

# **An Overview of Bancassurance / Bancatakaful: Pakistani Regulations in the Framework of International Model Law**

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## **Abstract**

Using a bank's customer base to promote insurance products is known as bancassurance. It is a promising channel for selling insurance products around the world. However, in Pakistan, SECP has received numerous reports of mis-selling cases, necessitating a review of its outdated regulatory framework in light of international best practices. Therefore, this paper has analyzed bancassurance products and mainly covers the regulatory policy challenges and suggestions to adopt best practices in Pakistan. The paper identifies the best practices of bancassurance products in countries like UK, and India as cross-country comparison. The legal framework of bancassurance of Pakistan suggests a need to implement more effective laws for controlling the aggressive selling of bancassurance products. The objectives of this study are to investigate widely practiced bancassurance models, examine the issues and the problems related to the practice of bancassurance products in Pakistan that potentially affects its customers, and investigate the weaknesses of the regulatory framework of bancassurance in Pakistan. This study examines the implementation of bancassurance and its actors, which include banks, the distribution channel, insurance services, financial services, and service quality. Customers choose bancassurance because of their relationship and trust with the bank, particularly the local bank branch. Another critical component that can considerably enhance this system is digitization. Adopting current technologies and digitalization can improve customer accessibility and enhance sales of this product. This study was carried out using a qualitative technique. This study recommends the possible improvements in existing legal and regulatory framework in the light of international best practices.

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## 1. Introduction

Bancassurance is a commercial venture in which banks offer products and services that are typically offered by insurance firms. The term ‘bancassurance,’ as its name implies, is created by fusing the terms ‘banking’ and ‘insurance.’ The provision of insurance products via banking channels is meant by this, i.e., when a bank and an insurance firm agree to sell the insurance products to the bank’s clientele via the bank’s infrastructure. Similar to ‘giving and taking’ arrangement, the bank provides access to a variety of resources to the insurance industry, of its clients in order to market insurance products; this generates cash for the bank.<sup>1</sup> Thus, it refers to the sale of insurance through banks. The problem with bancassurance is the way the insurance companies’ mis-sell through the sales agents. It is not offered as an insurance policy, but rather as a banking product.<sup>2</sup> Successful bancassurance business models involve equal partnership between the bank and the insurer. Concentrate on the product rather than the consumer. Act more as an advisor, focusing on needs and values. The ‘command and control’ attitude of banks might clash with the ‘inclusivity’ style of insurance.

Definition of bancassurance from Guidelines for Bancassurance, 2010 while referring to insurance, the term ‘bancassurance’ describes the marketing, promoting, distributing and selling insurance products by banks on behalf of an insurer. The following insurance products are included but not restricted to:

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<sup>1</sup> Oliveboard, s.v. “Bancassurance,” Banking Awareness Notes: Published on September 3, 2018. <https://www.oliveboard.in/blog/bancassurance-banking-awareness/>. (accessed on April 5, 2023).

<sup>2</sup> Ammar H. Khan, “Beware of Bancassurance,” *Pakistan Today Profit*, Published on March 20, 2022. <https://profit.pakistantoday.com.pk/2022/03/20/beware-of-bancassurance/>. (accessed on April 27, 2023).

- (i) Packaged with banking products,
- (ii) Through the branch banking network, active independent product sales are made,
- (iii) Actively offered through other channels such bank or insurance direct sales representatives, telemarketing, direct mail shoots, newspapers, ATM displays, websites, emails, SMS, or
- (iv) Sold through any other channel that the SBP has acknowledged as a legitimate sales channel for banks.<sup>3</sup>

The definition of bancassurance from Bancassurance Regulations, 2015 as:

“The promotion, distribution, sale, and marketing of insurance products by a bank with a license by SBP a result of bancassurance agency agreements between the insurer and the bank, to their account holders, customers and the general public through various sales and distribution channels, including but not limited to branches, telemarketing centre and websites.”<sup>4</sup>

Thus, buying and selling insurance through banks is commonly referred to as bancassurance. Banks and insurance companies working together allow the bank to provide its clients with the insurance products of the connected insurance company.<sup>5</sup> Therefore, the business arrangement known as ‘bancassurance’ involves a bank, a micro-finance bank, or another financial institution collaborating with an insurance company to market and distribute products.

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<sup>3</sup> *Law Insider*, Bancassurance Definition, s.v. “bancassurance,” <https://www.lawinsider.com/dictionary/bancassurance>. (accessed on February 18, 2021): *Guidelines for Bancassurance, 2010*. Guideline 2(b), 2, (SECP Insurance Division), Published on July 20, 2010. <https://jamapunji.pk/sites/default/files/Dir230110BancassuranceCircular%282010%29.pdf>. (accessed on April 15, 2022).

<sup>4</sup> *Bancassurance Regulations, 2015*. Regulation 2(b), 2. (SECP Insurance Division: Islamabad), Pulished on August 3<sup>rd</sup>, 2015. [https://dawoodtakaful.com/File/BancassuranceRegulations\\_2015.pdf](https://dawoodtakaful.com/File/BancassuranceRegulations_2015.pdf). (accessed on April 15, 2022).

<sup>5</sup> Bennett, Coleman & Co. Ltd. “What is Bancassurance,” *The Economic Times*, <https://economictimes.indiatimes.com/definition/bancassurance>. (accessed on November 30, 2020).

The Federal Insurance Ombudsman directed its staff of experts to raise public awareness and draw in complainants with legitimate grievances against the insurance industry's maladministration in order to expedite the processing of the complaints. This led to a notable rise in the volume of complaints, which are regularly settled peacefully. The team of the Federal Insurance Ombudsman has been instructed to commit their professional skills to safeguarding policyholders' interests and promoting the expansion and advancement of the insurance sector. In this context, the Federal Insurance Ombudsman gave all Secretariat staff member's advice to adhere to the spirit of the Insurance Ordinance 2000 and to promote peaceful complaint settlement.<sup>6</sup>

The word 'bancassurance' was first used in France and quickly gained popularity across the rest of Europe. The Gramm-Leach-Bliley Act passed in 1999, permitted banks to operate in the securities and insurance industries. Prior to then, since 1933 Glass-Steagall Act, they had been forbidden from ever doing business with companies that offered different types of financial services. Several nations initially thought that the use of 'bancassurance' would give banks an excessive amount of control over the financial products available in the market. It was hence constrained.<sup>7</sup> Bancassurance is illegal in certain nations, although it is now permitted in the United States of America (USA) with the repeal of the Glass Steagall Act.<sup>8</sup> In 1999, the Federal Gramm-Leach-Bliley Act lifted the majority of limitations on American banks selling insurance products that were previously in place, but some insurance related regulations were still left up to the state.<sup>9</sup>

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<sup>6</sup> Federal Insurance Ombudsman Pakistan, Published on 2020. <https://fio.gov.pk/>. (accessed on October 25, 2023).

<sup>7</sup> Corporate Finance Institute Team, "Bancassurance," *CFI Education Inc.* Updated on January 15, 2023. <https://corporatefinanceinstitute.com/resources/knowledge/finance/bancassurance/>. (accessed on April 5, 2023).

<sup>8</sup> Caroline Banton, s.v. "Bancassurance," Updated on July 13, 2022. <https://www.investopedia.com/terms/b/bancassurance.asp>. (accessed on April 3, 2023).

<sup>9</sup> Ornella Ricci and Franco Fiordelisi, "The Development of Bancassurance in Europe," *Bancassurance in Europe: Past, Present and Future*, (London: Palgrave Macmillan, 2012), 5-25.

Although the concept of bancassurance was originally introduced to Pakistan in 2003, this sector only experienced expansion in 2008–2009. Pakistani banks, especially those with broad customers and a wide branch network, were drawn to the products. The business of bancassurance is being practiced by more than twenty banks in partnership with other businesses.<sup>10</sup>

It is obvious that this is a channel with a lot of potential for selling insurance products globally. Nevertheless, the SECP has received multiple reports of incidences of mis-selling of these bancassurance products, necessitating a review of its outdated regulatory structure in light of international best practices.<sup>11</sup> The aggressive selling of bancassurance products is the subject of an investigation by the SECP. The promise of substantial returns and insurance coverage has been used by banks for far too long to deceive consumers into purchasing these products, which combine savings and insurance instruments.<sup>12</sup>

*Allfinanz*, is also known as bancassurance, was made possible by the removal of the majority of the Glass-Steagall Act, in 1999. For the majority of insurance types, it hasn't yet been completely acknowledged as a practice.<sup>13</sup> With the purpose of continuously selling additional policies, the banks act as the insurance firms' agent. Banks and insurance firms are required to go by detailed standards for the bancassurance sector that have been published by SECP, which is responsible for monitoring this industry's management.<sup>14</sup>

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<sup>10</sup> *BOP*, s.v. "Bancassurance," The Bank of Punjab, last modified on July 22, 2022. <https://www.bop.com.pk/Bancassurance>. (accessed on February 15, 2023).

<sup>11</sup> "Regulator Moves to Clamp Down on Malpractices in Bancassurance Sales," *Dawn*, Published on December 21, 2019. <https://www.dawn.com/news/1523478>. (accessed on April 15, 2020).

<sup>12</sup> Dawn, "Bancassurance Scams," *Dawn Paper*: Published on December 22, 2019. <https://www.dawn.com/news/1523620>. (accessed on October 15, 2021).

<sup>13</sup> Corporate Finance Institute Team, "Bancassurance," *CFI Education Inc.* Updated on January 15, 2023. <https://corporatefinanceinstitute.com/resources/knowledge/finance/bancassurance/>. (accessed on April 5, 2023).

<sup>14</sup> "SECP Proposes New Regulations for Insurance Agents," *The Nation*, Published on May 4, 2020. <https://nation.com.pk/04-May-2020/secp-proposes-new-regulations-for-insurance-agents>. (accessed on April 4, 2021).

Many different business models across the world are included in bancassurance. Generally speaking, these business models may be classified into two groups; 1) Structure - Based Classification; 2) Product - Based Classification.<sup>15</sup> Bank of Punjab (BOP) initially has five bancassurance products available in Pakistan. It has also presented two distinct sales models: 1) Direct Sales Model, and Referral Sales Model.<sup>16</sup>

The hazards posed to banks' reputations and the strict laws and regulations that are imposed in some places are the elements that are limiting the growth of the global bancassurance business.<sup>17</sup> In several nations, bancassurance is still illegal. Nonetheless, there is a global tendency that local markets should be made more accessible to international businesses and banking regulations should be liberalized.<sup>18</sup>

In Pakistan, Guidelines and Bancassurance Regulations were previously released by SECP in 2010, 2015 and 2020, respectively. Owing to the fact that the majority of the products supplied to bancassurance are unit linked in nature, the recent negative stock market performance has resulted in short-term losses for insurance policyholders.<sup>19</sup>

Because of the way that these items have been sold to clients, this practice has to stop since it is a fraud. It is important to let customers who have already been duped by a sales pitch for a product knows that they are entitled to a complete refund of the money they have already paid. Banks and insurance firms go to great lengths to keep

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<sup>15</sup> "Intesa Sees Benefits in Bancassurance as others Abandon Model," *Financial Times*, Updated on September 15, 2018. <https://www.ft.com/content/deb7646a-ed33-11e6-ba01-119a44939bb6>. (accessed on April 5, 2020).

<sup>16</sup> *BOP*, s.v. "Bancassurance," The Bank of Punjab, last modified on July 22, 2022. <https://www.bop.com.pk/Bancassurance>. (accessed on February 15, 2023).

<sup>17</sup> Eileen M. Friars and Robert N. Gogel, *The Financial Services Handbook*, 1<sup>st</sup> ed. (University of Michigan: A Wiley Interscience Publication, 1987), 136-140.

<sup>18</sup> Caroline Banton, s.v. "Bancassurance," Updated on July 13, 2022. <https://www.investopedia.com/terms/b/bancassurance.asp>. (accessed on April 3, 2023).

<sup>19</sup> "SECP Proposes New Regulations for Insurance Agents," *The Nation*, Published on May 4, 2020. <https://nation.com.pk/04-May-2020/secp-proposes-new-regulations-for-insurance-agents>. (accessed on April 4, 2021).

their clients unaware of this fundamental reality; thus, it is crucial to raise awareness of it.<sup>20</sup> “*Let the buyer beware*” is referred to as ‘*Caveat Emptor*’. Sometimes, as a form of disclaimer, the ‘*Caveat Emptor*’ maxim is included into legal contracts. Despite the vendor knowing more about the quality of the product or service than the consumer, a caveat emptor disclaimer prohibits post-purchase challenges.<sup>21</sup> Section 16 of the Sale of Goods Act, 1930 provides an explanation of the *Caveat Emptor* concept.<sup>22</sup> Therefore, in order to encourage the expansion of the insurance industry, namely ‘bancassurance’ the SECP has suggested changes to the Bancassurance Regulations, 2015. Members of the Minor Dispute Settlement Committees, the Federal Insurance Ombudsman (FIO), Insurance Companies, and State Bank of Pakistan (SBP), those present were all in meeting.<sup>23</sup>

The participants had a lengthy discussion on the adjustments that were being proposed and were grateful to the SECP for making such efforts. Nonetheless, the industry participant emphasized that SECP should pay proper regard to factors of market growth as well as tightening regulatory controls to defend the interests of policyholders. Participants agreed that, given the present economic climate, SECP should take ease of doing business into account.<sup>24</sup>

The draft of Corporate Insurance Agents Regulations, 2020 has been published by the SECP. The proposed legislation’ two main goals are:

1. To strengthen the regulatory environment for corporate insurance brokers, including bancassurance, and

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<sup>20</sup> Ibid.

<sup>21</sup> Julia Kagan, “*Caveat Emptor (Buyer Beware): What It Is, and What Replaced It*,” *Investopedia*: Updated on April 17, 2023. <https://www.investopedia.com/terms/c/caveatemptor.asp#:~:text=Caveat%20emptor%20is%20a%20Latin%20phrase%20that%20means%20%22let%20the,of%20a%20good%20or%20service>. (accessed on August 20, 2023).

<sup>22</sup> Sales of Goods Act, 1930.

<sup>23</sup> Dawn, “*Bancassurance Scams*” *Dawn Paper*: Published on December 22, 2019. <https://www.dawn.com/news/1523620>. (accessed on October 15, 2021).

<sup>24</sup> Ibid.

2. To stop policyholders from being mis-sold.<sup>25</sup>

The Guidelines set forth a variety of methods to protect consumers' interests in addition to the regulations, which forbid tied-selling and provide consumer protection. From the necessity to maintain client confidentiality to the requirement to refrain from consumer coercion, these are characteristic of an organization, marketing insurance products.<sup>26</sup>

The SECP should launch a platform where consumers who believe they were duped into purchasing one of these products may file a complaint and ask for the regulator's assistance in receiving a full refund of their money. There is nothing wrong with banking institutions collaborating to offer new products to their customers, but stricter regulations are required to make sure that these offerings have real benefits for the customer, that no deceptive sales tactics are used to promote them, and that the terms are stated plainly in the product brochures rather than in the small print of the contracts.<sup>27</sup>

## **2. Analysis of Bancassurance Product**

The term 'bancassurance' describes the practice of selling insurance products through banking channels. Banks have the chance to use their client base to create risk-free income from non-interest sources. The primary marketing channel for insurance products is bancassurance in many places, notably in Europe. It is also developing in nations including the Middle East, India, and the Far East. The bank's internal channels of distribution are used to market insurance or directly to clients thanks to a

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<sup>25</sup> "SECP Proposes New Regulations for Insurance Agents," *The Nation*, Published on May 4, 2020. <https://nation.com.pk/04-May-2020/secp-proposes-new-regulations-for-insurance-agents>. (accessed on April 4, 2021).

<sup>26</sup> Peter Kasanda , Michaela Marandu , Tenda Msinjili and Jasper Dymoke, "*Bancassurance Guidelines 2019*" Clyde & Co. Published on July 1, 2019. <https://www.mondaq.com/financial-services/820182/bancassurance-guidelines-2019>. (accessed on April 4, 2021).

<sup>27</sup> Dawn, "Bancassurance Scams," *Dawn Paper*: Published on December 22, 2019. <https://www.dawn.com/news/1523620>. (accessed on October 15, 2021).



banking and insurance system known as ‘bancassurance’.<sup>28</sup> According to the business strategy, the banks offer products and services that insurance firms generally offer. Numerous organizations provide this service, which combines banking and insurance services. Insurance is now a part of the banks’ product lineup through bancassurance, expanding their clientele and boosting their market share. With the help of commissions from insurance companies, banks can simply produce risk-free income using the bancassurance models. In order to understand the models of banking business, it is significant to analyze it in depth along with an overview of its historical development, models and the related issues that arise in the practice of this business. Accordingly, this paper furnishes the details how bancassurance products have evolved in the recent history of banking and insurance.

## 2.1 The Concept of Bancassurance

Bancassurance is a phrase that, which was created by fusing the French words, refers to the marketing of insurance products through banking channels in the context of banking and insurance. In German, *Allfinanz*, ‘Integrated Financial Services’, and ‘Assurebanking’ are all names that fall under the umbrella of bancassurance. Banks have emerged as a viable source for the distribution of insurance products because of the vast reach and customer penetration throughout all market groups.<sup>29</sup> The insurance industry was growing internationally and seeking new channels of distribution, this idea became more popular.

Globally and notably in the Asia-Pacific area, the bancassurance industry is expanding, especially for life insurance.<sup>30</sup> In terms of market share, each of those

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<sup>28</sup> Ornella Ricci and Franco Fiordelisi, “*The Development of Bancassurance in Europe*,” *Bancassurance in Europe: Past, Present and Future*, (London: Palgrave Macmillan, 2012), 5-25.

<sup>29</sup> Researchers Club, “*Bancassurance, The Indian Scenario*,” Useful and Newsful: <https://researchersclub.wordpress.com/2014/03/31/bancassurance-the-indian-scenario/>. (accessed on March 31, 2021).

<sup>30</sup> Nefissa Sator and David Schraub, Society of Actuaries, Marketing and Distribution Section, “*Bancassurance*”, <https://www.soa.org/news-and->

nations continues to dominate bancassurance. In general, the various states in the USA still control the laws governing insurance sales agents, insurance products and sales techniques. National banks and their subsidiaries' insurance activities are often exempt from 'blocking or restricting' by state laws, however, since the Office of the Comptroller of the Currency reports that the Gramm-Leach-Bliley Act, was adopted in 1999.<sup>31</sup>

The French and Italian insurance markets are dominated by bancassurance, which also has a significant presence across other important European markets. With the deregulation happening in a number of Asian nations and the UK, its market share is anticipated to increase.<sup>32</sup> Structure, sales and marketing, product development and sales compensation of the company is only a few examples of the many aspects of the bancassurance business are typically influenced by the business models. In the majority of nations, the products offered by bancassurance have tended to gradually change over time, shifting from closely related protection business to the lending operations of the banks to more ultimately leading to a greater selection of protection products from general savings company.<sup>33</sup>

In 1970s, phrase 'bancassurance' first appeared in France, which explains why the word appears to be French. During the 1980s, Spain was another early adopter. Today, a large number of nations permit the practice, illustrating its significant global expansion. Europe is where it is most successful. In bancassurance, banks act as the product developers while insurance firms serve as the distribution channel. It enables two industries to take advantage of the banks' current network.

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publications/newsletters/newsdirect/2014/september/ndn-2014-iss69-760oop/bancassurance/. (accessed on February 4, 2022).

<sup>31</sup> Office of the Comptroller of the Currency, "*Insurance Activities: Comptroller's Handbook*," (CreateSpace Independent Publishing Platform, 2015), 3. (accessed on February 3, 2022).

<sup>32</sup> Gilles Benoist, Bancassurance: The New Challenges. *The Geneva Papers on Risk and Insurance. Issues and Practice*, (Palgrave Macmillan: The Geneva Association, 27(3), 2002), 295-303.

<sup>33</sup> Dorlisa K. Flur, Darren Huston and Lisa Y. Lowie, "Bancassurance", *The McKinsey Quarterly*, (3), 1997, 126.

By letting insurance companies use its platform, banks may generate extra revenue. They may also have the chance to offer clients more things.<sup>34</sup> Improved client loyalty will aid banks, because of more comprehensive offerings. They may consequently become the focal point of financial products for each particular customer. The distribution network of banks enables insurance businesses to increase sales. Customers of affiliated banks can also be accessed by insurance providers. This aids in the development of their products. Bancassurance offers financial services to customers. Because customers have simultaneous access to two separate financial services, they can save time and effort. Additionally, people are more comfortable with their bank's financial advisors, which make the process of reviewing and choosing products easier. The bank's ties with its clients are extremely important in bancassurance.<sup>35</sup>

Even though bancassurance began in France in the 1970s and has since moved to other countries in Continental Europe, it has also made encroachments into Asia, including India and Pakistan as well. The sale of insurance policies via a bank distribution channel is known as 'bancassurance'. In more concrete terms, bancassurance, often called '*Allfinanz*', provides a range of financial services that can satisfy both banking and insurance demands without delay.

A bank and an insurance provider work together to provide 'bancassurance', in which the bank agrees to, charge a fee in exchange for the right to sell insurance to its clients. The banks and insurers have a reciprocal relationship. Even though it is a relatively recent fad in India, it is starting to catch on. Banks, insurance providers, as well as clients, have all embraced it.<sup>36</sup>

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<sup>34</sup> Emilia V. Clipici and Catalina Bolovan, "*Bancassurance: Main Insurance Distribution and Sale Channel in Europe*," *Scientific Bulletin—Economic Sciences*, 11(1), (2012), 54-62.

<sup>35</sup> Corporate Finance Institute Team, "Bancassurance," *CFI Education Inc.* Updated on January 15, 2023. <https://corporatefinanceinstitute.com/resources/knowledge/finance/bancassurance/>. (accessed on April 5, 2023).

<sup>36</sup> UK Essays, "The Study on Mis-selling Through Bancassurance Business Essay," *The Essay Writing Experts:* Published on January 1<sup>st</sup>, 2015.

## 2.2 Historical Development of Bancassurance

The notion of bank insurance and its conditions began to develop in Europe, around the 1970s. Later, other continents and subcontinents, including the USA, East and West Europe, Asia including India and Pakistan as well, embraced the concept.<sup>37</sup> Along with Spain and the Benelux Countries,<sup>38</sup> France has been a pioneer in Europe in the sale of insurance products through bank branches. Germany, Italy and UK, in contrast, have not yet seen much success with this distribution strategy. In contrast to the USA and Japan, where bancassurance still gaining traction, it is thriving in Latin America.<sup>39</sup> The development of bancassurance is influenced directly by a country's legislative framework, which facilitates to explain why its significance varies from country to country.

The word 'bancassurance' was initially used in France, where cooperation between banks and insurance companies started earlier than in other European countries. The term 'insurance distribution' was first used to refer to nonetheless, is increasingly used to describe a broad variety of economic contacts between the banking and insurance sectors, the simple distribution of insurance products through bank branches. As phenomenon grows, bancassurance definitions are growing broader.<sup>40</sup>

A fundamental definition is providing and selling banking and insurance products through the same business or entity is known as 'bancassurance.' And

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<https://www.ukessays.com/essays/business/the-study-on-miselling-through-bancassurance-business-essay.php>. (accessed on January 1st, 2022).

<sup>37</sup> Hannah Wanjiku Njeri, "*Effect of Bancassurance on the Performance of Insurance Companies*," <http://41.89.49.13:8080/xmlui/bitstream/handle/123456789/1247/Njeri-Effect%20Of%20Bancassurance%20On%20The%20Performance%20Of%20Insurance%20Companies%20In%20Kenya.pdf?sequence=1&isAllowed=y>. (accessed on April 20, 2021).

<sup>38</sup> A treaty-based intergovernmental association of Belgium, Netherlands, and Luxembourg, the Benelux Union was established in 1944. The three founding members anticipated the structure of the European Union.

<sup>39</sup> Elda Marzai, "Bancassurance: Financial Market Factor," *Revista de Studii Financiare*, 2(3), (Editura Mustang, 2017), 212-219.

<sup>40</sup> Tobias C. Hoschka, "*Bancassurance in Europe*," (London: Palgrave Macmillan, Springer, 2016).

‘bancassurance’ is a term used to describe a technique used by banks or insurance firms to more or less integrate how they run the financial market.<sup>41</sup>

Spain and France were the first nations to enter the market. By protecting bank sales channels, the idea of bancassurance, which was originally popularized in Germany, allowed for big insurance firms to increase the efficiency and simplicity of selling their products. It was later adopted by both Europe and USA, and it has succeeded, especially in the countries of Europe that make up the European insurance market.<sup>42</sup>

However, Korea only offered saving insurance when it first created bancassurance in August 2003. After that, the entire transaction areas were fully open as of August 2007. But because of several things that were thought to have a bad effect on the financial sector, assurance bank<sup>43</sup> was permitted. Because big corporations in Korea’s insurance market are dominated by their subsidiaries, if the assurance bank system is implemented, those corporations may try to encroach on the banking sector. The fact that insurance firms cannot benefit from assure banks while banks can from bancassurance has caused controversy because it is thought to be unfair to insurance companies.<sup>44</sup>

A bank’s branches may distribute insurance products created by additional insurance providers with whom a sale contract has been entered into by the bank, or they may distribute insurance products created by insurance businesses that the bank owns entirely or in part. Ever since the 1980s, when interest rates on loans first began,

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<sup>41</sup> Ornella Ricci and Franco Fiordelisi, “*The Development of Bancassurance in Europe*,” *Bancassurance in Europe: Past, Present and Future*, (London: Palgrave Macmillan, 2012), 5-25.

[https://www.researchgate.net/publication/304647317\\_The\\_Development\\_of\\_Bancassurance\\_in\\_Europe](https://www.researchgate.net/publication/304647317_The_Development_of_Bancassurance_in_Europe). (accessed on April 29, 2021).

<sup>42</sup> Ibid 18.

<sup>43</sup> The most prevalent type of insurance is general insurance, which includes policies for cars and motorcycles that cover collisions and property damage. Contrarily, assurance is connected to life insurance policies that pay the policyholder’s death benefit.

<sup>44</sup> Dorlisa K. Flur, Darren Huston and Lisa Y. Lowie, “Bancassurance”, *The McKinsey Quarterly*, (3), 1997, 126.

to progressively decline and banks began looking for new revenue streams, this type of comprehensive financial conglomerate has evolved quickly.<sup>45</sup>

Bancassurance started to take off as a vital exchange route in several insurance market places in the early 1990s. Bancassurance procedures are most prevalent in Europe. In the European insurance market, it has been a successful model in the member states. Because in Japan, life of agents is greatest life market in the area, have a virtual monopoly on the industry, bancassurance's proportion of overall sales in the Asian markets is rather small.<sup>46</sup>

While bank insurance was recently made legal in some nations, like USA, where after the Gramm-Leach-Bliley Act was enacted, the Glass Steagall Act was repealed, it remains mostly illegal in other nations. Mortgage insurance, life insurance and property insurance connected to loans make up the majority of insurance sales at USA banks, notwithstanding recent declines in profits. However, China recently made it legal for banks to buy insurers and vice versa, which strengthened the bancassurance sector and caused several sizable foreign insurers to experience a major rise in consumer sales across many product lines in China.<sup>47</sup>

As old as Europe is, bancassurance has a long history in Nepal. Since 1970, the Small Farmers Development Project (SFDP) of the Agriculture Development Bank has been in place to help small and low-income farmers. The majority of farmers bought cows and buffalos using the loan. Since 1987, farmers have had access to livestock risk insurance. The insurance programmed, however, was started by a bank operation that was carried out without any involvement from insurance providers.<sup>48</sup>

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<sup>45</sup> Ibid 127.

<sup>46</sup> Ibid 128.

<sup>47</sup> Serap O. Gonulal, Nick Goulder and Rodney Lester, "Bancassurance, A Valuable Tool for Developing Insurance in Emerging Markets," *Policy Research Working Paper, The World Bank, Financial and Private sector*, (Development, Non-Bank financial institutions, 2012), 1-20.

<sup>48</sup> Ibid 120.

Historically, the technique has been used across Europe, bancassurance contracts are frequently used. Majority of the world's banks that offer bancassurance are significant differences across nations in the picture.<sup>49</sup> Lombard International Assurance pioneered the concept of private-bancassurance, which is now widely used around the world. The concept combines life insurance as a sophisticated financial planning tool with private banking and investment management services for affluent investors and their families to gain tax advantages and stability. Banks double as agents for insurance companies, helping them sell more policies. Bancassurance is efficient and economical distribution method than conventional distribution channels. Employees appointed by an insurance broker are put in specific banks to provide providing insurance products to bank customers in modern bancassurance module.<sup>50</sup>

A recent Sigma Research shows that Bancassurance is expanding, particularly in developing countries. Insurers have been successful in establishing a presence in regions with low insurance penetration and constrained distribution networks to bancassurance. In Europe, Bancassurance is most often used. At Bancassurance, the outlook for the globe is still favorable.<sup>51</sup>

### **2.3 Bancassurance and Bancatakaful**

The marketing, promotion, and selling of takaful products through Islamic banking channels is known as Islamic bancassurance, also known as bancatakaful. Takaful is a form of community pooling that is built on the ideas of brotherhood and mutual aid. Participants put money into a fund to assist those who are most in need during hard

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<sup>49</sup> Gilles Benoist, Bancassurance: The New Challenges: *The Geneva Papers on Risk and Insurance. Issues and Practice*, (Palgrave Macmillan: The Geneva Association, 27(3), 2002), 295-303.

<sup>50</sup> Lombard Kate Burgess, "Lloyds' growth relies on a bancassurance renaissance", *Financial Times*: last updated on June 29, 2020, <https://www.ft.com/search?q=bancassurance>. (accessed on February 18, 2021).

<sup>51</sup> Swiss Reinsurance Company Economic Research & Consulting, "Swiss Re sigma: Bancassurance: Emerging Trends, Opportunities and Challenges," Zurich Switzerland: Sigma Report no. 5, 2007. [https://docplayer.net/14433528-Sigma-bancassurance-emerging-trends-opportunities-and-challenges.html#google\\_vignette](https://docplayer.net/14433528-Sigma-bancassurance-emerging-trends-opportunities-and-challenges.html#google_vignette). (accessd on April 27, 2023).

times financially. The first takaful company in the world was founded in Sudan in 1979, according to history. The Grand Council of Islamic Scholars officially endorsed the use of takaful as an Islamic alternative to western insurance in 1985.<sup>52</sup> Takaful upholds the strictest moral principles (complying with Shariah Adherence), which is advantageous to its clients and acceptable to everybody.<sup>53</sup>

Risk management and making preparations for family's future are two of the most valued and praised traits of a Muslim, even in Islam. Being responsible for one's dependents is in truth a duty to Allah. Takaful is unfortunately not well known in Pakistan, and nobody understood what it was until 2005. SECP then promulgated Takaful Rules in 2005, at which point people started to understand their significance and understood how essential they were as well as the enormous potential they had. Later, in 2012, the SECP released additional regulations.<sup>54</sup>

## **2.4 Issue Related to Bancassurance Product**

Bancassurance products are now widely acknowledged to be susceptible to various issues like weak regulatory system, agents' interest in high commissions, unawareness about the product details, and mis-selling of this product. However, the last said issue is detailed out in this paper.

### **2.4.1 Mis-selling of Insurance Products**

Basic insurance mis-selling types include mis-representation, attracting customers with false information, miscalculating benefits, unnecessary update of existing policy, fake bonus promises, forcing customers to buy policies, outright fraud, and

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<sup>52</sup> Insurance is analyzed as an interest-based service which is expressly prohibited in Islam. (Qur'an, 2:275-81).

<sup>53</sup> Federal Insurance Ombudsman 2018-19, "Annual Report Page Sequence," <http://www.fio.gov.pk/pdf/FIO%20Annual%20Report%202018-19%20.pdf>. 14. (accessed on October 15, 2021).

<sup>54</sup> Federal Insurance Ombudsman 2018-19, "Annual Report Page Sequence," <http://www.fio.gov.pk/pdf/FIO%20Annual%20Report%202018-19%20.pdf>. 14. (accessed on October 15, 2021).



bundling insurance policies. Big fat commissions, poor financial literacy, and improper document reading are considered factors leading to mis-selling.<sup>55</sup>

The purposeful, reckless, or negligent sale of products or services is known as mis-selling, where there is a mis-representation of terms of the contract or where the products or services are not appropriate for the needs of the consumer. For instance, it is considered a kind of mis-selling to sell life insurance to a person who has no dependents.<sup>56</sup> The life insurance sector is a frequent location for mis-selling. A stock market investor with substantial assets and investments, but no dependent children and a deceased spouse, may be an example. It is debatable whether an expensive survivor benefit annuity or whole life insurance would be highly desirable to the investor. Therefore, a sales agent's portrayal of the product as something the investor urgently required to secure their assets or income stream in the event of death might be seen as an instance of mis-selling.<sup>57</sup> Bank workers' lack of product knowledge is one of the factors contributing to the mis-selling of insurance products by banks, which is presently on the rise.

Mis-selling may take place in a number of common ways. Nowadays, mis-selling of products like investments has mostly been the responsibility of banks.<sup>58</sup> A product or service may be purposely or negligently mis-represented, or a customer may be misled about its suitability, as part of a sales tactic called mis-selling. The deliberate withholding of crucial information, the dissemination of incorrect

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<sup>55</sup> Pragya Arora, "The Menace of Mis-selling in Insurance Their Types, Reasons and How to Prevent it," *Insurance Samadhan*: Published on January 23, 2021. <https://www.insurancesamadhan.com/blog/the-threat-of-mis-selling-in-insurance-and-how-to-prevent-it/>. (accessed on April 27, 2023).

<sup>56</sup> Martin Membery and Sean M. Keyvan, "*The Global Bancassurance Market*," (London: Sedley Austin LLP., 2014), 31.

<sup>57</sup> Serap O. Gonulal, Nick Goulder and Rodney Lester, Bancassurance, A Valuable Tool for Developing Insurance in Emerging Markets, *Policy Research Working Paper, The World Bank, Financial and Private sector*, (Development, Non-Bank financial institutions, 2012), 1-20.

<sup>58</sup> Goodwin Barret, "*Investment Mis-selling: The Facts*," <https://goodwinbarrett.co.uk/>. (accessed April 15, 2022).

information, or the sale of an inappropriate product based on the customer's stated needs and preferences are all examples of mis-selling.<sup>59</sup>

Mis-selling is careless, unethical, those who do it risk facing consequences on the law, fines or even expulsion from their profession. A failure to provide fair outcomes for consumers has been described as it by previous Financial Services Authority (FSA) of UK.<sup>60</sup> Anyone who feels they are the victim of mis-selling should gather all necessary evidence, preferably written documentation, and as quickly as possible, submit a claim or complaint. An established internal complaints procedure would typically be in place for financial services organizations, and this should be the initial port of call. Any question or accusation will be met with a response. In some professions or jurisdictions, a complaint may be investigated by an Ombudsman or Independent Investigator if their response is unacceptable.<sup>61</sup>

Unfortunately, all around the world, bankers and brokers have a propensity to sell what is best for them rather than what is best for the investors. This results in the mis-selling of financial items, particularly insurance contracts.<sup>62</sup> The definition of 'Mis-selling' from the Bancassurance Regulations, 2015<sup>63</sup> and as well as the definition of 'Mis-selling' from Corporate Insurance Agents Regulations 2020, are the same states that "when an insurance product is being marketed and it is either

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<sup>59</sup> Dorlisa K. Flur, Darren Huston and Lisa Y. Lowie, "Bancassurance", *The McKinsey Quarterly*, (3), 1997, 126.

<sup>60</sup> Comptroller and Auditor General, "*Financial Services Mis-Selling: Regulation and Redress*," (Financial Conduct Authority and Financial Ombudsman Service, London: National Audit Office Report, 2016).

<sup>61</sup> Keith Stanton, Investment Advice: The Statutory Remedy, *Tottel's Journal of Professional Negligence*, 33(2), (2017), 153-174.

<sup>62</sup> UK Essays, "The Study on Mis-selling Through Bancassurance Business Essay," *The Essay Writing Experts*: Published on January 1<sup>st</sup>, 2015. <https://www.ukessays.com/essays/business/the-study-on-miselling-through-bancassurance-business-essay.php>. (accessed on January 1<sup>st</sup>, 2022).

<sup>63</sup> *Bancassurance Regulations, 2015*, Regulation 2(n), 3, (SECP Insurance Division: Islamabad), Published on August 3<sup>rd</sup>, 2015. [https://dawoodtakaful.com/File/BancassuranceRegulations\\_2015.pdf](https://dawoodtakaful.com/File/BancassuranceRegulations_2015.pdf). (accessed on April 15, 2023).

being misrepresented or isn't fit for the customer's needs, it is considered to be 'mis-selling.' This behavior is also referred to as reckless selling or careless selling."<sup>64</sup>

Investors' lack of understanding of financial products is a major factor in mis-selling. A further factor is a lack of transparency. If a person is financially illiterate, they can learn how to grasp the product or seek a financial advisor's guidance. The terrible 'truth' of today is that insurance policies are susceptible to fraud or mis-selling. Given the large number of clients who have been victims of mis-selling or fraud, it is more or less clear to many individuals. There are many nuances to insurance fraud; given the unnecessarily complex nature of insurance products.

The consumer is deliberately misled into believing something that will never happen. The issue is getting worse because customers are succumbing to aggressive marketing strategies and because everyone is too preoccupied with their own life to double-check the information before making an investment. The infrastructure for the bank workers must be adequate, and they must be given the right training about the products. It has been observed that banks continue to lack awareness of the seriousness of the obligation they assume when they offer insurance, and that this activity continues to be for them merely a fee-based side business. However, this issue is to be addressed in this research in which mis-selling of bancassurance products refers to 'unfair business practices', which include incorrect product sales, adding more products and making promises of larger returns.<sup>65</sup>

### **3. International Best Practices of Bancassurance**

Although bancassurance has grown in a variety of ways around the world, it is both expanding and gaining ground in most industrialized nations. Bancassurance has

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<sup>64</sup> *Corporate Insurance Agents Regulations, 2020*, Regulation 2(q), 3. (Government of Pakistan, SECP: Islamabad) Published on December 3<sup>rd</sup>, 2020. [https://dawoodtakaful.com/File/Corporate\\_Insurance\\_Agents\\_Regulations\\_2020.pdf](https://dawoodtakaful.com/File/Corporate_Insurance_Agents_Regulations_2020.pdf). (accessed on April 15, 2023).

<sup>65</sup> Shailesh Kumar, "Mis selling of Insurance Products by Banks", *Insurance Samadhan*: Published on June 18, 2019, <https://www.insurancesamadhan.com/blog/mis-selling-of-insurance-products-by-banks/>. (accessed on July 11, 2023).

developed into a significant channel of distribution in numerous insurance markets all over the world over the past ten years. Although its use has spread to other areas, especially emerging economies, its ubiquity is particularly noticeable in Europe. The development of bancassurance has not occurred globally at the same rate, and there are still regional differences, as a result of national conditions. Pakistan having less developed practice of this product may learn lessons from global best practices.<sup>66</sup> Hence, the paper overviews the commonly practiced primary factors encompassing this business model, then it analyze the regulatory framework in UK. Further A cross-country comparison is also made with India. In the end some lessons are drawn through this paper.

### **3.1 Growth Factors in Global Practice of Bancassurance**

Globally, the growth of bancassurance is generally influenced by a variety of factors, according to experiences in various parts of the world. Insurers can develop a variety of options to serve underserved groups through bancassurance by segmenting the customer base by income, age, employment, gender, or other factors, and then analyzing consumer buying behavior and product preferences. Accordingly, it has developed at varying speeds which can be attributed to a few primary factors.<sup>67</sup>

1. Different legislative and regulatory standards.
2. The structure of the tax and pension systems differs significantly.
3. Various ways that bank play a part in the financial system.
4. The growth of bancassurance is hindered by a distinct division between the various distribution channels.

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<sup>66</sup> Ornella Ricci and Franco Fiordelisi, *“The Development of Bancassurance in Europe,” Bancassurance in Europe: Past, Present and Future*, (London: Palgrave Macmillan, 2012), 5-25.

<sup>67</sup> Leigh Irwin Allen, “Keys to Bancassurance Success: Innovation and Alignment in Distribution”, *RGA Reinsurance Company*, Published on September, 2014. <https://www.rgare.com/knowledge-center/article/keys-to-bancassurance-success#:~:text=By%20segmenting%20the%20customer%20base,serve%20untapped%20population%20via%20bancassurance.> (accessed on April 27, 2023).

5. Markets for insurance that are developing slowly.<sup>68</sup>

A number of industry reforms that were already well underway are being accelerated by the COVID-19 epidemic. Leaders in the industry explain how banks and insurers can adjust to the upcoming challenges faced by the practice of bancassurance product.

### **3.2 Regulatory Framework in the United Kingdom**

In the UK, the Financial Services Act, 1986 (FSA), established new rules on the marketing of life insurance in particular, and the Building Societies Act, 1986, which leveled the playing field between commercial banks and building societies by enhancing the powers of the latter. These two significant developments in the UK regulatory environment have had a significant impact on the bancassurance industry.<sup>69</sup>

Another major piece of legislative framework that controls how banking and financial services are regulated in the UK is the Financial Services and Markets Act, 2000 (FSMA). The present UK regulatory system is primarily derived from the FSMA and its associated implementing laws and regulations, but other EU legislation that set minimum requirements for the regulation of banks and banking services in the European Economic Area (EEA) also play a role have historically had a significant impact on it and have been partially implemented as well. Large portions of EU regulations that were directly relevant, before Brexit, the UK's regulatory framework included all laws and regulations that carried out the obligations of EU Directives. In the UK, there are three primary regulators that are responsible for banking.

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<sup>68</sup> Gilles Benoist, "Bancassurance, The New Challenges," *The Geneva Papers on Risk and Insurance, Issues and Practice*, (Palgrave Macmillan: The Geneva Association, 27(3), 2002), 295-303.

<sup>69</sup> Emanuele Marsiglia and Isabella Falautano, "Corporate Social Responsibility and Sustainability Challenges for a Bancassurance Company," *The Geneva Papers on Risk and Insurance-Issues and Practice*: 30, (Springer: 2005), 485-497.

- i. Bank of England (BOE).
- ii. Prudential Regulation Authority (PRA), a division of the BoE.
- iii. Financial Conduct Authority (FCA).<sup>70</sup>

Two main regulators of banks are PRA and FCA. The BoE has the decision-making power, and it is mostly accountable for taking regulatory action and using resolution authority with relation to failing or about to fail banks. The FCA oversees conduct for banks, whereas the PRA oversees prudential matters. In 2013, the PRA and FCA collectively took over as the UK's regulators in place of the FSA.

Under the FSMA, PRA and the FCA are jointly accountable for overseeing, enforcing, making rules and establishing regulatory policy for authorization, practical considerations, and business practices.<sup>71</sup> Each regulator's regulatory goals are outlined in the FSMA as well. The PRA's major objective is to guarantee the safety and soundness of the institutions it has authorized by striving to ensure that their activities don't jeopardize the stability of the UK financial system. Its secondary objective is to promote effective competition in the markets for the services provided by such organizations. The FCA is responsible for monitoring business operations, guaranteeing effective financial markets, safeguarding consumers, and promoting healthy competition.<sup>72</sup>

### 3.3 Bancassurance in India: A Cross-Country Comparison

The idea of bancassurance was first established in India in 2000. In India, there are two distinct authorities that oversee the financial services and insurance sectors. The

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<sup>70</sup> Bob Penn, Raluca Dumitru, Arthur Tan, Allen and Overy LLP, "Banking Regulation in the United Kingdom," Overview: Published on November 1, 2022. [https://uk.practicallaw.thomsonreuters.com/w-008-0211?transitionType=Default&contextData=\(sc.Default\)&firstPage=true#:~:text=The%20regulation%20of%20banks%20in,Financial%20Conduct%20Authority%20\(FCA\).](https://uk.practicallaw.thomsonreuters.com/w-008-0211?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=The%20regulation%20of%20banks%20in,Financial%20Conduct%20Authority%20(FCA).) (accessed on April 15, 2023).

<sup>71</sup> Ibid.

<sup>72</sup> Stella Fearnley and Tony Hines, "The Regulatory Framework for Financial Reporting and Auditing in the United Kingdom," The Present Position and Impending Changes. *The International Journal of Accounting*, 38(2), (Summer: 2003), 215-233.

Reserve Bank of India (RBI) entirely oversees banking industry, while the Insurance Regulatory and Development Authority (IRDA) oversee the insurance industry. Section 6(1)(o) of the Banking Regulation Act of 1949 states that the Indian government has classified ‘Insurance’ as a permissible area of business for banks to operate in. However, banks wishing to engage in the industry must first obtain particular the RBI authorization.<sup>73</sup> Due to increased competition caused by the insurance sector’s openness to private competitors, fresh strategies for connecting with its sizable consumer base emerged.

Bancassurance is viewed as a distribution channel that increases the penetration of insurance, but recently, a small number of cases of mis-selling by banks have come to the attention of IRDA. Concerned about these actions, the IRDA has chosen to investigate the bancassurance model.<sup>74</sup>

To examine the bancassurance model, IRDA had formed a panel. The IRDA has been made aware of some instances in which certain banks have coerced their customers into purchasing insurance policies in order to advance their loans. These customers who were forced to purchase the policies against their will in order to obtain the loans do not maintain them, and as a result, the policies expire after the first premium is paid, costing the insurer money. This practice is improper for the insurance industry as the sale of policies should be based on need rather than coercion.<sup>75</sup>

The biggest issue is that if a bank is allowed to sell numerous items, it may end up favoring those that offer a bigger commission than what the customer actually needs. If this danger is not reduced, a bank’s reputation will be at jeopardy.

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<sup>73</sup> Oliveboard, s.v. “Bancassurance”, Banking Awareness Notes: Published on September 3, 2018. <https://www.oliveboard.in/blog/bancassurance-banking-awareness/>. (accessed on April 5, 2023).

<sup>74</sup> Ibid.

<sup>75</sup> UK Essays, “The Study on Mis-selling through Bancassurance Business Essay,” *The Essay Writing Experts*: Published on January 1<sup>st</sup>, 2015. <https://www.ukessays.com/essays/business/the-study-on-miselling-through-bancassurance-business-essay.php>. (accessed on January 1st, 2022).

Additionally, insurers believe that banks will only engage in mis-selling if there is a reputational risk. In order to reduce mis-selling, banks should opt for simpler items to sell. The connection between their insurance provider and other banks causes problems for some institutions.<sup>76</sup>

Two distinct organizations in India regulate the banking and insurance industries. IRDA and RBI, respectively, are in charge of overseeing the banking and insurance sectors. Due to its composition of two distinct industries, bancassurance is governed by both of the aforementioned agencies. There are detailed and illustrative regulations, norms and limitations for each of them.<sup>77</sup>

### **3.4 Lessons Learned from International Best Practices**

It is anticipated that sales of general life insurance will expand at a rate of four times slower than that of bancassurance, a major global distribution channel for life insurance.<sup>78</sup> According to Reinsurance Group of America's Survey (RGA's) and distribution research, relationships banking in mature markets and geographical considerations have a significant role in the growth of bancassurance. The use of digital techniques, automated underwriting and sales, targeted client messaging and enhanced customer experiences will ultimately boost the expansion of the bancassurance industry. A challenging, diverse and fiercely competitive environment must be navigated by bankers.<sup>79</sup>

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<sup>76</sup> Ibid.

<sup>77</sup> Rupali Satsangi, "An Analysis of Effectiveness of Bancassurance as a Distribution Channel in India," *Delhi Business Review*: Rohini, 2014, 15(1), 41-52.

<sup>78</sup> Joao Bueno, Bruno Dinis, Bernhard Kotanko, Dario Maggiora and Rui Neves, "Bancassurance: It's Time to Go Digital," *McKinsey & Company*: Published on March 15, 2019. <https://www.mckinsey.com/~media/McKinsey/Industries/Financial%20Services/Our%20Insights/Bancassurance%20Its%20time%20to%20go%20digital/Bancassurance-Its-time-to-go-digital-final.ashx>. (accessed on July 11, 2023).

<sup>79</sup> Leigh Irwin Allen, "Digitization and Strategy, Bancassurance Trends and Best Practices in 2019," *RGA: Insurance Distribution*, Published on October 8, 2019, <https://www.rgare.com/knowledge-center/media/research/digitization-and-strategy-bancassurance-trends-and-best-practices-in-2019>. (accessed on April 3rd, 2023).



According to RGA's surveys and distribution research, regional factors including financial deregulation, social security costs, tax breaks and the enhancement of relationship banking in mature markets are what significantly influence the development of the assurance sector. Ultimately, digital methods, automated underwriting and sales, targeted client messaging, and enhanced customer experiences will all contribute to the expansion of the bancassurance industry. In order to accomplish these objectives, bancassurers must traverse a challenging, diverse and intensely competitive environment.<sup>80</sup>

#### **4. Legal Framework of Bancassurance in Pakistan**

Protecting the stability and soundness of the financial system is one of the SBP's main responsibilities. SBP has established a strong legal and regulatory framework to accomplish this goal. When institutions disregard legal or regulatory obligations, SBP takes supervisory enforcement measures against them. Business is administered by takaful or life insurance firms and is regulated by SECP and the Bancassurance plans and models of Pakistan. The role of regulators of the insurance companies deals with the bancassurance products in which banks are governed by SBP, whereas Modaraba and insurance companies are governed by SECP. The list of insurance related regulatory laws have been presented and throw light on the analysis of bancassurance regulation 2015 which has been repealed after the finalization of The Corporate Insurance Agent Regulations, 2020. After that, the emerging challenges faced by the customers related to the sale of bancassurance products. The flaws and weaknesses in the given legal, regulatory framework and suggestions related to improvement of these and the goal of FIO is to create a cutting-edge of bad administration in the Pakistani insurance industry and to ensure prudent protection of stakeholders' interests.<sup>81</sup>

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<sup>80</sup> Ibid.

<sup>81</sup> FGE Ebrahim Hosain, "In Review: the Legal Framework for Insurance Disputes in Pakistan," *The Law Reviews*: Published on November 29, 2022, (Pakistan).

#### 4.1 Related Case Laws

*Jubilee Life Insurance Company limited 2016 and Faisal Bank. Jubilee Life Insurance Company limited 2019 and HBL.*

Although insurance company litigation has remained very broad in Pakistan in recent years, three judgments in particular stand out for their conclusions and precedential relevance. One is a Supreme Court of Pakistan decision that elaborates on the fundamentals of interpreting phrases used by insurance firms. The second is a judgment of the Lahore High Court concerning insurance firms' liability under the Insurance Ordinance 2000. Finally, a 2020 Supreme Court of Pakistan judgment defines insurance firms' duties to customers under the Insurance Ordinance 2000.

*Universal Insurance Company and another v. Karim Gul and another.*

This lawsuit involved an insurance company's contract to sell salvage material. The disagreement arose as a result of an insured motor vehicle being involved in an accident that resulted in its entire loss. The automobile was classified as 'salvage' material, and the insurance company sold it to the respondent. Following the transaction, the respondent repaired the car and registered it with the motor vehicle authorities. However, his request was denied since another car with the identical registration number was already registered, and the documents submitted in connection with the registration were not authentic. As a result, the respondent brought a lawsuit against the insurance company.

The Supreme Court had to decide whether the motor vehicle sold by the insurance company was a motor vehicle or debris. The rationale for emphasizing this distinction was that if the salvage material was sold as debris, the insurance company would have no duties regarding the vehicle's registration and usability.

The salvage material was classed as a total loss in the contract between the insurance company and the customer. As a result, the Supreme Court considered the definition of entire loss under the contract. It initially considered whether the parties used the term “total loss” in a technical sense or in the usual use of the word. Then it stated that the contract’s provisions must have the meaning that a ‘reasonable person with all the background knowledge that would reasonably have been available to the parties in the situation in which they were at the time of the contract’ would have. It went on to say that because the insurance company proposed and prepared the contract, a reasonable person would assume that the phrase was being used in a technical meaning.

There was one more crucial factor to this case. The Supreme Court examined the concept of total loss after ruling that it should be read technically. Actual total loss and constructive total loss are defined under the Marine Insurance Act of 2018. Actual total loss is defined as ‘where the subject-matter insured is destroyed or so damaged as to cease to be a thing of the kind insured or where the assured is irretrievably deprived thereof,’ whereas constructive total loss is defined as ‘where the subject-matter insured is reasonably abandoned due to its actual total loss appearing to be unavoidable or because it could not be preserved from the actual total loss without an expenditure which would exceed its value when the exclusion applies.’

As a result, if the Supreme Court concluded that real total loss was the right word to employ, the buyer of the salvage material would have acquired debris, and the insurance company would have had no duties in that regard. However, the Supreme Court concluded that constructive complete loss was the right criterion under these circumstances. The reasoning for this was based in part on the notion that if there is any dispute about the meaning of a provision in a contract, the words will be interpreted against the person who proposed them. As a result, because the contract was written by the insurance company, the Supreme Court construed the word "total loss" in the respondent’s advantage.

According to the author's opinion, this decision has two significant ramifications for the interpretation of insurance contracts:

1. It was noticed that a reasonable person would understand the provisions of an insurance company's contract in a technical meaning rather than in the usual sense of the word. As a result, because insurance policies are drafted and issued by insurance companies, this would apply to all insurance policies; and
2. If there is any ambiguity about the meaning of a term in a contract prepared by an insurance company, the ambiguity will be decided against the insurance company.

## 4.2 Bancassurance Plans

Currently, The BOP provides the following bancassurance plans:

- i. EFU Child Savings Program.
- ii. Marriage Program at EFU.
- iii. EFU Savings Program.
- iv. EFU Pension Scheme.
- v. Vitality Plan – IGI Life.
- vi. The IGI Value Life.<sup>82</sup>

The Equity Savings Scheme is the most recent example. Never purchase a product which doesn't fully comprehend. Despite not being aware of the risks, many investors purchased the product since it offers a viable tax-saving strategy.<sup>83</sup>

“*Caveat Emptor*” is a legal doctrine as well a Latin word which means “*let the buyer beware*” is a legal theory that states that in the absence of an express warranty in the contract, the customer acquires at his own risk. The norm was ideally

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<sup>82</sup> BOP, s.v. “Bancassurance,” The Bank of Punjab, last modified July 22, 2022. <https://www.bop.com.pk/Bancassurance>. (accessed on February 15, 2023).

<sup>83</sup> Oliveboard, s.v. *Bancassurance*, Banking Awareness Notes: Published on September 3, 2018. <https://www.oliveboard.in/blog/bancassurance-banking-awareness/>. (accessed on April 5, 2023).

adapted to buying and selling in the open market or among near neighbors as an early common law maxim. Because of the rising complexity of modern business, the customer is at a disadvantage. Buyer is obliged to rely on the sellers and manufacturer's competence, judgment, and honesty more and more.<sup>84</sup>

*SEC v. Zandford, 535 U.S. 813 (2002).*

The present law of commercial transactions recognizes this legal maxim and safeguards the buyer by indicating different exceptions to the caveat emptor principle. Thus, in the event of a sample sale, the law suggests a contract requirement that the majority of the product will correspond in quality to the sample and that the buyer will have a reasonable chance to evaluate the bulk of the merchandise. Similarly, when the buyer informs the seller of the specific purpose for which the products are required, the law implies a requirement in the subsequent contract that the item is of merchantable and average quality and reasonably suited for the intended use.<sup>85</sup>

As a result, the distribution of insurance products has found bancassurance to be a crucial channel. If done correctly, the merging of the banking and insurance sectors may be advantageous for all parties involved, including the clients, insurers, and banks.<sup>86</sup>

### **4.3 Role of concerned Authorities related to Insurance Division**

The role is defined of concerned authorities related to bancassurance business which regulates and managed the insurance system in Pakistan are as follows:

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<sup>84</sup> Cornell Law School, s.v. *Caveat Emptor*, Legal Information Institute, Wex Definitions Team: Published on July, 2022. [https://www.law.cornell.edu/wex/caveat\\_emptor](https://www.law.cornell.edu/wex/caveat_emptor). (accessed on October 25, 2023).

<sup>85</sup> Ibid.

<sup>86</sup> *Oliveboard*, s.v. *Bancassurance*, Banking Awareness Notes: Published on September 3, 2018. <https://www.oliveboard.in/blog/bancassurance-banking-awareness/>. (accessed on April 5, 2023).

### 4.3.1 Role of SECP as an Insurance Regulator

The SECP made the correct decision by opening an investigation into the pushy marketing of bancassurance products. SECP entail collaboration between banks and insurance firms, which makes it simple for both to evade responsibility when the customer inevitably realizes that the product was not truly what it had been represented to be throughout the sales process. .<sup>87</sup>

It is the role of the SECP to oversee the insurance industry in Pakistan, which consists of insurance firms, brokers, agents, third party administrators for health insurance and insurance surveyors. Since its inception in 1999 in accordance with the terms of the SECP Act, 1997, the SECP has been responsible for regulating the insurance industry in Pakistan and executing the insurance law. This function used to be carried out by the Department of Insurance, which reported to the Minister of Trade. Since the regulation of the insurance industry was transferred, SECP has fought to defend the interests of current, prospective and ongoing policyholders while also promoting the steady and orderly growth of the industry.<sup>88</sup>

### 4.3.2 Role of SBP

The SBP was established by the State Bank of Pakistan Act, 1956, which gave the bank the ability to act as the country's central bank. The SBP Act mandates the Bank to control Pakistan's monetary and credit system and to nurture its expansion in the greatest national interest, with the goal of ensuring monetary stability and maximizing the country's productive resources. SBP plays a critical role in preserving financial sector stability. SBP promotes the safety and soundness of individual financial institutions, the seamless operation of payment systems, and the

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<sup>87</sup> Dawn, "Bancassurance Scams," *Dawn Paper*: Published on December 22, 2019. <https://www.dawn.com/news/1523620>. (accessed on October 15, 2021).

<sup>88</sup> Federal Insurance Ombudsman 2018-19, "Annual Report Page Sequence," <http://www.fio.gov.pk/pdf/FIO%20Annual%20Report%202018-19%20.pdf>. 6. (accessed on October 15, 2021).

effective resolution of problem institutions. The SBP has also taken an active role in the process of islamization of the banking sector.<sup>89</sup>

### **4.3.3 Role of Federal Insurance Ombudsman**

Related to Insurance, the institution of the Ombudsman is becoming increasingly significant in enhancing public administration.<sup>90</sup> The Federal Insurance Ombudsman's job is to defend the public from wrongdoing, including the infringement of rights, the abuse of authority, arbitrary judgments, and poor administration. The function of Federal Insurance Ombudsman institutions in enhancing public administration is becoming more and more significant as a result of the increased transparency and public accountability of government operations. In addition, the institution of the Federal Insurance Ombudsman became more well-known because to the provision of swift justice at no cost to the general public as opposed to the regular legal system, where delays and costs are the main obstacles for people.<sup>91</sup>

The Federal Insurance Ombudsman organization provides policyholders or their beneficiaries with a quick and free means of resolving complaints they may have with the private insurance companies. Since its founding, the organization has handled hundreds of complaints regarding various types of insurance, including marine, property, motor vehicle, and life insurance, including individual, group, and health insurance, among others, all without charging the complainants or insurers anything.<sup>92</sup>

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<sup>89</sup> State Bank of Pakistan, 2016. <https://www.sbp.org.pk/about/Intro.asp>. (accessed on October 25, 2023).

<sup>90</sup> Federal Insurance Ombudsman 2018-19, "Annual Report Page Sequence" <http://www.fio.gov.pk/pdf/FIO%20Annual%20Report%202018-19%20.pdf>. (accessed on October 15, 2021).

<sup>91</sup> M. A. Zuberi, 'Insurance Ombudsman's Institution Plays an Increasingly Important Role in Improving Public Administration' *Business Recorder*: Published on March 14, 2016. <https://fp.brecorder.com/2016/03/2016031425476/>. (accessed on April 15, 2021).

<sup>92</sup> Ibid.

#### 4.4 The Insurance Regulatory Framework

The Insurance Ordinance 2000 read in conjunction with the Insurance Rules, 2017 largely regulates the insurance industry in Pakistan. The Insurance Accounting legislation 2017, Insurance Companies Sound and Prudent Management Regulations 2012, and Corporate Insurance Agents Regulations 2021, among others, are further legislation that control particular facets of the insurance industry. Insurance conflicts are governed by Pakistani law, which is made up of the fundamental laws, insurable risks, judicial procedures, and various dispute settlement techniques.<sup>93</sup> The insurance regulatory framework in Pakistan comprises of the following statutes:

- 1) Corporate Insurance Agents Rules, 2020
- 2) The Insurance Ordinance, 2000
- 3) Insurance Rules, 2017
- 4) Insurance Accounting Regulations, 2017
- 5) The Takaful Rules, 2012
- 6) The SEC (Micro insurance) Rules, 2014
- 7) The Unit Linked Product and Fund Rules, 2015
- 8) Insurance Companies (Sound and Prudent Management) Regulations, 2012
- 9) The Third-Party Administrator for Health Insurance Regulations, 2014
- 10) The Bancassurance Regulations, 2015
- 11) Small Dispute Resolution Committees (Constitution and Procedure) Rules, 2015
- 12) Guidelines for Estimation of Incurred but Not Reported Claims Reserves, 2016
- 13) Code of Corporate Governance for Insurers, 2016
- 14) Directive for Life Insurance and Family Takaful Illustrations, 2016
- 15) Circular for Awareness among Policy holders about Availability of Complaints Resolution Forums

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<sup>93</sup> FGE Ebrahim Hosain, "In Review: the Legal Framework for Insurance Disputes in Pakistan," *The Law Reviews*: Published on November 29, 2022, (Pakistan). <https://www.lexology.com/library/detail.aspx?g=3fd526c6-44a4-4ebf-8f38-adfbf9440730>. (accessed on April 27, 2023).



- 16) SEC Directive for Corporate Insurance Agents and Technology Based Distribution Channels, 2017
- 17) SEC Regulations, 2018 (Anti Money Laundering and Countering the Financing of Terrorism)
- 18) Credit and Surety ship Rules, 2018 (Conduct of Business)<sup>94</sup>

It is crucial to take the necessary precautions to ensure that the information technology systems of the insurance companies, their partners, and intermediaries are secure and robust. In recent years, the insurance industry in Pakistan has started to rely more heavily on technology for the distribution and sale of insurance products. In response, the SECP, Pakistan's top regulating authority for insurance businesses, has released the SEC Guidelines on Cyber Security Framework for the Insurance Sector 2020, putting in place legal measures for threat and vulnerability reduction and deterrent.<sup>95</sup> The SECP published a master circular in January 2022 that included all legislative and regulatory requirements and instructions sent to the insurance industry through circulars and directives to the insurance sector.<sup>96</sup>

#### **4.4.1 Bancassurance Regulations, 2015 and Corporate Insurance Agents Regulations, 2020**

SECP has informed the Bancassurance Regulations 2015, with the Policy Board's support. The three main players in the life insurance industry, namely policyholders, insurers and banks, are expected to have more aligned long-term interests with the adoption of the legislation. Several new regulatory measures have been implemented, including the rationalization of bank compensation structures, restrictions on recycling life insurance policies, commission claw back provisions, minimum cash

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<sup>94</sup> Federal Insurance Ombudsman 2018-19, "Annual Report Page Sequence," <http://www.fio.gov.pk/pdf/FIO%20Annual%20Report%202018-19%20.pdf>. 6, 7. (accessed on October 15, 2021).

<sup>95</sup> Ibid.:

*Jubilee Life Insurance Company limited 2016 and Faisal Bank. And Jubilee Life Insurance Company limited 2019 and HBL.*

<sup>96</sup> Abdul Razzaq Kemal, "Regulatory framework in Pakistan", *The Pakistan Development Review*, 2002, 41(4), 319-332.

values, minimum financial underwriting standards, and mandatory after-sale call-back requirements. The responsibility has been given to the insurer by the existing insurance regulatory framework for agents, who are also in charge of ensuring that the regulatory requirement for training and qualification is met.<sup>97</sup>

Corporate Insurance Agents Regulations, 2020 have been published for public opinion by SECP. The regulatory framework for corporate insurance agents, including bancassurance, is intended to be strengthened by proposed regulations in order to prevent mis-selling to prospective policyholders. The proposed Regulations provide greater information to prospective policyholders and customers, thereby strengthening the sales process.<sup>98</sup>

#### **4.5 Weaknesses in Legal Framework of Bancassurance in Pakistan**

Working together is necessary for the implementation of bancassurance, but integrating the commercial activities of two different industries is a difficult challenge. The sale of an insurance company's products is not under the direct control of the insurer under bancassurance. Managing marketing tactics may be more difficult. Targeting the appropriate clientele, for instance, might be challenging for insurance businesses. Bank personnel must become knowledgeable about insurance products, which add to their workload and training requirements.<sup>99</sup>

Bank advisers could be motivated by competing interests in the situation of several bancassurance agreements. They could favor one product over another for their own gain. Determining who should be held legally accountable in cases of

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<sup>97</sup> "SECP notifies Bancassurance Regulations 2015," *The News International*, last updated on August 04, 2015. <https://www.thenews.com.pk/print/54523-secp-notifies-bancassurance-regulations-2015>. (accessed on April 15, 2021).

<sup>98</sup> M. A. Zuberi, "SECP Proposes New Regulations for Insurance Agents," *Business Recorder*: Published on April 30, 2020. <https://www.brecorder.com/news/593508/>. (accessed on April 4, 2023).

<sup>99</sup> Corporate Finance Institute Team, "Bancassurance," *CFI Education Inc.* Updated on January 15, 2023. <https://corporatefinanceinstitute.com/resources/knowledge/finance/bancassurance/>. (accessed on April 5, 2023).

consumer complaints is another challenge. Banking institutions and insurance providers need to coordinate their goals in order to address the issues. In addition, insurance providers can train bank workers in sales. This improves communication and helps both parties reach their goals.<sup>100</sup>

## **5. Conclusion**

Bancassurance has become a crucial conduit for the marketing of insurance products. If correctly executed, this combination of the banking and insurance sectors can benefit all parties involved, including the clients, insurers and banks. Through this paper, an effort has been made to highlight the significant problems and difficulties banking partners encounter while implementing and experiencing the bancassurance concept. This paper sheds light on some of the most important developments in the sector of insurance in Pakistan. Although there is a substantial global market for global bancassurance and it is developing, the products' performance is not the same everywhere such as Europe, South America, Asia and Australia. It is clear that it is most popular in European nations where banks sell the majority of life insurance policies; nevertheless, the cross comparison in the UK and India, direct agents continue to sell the majority of the policies. Although there is still a great chance for bancassurance to serve the majority of the people in India despite the low insurance penetration rate, these opportunities come with a number of unique difficulties of all kinds.

One of the main issues facing Pakistan's bancassurance sector is client ignorance. The terms and conditions need to be carefully studied by client and, if necessary, clarified with the help of friends and family members. The distribution of individual life products by life insurers around the world has historically been handled by captive agency sales forces. A life insurance policy is sold, not purchased by a customer, and this phenomenon is a clear illustration of this fundamental and differentiating aspect of the life insurance industry. As a result, in order for insurance

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<sup>100</sup> Ibid.

sale to occur, a committed, educated and experienced professional must actively engage the potential clients, in order to assess their needs for financial protection and offer a suitable insurance policy to address those needs.

In general insurance, claim rejection refers to failure to comply with the terms or warranties of the policy, whereas in life insurance it refers to failure to disclose or hide a significant fact at the time the policy was issued. The insurers take use of this principle when dealing with individual life claimants and reject claims on the grounds of non-disclosure or concealing of information regarding health issues. The insurance is a contract of indemnity and based on the utmost good faith. When handling individual life insurance claims, some insurers overreach and deny on the grounds of hypertension, seasonal illnesses, or smoking habits that a policyholder forgot to disclose on the application form, which is typically filled out by their sales representatives. It is more difficult for bankers to persuade customers to buy insurance since they do not view it as a valuable asset, especially among rural customers. The trust aspect is crucial when it comes to financial transactions, thus a client may also be reluctant to purchase a product from a bank or a private corporation.

The bank workers' lack of training and knowledge about the insurance product is essential from the supply side as it may result in mis-selling or even the loss of business. As it may obscure the true benefits for both customers and businesses, the target-based strategy of banks presents a problem for insurance partners. Banks offer insurance plans from numerous firms, and because each has its own set of regulations, managing all the various relationships is difficult when using an open architectural distribution. For banks offering insurance, fierce rivalry between private and public players is another obstacle.

The success of bancassurance depends on the integration of banks' long-term strategies with insurance partners, which also take into account things like proper capital allocation in the bancassurance sector and therefore making full use of their

synergies. The achievement of company objectives will depend on these integrated synergies, which will also increase consumer pleasure by following the state current laws and regulations.

The study identified several trends, including the value of multi-tabs, the usage of different distribution channels, the significance of telemarketing, the bundling of insurance and banking products, digitalization, and the influence of technology. After carefully examining the demands and expectations of the target consumer, the research concludes that banks and insurance businesses in bancassurance should offer customer-centric products. With everything finished, Pakistan's Bancassurance, whose virtues have been established in other nations, should be able to develop rapidly in the years to come for the best practices.

## **6. Recommendations**

The paper recommends that in order to control mis-selling of bancassurance products, various actors must adopt certain course of action. These actors may include banks, consumers, insurance agents, insurance companies, legislators, regulators and the specialists. There is need to increase the earning potential by introducing fresh and unique bancaaaurance products. The majority of Pakistani banks are successful in earning money from the bancassurance sector. The majority of this revenue is currently earned by life and investment insurance products. Therefore, they should continue life and investment insurance products. There is a need to return to basics and begin selling modest price products with recurring commission revenue to banks and other distribution partners on an annual basis. The bancassurance channel must provide fresh, creative, and low-cost products. These products can be marketed via a variety of channels, including as branch banks, contact centers, sales representatives, cross-selling, and so on.

### **For Banking Sector**

1- Relationship managers must receive automatic recommendations to increase engagement if a branch is falling short of objectives. They must be facilitated day-to-day planning in accordance with renewal objectives. To be as effective as possible, provide relationship managers visiting the branch with a prioritized job list and a route map.

2- Banks can opt to sell complex items when they feel comfortable doing so, but they should prefer simpler ones to avoid making the wrong sales.

3- It has frequently been observed that after paying the first premium, policy holders fail to pay additional premiums, so bankers shouldn't push an insurance product on a customer without first determining what they need.

4- Banks have been recommended to create and put into practice a code of conduct to enhance the accountability of bank employees taking part in the marketing of outside products.

### **For Consumers**

1- A crucial recommendation is a loss prevention advice issued to an insured by an insurer that is deemed vital to prevent losing that insured's capital and money in the near future. The suggestions often need to be followed by the insured in order for the policy to be established. They are usually based on acknowledged and publicized safety and loss prevention standards or governmental requirements.

2- Developing the practice of saving, or making sure the policyholder sets aside a regular portion of his salary to save, can help him have the money he needs to pay the premium when it is due.

3- The most important recommendation is that before agreeing to any insurance coverage, consumers should first educate themselves. They must carefully read all the contents, and try to comprehend all the terms and conditions. It frequently happens, that lay persons do not understand what insurance is and they just fall into

the trap due to the influence of bankers and insurance providers and policy agents. Bankers receive substantial commissions for marketing these plans, so individuals should exercise caution. Likewise, there is additional responsibility upon the bancassurance providers and policy makers to keep in consideration the benefit of consumer who is a lay person and not much vigilant about the technicalities of complicated insurance policies.

### **For Insurance Agents**

1- Establish objectives for relationship managers and all branches. Give the relationship managers the tools they need to accomplish their daily goals. One of the most difficult tasks for bancassurance teams is keeping track of relationship managers' attendance at branches. It must be executed mechanically.

2- Establishing a relationship with the bank branch manager and personnel and fostering that relationship to generate leads. Prospecting, meeting, and doing quick needs analysis with walk-in bank clients.

3- Bankers' agents should focus on the necessity and requirements of a policy for that consumer rather than their own interests and commission.

### **For Insurance Companies**

1- Selling the appropriate policy, that is, the rule that adequately addresses customer's needs and conditions. A successful insurance sale requires clearly articulating the benefits so that the insured is compelled to maintain the policy.

2- An effective sales manager hires, develops, and supports their employees professionally. They also set weekly, monthly, or quarterly targets based on the team's performance to date.

3- The selling of third-party products must rigorously adhere to Shariah law and SBP rules, and all Islamic banks and conventional bank branches that practice Islam must have their agreements with third parties approved by the Shariah Boards.

4- Encourage market competition and protect customer choice.

### **For Legislators**

1- The creation of a committee to look into consumer complaints in order to make sure that issues are resolved quickly, fairly, and successfully. A consumer may feel more secure in a company if a complaint is resolved swiftly, which will reduce their propensity to patronize the rivals. Thus, it is important to convey to the policyholder that their coverage is a reliable and valued asset.

2- It is important to instill trust in the likelihood of a speedy resolution of the claims. The only way this is possible is if policyholders receive prompt service when making requests.

3- To ensure that customers may continue to access and use bancassurance or bancatakaful as a viable means of purchasing insurance and takaful products. Encourage ethical business practices that protect customers' interests by making sales based on their requirements, being transparent, and being more open.

### **For Regulators**

1- A contemporary and effective corporate sector, insurance, NBFCs, and capital markets are the goals of SECP, a regulator that was founded with those goals in mind. It has authority to conduct investigations and enact laws.

2- Whereas SBP oversees the regulation of banks, DFIs, exchange companies, and MFBs. SBP is essential to maintaining the financial sector's stability. The SBP Act, 1956 states that in its function as the nation's central bank and banking regulator, it



has the jurisdiction to ‘regulate the monetary and credit system of Pakistan and to foster its growth in the best national interest.’

3- Pay attention to what the customer has to say. They must listen even if the complainant is unable to address the issue.

### **For Specialists**

The specialists must create a business case for new wealth-related products or projects come under their duty. Assist in the establishment of the business operating model, which includes having the appropriate product propositions, policies, processes, and procedures in place and are conforming to the regulatory standards.

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