

THE INSURANCE ACT  
(CAP.394)

**REGULATIONS**

*(Made under section 167)*

THE INSURANCE (TAKAFUL) REGULATIONS, 2014

PART I

PRELIMINARY

Citation                    **1.** These Regulations may be cited as the Insurance (Takaful) Regulations, 2014.

Interpretation            **2.-(1)** In these Regulations, unless the context requires otherwise:

Cap.394                    “Act” means the Insurance Act;

“takaful” means a form of Insurance that is compatible with the principle of the Shari’ ah whereby a group of persons agree to support one another jointly against a specified loss;

“takaful taa’wuni” means a concept of mutual cooperation that represents the true Islamic cooperative insurance scheme;

“tabarru” means donation, gift, or charitable contribution primarily intended to assist others in whatever form;

“TIRA” means Tanzania Insurance Regulatory Authority;

“contribution” means an amount payable by a person to an operator under a takaful contract whereby participants pays to the takaful fund for the purpose of mutual protection and assistance;

“conventional insurance” means life or non-life insurance under the insurance;

“family takaful” means takaful for the benefit of individuals, groups of individuals and their families;

“general takaful” means takaful other than family takaful;

“mudharabah based contract” means a takaful contract based on the principle of mudharabah;

“operator” means a takaful operator, authorized under these Regulations;

“participant” means a person who participates in a takaful scheme and to whom a takaful contract is issued;

“participant investment fund” means a separate group of assets forming a sub-fund of a statutory fund of a family takaful operator which is to be used as a basis for determination of the benefits payable under a family takaful contract;

“participant takaful fund” means-

- (a) in the case of a family takaful operator, a sub-fund of a statutory fund into which the participant’s risk related contributions are paid and from which risk related benefits are paid out; and
- (b) in the case of a general takaful operator, a separate fund set up into which the participant’s risk related contributions are paid and from which risk related benefits are paid out;

“participants’ membership documents” means the documents detailing the benefits and obligations of a participant under a takaful contract;

“qard hasan” means benevolent loan that is devoid of interest without any share in profit that accrues from the use of such funds;

“shariah supervisory board member” means a person appointed by an operator under these Regulations a member of the Shariah Supervisory Board of the Operator;

“takaful benefit” includes any benefit, whether pecuniary or otherwise, which is secured by a takaful contract;

“takaful policy” means any policy of family takaful or general takaful;

“takaful operator” means a registered insurer who is authorized by the TIRA to

carry on takaful business and not conventional insurance business;

“mudharabah based contract” means takaful contract based on a trust partnership between takaful operator who is appointed to manage the takaful business by the participants who act as financiers, investors, or fund contributors;

“mutual indemnification” means the cooperative and collaborative element of takaful where the participants mutually provide insurance cover for one another in the event of any mishap;

“wakala based contract” means a takaful contract based on the principle of wakala;

“Shariah Supervisory Board” means a board constituted by a takaful operator for its takaful business and;

“shariah compliant investment” means investment that adheres to principles and injunctions of Islam as laid down in shariah and as approved by the shariah supervisory board of the takaful operator;

“underwriting policy” means policy used to determine the extent of risk taking of insurance operators against payment of premium;

“underwriting surplus” means amount that remains after deducting all expenses and management fees for the administration of the takaful fund and the claims made by the participants from the contributions to the fund.

“takaful business statutory fund” means .....

## PART II REGISTRATION AND LICENCING

Registration and  
licensing

**3.**-(1) An application for authorization as a takaful operator shall be made to TIRA in such form along with such documents and information as may be specified from time to time.

(2) In considering an application for authorization, the Commissioner may require the applicant to furnish such further information or clarification as it deems necessary.

(3) Any subsequent change in the information provided to the Commissioner at the time of filing of application under sub-rule (1) shall be intimated to the Commissioner within fourteen days of the occurrence of change.

(4) The applicant shall, if so required, appear before TIRA for a representation through an officer duly authorized for this purpose in writing by the board of directors of the applicant.

Grant of  
registration

**4.-(1)** Where the Commissioner is satisfied that the applicant is eligible for authorization and has complied with the requirements specified in these Regulations it shall grant a certificate of authorization to the applicant.

(2) The certificate of registration shall expire on the 31<sup>st</sup> day of December of the year of registration.

Refusal to grant  
registration

**5.-(1)** No application for authorization shall be refused without giving an applicant opportunity of being heard.

(2) A decision to refuse to grant authorization to an applicant shall be communicated to the applicant in writing stating reasons for refusal.

(3) An applicant who is aggrieved by the decision to refuse to grant a certificate of authorization may apply, within a period of thirty days from the date of receipt of such communication to the Commissioner for review of its decision.

(4) On receipt of application, the Commissioner shall review its decision and communicate its findings in writing, to the applicant within thirty days and the decision of the Commissioner in this regard shall be final.

Revocation of  
license

**6.-(1)** The Commissioner may by order suspend or revoke a certificate of authorization of an operator either wholly or in respect of a class of business, as the case may be, if it is satisfied that-

(a) the operator is carrying on operations in a manner which is not approved by its shariah supervisory board;

(b) the operator has not commenced business within twelve months after

- being authorized;
  - (c) the operator has ceased to carry on takaful business;
  - (d) the operator has failed to maintain a surplus of admissible assets liabilities in each participant takaful fund, in case of general takaful business in accordance with the provisions of these Regulations;
  - (e) the operator has failed to comply with solvency requirements in case of family takaful;
  - (f) the operator is carrying on its takaful business in a manner likely to be detrimental to the interests of its Participants;
  - (g) the operator is contravening or has contravened the provisions of the Act or these Regulations;
  - (h) the operator has furnished false, misleading or inaccurate information or has concealed or failed to disclose material facts in its application for authorization; and
  - (i) it is in the public interest to cancel the authorization.
- (2) No order shall be made pursuant to sub-regulation (1) without giving the operator a reasonable opportunity of being heard.

Restriction to operate both takaful and conventional insurance

**7.-(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:

(2) Where 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 starts to underwrite takaful products following which it shall be required to underwrite takaful products only.

(3) On expiry of the period referred to in sub-regulation (2), the licence that insurer for underwriting conventional insurance business shall stand cancelled automatically.

Use of brokers and agents

**8.** A takaful operator may appoint agents or accept business from brokers, he may also appoint appropriate surveyors, actuaries and consultants

with requisite skills and knowledge for the purpose of inspecting, examining and analyzing technical aspects of takaful claims.

Takaful brokers  
and agents  
training

**9.** Every takaful operator has an obligation to train his agents and brokers in takaful sales knowledge for an accumulated minimum of forty (40) hours.

Conditions  
applicable to  
operators

**10.** An operator shall-

- (a) appoint a shariah supervisory board in accordance with the provisions of these Regulations;
- (b) appoint a shariah compliance officer in accordance with the provisions of these Regulations;
- (c) in carrying on family takaful business, set up two or more statutory funds exclusively for takaful business;
- (d) in carrying on family takaful business, divide each statutory fund set up for takaful business into a number of sub-funds namely participant takaful funds, an operator sub-fund and in case of investment contracts a participant investment funds;
- (e) in carrying on general takaful business, set up one or more participant takaful funds and an operator fund;
- (f) ensure that all investments made for the purposes of takaful business are made in accordance with the investment policy approved by its shariah supervisory board;
- (g) ensure that assets and liabilities of each participant takaful fund and each participant investment fund are segregated from its other assets and liabilities;
- (h) ensure that receipts to and payments from each participant takaful fund are made in accordance with the provisions of these Regulations;
- (i) ensure that the participant takaful fund, at all times, carry reserves as may be specified by the Commissioner;
- (j) ensure that in case of family takaful, each statutory fund is in

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compliance with shari'ah principles and solvency requirements under the Act;

- (k) ensure that the benefits and obligations of each participant under a takaful contract are documented in a participant membership document;
- (l) manage each participant takaful fund in accordance with the provisions of these Regulations;
- (m) formulate detailed policies for each participant takaful fund with the approval of its shariah supervisory board;
- (n) provide funds by way of qard hassan to the participant takaful fund in accordance with the provisions of these Regulations;
- (o) determine surplus or deficit in each participant takaful fund in accordance with the provisions of these Regulations;
- (p) set the fee structure and the profit sharing ratio for investment management in accordance with the provisions of these Rules on the advice of the shari'ah supervisory board and in case of family takaful with the approval of the appointed actuary also; and
- (q) accept risk under re-takaful or participate on co-takaful basis, only where the policy is issued by an operator as takaful contract under these Regulations.

Fair dealing

**11.** An operator shall-

- (a) carryout activities according to the principle of fair competition;
- (b) not with intent to defraud or deceive, distribute any material or make any statement to a person on the extent to which the products or services of other takaful operators are put to disrepute;
- (c) refrain from criticizing one another with a view to securing business;
- (d) refrain from using judgements which may bring other takaful operators into disrepute.

Appointment of

**12.**-(1) A takaful operator shall appoint a principal officer who shall be

principal officer responsible for the administration of the company.

(2) Appointment of the principal officer shall require approval of the Commissioner.

Qualifications of the principal officer

**13.**-(1) Every takaful operator shall employ a full time principal officer who shall-

- (a) be a holder of a degree in Islamic finance or insurance with an advanced diploma in takaful;
- (b) be with written and verbal communication in English language; and
- (c) be a person with eight years post qualification experience in the insurance industry, five years of which in a managerial position.

Transformation of conventional insurance into takaful insurance

**14.**-(1) Where conventional non-life insurer wishes to transform its conventional business into takaful business, it shall inform TIRA in writing about intention for transformation.

(2) The registered insurer shall, upon being authorized as takaful insurance operator, cease to underwrite conventional insurance products immediately and shall be required to cover all liabilities incidental to its conventional business.

(3) Until such time when liabilities related to the conventional insurance business of a transformed takaful insurance operator are fully paid off, it shall be reported in the operator fund of the takaful operator.

(4) TIRA shall require detailed information on transformation from conventional to takaful business.

### PART III

#### MODELS OF OPERATION

Takaful operational model

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



(2) All contributions received under family takaful contracts shall be credited to the takaful business statutory fund and divided into components, the determination of each component being clearly and unambiguously defined in the participants' membership documents, namely-

- (a) investment component;
- (b) risk related component; and
- (c) takaful operator's fees.

(3) A separate participants' takaful fund shall be created within takaful contributions and takaful operator's fees shall be credited and from which benefits shall be paid out.

(4) Investment component shall be credited to one or more participants' investment funds the proportion to be credited to each participant's investment fund being defined in the participants' membership documents.

(5) Each participants' investment accounts shall be divided into Participants' Investment Accounts with a separate account being maintained for each of such accounts.

(6) Investment of funds may be made in consonance with the Islamic concept of mudaraba, wakala or a combination of mudaraba and wakala at the option of the takaful insurance operator or an appointed actuary, in case of family takaful, and the shariah supervisory board as clearly spelt out in the participants' membership documents.

(7) A general takaful operator may create a single participants' takaful funds or separate participants' takaful funds for different classes of business.

Contribution  
levy

**16.** A takaful operator shall pay contribution levy of one and half percent of the gross contribution income.

Takaful  
operational  
model

**17.-(1)** Takaful operators shall establish an operational model that outlines the key policies, procedures and management's responsibilities in carrying out the takaful operations.

(2) The operational model shall be based on contracts preferred by the

takaful operator and approved by the shariah supervisory board.

(3) In setting out the policies and procedures, takaful operators must ensure that the principles outlined in the contracts are appropriately operationalised.

(4) Operational model of the takaful operator shall define its relationship with and fiduciary duties towards the participants.

(5) The takaful operator shall ensure that the operational model adopted is endorsed by its shariah supervisory board.

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**18.**-(1) All takaful operators are required to document the operational model to be practised upon implementation of the guidelines, which shall, at a minimum, cover the information specified in Form 1 specified in the Schedule.

(2) The documentation shall be maintained by takaful operators and made available to the Commissioner when requested.

(3) Where subsequent changes are made to the operational model, takaful operators shall ensure that the changes are sufficiently documented.

(4) A takaful operator seeking to be registered in Tanzania shall submit the operational model to be used for its operations in its registration application.

Participants'  
takaful fund

**19.**-(1) A participants' takaful fund shall be a separate fund the purpose of which shall be the pooling of risks amongst the participants.

(2) The role of the takaful operator shall be the management of the participants' takaful funds and related risks.

(3) At the initial stages of the set-up of the participants' takaful funds the takaful insurance operator and any of its shareholders may at their discretion make an initial donation or qard-hasan to the participants' takaful funds.

(4) The objectives of the participants' takaful funds shall be to provide relief to participants against defined losses.

(5) The takaful insurance operator shall define the participants' takaful funds rules which shall be in accordance with the generally accepted principles and norms of insurance business suitably modified with guidance by the shariah

supervisory board of the takaful operator.

(6) Any subsequent changes to the participants' takaful funds rules shall also be approved by the Shariah Board.

Income of  
participants'  
takaful fund

**20.**-(1) The income of the participants' takaful funds shall consist of the following-

- (a) contributions received from participants other than the portion transferred to the participants' investment fund under family takaful policies including takaful insurance operator's fees;
  - (b) claims received from re-takaful insurance operators;
  - (c) investment profits generated by the investment of funds and other reserves;
  - (d) salvages and recoveries;
  - (e) qard-e-hasna by the shareholders fund to the participants' takaful funds in case of a deficit;
  - (f) commission received from re-takaful operators and reinsurers; and
  - (g) any donation made by the shareholders.
- (2) Outgoing from the participants' takaful funds shall consist of-
- (a) losses settled related to participants risks and expenses directly related to settlement of claims such as surveyors' fees, office expenses charged to the participants' takaful funds;
  - (b) re-takaful costs;
  - (c) takaful operator's fees, which shall not be determined with reference to the surplus in the participants' takaful funds;
  - (d) share of investment profits as mudarib' participants' takaful fund's percentage of the funds as wakala fees for investment management or any other combination thereof approved by appointed actuary in the case of family takaful operator, and shariah supervisory board of the takaful operator;
  - (e) surplus distributed to participants; and
  - (f) return of qard-e-hasna to the shareholders fund;

(3) Subject to the provisions of the Act, technical reserves required to be set up in the participants' takaful funds 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 appointed actuary of the takaful insurance 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 qarade-e-hasna to be returned in future ; and
- (f) surplus equalization reserve.

Funds

**21.**-(1) A takaful operator shall maintain and administer two funds, one to be known as the participants takaful fund; and the other the shareholders fund (SHF).

(2) In the case of family takaful plans, a participants' investment fund related to the participants' investment account shall be maintained.

(3) In the case of family takaful business, the participants' takaful fund, participants' investment fund and participants investment account shall be linked to the takaful business statutory fund.

Distribution of surplus

**22.**-(1) A takaful-insurance operator may generate a surplus in the participants risk fund.

(2) The takaful-insurance operator shall make a written policy related to the treatment of the surplus generated in the participants risk fund.

(3) The policy shall include:

- (a) details on how the level of surplus to be retained in the fund is to be arrived at; and
- (b) details on how surplus is to be distributed.

Shareholders

**23.**-(1) A shareholders' fund shall be maintained for family and general

fund (SHF) takaful business on similar basis for life insurers and non-life insurers respectively.

(2) The shareholders' fund shall consist of the paid-up capital and undistributed profits to the shareholders.

(3) In the case of general takaful operator, the income of the shareholders fund shall consist of the following:

- (a) takaful insurance operator's fees, which shall not be determined with reference to the surplus in the participants' takaful fund;
- (b) profit on the investment of the shareholders fund; and
- (c) proportion of the investment profit generated by the investment of the participants' takaful fund or the fees for investment.

(4) The expenses of the shareholders fund shall consist of all the expenses related to the takaful operator other than those mentioned in the participants' takaful fund rules 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 including as surveyors' fees.

(5) The shareholders shall undertake to discharge unconditionally all the contractual liabilities of the participants' takaful fund, provided that liability in this regard shall not exceed the shareholders fund.

Shareholders funds under capital or equity raised by the sponsor or takaful operator

**24.**-(1) In case of a takaful insurance 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 approved by the shariah board of the takaful insurance operator.

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

(3) The takaful insurance operator who makes a deposit may at any time substitute assets comprising the deposit cash and securities as may be specified by the Shariah Board.

Establishment  
mainten  
of participants  
takaful funds,  
and allocation of  
surplus

**25.**-(1) Every takaful insurance 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 so far as that business relates to policies issued.

(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 participants takaful fund'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 an 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.

Winding up of  
takaful operator

**26.**-(1) In the event of winding up, assets comprised in the deposit made by a takaful operator under these Regulations shall be treated as assets of the participants takaful fund established by the takaful operator, and sub-regulation (2) of Regulation **22** shall apply to those assets accordingly.

(2) In the event of winding up and if at the same time the participants takaful fund is in deficit, the deposit shall first be made available by the shareholders to meet that deficit and the left over shall be reimbursed to the shareholders.

Management of  
investment  
funds

**27.**-(1) Takaful operators shall exercise due care in identifying effective and reliable investment avenues to support investment of funds and may tag specific investment to the relevant funds.

(2) The operator's management information system shall facilitate

accurate determination of investment profit and avoid errors in distributing profit to participants and takaful operators.

Actuarial  
valuation of  
takaful business

**28.**-(1) In executing fiduciary responsibilities in managing takaful funds, takaful operators shall set appropriate and adequate provisions for takaful funds to meet future obligations.

(2) For the purpose of sub-regulation (1), takaful operators shall appoint a person with the appropriate qualifications and technical skills to conduct the valuation of liabilities.

(3) The valuation of family takaful business and general takaful business shall be conducted by an appointed actuary.

(4) Appointed actuary shall be responsible to apply appropriate valuation basis and methodologies taking into consideration the nature of the products, the term of the takaful contracts and the amount of takaful benefits in valuing the liabilities of the takaful business.

Management of  
operating costs

**29.**-(1) For the purpose of instilling financial discipline and ensure efficient operational cost management, takaful operators are required to establish effective policies and procedures to manage operating costs.

(2) The Board shall ensure that effective controls are put in place to ensure that actual expenses incurred do not lead to cost overruns which can affect the viability of the takaful operators and would have a negative impact on their ability to manage the takaful funds effectively.

(3) An effective operating cost management shall, as main objective, result in fairer contributions being charged and higher returns to the shareholders.

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**30.**-(1) The operating costs of takaful operations including commissions and related expenses payable to the distribution channels, management expenses and other operational expenses shall be met through the remunerations received from participants or the takaful funds.

(2) Takaful operators shall ensure that commissions and related expenses paid to the distribution channels are in compliance with requirements and limits set by the regulations.

Management of  
income from  
takaful business

**31.**-(1) In consideration of the services rendered and costs incurred in administering the takaful operations, takaful operators shall be entitled to be remunerated through fees and charges imposed on contributions and takaful funds or through share in profit or surplus of the takaful funds.

(2) Remunerations shall be consistent and in accordance to the operational model being adopted.

.....

**32.**-(1) For the purpose of ascertaining profitability of a product, takaful operators shall consider all remunerations received from the takaful product.

(2) In determining appropriate amount and structure of remuneration to be taken from a product, takaful operators shall ensure that the following requirements are observed:

- (a) there is specific and clear intended outcome from the work undertaken to justify the remuneration without double charging within a takaful product;
- (b) the remunerations to be taken shall be appropriate and reasonable, and determined with due regard to provide fair treatment to takaful participants;
- (c) implications on takaful funds, in particular on the funds' long-term viability shall be considered; and
- (d) the level of remunerations to be taken must commensurate the complexity of the services rendered and the associated risks.

Deficit

**33.**-(1) In case of a deficit in the participant's takaful fund, the takaful operator shall undertake to give Qard-hasan to make good of the deficit.

(2) Qard-hasan may be recovered from future surpluses without any excess on the actual amount given to the participant's takaful fund.





**PART IV**  
**MANAGEMENT OF OPERATIONAL EXPENSES**

Management  
and marketing  
expenses

**34.**-(1) All administrative and management expenses of the takaful operator, except those enumerated under sub-regulations (4) of Regulation 9, shall be borne by the shareholders in consideration of receiving a stipulated proportion of the gross contributions to the participant's takaful fund by way of takaful operator fee.

(2) The shareholders shall be responsible for all expenses of management and marketing.

(3) Shareholders' income shall include the takaful operator fee and investment management fee or share, for the participant's takaful fund and the participant's investment fund and investment income on the shareholders fund. Takaful operator fees to be charged and the investment management fee or share shall be explicitly defined in each participants' members document and takaful contract.

(4) 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.

Upfront fees

**35.**-(1) Takaful operators shall ensure that all remunerations received are managed prudently to cover operating costs.

(2) In particular, appropriate amounts shall be made available to meet the operating costs incurred in managing the takaful funds for the full contractual obligation of the takaful certificates. For the purpose of sub-regulation (2), appropriate and adequate provision shall be set to meet the expense liabilities of the shareholders' fund, according to the requirements as set out in the guidelines on valuation basis for liabilities of family takaful business and the guidelines on valuation basis for liabilities of general takaful business.

(3) For family takaful, medical and health products, the basis in deriving

the fees and charges shall be clearly justified and documented in the actuarial certificate of the product submitted to the Commissioner for approval.

(4) In the case of other takaful products, the justification and documentation shall be maintained by the takaful operators and shall be approved by the Commissioner.

(5) Any changes to the fees shall be justified and documented and where relevant, submitted to the Commissioner.

(6) In the case of products based on the wakalah contract, a fixed upfront fee can be charged on the contributions based on contractual terms entered with the participants.

(7) The upfront fee shall mainly be used to cover commissions and management expenses incurred in the management of takaful funds.

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**36.**-(1) When ascertaining the upfront fee, takaful operators are required to appropriately determine the level of management expenses expected to be incurred by the shareholders' fund, in servicing the certificate throughout the takaful contract term regard being made on internal or industry's past experience, taking into consideration expected future experience with reasonable prudence.

(2) Takaful operators shall ensure that any margin included to compensate shareholders for effort taken in managing takaful operations, is appropriate and reasonable.

Remuneration  
from  
participants  
takaful fund

**37.**-(1) In managing participant's takaful fund, takaful operators may be remunerated through performance fees paid from the participant's takaful fund surplus.

(2) Takaful operators may base the performance fee as a proportion of total surplus or any component of the surplus.

(3) In taking the performance fee, takaful operators shall ensure that the following requirements are observed:

(a) the performance fee can be taken only if the participants' portion of

the participants risk fund surplus is also paid or accrued to the participants;

- (b) the total amount of remuneration from participants risk fund payable to the takaful operators shall not exceed the amount of surplus paid or accrued to participants;
- (c) there is no outstanding qard-hasan due to the shareholders' fund at the point where surplus is determined; and
- (d) the performance fee is in line with takaful operator's policy on management of surplus.

Payment and  
charges on  
surrender

**38.**-(1) Takaful operators shall ensure products are marketed to suitable customers, taking into account the customers' needs, resources and financial capabilities, in order to minimise occurrence of surrender of takaful certifications by participants.

(2) Subsequent provisions of this Part shall be applicable for surrender of takaful certificates by participants in direct takaful business, retakaful operators are to be guided by the broad principles advocated by these Regulations.

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**39.**-(1) The surrender value basis shall be appropriate and fair, and embedded in the product design.

(2) The events for which the tabarru' is meant to cover, shall be defined appropriately in the certificate contract to include payments of specified amounts on surrender.

(3) Takaful operators are required to return the balance of participant's investment fund and accrued surplus in participants risk fund, consistent with the ownership rights and entitlement of the participants, upon surrender of a certificate.

.....

**40.**-(1) Takaful operators shall ensure that the amount payable to participants on surrender are made from the correct funds.

(2) Under the wakalah model, if the surrender amount is determined based on gross contribution, the amount shall be paid from both the takaful and the shareholder's funds.

..... **41.-**(1) Takaful operators may impose a reasonable amount of surrender charge to recoup the expected incurred expenses in managing the certificates, which have not yet been recouped by other charges levied up to the point of surrender.

(2) The surrender charge may also include administrative expenses incurred in processing the surrender.

(3) Any amount over and above the expected incurred expenses which is imposed to mitigate risks of surrender shall remain within the relevant fund such that it meets the aim of surrender risk mitigation.

(4) A surrender charge may only be imposed if it is clearly specified in the takaful contract and marketing literatures.

(5) The surrender value, including the cost of any applicable surrender charge, shall be determined:

- (a) where relevant, in accordance with generally accepted actuarial principles;
- (b) in a manner ensuring fair treatment of participants; and
- (c) in compliance with standards on market conduct or fair treatment of participants issued by the Commissioner.

(6) For family takaful and medical and health products, the basis in deriving the surrender amount and surrender charge must be clearly justified and documented in the actuarial certificate of the products submitted to the Commissioner.

(7) For other takaful products, the justification and documentation shall be maintained by the takaful operators and shall be made available upon request by the Commissioner .

PART V  
SHARING SURPLUS AND DEFICIT

Sharing of  
surplus

**42.-(1)** At the end of each financial year a takaful operator shall evaluate the assets and liabilities of the participants takaful fund 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 participants takaful fund shall be done at least once each accounting year.

(3) The determination of surplus shall be done by appointed actuary for a family takaful operator; and by the management of general takaful operator with surplus 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 participants takaful fund.

(5) Surplus shall arise from the total contributions paid by the participants to the participants takaful fund less-

- (a) the total value of claims paid minus claims received from re-takaful and recoveries made for the risks covered under the participants takaful fund;
- (b) takaful operator' s fees charged related to takaful operations managed by the takaful operator; and
- (c) commission paid to the intermediaries and the change in the technical reserves.

(6) Takaful operator may hold a portion of the surplus as a contingency reserve and the rest of the surplus shall be distributed to participants in proportion to the contributions to the participants takaful fund net of any risk related claims, which they may have received during the intervaluation period.

(7) In the case of general takaful business the distribution of surplus shall be after each valuation with contracts completing risk period in the accounting

year for which the valuation is done taken into account for surplus distribution based on the results of the previous valuation.

(8) 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 participants' membership document or otherwise.

(9) 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.

(10) 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.

(11) The Board of Directors, with the consent of the shariah supervisory 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 participants takaful fund and shall also be mentioned in the participants' membership document.

(12) 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 participants' investment account.

(13) Where a member does not wish to continue as a participant in the participants takaful fund it shall be necessary to pay surplus to such member based on his entitlement.

(14) If a participant wishes to donate surplus for social or charitable purposes, the donation shall be done by the takaful operator.

(15) A takaful operator shall pay zakat from the fund of the participant who, in accordance with Shariah, is liable to pay zakat.

.....

**43-**(1) Where takaful operators impose a fee on tabarru', the takaful

operators shall ensure that the following requirements are observed:

- (a) the fee shall be allocated to and maintained in the participants risk fund until it can be distributed as income to takaful operators, subject to the participants risk fund being in surplus position. The distribution as income shall only take place when there is surplus;
- (b) the amount to be distributed as income to takaful operator shall be subject to the actuary's recommendation;
- (c) any undistributed fee in a particular year shall not be carried forward for distribution in a future year; and
- (d) the distribution as income shall comply with the same requirements applicable to where takaful operator takes a performance fee out of surplus.

(2) For purpose of meeting requirements in Part IV, the amount of fee to be distributed as income shall form part of the total amount of remuneration from participants risk fund.

Deficiency and  
loss rectification

**44.**-(1) Takaful operators are expected to exercise due care to avoid circumstances that could affect the viability of the takaful business, put the interests of the participants at stake or cause the takaful funds at risk of incurring a deficit or loss.

(2) Good risk management including effective management of surplus, appropriate retakaful arrangement and business practices are key in avoiding these negative circumstances.

Deficiency and  
loss in  
participants risk  
fund

**45.**-(1) Where assets of the participants risk fund are insufficient to meet the liabilities of the participants risk fund, takaful operators shall immediately rectify the deficit via qard from shareholders' fund.

(2) For the purpose of determining such deficit, takaful operators shall be guided by the following definitions:

- (a) "assets" refers to the total assets of the participants risk fund, as reported in the balance sheet of the fund; and



(b) “liabilities” refers to the sum of actuarial liabilities and other liabilities of the participants risk fund, as reported in the balance sheet of the fund.

(3) The qard-hasan from shareholders’ fund shall be repaid from the excess of assets over liabilities arising in the participants risk fund in the future years.

..... **46.**-(1) Takaful operators shall put in place, clear written policy on the mechanism to rectify deficit of the participants risk fund approved by the shariah supervisory board which policy shall address the manner in which qard-hasan will be repaid.

(2) Repayment of qard-hasan shall be appropriate to avoid circumstances that might impact participants beyond reasonable expectations and to prevent adverse implications on the takaful funds’ ability to meet its obligation and the long term viability of the takaful funds.

(3) The policy shall equally address the issue of surplus distribution to participants during the period where qard-hasan has not been fully repaid by the participants risk fund, for example, whether the distribution of surplus is continued, reduced, or put on hold.

(4) Where a takaful operator is remunerated from participants risk fund, it shall also consider restriction imposed by these Regulations when establishing the policy on qard-hasan repayment.

..... **47.**-(1) Takaful operators shall specify the time period over which the qard-hasan shall be repaid and beyond which the qard-hasan shall be deemed irrecoverable.

(2) Takaful operators may also specify other circumstances under which the qard-hasan is not repayable.

(3) In determining the suitable time period over which the qard shall be repaid, takaful operators should take into account the likelihood of qard-hasan repayment over the foreseeable future, considering the expected future

experience of the fund to generate surplus and potential adverse impact to the viability of the fund should the qard-hasan persists.

(4) Notwithstanding preceding provisions of this Regulation, TIRA may on a case-by-case basis, after taking into consideration of the best interest of participants, long-term sustainability of takaful funds and the stability of the takaful business, direct the takaful operator to convert the qard-hasan into an outright transfer prior to the time period as specified by takaful operators.

.....

**48.**-(1) The manner in which the takaful funds are managed must also be considered in coming up with the deficit rectification policy to ensure fairness to different groups of participants.

(2) Where a takaful operator manages the takaful funds into smaller sub-funds, the deficit shall be measured at the sub-funds level accordingly, to ensure and preserve equity amongst participants.

(3) Takaful operators shall ensure that the accounting and other relevant systems will enable tracking of the individual sub-funds to facilitate management of the deficit at the sub-funds level accordingly.

.....

**49.**-(1) Where there is a loss arising in the participants risk fund due to mismanagement or negligence, the takaful operators shall bear full responsibility and automatically rectify the deficit or loss via an outright transfer.

(2) For the purpose of sub-regulation (1), takaful operators shall put in place a written policy that identifies circumstances which tantamount to mismanagement or negligence.

(3) In cases where TIRA, based on its own assessment is satisfied that the deficit or loss in the participants risk fund is due to mismanagement or negligence, TIRA may direct the takaful operators to rectify the deficit or loss via an outright transfer of assets from the shareholders' fund instead of qard-hasan.

PART VI  
UNDERWRITING REQUIREMENTS

Underwriting  
requirements  
rights and  
obligations of  
participants

**50.**-(1) Subject to sub-regulations (2) and (3), no takaful operator shall accept any risk in respect of any general business unless the contribution payable is received by the takaful operator.

(2) Where the contribution payable under sub-regulation (1) is received by any person, including a takaful agent or a takaful broker on behalf of a takaful operator no such contribution shall be deemed to be receipt by the takaful operator 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 person who claim to have paid the contribution.

(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 participants takaful fund, directly to the participant and a proper receipt shall be obtained by the takaful operator from the participant and such refund shall be paid or credited to any other person, including a takaful broker.

Remuneration  
of the operator

**51.**-(1) The remuneration arrangements for the takaful-insurance operator shall be set and documented in takaful- insurance contracts before a takaful-insurance agreement is signed.

(2) The takaful operator shall receive a fee or remuneration which depends upon the underlying takaful model and contracts in use in a way that:

(a) takaful based on mudarabah contract, the takaful operators' remuneration shall be based on a percentage share of investment profit from the participants investment such that an operator is not allowed to share in the underwriting surplus;

(b) takaful based on wakalah contract, the takaful operator shall receive a wakalah fee based upon a percentage of participants' contributions and a performance related fee linked to the effectiveness of

underwriting activities; and

- (c) takaful based on hybrid wakalah-mudarabah (profit sharing) contract, the takaful operator based on hybrid model shall receive a wakalah fee as a percentage of participants' contributions, a percentage share of the investment profit from the participant investment fund and potentially a performance related fee as per the contract.

(3) Where the takaful operator remuneration includes amounts based on the surplus in the participants' risk fund, the following conditions shall be met:

- (a) no interest free loan balance due to the shareholders funds of the takaful operator;
- (b) the remuneration is in line with the takaful operators surplus management policy and subject to review from an actuary;
- (c) remuneration to takaful operator only permitted if participants will also be receiving their share of the surplus;
- (d) total remuneration payable to the takaful operator shall not exceed surplus to be received by participants which in certain circumstances requires to be approved by the takaful operator and subsequent submission to the Commissioner for approval.

(4) Where the takaful operator's remuneration includes amounts based on participants' contributions, the following conditions shall be met:

- (a) fee shall be collected and retained in the participants risk fund;
- (b) the fee shall only be paid where the participants risk fund is in a surplus position;
- (c) a fee which cannot be paid in one year due to participants' risk fund being in deficit may not be carried forward to a future year; and
- (d) the amount of distribution is subject to recommendation from an actuary.

(5) Where the takaful operator's remuneration includes amounts based on the investment profit from participants investment fund, elements of the aforementioned conditions should be considered along with the following:

- (a) investment profit to be calculated in line with the takaful operators

- policy which documents the investment profit calculation method;
- (b) investment profit distribution based on independently audited results of the participant risk fund with actuarial certification of the liabilities;
- (c) distribution to be recommended by the actuary and approved by the shariah supervisory board of the takaful operator; and
- (d) distribution of the investment profit in line with the profit sharing ratio set out in the takaful contract.

Payment of  
losses

**52.**-(1) The takaful operator shall, on the basis of these Regulations to be defined for the participants' takaful fund and in the participants' membership document, pay the losses of participants of the fund from the same fund and the rest of expenses incurred for providing takaful benefits such as re-takaful contributions shall be met from the same fund.

(2) The participants takaful fund 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.

(3) The participants' membership document shall contain specific details related to the risks covered for a specific risk and member.

(4) The participants takaful fund as well as participants' membership document for each class of takaful business shall be approved by the Shariah supervisory board of the takaful operator and after its approval the same shall be filed with the Commissioner and unless objected to in writing within fifteen days of such filing by the Commissioner 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 Commissioner.

Rights and  
obligations of  
the participant

**53.**-(1) The participant is required to provide complete and accurate information to the takaful operator.

(2) The takaful operator will use appropriate tools and techniques to obtain information from participants before entering into a takaful contract with

a potential participant.

(3) Tools and techniques to be used by a takaful operator include but not limited to proposal forms, questionnaires and interviews.

..... **54.**-(1) Where a participant has not provided complete or accurate information, the takaful operator may have the option to cancel the policy with the participant, renegotiate the contract or not to honour any claim.

(2) The takaful operator shall set out in the contract the participants duty of disclosure.

(3) Duty of disclosure shall be presented to the participant before the takaful contract is completed and should state the requirement for the participant to provide all facts specifically requested and in case of doubt over what is requested, the participant shall seek clarification from the takaful operator.

..... **55.**-(1) The takaful operator and participant shall enter into a contract once an offer made by the takaful operator is accepted by the participant.

(2) The takaful operator shall issue a takaful certificate to evidence the existence of the contract within 30 days of the payment being received by takaful operator.

(3) Where the participant pays the contribution to an authorized takaful agent, broker or other intermediary the contribution will be deemed to have been received by takaful operator.

Takaful claims  
settlement

**56.**-(1) Takaful operators shall put in place appropriate systems and controls to handle claims. It is the takaful operators' fiduciary duty to assess the validity of claims and settlement amount, and establish appropriate measures to prevent fraudulent claims or payment of invalid claims that can adversely impact the takaful funds.

(2) Takaful operators must ensure that claims processing and payments are done in accordance to section 131 of the Act and participants are treated

fairly during the process.

(3) The amounts payable upon a claim and the source of the payments shall be from the correct funds, in line with the takaful contracts.

(4) The takaful operator shall ensure amounts paid for a claim are from the correct Takaful fund and in line with the takaful contract terms and conditions.

## PART VII TAKAFUL SHARI'AH SUPERVISORY BOARDS

Shariah  
supervisory  
board

**57.**-(1) Each takaful operator shall appoint a shariah supervisory board 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 Commissioner .

(2) The takaful operator shall appoint only high calibre scholars who are specialized jurists in fiqh almu' amat to such shariah supervisory boards.

(3) The takaful operator shall submit to the Commissioner details of the members of its Shariah supervisory board at the time of commencing takaful business and at later dates if there is a change in the composition of the shariah supervisory board.

(4) The Commissioner may within thirty days of such submission, based on reasonable grounds, require a takaful operator in writing to reconstitute its shariah supervisory board.

Responsibilities  
of shariah  
supervisory  
board

**58.**-(1) Every takaful operator shall appoint a shariah supervisory board which shall be responsible for:

- (a) approval of products including all related documentation;
- (b) approval of participant takaful fund policy;
- (c) approval of investment policy;
- (d) approval of re-takaful arrangements; and
- (e) approval for the distribution of surplus to participants.

(2) Where a takaful operator is required to file a document with the Commissioner which requires prior approval of the shariah supervisory board, the operator shall, along with the requisite document, annex the approval of the shariah supervisory board.

Meeting  
between TIRA  
and shariah  
supervisory  
boards

**59.** The Commissioner may hold meetings with the members of the shariah supervisory 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 supervisory board of takaful operators.

## PART VIII

### RECORDS AND FINANCIAL REPORTING

Financial  
reporting

**60.**-(1) Every takaful operator shall be required to submit quarterly reports to TIRA on the following:

- (a) takaful fund;
- (b) qard-hasan (interest free loan);
- (c) takaful transactions; and
- (d) solvency level.

(2) A takaful operator shall be required to provide annual report and accounts on the following:

- (a) takaful fund;
- (b) qard-hasan (interest free loan); and
- (c) solvency level.

(3) A takaful operator shall report separately by class of business and type of account:

- (a) family takaful: participants risk fund and participants investment fund; and
- (b) general takaful: participants risk fund.

(4) A takaful-insurance operator shall ensure the following shall be



prepared and submitted to the Commissioner for each accounting period:

- (a) separate revenue accounts for each class of takaful business of the takaful operator;
- (b) a profit and loss account for each class of takaful business of the takaful operator; and
- (c) a separate balance-sheet, as at the end of that accounting period, for each class of takaful business in respect of which the takaful operator is registered.

(5) Statements for each accounting period shall contain the following particulars, in respect of family business:

- (a) new certificates issued during the period;
- (b) the termination or reduction of the liability or of the takaful contributions or certificates during the period, and transfers of certificates to or from the register during the period;
- (c) certificates in force at the end of the period.

(6) Statements for each accounting period shall contain particulars as to contributions and claims in respect of general takaful business.

(7) Statements for each calendar year shall contain particulars of assets held at the end of the year as assets of the takaful fund maintained for that class of business.

(8) For the purpose of sub-regulation (7), goodwill shall not be recognized as assets in preparation of accounts.

(9) Takaful operators shall maintain records of and properly allocate the assets, liabilities, revenues and expenses of the takaful operations to the relevant funds.

(10) The method of allocation and the proportion of contribution allocated to the takaful funds shall be made transparent in the takaful contracts.

(11) The wordings in the takaful contracts shall be consistent with the operation and management of the takaful products and funds and provide clarity in terms of how the contributions are pooled.

(12) In the case of family takaful as well as medical and health products,

the method and proportion of allocation shall equally be consistent with actuarial certificate filed with the Commissioner .

Accounting  
regulations

**61.** The provisions of the Act shall apply to takaful business with appropriate modifications based on the advice of the shariah supervisory board of the takaful operator.

Audit  
requirement

**62.**-(1) For any accounts and balance-sheet submitted to the Commissioner in line with international islamic accounting standards, there shall be submitted a certificate signed by the auditor stating whether in his opinion:

- (a) the accounts and balance-sheet are in accordance with the guidelines;
- (b) the balance-sheet truly reflects the financial position of the operator;
- (c) the books of the takaful operator have been properly kept and record correctly the affairs and transactions of the takaful operator;
- (d) any part of the assets of the takaful fund or funds maintained under the guidelines has been applied in contravention of the guidelines;
- (e) a takaful operator is complying with the requirements of the guidelines or otherwise; and
- (f) all necessary and proper apportionments have been made in preparing the accounts and balance-sheet, and have been made in an equitable manner.

(2) The persons signing any balance sheet shall certify that in their belief the assets set forth in the balance sheet are fully of the value stated in the balance-sheet, less any investment reserve fund taken into account; and shall also certify that in the relevant accounting period no part of the assets of the takaful fund has been dealt with in contravention of this guidelines.

(3) The takaful operator shall prepare annual financial account for the operation in accordance with international islamic accounting standards approved by the Commissioner .

(4) There shall be paid into a takaful fund all receipts of the operator properly attributable to the business.

(5) In the case of a fund established in respect of family business, no part of the fund shall be allocated by way of takaful benefits to participants, except with the approval of a qualified actuary and out of a surplus of assets over liabilities as shown on the last valuation of the fund.

(6) The takaful fund shall be in the custody of the takaful operator unless its value is eroded by claims payment.

Books and records of takaful business

**63.** Every Takaful operator shall maintain proper books and records of its business.

## PART IX SHARIAH AUDIT

Takaful compliance audit

**64.**-(1) Takaful operator shall appoint a takaful operations compliance auditor approved by TIRA who will conduct its audit for each accounting period.

(2) In line with the legislative provision of the Act, takaful operators are required to segregate the assets of the takaful funds from the assets of the takaful operators.

(3) Within the takaful funds, takaful operators are required to establish and maintain separate takaful funds in respect of family takaful business and general takaful business.

(4) The takaful funds for the family takaful business shall be segregated into two further funds, namely:

- (a) the takaful protection fund; and
- (b) the takaful annuity fund.

(5) Within the family takaful funds, takaful operators shall separately establish participants' risk fund and participants' investment fund as follows:

- (a) the participants risk fund is compulsory for all products and refers to the fund used to pool the portion of contributions paid by participants on the basis of tabarru' for the purpose of meeting claims on events covered under the takaful contracts:

Provided that, with respect to annuity products, the participants risk fund shall be used to pool the tabarru' contributions meant to provide payments during the annuity period:

Provided further that, for the tabarru' contract, the fund shall be owned by the pool of participants. In managing the participants risk fund, the takaful operators shall adopt appropriate set of policies and procedures to ensure the availability of funds to meet takaful benefits when due; and

(b) the participants investment fund refers to the fund in which a portion of the contributions paid by takaful participants for a takaful product is allocated for the purpose of savings and/or investment.

(6) For general takaful business, takaful operators shall establish a participants risk fund to serve a similar purpose to that referred to in sub-regulation (5).

(7) Where a takaful operator manages part or parts of participants risk fund and PIF under smaller sub-funds, the takaful operator shall consistently segregate the management of these sub-funds throughout the term of the takaful contract including when determining surplus and deficit.

(8) Takaful operators shall be required to inform the Commissioner where further segregation of participants risk fund and participants investment fund is practiced and document the segregation as a feature of their operational model.

(9) Based on its assessment of takaful product design or features, the Commissioner may require takaful operators to establish other funds to clearly reflect the specific nature, purpose or risk of a component of the contribution or other elements of the takaful products for the purpose of protecting interest of the participants, the soundness of the takaful funds or where it is appropriate, to be more in line with the Act.

transparency

part of good governance and to promote better understanding of takaful. Takaful operators are expected to publish details of its operational model together with its underlying principles, to enable participants, stakeholders and public to better understand the underlying takaful operations.

(2) Information provided shall be accurate, adequate and up-to-date to enable stakeholders to make an assessment on the takaful operators' financial standing.

(3) Information disclosed must be made apparent to the participants in documents used at the pre contractual stage, upon signing the contract and throughout the duration of the contract.

(4) The level of information disclosed, with respect to the operational model, the underlying principles, and the relevant terms and conditions of the takaful contract shall be appropriate to enable participants to clearly understand their rights, obligations and the risks associated with the product.

(5) For products with savings or investment elements, where participants bear the investment risks, information disclosed should be sufficient to enable understanding of market movements and its implications on the takaful funds, including potential shortfall of the participants' investment fund and possibility of certificate lapsation.

(6) Takaful operators must ensure consistency in information being disclosed in the different documents.

(7) The information given to participants shall be consistent with the information provided to the Commissioner via the product submission process.

(8) For further promotion of transparency, takaful operators shall publish on their website, details of products, fees and charges.

.....

**66.**-(1) Where takaful operator makes modifications or changes to its operational model or to the terms and conditions of the products, participants should be sufficiently informed of the changes and the impact of the changes.

(2) Where the impact of the changes is material and financially significant, such disclosure shall be sufficiently detailed to be reasonably

understood by the participants.

(3) In any event, any modification or changes to the terms and conditions of takaful products shall be within the scope of the takaful contract.

**PART X**  
**MARGIN OF SOLVENCY**

Solvency  
requirement

**67.**-(1) For the purposes of solvency requirement, all investments out of the takaful operator and participants takaful funds shall be made in the modes and securities approved by the shariah supervisory board of the takaful operator.

(2) The takaful operator must adopt a total balance sheet approach with a distinct separation between the takaful fund and the takaful operators shareholders' funds.

(3) The takaful operator shall not carry on business unless he:

(a) maintains in Tanzania at all times during which he carries on takaful business, a margin of solvency of not less than the amount prescribed by these Regulations;

(b) has adequate solvency provisions made in the participants risk fund to ensure that participants' claims can be met; and

(c) has adequate capital resources to meet own expenses and obligations including need to provide interest free loan to the takaful fund in the event of deficit in the participants risk fund.

(d) the solvency margin to be maintained by a takaful operator shall be for the end of each subsequent year, the minimum amount for the prior year times the lesser of 1.1 or the ration of the current year Consumer price index to the prior year Consumer price index.

.....

**68.**-(1) Where the takaful operator identifies its own capital holding that is available for interest free loan to the participants risk fund for inclusion by the operator in meeting solvency requirements, it is required that the available balance shall include a cushion above minimum requirement.

(2) The takaful operator shall provide supporting information to TIRA that validates the existence and availability of the funds for the interest free loan to the takaful fund which funds shall be separately identifiable and in a suitably liquid form.

(3) A takaful operator shall assume the following obligations for solvency requirements:

(a) in the case of participants risk fund, the assets held are equal technical provisions plus a solvency margin reserve. The solvency margin reserve is required to meet the risk of underestimation in the technical provision and of measurement error in asset or liability measurement; and

(b) in the case of shareholders' funds, the takaful operator needs to ensure it has adequate capital resources to meet unexpected increases in management expenses or reduce income incorporating the requirement for the takaful operator to provide an interest free loan to the takaful fund to meet any deficit occurring in the participants risk fund.

(4) A takaful operator shall take note of the following:

(a) the interest free loan facility to meet deficits in the participants risk fund is catered for out of takaful operators shareholders funds;

(b) the takaful operators right to receive the repayment of the quad-hasan (interest free loan) facility cannot be counted as an asset for the takafu operator when considering solvency requirements; and

(c) any assets held by the takaful operator that are considered as part of the regulatory capital of the participants risk fund is not considered as assets supporting the solvency of the takaful operator.

(5) The following elements of capital may be considered for the solvency of participants fund:

(a) reserves in the participants risk fund; and

(b) undrawn interest free loan facility made available by the takaful operators' shareholders funds.

(6) Any investment income generated by the loan facility while it is undrawn is owned by the takaful operators shareholders.

(7) Any investment income generated by the loan once it is drawn down shall form part of the participants risk fund.

(8) The takaful operator is required to carry out regular actuarial appraisals on the solvency of participants risk funds to ensure that adequate loan facility is available.

(9) A takaful operator shall be required to ensure that:

(a) each participants risk fund that is non-transferable meets solvency requirements;

(b) where participants risk funds are transferable solvency requirements can be met in total; and

(c) available loan facility from the takaful operators shareholders funds is included in considering solvency levels.

Deposits  
GN No.372 of  
2009

**69.**-(1) A takaful operator shall at all times maintain a deposit with the Bank of Tanzania in accordance with the provisions of Regulation 20 of the Insurance Regulations, 2009.

(2) Any such deposit shall be made in cash or instrument of an approved Islamic financial institution.

(3) The deposit shall be marked as a lien to TIRA.

## PART XI PRODUCT DESIGN

Product design  
and pricing

**70.**-(1) A takaful product shall be based on the principle of wakala or mudaraba or both.

(2) The appointed actuary of the family takaful operator shall ensure that the products are sound and workable and the Shariah Board of the takaful operator shall ensure that these conform to the Islamic principles.

(3) Takaful operators shall exercise diligence in product design and



ensure that the products offered include adequate takaful coverage and, are suitable and appropriate to the targeted market segment.

(4) In determining the price of the products, prudence shall be maintained to avoid under pricing and balanced with due care to avoid participants from being charged excessively.

(5) Key factors such as the expected frequency and severity of risk exposures and, expected management costs and expenses shall be considered in pricing the takaful products.

(6) Assumptions used in pricing the takaful products could be based on the takaful operators' or industries' past experience and future expectations.

(7) In view of the nature of the business which may involve payments of contributions or liabilities long into the future, products shall be priced to include appropriate buffers or designed with flexible features for absorbing future fluctuations and uncertainties.

(8) Consistent with the basic concept of takaful which involves pooling of contribution by participants for the purpose of meeting claims arising from a pre-agreed event, sufficient amount of contributions shall be allocated to the takaful funds.

(9) Takaful operators shall ensure adequate tabarru' allocation into the participants risk fund to cover risks and obligations associated with the takaful contract.

(10) Takaful operators further also ensure that the contribution charged is sufficient to cover the tabarru' throughout the term of the product.

Approval of  
takaful products

**71.** Takaful operator shall ensure that any product introduced in the market is approved by the Commissioner upon recommendation of the shari'ah supervisory board.

Participants'  
investment fund

**72.-(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 maintained in the form of units for each participant in a participants' investment

account.

(2) The underlying assets against these units shall be maintained in a separate fund known as participants' investment fund.

(3) The income and expenses of the participants' investment fund shall be maintained separately and unit price shall be determined at least once every month.

Investment  
management of  
funds

**73.**-(1) Investment of participants contributions within the participants takaful fund as well as in the participants' investment fund shall be managed under a wakala contract, a mudaraba contract or a combination contract as determined to be sound and workable by the shariah supervisory board of the takaful operator.

(2) A takaful operator shall set the fee structure and the profit sharing ratio on the investment management based on the advice of the shariah supervisory board and appointed actuary, if any.

Investment  
guidelines

**74.**-(1) A takaful operator shall be required to invest his available funds in his participants takaful fund and participants' investment fund in the modes and products that adhere to principles established by the Act and all such modes and products shall be approved by the shariah supervisory board of the takaful operator.

(2) Limitations in terms of percentage for investments in different compliant investments shall be issued by the Commissioner as new instruments become available in the market.

(3) The following guidelines shall be followed for investments of the surplus funds in the participants' takaful fund, namely-

(a) for investment in compliant securities, any compliant instrument such as Islamic bonds and securities restricted to eighty per cent of the funds; and

(b) for investments in immovable property, takaful operators shall be allowed to invest in immovable property subject to the following

conditions:

- (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) for investment in joint stock companies, takaful operator may invest its funds in joint stock companies.

Investments in non-shariah compliant preferred stocks, debentures and interest based redeemable capital securities are not allowed, and investments in the common stocks of joint stock companies, the following principles shall, upon consultation with the shariah supervisory board, apply:

- (i) the main business of the investee company it does not violate the Act in a manner that 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 law such as alcohol production, gambling or night club activities;
  - (ii) the shariah supervisory Board of the takaful operator takes 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 is based on fundamental value of the companies instead of short-term speculations.
- (d) for investments in redeemable capital, takaful operator may also make its portfolio investments through various mutual funds operating under shariah principles;
- (e) for investments in redeemable capital, takaful operators may invest their funds in compliant instruments;

- (f) for placement of excess funds with banks and Islamic financial institutions, 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 profit and loss sharing saving accounts of Islamic banks; and
- (g) for financing under Islamic modes through the Islamic banks and financial institutions, takaful operators may make arrangements with the Islamic banks operating in the United Republic to directly finance under musharaka (partnership), murabaha (cost plus arrangement), ijara (lease), salam (deferred payments arrangement in agriculture), istisna (deferred payments arrangement in manufacturing).

Approval of investments

**75.** Takaful operators investments shall upon recommendation of the shariah supervisory board be approved by the Commissioner.

Investment policies

**76.** A takaful operator shall establish investment policies for the participants risk fund and participants' investment fund which shall include:

- (a) assets which may be invested: takaful operator shall seek to manage funds aligned with a compliant methodology as practiced internationally and approved by its shariah supervisory board;
- (b) risk profile of assets: takaful operator shall ensure assets and liabilities allocated to funds match and it is clearly documented where there have been issues in duration and location to matching assets and liabilities how these have been addressed;
- (c) investment objectives: takaful operator is required to set out the objectives and long term strategy for each fund which strategy shall consider the risk profile of the fund and this should be in line with the characteristics of the takaful liabilities; and
- (d) Takaful-insurance through a "window" operation: where takaful business is offered by a conventional financial institution, the takaful operator shall ensure that the takaful operations are "ring-fenced" so

as to avoid leakage and co-mingling with non-compliant funds at any point in the life cycle.

Requirements as to assets of participant takaful fund

**77.**-(1) The assets of the participants takaful fund shall be kept separate from all other assets of the takaful operator, and shall not include assets comprised in a deposit under these Regulations, 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 Commissioner may, in respect of assets of the participants takaful fund, 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 Commissioner 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.

Valuation of assets and liabilities

**78.**-(1) The takaful operator shall be required to value assets and liabilities in line with international Islamic accounting standards.

(2) The takaful operator shall ensure assets of the takaful fund are suitable to back the liabilities and absorb the risks of the takaful business with consideration being made on the following:

- (a) diversification of the assets;
- (b) liquidity of assets;
- (c) marketability of assets; and
- (d) match in duration and currency.

(3) In order to preserve the spirit of mutual assistance and joint ownership of the participants risk fund, any form of performance-based payment to a cedant of a retakaful arrangement out of the retakaful participants risk fund shall only be made based on the overall performance of the fund.

(4) In addition, any commission, profit-sharing or other performance-based payments arising from the retakaful arrangement shall be fairly

redistributed to the relevant funds taking into consideration the source of the retakaful contributions and the performance of the funds leading to such payment.

.....

**79.**-(1) Sound investment management in takaful operations shall seek to achieve not only appropriate returns to meet different objectives of the takaful funds but also to ensure that the funds can meet the obligations when takaful benefits fall due, including on surrender and maturity of takaful certificates.

(2) It is the takaful operators' fiduciary duty to manage the investments in a sound and prudent manner, in line with Shariah requirements and participants' expectations.

## PART XII

### RE-TAKAFUL

Re-takaful

**80.**-(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 supervisory board.

(2) A takaful operator with approval of the Commissioner may share risks with other takaful operators within and outside Tanzania.

Re-takaful

**81.**-(1) The takaful operator shall establish and regularly update a re-takaful strategy appropriate to the risk profile of the takaful business.

(2) The re-takaful strategy should incorporate:

(a) re-takaful requirements taking into consideration the specific takaful business characteristics;

(b) risk tolerance of the takaful funds and takaful operator; and

(c) appropriate diversification of re-takaful arrangements.

.....

**82.**-(1) The takaful operator shall place all its re-takaful with insurance or reinsurance companies providing re-takaful arrangements.

(2) Where re-takaful arrangements are not available and thus required to be placed with a conventional reinsurance company, the takaful operator's Board of Directors shall validate and approve the decision.

Mandatory re-takaful cessions

**83.**-(1) Every takaful operator shall be required to place with-

- (a) African Re-insurance Corporation (Africa-Re), a minimum of five per cent of its re-takaful cessions, in accordance with Article 27 of the Agreement that established Africa-Re;
- (b) the preferential Trade Area Reinsurance Company (ZEP-RE) a minimum of ten percent of its re-takaful cessions, in accordance with Articles 20 and 21 of the Agreement establishing ZEP-RE; and
- (c) the Tanzania Reinsurance Corporation in accordance with an Order establishing the Tanzania Reinsurance Corporation.

(2) The provisions of these Regulations shall apply *mutatis mutandis* to the re-takaful operator.

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SCHEDULE

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**FORM 1**

**APPLICATION FOR REGISTRATION AS TAKAFUL OPERATOR  
BY THE ..... LIMITED**

Address of Operator

.....  
.....  
.....

Date ..... 20.....

To - The Commissioner of Insurance  
P.O. Box 9892  
DAR ES SALAAM  
TANZANIA

1. I/We apply for registration of the <sup>1</sup>.....  
..... under Regulation 3 as a takaful operator resident in  
Tanzania.

2. The registered office of the Company will be at <sup>2</sup>  
.....

3. The head office of the Company will be at <sup>3</sup>  
.....

4. The Principal Officer of the Company is <sup>5</sup>  
.....  
of address .....

5. The Auditor of the Company is <sup>6</sup>  
.....  
of address <sup>7</sup> .....

6. The actuary to the Company is <sup>8</sup>  
.....  
of address .....

7. The amount of authorised share capital of the Company is ..... Tanzanian Shillings.  
The total amount of issued and paid-up share capital is ..... Tanzanian Shillings.

8. The month and day of the financial year end is ..... <sup>10</sup>

9. The following information and documentation should be attached to this application. Failure to provide all the required information will result in the return of the application by the Commissioner:

- (i) Certificate of incorporation.
- (ii) Particulars of directors.
- (iii) Particulars (CVs) of Members of shari'ah supervisory board
- (iv) Particulars of shareholders.



- (v) Particulars (CVs) of Members of Senior Management
  - (vi) Registered physical address.
  - (vii) Memorandum and Articles of Association (MEMART).
  - (viii) Evidence of minimum deposit with Bank of Tanzania.
  - (ix) Details of Takaful Operational Model.
- (a) Submission of business plan which shall contain:
- (i) Introduction/background of the Company-Brief background about the organization, including past experience of the sponsors/promoters,
  - (ii) shareholding pattern of the company.
  - (iii) Target Market.
  - (iv) Risk Management & Rating Procedures.
  - (v) Organizational Structure.
  - (vi) Human Resource Structure.
  - (vii)Initial Estimated Set up Cost.
  - (viii) Information and Communication Technology Policy.
  - (ix) Branches/Sales Offices Structure.
  - (x) Proposed re-takaful arrangements.
  - (xi) Targeted Volume of Business.
  - (xii)Marketing Strategy (including Product Innovation, Distribution Channels, Pricing Mechanism.
  - (xiii) Promotion & Publicity.
- (b) Operational System Manuals:
- (i) Underwriting Policy.
  - (ii) Claims Policy and Procedure.
  - (iii) Complaints Policy and Procedure.
  - (iv) Commission fee.
  - (v) Contribution rates and basis.
- (c) Investment Policy, Accounting & MIS Reporting.
- (d) Projected Financial Statement for Five (5) years in respect of Family Takaful & Three (3) Years for General Takaful:
- (i) including projected Balance Sheet, P&L Account.
  - (ii) Revenue Account (for Family Takaful).
  - (iii) Cash Flow Statement, Changes in Equity Statement.
  - (iv) Premium Statement, Claims Statement.
  - (v) Investment Income Statement.
  - (vi) Expenses Statement; and
  - (vii) Any other ancillary detail of projected financial information or assumptions.
- (e) Business Operational Structure.

- (f) Proposed Class of Business to be underwritten:
  - (i) Family Takaful; or
  - (ii) General Takaful.
- (g) Proposed Products and Services.
- (h) Proposed method of distribution of profits, surplus etc.
- (i) A specimen copies of:
  - (i) Proposal forms.
  - (ii) Cover notes/Certificates.
  - (iii) Policy Documents.
  - (iv) Claims forms.
- (j) Notice of location of principal office or registered office of the Company.

I/We enclose a Company cheque made payable to the Commissioner of Insurance for Tanzanian Shillings ten million (10,000,000/=) being the registration fee. In the event of this application to register the operator being unsuccessful, we understand that this fee shall not be refunded. <sup>15</sup>

Yours faithfully,

.....  
 (Name and Authorised Signature) <sup>16</sup>

**General Notes:**

- (a) Where an answer of documentation requested above is not known or available it is essential that this be brought to the attention of, and explained to, the Commissioner. Any application not fully completed will be returned to the applicant.
- (b) Prospective applicants need not establish a company in Tanzania before entering into discussions with the Commissioner on registration requirements. The policy of the Tanzania Government is to encourage the development of the domestic insurance industry and prospective applicants are invited to hold informal discussions with the Commissioner prior to formal application.
- (c) declaration of directors, officers and significant owners of the takaful operator indicating that they meet the requirements of takaful regulations.

**Specific Notes**

1. The full registered name of the company is to be given.
2. This must be the physical address of the registered office of a company registered in terms of the Companies Act, or any other law in the United Republic.

3. This must both the physical and postal address in Tanzania.
4. This can be manager, controller, chief executive or principal officer with the executive power to control the policy or day to day activities of the Company.
5. The Principal Officer is defined under the Act as “the person for the time being responsible for the daily management of the principal office in Tanzania, of the insurer or broker.”
6. Where an Auditor is not resident in Tanzania full explanation is required, and the experience and knowledge of the auditor in handling company accounts in Tanzania should be included.
7. This must be both the physical and postal addresses and must state the country.
8. Where the actuary is not an independent consultant to the company, a full explanation should be included.
9. Where the issued share capital of the insurer is not fully paid – up a full explanation is to be provided.
10. Where the current financial period in question is in respect of a period lesser or greater than one year the dates of the period should be stated.
11. Net retention limits together with treaty capacity indicate the local underwriting capacity before recourse to facultative placements. Net retention limits per risk when compared with unencumbered capital also indicates the underwriting policy of the insurer.
12. The Commissioner is required to satisfy himself of the business and insurance knowledge of the management under the provisions of section 51 of the Act.
13. the nature of legislation is to encourage conservative management policies so as to ensure that policy-holders are not endangered by dangerous or unsound insurance practices. This question requires an applicant to provide such management policy guidelines as will assure the commissioner that Tanzania policy-holders interests are foremost in mind of the management.
14. Strike out any item that is not applicable or is not supplied.
15. The payment of the registration fee is in respect of the application to register as an insurer. In the event that such application is rejected (other than because of insufficient information or documentation) the fee will

not be refunded to the applicant. Upon completion or registration the fee so paid will also include the first year's annual registration fee.

16. The application should be signed by the Principal Officer, but may be signed by a director of the Company.

## FORM 2

### REGISTRATION REQUIREMENTS FOR TAKAFUL OPERATORS

#### Part 1: Corporate Status

- (a) The applicant must be a Limited Liability Company registered under the Companies Act, Cap.212 or Zanzibar Companies Decree, Cap 153.
- (b) The Company must have as part of its name such words or terminology that connotes takaful operations.
- (c) The applicant must have a minimum deposit in respect of any of the following classes of takaful, to be kept with Bank of Tanzania:
  - (i) General Takaful Tanzania Shillings ..... ( )
  - (ii) Family Takaful Tanzania Shillings ..... ( )
- (d) The object of the Company's business shall be for Takaful Business and shall not engage in other business not related to takaful.
- (e) The Articles of Association of the Company shall make provision for the establishment of the shariah supervisory board.
- (f) All issued shares shall be ordinary shares and shall rank paripassu.

#### Part 2: Application Requirements

- (k) Submission of completed application form to be accompanied with:
  - (x) A non-refundable Registration Fee of Tanzania Shillings Ten Million (10,000,000/=) and an Annual Fee of Tanzania Shillings Two Million, Five Hundred Thousand (2,500,000/=)

#### Part 3: Corporate Governance

1. Proposed number of Executive Directors, Non-Executive Directors and Company Secretary.
2. Details and Employment/career history of the proposed Principal Officer, senior management, Secretary of the shariah supervisory board.
3. Proposed management structure.
4. A declaration signed by at least two Directors that the business shall be transacted in accordance with sound Takaful insurance principles.
5. Names, qualifications, experience and addresses of each of the proposed heads of Departments and Executive Directors. Evidence of expertise must be provided including formal practical training in both conventional and Takaful Business.
6. A signed copy of the Company's shariah supervisory board members' Code of Conduct.

**FORM 3**

**CERTIFICATE OF REGISTRATION AS TAKAFUL OPERATOR**

I hereby certify that

.....  
.....  
.....

has been duly registered to transact in the United Republic of Tanzania the following classes of takaful business:

.....  
.....  
.....  
.....  
.....

Dated this ..... day of .....20..... in Dar es Salaam.

Period of validity from.....20.....  
to.....20.....

Signed

.....  
Commissioner of Insurance

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## **APPENDIX I**

### **REGISTRATION REQUIREMENTS FOR TAKAFUL OPERATORS IN TANZANIA**

Preamble

Section 1: Corporate Status  
Section 2: Application Requirements  
Section 3: Corporate Governance  
Section 4: Procedure for Product Approval

FORM RG1: Application for Registration as a Takaful Operator  
FORM RG2: Certificate of Registration as Takaful Operator

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## **APPENDIX II**

### **SAMPLE DOCUMENTS USED IN THE CONDUCT OF GENERAL TAKAFUL BUSINESS**

GT.1 Proposal Form  
GT.2 Cover Note  
GT.3 Certificate Form  
GT.4 Endorsement Form  
GT.5 Renewal Notice  
GT.6 Renewal Certificate  
GT.7 Claim Form  
GT.8 Discharge Form

## **APPENDIX III**

### **SAMPLE DOCUMENTS USED IN THE CONDUCT OF FAMILY TAKAFUL BUSINESS**

FT.1 Proposal Form  
FT.2 Medical Report  
FT.3 Attending Physician's Report  
FT.4 Agent's Report  
FT.5 Certificate Form  
FT.6 Endorsement Form  
FT.7 Claim Form

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## Appendix 5

### Example of Takaful-Insurance Product Certificate of Endorsement by an ACE

#### Certificate of Shar'iah Compliance for [Product X]

In compliance with the Terms of Reference of the Advisory Committee of Experts, having reviewed the **[Product XXXXX]** documentation including all related contracts, literature and associated processes, and after making all required amendments:

We the Advisory Committee of Experts for **[Takaful Insurance Operator]** confirm that in our opinion the **[Product XXXXX]** is in accordance with the **[Wakala/Mudaraba/Hybrid]** Principle of Islamic Finance and is thus deemed to be Shari'ah compliant.

The **[Product XXXXX]** has also received the approval of **[the Commissions'/NAICOM ACE]** and therefore we allow the Operator to provide this product to its customers.

**[ACE Member 1 signature]**

**[ACE Member 2 signature]**

**[ACE Member 3 signature]**

*This certificate was signed on [DATE].....*