća sredstva se obezbeđuju uz pomoć države, finansijskog tržišta i/ili konvencionalnog fonda za osiguranje depozita, na bazi emisije *sukuk* obveznica, beskamatnih i klasičnih pozajmica (navedeno prema Ibid, str. 21).

Na osnovu navedenih činjenica, može se zaključiti da još uvek nisu zaživeli opšteprihvaćeni standardi islamskog osiguranja depozita, koji bi se primenjivali u svim zemljama u kojima praksa osiguranja islamskih depozita postoji (Kammer, et al., 2015, str. 24). U različitim zemljama različite su odlike islamskih banaka, kao i šerijatska tumačenja pojedinih finansijskih pitanja, ali su im zajednički problemi, poput nedostatka stručnog kadra i opšteprihvaćenih šerijatskih principa (Hamed, 2015, str. 29). Zbog pomenute neusklađenosti propisa, u praksi se dešavaju brojni propusti. Tako su u Maleziji pojedine odredbe zakona kojim je uređeno pitanje *kafalah bi al ujr* osiguranja protivne šerijatskim propisima (detaljnije Muneeza & Mustapha, 2020, str. 173). Takođe, postoje i slučajevi zloupotrebe *takaful* osiguranja depozita, gde se pomoću *takaful* forme prikriva suština primenjenog mehanizma osiguranja islamskih depozita, koja se u odnosu na konvencionalno osiguranje depozita minimalno razlikuje (detaljnije Maali & Atmeh, 2015, str. 145). Problematičan je i različit tretman investicionih depozita u različitim zemljama, jer je jasno da su islamske banke u zemljama u kojima su investicioni depoziti pokriveni osiguranjem u povoljnijem tržišnom položaju nego islamske banke u zemljama u kojima to nije slučaj (interpretirano prema Kammer, et al., 2015, str. 24). Takođe, i pitanje premijske stope nije uređeno na jedinstven način. Prevažodno je problematična primena premijskih stopa prilagođenih riziku, zato što: a) postoji stav o šerijatskoj neprihvatljivosti primene različitih premijskih stopa, odnosno stopa doprinosa kod *takaful* osiguranja (Hamed, 2015, str. 19), i b) potrebno je prethodno razviti valjane instrumente za merenje specifičnih rizika islamskih banaka (Kammer, et al., 2015, str. 24).

Značajan iskorak u prevazilaženju problema disharmonije propisa kojima se reguliše islamsko osiguranje depozita napravljen je kreiranjem „Osnovnih principa za efektivne islamske sisteme osiguranja depozita“ (Core Principles for Effective Islamic Deposit Insurance Systems) 2021. godine, koji su nastali u saradnji Međunarodne asocijacije osiguravača depozita (International Association of Deposit Insurers – IADI) i Odbora za islamske finansijske usluge (Islamic Financial Services Board – IFSB). Prilikom oblikovanja osnovnih principa islamskog osiguranja depozita, pošlo se od ranije definisanih „Osnovnih principa za efektivne sisteme osiguranja depozita“, koji su bili namenjeni konvencionalnim sistemima osiguranja depozita (detaljnije BCBS & IADI, 2009). Principi islamskog osiguranja depozita su kreirani modifikovanjem originalnih konvencionalnih principa, primenom različitih amandmana, i uključivanjem novog principa koji se tiče šerijatskog upravljanja osiguranjem depozita (detaljnije IADI & IFSB, 2021).

## Praksa islamskog osiguranja depozita u pojedinim zemljama

Islamsko bankarstvo decenijama ostvaruje visoke stope rasta i postaje prisutno u sve više zemalja. Međutim, njegov značaj se nedovoljno prepoznaje, čak i u zemljama u kojima islamske banke posluju. U prilog tome govori činjenica da u malom broju zemalja postoji osiguranje depozita koje prepoznaje potrebe i principe poslovanja islamskih banaka, što je, između ostalog, i posledica još uvek malog udela depozita islamskih banaka u ukupnim depozitima i nerešenog pitanja osigurljivosti investicionih depozita (Islamic Deposit Insurance Group, 2010, str. 2). U nastavku će biti predstavljena praksa islamskog osiguranja depozita u Maleziji, Turskoj, Jordanu, Bahreinu i Indoneziji. Iako je suština osiguranja depozita islamskih banaka u svim navedenim zemljama ista, postoje izvesni detalji po kojima se njihova praksa islamskog osiguranja depozita razlikuje.

### Malezija

Malezija<sup>3</sup> je sistem osiguranja depozita uspostavila 2005. godine i stavila ga u nadležnost Perbadanan Insurans Deposit Malaysia (PIDM), specijalizovane državne institucije, koja osim o osiguranju depozita, brine i o sektoru *takaful* i konvencionalnog osiguranja. Ova institucija čvrsto sarađuje sa malezijskom centralnom bankom (Bank Negara Malaysia – BNM), ključnom regulatornom i nadzornom institucijom u malezijskom bankarskom sistemu, u cilju ostvarenja stabilnosti bankarskog i finansijskog sektora. Učešće banaka koje imaju dozvolu za poslovanje u Maleziji u sistemu osiguranja depozita je obavezno. To se odnosi i na konvencionalne i na islamske banke. Pokriće depozita osiguranjem je ograničeno na 250.000 malezijskih ringita po deponentu po banci i primenjuje se posebno za islamske i konvencionalne banke. Osiguranjem su pokriveni transakcioni, ali ne i investicioni depoziti islamskih banaka. Sistem osiguranja depozita se finansira plaćanjem premije od strane banaka-članica, koje trošak premije osiguranja depozita ne smeju prebaciti na teret deponentata. Shodno navedenom, može se zaključiti da su depoziti islamskih banaka osigurani po *kafalah bi al ujr* modelu.

<sup>3</sup> Osiguranje depozita islamskih banaka u Maleziji je predstavljeno prema Perbadanan Insurans Deposit Malaysia (n. d.) i Perbadanan Insurans Deposit Malaysia (2020).

Iznos premije se utvrđuje množenjem iznosa ukupnih osiguranih depozita i propisane premijske stope. Propisana premijska stopa je prilagođena riziku osigurane banke. Visina premije se određuje na osnovu kvantitativnih kriterijuma, na koje otpada maksimalno 60 bodova koje banka može ostvariti, i kvalitativnih kriterijuma, na koje se odnosi preostalih 40 bodova. Veći broj bodova ukazuje na bolji finansijski položaj i niži nivo rizičnosti posmatrane banke. Kod kvantitativnih kriterijuma u obzir se uzimaju kapitalizovanost banke, s jedne strane, i pokazatelji profitabilnosti i profila aktive i izvora finansiranja, čije vrednosti se pojedinačno boduju sa 10 ili 15 bodova zavisno od pokazatelja, s druge strane. Poređenjem nivoa kapitalizovanosti banke i zbira bodova ostvarenih po osnovu navedena tri pokazatelja po principu matrice, određuje se matična kategorija banke koja može biti od M1, što je najbolja kategorija, do M7, i svakoj kategoriji se dodeljuje određeni broj bodova, najviše 60, najmanje 15. Ti bodovi se potom dodaju bodovima određenim na osnovu kvalitativnih kriterijuma, čija je struktura sledeća: supervizorski rejting nosi najviše 35 bodova, a „ostale informacije“ preostalih 5. Na osnovu ukupnog broja bodova određuje se premijska kategorija: za više od 85 bodova je prva kategorija, dok je za manje od 50 bodova četvrta kategorija. Na osnovu bodova i premijske kategorije, *PIDM* do 15. maja tekuće godine određuje visinu premijske stope za svaku banku, na osnovu koje se određuje premijska obaveza koju banke treba da izmire do 31. maja tekuće godine.

Istraživanja pokazuju da je uvođenje sistema osiguranja depozita različito delovalo na konvencionalne i islamske banke u Maleziji (navedeno prema Abdullah, 2020, str. 47). Konvencionalne banke su spoznale osiguranje depozita kao vid sopstvene zaštite i upustile se u unosnije i rizičnije poslovne poduhvate. Islamske banke, pak, prateći šerijatske principe koji podstiču prihvatanje umerenog rizika i stvaranje nove vrednosti, nisu bitnije promenile svoj rizični profil. Sistem osiguranja depozita utiče na poverenje depone-nata u malezijski bankarski sistem i njihovu spremnost na povlačenje uloga iz banaka zavisno od njihove informisanosti o ovom sistemu. Prema jednom istraživanju sprovedenom među klijentima malezijskih islamskih banaka, čak sto puta je veća šansa da svoj ulog povuku deponenti koji nisu adekvatno informisani o sistemu osiguranja depozita u odnosu na one koji to jesu (Abduh, 2014, str. 52).

## **Turska**

Turska je praksu osiguranja depozita započela 1933. godine, ali je tek 1999. godine uspostavila održiv sistem, kada je osnovan Fond za osiguranje štednih depozita (Savings Deposit Insurance Fund of Turkey – SDIF) koji je poveren na upravljanje Agenciji za regulaciju i superviziju banaka (Banking Regulation and Supervision Agency – BRSA) (Cabukel & Frisch, 2012, str. 143). Stabilnost turskog bankarskog sistema održava se u saradnji četiri državne finansijske institucije: Centralne banke Turske (Central Bank of Turkey – CBT), Trezora, Agencije za regulaciju i superviziju banaka i Fonda za osiguranje štednih depozita (Ibid, str. 148). Sistem osiguranja depozita uključuje i na isti način tretira i konvencionalne i islamske banke, koje se u Turskoj nazivaju participacionim bankama. Praksa osiguranja depozita islamskih banaka u Turskoj je započeta 2001. godine, najpre kreiranjem posebnog sistema pod kontrolom samih islamskih banaka, koji je potom 2005. godine uključen u konvencionalni sistem (Islamic Deposit Insurance Group, 2010, str. 3). Uključivanje turskih islamskih banaka u sistem osiguranja depozita je imalo izuzetan značaj za unapređenje njihovog statusa. Od zasnivanja prakse islamskog bankarskog poslovanja polovinom 80-ih godina XX veka, islamske banke u Turskoj su imale neravnopravan pravni, društveni i medijski položaj u odnosu na konvencionalne banke (Yanikkaya & Pabuçcu, 2017, str. 50).

U prilog tome govori i činjenica da islamske banke nisu bile pokrivene osiguranjem depozita sve do 2001. godine. Te godine se desila snažna ekonomska kriza u Turskoj, tokom koje je propala u tom momentu najveća islamska banka u Turskoj (Ibid). Taj događaj je podstakao „juriš na depozite“ od strane deponenata drugih islamskih banaka, nakon čega je tržišno učešće islamskih banaka na turskom bankarskom tržištu smanjeno za čak 50% (Ibid). Činjenica je da je ovako snažan potres na islamskom bankarskom tržištu u Turskoj prevashodno bio izazvan nepostojanjem zaštite uloga deponenata islamskih banaka i da je to ključni razlog uključivanja islamskih banaka u sistem osiguranja depozita već te godine (Ibid). Istraživanja pokazuju da je uključenjem turskih islamskih banaka u sistem osiguranja depozita, njihova tržišna disciplina ojačana (Aysan, et al., 2017, str. 257).

Osiguranjem depozita pokriveni su svi depoziti turskih banaka, bez obzira na to da li je štednja u turskim lirama, devizama ili plemenitim metalima, pri čemu je osiguranje ograničeno na 200.000 turskih lira po deponentu po banci (Savings Deposit Insurance Fund, 2023, str. 28). Osiguranjem depozita nisu pokriveni depoziti većinskih akcionara banaka i sa njima povezanih lica, članova uprave banke, deponovani novac za koji se utvrdi da je stečen kriminalom i ostali depoziti koji prema važećem zakonu nisu pokriveni osiguranjem (Ibid, str. 29). Premija osiguranja se određuje shodno procenjenoj rizičnosti konkretne banke (navedeno prema Ibid, str. 29-30). Prilikom određivanja premijske stope u obzir se uzimaju adekvatnost kapitala, kvalitet aktive, profitabilnost, likvidnost i drugi faktori rizičnosti banke. Za prva četiri kriterijuma rizičnosti banke određuje se nekoliko pokazatelja i shodno ostvarenoj vrednosti tih pokazatelja bankama se dodeljuju bodovi, za prvi kriterijum najviše 25, drugi 20, a preostala dva po 10 bodova. Po osnovu petog kriterijuma najviše se može dobiti 35 bodova, na osnovu supervizorskog rejtinga i „ostalih informacija“. Na osnovu ukupnog broja bodova određuje se premijska kategorija, pri čemu banke sa više od 80 bodova se svrstavaju u kategoriju A i za njih važi premijska stopa od 15 bazičnih poena, dok najslabijoj D kategoriji pripadaju banke sa manje od 50 bodova, čija premijska stopa iznosi 23 bazična poena. Banke imaju obaveznu da u specijalizovani informacioni sistem koji je uspostavila Agencija za regulaciju i superviziju banaka, unesu vrednosti finansijskih indikatora i popune tabelu premije rizika, koja se prosleđuje Fondu za osiguranje štednih depozita. Na osnovu te tabele i rejtinga supervizora, Fond određuje premijske stope i iznose premija za svaku banku, koja potom 15 dana kasnije treba Fondu da uplati utvrđeni iznos (Ibid, str. 30-31).

## Jordan

Jordan<sup>4</sup> je 2000. godine osnovao Korporaciju za osiguranje depozita (Jordan Deposit Insurance Corporation), u okviru koje je 2019. godine kreiran poseban fond za osiguranje depozita islamskih banaka (Deposit Insurance Fund for Islamic Banks). Na ovaj način prepoznate su potrebe islamskih banaka i njihovih deponenata i pružena im je adekvatna zakonska zaštita. Islamsko osiguranje depozita u Jordanu funkcioniše po *takaful* principu. Osiguranjem su obuhvaćene sve islamske banke koje posluju u Jordanu. Osigurana suma je ograničena na 50.000 jordanskih dinara po deponentu po banci. Osiguranje pokriva transakcije i neograničene investicione depozite islamskih banaka denominovane u jordanskim dinarima, i samo izuzetno stranim sredstvima plaćanja, dok su vladini, međubankarski i ograničeni investicioni depoziti islamskih banaka izuzeti iz osiguranja.

<sup>4</sup> Osiguranje depozita islamskih banaka u Jordanu je predstavljeno prema Jordan Deposit Insurance Corporation (n. d.).

Fond ima više izvora finansiranja. Na prvom mestu to su godišnje članarine koje banke-članice uplaćuju fondu u visini 2,5% na iznos osiguranih depozita, potom prinosi na ulaganja u šerijatski valjane finansijske instrumente, beskamatni krediti i grantovi. U Fondu se razdvajaju članarine plaćene po osnovu transakcionih depozita i članarine plaćene po osnovu neograničenih investicionih depozita. U slučaju likvidacije Fonda, sva njegova sredstva, nakon pokrića obaveza, prenose se u vlasništvo državnog fonda koji prikuplja i upravlja verskim porezom *zekatom*.

Istraživanja pokazuju da je u Jordanu poslovanje islamskih banaka manje rizično u odnosu na poslovanje konvencionalnih banaka (Matar, 2017). Ipak, na osnovu njih se ne može videti da li postojanje sistema osiguranja depozita uticalo na takvo stanje stvari.

## Bahrein

Bahrein<sup>5</sup> je 1993. godine postao prva zemlja koja je, uz postojeći konvencionalni sistem osiguranja depozita, uspostavila i sistem islamskog osiguranja depozita (Islamic Deposit Insurance Group, 2010, str. 3). Fond osiguranja depozita se deli na fond za konvencionalne banke i fond za islamske banke, koji su međusobno nezavisni. U sistem osiguranja su uključene sve islamske banke koje posluju u Bahreinu. Osigurjivi su transakcioni i neograničeni investicioni depoziti islamskih banaka u Bahreinu bez obzira na valutu, ali ne i njihovih ogranaka u inostranstvu. Osiguranje ne pokriva depozite u vlasništvu akcionara banke sa udelom u vlasništvu većim od 10% i članova uprave, kao ni depozite čiji su vlasnici nepoznati ili su deponovani novac stekli bavljenjem nelegalnim aktivnostima.

Osigurana suma je ograničena na 20.000 bahreinskih dinara po deponentu po banci, od čega se mogu odbiti dugovanja deponenata prema banci. Ukupan godišnji iznos koji islamske banke treba da uplate Fondu iznosi 20 miliona bahreinskih dinara. Godišnji doprinos islamskih banaka Fondu se određuje proporcionalno iznosu osigurjivih depozita i može se uplaćivati u tromesečnim ratama. Islamske banke imaju obavezu da u roku od dva meseca od okončanja finansijske godine pošalju centralnoj banci izveštaj o osigurjivim depozitima kojima raspolažu. U slučaju da islamska banka u propisanom roku i iznosu ne uplati doprinos fondu, centralna banka može upotrebiti brojne kaznene mere, od novčanih kazni do oduzimanja dozvole za rad, ukoliko se pomenuti prekršaj ponavlja.

U jednom istraživanju (Onour, 2019), pomoću modela koji je kreirao Merton (1977), izvršena je procena premija osiguranja depozita koje pojedine islamske banke u odabranom uzorku zemalja treba da plaćaju. Prema tom istraživanju, Bahrein spada u zemlje u kojima je zabeležena najveća varijabilnost premija osiguranja depozita. Na osnovu toga je zaključeno da Bahrein treba da primenjuje premijske stope prilagođene riziku.

## Indonezija

Indonezija<sup>6</sup> je 2004. godine donela zakon kojim reguliše osiguranje depozita, na osnovu kojeg je 2005. godine osnovana specijalizovana Korporacija za osiguranje depozita, pod nazivom *Lembaga Penjamin Simpanan (LPS)*. Time je napuštena praksa potpunog pokrića depozita (blanket guarantee), koja je bila na snazi sedam godina (1998-2005). U cilju jačanja stabilnosti bankarskog sistema i poverenja deponenata, LPS osigurava sve depozite banaka koje posluju na teritoriji Indonezije. S druge strane, indonežanske banke imaju obavezu plaćanja premije osiguranja.

<sup>5</sup> Osiguranje depozita islamskih banaka u Bahreinu je predstavljeno prema Central Bank of Bahrain (n. d.).

<sup>6</sup> Osiguranje depozita islamskih banaka u Indoneziji je predstavljeno prema Lembaga Penjamin Simpanan (n. d.).

Pored toga, banke-učesnice u sistemu osiguranja imaju obavezu plaćanja članarine i dostavljanja propisanih dokumenata i izveštaja, kako bi *LPS* bila adekvatno i blagovremeno informisana. Osiguranjem su, pored depozita konvencionalnih banaka, obuhvaćeni i depoziti islamskih banaka, konkretno tekući i štedni depoziti po *wadiah* modelu i štedni i oročeni depoziti po *mudarabah* modelu. Od 2008. godine, maksimalna osigurana suma depozita je 2 milijarde indonežanskih rupija po deponentu po banci, dok ulozi koji prevazilaze navedenu sumu se naplaćuju u procesu raspodele likvidacione mase. Osiguranjem su pokriveni inicijalna ulaganja i ostvarena zarada na uloge, u vidu kamata kod konvencionalnih banaka i prinosa na ulaganja kod islamskih banaka.

Obaveza *LPS* je da u roku od 90 dana od trenutka od oduzimanja dozvole za rad određenoj banci, utvrdi koji deponenti imaju pravo na isplatu osiguranih depozita i u kojem iznosu. Indonežanski sistem osiguranja depozita ima četiri izvora finansiranja: *početni kapital* u iznosu 4 biliona indonežanskih rupija koji obezbeđuje država, *članarina* koja se plaća prilikom pristupanja banaka sistemu osiguranja u iznosu 0,1% uplaćenog kapitala banke, *premija osiguranja* koja se plaća polugodišnje u iznosu 0,1% prosečnog mesečnog iznosa depozita u datom periodu i *prinos na uložena sredstva*. Ukoliko se pokaže da *LPS* nema dovoljno sredstava za efikasno funkcionisanje, vlada, uz odobrenje indonežanskog parlamenta, može povećati iznos kapitala ove institucije. Problemi sa likvidnošću koje *LPS* može iskusiti prilikom isplate osiguranih depozita, mogu se rešiti kreditom države.

Istraživanja pokazuju da islamsko bankarstvo u Indoneziji ostvaruje visoke stope rasta, ali je tržišno učešće islamskih banaka na bankarskom tržištu Indonezije još uvek nisko da bi se kreirao poseban sistem osiguranja depozita islamskih banaka (Baehaqie, Fahmi & Beik, 2017, str. 215). Uključivanje indonežanskih islamskih banaka u sistem osiguranja depozita nije dovelo do promene rizičnosti njihovog poslovanja (Syamlan & Azinuddin, 2019, str. 202). S druge strane, pozitivno je uticalo na spremnost klijenata islamskih banaka na štednju u bankama. Prema jednom istraživanju (Cahyono, Rani & Mardianto, 2021), klijenti indonežanskih islamskih banaka su svrstali osiguranje depozita među ključne faktore koji utiču na njihovu odluku o štednji u bankama.

## Zaključak

Islamske banke su osnivane u ekonomskom i pravnom okruženju koje je potpuno prilagođeno karakteristikama i potrebama konvencionalnog modela bankarskog poslovanja. Izuzetak ne predstavljaju ni propisi kojima se regulišu pitanja osiguranja bankarskih depozita. Shodno principima konvencionalnog bankarstva, banke sa deponentima formiraju dužničko-poverilački odnos. Islamska banka se, pak, može naći ili u ulozi staratelja sredstava, u slučaju transakcionih depozita, ili partnera svojih deponekata, u slučaju investicionih depozita. Ukoliko se principi islamskog bankarstva ne poštuju dosledno, neće se praviti razlika između konvencionalnog i islamskog pristupa odnosu banka-deponent. To vodi obavezi islamskih banaka da osiguraju i transakcione i investicione depozite, iako Šerijat ne dozvoljava osiguranje ovih drugih zbog partnerskog statusa njihovih vlasnika.

Važeći bankarski propisi u apsolutnoj većini zemalja ne prepoznaju specifičnost odnosa islamska banka-deponent. Zemlje u kojima bankarski propisi posebno tretiraju islamsko osiguranje depozita još uvek su retke. Čak i u tim zemljama, osiguranje depozita islamskih banaka se često sprovodi na šerijatski neadekvatan način, primenom osporavanog *kafalah bi al ujr* modela ili nedoslednom primenom *takaful* modela osiguranja depozita.

Takođe, postoje i različita zakonska rešenja po pitanju osigurljivosti pojedinih vrsta islamskih depozita. Navedeni problemi su posledica nepostojanja jedinstvenih i opšteprihvaćenih propisa kojima bi se pitanje islamskog modela osiguranja depozita na valjan način uredilo, kao i nedovoljnog broja stručnjaka koji bi radili na razvoju i implementaciji pomenutih propisa. Pozitivni pomaci na ovom polju ostvareni su zahvaljujući saradnji Međunarodne asocijacije osiguravača depozita i Odbora za islamske finansijske usluge na razvoju principa za efektivne islamske sisteme osiguranja depozita.

Na kraju, prilikom kreiranja i implementiranja efikasnog islamskog sistema osiguranja depozita, mora postojati svest o izazovima koje primena osiguranja depozita donosi. Na tom putu, iskustva brojnih razvijenih zemalja, kao i studije istaknutih finansijskih stručnjaka, mogu biti dragoceni za islamske finansijske i pravne stručnjake koji bi radili na stvaranju jedinstvenog okvira islamskog sistema osiguranja depozita.

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# ISLAMIC DEPOSIT INSURANCE IN THEORY AND PRACTICE

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**Abstract:** The development and competitiveness of Islamic banking, as a relatively young segment of the global financial market, is conditioned, first of all, by the trust of current and potential investors in the ability of Islamic banks to manage entrusted funds by the contract and good business practice. Deposit insurance is one of the important instruments that can be used to strengthen depositors' confidence in the banking system's stability. This paper analyzes the model of Islamic deposit insurance. The paper's objectives are to review its theoretical basis and the features of its practice, possible deviations of business practice from theoretical postulates, and the challenges of applying Islamic deposit insurance in different legal systems. Analyzing the practice of Islamic deposit insurance, it concludes that in most countries it deviates from the Shariah-compliant model of deposit insurance. This was primarily contributed by banking regulations that generally do not recognize the specificity of an Islamic bank's relationship with its depositors and, therefore, the Islamic banks' need for an authentic approach to deposit insurance.

**Keywords :** Islamic banking, deposit insurance, Shariah, takaful, kafalah bi al ujr

**JEL classification :** G21, G22, K15, Z12

## Introduction

Conventional banks guarantee their depositors payment of deposits in full (Garcia, 1999, p. 4). On the other hand, the strength of that guarantee is conditioned by the bank's business performance and prospects, about which depositors are far less informed than the bank's managers and shareholders. Insufficient information creates a sense of uncertainty among depositors, which may ultimately lead them to panic withdrawal their deposits (Calomiris, 1990, p. 284). In order to prevent this negative phenomenon and the whole set of serious consequences caused by it, an external deposit guarantee system in the form of deposit insurance was introduced (Diamond & Dybvig, 1983, pp. 401, 404). The evolution of deposit insurance began with the establishment of New York State's safety fund in the 19th century (Thies & Gerlowski, 1988, p. 678). However, this attempt to establish a state deposit insurance system, like similar attempts in the other five American states during the same period, proved unsuccessful (Calomiris & Jaremski, 2016, p. 97). However, the introduction of deposit insurance at the federal level did not have the support of federal legislators until the great economic crisis of 1929, and before that, in the first decades of the 20th century, an unsuccessful attempt by eight American states to establish viable deposit insurance systems (Ibid). Only after that, the establishment of the Federal Deposit Insurance Corporation (FDIC) was approved. The application of deposit insurance in the world experienced expansion only in the last few decades, when many countries began the process of social and economic transformation. One of the elements of that process was the establishment of a deposit insurance system, which was often the result of pressure from the World Bank, the International Monetary Fund and the European Union (Demirgüç-Kunt, Kane & Laeven, 2008, p. 435). However, the implementers of deposit insurance must be aware of its destabilizing potential (more details Demirgüç-Kunt & Detragiache, 2002; Demirgüç-Kunt & Kane, 2002; Demirgüç-Kunt, Kane & Laeven, 2008; Anginer, Demirgüç-Kunt & Zhu, 2014), which caused the former president of the Federal Deposit Insurance Corporation to compare it to a nuclear power plant.<sup>1</sup>

The concept of Islamic banking, on the other hand, is significantly different compared to conventional banking. Islamic banks cannot base their business on interest and risky investments, and their funding and investments are carried out according to the principle of risk sharing (Ghosh, 2017, p. 213). Since the funding of Islamic banks usually does not involve the assumption of fixed obligations, their capital requirements are lower than in the case of conventional banks (Ibid). According to the facts, the need for deposit insurance from Islamic banks can be questioned. However, without a more detailed analysis of the business practices of Islamic banks and the challenges that the business environment imposes on them, it is impossible to reach a valid conclusion on this issue. First, it should be noted that Islamic banks often leave the theoretical framework of Shariah-optimized banking (Ibid). Also, Islamic banks do not develop in a single and uniform legal space but in different legal systems. By achieving extremely high market growth rates in different countries and legal systems, the obligation of deposit insurance was imposed on Islamic banks as a condition of sustainability of growth and competitiveness (interpreted according to Hamed, 2015, p. 5). Given that conventional deposit insurance includes certain elements, such as interest (*riba*, in detail Islamic Deposit Insurance Group, 2010; Jaffer, et. al., 2010; Hussain & Pasha, 2011) and excessive uncertainty (*garar*, in detail El-Qalqili, 2017), which are unacceptable under Shariah, it was necessary to create a new concept of deposit insurance, which would be shaped according to Shariah principles and whose primary function of protecting depositors would be preserved.

<sup>1</sup> „A deposit insurance system is like a nuclear power plant. If you build it without safety precautions, you know it's going to blow you off the face of the earth. And even if you do, you can't be sure it won't“ (L. William Seidman, navedeno u Thies & Gerlowski, 1988, p. 677).

This paper analyzes the model of Islamic deposit insurance. The paper's objectives are to review its theoretical basis and the features of its practice, possible deviations of business practice from theoretical postulates, and the challenges of applying Islamic deposit insurance in different legal systems. With the aim of the paper, its structure was created. The first part presents Islamic deposit insurance's theoretical concept and practical application. The second part analyzes the specifics of deposit insurance of Islamic banks in certain countries. Finally, in the conclusion, a brief overview of the theory and practice of Islamic deposit insurance and the discrepancies between them is given.

## Theoretical Concept and Practical Application of Islamic Deposit Insurance

The purpose of Islamic deposit insurance is to protect the Islamic banks' depositors savings by Shariah principles, which should strengthen trust in Islamic banks, their stability, and competitiveness (Hamed, 2015, p. 5). According to the opinion of most Shariah experts, the most suitable form of Islamic deposit insurance is *takaful*, which functions according to the principle of mutual insurance, where banks pay contributions to a common fund and jointly bear any losses, while a *takaful* operator manages the fund in the capacity of an agent (more details Lahsasna, 2016; Lekpek & Ibroyić, 2021). On the other hand, there is *kafalah bi al ujr* form of Islamic deposit insurance, where Islamic banks pay a fee to the insurer for providing deposit insurance services (Ibid). The prevailing view is that the Shariah validity of this Islamic insurance model is questionable due to the commercialization of the guarantee, which most Shariah experts consider impermissible (more details Islamic Deposit Insurance Group, 2010; Abubakar, et al., 2016; Hamisu & Hassan, 2017; Noor & Haron, 2018). The protection provided by Islamic deposit insurance cannot cover all deposits of Islamic banks (cited according to Abubakar, et al., 2016; Hamisu & Hassan, 2017; Fendi, 2020). The right of the transaction deposits' owners to have their savings protected through deposit insurance is not in question among Shariah experts. On the other hand, most Shariah experts believe that the owners of investment deposits, who form a partnership with the bank and share profits and losses with it, do not have such a right.

Understanding the needs of Islamic banks and their depositors can be an important first step in creating a valid environment for their operation, which can ultimately bring numerous benefits to the financial system in the form of an increase in the number of financial service providers, the variety of financial services and the number of their users. Compared to depositors of conventional banks, depositors of Islamic banks are more strongly influenced by religion, are less ready to panic withdraw their deposits, and show more frugality, especially in a period of economic expansion (Farooq & Zaheer, 2015, p. 122; Akhtar, Akhter & Shahbaz, 2017, p. 306). However, the Islamic banks' depositors should not be perceived as religious idealists who rank money earning low on the list of priorities. Research has shown the change in market interest rates really affects their expectations of returns on deposits in Islamic banks (Akhtar, Akhter & Shahbaz, 2017, p. 306; Aysan, et al., 2018, p. 13). To meet their expectations, Islamic banks allocate part of their profits to special reserves, which funds they use in the period when they cannot provide depositors with a satisfactory return from regular operations (more details Iqbal & Mirakhor, 2009, p. 224-226; Hamza, 2016, p. 34). There is an opinion that in this way, Shariah regulations are violated, and internal relations in the bank are disturbed (Ibid).

In practice, there are three models of Islamic bank deposit insurance (Islamic Deposit Insurance Group, 2010, p. 4): a) Islamic bank deposit insurance within the conventional deposit insurance system, b) the existence of a separate Islamic deposit insurance system alongside the conventional deposit insurance system, and c) the existence of exclusively Islamic deposit insurance. According to the applied model, there are different approaches to the regulation of certain issues, such as (Ibid, p. 6): mandatory membership in the deposit insurance system, separation of deposit insurance premiums of Islamic banks from deposit insurance premiums of conventional banks in the insurance fund, compliance of fund management with Shariah principles, uniformity of coverage limits and insurance premiums for deposits of Islamic and conventional banks. There are five countries that have a unique system of Islamic deposit insurance, according to the second or third model: Sudan, Bahrain, and Jordan use *takaful*, while Malaysia and Nigeria use the *kafala bi al ujr* form of deposit insurance (Mustafa & Najeeb, 2018, pp. 488-489). When it comes to insurance of certain types of deposits, transaction deposits are insurable in all systems, while the practice of insurance of investment deposits differs (Hamed, 2015, p. 12). For example, in both Jordan and Sudan, the *takaful* model of deposit insurance is applied; however, in Sudan, insurance is allowed for all investment deposits, while in Jordan, only unlimited investment deposits are covered by insurance (Ibid, p. 16). Their purpose is not predetermined by the agreement of the investors and banks (more details Van Greuning & Iqbal, 2008, pp. 193-196). In systems that also insure investment deposits, their insurance contributions are separated from transactional deposits' insurance contributions in the fund (Hamed, 2015, p. 16). The bases for calculating the deposit insurance premium for Islamic banks differ in different countries. In Indonesia, total deposits are taken into account, in Jordan, eligible deposits, in Sudan, the average annual amount of insured deposits, and in Turkey, Malaysia, and Yemen, total covered deposits (Ibid, p. 18). Regarding premium rates, Yemen, Indonesia, Sudan, and Jordan use a proportional premium rate, while Turkey and Malaysia use risk-adjusted premium rates (Ibid, p. 19). All deposit insurance systems that cover the deposits of Islamic banks have pre-defined sources of auxiliary financing if the deposit insurance fund does not have sufficient financial resources to fulfill its obligations. The missing funds are provided with the help of the state, the financial market, and/ or a conventional deposit insurance fund based on the issue of Sukuk bonds, interest-free, and classic loans (cited according to Ibid, p. 21).

Based on the above facts, it can be concluded that the generally accepted standards of Islamic deposit insurance, which would be applied in all countries where the practice of Islamic deposit insurance exists, have not yet taken root (Kammer, et al., 2015, p. 24). In different countries, the characteristics of Islamic banks are different, as well as Shariah interpretations of certain financial issues, but they have common problems, such as the lack of professional staff and generally accepted Shariah principles (Hamed, 2015, p. 29). Due to the inconsistency of the above regulations, numerous omissions occur in practice. Thus, in Malaysia, certain provisions of the law regulating the issue of *kafalah bi al ujr* insurance are contrary to Shariah regulations (more details Muneeza & Mustapha, 2020, p. 173). Also, there are cases of abuse of *takaful* deposit insurance, where the *takaful* form conceals the essence of the applied Islamic deposit insurance mechanism, which differs minimally from conventional deposit insurance (more details Maali & Atmeh, 2015, p. 145). The different treatment of investment deposits in different countries is also problematic because it is clear that Islamic banks in countries where investment deposits are covered by insurance are in a more favorable market position than Islamic banks in countries where this is not the case (interpreted according to Kammer, et al., 2015, p. 24). Also, the issue of the premium rate is not regulated uniquely.

The application of risk-adjusted premium rates is primarily problematic because: a) there is a position on the Shariah inadmissibility of the different premium rates application, i.e., contribution rates in takaful insurance (Hamed, 2015, p. 19), and b) it is necessary to first develop valid instruments for measuring the specific risks of Islamic banks (Kammer, et al., 2015, p. 24).

A significant step forward in overcoming the problem of disharmony of regulations governing Islamic deposit insurance was made with the creation of the “Core Principles for Effective Islamic Deposit Insurance Systems” in 2021, which were created in cooperation between the International Association of Deposit Insurers (IADI) and Islamic Financial Services Board (IFSB). The starting point for the formation of the Islamic deposit insurance basic principles were previously defined “Basic Principles for Effective Deposit Insurance Systems”, which were intended for conventional deposit insurance systems (more details BCBS & IADI, 2009). The principles of Islamic deposit insurance were created by modifying the original conventional principles, applying various amendments, and incorporating a new principle concerning the Shariah governance of deposit insurance (more details IADI & IFSB, 2021).

## The Practice of Islamic Deposit Insurance in Certain Countries

Islamic banking has been achieving high growth rates for decades and is becoming present in more and more countries. However, its importance is insufficiently recognized, even in countries where Islamic banks operate. This is supported by the fact that in a small number of countries, there is deposit insurance that recognizes the needs and business principles of Islamic banks, which is, among other things, a consequence of the still small share of Islamic bank deposits in total deposits and the unresolved issue of the insurability of investment deposits (Islamic Deposit Insurance Group, 2010, p. 2). The following will present the practice of Islamic deposit insurance in Malaysia, Turkey, Jordan, Bahrain, and Indonesia. Although the essence of deposit insurance of Islamic banks in all mentioned countries is the same, there are certain details in which their practice of Islamic deposit insurance differs.

### Malaysia

Malaysia<sup>2</sup> established the deposit insurance system in 2005 and put it under the jurisdiction of *Perbadanan Insurans Deposit Malaysia* (PIDM), a specialized state institution, which, apart from deposit insurance, also takes care of the *takaful* and conventional insurance sectors. This institution closely cooperates with the Malaysian Central Bank (Bank Negara Malaysia - BNM), the key regulatory and supervisory institution in the Malaysian banking system, to achieve stability in the banking and financial sector. Participation of banks licensed to do business in Malaysia in the deposit insurance system is mandatory. This applies to both conventional and Islamic banks. Deposit insurance coverage is limited to 250,000 Malaysian ringgits per depositor per bank and applies separately for Islamic and conventional banks. Transactional deposits of Islamic banks are covered by insurance, but investment deposits aren't. The deposit insurance system is financed by the payment of a premium fee by the member banks, which may not transfer the cost of the deposit insurance premium to the burden of depositors. Accordingly, it can be concluded that the deposits of Islamic banks are insured according to the *kafalah bi al ujr* model.

<sup>2</sup> Islamic bank deposit insurance in Malaysia is presented according to *Perbadanan Insurans Deposit Malaysia* (n.d.) and *Perbadanan Insurans Deposit Malaysia* (2020).

The premium amount is determined by multiplying the total insured deposits and the prescribed premium rate. The prescribed premium rate is adjusted to the risk of the insured bank. The premium amount is determined based on quantitative criteria, which account for a maximum of 60 points the bank can achieve, and qualitative criteria, which account for the remaining 40 points. A higher number of points indicates a better financial position and a lower level of riskiness of the observed bank. The quantitative criteria take into account the bank's capitalization, on the one hand, and the indicators of profitability and profile of assets and sources of funding, whose values are scored individually with 10 or 15 points depending on the indicators, on the other hand. By comparing the level of capitalization of the bank and the sum of points achieved based on the above three indicators according to the matrix principle, the matrix category of the bank is determined, which can be from M1, which is the best category, to M7, and each category is assigned a certain number of points, a maximum of 60, a minimum of 15. Those points are then added to the points determined on the qualitative criteria basis, the structure of which is as follows: the supervisory rating carries a maximum of 35 points and "other information" the remaining 5. Based on the total number of points, the premium category is determined: for more than 85 points, the first category, while for fewer than 50 points, it is the fourth category. Based on the points and premium category, *PIDM* determines the amount of the premium rate for each bank by May 15 of the current year, based on which the premium obligation that the banks must pay by May 31 of the current year is determined.

Research shows that introducing the deposit insurance system has affected conventional and Islamic banks in Malaysia differently (cited by Abdullah, 2020, p. 47). Conventional banks recognized deposit insurance as a form of self-protection and embarked on more lucrative and risky business ventures. On the other hand, Islamic banks following Shariah principles that encourage the acceptance of moderate risk and the creation of new value have kept their risk profile the same. The impact of the Deposit Insurance System on depositors' confidence in the Malaysian banking system and their willingness to withdraw deposits from banks depends on their awareness of this system. According to a survey conducted among Malaysian Islamic bank clients, depositors who are not adequately informed about the deposit insurance system are even a hundred times more likely to withdraw their deposits than those who are (Abduh, 2014, p. 52).

## Turkey

Turkey started the practice of deposit insurance in 1933 but only established a sustainable system in 1999 when the Savings Deposit Insurance Fund of Turkey (SDIF) was established, which was entrusted to the management of the Banking Regulation and Supervision Agency (BRSA) (Cabukel & Frisch, 2012, p. 143). The stability of the Turkish banking system is maintained by the cooperation of four state financial institutions: the Central Bank of Turkey (CBT), the Treasury, the Banking Regulation and Supervision Agency, and the Savings Deposit Insurance Fund (Ibid, p. 148). The deposit insurance system includes and treats conventional and Islamic banks, called participation banks in Turkey, in the same way. The practice of deposit insurance of Islamic banks in Turkey was started in 2001, first by creating a special system under the control of Islamic banks, which was then included in the conventional system in 2005 (Islamic Deposit Insurance Group, 2010, p. 3). Including Turkish Islamic banks in the deposit insurance system was extremely important for improving their status. Since the establishment of the Islamic banking practice in the mid-80s of the 20th century, Islamic banks in Turkey have had an unequal legal, social, and media position compared to conventional banks (Yanikkaya & Pabuçcu, 2017, p. 50).

This is supported by the fact that Islamic banks were not covered by deposit insurance until 2001. In that year, a strong economic crisis occurred in Turkey, during which the most prominent Islamic bank in Turkey collapsed (Ibid). That event prompted a bank run by depositors of other Islamic banks, after which the market share of Islamic banks in the Turkish banking market was reduced by as much as 50% (Ibid). The fact is that such a strong shock on the Islamic banking market in Turkey was primarily caused by the lack of protection of the Islamic banks depositors' savings, and this is the key reason for the inclusion of Islamic banks in the deposit insurance system already that year (Ibid). Research shows that with the inclusion of Turkish Islamic banks in the deposit insurance system, their market discipline has been strengthened (Aysan, et al., 2017, p. 257).

Deposit insurance covers all deposits of Turkish banks, regardless of whether the savings are in Turkish lira, foreign currency, or precious metals, with insurance limited to 200,000 Turkish lira per depositor per bank (Savings Deposit Insurance Fund, 2023, p. 28). Deposit insurance does not cover deposits of majority shareholders of banks and their related persons, members of the bank's management, deposited money determined to have been obtained through crime, and other deposits not covered by insurance according to current law (Ibid, p. 29). The insurance premium is determined according to the estimated riskiness of the specific bank (cited according to Ibid, pp. 29-30). When determining the premium rate, capital adequacy, asset quality, profitability, liquidity, and other bank risk factors are taken into account. For the first four criteria of the bank's riskiness, several indicators are determined, and according to the achieved value of those indicators, the banks are awarded points, for the first criterion a maximum of 25, the second 20, and the remaining 10 points each. Based on the fifth criterion, a maximum of 35 points can be obtained based on the supervisory rating and "other information". Based on the total number of points, the premium category is determined, whereby banks with more than 80 points are classified in category A and are subject to a premium rate of 15 basis points, while banks with less than 50 points belong to the weakest category D, whose premium rate is 23 basis points. Banks are obliged to enter the values of financial indicators into the specialized information system established by the Banking Regulation and Supervision Agency and fill in the risk premium table, which is forwarded to the Savings Deposit Insurance Fund. Based on that table and the supervisor's rating, the Fund determines premium rates and premium amounts for each bank, which then 15 days later must pay the determined amount to the Fund (Ibid, pp. 30-31).

## Jordan

Jordan<sup>3</sup> established the Jordan Deposit Insurance Corporation in 2000, within which a special deposit insurance fund for Islamic banks was created in 2019. In this way, the needs of Islamic banks and their depositors were recognized and provided with adequate legal protection. Islamic deposit insurance in Jordan operates on the *takaful* principle. The insurance covers all Islamic banks operating in Jordan. The insured amount is limited to 50,000 Jordanian dinars per depositor per bank. The insurance covers transactional and unrestricted investment deposits of Islamic banks denominated in Jordanian dinars and only exceptional foreign means of payment, while government, interbank, and restricted investment deposits of Islamic banks are exempt from insurance.

<sup>3</sup> The deposit insurance of Islamic banks in Jordan is presented according to the Jordan Deposit Insurance Corporation (n. d.).

The Fund has several sources of funding. In the first place, there are annual membership fees that member banks pay to the Fund in the amount of 2.5‰ on the amount of insured deposits, then returns on investments in Shariah-valid financial instruments, interest-free loans, and grants. In the Fund, membership fees paid for transaction deposits and membership fees paid for unlimited investment deposits are separated. In case of liquidation of the Fund, all its assets, after covering the obligations, are transferred to the ownership of the state fund that collects and manages the religious tax, *zakat*.

Research shows that Islamic banks' business in Jordan is less risky than conventional banks (Matar, 2017). However, it cannot be seen from them whether the existence of the deposit insurance system affected such a state of affairs.

## ***Bahrain***

In 1993, Bahrain<sup>4</sup> became the first country to establish an Islamic deposit insurance system in addition to the existing conventional deposit insurance system (Islamic Deposit Insurance Group, 2010, p. 3). The deposit insurance fund is divided into a fund for conventional banks and a fund for Islamic banks, which are mutually independent. All Islamic banks operating in Bahrain are included in the insurance system. Transactional and unlimited investment deposits of Islamic banks in Bahrain, regardless of currency, are insurable but not of their branches abroad. The insurance does not cover deposits owned by shareholders of the bank with a share in ownership greater than 10% and members of the management, as well as deposits whose owners are unknown or whose deposited money was acquired by engaging in illegal activities.

The insured amount is limited to 20,000 Bahraini dinars per depositor per bank, from which the depositor's debts to the bank can be deducted. The total annual amount that Islamic banks should pay to the Fund is 20 million Bahraini dinars. The annual contribution of Islamic banks to the Fund is determined proportionally to the amount of insurable deposits and can be paid in quarterly installments. Islamic banks are obliged to send a report about their insurable deposits to the central bank within two months of the end of the financial year. If the Islamic bank does not pay the contribution to the Fund within the prescribed period and amount, the central bank can use several punitive measures, from fines to the revocation of the work permit, if the offense above is repeated.

In one study (Onour, 2019), an assessment of deposit insurance premiums that individual Islamic banks in a selected sample of countries should pay was made using the model created by Merton (1977). According to that research, Bahrain is among the countries with the highest variability in deposit insurance premiums. Based on this, it was concluded that Bahrain should apply risk-adjusted premium rates.

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<sup>4</sup> *Deposit insurance of Islamic banks in Bahrain is presented according to the Central Bank of Bahrain (n. d.).*

## Indonesia

In 2004, Indonesia<sup>5</sup> passed a law regulating deposit insurance, based on which a specialized Deposit Insurance Corporation, *Lembaga Penjamin Simpanan (LPS)*, was established in 2005. This abandoned the practice of complete coverage of deposits (blanket guarantee), which was in force for seven years (1998-2005). To strengthen the stability of the banking system and the trust of depositors, LPS insures all deposits of banks operating in the territory of Indonesia. On the other hand, Indonesian banks must pay an insurance premium. In addition, participating banks in the insurance system must pay membership fees and submit prescribed documents and reports so that LPS is adequately and timely informed. In addition to deposits from conventional banks, the insurance includes deposits from Islamic banks, specifically current and savings deposits according to the *Wadiah* model and savings and time deposits according to the *Mudharabah* model. Since 2008, the maximum insured deposit amount has been 2 billion Indonesian rupiah per depositor per bank, while deposits exceeding the specified amount are paid out in the liquidation assets' distribution process. The insurance covers initial investments and realized earnings on deposits in the form of interest at conventional banks and returns on investments at Islamic banks.

*LPS* must determine which depositors are entitled to insured deposits and in what amount within 90 days from the moment of revocation of the operating license of a certain bank. The Indonesian deposit insurance system has four sources of funding: initial capital in the amount of 4 trillion Indonesian rupiah provided by the government, membership fee paid when banks join the insurance system in the amount of 0.1% of the bank's paid-up capital, insurance premium paid semi-annually in the amount of 0.1% of the average monthly deposit amount in the given period and return on invested funds. If *LPS* does not have enough funds for efficient functioning, the government, with the approval of the Indonesian parliament, can increase this institution's capital. *LPS* may experience liquidity problems when disbursing insured deposits, which can be solved with a government loan.

Research shows that Islamic banking in Indonesia has achieved high growth rates, but the market share of Islamic banks in Indonesia's banking market is still low to create a special deposit insurance system for Islamic banks (Baehaqie, Fahmi & Beik, 2017, p. 215). Including Indonesian Islamic banks in the deposit insurance system did not change the riskiness of their operations (Syamlan & Azinuddin, 2019, p. 202). On the other hand, it positively affected the willingness of Islamic bank clients to save in banks. According to a study (Cahyono, Rani & Mardianto, 2021), customers of Indonesian Islamic banks ranked deposit insurance among the key factors influencing their decision to save in banks.

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<sup>5</sup> Deposit insurance of Islamic banks in Indonesia is presented according to the *Lembaga Penjamin Simpanan* (n. d.).

## Conclusion

Islamic banks were established in an economic and legal environment fully adapted to the characteristics and needs of the conventional banking business model. Nor are the regulations governing bank deposit insurance issues an exception. According to conventional banking principles, banks form a debtor-creditor relationship with depositors. On the other hand, an Islamic bank can be found either in the role of custodian of funds in the case of transactional deposits or partner of its depositors in the case of investment deposits. If the principles of Islamic banking are not followed consistently, no distinction will be made between the conventional and the Islamic approach to the bank-depositor relationship. This leads to the obligation of Islamic banks to insure both transactional and investment deposits, although the Shariah does not permit the latter's insurance due to the partnership status of their owners.

Current banking regulations in most countries do not recognize the specificity of the Islamic bank-depositor relationship. Countries where banking regulations specifically treat Islamic deposit insurance are still rare. Even in those countries, Islamic bank deposit insurance is often implemented in a Shariah-inadequate manner, by applying the disputed *kafalah bi al ujr* model or by inconsistently applying the *takaful* deposit insurance model. Also, there are different legal solutions regarding the insurability of certain types of Islamic deposits. The problems above are a consequence of the lack of uniform and generally accepted regulations that would properly regulate the issue of the Islamic deposit insurance model, as well as an insufficient number of experts who would work on developing and implementing the regulations above. Thanks to the cooperation between the International Association of Deposit Insurers and the Islamic Financial Services Board, positive developments in this field have been achieved in developing principles for effective Islamic deposit insurance systems.

Finally, when creating and implementing an efficient Islamic deposit insurance system, there must be an awareness of the challenges that the application of deposit insurance brings. Along the way, the experiences of numerous developed countries and the studies of prominent financial experts can be valuable for Islamic financial and legal experts who would work to create a unique framework for the Islamic deposit insurance system.

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