

Government of Pakistan

Ministry of Commerce

Islamabad, the 3rd September 2005

NOTI FI CATI ON

S.R.O. 905(1)/2005 – In exercise of the powers conferred by sub-section (1) of section 167 of the Insurance Ordinance, 2000 (XXXIX of 2000), read with clause(lxiv) of section 2 and the second proviso to section 120 thereof, the Federal Government, is pleased to make the following rules, the same having been previously published as required by subsection (1) of the said section 167, namely :

- 1. Short title and commencement.**-(1) These rules may be called the Takaful Rules, 2005.

(2) These shall come into force at once.
- 2. Definitions.** – (1) In these rules, unless there is anything repugnant in the subject or context, -
 - (a) **accept re-Takaful** includes risks from Takaful pools or re-Takaful pools managed by other Takaful or re-Takaful operators for inclusion in Takaful pools managed by the Takaful operator;
 - (b) **Bank** means the State Bank of Pakistan;
 - (c) **Central Shariah Board** means the Central Shariah Board constituted by the Securities and Exchange Commission of Pakistan under rule 33;
 - (d) **contribution** means Takaful charge or instalment payable by a participant;
 - (e) **Family Takaful** means Takaful for the benefit of individuals, groups of individuals and their families as elaborated in the provisions of the Ordinance pertaining to life insurance business;

- (f) **General Takaful** means Takaful other than Family Takaful;
- (g) **mudaraba based contract** means a Takaful contract based on the principle of mudaraba;
- (h) **Ordinance** means the Insurance Ordinance (XXXIX of 2000);
- (i) **participant** includes, where Takaful policy has been assigned, the assignee for the time being and, where he is entitled as against to participant Takaful Fund to the benefits of the policy, the legal heirs of a deceased participant;
- (j) **“Participants’ Investment Account (PIA)”** means the investment account of the participants under a Family Takaful plan;
- (k) **“Participants’ Investment Fund (PIF)”** means a separate fund comprising of the underlying assets representing the units of the PIA under a Family Takaful plan;
- (l) **“Participants Takaful Fund (PTF)”** means a separate risk pool to which the participants’ risk related contributions are paid and from which risk related benefits are paid out;
- (m) **“Participants’ membership documents (PMD)”** means the documents detailing the benefits and obligations of a participant;
- (n) **Principal Officer** means a person, by whatever designation called, appointed by a Takaful operator and charged with the responsibility of managing the affairs of the Takaful operator;
- (o) **re-Takaful** means an arrangement consistent with sound Takaful principles for re-Takaful of liabilities in respect of risks accepted or to be accepted by the Takaful operator in the course of his carrying on Takaful business and includes ceding risks from Takaful pool(s) managed by the Takaful operator(s) to one or more re-Takaful pool(s) managed by any other one or more Takaful operator(s) in line with Takaful principles;
- (p) **Shariah Board** means a Shariah Board constituted by a Takaful operator for its Takaful business under rule 34;
- (q) **Shariah compliant investments** means investment that adhere to principles and injunctions of Islam as laid down in Shariah (i.e., the Quran, Sunnah, Ijma and Qiya) and established by practice and usage and as approved by the Shariah Board of the Takaful operator;

(r) **Takaful benefit** includes any benefit, whether pecuniary or not, which is secured by a Takaful policy, and the word “pay” and other expressions, where used in relation to Takaful benefit, shall be construed accordingly;

(s) **“Takaful broker”** means a person who is permitted by the Securities and exchange Commission to carry on Takaful business as Takaful broker;

(t) **Takaful business** means business of Takaful whose aims and operations do not involve any element which is not in consonance with the injunction of Islam as laid down in the Shariah;

(u) **Takaful policy** includes any contract of Takaful for Family Takaful business or General Takaful business whether or not embodied in or evidenced by an instrument in the form of a participants’ membership document, and references to issuing a policy shall be construed accordingly;

(v) **Takaful operator** means a person who is permitted by the Securities and Exchange Commission to carry on Takaful business as Takaful operator ;

(w) **Wakala based contract** means a Takaful contract based on the principle of Wakala ; and

(x) **Window Takaful Operator** means a life insurer registered under the Ordinance and carrying out the business of Family Takaful under window operations within its corporate structure, and follows the rules applicable to other Takaful operators.

(2) The words and expressions used but not defined herein shall have the same meaning as are assigned to them in the Ordinance.

3. Classes of Takaful business.-(1) For the purposes of these rules, Takaful business shall be divided into the classes as specified in section 4 of the Ordinance.

(2) A Takaful operator may underwrite any or all classes of Takaful business provided that under each of the classes of Takaful business, approval shall be obtained from the Commission as to the permissibility of underwriting that class of Takaful business and the types of risks that may be permissible within each class. The objective of this being that risks of non-permissible classes of Takaful business such as which may not be in accordance with the principles of indemnification of losses or insurance of businesses of non-permissible items as defined by the Shariah Board may not be included in the Takaful operations.

4. Composite Takaful.-The Commission shall not grant registration to any applicant nor would it permit grant an existing insurer the permission to underwrite and to carry on the businesses both of Family Takaful and General Takaful conjointly.

5. Window products or Takaful operations by conventional insurer.-(1)Existing life and non-life or general insurance companies carrying on conventional business shall not be permitted to underwrite Takaful business or launch such products :

Provided that in case an existing non-life or general insurer wishes to transform its business into Takaful business, it shall be given a period of not more than one year from the date it start underwrite Takaful products, after which it would be required to underwrite Takaful products only. After this period, the licence of that insurer for underwriting conventional insurance business shall stand cancelled automatically. This period shall be meant to give such insurer time to establish itself in Takaful operations.

2. The Commission, after at least five years of the start of Takaful operations in Pakistan, may allow window Takaful operations in consultation with the Ministry of Commerce to conventional insurance companies, subject to such terms and conditions as may be recommended or specified by the Commission from time to time.

6. Requirement for carrying on business as Takaful operator.-Subject to these rules, Takaful business shall not be carried on in Pakistan by any person as Takaful operator who is not eligible under section 5 of the Ordinance and has not been granted a certificate of registration by the Commission under section 6 of the Ordinance.

7. Use of word “Takaful”.-No person other than a registered Takaful operator shall, without the written consent of the Commission, use the word “Takaful” or any other word implying similar meaning indicating that such person carries on Takaful business in the name, description or title under which it carries on business in Pakistan or make any representation to such effect in any bill-head, letter paper, notice or advertisement or in any other manner whatsoever .

8. Takaful operational model.-(1) The principal operational model for insurance risk management and the investment component shall be based on the Islamic concept of wakala and modarba, respectively.

(2) All contributions received under Family Takaful contracts shall be credited to the Takaful Business Statutory Fund. All such contributions shall be divided into the following components, the determination of each component being clearly and unambiguously defined in the participants’ membership documents (PMD), namely: -

(a) Investment component;

(b) risk related component; and

(c) Takaful operator’s fees.

(3) A separate Participants Takaful Fund (PTF) shall be created within the Takaful business Statutory Fund to which the risk related component of

contributions and Takaful operator' s fees shall be credited and from which benefits shall be paid out.

(4) The investment component shall be credited to one or more Participants' Investment Funds (PIFs) , the proportion to be credited to each PIF being defined in the PMD. Each PIF shall be divided into Participants' Investment Accounts (PIAs), a separate account being maintained for each PIA. Investment of funds may be made in consonance with the Islamic concept of the mudaraba, wakala or a combination of mudaraba and wakala at the option of the Takaful operator (or its Appointed Actuary in case of Family Takaful) and the Shariah Board as clearly spelled out in the participants' membership documents.

(5) All contributions received under General Takaful contracts, net of any Government levies, shall be credited to one or more Participants Takaful Funds (PTFs). A General Takaful operator may create a single PTF or separate PTFs for different classes of business.

9. Participants Takaful Fund.-(1) A PTF shall be a separate fund the purpose of which shall be the pooling of risks amongst the participants. The role of the Takaful operator shall be the management of the PTF and related risks. At the initial stages of the set-up of the PTF the Takaful operator and any of its shareholders may at their discretion make an initial donation or qard-e-hasna to the PTF. The objectives of the PTF shall be to provide relief to participants against defined losses as per the PTF rules and the PMD.

(2) The Takaful operator shall define the PTF rules which shall be in accordance with the generally accepted principles and norms of insurance business suitably modified with guidance by the Shariah Board of the Takaful operator. Any subsequent changes to the PTF rules shall also be approved by the Shariah Board.

- (3) The income of the PTF shall consist of the following, namely :-
- (a) Contributions received from participants (other than the portion transferred to the PIF under Family Takaful policies) including Takaful operator' s fees which should be a part of the contributions;
 - (b) claims received from re-Takaful operators and re-insurers;
 - (c) investment profits generated by the investment of funds and other reserves attributable to participants in the PTF;
 - (d) salvages and recoveries;
 - (e) qard-e-hasna by the shareholders fund to the PTF in case of a deficit;
 - (f) commission received from re-Takaful operators and reinsurers; and
 - (g) any donation made by the shareholders.
- (4) The outgo from the PTF shall consist of the following, namely:-
- (a) Losses settled related to participants risks and expenses directly related to settlement of claims such as surveyors' fees, etc, but not including any

office expenses. All expenses to be charged to the PTF (other than benefit payments) shall need to be defined in the PTF rules and the PMD;

- (b) re-Takaful and reinsurance costs;
- (c) Takaful operator's fees, which shall not be determined with reference to the surplus in the PTF;
- (d)
$$\frac{\text{a share of investment profits of the PTF as mudarib's share, or a percentage of the funds as wakala fees for investment management or any other combination thereof approved by the Appointed Actuary (in the case of Family Takaful operator) and Shariah Board of the Takaful operator;}}{\text{surplus distributed to participants; and}}$$
 return of qard-e-hasna to the Shareholders Fund ;

(5) Subject to the provisions of the Ordinance, technical reserves required to be set up in the PTF shall consist of all of the following reserves or any one of them, or any combination of two or more of them or such other reserves as the Appointed Actuary of the Takaful operator may require to be provided, namely :-

- (a) Unearned contributions reserves ;
- (b) incurred but not reported reserve ;
- (c) deficiency reserve ;
- (d) contingency reserve ;
- (e) reserve for qard-e-hasna to be returned in future ; and
- (f) surplus equalization reserve .

10. Shareholders Fund (SHF).-(1) A Shareholders' Fund shall be maintained for Family and General Takaful business, on similar basis, as per the requirements under the Ordinance and the Securities and Exchange Insurance Rules, 2002, for life insurers, and non-life insurers, respectively. The Shareholders Fund shall be maintained under the guidelines provided by its Shariah Board and Central Shariah Board. The SHF shall consist of the paid-up capital and undistributed profits to the Shareholders.

(2) In the case of General Takaful operator, the income of the Shareholders Fund shall consist of the following, namely: -

- (a) Takaful operator's fees, which shall not be determined with reference to the surplus in the PTF;
- (b) profit on the investment of the SHF; and
- (c) proportion of the investment profit generated by the investment of the PTF or the fees for investment as per the PTF rules and the PMD.

(3) The expenses of the Shareholders Fund shall consist of all the expenses related to the Takaful operator other than those mentioned in the PTF rules and the PMD and shall include all marketing as well as administrative, investment and operational expenses, except commissions or over-riders paid to the business intermediaries, benefit payments and related expenses such as surveyors' fees.

(4) The shareholders must undertake to discharge unconditionally all the contractual liabilities of the PTF, but their liability in this regard shall not exceed the SHF.

11. Qard-e-hasna.-When the PTF including reserves are insufficient to meet their current payments less receipts, the deficit shall be funded by way of an interest-free loan (qard-e-hasna) from the SHF.

12. Relationships.-(1) For the risk sharing portion the relationship of the participants and of the Takaful operator shall be directly with the PTF. The Takaful operator shall act as the wakeel of the PTF and the participants shall pay contributions to the PTF.

(2) Being members of the PTF, the participants shall be entitled to the benefits as per the PTF rules and the PMD.

(3) The shareholders shall provide an undertaking to the PTF to provide the members benefits in the event that there is a deficit in the PTF at any point by giving a Qard-e-hasna to the PTF. The shareholders shall, however, have the right to recover the Qard-e-hasna payments to the PTF from future surpluses in the PTF.

(4) The other relationship with the Takaful operator shall be that of either mudarib or wakeel or both, where in the case of the PTF, the Takaful operator shall also act either as mudarib or wakeel or both to the PTF. Further in the case of the Family Takaful plans with a savings element, the Takaful operator shall also act either as mudarib or wakeel or combination of mudarib or wakeel relating to the PIF.

13. Payment of losses.-(1) The Takaful operator shall, on the basis of set rules and regulations to be defined for the PTF and in the PMD, pay the losses of participants of the fund from the same fund as per its rules. Besides this, all expenses that shall be incurred for providing Takaful benefits such as re-Takaful contributions shall also be met from the same fund.

(2) The PTF rules shall lay out the broad terms and conditions under which claims and other benefits shall be payable and conditions and limitations which shall be applicable. The PMD shall contain specific details related to the risks covered for a specific risk and member.

(3) The PTF as well as PMD for each class of Takaful business shall be approved by the Shariah Board of the Takaful operator and after its approval the same shall be filed with the Commission and unless objected to in writing within fifteen days of such filing by the Commission the same shall be assumed to be approved and remain in force and if objected to in writing the objections shall be removed by the Takaful operator to the satisfaction of the Commission.

14. Sharing of surplus.-(1) At the end of each financial year the Takaful operator shall evaluate the assets and liabilities of the PTF and determine whether the operation for that particular period had produced a surplus or a deficit for sharing amongst the participants.

(2) The determination of surplus in the PTF shall be done at least once each accounting year.

(3) The determination of surplus shall be done by the Appointed Actuary for a Family Takaful operator; and by the Management of General Takaful operator. Such surplus shall be determined by carrying out evaluation as at the date of such determination.

(4) Surplus at each valuation date shall be made up of technical results and investment returns related to the PTF. Surplus shall arise from the total contributions paid by the participants to the PTF less the total value of claims paid (less claims received from re-Takaful or reinsurance and recoveries made) to them for the risks covered under the PTF, less Takaful operator's fees charged related to Takaful operations managed by the Takaful operator, less commission paid to the intermediaries and the change in the technical reserves.

(5) Takaful operator may hold a portion of the surplus as a contingency reserve (over and above the technical provisions). The rest of the surplus shall be distributed to participants in proportion to the contributions to the PTF net of any risk related claims, which they may have received during the intervaluation period.

(6) In the case of General Takaful business the distribution of surplus shall be after each valuation. Contracts completing their risk period in the accounting year for which the valuation is done shall be taken into account for surplus distribution based on the results of the previous valuation.

(7) In the case of Family Takaful business the surplus distribution may be done after each actuarial valuation or it may be distributed only to those participants who actually leave the risk pool by way of termination of membership which may be due to the payment of benefits as per the PMD or otherwise. The determination of surplus shall consider the method of surplus distribution.

(8) A Takaful operator may compute the distributable surpluses on the basis of the combined results of all the classes of business or calculate the surpluses separately for each class.

(9) The distribution of surpluses to participants may be carried out more frequently than yearly, depending on the administration and computer systems of the Takaful operator.

(10) The Board of Directors, with the consent of the Shariah Board of the Takaful operator shall initially set out the detailed mechanism for the distribution of such surplus, and the frequency of distributions made annually, or more frequently after the technical evaluation of assets and liabilities. The mechanism shall form a part of the PTF and shall also be mentioned in the PMD.

(11) The Takaful operator may distribute surplus either in cash or adjust against future contributions or in the case of Family Takaful contracts, credit the surplus to the PIA. However in the case that a member does not wish to continue as a participant in the PTF it shall be necessary to pay surplus to such member based on his entitlement.

(12) If a participant wishes to donate its surplus for social or charitable purposes, this shall be done by the Takaful operator.

15. Deficit .-In case of a deficit in the PTF, the Takaful operator shall undertake to give Qard-e-Hasna to the PTF to make good of the deficit. The Qard-e-Hasna may be recovered from future surpluses without any excess on the actual amount given to the PTF.

16. Management and marketing expenses.-(1) All the administrative and management expenses of the Takaful operator, except those enumerated under sub-rule (4) of rule 9 , shall be borne by the shareholders in consideration of receiving a stipulated proportion of the gross contributions to the PTF by way of Takaful operator fee.

(2) The shareholders shall be responsible for all expenses of management and marketing, etc. Shareholders' income shall include the Takaful operator fee and investment management fee or share, for the PTF and the PIF and investment income on the SHF. Takaful operator fees to be charged and the investment management fee or share shall be explicitly defined in each PMD and Takaful contract.

(3) All expenses of Takaful business shall form part of the expenses of Takaful Business Statutory Fund for Family Takaful operators; and Shareholders Fund for General Takaful operators.

17. Funds.-(1) A Takaful operator shall maintain and administer two funds, one to be known as the Participants Takaful Fund (PTF); and the other the Shareholders Fund (SHF). Further in the case of Family Takaful plans, a Participants' Investment Fund (PIF) related to the Participants' Investment Account (PIA) shall also be maintained;

(2) For Family Takaful business, the PTF, PIF and PIA shall be linked to the Takaful Business Statutory Fund.

18. Participants' Investment Fund (PIF).-(1) In the case of Family Takaful plans, a portion of the contributions each year shall be invested to build up surrender values for the participants. These shall be maintained in the form of units for each participant in a Participants' Investment Account (PIA). The underlying assets against these units shall be maintained in a separate fund to be called the Participants' Investment Fund.

(2) The income and expenses of the PIF shall be maintained separately and unit price shall be determined at least once every month.

19. Investment management of funds.-Investment of participants contributions within the PTF as well as in the PIF shall be managed under a wakala contract, a mudaraba contract or a combination contract as determined to be sound and workable by the Shariah Board of the Takaful operator. The Takaful operator shall set the fee structure and the profit sharing ratio on the investment management based on the advice of the Shariah Board and the Appointed Actuary, if any.

20. Product design.-A Takaful product shall be based on the principle of wakala or mudaraba or both. The Appointed Actuary of the Family Takaful operator shall ensure that the products are sound and workable whereas the Shariah Board of the Takaful operator shall ensure that these conform to the Islamic principles.

21. Deposits.-(1) A Takaful operator shall at all times maintain a deposit with the State Bank of Pakistan in accordance with the provisions of section 29 of the Ordinance.

(2) Any such deposit shall be made in cash or instrument of an approved Islamic financial institution. This deposit shall be marked as a lien to the State Bank of Pakistan.

22. Shareholders funds under capital or equity raised by the sponsor or Takaful operator.-(1) For a Takaful operator, the Shareholders funds shall be maintained only in securities or in a manner which is not against Islamic principles and shall comprise mainly of securities which are approved by the Shariah Board of the Takaful operator.

(2) All income accruing and receivable in respect of a deposit shall be payable to, and receivable by, the Takaful operator making the deposit.

(3) The Takaful operator who has made a deposit under this rule may at any time substitute assets comprising the deposit cash and securities as may be specified by the Shariah Board.

23. Books and records of Takaful business.-(1) Every Takaful operator shall maintain proper books and records of its business. The provisions of section 45 of the Ordinance shall apply to all Takaful operators.

24. Establishment and maintenance of Participants Takaful Funds, and allocation of surplus.-(1) Every Takaful operator shall establish and maintain a Participants Takaful

Fund in respect of the class or each of the classes of Takaful business carried on by the Takaful operator in Pakistan so far as that business relates to policies issued in Pakistan.

(2) There shall be paid into a Participants Takaful Fund all receipts of the Takaful operator properly attributable to the business to which the Participants Takaful Fund relates (including the income of the Participants Takaful Fund), and the assets comprised in the Participants Takaful Fund shall be applicable only to meet such part of the PTF' s liabilities and expenses as is properly so attributable.

(3) In the case of a Participants Takaful Fund established in respect of Family Takaful business, no part of the Participants Takaful Fund shall be allocated by way of Takaful benefits to participants except with the approval of the Appointed Actuary and out of a surplus of assets over liabilities as shown on the last statutory valuation of the Participants Takaful Fund and on the making of any such allocation that surplus shall be treated for purposes of this rule as reduced by the amount allocated.

(4) In the event of winding up, assets comprised in the deposit made by a Takaful operator under these rules shall be treated as assets of the Participants Takaful Fund established by the Takaful operator, and sub-rule (2) shall apply to those assets accordingly. In the event of winding up and if at the same time the Participants Takaful Fund is in deficit, the deposit should first be made available to meet that deficit. Only the left over shall be reimbursed to the shareholders.

(5) A Participants Takaful Fund established by a Takaful operator for any class of business shall, notwithstanding that the Takaful operator at any time ceases to carry on that class of business in Pakistan continue to be maintained by the Takaful operator so long as the Takaful operator is required under these rules to maintain proper books and records for policies belonging to that class.

25. Requirements as to assets of PTF.-(1) The assets of the PTF shall be kept separate from all other assets of the Takaful operator, and shall not include assets comprised in a deposit under these rules, nor any amounts on account of goodwill, the benefit of development expenditure or similar items not realizable apart from the business or part of the business of the Takaful operator.

(2) The Commission may, in respect of assets of the PTF, require a Takaful operator.-

(a) not to make investments of a specified class or description; and

(b) to realize, before the expiration of a specified period or such extended period as the Commission may allow, the whole or specified proportion of investment of a specified class or description held by the Takaful operator when the requirement is made.

26. Solvency requirement.-For the purposes of solvency requirement, subject to sections 32 to 39 of the Ordinance, all investments out of the Takaful operator and Participants Takaful Funds shall be made in the modes and securities approved by the Shariah Board of the Takaful operator.

27. Investment guidelines.-(1) The Takaful operator shall be required to invest his available funds in his PTF and PIF in the modes and products that adhere to principles established by the Shariah and all such modes and products shall be approved by the Shariah Board of the Takaful operator.

(2) Limitations in terms of percentage investments in different Shariah compliant investments shall be issued by the Commission from time to time as new instruments become available in the market.

(3) The following guidelines shall be followed for investments of the surplus funds in the PTF, namely:-

(a) Investment in Shariah compliant Government securities.-Any Shariah compliant Government instrument such as Islamic bonds and securities restricted to eighty per cent of the funds; and

(b) Investments in immovable property.-The Takaful operators shall be allowed to invest in immovable property subject to the following conditions, namely:-

(i) the use and intended use of the property should be in compliance with the Islamic principles; and

(ii) return on rented property may be in the form of fixed rent but in case of delayed payments penalty may be charged and the penalty amount shall be given to charity.

(c) Investment in Joint Stock Companies.-The Takaful operator may invest its funds in joint stock companies. However, investments in non-Shariah compliant preferred stocks, debentures and interest based redeemable capital securities are not allowed. For investments in the common stocks of joint stock companies, the following guidelines should be followed in consultation with the Shariah Board, namely:-

(i) The main business of the investee company must not violate Shariah. Therefore, it is not permissible to acquire the shares, debentures or certificates of the companies providing financial services like conventional banks or the companies involved in business prohibited by Shariah like alcohol production, gambling or night club activities, etc;-

(ii) the Shariah Board of the Takaful operator shall take into consideration factors such as the proportion of income of the investee company from

interest bearing accounts or non-Shariah based activities, the debt to equity ratio and cash or cash equivalents of the investee company; and

(iii) investment decision shall be based on fundamental value of the companies instead of short-term speculations.

(d) Investments in redeemable capital.- The Takaful operator may also make its portfolio investments through various mutual funds operating under the Shariah principles and approved by the Commission. Before making any investment therein, the Takaful operator shall have the procedures and practices being followed by such funds scrutinised by its Shariah Board.

(e) Investments in redeemable capital.-The Takaful operators may invest their funds in Shariah compliant instruments like Musharika Certificates, Term Finance Certificates (TFCs), Participation Term Certificates (PTCs), etc. However, in case of investment in redeemable capital it shall be necessary that the certificates are issued in compliance with the Islamic injunctions and the scheme of their issue be examined by the Shariah Board of the Takaful operator. The basic conditions as laid down earlier for investments in the common stock of joint stock companies should also be followed.

(f) Placement of excess funds with banks and Islamic financial institutions.-

The Takaful operators may invest a portion of their funds in liquid or short notice deposits schemes of Islamic banks and their branches or other Islamic financial institutions, placements in PLS saving accounts of Islamic banks and placement in current accounts of traditional banks without any return thereon.

(g) Financing under Islamic modes through the Islamic banks and financial institutions.-The Takaful operators may make arrangements with the Islamic banks operating in Pakistan to directly finance under musharika, murabaha, ijara (lease), salam, istisna contracts approved by the Commission.

28. Re-Takaful.-(1) The Takaful operator shall ensure that the re-Takaful and reinsurance arrangements are consistent with the sound Takaful principles and are as per the guidelines provided by its Shariah Board.

(2) The provisions of section 41 of the Ordinance and rule 15 of the Securities and Exchange Commission Insurance Rules, 2002, shall also apply to Takaful business.

(3) In the event that the capacity provided by a Shariah complaint re-Takaful operator is not sufficient to support the business strategy of the Takaful operator, the Takaful operator, under advice of its Shariah Board, may be allowed to enter into re-Takaful and reinsurance contracts with conventional reinsurance companies till such time that proper re-Takaful arrangements are available.

(4) In the case of a Takaful operator the compulsory cession to the Pakistan Reinsurance Company Limited (PRCL) shall not be applicable. However, where a share is offered to a conventional reinsurance company, in such a case it shall be necessary to first offer this to PRCL as per the requirements of the Ordinance.

(5) The Takaful operator may be permitted by the Commission to share risks with other Takaful operators within and outside Pakistan.

29. Acceptance of risk by Takaful operator.-(1) Subject to sub-rules (2) and (3), no Takaful operator shall accept any risk in respect of any general business unless and until the contribution payable is received by the Takaful operator or is guaranteed to be paid by such person.

(2) Where the contribution payable under sub-rule (1) is received by any person, including a Takaful agent or a Takaful broker, on behalf of a Takaful operator, such receipt shall be deemed to be receipt by the Takaful operator for the purposes of that sub-rule and the onus of proving that the contribution payable was received by a person, including a Takaful broker, who was not authorized to receive such contribution shall lie on the Takaful operator.

(3) Any refund of contribution, which may become due to a participant on account of the cancellation of a policy or alteration in its terms and conditions or for any other reason shall be paid by the Takaful operator, from the PTF, directly to the participant and a proper receipt shall be obtained by the Takaful operator from the participant and such refund shall under no circumstances be paid or credited to any other person, including a Takaful broker.

30. Control of forms of proposal, policies and brochures.-(1) The Commission may by notice in writing require a Takaful operator to submit the forms of proposal and policies for the time being in use by the Takaful operator, and any brochure which is for the time being in use there by the Takaful operator for describing the terms or conditions of, or the benefits to be or likely to be derived from, policies; and where the whole or part of any such forms or brochure is not in Urdu or English there shall be submitted with it a translation in the Urdu or English.

(2) A requirement under this rule, unless it is otherwise provided therein, shall apply to all such forms and brochures as aforesaid coming into use after the making of the requirement and before the Commission notifies the Takaful operator that the requirement is withdrawn.

(3) If it appears to the Commission, after affording the Takaful operator an opportunity of being heard that any such form or brochure as aforesaid contravenes or fails to comply with any provision of these rules or is in any respect likely to mislead, it may, by notice in writing, direct the Takaful operator to discontinue the use of the form or brochure either forthwith or from a date specified in the notice.

Explanation.-For the purpose of this rule, the expression “brochure” includes any leaflet, circular or similar advertising matter, whether printed or not.

31. Shariah compliance audit.-Takaful operator shall appoint a Shariah compliance auditor who will conduct its audit for each accounting period.

32. Accounting regulations.-The regulations and statements under section 46 of the Ordinance shall apply to Takaful business with appropriate modifications based on the advice of the Shariah Board of the Takaful operator.

33. Central Shariah Board.-A Central Shariah Board (CSB) may be appointed by the Commission for advice on any aspect of Takaful operations.

34. Shariah Board.-(1) Each Takaful operator shall appoint a Shariah Board (SB) of not less than three members which shall be responsible for the approval of products, documentation as well as approval of all operational practices and investment of funds which shall be filed with the Commission.

(2) Since the Shariah scholars on the religious boards carry great responsibility, the Takaful operator shall appoint only high calibre scholars who are specialized jurists in fiqh almu’ amalat (Islamic commercial jurisprudence) to such Boards. In addition, they shall have knowledge of modern financial dealings and transactions.

(3) The Takaful operator shall submit to the Commission details of the members of its Shariah Board at the time of commencing Takaful business and at later dates if there is a change in the composition of the Shariah Board. The Commission may within thirty days of such submission, based on reasonable grounds, require a Takaful operator in writing to reconstitute its Shariah Board.

35. Meeting between Central Shariah Board and Shariah Boards.-The Central Shariah Board may hold meetings with the members of the Shariah Boards of all Takaful operators, individually or jointly, anytime it deems fit to discuss development of Takaful business and also may hold such meetings on the request of Shariah Board of the Takaful operators.

36. Agent training.-Each Takaful operator shall include in its agent training course, a classroom course on Takaful concepts of a minimum of eight hours duration. Every agent of the Takaful operator intending to sell Takaful business shall be required to attend such course.

37. Business in rural areas.-To ensure a steady growth of Takaful business in all parts of Pakistan, the Takaful operator shall be encouraged to market Takaful products effectively in rural areas.

38. General.-(1) The provisions of the Ordinance, the Insurance Rules, 2002, and the Securities and Exchange Commission (Insurance) Rules, 2002, shall also be applicable in addition to these rules.

(2) In case of any conflict between these rules and the Insurance Rules, 2002, and the Securities and Exchange Commission (Insurance) Rules, 2002, the provisions of these rules shall prevail.

F.No.1(55)/ 2003-Ins.II

(Munawar Akhtar Islam)
Deputy Secretary