

**Insurance Authority**

**Takaful Insurance Regulations**

**The Insurance Authority's Board of Directors Resolution No (4) of 2010  
Concerning the Takaful Insurance Regulations**

**The Minister of Economy, Chairman of the Board of Directors of the Insurance Authority,**

**Having perused:**

- The Federal Law No. (6) of 2007 pertaining to the Establishment of the Insurance Authority and the Regulation of Insurance Business;
- The Federal Law No. (6) of 1985 regarding Islamic Banks, Financial Institutions and Investment Companies;
- The Implementing Regulations of the Federal Law No. (6) of 2007 issued under the resolution of the Insurance Authority's Board of Directors No. (2) of 2009; and

Based on the recommendation of the Insurance Authority Director General and the approval of the Board of Directors thereof,

**Has resolved to promulgate the following Regulations:**

**Article (1)**

**Terminology Definitions**

1. The following words and expressions wherever used herein shall have the meanings ascribed thereto, unless the context requires otherwise:

**Law** The Federal Law No. (6) of 2007 concerning the establishment of the Insurance Authority and the regulation of the insurance business.

**Implementing regulations** The Implementing regulations for the Federal Law No. (6) of 2007 issued under the resolution of the Insurance Authority's Board of Directors No. (2) of 2009.

**Authority or IA** The Insurance Authority established under the provisions of the Law.

**Board** The Insurance Authority's Board of Directors.

<b>Chairman</b>	The Chairman of the Insurance Authority's Board of Directors.
<b>Director General</b>	The Director General of the Insurance Authority.
<b>Company</b>	The Takaful Insurance company which is incorporated and practicing its business in accordance with the provisions of the Law, the Implementing Regulations and these Regulations, and whose all operations are compatible with the Islamic Shariah provisions.
<b>Takaful Insurance</b>	<p>A collective contractual arrangement aiming at achieving cooperation among a group of participants against certain risks whereby each participant pays certain subscription fees to form an account called the participants' account through which entitled compensations are paid to the member in respect of whom the risk has realized. The Takaful Insurance company shall manage this account and invest the funds collected therein against certain remuneration.</p> <p>All transactions of the Takaful Insurance company should be compatible with the Islamic Shariah provisions.</p>
<b>Shariah Supervision Committee</b>	The committee formed within the company to provide opinion on the transactions of the company and their conformity with the Islamic Shariah provisions.
<b>Shariah Controller</b>	A company employee appointed by the company's board of directors based on the recommendation of the Shariah Supervision Committee to audit the extent and manner in which the company's different functions implement the Shariah Supervision Committee's resolutions and opinions.
<b>Supreme Fatwa and Shariah Supervision Committee</b>	A Committee formed within the Insurance Authority and exercises the authorities and powers provided for herein and in the resolutions issued thereunder by the Authority.
<b>Participant</b>	An individual holding a participation membership policy and a Takaful Insurance contract, who undertakes to regularly pay the subscription fees, and

who, and his legal heirs or assignees, where assignment is allowable, shall have the right to receive compensations or benefits provided by the participants account within the company.

**Contribution**

The consideration which the participant undertakes to pay on basis of the donation (Tabarru') commitment for his participation in Takaful Insurance account with the company to compensate the damages or pay the benefits to the eligible beneficiary.

**Participation Membership Policy**

The policy containing key fundamentals and principles of Takaful Insurance applied by the company in its relation with the participants and which should be accepted by the participant upon participation.

**Takaful Insurance Policy**

The policy concluded between the company and the participant and containing the contract terms and conditions, the rights and obligations of both parties or the beneficiaries of the Takaful Insurance as well as any endorsement to this policy.

2. Save as provided for in item (1) above, the words and expressions included herein shall have the same meaning assigned thereto under Article (1) of the Law.

**Article (2)**

**Scope of Applicability**

1. The provisions herein shall apply to all Takaful insurance companies, incorporated or to be incorporated under the laws in force in the State so as to practice Takaful insurance business, as well as foreign Takaful insurance companies licensed to practice their businesses in the State, which are managed and doing the business in accordance with the Islamic Shariah provisions.
2. The provisions herein shall not apply to the companies operating in the free zones, except as otherwise provided for in the free zone laws and regulations.
3. As to matters not provided for herein, Takaful Insurance companies and their Takaful Insurance business shall be subject to the implementing regulations, bylaws, instructions, and resolutions issued by the Insurance Authority pursuant to the provisions of Law.

### **Article (3)**

#### **Practicing Takaful Insurance Business**

Takaful Insurance business shall be practiced exclusively by Takaful Insurance companies; conventional insurance companies may not practice Takaful Insurance activities, either directly by establishing internal independent entity or indirectly through insurance agent or broker.

### **Article (4)**

#### **Types of Takaful Insurance**

Takaful Insurance activities are classified into three types:

- a. Personal Takaful Insurance.
- b. Property Takaful Insurance.
- c. Liability Takaful Insurance.

### **Article (5)**

#### **Classes of Personal Takaful Insurance**

Personal Takaful Insurance includes the following classes:

1. Family Takaful Insurance of all forms.
2. Health Takaful Insurance of all forms.
3. Personal Accident Takaful Insurance associated with family Takaful insurance.

### **Article (6)**

#### **Classes of Property and Liability Takaful Insurance**

Property and Liabilities Takaful Insurance includes the classes referred to in Article (5) of the Implementing Regulations, provided that they do not include anything that contradicts Islamic Shariah provisions.

## **Article (7)**

### **Not allowing combining of Takaful Insurance Types**

1. The company may not combine the business of Personal Takaful Insurance on one hand, and the business of Property and Liability Takaful Insurance on the other.
2. The existing companies practicing both types described in item (1) above must rectify their status to be in line with this requirement within the remaining period of the period specified in item (2) of Article (25) of the Law.

This period is subject to any extension to the original period that may be prescribed.

## **Article (8)**

### **Management of Takaful Insurance Operations**

Risk management and investment operations associated with contributions shall be carried out by the company on the basis of Wakalah (proxy) or Wakalah and Mudaraba simultaneously.

The relation between the participant and the company shall be governed by the provisions of the Takaful participation policy.

## **Article (9)**

### **Takaful Insurance Participation Policy**

1. The company shall develop this policy to offer it to those who wish to participate in the participants' account for any type or class of Takaful Insurance. The policy must be signed by both parties and a copy should be given to the participant. The following shall be taken in consideration when preparing the policy:
  - a. This policy shall be separate from the Takaful Insurance policy, which must be consistent with the principles included in the participation policy;
  - b. The policy shall address the bases and rules governing the Takaful relationship between the participant and the company, including the legal nature of this relationship;
  - c. The policy shall elaborate that payments made by the participant are made as donation (Tabarru') obligation;
  - d. The policy shall name the account in which the participant will participate;

- e. The policy shall disclose the company's commitment to provide goodwill loan (Qardh Hasan) where the participants' account assets are insufficient to repay the obligations incurred on such account;
  - f. The amount of Wakalah fees due to company and the method of its calculation, as well as the share of the company from the Mudaraba proceeds or Wakalah fees for investing the participants' account and the method of calculating such proceeds or fees; and
  - g. Information on the company's policy for investing the portions allocated for investment from the contributions provided such policy is consistent with the Islamic Shariah provisions.
2. The policy mentioned in the previous clause shall be submitted to the Company's Shariah Supervision Committee for approval before offering it to those concerned.
  3. The said policy shall then be presented to the Insurance Authority for approval. After soliciting the opinion of the Supreme Fatwa and Shariah Supervision Committee, the Insurance Authority may object to the policy contents if incorporating any provisions in contrary to legal provisions or Islamic Shariah provisions, or if containing an explicit prejudice to the interests of the participants.
  4. The company must maintain a record of Takaful Insurance participation policies. Such record shall be subject to inspection and auditing by the Shariah Supervision Committee and the Insurance Authority.

## **Shariah Supervision Committee**

### **Article (10)**

#### **Formation of the Committee**

1. The company undertakes to form a committee to be called "the Shariah Supervision Committee". The committee shall consist of three members nominated and appointed as follows:
  - a. The committee members shall be nominated by the company's board of directors.
  - b. The candidates' names and qualifications shall be presented to the Insurance Authority forty five days prior to the meeting of the company's general assembly which will consider the nominations.

After soliciting the opinion of the Supreme Fatwa and Shariah Supervision Committee at the Authority, the company shall be notified of the

Authority's approval or objection. In case of objection, the company shall nominate a substitute to the disapproved candidate.

- c. The candidates' names shall be presented to the company's general assembly to approve their appointment as committee members and to inform the Authority of the names of those appointed as committee members within ten days after the general assembly meeting.
  - d. The Committee membership term shall be three renewable years.
  - e. The committee members shall elect a chairman and vice-chairman from amongst them. The chairman shall represent the committee before the company's board of directors, its general assembly, the Insurance Authority, and the Supreme Fatwa and Shariah Supervision Committee.
2. In case a committee membership seat becomes vacant, the company's board of directors shall appoint a member fill in the vacant membership to complete the term provided for in item (D), clause (1) herein; and shall inform the Authority accordingly. Such appointment shall be presented to the general assembly in its first subsequent meeting for approval.

## **Article (11)**

### **Conditions for the Committee Membership**

A candidate to be a member in the Shariah Supervision Committee shall meet the following requirements:

1. Should be a Muslim, enjoying the full legal capacity.
2. Should be recognized for his scholarship and knowledge of the Islamic Shariah provisions in general, and of the jurisprudence of Islamic financial transactions, in particular.
3. To be conversant with the modern financial and commercial transactions.
4. Not a shareholder, a member of the board of directors, or employee of the company.
5. A member may not combine membership in two Shariah supervision committee of companies.

## **Article (12)**

### **Undertakings of the Committee**

The committee undertakes the following:

1. Setting the basic Shariah rules for the company's operations.
2. Review all the company's transactions, the Takaful insurance products, contracts, and documents which the company deals with in order to ensure compatibility with the Islamic Shariah provisions; and approve same before placing same into practical use.
3. Review the Takaful insurance transactions and the investments conducted by the company, and show to what extent they are consistent with the Islamic Shariah provisions.
4. Approve or reject any activity carried out by the company if such activity is inconsistent with the Islamic Shariah provisions.

## **Article (13)**

### **Authorities of the Committee**

All Committee resolutions shall be binding to the company. The Committee shall have the right to access, at any time, all company's records, contracts, and documents; may require clarifications as it deems necessary to perform its tasks and the company's management should provide such clarifications. In case the Committee was not enabled to perform its functions, it must state such case in a report to the board of directors of the company. If the board of directors fails to meet the Committee's request, it must notify the Insurance Authority accordingly, in which case the Authority shall refer the issue to the Supreme Fatwa and Shariah Supervision Committee whose decision shall be binding over the company.

## **Article (14)**

### **Annual Report of the Committee**

The Shariah Supervision Committee shall provide an annual report to the company's general assembly summarizing the Committee's activities along with its observations on the company's transactions and how far the company is in compliance with the Shariah provisions.

The Committee's report should be read in the general assembly's annual ordinary meeting; and a copy thereof shall be provided to the Insurance Authority along with

the documents to be submitted to the Authority before the convening of the company's general assembly.

#### **Article (15)**

##### **The Committee's By-laws**

The company shall set, by a resolution of its board of directors, the by-laws for the Shariah Supervision Committee work. The by-laws shall state how the Committee will hold its meetings, what is the quorum, and how it takes decisions. However, the by-laws must provide that deputizing other Committee members to attend its meetings or to vote on the decisions is not permissible. The by-laws must specify the relation of the Committee with the company's various functions and with the Shariah Controller. A copy of the by-laws must be sent to the Authority for approval.

#### **Article (16)**

##### **The Shariah Controller**

Under a recommendation from the Shariah Supervision Committee, the company's board of directors shall appoint a staff member specialized in Takaful insurance to act as the Shariah Controller on the transactions inside the company.

The Shariah Controller shall review the company's transactions under the direct supervision of the Shariah Supervision Committee to ensure that the Committee opinions and decisions have accurately been implemented. The Shariah Controller shall perform his duties in coordination with the Committee. In addition, he shall assume the duties of the Committee secretary and report to it.

#### **Article (17)**

##### **Supreme Fatwa and Shariah Supervision Committee**

1. A supreme committee called (the Supreme Fatwa and Shariah Supervision Committee) shall be formed within the Insurance Authority of at least three members and no more than five members, to be referred to for the purpose of these Regulations as (the Supreme Committee).
2. Members of the Supreme Committee shall be appointed by a resolution of the Authority's board of directors. The members shall elect one of them as the chairman and another as vice-chairman.

3. To be appointed as a member in this Board, the candidate shall meet the same requirements provided for in article (11) herein, in addition to having experience in Shariah business in Takaful insurance or Islamic finance for a period of no less than three years.
4. The membership term shall be three renewable years.
5. A member in this committee may not be a member in any other Shariah Committee in Takaful insurance companies.

## **Article (18)**

### **Supreme Committee undertakings**

The Committee shall have the following powers:

1. Issue legal opinions (Fatwa) in the field of Takaful insurance and investment in terms of compatibility of transactions related thereto with the Islamic Shariah provisions. Such Fatwas shall be binding over the companies and their Shariah Supervision Committees.
2. **General oversight and inclusive Shariah control over the works of the Shariah Supervision Committees in the companies.**
3. Coordinate the Shariah opinions issued by the Shariah Supervision Committees.
4. Settle disputes that may arise between the Shariah Supervision Committees and the companies' boards of directors.
5. Adopt the Shariah criteria, which the Shariah Control Committees must comply with in performing their duties.
6. Determine the Shariah areas of insurance, where Takaful insurance companies may practice their businesses.
7. Review the articles of association of Takaful insurance companies to ensure that they are acceptable in terms of Shariah.
8. Collect the Fatwas and jurisprudence opinions with respect to Takaful insurance and investment businesses that are compatible with the Islamic Shariah provisions, classify, explain, and distribute the same to the Takaful insurance companies to serve as a reliable Shariah reference.

## **Article (19)**

### **Joint Meetings**

The Supreme Committee may invite any Shariah Supervision Committee for a bilateral or collective meeting for deliberations on issues falling under the responsibilities of such Committees.

## **Article (20)**

### **Supreme Board By-law**

The Insurance Authority shall set the by-laws for the Supreme Committee undertakings and forward same to the board of directors for approval.

## **Article (21)**

### **Accounting Books and Records, and Final Accounts**

The Board shall issue special instructions for Takaful insurance financial and accounting operations as follows:

1. The accounting policy to be followed by companies, the forms required to prepare the financial reports and statements including the forms for preparing the balance sheet and final accounts.
2. The bases for organizing accounting books and the data to be contained therein.
3. The records which companies are obligated to organize and maintain.
4. Statement and documents which companies should provide to the Insurance Authority.

## **Article (22)**

### **Participants' Accounts**

An existing company currently practicing all classes of Takaful insurance shall undertake to adopt complete separation between the personal Takaful insurance business on the one hand, and the property and liability Takaful insurance business on the other hand, in terms of technical, financial, and administrative aspects. In particular, there should be two accounts (or more) for the participants completely separated per the type of insurance practiced by the company.

The funds available in each account shall be allocated to meet the liabilities incurred by this account and the expenses for the account management.

### **Article (23)**

#### **The Account for the Family Takaful Insurance**

The participations in the family Takaful insurance shall be divided into two accounts:

- I. Investment Account:** to which the portion of participations allocated for investment in this type of Takaful insurance shall be transferred.
- II. Risk Coverage Account:** to which the portion of participations allocated for risk coverage in this type of Takaful insurance shall be transferred.

### **Article (24)**

#### **Accounts for Other Takaful Insurance Types and Classes**

1. One or more accounts called (Takaful Participant Account) shall be opened in the company per the non-family Takaful insurance types and classes. Accrued participations shall be recorded in such account(s), in addition to the investment revenues realized from investing the funds accumulated in the said account(s).
2. Due compensations and benefits from the participants' Takaful account shall be paid in accordance with the terms and conditions of Takaful insurance policies.
3. Inputs and outputs of such account(s) shall be determined in accordance with the company-established accounting rules which should be consistent with the insurance transactions accounting rules amended in accordance with Takaful insurance principles. A copy of such rules shall be sent to the Insurance Authority after having same approved by the Shariah Supervision Committee.
4. The assets of the participants' account should be completely separate from the company's assets, and should not include the deposit required in accordance with Article (42) of the Law.

## **Participants' Rights**

### **Article (25)**

#### **Sharing in the Participant Accounts' Surplus**

1. After soliciting the opinion of the Shariah Supervision Committee, the company shall establish the rules under which participants shall share in the surplus realized in the participants' accounts, either collectively for all accounts or individually for each account subject to complete separation between the family Takaful insurance accounts and the accounts of other insurance types and classes; and provided that participants in one account may not share in the surplus realized in the other account.
2. The surplus in the family Takaful insurance account shall be determined with the knowledge and approval of the company's actuary.
3. The company may retain a portion of the surplus to form a contingency provision to counter future contingent circumstances, in addition to the technical provisions provided for in the Law.
4. The company may not distribute profits to the shareholders from any surplus realized by the participants' accounts, except for the consideration collected by the company for managing such accounts as prescribed under the Takaful insurance participation policy.

### **Article (26)**

#### **Participation in the General Assembly Meetings**

1. After obtaining the approval of the Ministry of Economy and the Securities and Commodities Authority, as the case may be, the company shall develop by-laws defining the participants who have the right to attend the company's ordinary or extraordinary general assembly meetings of the company. This shall include setting the criteria to be met by the participant to have the right to attend such meetings, either in terms of the size of his contributions, the period of dealing with the company, or other criteria. Such by-laws shall be forwarded to the Insurance Authority for approval.
2. The persons mentioned in the previous clause shall be invited to attend the said meetings via registered mail, provided that they are provided with all documents presented to the general assembly.
3. The aforesaid participants shall have the right to attend and discuss without having voting rights in the meetings.

## **Article (27)**

### **The Actuarial Report on Reviewing the Family Takaful Insurance Account**

A participant in the family Takaful insurance account shall have the right to receive a copy of the Actuary's report on reviewing the account, and the company shall meet his request within ten business day.

## **Article (28)**

### **The Goodwill Loan (Qardh Hasan)**

1. In case the participant account assets are insufficient to meet the account liabilities, the company shall provide a goodwill loan (non-interest-bearing loan) to the participants' account.
2. The obligation to grant the goodwill loan shall be comprehensive subject to a maximum equal to the total of the company's shareholders equity.
3. The company shall have the right to recover this loan from the surplus(s) realized in subsequent periods whether in one payment or several installments as decided by the company's general assembly.
4. In case the company does not provide a goodwill loan to meet a loss realized in the participants' account(s), the company shall be notified by the Director General to do so within fifteen days from the date of notification. If the company fails to do so, the matter shall be referred to the Authority's board of directors to take a decision to suspend the company for the period the board deems appropriate.

## **Article (29)**

### **Takaful Reinsurance**

1. The company shall ensure that its outbound or inbound Takaful reinsurance business must be compatible with the Takaful insurance basic principles and in pursuance to the directives and decisions of the Shariah Supervision Committee.
2. The company shall cede the outbound reinsurance business to Takaful reinsurance or Takaful insurance companies. In case such companies do not have the adequate capacity, or due to the requirements of distributing the liabilities and risks to a proper number of companies, the company shall have the right to deal with reinsurance companies.

3. The company may share the risk liability with Takaful insurance companies or insurance companies inside and outside the State.

### **Article (30)**

#### **Zakat Fund**

1. The company shall establish a Zakat Fund to deposit the Zakat due on the company's transactions as permissible under its articles of association.
2. The Zakat Fund shall have an account independent from the other company's accounts, whether those related to the shareholders or participants. The Shariah Supervision Committee shall approve the method of managing the account
3. Disbursement from this account shall be made under a decision of the company's board of directors, and in accordance with the Islamic Shariah provisions and as approved by the Shariah Supervision Committee.
4. The board of directors of the company shall develop by-laws to regulate the operation and management of this Fund, provided that members appointed to manage it shall not receive any remuneration for their work in managing or supervising the Fund.
5. In all cases, the company must calculate the Zakat due on the shareholders and must announce it after the approval of the Shariah Supervision Committee thereon within the final financial statements for the fiscal year.

### **General Provisions**

#### **Article (31)**

##### **Breaching the Islamic Shariah Provisions**

Should it be evident that the company has carried out business inconsistent with the Islamic Shariah provisions, the company shall be notified by the Director General, after soliciting the opinion of the Supreme Committee, to rectify its status in line with the Islamic Shariah provisions within thirty days from the date of notification. If the company fails to do so, the matter shall be referred to the Authority's board of directors to consider suspending the company from doing business for the period the board deems appropriate. Anyone proved to have been involved in an intentional Shariah breach shall be held accountable.

## **Article (32)**

### **Transfer of the Company Control**

Change in control over the company may not be valid unless approved by the Director General of the Insurance Authority. The control over the company means having the capability whether directly or indirectly, to control the company's decisions and its financial and Takaful policies.

## **Article (33)**

### **Transfer of the Takaful Insurance Portfolio**

1. The provisions of the Law, in particular the provisions of Articles (71) and (72) thereof, shall apply to the procedures and method of transferring the Takaful insurance portfolio.
2. The Takaful insurance portfolio may only be transferred to another Takaful insurance company practicing the same type and class of the Takaful insurance as practiced by the company.

## **Article (34)**

### **Insurance Broker, Surveyor, Adjustor and Consultant**

1. Each insurance broker, surveyor, adjustor and consultant, associated with a specific Takaful insurance operation in a Takaful insurance company may request, through the same company, the opinion of the Shariah Supervision Committee in the company regarding the Islamic Shariah position on the operation. The Committee must provide them with its opinion through the company.

## **Article (35)**

### **Rectifying the Company's Status**

Subject to the provisions of Article (7) herein, the currently existing Takaful insurance companies should rectify their status in accordance with the provisions of these Regulations within a maximum period of one year from the date of these Regulations coming into force.

**Article (36)**

**Decision Making**

The Director General shall issue the required decisions to enforce the provisions of these Regulations.

**Article (37)**

**Publication and Enforcement of these Regulations**

These Regulations shall be published in the official gazette and shall come into force from the date of publication.

**Minister of Economy**  
**Chairman, Insurance Authority**