



**AIFC TAKAFUL AND RETAKAFUL  
PRUDENTIAL RULES  
AIFC RULES NO. FR0031 OF 2018**

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## AIFC TAKAFUL AND RETAKAFUL PRUDENTIAL RULES

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# **1 General provisions**

## **1.1 Introduction**

### **1.1.1 Name of Rules**

These rules are the AIFC Takaful and Retakaful Prudential Rules (or TRR).

### **1.1.2 Purpose**

The purpose of this TRR Rules is to establish the regulatory framework for Authorised Firms carrying out Takaful Business which involve pooling of the risks faced by its participants. These Rules are based on:

- (a) the standards and guidelines issued by the Islamic Financial Services Board on governance, risk management and solvency of Takaful businesses
- (b) the standards and guidelines issued by the Islamic Financial Services Board on Retakaful businesses;
- (c) the standards and guidelines issued by the IAIS in regard to governance, risk management and solvency of insurance businesses which also apply to Takaful /Retakaful businesses.

### **1.1.3 Application of TRR**

- (1) These Rules apply to every Takaful Operator except where otherwise provided.
- (2) These Rules are also applicable to every Retakaful Operator. Except as stated otherwise, all references to a Takaful Operator in the TRR Rules must be read as referring also to a Retakaful Operator. Consequently, all the regulatory requirements imposed by these TRR Rules apply to all entities licensed to carry out Takaful Business as defined in Rules 1.1.6 (1) including Retakaful Operators, except for specific sections or Rules wherein their applicability is defined in a particular manner. For clarity, all the regulatory requirements imposed by the TRR Rules apply to Retakaful Operators, unless otherwise specified in the TRR.

#### **Guidance: Reinsurance**

Note that the term Takaful Operator includes any Retakaful Operator and the term Takaful Contract includes any Retakaful Contract.

### **1.1.4 Effect of definitions, notes, examples and references**

A definition in the glossary to these Rules also applies to any instructions or document made under these Rules.

- (a) A note in or to these Rules is explanatory and is not part of these Rules. However, examples and guidance are part of these Rules.
- (b) An example is not exhaustive, and may extend, but does not limit, the meaning of these Rules or the particular provision of these Rules to which it relates.



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- (c) Unless the contrary intention appears, a reference in these Rules to an accord, principle, standard or other similar instrument is a reference to that instrument as amended from time to time.

### 1.1.5 Key Definitions

- (1) A Takaful Operator is
  - (a) an Islamic Financial Institution that is licensed to conduct the Regulated Activity of Takaful Business; or
  - (b) an AIFC-Incorporated Insurer operating an Islamic Window (within the meaning of IFR rule 1.8), to conduct the Regulated Activity of Takaful Business.
- (2) A Takaful Fund is a fund established and maintained by a Takaful Operator under TRR Rule 2.2, for its Takaful business.

#### **Guidance: Branches**

Note that certain of the obligations set out in this rulebook do not apply to Takaful Operators that are Branches of entities established and regulated outside the AIFC. The term AIFC-Incorporated Takaful Operator is used to refer to a Takaful Operator that is incorporated as a legal entity under the laws of the AIFC and thus excludes Branches of legal entities incorporated outside the AIFC.

### 1.1.6 Principles underlying TRR Rules

The TRR Rules are based on the following principles:

- (a) Ensure compliance with Shari'ah;
- (b) Enable better alignment of risk-return objectives of a Takaful Operator consistent with its fiduciary duty to manage its Takaful Business in a sound manner;
- (c) Provide incentives for Takaful Operators to manage business in a risk-based manner and adopt prudent practices;
- (d) Provide an early warning signal on any deterioration in capital adequacy or solvency levels to enable prompt and pre-emptive actions to be taken by Takaful Operator and the AFSA;
- (e) Promote transparency as a means to protect the interests of participants of the Takaful fund; and
- (f) Reduce opportunities for regulatory arbitrage with the conventional insurance business and with the rest of the financial sector.

## 1.2 Takaful Business

### 1.2.1 Types of Takaful Business

- (1) General Takaful Business is Takaful Business in relation to General Insurance Contracts.
- (2) Family Takaful Business is Takaful Business in relation to Long Term Insurance Contracts.



### 1.2.2 Types of Takaful Contracts

- (1) A General Takaful Contract is a Shari'ah-Compliant Contract of Insurance that falls within one of the categories set out in Schedule 1.
- (2) A Family Takaful Contract is a Shari'ah-Compliant Contract of Insurance that falls within one of the categories set out in Schedule 2.

### 1.3 Classification of Takaful Contracts

#### 1.3.1 Classification of contracts

A Takaful Operator must, in its own records, classify all Takaful Contracts carried out by it, including all Contracts of Reinsurance or Retakaful Contracts entered into by it as cedant, according to the category to which the Takaful Contracts relate.

#### 1.3.2 Classification of contracts falling into two or more categories

Where a Takaful Contract relates to more than one category, the Takaful Operator must record separately the portions of the Takaful Contract that relate to each category, except that immaterial portions need not be separately recorded.

### 1.4 Restrictions in respect of Takaful Business

#### 1.4.1 Restriction on combining certain kinds of Takaful Business

A Takaful Operator must not carry on, in or from the AIFC, both Family Takaful Business and General Takaful Business unless the General Takaful Business is restricted to General Takaful Categories 1 (accident) and 2 (sickness).

#### 1.4.2 Restriction on Takaful Operators carrying on non-Takaful Business

- (1) A Takaful Operator must not carry on any activity other than Takaful Business unless the activity is directly connected with, or carried on for the purposes of, Takaful Business.
- (2) For the avoidance of doubt, Managing Investments is not an activity directly connected with, or carried on for the purposes of, Takaful Business.

### 1.5 Core obligations of Takaful Operators

#### 1.5.1 Obligation to establish and maintain systems and controls

A Takaful Operator must establish and maintain systems and controls in accordance with the requirements of TRR 2 (Governance Framework) and GEN 5 (Systems and Controls).

#### 1.5.2 Obligation to maintain a risk management strategy

A Takaful Operator must establish and implement a Risk Management Strategy in accordance with the requirements of TRR 3 (Risk Management Strategy).



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### **1.5.3 Obligation to conduct Own Risk and Solvency Assessment**

An AIFC-Incorporated Takaful Operator must conduct an Own Risk and Solvency Assessment and submit a report thereon to AFSA in accordance with the requirements of TRR 4.

### **1.5.4 Obligation to maintain Eligible Capital**

An AIFC-Incorporated Takaful Operator must at all times maintain Eligible Capital in an amount and of a quality required by TRR 5.

### **1.5.5 Obligations in respect of Investments**

A Takaful Operator must make investments in accordance with the requirements of TRR 6 (Investments).

### **1.5.6 Obligation to maintain Long Term Takaful Funds**

A Takaful Operator carrying on Family Takaful Business must segregate its Family Takaful assets and liabilities in accordance with TRR 7 (Segregation of Family Takaful assets and liabilities)

### **1.5.7 Obligations in respect of Assets and Liabilities**

An AIFC-Incorporated Takaful Operator must value its assets and liabilities in accordance with the requirements of TRR 8 (Valuation).

### **1.5.8 Obligation to produce actuarial reports**

A Takaful Operator must prepare and submit to the AFSA the actuarial reports that it is required to produced pursuant to the requirements of TRR 9 (Actuarial reporting).

### **1.5.9 Obligations in respect of groups**

A Takaful Operator that is a member of a group must comply with the requirements of TRR 10 (Takaful Operators that are members of Groups).

### **1.5.10 Obligations in respect of Takaful Business Transfers**

A Takaful Operator that is party to a Takaful Business Transfer must comply with the requirements of TRR 11 (Transfer of Takaful business).

### **1.5.11 Obligations in respect of Run-off**

A Takaful Operator that is in Run-off must comply with the requirements of TRR 12 (Takaful Operators in run-off).

### **1.5.12 Obligation to prepare prudential returns**

A Takaful Operator must prepare the prudential returns that it is required to produced pursuant to TRR 13 (Prudential returns).



### 2 Governance Framework

#### 2.1 Overall Governance

A Takaful Operator must ensure the adoption and effective implementation of sound risk management practices, robust Shari'ah governance and high standards of business conduct. The board of directors and senior management of a Takaful Operator are responsible for ensuring such effective governance framework as it is critical for achieving the objectives of the TRR Rules.

#### 2.2 Takaful Funds and their Governance

##### 2.2.1 Takaful Funds – establishment and attribution of business

- (1) A Takaful Operator must establish and maintain one or more Takaful Funds for its Takaful Business.
- (2) A Takaful Operator must attribute all Takaful Business that it conducts to one or more of the Takaful Funds it operates.

##### 2.2.2 Takaful Funds – Allocation of assets

- (1) A Takaful Operator must ensure the assets allocated to a particular Takaful Fund are only allocated, apart from the exceptions provided for in the rest of this rule below, for the purposes of the Takaful Fund to which it is attributed and must not be allocated or made available for any other purpose of the Takaful Operator.
- (2) Rule 2.1.2 (1) above does not preclude the reimbursement of expenditures borne by the shareholders of the Takaful Operator (in the same or the preceding financial year) in discharging liabilities wholly or partly attributable to a Takaful Fund.
- (3) Rule 2.1.2 (1) above does not apply to the payment of management fees by a Takaful Fund to the Takaful Operator or an investment manager to whom management of the Takaful Fund has been delegated, even where the manager is the shareholder of the Takaful Operator, provided that the Shari'ah supervisory board of the Takaful Operator has approved those fees.
- (4) Rule 2.1.2 (1) above does not prevent a Takaful Operator from exchanging, at fair market value, Takaful business assets of any Takaful Fund for other assets of the Takaful Operator including assets held by another Takaful Fund or assets held by the shareholder of the Takaful Operator.

##### 2.2.3 Takaful Funds – Fair transactions

A Takaful Operator must have adequate arrangements for ensuring that transactions involving assets of the Takaful Operator (other than transactions outside its control) do not operate unfairly between a Takaful Fund established and maintained under rule 2.1.1 and the shareholder assets of the Takaful Operator or, in the case where the Takaful Operator has more than one Takaful Fund, between those Takaful Funds.





### 2.2.4 Takaful Funds – Prohibition on making or attributing loans

A Takaful Operator must not make or attribute any loans from a Takaful Fund it operates to another Takaful Fund or to any other party, including but not limited to:

- (a) the Takaful Operator;
- (b) a person in a controlled function;
- (c) a participant (policyholder) in the Takaful Fund; and
- (d) a controller or person with close links to the Takaful Operator.

## 2.3 Systems for risk management and internal controls

### **Guidance: systems and controls requirements in GEN**

As an Authorised Person, A Takaful Operator is required to comply with the Systems and Controls requirements in GEN 5. The requirements of this Chapter are in addition to the requirements of GEN 5.

### 2.3.1 Risk management function

A Takaful Operator must establish and maintain an effective risk management function capable of assisting the Takaful Operator to identify, assess, monitor, mitigate and report on its key risks in a timely way; and to promote and sustain a sound risk culture.

### **Guidance: additional requirements in GEN**

A Takaful Operator is also subject to obligations in respect of operational risk, legal risk and fraud risk pursuant to GEN 5.8 (Management of risks).

### 2.3.2 Actuarial function

A Takaful Operator must establish and maintain an effective actuarial function capable of evaluating and providing advice regarding, at a minimum, technical provisions, premium and pricing activities, capital adequacy, reinsurance and compliance with related statutory and regulatory requirements.

## 2.4 Controlled Functions

### 2.4.1 Designation of roles as Controlled Functions

The following functions are prescribed as Controlled Functions within the meaning of section 20 of the FSFR:

- (a) Risk Officer;
- (b) Internal Auditor; and
- (c) Approved Actuary.



### **Guidance: relationship with GEN**

Rules in this section supplement, and should be read in conjunction with, the Rules in GEN 2.2 (Controlled and Designated Functions). In particular a Takaful Operator should note the following requirements of general application to Controlled Functions and the Approved Individuals performing them:

- GEN 2.2.6. Application for Approved Individual status
- GEN 2.2.7. AFSA discretion to waive requirements
- GEN 2.2.8. Modification or withdrawal of an Approved Individual's registration
- GEN 2.2.9. Dismissal or resignation of an Approved Individual

### **2.4.2 Mandatory appointments**

- (1) A Takaful Operator must make the following appointments and ensure that they are held by one or more Approved Individuals at all times:
  - (a) Risk Officer; and
  - (b) Internal Auditor.
- (2) A Takaful Operator must also appoint an Approved Actuary and ensure that such role is held at all times by an Approved Individual if:
  - (a) it conducts Family Takaful Business; or
  - (b) it conducts General Takaful Business and;
    - (i) more than 15% of its gross outstanding liabilities are attributable to Takaful Contracts for General Takaful Business in General Insurance 1 (Accident) or 2 (Sickness); or
    - (ii) more than 20% of its gross outstanding liabilities are attributable to Takaful Contracts for General Takaful Business in General Insurance Categories 10 (Motor vehicle liability), 11 (Aircraft liability), 12 (Liability of ships), 13 (General liability), 14 (Credit) or 15 (Suretyship).

### **2.4.3 Risk Officer**

The Risk Officer is an individual who has responsibility for the Takaful Operator's risk management function.

### **2.4.4 Internal Auditor**

The Internal Auditor is an individual who has responsibility:

- (a) for the Takaful Operator's internal audit policies, procedures and controls; and



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- (b) for taking appropriate steps to ensure the implementation of and compliance with those policies, procedures and controls.

### 2.4.5 Approved Actuary

- (1) The Approved Actuary is an individual who has responsibility:
  - (a) for the Takaful Operator's actuarial policies, procedures and controls; and
  - (b) for taking appropriate steps to ensure the implementation of and compliance with those policies, procedures and controls.
- (2) The Approved Actuary must not be an individual who:
  - (a) exercises the Senior Executive Function for the Takaful Operator or a related body corporate (except a related body corporate that is a subsidiary of the Takaful Operator); or
  - (b) is an Employee or Director of an auditor for the Takaful Operator.

## 2.5 Outsourcing

### 2.5.1 Outsourcing of risk management function (TRR 2.3.1)

A Takaful Operator may outsource its risk management function to an Insurance Manager who carries out that function in a Shari'ah-compliant manner, subject to the Rules relating to outsourcing in GEN 5.2 (Outsourcing).

### 2.5.2 Outsourcing of actuarial function (TRR 2.3.2)

A Takaful Operator may outsource its actuarial function to an Insurance Manager who carries out that function in a Shari'ah-compliant manner, subject to the Rules relating to outsourcing in GEN 5.2 (Outsourcing).

### 2.5.3 Outsourcing of Controlled Functions (TRR 2.4 and GEN 2.2)

A Takaful Operator may appoint an Employee of an Insurance Manager to perform the Controlled Functions of Risk Officer, Internal Auditor, Approved Actuary, Finance Officer and/or Compliance Officer, provided that such Employee is an Approved Individual.



### **3 Risk Management Strategy**

#### **3.1 Risk Management Strategy**

##### **3.1.1 Core obligations**

- (1) A Takaful Operator must establish, document and implement a Risk Management Strategy that is appropriate to the nature, scale and complexity of its business.
- (2) The Risk Management Strategy of the Takaful Operator must be appropriate to the specific features of the Takaful model adopted by it for conducting its Takaful Business and all associated Shari'ah compliance obligations.
- (3) A Takaful Operator must not intentionally deviate in a material way from its Risk Management Strategy unless such deviation has been
  - (a) approved by its Governing Body in accordance with TRR 3.1.5 (Approval of Risk Management Strategy) below; and
  - (b) notified to the AFSA in accordance with TRR 3.1.6 (Notification of the AFSA) below.

##### **3.1.2 Contents of Risk Management Strategy**

A Takaful Operator's Risk Management Strategy must:

- (a) provide for the identification and quantification of material risks under a sufficiently wide range of outcomes using techniques which are appropriate to the nature, scale and complexity of the risks it bears;
- (b) include a Risk Management Policy that complies with TRR 3.1.3 (Contents of Risk Management Policy);
- (c) include a Risk Tolerance Statement that complies with the requirements of TRR 3.1.4 (Contents of Risk Tolerance Statement);
- (d) be supported by accurate documentation;
- (e) describe how the Takaful Operator will:
  - (i) ensure that relevant staff have an awareness of risk issues and the accessibility of the Risk Management Strategy; and
  - (ii) instil an appropriate risk culture; and
- (f) include a business continuity plan for ensuring that critical business operations can be maintained or recovered in a timely fashion in the event of disruption.
- (g) be responsive to changes in its risk profile; and
- (h) incorporate a feedback loop, based on appropriate and good quality information, management processes and objective assessment, which enables it to take the necessary action in a timely manner in response to changes in its risk profile.



### 3.1.3 Contents of Risk Management Policy

A Takaful Operator's Risk Management Policy must:

- (a) describe how all relevant and material categories of financial and non-financial risk are monitored, measured and managed, both in the Takaful Operator's business strategy and its day-to-day operations, including at least the following risks:
  - (i) Shari'ah non-compliance risk
  - (ii) risks arising from segregation of Takaful funds
  - (iii) credit risk;
  - (iv) balance sheet and market risk (including investment, asset-liability management, liquidity and derivatives risks);
  - (v) reserving risk;
  - (vi) Takaful risk (including underwriting, product design, pricing and claims settlement risks);
  - (vii) reinsurance risk;
  - (viii) operational risk (including business continuity, outsourcing, fraud, technology, legal and project management risks);
  - (ix) concentration risk;
  - (x) risks relating to use of Retakaful
  - (xi) group risk.
- (b) describe the relationship between the Takaful Operator's tolerance limits, regulatory capital requirements, economic capital and the processes and methods for monitoring risk;
- (c) include the following specific policies:
  - (i) a policy regarding investment that specifies the nature, role and extent of the Takaful Operator's investment activities and how the Takaful Operator complies with the investment requirements under these Rules;
  - (ii) a policy regarding asset-liability management that specifies the nature, role and extent of asset-liability management activities and their relationship with product development, pricing and investment management;
  - (iii) a policy regarding underwriting that specifies the risks to be accepted by the Takaful Operator as part of its Takaful business, the processes for underwriting, pricing and claims settlement;
  - (iv) a policy ensuring that any Contract of Retakaful / reinsurance to which it is a party is finalised (and the material documents supporting the contract are completed) before



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the start of reinsurance cover (the start date), or as soon as possible after the start date (but in no case later than 60 calendar days after the start date);

- (v) a policy towards risk retention, risk management strategies including Retakaful and the use of Shari'ah-compliant hedging techniques;
- (vi) a policy regarding procedures for business continuity that enable the Takaful Operator to manage any initial disruption of business and to recover critical business operations following such a disruption.

### 3.1.4 Contents of Risk Tolerance Statement

A Takaful Operator's Risk Tolerance Statement must:

- (a) set out its overall quantitative and qualitative risk tolerance levels;
- (b) define risk tolerance limits which take into account all relevant and material categories of risk and the relationships between them.

### 3.1.5 Approval of Risk Management Strategy

- (1) A Takaful Operator's Risk Management Strategy must be approved by its Governing Body.
- (2) Any change to or deviation from a Takaful Operator's Risk Management Strategy must be approved by its Governing Body.
- (3) In giving its approval to a Risk Management Strategy, or to any amendment to or deviation from a Risk Management Strategy, the Governing Body of a Takaful Operator must be satisfied that:
  - (a) the strategy and any changes to it mitigate and control the risks included in the Takaful Operator's Risk Management Policy; and
  - (b) the Risk Management Policy is appropriate and gives reasonable assurance that all material risks facing the Takaful Operator are prudently and soundly managed having regard to the nature, scale and complexity of the Takaful Operator's business.

### 3.1.6 Notification of the AFSA

- (1) A Takaful Operator must give to the AFSA a copy of its Risk Management Strategy, and any subsequently amended version of that strategy, within 10 business days after its approval.
- (2) A Takaful Operator must notify the AFSA of any material deviation from its Risk Management Strategy at least 10 business days before the deviation.



## 4 Own Risk and Solvency Assessment (ORSA)

### 4.1 The ORSA

#### 4.1.1 Obligation to conduct an Own Risk and Solvency Assessment

- (1) An AIFC-Incorporated Takaful Operator must:
  - (a) conduct an Own Risk and Solvency Assessment (ORSA) in accordance with TRR 4.1.2 (ORSA – requirements) at least annually; and
  - (b) submit a report to the AFSA on its ORSA (an ORSA Report) in accordance with TRR 4.2.1 (ORSA Report - requirements).
- (2) An AIFC-Incorporated Takaful Operator must conduct a fresh ORSA and submit a revised ORSA report to the AFSA if there is a change to its Risk Management Strategy, strategic plan or business plan and the change results, or there are reasonable grounds to believe that the change will result, in a material change in the capital adequacy or solvency of the AIFC-Incorporated Takaful Operator.

#### 4.1.2 ORSA – requirements

- (1) In conducting an ORSA, an AIFC-Incorporated Takaful Operator must assess:
  - (a) its overall solvency needs, including its own view of the adequacy of its capital resources to meet the regulatory capital requirements;
  - (b) the risk exposures of each Takaful Fund managed by it, independent of every other Takaful Fund it manages to ensure that the risks or potential losses are not masked by the countervailing impact of the availability of capital in other Takaful Funds.
  - (c) the actions it has taken to manage the risks to which it is exposed;
  - (d) the financial resources needed:
    - (i) to manage its business prudently; and
    - (ii) to meet the capital adequacy requirements in TRR 5 (Capital adequacy requirements);
  - (e) the nature, adequacy and quality of the capital resources needed, having regard to their loss-absorbing capacity and liquidity;
  - (f) the adequacy and quality of the capital resources in each Takaful Fund to meet the regulatory capital requirement of that Takaful Fund, as well as its economic capital needs;
  - (g) the probability and extent of any need for Qard support for the Takaful Fund;
  - (h) the effect on the Takaful Operator's solvency position of all reasonably foreseeable and relevant changes in its risk profile (including group-specific risks); and



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- (i) its ability to meet its Minimum Capital Requirements and Prescribed Capital Requirement and continue in business, and the financial resources needed, over periods longer than those typically used for calculating its capital adequacy requirements under TRR 5 (Capital adequacy requirements).
- (2) An AIFC-Incorporated Takaful Operator must include as part of any quantitative evaluation in its ORSA:
  - (a) stress tests;
  - (b) the occurrence of extreme events to which the Takaful Operator is exposed; and
  - (c) other unlikely but possible adverse scenarios that would render the Takaful Operator's business model unviable.
- (3) The ORSA must be appropriate to the nature, scale and complexity of the AIFC-Incorporated Takaful Operator's business.
- (4) The ORSA must cover all Takaful Funds managed by the Takaful Operator, as it is the responsibility of the Takaful Operator to ensure that those funds are managed prudently.
- (5) The ORSA must consider the potential impact of transactions between different Takaful Funds, and in particular the impact of any Qard provided by the shareholders' fund of the Takaful Operator to any Takaful Fund. In this respect, the ORSA must involve a forward-looking assessment of the need for provision of Qard and how it will be repaid, and the impact of various stakeholders involved in the process.
- (6) The ORSA also needs to consider whether the Takaful Operator will be able and/or willing to provide Qard, in a scenario wherein the ability of a Takaful Fund to continue to meet its obligations would be contingent on receipt of Qard support.

### 4.2 The ORSA Report

#### 4.2.1 ORSA Report - requirements

An AIFC-Incorporated Takaful Operator's ORSA Report must present all of the following:

- (a) the qualitative and quantitative results of the ORSA and the conclusions drawn by the AIFC-Incorporated Takaful Operator from those results;
- (b) the methods and main assumptions used in the ORSA;
- (c) information on the AIFC-Incorporated Takaful Operator's overall solvency needs and a comparison of those solvency needs with its capital adequacy requirements under TRR 5 (Capital adequacy requirements) and its Eligible Capital;
- (d) qualitative and (if relevant) quantitative information on the extent to which quantifiable risks to which the AIFC-Incorporated Takaful Operator is exposed are not reflected in the calculation of the Prescribed Capital Requirement.





**4.2.2 ORSA Report – approval by the Governing Body**

An ORSA Report must include a statement that the Governing Body of the AIFC-Incorporated Takaful Operator participated in the ORSA and approved the ORSA Report.



### 5 Capital adequacy requirements

#### 5.1 Application and Overview

##### 5.1.1 Application

This Chapter applies to an AIFC-Incorporated Takaful Operator.

##### 5.1.2 Overview

- (1) The capital requirements for the shareholders' fund of the Takaful Operator must be reflective of the risks directly borne by the Takaful Operator, whilst the capital requirements for the individual Takaful Funds managed by it must be reflective of the risks borne by those Takaful Funds.
- (2) If the Eligible Capital available in a Takaful Fund is not adequate to meet the applicable capital requirements as defined in the TRR Rules, the resulting deficit in capital should be considered as an estimate of the potential Qard that may need to be extended by the Takaful Operator to ensure capital adequacy of the relevant Takaful Fund.
- (3) The Eligible Capital available in the shareholders' fund of a Takaful Operator must only be available to support risks borne by the Takaful Operator as well as any potential Qard it may need to provide to its Takaful Funds, as described in (2) above.
- (4) The Eligible Capital available in a Takaful Fund must only be used to support the risk exposures of that Takaful Fund and should be available only to reduce the potential Qard that may need to be extended by its Takaful Operator.
- (5) The capital adequacy and other prudential requirements as well as the methodologies for determining them, as specified in the TRR Rules must be applied to the Takaful Operator or to the individual Takaful Funds it manages, as applicable in the relevant context, to achieve the overall objectives of the TRR Rules and to comply with the specific Rules 5.1.2 (1) to (4).
- (6) All references to a Takaful Operator or an AIFC-incorporated Takaful Operator in the TRR Rules specifying capital adequacy and other prudential requirements must be read as referring also to a Takaful Fund.

#### 5.2 Calculation of Eligible Capital and capital requirements

##### 5.2.1 Obligation to calculate Eligible Capital

An AIFC-Incorporated Takaful Operator must calculate its Eligible Capital on an ongoing basis in accordance with the Rules set out in Schedule 3 (Calculation of Eligible capital).

##### 5.2.2 Obligation to calculate MCR

An AIFC-Incorporated Takaful Operator must calculate its Minimum Capital Requirement (MCR) on an ongoing basis in accordance with the Rules set out in Schedule 4 (Calculation of Minimum Capital Requirement (MCR)).



### 5.2.3 Obligation to calculate PCR

An AIFC-Incorporated Takaful Operator must:

- (a) calculate its Prescribed Capital Requirement (PCR) at least once a year in accordance with the Rules set out in Schedule 5 (Calculation of Prescribed Capital Requirement (PCR)); and
- (b) recalculate its PCR without delay if its risk profile deviates significantly from the risk profile detailed in its last reported PCR.

## 5.3 Use of Internal models to calculate capital requirements

### 5.3.1 Approval by AFSA

The AFSA may, by written notice, allow an AIFC-Incorporated Takaful Operator to use its own internal model to calculate a component or components of its PCR.

#### Guidance

Note that the AFSA is not currently in a position to consider applications for the use of internal models. The AFSA will notify Takaful Operators when this position changes.

### 5.3.2 Criteria for approving use of internal models

The AFSA will only consider allowing an AIFC-Incorporated Takaful Operator to use its internal model if it is satisfied that the model:

- (a) operates within a risk management environment that is conceptually sound and supported by adequate resources;
- (b) addresses all material risks to which the AIFC-Incorporated Takaful Operator could reasonably be expected to be exposed and is commensurate with the relative importance of those risks, based on the AIFC-Incorporated Takaful Operator's business mix;
- (c) is closely integrated into the day-to-day management process of the AIFC-Incorporated Takaful Operator;
- (d) is supported by appropriate audit and compliance procedures;
- (e) is subjected to, as a minimum, three tests: "statistical quality test", "calibration test" and "use test", the results of the which demonstrate that the model is appropriate for regulatory capital purposes; and
- (f) is subject to adequate processes established by the AIFC-Incorporated Takaful Operator to validate the accuracy of the calculations made using the internal model, as well as for monitoring and assessing its ongoing performance.

### 5.3.3 Statistical quality test

An AIFC-Incorporated Takaful Operator seeking approval for its internal model must demonstrate:



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- (a) that the PCR or component(s) of the PCR calculated using the internal model addresses the overall risk position of the AIFC-Incorporated Takaful Operator subject to the nature, scale and complexity of the AIFC-Incorporated Takaful Operator and its risk exposures;
- (b) the theoretical validity of the internal model including:
  - (i) the suitability of model structure, data (including completeness and accuracy), and estimation within the AIFC-Incorporated Takaful Operator's business context;
  - (ii) the appropriateness of the internal model basis within the industry context, including methodological benchmarking to alternatives and best practice;
  - (iii) the appropriateness of the parameter estimations. It should be demonstrated that the parameter estimations are appropriate within the market and industry context and parameter uncertainty is addressed to the extent possible; and
  - (iv) the consistency, soundness and justification of the methodologies, distributions, aggregation techniques and dependencies (within and among risk categories) adopted.
- (c) the analytical validity of the internal model including:
  - (i) the statistical process for validating that the results of the model are fit for the purpose for which they are used;
  - (ii) the implementation of the model given the theoretical basis, goodness of fit, forecasting capability for out-of sample observations (backtesting), sensitivity to changes in key underlying assumptions and stability of outputs;
  - (iii) the backtesting applied at various levels of the business activity;
  - (iv) the sensitivity analysis undertaken, which should validate the parts of the internal model where expert judgement is used and should examine whether the model output is sensitive to changes in key assumptions;
  - (v) the convergence of the model to demonstrate that model outputs are statistically significant;
  - (vi) the processes of monitoring the model's performance; and
  - (vii) where possible, benchmarking the model results and techniques with peers, available literature and research.

### 5.3.4 Calibration test

An AIFC-Incorporated Takaful Operator must demonstrate that the PCR or component(s) of the PCR produced by its internal model is consistent with the specified modelling criteria.



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### 5.3.5 Use test

- (1) An AIFC-Incorporated Takaful Operator must demonstrate that the internal model (its methodologies and results) is fully integrated within its risk and capital management and system of governance processes and procedures.
- (2) An AIFC-Incorporated Takaful Operator's Governing Body is required to:
  - (a) have overall control of and responsibility for the construction and use of the internal model for risk management purposes;
  - (b) have sufficient understanding of the model's construction at appropriate levels within the AIFC-Incorporated Takaful Operator's organisational structure;
  - (c) have an understanding of the consequences of the internal model's outputs and limitations for risk and capital management decisions.
- (3) An AIFC-Incorporated Takaful Operator must have adequate governance and internal controls in place with respect to the internal model.

### 5.3.6 Documentation

- (1) An AIFC-Incorporated Takaful Operator must document, at a minimum:
  - (a) the design, construction, modelling criteria and governance of the internal model;
  - (b) the justification for and details of the underlying methodology, assumptions and quantitative and financial bases;
  - (c) if applicable, why it has chosen to only use a partial internal model for certain risks or business lines; and
  - (d) if applicable, the reliance on and appropriateness of the use of external vendors/suppliers.
- (2) The documentation must be sufficiently detailed to demonstrate compliance with the statistical quality test, calibration test and use test.
- (3) The documentation of the internal model must be timely and up to date.

### 5.3.7 Ongoing validation and supervisory approval of the internal model

An AIFC-Incorporated Takaful Operator using an internal model must:

- (a) monitor the performance of its internal model and regularly review and validate the ongoing appropriateness of the model's specifications against the criteria set out in 5.3.2 to 5.3.5;
- (b) notify the AFSA of material changes to the internal model made by it for review and continued approval of the use of the model for regulatory capital purposes;
- (c) properly document internal model changes;



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- (d) report information necessary for supervisory review and ongoing approval of the internal model on a regular basis, as determined appropriate by the AFSA.

### 5.4 Solvency control levels

#### 5.4.1 Obligation to maintain Eligible Capital at or above MCR

An AIFC-Incorporated Takaful Operator must at all times have Eligible Capital equal to or higher than the amount of its MCR.

#### 5.4.2 Obligation to maintain Eligible Capital at or above PCR

An AIFC-Incorporated Takaful Operator must at all times have Eligible Capital equal to or higher than the amount of its PCR.

#### 5.4.3 Non-Compliance with the PCR

If an AIFC-Incorporated Takaful Operator becomes aware that it does not have, or there is a risk that within the following three months it will not have, Eligible Capital equal to or higher than the amount of its PCR, it must:

- (1) immediately inform the AFSA;
- (2) within one month, submit to the AFSA for its approval a short-term realistic plan which complies with the requirements of TRR 5.4.6 (Contents of recovery plans and finance schemes);
- (3) within six months (or such longer period as the AFSA may specify), take the measures necessary to achieve the re-establishment of Eligible Capital covering the PCR, or the reduction of its risk profile to ensure compliance with the PCR; and
- (4) take such steps (if any) as the AFSA may require, which steps may be specified by the ASFA as in addition to, or instead of, the measures in (3).

#### 5.4.4 Non-Compliance with the MCR

If an AIFC-Incorporated Takaful Operator becomes aware that it does not have, or there is a risk that within the following three months it will not have, Eligible Capital equal to or higher than the amount of its MCR, it must

- (1) immediately inform the AFSA;
- (2) within two months, submit to the AFSA for its approval a short-term realistic plan for infusion of additional Eligible Capital which complies with the requirements of TRR 5.4.6 (Contents of recovery plans and finance schemes);
- (3) within six months (or such longer period as the AFSA may allow), take the measures necessary to achieve the re-establishment of the level of Eligible Capital covering the MCR, or the reduction of its risk profile to ensure compliance with the MCR; and
- (4) take such steps (if any) as the AFSA may require, which steps may be specified by the ASFA as in addition to, or instead of, the measures in (3).



### 5.4.5 Other regulatory actions not precluded

The fact that an AIFC-Incorporated Takaful Operator has Eligible Capital equal to or in excess of its PCR or its MCR does not preclude the AFSA from intervention, or from requiring action by the AIFC-Incorporated Takaful Operator for other reasons, such as weaknesses in the risk management or governance of the Takaful Operator.

### 5.4.6 Contents of recovery plans and finance schemes

Any recovery plan or finance scheme must as a minimum include:

- (a) estimates of management expenses, in particular current general expenses and commissions;
- (b) estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions;
- (c) a forecast balance sheet;
- (d) information about the AIFC-Incorporated Takaful Operator's overall policy regarding reinsurance; and
- (e) such other information as the AFSA may specify in writing.

### 5.4.7 Eligible Capital below the level of the Capital Floor

If at any time an AIFC-Incorporated Takaful Operator becomes aware that it does not have Eligible Capital in excess of the amount of the Capital Floor specified in Schedule 4 (Calculation of Minimum Capital Requirement (MCR)), it must immediately

- (a) stop effecting new Contracts of Takaful; and
- (b) inform the AFSA.

## 5.5 Reduction of Eligible Capital

### 5.5.1 Tier 1 Capital not to be reduced without approval

An AIFC-Incorporated Takaful Operator must not reduce the Tier 1 Capital component of its Eligible Capital without the prior written approval of the AFSA.

### 5.5.2 Capital plan to be provided

When seeking approval for a reduction of its Tier 1 Capital under TRR 5.5.1 (Tier 1 Capital not to be reduced without approval), an AIFC-Incorporated Takaful Operator must provide to the AFSA a capital plan that has incorporated the effects of the proposed reduction and:

- (a) demonstrates that the AIFC-Incorporated Takaful Operator will remain in excess of its MCR for 2 years without relying on new capital issues;
- (b) is consistent with the AIFC-Incorporated Takaful Operator's business plan; and



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- (c) takes account of any possible acquisitions, locked-in capital in subsidiaries and the possibility of exceptional losses.

### **5.5.3 Notice to be given of proposed reduction of Tier 2 Capital**

An AIFC-Incorporated Takaful Operator must notify the AFSA of its intention to reduce its Tier 2 Capital at least 6 months before the actual date of the proposed reduction, providing details of how it will meet its MCR after the proposed reduction.

## **5.6 Notification of dividends and distributions**

### **5.6.1 Dividends and distributions to be reported**

An AIFC-Incorporated Takaful Operator must report to the AFSA all dividends and other distributions to shareholders within 15 business days following the declaration of the dividend or distribution.





**6 Investment**

**6.1 Admissible assets**

**6.1.1 Security, liquidity, location and diversification**

- (1) A Takaful Operator must invest only in assets or investment opportunities which are approved as Shari'ah-compliant, by its Shari'ah Supervisory Board.
- (2) A Takaful Operator when, investing in assets, must consider whether, for the portfolio as a whole:
  - (a) its assets are sufficiently secure having regard to their capacity to protect their value and preserve their economic substance;
  - (b) its assets are sufficiently liquid to ensure that the Takaful Operator is able to make payments to policyholders and creditors as they fall due
  - (c) its assets are held in the appropriate location for their availability; and
  - (d) its assets are sufficiently diversified subject to the nature, scale and complexity of the business.

**6.1.2 Assets appropriate to liabilities**

- (1) A Takaful Operator must invest in a manner that is appropriate to the nature of its liabilities.
- (2) In particular, a Takaful Operator must:
  - (a) consider the extent to which the cash flows from its investments match the liability cash flows in both timing and amount and how these changes in varying conditions;
  - (b) consider the investment guarantees and embedded options that are contained in its policies;
  - (c) consider the currency or currencies of its liabilities and the extent to which they are matched by the currencies of the assets;
  - (d) manage conflicts of interest (e.g. between the Takaful Operator's corporate objectives and disclosed Takaful policy objectives) to ensure assets are invested appropriately;
  - (e) for with-profits liabilities, hold an appropriate mix of assets to meet policyholders' reasonable expectations; and
  - (f) if it is part of an insurance group, hold investments tailored to the characteristics of its liabilities and its needs and not be subject to undue influence from the wider objectives of the group.

**6.1.3 Ability to assess risks**

- (1) A Takaful Operator must only invest in assets whose risks it can properly assess and manage.



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- (2) In particular, a Takaful Operator must:
  - (a) ensure its investments, including those in collective investment funds, are sufficiently transparent and limit its investments to those where the associated risks of the asset can be properly managed by it
  - (b) ensure that it understands all of the risks involved in an investment before any investments are undertaken;
  - (c) if it is able to look through the structure of an investment to the underlying assets, consider the risk characteristics of the underlying assets and how this affects the risk characteristics of the investments itself
  - (d) if it is not able to look through the structure of an investment to the underlying assets, develop appropriate techniques to assess the risks associated with the investment.

### 6.2 Investment restrictions

#### 6.2.1 Assets not admitted to trading on a regulated financial market

A Takaful Operator must ensure that assets and securities that are not admitted to trading on a regulated financial market are kept to prudent levels.

#### 6.2.2 Derivatives

- (1) A Takaful Operator must not use a Derivative instrument for speculation or proprietary trading.
- (2) A Takaful Operator may only use a Shari'ah-compliant Derivative instrument:
  - (a) to apply an index tracking strategy to part or all of a portfolio;
  - (b) to apply capital protected strategies to part or all of a portfolio;
  - (c) to apply efficient portfolio management techniques to a portfolio; or
  - (d) to reduce investment risk currently employed on a portfolio.

#### 6.2.3 Forward foreign exchange transactions

A Takaful Operator must not invest in forward foreign exchange transactions save to the extent that they hedge currency exposures to currencies other than the reporting currency in its prudential returns.

### 6.3 Investment policy and procedures

#### 6.3.1 Investment policy

A Takaful Operator must establish and maintain an investment policy which specifies

- (a) the nature, role and extent of its investment activities; and



- (b) how it complies with TRR 6.1 (Admissible assets).

**6.3.2 Procedures for complex and non-transparent investments**

A Takaful Operator must establish procedures for managing the risk associated with more complex and less transparent classes of asset and investment in markets or instruments that are subject to less governance or regulation



**7 Segregation of Family Takaful assets and liabilities**

**7.1 Establishment of Family Takaful Funds**

**7.1.1 Family Takaful Funds to be established**

A Takaful Operator conducting Family Takaful Business must either:

- (a) establish and maintain one or more Family Takaful Funds; or
- (b) notify the AFSA that the Takaful Operator is deemed to constitute a single Family Takaful Fund.

**7.1.2 Family Takaful Fund**

- (1) Unless (2) applies, all the Family Takaful Assets of a Takaful Operator constitute its Family Takaful Fund.
- (2) Where a Takaful Operator identifies particular Family Takaful Assets in connection with different parts of its Family Takaful Business, the assets identified in relation to each such part constitute separate Family Takaful Funds of the Takaful Operator.

**7.1.3 Family Takaful Assets**

- (1) A Takaful Operator's Family Takaful Assets are the items in (2), adjusted to take account of:
  - (a) liabilities in respect of the Takaful Operator's Family Takaful Business; and
  - (b) any transfers made out of the Family Takaful Fund in accordance with TRR 7.5.2 (Transfers of assets out of Family Takaful Funds).
- (2) The items are:
  - (a) admissible assets identified by the Takaful Operator as being available to cover liabilities arising under or in connection with Family Takaful Business with due regard to generally accepted actuarial practice (including assets into which those assets have been converted) but excluding any assets identified as being held to cover liabilities in respect of subordinated debt;
  - (b) any other assets identified by the Takaful Operator as being available to cover its liabilities arising from Family Takaful Business (including assets into which those assets have been converted) including, if the Takaful Operator so elects, assets which are excluded under (a);
  - (c) premiums and other receivables in respect of Family Takaful Business;
  - (d) other receipts of the Family Takaful Business; and
  - (e) all income and capital receipts in respect of the items set out in (2).



### **7.1.4 Takaful Operator deemed to constitute Family Takaful Fund to be treated as though it had established such fund**

A Takaful Operator that is deemed, in accordance with TRR 7.1.1(b), to constitute a single Family Takaful Fund shall be treated for all purposes relating to these Rules as though the Takaful Operator had established a Family Takaful Fund to which all of the assets and liabilities of the Takaful Operator are attributed.

### **7.1.5 Treatment of Branches**

A Takaful Operator that is a Branch and that is subject to a regulatory requirement in another jurisdiction to arrange its affairs in a manner that is equivalent or substantially equivalent to the requirements of TRR 7.1.1 may make an application to the AFSA for that arrangement of its affairs to be deemed to constitute a Family Takaful Fund.

#### **Guidance**

If the AFSA approves an application under TRR 7.1.5(1), it will give a written notice to the Branch stating the manner in which the arrangement will be deemed to constitute a Family Takaful Fund.

## **7.2 Attribution of contracts to a Family Takaful Fund**

### **7.2.1 Business to be attributed to Family Takaful Funds**

A Takaful Operator must attribute all Family Takaful Business that it conducts to a Family Takaful Fund.

### **7.2.2 Attribution of General Takaful Contracts**

- (1) Except as allowed for in (2), a Takaful Operator may not attribute General Takaful Contracts to a Family Takaful Fund.
- (2) A Takaful Operator may attribute Takaful Contracts in General Insurance Category 1 (Accident) and General Insurance Category 2 (Sickness) to a Family Takaful Fund.

## **7.3 Segregation of assets and liabilities**

### **7.3.1 Separate identification of assets, liabilities, revenues and expenses**

A Takaful Operator that is required under TRR 7.1.1 (Family Takaful Funds to be established) to establish and maintain one or more Family Takaful Funds, or has attributed Takaful Contracts in General Insurance Category 1 (Accident) or General Insurance Category 2 (Sickness) to a Family Takaful Fund under TRR 7.2.2(2) (Attribution of General Insurance Contracts), must:

- (a) identify separately in its books and records the assets, liabilities, revenues and expenses attributable to that business; and
- (b) ensure those assets, liabilities, revenues and expenses are recorded separately and accounted for as Family Takaful Fund.



### 7.3.2 Recording of assets, liabilities, revenues and expenses

A Takaful Operator must record all assets, liabilities, revenues and expenses in respect of a Family Takaful Contract that is attributed to a Family Takaful Fund as assets, liabilities, revenues and expenses of that Family Takaful Fund.

### 7.3.3 Attribution of assets not already attributed

A Takaful Operator may at any time attribute any of its assets to a Family Takaful Fund that were not previously attributed to such a Family Takaful Fund.

### 7.3.4 Recording of revenues and expenses

All revenues and expenses arising by way of earnings, revaluation or other change to the assets and liabilities of a Family Takaful Fund must be recorded as revenues and expenses, or movements in capital, of that Family Takaful Fund.

## 7.4 Recordkeeping

### 7.4.1 Accounting and other records to be maintained

A Takaful Operator must maintain adequate accounting and other records to identify

- (1) the Takaful Contracts attributed to a Family Takaful Fund in accordance with TRR 7.2 (Attribution of contracts to a Family Takaful Fund); and
- (2) the assets, liabilities, revenues and expenses attributed to a Family Takaful Fund in accordance with TRR 7.3 (Segregation of assets and liabilities).

## 7.5 Limitation on use of assets in Family Takaful Fund

### 7.5.1 Application of assets

A Takaful Operator must ensure that, except as provided in TRR 7.5.2 to 7.5.6, assets that are attributable to a Family Takaful Fund are applied only for the purposes of the business attributed to the Family Takaful Fund.

### 7.5.2 Transfers of assets out of Family Takaful Funds

A Takaful Operator must ensure that assets attributable to a Family Takaful Fund are not transferred so as to be available for other purposes of the Takaful Operator except:

- (a) where the transfer constitutes appropriation of a surplus determined in accordance with TRR 9.1.3(4)(g) (Requirements for Financial Condition Report) and the transfer is performed within four months of the reference date of the Financial Condition Report that this determination forms part of;
- (b) where the transfer constitutes a payment of dividend or return of capital, in accordance with TRR 7.5.4 (Payment of dividends by Takaful Operator constituting a single Family Takaful Fund);
- (c) where the transfer is made in exchange for other assets at fair value;



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- (d) where the transfer constitutes reimbursement of expenditure borne on behalf of the Family Takaful Fund and in respect of expenses attributable to the Family Takaful Fund; or
- (e) where the transfer constitutes reattribution of assets attributed to the Family Takaful Fund in error.

### **7.5.3 Assets of Family Takaful Funds not to be distributed**

A Takaful Operator must not make any distribution by way of dividend, or return of capital assets attributable to a Family Takaful Fund, if by doing so that would result in a breach of its obligations under TRR 5 (Capital adequacy requirements).

### **7.5.4 Payment of dividends by Takaful Operator constituting a single Family Takaful Fund**

A Takaful Operator that is deemed to constitute a single Family Takaful Fund may only make a dividend or return of capital where:

- (a) the dividend or return of capital constitutes appropriation of a surplus determined in accordance with TRR 9.1.3(4)(g) (Requirements for Financial Condition Report), and either
- (b) the payment is made within four months of the reference date of the Financial Condition Report determining that surplus and does not cause the total aggregate amount of the dividends or returns of capital made by the Takaful Operator since that reference date to exceed the amount of that surplus; or
- (c) the payment is made more than four months after the reference date of Financial Condition Report determining that surplus and does not cause the total aggregate amount of the dividends or returns of capital made by the Takaful Operator since that reference date to exceed 50% of the amount of that surplus.

### **7.5.5 Assets not to be lent**

A Takaful Operator must not lend or otherwise make available for use for any other purposes of the Takaful Operator, or any purposes of any party related to the Takaful Operator, assets attributable to a Family Takaful Fund.

### **7.5.6 Certain reinsurance-like arrangements prohibited**

A Takaful Operator may not enter into any arrangement, whether or not described as a Retakaful Contract or a Contract of Reinsurance, whereby a Family Takaful Fund of the Takaful Operator stands in the same relation to the Takaful Operator as though the Takaful Operator were the Retakaful Operator in a Retakaful Contract or Contract of Reinsurance in which the Family Takaful Fund is the cedant.

## **7.6 Distribution of a surplus or funding a deficit in a Takaful Fund**

### **7.6.1 Policies about surpluses and deficits**

- (1) A Takaful Operator must have a written policy, or subject to rule 7.6.2, policies, for determining the surplus or deficit arising from its Takaful Business, the basis of distributing that surplus or deficit between the participants and the shareholders, and the method of transferring any surplus or deficit to the participants.



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- (2) The policy or policies must comply with all relevant AAOIFI standards including but not limited to, Financial Accounting Standard No. 13 'Disclosure of Bases for Determining and Allocating Surplus or Deficit in Islamic Insurance Companies'.
- (3) Each policy must be approved by the Takaful Operator's Shari'ah Supervisory Board, as defined in Islamic Finance Rules IFR rule 5.1.

### 7.6.2 When 2 or more policies permitted

A Takaful Operator may develop and/or offer more than one policy at any point in time, where the Takaful Operator conducts different categories of Takaful Business.

### 7.6.3 Copies of policies to be given to the AFSA

- (1) A Takaful Operator must provide a copy of the policy referred to in rule 7.6.1 above to the AFSA immediately following its approval by its Shari'ah Supervisory Board, but within one business day following the day such approval was given.
- (2) Any amendments to the policy referred in rule 7.6.1 subsequent to its submission to the AFSA, must be approved by the Shari'ah Supervisory Board of the Takaful Operator. The amended version of the policy must be submitted to the AFSA immediately following that approval.
- (3) A Takaful Operator must ensure that a copy of the policy approved under rule 7.6.1 or rule 7.6.3 (2), forms part of every Takaful policy sold it.

### Guidance

As part of its process to approve any amendments to a policy under rule 7.6.3(2), the AFSA will consider the impact of the proposed amendments on the rights and obligations of existing policyholders of the Takaful Operator who are affected by those proposed amendments.

### 7.6.4 Surplus or deficit to be determined annually

- (1) On an annual basis, every Takaful Operator must determine any surplus or deficit arising on each Takaful Fund it operates, in a distinct manner.
- (2) A Takaful Operator must not distribute a surplus or deficit from any one of the Takaful Funds it operates for Family Takaful Business until the value of the surplus or deficit involved, has been determined by an Approved Actuary in accordance with rule 9.1.3(4)(g).
- (3) Any distribution must be performed within 4 months of the reference date of the actuarial investigation referred to in (2).

### 7.6.5 Reports of distributions of surplus or deficit to the AFSA

A Takaful Operator must report to the AFSA all distributions of profit or surplus (however called or described) to policyholders within 15 business days of the date of declaration of the distribution.





**7.6.6 Prohibitions on distributions**

A Takaful Operator must not make any distributions to participants, regardless of the Rules governing the Takaful Operator, if it fails to, or because of the payment of the distribution would fail to, meet its Minimum Capital Requirement.



## **8 Valuation**

### **8.1 Matching assets and liabilities**

#### **8.1.1 Value of Takaful Operator's assets to match its Takaful Liabilities**

- (1) A Takaful Operator must hold supporting assets of a value at least equal to the amount of its Takaful liabilities.
- (2) Such asset must be of a sufficient amount, and of an appropriate currency and term, to ensure that the cash inflows from the assets meet the expected cash outflows from the Takaful Operator's Takaful liabilities as they fall due.

#### **8.1.2 Projecting cash flows - treatment of options**

In determining the expected cash outflows from its Takaful liabilities for the purposes of TRR 8.1.1, a Takaful Operator must take into account any options that exist in the Takaful Operator's Takaful Contracts including:

- (a) any unilateral option available to the policyholder to extend a Takaful Contract; and
- (b) any unilateral right available to the Takaful Operator to either cancel or renew a Takaful Contract.

#### **8.1.3 Projecting cash flows - Family Takaful Business**

In projecting cash flows in relation to Family Takaful Business for the purposes of TRR 8.1.1, a Takaful Operator carrying on Family Takaful Business must take into account the nature of the projections and the factors relevant to its Family Takaful Business, including:

- (a) expected investment earnings;
- (b) expected reinsurance recoveries;
- (c) mortality and morbidity;
- (d) expenses;
- (e) options and guarantees; and
- (f) persistency.

### **8.2 Recognition and measurement of assets and liabilities**

#### **8.2.1 General provisions**

- (1) A Takaful Operator may:
  - (a) measure the value of an asset at less than the value determined in accordance with this Chapter; and



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- (b) measure the value of a liability at more than the value determined in accordance with this Chapter.
- (2) However, if the AFSA directs a Takaful Operator to measure an asset or a liability in accordance with principles that differ from those specified in this Chapter, the Takaful Operator must measure such assets or liability in accordance with those principles as directed.

### 8.2.2 Basis of accounting

Save where directed otherwise by the AFSA or where inconsistent with the Rules in this Chapter, a Takaful Operator must recognise its assets and liabilities and measure their value in accordance with the IFRS basis of accounting.

### 8.2.3 Methods and assumptions that may be used

In measuring assets and liabilities, a Takaful Operator must use methods and prudent assumptions that:

- (a) are appropriate to the nature, scale and complexity of the Takaful Operator's business;
- (b) are made using professional judgement, training and experience;
- (c) are made having regard to reasonably available statistics and other information;
- (d) are consistent from year to year and without arbitrary changes;
- (e) include appropriate margins for adverse deviation of relevant factors;
- (f) recognise the distribution of profits or emerging surplus in an appropriate way over the duration of each Takaful Contract;
- (g) are in accordance with generally accepted actuarial practice; and
- (h) do not reflect the Takaful Operator's own credit rating.

### 8.2.4 Changes in methods and assumptions on which valuations depend

- (1) Where the valuation of an asset or liability is dependent upon the adoption of assumptions or the adoption of a calculation method, a Takaful Operator must ensure that any change in the assumptions or methods adopted is reflected immediately in the value attributed to the asset or liability concerned.
- (2) The recognition of the effects of changes in assumptions or methods may not be deferred to future reporting periods.

### 8.2.5 Actuarial principles

The AFSA may specify actuarial principles to be used by a Takaful Operator in measuring assets and liabilities.



### 8.2.6 Derecognising liabilities

- (1) A Takaful Operator must not derecognise a Takaful Liability (or a part of a Takaful Liability) until the obligation giving rise to the liability expires or is discharged or cancelled.
- (2) To avoid doubt, if Retakaful / reinsurance covering the liability (or part of the liability) is purchased, the liability must not be derecognised unless the purchase results in the discharge or cancellation of the obligation giving rise to the liability.

### 8.2.7 Discount rate

In calculating the present value of a Takaful liability, the discount rate must be a prudent estimate of the yield expected to be earned by assets of the Takaful Operator that are sufficient in value and appropriate in nature to cover the provisions for the liability being discounted.

### 8.2.8 Valuation of expected future payments

Where this Chapter requires a Takaful Operator to recognise as a liability the value of expected future payments, that liability must be measured as the net present value of those expected future payments.

### 8.2.9 Valuation of expected future receipts

Where this Chapter requires a Takaful Operator carrying on General Takaful Business to recognise as an asset the value of expected future receipts, that asset must be measured as the net present value of those expected future receipts.

## 8.3 Treatment of particular assets and liabilities - General Takaful Business

### 8.3.1 Treatment of premium liability

A Takaful Operator carrying on General Takaful Business must recognise as a liability for the relevant Takaful Fund, the value of future claims payments and associated direct and indirect settlement costs, arising from future events insured under policies that are in force as at the Solvency Reference Date (premium liability).

### 8.3.2 Treatment of value of future claims payments

A Takaful Operator carrying on General Takaful Business must recognise as a liability for the relevant Takaful Fund, the value of future claims payments and associated direct and indirect settlement costs, arising from insured events that have occurred as at the Solvency Reference Date.

### 8.3.3 Treatment of expected recoveries

A Takaful Operator carrying on General Takaful Business must recognise as an asset for the relevant Takaful Fund, the value of Retakaful / reinsurance and other recoveries expected to be received in respect of claims referred to in TRR 8.3.1 (Treatment of premium liability) and TRR 8.3.2 (Treatment of value of future claims payments).



## **8.4 Treatment of particular assets and liabilities - Family Takaful**

### **8.4.1 Treatment of policy benefits due before Solvency Reference Date**

A Takaful Operator carrying on Family Takaful Business must recognise as a liability the amount of policy benefits that are due for payment on or before the Solvency Reference Date.

### **8.4.2 Treatment of net value of future policy benefits**

A Takaful Operator carrying on Family Takaful Business must recognise as a liability the net value of future policy benefits under policies that are in force as at the Solvency Reference Date, taking into account all prospective liabilities as determined by the policy conditions for each existing contract, and taking credit for premiums payable after the Solvency Reference Date.

### **8.4.3 Measuring net value of policy benefits as liability**

In measuring the liability associated with future policy benefits, a Takaful Operator carrying on Family Takaful Business must:

- (a) use actuarial principles;
- (b) provide for all liabilities based on assumptions that meet the general requirements for prudent assumptions in TRR 8.2.3 (Methods and assumptions that may be used) including appropriate margins for adverse deviation of relevant factors that are sufficient to ensure that there is no significant foreseeable risk that liabilities to policyholders for Family Takaful contracts will not be met as they fall due; and
- (c) take into account:
  - (i) all guaranteed policy benefits, including guaranteed surrender values;
  - (ii) vested, declared or allotted bonuses to which policyholders are already either collectively or individually contractually entitled;
  - (iii) all options available to the policyholder under the terms of the contract;
  - (iv) discretionary charges and deductions from policy benefits, in so far as they do not exceed the reasonable expectations of policyholders;
  - (v) expenses, including commissions; and
  - (vi) any rights under contracts of Retakaful / reinsurance in respect of Family Takaful Business.

### **8.4.4 Negative values for reserves—Family Takaful**

A Takaful Operator carrying on Family Takaful Business must not value its mathematical reserves for a for a Family Takaful Contract at less than zero unless:

- (a) the calculation is based on assumptions that meet the general requirements for prudent assumptions in TRR 8.2.3 (Methods and assumptions that may be used);



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- (b) the contract does not have a guaranteed surrender value at the actuarial valuation date; and
- (c) the total mathematical reserves established by the Takaful Operator have a value of at least:
  - (i) if the Takaful Operator's Family Takaful Contracts include linked Family Takaful contracts—the sum of the surrender values of all its linked Family Takaful contracts at the actuarial valuation date; and
  - (ii) in any other case—zero.



**9 Actuarial reporting**

**9.1 Takaful Operators that are required to have Approved Actuaries**

**9.1.1 Application**

TRR 9.1.2 to 9.1.5 apply to a Takaful Operator that is required to have an Approved Actuary.

Note: For the Takaful Operators that are required to have an Approved Actuary, see TRR 2.2.2 (Obligation to appoint Approved Individuals to certain roles).

**9.1.2 Financial Condition Reports**

- (1) The Approved Actuary for the Takaful Operator must annually carry out an actuarial investigation to enable him or her to prepare a report about the Takaful Operator's financial condition (a Financial Condition Report).
- (2) The Takaful Operator must ensure that the Approved Actuary is given appropriate access (that is, such access as the actuary reasonably believes to be necessary to prepare the report) to:
  - (a) all relevant data, information, reports and staff of the Takaful Operator; and
  - (b) so far as possible, any contractor of the Takaful Operator.
- (3) The Approved Actuary must prepare, sign and date the report.
- (4) The Approved Actuary must give the report to the Takaful Operator sufficiently in advance of the Takaful Operator's next annual return date to allow the Takaful Operator's Governing Body a reasonable opportunity to consider and use it in preparing the Takaful Operator's next annual prudential return.
- (5) The Takaful Operator's Governing Body must give a copy of the report to the AFSA on or before the Takaful Operator's next annual return date.
- (6) In this rule, the next annual return date for a Takaful Operator means the date on which it must give its next annual prudential return to the AFSA under TRR 13.1.1 (Obligation to prepare prudential returns).

**9.1.3 Requirements for Financial Condition Report**

- (1) A Financial Condition Report must set out an objective assessment of the overall financial condition of the Takaful Operator concerned.
- (2) For a Takaful Operator conducting Family Takaful Business, such a report must include an objective assessment of the financial condition of each Family Takaful Fund established by the Takaful Operator.
- (3) In preparing a Financial Condition Report, an Approved Actuary must act in accordance with the relevant professional actuarial standards, and must use appropriate actuarial valuation principles, techniques and methodologies.



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- (4) The Approved Actuary must ensure that the report covers at least the following matters (so far as relevant):
- (a) an overview of the Takaful Operator's business;
  - (b) an assessment of the Takaful Operator's recent experience and profitability, including the experience during the year ending on the valuation date;
  - (c) an assessment of the value of the Takaful Operator's Takaful Liabilities that fall within TRR 8.4.1 (Treatment of policy benefits due before Solvency Reference Date) and TRR 8.4.2 (Treatment of net value of future policy benefits);
  - (d) for a Takaful Operator to which sub-rule (5) applies, an assessment of the value of the Takaful Operator's Takaful Liabilities that fall within TRR 8.3.1 (Treatment of premium liability) and TRR 8.3.2 (Treatment of value of future claims payments), using the relevant professional actuarial standards and appropriate actuarial valuation principles, techniques and methodologies;
  - (e) an assessment of whether the Takaful Operator's past estimates of the liabilities referred to in paragraphs (c) and (d) were adequate, especially if there has been a change in the assumptions or the valuation method from that adopted at the previous valuation;
  - (f) an explanation, in relation to the valuation of those liabilities, of:
    - (i) the assumptions used in the valuation process;
    - (ii) the adequacy and appropriateness of data made available to the Approved Actuary by the Takaful Operator;
    - (iii) how the Approved Actuary assessed the reliability of the data;
    - (iv) the model or models used by the Approved Actuary;
    - (v) the approach taken to estimate the variability of the estimate; and
    - (vi) the sensitivity analyses undertaken;
  - (g) a determination of the value of any surplus or deficit in each Takaful Fund operated by the Takaful Operator for conducting Family Takaful Business;
  - (h) an assessment of asset and liability management, including the Takaful Operator's investment strategy;
  - (i) an assessment of the Takaful Operator's current and future capital adequacy and a discussion of its approach to capital management;
  - (j) an assessment of the Takaful Operator's pricing, including the adequacy of its premiums;





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- (k) an assessment of the suitability and adequacy of the Takaful Operator's Retakaful / reinsurance arrangements, including the documentation of those arrangements and the existence and impact of any limited risk transfer arrangements;
  - (l) an assessment of the suitability and adequacy of the Takaful Operator's Risk Management Policy.
- (5) This sub-rule applies to a Takaful Operator if it engages in General Takaful Business and:
- (a) more than 15% of its gross outstanding liabilities are attributable to Takaful Contracts for General Takaful Business in General Takaful Categories 1 (Accident) or 2 (Sickness); or
  - (b) more than 20% of its gross outstanding liabilities are attributable to Takaful Contracts for General Takaful Business in General Takaful Categories 10 (Motor vehicle liability), 11 (Aircraft liability), 12 (Liability of ships), 13 (General liability), 14 (Credit) or 15 (Suretyship).
- (6) The Approved Actuary:
- (a) must consider the implications and outlook for the Takaful Operator of each matter mentioned in sub-rule (4); and
  - (b) if the implications for the Takaful Operator are adverse, must make recommendations to address the problem.
- (7) A Financial Condition Report for a Branch must be prepared in relation to the Takaful Operator's AIFC operations but must take into account the financial position of the head office.

### 9.1.4 AFSA may direct more frequent Financial Condition Reports

- (1) The AFSA may direct a Takaful Operator to ask require its Approved Actuary to prepare a Financial Condition Report at a higher frequency than that specified in TRR 9.1.2 (Financial Condition Reports), if the AFSA considers it necessary or desirable for the prudential supervision of the Takaful Operator.
- (2) A Takaful Operator must comply with a direction under subrule (1).

### 9.1.5 AFSA may direct special review

- (1) The AFSA may direct a Takaful Operator that the Takaful Operator's Approved Actuary:
  - (a) is to carry out a review of matters specified by the AFSA relating to the Takaful Operator's operations, risk management or financial affairs; and
  - (b) is to prepare a report on the basis of that review.
- (2) The Takaful Operator must bear the cost of the review.
- (3) A Takaful Operator must comply with a direction under sub-rule (1).



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- (4) The Takaful Operator's Approved Actuary must give the report simultaneously to the AFSA and the Takaful Operator within 3 months of the date of the direction, unless the AFSA grants an extension of time in writing.

### 9.2 Takaful Operators that are not required to have an Approved Actuary

#### 9.2.1 Application

TRR 9.2.2 to 9.2.5 apply to a Takaful Operator that is not required to have an Approved Actuary.

Note: For the Takaful Operators that are required to have an Approved Actuary, see TRR 2.4.2 (Mandatory appointments).

#### 9.2.2 Actuarial reporting requirements for general Takaful business

The Governing Body of a Takaful Operator to which this Rule applies:

- (a) must consider annually whether to commission an independent actuary to report on its business; but
- (b) must commission such a report at least once every 3 years.

#### 9.2.3 Qualifications of independent actuary

- (1) If a Takaful Operator decides to commission an actuarial report, it must appoint, to prepare the report, an individual who:
  - (a) has the qualifications set out in sub-rule (2); and
  - (b) satisfies the criteria set out in sub-rule (3).
- (2) The qualifications are:
  - (a) that he or she has appropriate formal qualifications and is a member of a recognised professional body;
  - (b) that he or she has at least 5 years' relevant experience in providing actuarial services to Takaful Operators, either in the AIFC or in other jurisdictions; and
  - (c) that the experience is sufficiently recent to ensure that he or she is familiar with current issues in the provision of such services to Takaful Operators.
- (3) The criteria are the following:
  - (a) that he or she does not exercise any Controlled Function or Designated Function for the Takaful Operator or a related body corporate (except a related body corporate that is a subsidiary of the Takaful Operator);
  - (b) that he or she is not:
    - (i) an auditor (under section 136(1) of the Companies Regulations for the Takaful Operator;



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- (ii) an Employee or Director of an entity of which that auditor is an Employee or Director; nor
- (iii) a partner of that auditor.

### 9.2.4 Actuarial reports

- (1) The actuary who prepares an actuarial report for the purposes of TRR 9.2.2 must sign it.
- (2) The Takaful Operator concerned must ensure that the actuary is given appropriate access (that is, such access as the actuary reasonably believes to be necessary to prepare the report) to:
  - (a) all relevant data, information, reports and staff of the Takaful Operator; and
  - (b) so far as possible, any contractor of the Takaful Operator.
- (3) The report must give details, for each category of General Takaful Business that the Takaful Operator conducts, of the following matters:
  - (a) recent trends in the business;
  - (b) the actuary's estimate of the value of the Takaful Liabilities and assets arising in respect of those liabilities, determined in accordance with TRR 8 (Valuation);
  - (c) if the assumptions or the valuation method used for that estimate differ from those adopted for the previous valuation of those assets and liabilities, the effect, as at the date on which the actuary signs the report, of those changes on the value of those liabilities and assets;
  - (d) the adequacy and appropriateness of the data that the Takaful Operator made available to the actuary;
  - (e) the procedures that the actuary used to assess the reliability of that data;
  - (f) the model or models that the actuary used;
  - (g) the assumptions that the actuary used in the valuation process (including, without limitation, assumptions made as to inflation and discount rates, future expense rates and, if relevant, future investment income);
  - (h) how the actuary estimated the variability of the estimate;
  - (i) the nature and findings of sensitivity analyses that the actuary undertook.
- (4) The Takaful Operator's Governing Body must give a copy of the signed report to the AFSA on or before the date on which the Takaful Operator must give its next annual prudential return to the AFSA under TRR 13.1.1 (Obligation to prepare prudential returns).



**9.2.5 Additional powers of the AFSA**

- (1) If at any time the AFSA believes it is necessary that a Takaful Operator to which this Rule applies should obtain an actuarial report relating to the Takaful Operator's operations, risk management or financial affairs, it may direct the Takaful Operator to do so at the Takaful Operator's expense.
- (2) The Takaful Operator:
  - (a) must appoint an actuary who satisfies the criteria in TRR 9.2.3 (Qualifications of independent actuary) to prepare the report; and
  - (b) must notify the AFSA of the name and credentials of the actuary appointed.
- (3) If the AFSA is of the opinion that the actuary appointed by the Takaful Operator fails to satisfy the relevant criteria, the AFSA may direct the Takaful Operator to appoint an actuary chosen by the AFSA to prepare the report.
- (4) The Takaful Operator must submit the report to the AFSA within 3 months of the direction, unless the AFSA allows an extension of time in writing.



## **10 Takaful Operators that are members of Groups**

### **10.1 Introduction**

#### **10.1.1 Application**

TRR 10 applies to every Takaful Operator that is a member of a Group.

#### **Guidance**

Group is defined in the Glossary as a group of entities which includes an entity (the 'first entity') and: (a) any parent of the first entity; and (b) any subsidiaries (direct or indirect) of the parent or parents in (a) or the first entity.

#### **10.1.2 Purpose**

TRR 10 imposes additional requirements on a Takaful Operator that is a member of a Group to ensure that:

- (a) the Takaful Operator is capitalised adequately to protect itself against the risks arising from its membership of the Group, and is otherwise protected against those risks;
- (b) it can be properly supervised by the AFSA;
- (c) it provides the AFSA with information about the structure and financial position of the Group; and
- (d) it assesses the effect of, and notifies the AFSA of, certain transactions within the Group.

#### **10.1.3 Group structure**

- (1) The structure of the Takaful Operator's Group must be transparent and must not hinder the effective supervision of the Takaful Operator.
- (2) The structure and risk profile of the Group must not hinder the Takaful Operator's stability and solvency.
- (3) The overall governance, high-level controls and reporting lines within the Group must be clear so far as they affect the Takaful Operator.
- (4) A Takaful Operator must not be subject to material control or influence from another Group member that is exercised through informal or undocumented channels.
- (5) There must be clear and certain protocols for the performance of functions for the Takaful Operator at the Group level.

#### **10.1.4 Direction regarding Eligible Capital**

- (1) A Takaful Operator must hold such additional Eligible Capital as the AFSA may direct (above the capital requirement for the Takaful Operator, as specified by these Rules) to cover risks arising because of its Group membership.



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- (2) If the AFSA directs a Takaful Operator to hold additional Eligible Capital, the Takaful Operator must increase its Eligible Capital by the amount directed by the AFSA within such period as the AFSA may specify.
- (3) A direction under sub-rule (1) may specify that the additional Eligible Capital is to take a particular form.

### 10.1.5 Intra-group transactions

- (1) A Takaful Operator must ensure that any material transaction with another member of its Group:
  - (a) is entered into on an 'arm's-length' basis; and
  - (b) is on fair and reasonable terms.
- (2) The Takaful Operator must ensure that its books, accounts and records clearly and accurately disclose the nature and details of the transaction, including any accounting information necessary to demonstrate that the terms were fair and reasonable.

### 10.1.6 Certain transactions to be inquired into by Takaful Operator's Governing Body

- (1) An AIFC-Incorporated Takaful Operator must not enter into a transaction of a kind described in sub-rule (2) unless its Governing Body is satisfied, after reasonable inquiry, that the transaction does not adversely affect the interests of policyholders.
- (2) The kinds of transaction are the following:
  - (a) an intra-group transaction (including a sale, purchase, exchange, loan, guarantee or investment) the amount of which is 3% (or more) of the Takaful Operator's Eligible Capital;
  - (b) a loan to a person not related to the Takaful Operator, if there is an agreement or understanding that the proceeds of the loan, or a substantial part of those proceeds, will be used to make loans to purchase assets of, or make investments in, another Group member, and the amount of the loan is 3% (or more) of the Takaful Operator's Eligible Capital;
  - (c) an intra-group reinsurance agreement, or a modification to such an agreement, if the reinsurance premium or change in the Takaful Operator's liabilities is 5% (or more) of the Takaful Operator's Eligible Capital;
  - (d) a reinsurance agreement, or a modification to such an agreement, involving the transfer of assets from the Takaful Operator to a person not related to it, if:
    - (i) there is an agreement or understanding between the Takaful Operator and that person that any part of the assets will be transferred to one or more other persons related to the Takaful Operator; and
    - (ii) the reinsurance premium or change in the Takaful Operator's liabilities is 5% (or more) of the Takaful Operator's Eligible Capital;



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- (e) an intra-group management agreement, service contract or cost-sharing arrangement.
- (3) A reference in sub-rule (2) to a Takaful Operator's Eligible Capital is a reference to that capital as at the end of the last standard quarter before the relevant transaction.
- (4) A Takaful Operator's Governing Body may delegate its responsibility under sub-rule (1) to the Takaful Operator's senior management if the Takaful Operator's Risk Management Strategy and internal control framework permit the Governing Body to do so.
- (5) In this rule:
  - (a) loan includes the extension of credit.
  - (b) standard quarter means each 3-month period ending on 31 March, 30 June, 30 September and 31 December.

### 10.1.7 Specific obligations of Group members

- (1) If a Takaful Operator is a member of a Group, the Takaful Operator's senior management should monitor any functions of the Takaful Operator, performed by any member of its Group.
- (2) The Takaful Operator's senior management should establish and maintain procedures and controls to identify and monitor the effect on the Takaful Operator of its relationship with the other members of the Group and the activities of those other members.
- (3) The procedures and controls should include procedures to monitor:
  - (a) changes in relationships between Group members;
  - (b) changes in the activities of Group members;
  - (c) conflicts of interest arising within the Group;
  - (d) events in the Group, particularly those that might affect the Takaful Operator's own regulatory compliance (for example, any failure of control or compliance in another Group member);
  - (e) the effect on it of:
    - (i) its relationship with the other members of the Group;
    - (ii) its membership in the Group; and
    - (iii) the activities of the other members of the Group; and
  - (f) the Group's compliance with:
    - (i) the supervision requirements applicable to it, including systems for the production of relevant data; and
    - (ii) Group reporting requirements.



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- (4) The Takaful Operator should have procedures to insulate it, so far as practicable, from the adverse effects of other Group activities (for example, transfer pricing or fronting) or Group events that might expose the Takaful Operator to risk.
- (5) The Takaful Operator's senior management should take reasonable steps to ensure that:
  - (a) other Group members are aware of the Takaful Operator's management and reporting obligations in relation to Group risk;
  - (b) Group capital and Group risk reporting requirements are complied with; and
  - (c) information about the Group provided to the AFSA is accurate and is provided in a timely manner.





## **11 Transfer of Takaful business**

### **11.1 Introduction**

#### **11.1.1 Application**

TRR 11 applies to every AIFC-Incorporated Takaful Operator.

#### **11.1.2 AIFC Takaful Business Transfer Scheme - definition**

An AIFC Takaful Business Transfer Scheme is a scheme for transfer of the whole or part of the Takaful Business undertaken by an AIFC-Incorporated Takaful Operator.

### **11.2 Sanction Order**

#### **11.2.1 Requirement for order of the AIFC Court**

No AIFC Takaful Business Transfer Scheme is to have effect unless an order sanctioning the scheme (a Sanction Order) has been made by the AIFC Court under section 112 of the FSFR.

#### **11.2.2 Application for a Sanction Order**

An application for a Sanction Order must be made by:

- (1) whichever of the transferor or transferee concerned is an AIFC-Incorporated Takaful Operator; or
- (2) by both transferor and transferee, if both are AIFC-Incorporated Takaful Operators.

#### **11.2.3 Requirements on the applicant**

Subject to such directions as the AFSA may give pursuant to section 112(2) of the FSFR, the applicant for a Sanction Order must ensure that:

- (a) the application for a Sanction Order is accompanied by
  - (i) a written report on the terms of the scheme (the Scheme Report) that complies with rule 11.3.2; and
  - (ii) a written summary of the scheme (the Scheme Summary) that complies with rule 11.3.3;
- (b) notice of the application for the Sanction Order is given to every policyholder resident in Kazakhstan who is affected by the scheme, in accordance with rule 11.4.1; and
- (c) notice of the application for the Sanction Order is published in accordance with rule 11.4.2.

### **11.3 The Scheme Report**

#### **11.3.1 The Skilled Person**

A Scheme Report may only be made by a person (the Skilled Person):



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- (a) appearing to the AFSA to have the skills necessary to enable him to make a proper report; and
- (b) nominated or approved for the purpose, in writing, by the AFSA.

### 11.3.2 The Scheme Report

A Scheme Report must

- (a) be in a form approved by the AFSA;
- (b) include a reasoned opinion as to whether or not the scheme (if it is sanctioned by the Court) is expected to have any material adverse impact on any of the policyholders of the transferor or the transferee; and
- (c) include a reasoned conclusion as to whether (if the scheme is sanctioned by the Court) each AIFC-Incorporated Takaful Operator concerned with the scheme (whether as transferee or as transferor) will, taking the scheme into account, comply with the requirements of TRR.

### 11.3.3 The Scheme Summary

The Scheme Summary must

- (a) contain sufficient information, in language that is clear, fair and not misleading, to enable policyholders to understand how they may be affected if the scheme is sanctioned by the Court;
- (b) be prepared or approved by the Skilled Person; and
- (c) be approved by the AFSA.

## 11.4 Notice requirements

### 11.4.1 Notice given to policyholders

- (1) The notice given to policyholders must include:
  - (a) Details of the place or places and times at which and the period during which an affected policyholder may obtain a copy of the scheme and any associated documentation; and
  - (b) the Scheme Summary referred to in rule 11.8.
- (2) The period in (1) must be not less than 30 days, or such other period as the AFSA may direct in writing.

### 11.4.2 Publication of notice

- (1) The applicant must publish notice of the application for the Sanction Order.
- (2) The notice in (1) must



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- (a) be approved by the AFSA before publication;
- (b) be published not less than three months (or such other period as the AFSA may direct in writing) before the hearing at which the Court will be asked to sanction the scheme; and
- (c) be published in two national papers in Kazakhstan, or in such other publications as the AFSA may direct in writing.



## **12 Takaful Operators in run-off**

### **12.1 Application and purpose**

#### **12.1.1 Application**

TRR 12 applies to:

- (a) every AIFC-Incorporated Takaful Operator; and
- (b) every Branch in respect of its AIFC Takaful Business operations.

#### **12.1.2 Meanings of terms relating to run-off**

In this Chapter:

- (a) a Takaful Operator in Run-off means a Takaful Operator that has ceased to effect Takaful Contracts in respect of the whole or a category of its Takaful Business (or, in the case of a Branch, the whole or a category of its AIFC Takaful Business), and a Family Takaful Fund in run-off is construed accordingly; and
- (b) going into run-off or placing Takaful Business into run-off means ceasing to effect Takaful Contracts, and placing a Family Takaful Fund into run-off is construed accordingly.

#### **12.1.3 Compliance with TRR 12 by Takaful Operator directed to go into run-off**

A Takaful Operator in Run-off by virtue of a decision or notice of the AFSA to the effect that the Takaful Operator is to cease to effect Takaful Contracts shall comply with TRR 12 except to the extent the AFSA acting under its powers in the FSFR directs otherwise.

#### **12.1.4 Certain contracts to be disregarded**

For the purposes of this Chapter, in determining whether a Takaful Operator is effecting Takaful Contracts or has ceased to effect Takaful Contracts, including Takaful Contracts effected through a Family Takaful Fund, Takaful Contracts effected under a term of an existing Takaful Contract will be ignored unless the AFSA decides otherwise in respect of any particular contract.

### **12.2 Takaful Operators ceasing to effect Takaful Contracts in a category**

#### **12.2.1 Application**

TRR 12.2.2 (Takaful Operators to give notice of decision to cease business) and TRR 12.2.3 (Takaful Operators in run-off not to effect certain contracts) apply to a Takaful Operator that ceases or decides to cease to effect new Takaful Contracts or to renew Takaful Contracts:

- (a) in a category in which the Takaful Operator has previously effected Takaful Business; or
- (b) in respect of a Family Takaful Fund, in a category in which the Takaful Operator has previously effected Takaful Business through that Family Takaful Fund.



**12.2.2 Takaful Operators to give notice of decision to cease business**

A Takaful Operator to which this Rule applies must, within 28 days of a decision to cease to effect new Takaful Contracts in a category, notify the AFSA of its decision, in a notice specifying the following details:

- (a) the effective date of the decision to cease effecting Takaful Contracts;
- (b) the category to which the decision relates; and
- (c) where relevant, the Family Takaful Fund to which the decision relates.

**12.2.3 Takaful Operators in run-off not to effect certain contracts**

- (1) A Takaful Operator who has provided a notice to the AFSA in accordance with TRR 12.2.2 must not effect any Takaful Contracts in that category without the written permission of the AFSA.
- (2) Where the notice referred to in TRR 12.2.2 relates to a Family Takaful Fund of the Takaful Operator, the restriction set out in this rule applies only to that Family Takaful Fund.

**12.3 Run-off plans**

**12.3.1 Application**

TRR 12.3.2 to 12.3.7 apply to:

- (a) Takaful Operators that go into, or are in, run-off, or that maintain Family Takaful Funds that are in run-off;
- (b) Takaful Operators that make a decision to go into run-off or to place a Family Takaful Fund into run-off; and
- (c) Takaful Operators whose Licence to effect Takaful Contracts in respect of their entire Takaful Business or in respect of the entire business of a Family Takaful Fund is withdrawn by the AFSA.

**12.3.2 Takaful Operator voluntarily in run-off to provide run-off plan**

If a Takaful Operator decides to go into run-off or to place a Family Takaful Fund into run-off, the Takaful Operator must, at the same time as the notice referred to in TRR 12.2.2, provide the AFSA with a written run-off plan in respect of the Takaful Business being placed into run-off.

**12.3.3 Takaful Operator directed to go into run-off to provide run-off plan**

If the AFSA withdraws a Takaful Operator's Licence to effect Takaful Contracts in respect of the Takaful Operator's whole, or a category of, Takaful Business or the whole, or a category of, Takaful Business of a Family Takaful Fund, the Takaful Operator must, within 28 days after the day the Takaful Operator is given the written notice of withdrawal of its Licence (or, if later, the period specified in that notice), provide the AFSA with a written run-off plan in respect of that Takaful Business.



### 12.3.4 What run-off plans must cover

A Takaful Operator must ensure a run-off plan provided to the AFSA in accordance with this Part covers the period until all liabilities to policyholders relating to the Takaful Business in run-off are met and includes:

- (a) an explanation of how, or the extent to which, all liabilities to policyholders will be met in full as they fall due;
- (b) an explanation of how, or the extent to which, the Takaful Operator will maintain its compliance with the requirements of these Rules until such time as all liabilities to policyholders are met;
- (c) a description, appropriate to the scale and complexity of the Takaful Operator's business, of the Takaful Operator's business strategy;
- (d) financial projections showing, in a form appropriate to the scale and complexity of the Takaful Operator's operations, the forecast financial position of the Takaful Operator as at the end of each reporting period during the period to which the run-off plan relates;
- (e) an assessment of the sensitivity of the financial position of the Takaful Operator to stress arising from realistic scenarios relevant to the circumstances of the Takaful Operator;
- (f) details of the planned run-off reinsurance protections and the extent to which the planned reinsurance protections match the run-off realistic scenarios;
- (g) details of the claims handling and reserving strategy; and
- (h) details of the cost of the management of the run-off.

### 12.3.5 Application of run-off plan to fund

Where a Takaful Operator's Takaful Business in run-off relates to a Family Takaful Fund of that Takaful Operator, the run-off plan must deal with the matters set out in TRR 12.3.4 so far as they relate to that Family Takaful Fund.

### 12.3.6 Takaful Operator to monitor run-off plan etc

- (1) This rule applies to a Takaful Operator that has given a run-off plan to the AFSA.
- (2) The Takaful Operator must monitor the matters provided in the run-off plan.
- (3) If there is a significant departure from the run-off plan, the Takaful Operator must tell the AFSA immediately, but by no later than the second business day after the day the departure happens or starts.

### 12.3.7 AFSA may direct Takaful Operator to amend run-off plan

- (1) Where a Takaful Operator has notified a matter to the AFSA in accordance with TRR 12.3.6, the AFSA may by notice in writing require the Takaful Operator to provide an amended run-off plan.



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- (2) The Takaful Operator must provide an amended run-off plan within 28 days of receipt of the notice, unless the notice specifies a longer period.

### 12.4 Provisions in respect of contracts relating to Takaful Business in run-off

#### 12.4.1 Application

TRR 12.4.2 (Takaful Operator with business in run-off to notify AFSA of certain contracts) applies only to a Takaful Operator that:

- (a) is in run-off as regards its entire Takaful Business or the entire Takaful Business of a Family Takaful Fund;
- (b) has provided a notice to the AFSA in accordance with TRR 12.2.2 (Takaful Operators to give notice of decision to cease business) in respect of its entire Takaful Business or the entire Takaful Business of a Family Takaful Fund; or
- (c) has received a written notice from the AFSA withdrawing the Takaful Operator's Licence to effect Takaful Contracts in respect of its entire Takaful Business or the entire Takaful Business of a Family Takaful Fund.

#### 12.4.2 Takaful Operator with business in run-off to notify AFSA of certain contracts

- (1) A Takaful Operator to which this Rule applies must:
  - (a) within 10 business days after the day its Takaful Business enters into run-off, tell the AFSA about the existence and principal features of any notifiable contract that existed at the time the business entered into run-off; and
  - (b) within 10 business days after the day it enters into a notifiable contract in relation to its Takaful Business in run-off, tell the AFSA about the existence and principal features of the contract.
- (2) To remove any doubt, subrule (1) (b) applies whether or not the Takaful Business is conducted through a Family Takaful Fund that is in run-off.
- (3) In this rule:

notifiable contract means:

  - (a) a contract with a person related to the Takaful Operator, other than a Takaful Contracts effected by the Takaful Operator before going into run-off;
  - (b) a contract with any person relating to the management of all or any of the Takaful Business in run-off;
  - (c) a contract with any person for reinsurance of all or any of the Takaful Business in run-off; or
  - (d) any other contract with a person mentioned in paragraph (b) or (c) or a person related to such a person.



**12.5 Limitations on distributions by AIFC-incorporated Takaful Operators in run-off**

**12.5.1 Takaful Operator in run-off not to make distributions**

- (1) An AIFC-Incorporated Takaful Operator in run-off must not make any distribution to shareholders or members of the Takaful Operator, whether by way of dividends or otherwise, or any payment of management fees (other than fees payable under a contract notified to the AFSA in accordance with TRR 12.4.2), without the written consent of the AFSA.
- (2) Any such distribution or return of capital or payment of management fees must be made within the period, if any, specified in the written notice of consent given by the AFSA.





### 13 Prudential returns

#### 13.1 Obligation to prepare prudential returns

- (1) A Takaful Operator must prepare and submit to the AFSA the annual, biannual and quarterly prudential returns set out in Schedule 6 (Prudential returns by Takaful Operators).
- (2) The AFSA may require the Takaful Operator to prepare additional prudential returns, by giving a notice to that effect to the Takaful Operator.

#### 13.2 Deadlines for provision of returns

- (1) A Takaful Operator must give an annual prudential return to the AFSA within 4 months after the day the relevant financial year of the Takaful Operator ends.
- (2) A Takaful Operator must give a biannual prudential return to the AFSA within 1 month after the day the relevant standard biannual period ends.
- (3) A Takaful Operator must give a quarterly prudential return to the AFSA within 1 month after the day the relevant standard quarter ends.
- (4) In this rule:
  - (a) standard biannual period means the 6-month period ending on 30 June or 31 December; and
  - (b) standard quarter means the 3-month period ending on 31 March, 30 June, 30 September or 31 December.

#### 13.3 External audit opinion to accompany

When a Takaful Operator submits its annual prudential returns to the AFSA, it must also provide an external audit opinion to accompany those prudential returns.



## **14 Captive Takaful Operators**

### **14.1 Introduction**

#### **14.1.1 Definition of Captive Takaful Operator**

A Captive Takaful Operator is an Authorised Firm with a Licence to carry on Takaful Business only for the business or operations of the Group to which it belongs.

#### **14.1.2 Definition of Captive Takaful Business**

- (1) Captive Takaful Business is the business of Effecting or Carrying out Takaful Contracts only for the business or operations of the Group to which the Captive Takaful Operator belongs.
- (2) General Captive Takaful Business is Captive Takaful Business in relation to General Takaful Contracts.
- (3) Family Captive Takaful Business is Captive Takaful Business in relation to Family Takaful Contracts.

#### **14.1.3 Captive Takaful Operator to be incorporated in the AIFC**

Only an Authorised Firm which is incorporated under the laws of the AIFC may apply to the AFSA for a Licence to conduct Captive Takaful Business.

### **14.2 Protected Cell Companies**

#### **14.2.1 Captive Takaful Operator may be a Protected Cell Company**

- (1) An Authorised Firm which is a Protected Cell Company incorporated under the Companies Regulations may apply to the AFSA for a Licence to conduct Captive Takaful Business.
- (2) A Protected Cell Company may not otherwise carry on Takaful Business.

#### **14.2.2 Captive Takaful Operators that are PCCs not to create cells without consent**

A Captive Takaful Operator that is a Protected Cell Company must not create a Cell without the written consent of the AFSA.

#### **14.2.3 Captive Takaful Operators that are PCCs to conduct Captive Takaful Business only through cells**

A Captive Takaful Operator that is a Protected Cell Company must ensure that, when it conducts Captive Takaful Business, each Takaful Contract is attributable to a particular Cell of the Captive Takaful Operator.

#### **14.2.4 Captive Takaful Operators that are PCCs not to conduct Captive General and Family Takaful Business through same Cell**

A Captive Takaful Operator that is a Protected Cell Company must not conduct both Captive General Takaful Business and Captive Family Takaful Business through the same Cell.



**14.3 Application of TRR to Captive Takaful Operator**

**14.3.1 Application of TRR 2 (Governance Framework)**

A Captive Takaful Operator must comply with the requirements of TRR 2 (Governance Framework) in full.

**14.3.2 Application of TRR 3 (Risk Management Strategy)**

A Captive Takaful Operator must comply with TRR 3 (Risk Management Strategy) in full.

**14.3.3 Application of TRR 4 (Own Risk and Solvency Assessment (ORSA)).**

A Captive Takaful Operator must comply with TRR 3 (Own Risk and Solvency Assessment (ORSA)) in full.

**14.3.4 Application of TRR 5 (Capital adequacy requirements)**

A Captive Takaful Operator must comply with the requirements of TRR 5 (Capital adequacy requirements) in full, subject to the rules in TRR 14.4 (Capital adequacy requirements for Captive Takaful Operators).

**14.3.5 Application of TRR 6 (Investment)**

A Captive Takaful Operator must comply with TRR 6 (Investment) in full.

**14.3.6 Application of TRR 7 (Segregation of Family Takaful assets and liabilities)**

A Captive Takaful Operator carrying on Family Captive Takaful Business must comply with TRR 7 (Segregation of Family Takaful assets and liabilities) in full.

**14.3.7 Application of TRR 8 (Valuation)**

A Captive Takaful Operator must comply with TRR 8 (Valuation) in full.

**14.3.8 Application of TRR 9 (Actuarial Reporting)**

A Captive Takaful Operator must comply with TRR 9 (Actuarial reporting) in full.

**14.3.9 Application of TRR 10 (Takaful Operators that are members of Groups)**

A Captive Takaful Operator must comply with TRR 10 (Takaful Operators that are members of Groups) in full.

**14.3.10 Application of TRR 11 (Transfers of Takaful Business)**

A Captive Takaful Operator must comply with TRR 11 (Transfer of Takaful business) in full.

**14.3.11 Application of TRR 12 (Takaful Operators in run-off)**

A Captive Takaful Operator must comply with TRR 12 (Takaful Operators in run-off) in full.



**14.3.12 Application of TRR 13 (Prudential Returns)**

A Captive Takaful Operator must comply with TRR 13 (Prudential returns) in full.

**14.4 Capital adequacy requirements for Captive Takaful Operators**

**14.4.1 Minimum Capital Requirement (MCR) for a Captive Takaful Operator**

For the purposes of Schedule 4 of TRR, the Capital Floor for a Captive Takaful Operator is

- (a) US\$150,000 for a Captive Takaful Operator carrying on Captive General Takaful Business;
- (b) US\$150,000 for a Captive Takaful Operator carrying on Captive Family Takaful Business; or
- (c) An amount specified in writing by the AFSA.

**14.4.2 Minimum Capital Requirement for a Protected Cell Company**

- (1) Subject to (2), each Cell of a Protected Cell Company must calculate its Minimum Capital Requirement in accordance with TRR 5.2.2 (Obligation to calculate MCR) as if it were a stand-alone Takaful Operator.
- (2) For a Captive Takaful Operator that is a Protected Cell Company, the Capital Floor only applies to the overall Protected Cell Company and there is no Capital Floor for each Cell or the Core.

**14.4.3 Prescribed Capital Requirement for a Protected Cell Company**

Each Cell of a Protected Cell Company must calculate its Prescribed Capital Requirement in accordance with TRR 5.2.3 (Obligation to calculate PCR) as if it were a stand-alone Takaful Operator.

**14.4.4 Eligible Capital of a Protected Cell Company**

- (1) Each Cell of a Protected Cell Company must calculate its Eligible Capital in accordance with TRR 5.2.1 (Obligation to calculate Eligible Capital).
- (2) The Core of a Protected Cell Company must calculate its Eligible Capital in accordance with TRR 5.2.1 (Obligation to calculate Eligible Capital).
- (3) In calculating its Eligible Capital, a Cell may only rely upon Non-Cellular Assets where it has entered into a recourse agreement with the Core pursuant to which it is entitled to rely upon such Non-Cellular Assets.
- (4) The Core of a Protected Cell Company must not enter into a recourse agreement with a Cell where the total capital thereby made available to Cells of the Protected Cell Company would exceed the Eligible Capital of the Core.



### **Schedule 1 Categories of General Takaful**

A Takaful Contract will be a General Takaful Contract if it falls within one or more of the following categories:

#### **General Takaful Category 1: Accident**

Takaful Contracts providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the Person insured:

- (1) sustaining injury as the result of an accident or of an accident of a specified class;
- (2) dying as a result of an accident or of an accident of a specified class; or
- (3) becoming incapacitated in consequence of disease or of disease of a specified class,

including contracts relating to industrial injury and occupational disease but excluding contracts falling within Family Takaful Category 4 (Permanent Health).

#### **General Takaful Category 2: Sickness**

Takaful Contracts providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of loss to the Persons insured attributable to sickness or infirmity but excluding contracts falling within Family Takaful Category 4 (Permanent Health).

#### **General Takaful Category 3: Land vehicles**

Takaful Contracts against loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock.

#### **General Takaful Category 4: Railway rolling stock**

Takaful Contracts against loss of or damage to railway rolling stock.

#### **General Takaful Category 5: Aircraft**

Takaful Contracts upon aircraft or upon the machinery, tackle, furniture or equipment of aircraft.

#### **General Takaful Category 6: Ships**

Takaful Contracts upon vessels used on the sea or on inland water, or upon the machinery, tackle, furniture or equipment of such vessels.

#### **General Takaful Category 7: Goods in transit**

Takaful Contracts against loss of or damage to merchandise, baggage and all other goods in transit, irrespective of the form of transport.



### **General Takaful Category 8: Fire and natural forces**

Takaful Contracts against loss of or damage to property (other than property to which categories 3 to 7 relate) due to fire, explosion, storm, natural forces other than storm, nuclear energy or land subsidence.

### **General Takaful Category 9: Damage to property**

Takaful Contracts against loss of or damage to property (other than property to which General Insurance Categories 3 to 7 relate) due to hail or frost or any other event (such as theft) other than those mentioned in General Takaful Category 8 (Fire and natural forces).

### **General Takaful Category 10: Motor vehicle liability**

Takaful Contracts against damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier's liability.

### **General Takaful Category 11: Aircraft liability**

Takaful Contracts against damage arising out of or in connection with the use of aircraft, including third-party risks and carrier's liability.

### **General Takaful Category 12: Liability of ships**

Takaful Contracts against damage arising out of or in connection with the use of vessels on the sea or on inland water, including third party risks and carrier's liability.

### **General Takaful Category 13: General liability**

Takaful Contracts against risks of the persons insured incurring liabilities to third parties, the risks in question not being risks to which General Takaful Categories 10, 11, 12 or 20 relate.

### **General Takaful Category 14: Credit**

Takaful Contracts against risks of loss to the Persons insured arising from the insolvency of debtors of theirs or from the failure (otherwise than through insolvency) of debtors of theirs to pay their debts when due.

### **General Takaful Category 15: Suretyship**

- (1) Takaful Contracts against the risks of loss to the Persons insured arising from their having to perform contracts of guarantee entered into by them.
- (2) Fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, where these are:
  - (a) effected or carried out by a Person not carrying on the business of Accepting Deposits;
  - (b) not effected merely incidentally to some other business carried on by the Person effecting them; and



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- (c) effected in return for the payment of one or more premiums.

### **General Takaful Category 16: Miscellaneous financial loss**

Takaful Contracts against any of the following risks, namely:

- (1) risks of loss to the Persons insured attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;
- (2) risks of loss to the Persons insured attributable to their incurring unforeseen expense (other than loss such as is covered by contracts falling within General Takaful Category 18 (Assistance)); or
- (3) risks which do not fall within sub-paragraph (1) or (2) and which are not of a kind such that Contracts of Insurance against them fall within any other General Takaful Category.

### **General Takaful Category 17: Legal expenses**

Takaful Contracts against risks of loss to the Persons insured attributable to their incurring legal expenses (including costs of litigation).

### **General Takaful Category 18: Assistance**

Takaful Contracts providing either or both of the following benefits, namely:

- (1) assistance (whether in cash or in kind) for Persons who get into difficulties while travelling, while away from home or while away from their permanent residence; or
- (2) assistance (whether in cash or in kind) for Persons who get into difficulties otherwise than as mentioned in sub-paragraph (1).

### **General Takaful Category 19: Space**

Takaful Contracts against loss of or damage to spacecraft and space objects (including satellites).

### **General Takaful Category 20: Space liability**

Takaful Contracts against damage arising out of or in connection with the use of spacecraft and space objects, including third-party risks and carrier's liability.



**Schedule 2 Categories of Family Takaful**

A Takaful Contracts will be a Family Takaful Contract if it falls within one or more of the following categories:

**Family Takaful Category 1: Life and annuity**

Takaful Contracts on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Family Takaful Category 3.

**Family Takaful Category 2: Marriage and birth**

Takaful Contract to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.

**Family Takaful Category 3: Linked long term**

Takaful Contract on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by references to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).

**Family Takaful Category 3: Permanent health**

Takaful Contract providing specified benefits against risks of Persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that:

- (1) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for the Persons concerned, or without limit of time; and
- (2) either are not expressed to be terminable by the Takaful Operator, or are expressed to be so terminable only in special circumstances mentioned in the contract.





### Schedule 3 Calculation of Eligible capital

#### 1. Application and purpose

##### 1.1 Application

This Schedule applies to every AIFC-Incorporated Takaful Operator.

##### 1.2 Purpose

###### Guidance

1. In assessing the adequacy of an AIFC-Incorporated Takaful Operator's financial resources, attention must be paid not only to the types of events or problems that it might encounter, but also the quality of the support provided by various types of capital instruments.
2. The purpose of this Schedule is to identify those capital instruments that can be included as Eligible Capital to meet the AIFC-Incorporated Takaful Operator's minimum capital requirement. In determining the Rules governing whether a capital instrument is adequate for supervisory purposes, the AFSA has identified the following relevant matters, namely the extent to which each instrument:
  - (a) provides a permanent and unrestricted commitment of funds;
  - (b) is freely available to absorb losses from business activities;
  - (c) does not impose any unavoidable servicing charges against earnings;
  - (d) ranks behind the claims of policyholders and other creditors in the event of the winding-up of the AIFC-Incorporated Takaful Operator.
3. As Takaful Operators authorised to conduct Takaful Business in or from the AIFC in the legal form of a Branch will be subject to the regulatory capital requirements applicable in their home jurisdiction, the requirements of this Schedule do not apply to Branches.

#### 2. Calculation of Eligible Capital

##### 2.1 Calculating Eligible Capital

An AIFC-Incorporated Takaful Operator must calculate its Eligible Capital in accordance with the Eligible Capital Calculation Table in rule 2.2 (Eligible Capital Calculation Table) and the provisions in this Schedule.

###### Guidance

The AFSA may recognise forms of capital instruments in addition to those set out in the Eligible Capital Calculation Table for inclusion in an AIFC-Incorporated Takaful Operator's Eligible Capital where those instruments comply with accepted international standards.

##### 2.2 Eligible Capital Calculation Table

The Eligible Capital Calculation Table is as follows:



<b>(A) Tier 1 Capital:</b>
Permanent Share Capital
Undistributable Reserves
Fund for future appropriations
<b>(B) Deductions from Tier 1 Capital</b>
Investments in own shares
Intangible assets
Interim net losses
<b>(C) Tier 1 Capital after deductions = A-B</b>
<b>(D) Tier 2 Capital:</b>
Perpetual qualifying hybrid capital instruments
Fixed dividend ordinary shares
Subordinated debt
Fixed term preference shares
Any other item approved for inclusion as Tier 2 Capital at the discretion of the AFSA
<b>(E) Total Tier 1 Capital plus Tier 2 Capital = C+D</b>
<b>(F) Deductions from Total of Tier 1 and Tier 2 Capital:</b>
Investments in subsidiaries and associates
Connected lending of a capital nature
Inadmissible assets
<b>(G) Total Tier 1 Capital plus Tier 2 Capital after deductions = E-F = Total Eligible Capital</b>

### 3. Components of Tier 1 Capital

#### 3.1 Permanent Share Capital

Permanent Share Capital means ordinary paid-up share capital, or equivalent however called, which meets the following conditions:

- (a) it is fully paid up;



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- (b) any dividends in relation to it are non-cumulative;
- (c) it is available to absorb losses on a going concern basis;
- (d) it ranks for repayment upon winding up or insolvency after all other debts and liabilities;
- (e) it is undated;
- (f) the proceeds of an issue of permanent share capital is immediately and fully available to the AIFC-Incorporated Takaful Operator;
- (g) the AIFC-Incorporated Takaful Operator is not obliged to pay any dividends on the shares (except in the form of shares that themselves comply with this rule);
- (h) the AIFC-Incorporated Takaful Operator does not have any other obligation or commitment to transfer any economic benefit in relation to that permanent share capital;
- (i) dividends and other charges on the shares can only be paid out of accumulated realised profits;

### 3.2 Undistributable Reserves

- (1) Undistributable Reserves has the meaning attributed to it by Article 72(7) of the AIFC Companies Regulations namely any of the following:
  - (a) a Company's share premium account;
  - (b) a Company's capital redemption reserve;
  - (c) the amount by which a Company's accumulated, unrealised profits (so far as not previously utilised by Distribution or capitalisation) exceeds its accumulated, unrealised losses (so far as not previously written off in a reduction or reorganisation of capital duly made);
  - (d) any other reserve that the Company is prohibited from distributing by its Articles of Association or under any applicable AIFC Regulations or AIFC Rules.
- (2) Undistributable Reserves also include capital contributions if:
  - (i) the capital contributions satisfy the requirements of rule 3.1 (a) to (i); and
  - (ii) the AIFC-Incorporated Takaful Operator told the AFSA of its intention to include the capital contributions at least 1 month before the day they were included.

### 3.3 Fund for future appropriations

Fund for future appropriations means the fund comprising all funds the allocation of which either to policyholders or to shareholders has not been determined by the end of the financial year, or the balance sheet items under international accounting standards which in aggregate represent as nearly as possible that fund.



### 3.4 Intangible assets

Intangible assets include goodwill, capitalised development costs, brand names, trademarks and similar rights and licences.

## 4. Components of Tier 2 Capital

### Guidance

Tier 2 Capital consists of instruments that, to varying degrees, fall short of the quality of Tier 1 Capital but nonetheless contribute to the overall strength of an AIFC-Incorporated Takaful Operator. Such instruments include some forms of hybrid capital instruments that have the characteristics of both equity and debt, that is they are structured like debt, but exhibit some of the loss absorption and funding flexibility features of equity.

### 4.1 Perpetual qualifying hybrid capital instruments

An AIFC-Incorporated Takaful Operator may only include perpetual qualifying hybrid capital instruments as part of its Tier 2 Capital if:

- (a) they are unsecured, subordinated and fully paid-up;
- (b) they are perpetual; and
- (c) they are available to absorb losses on a going concern basis.

### 4.2 Subordinated debt

- (1) An AIFC-Incorporated Takaful Operator must not include subordinated debt as part of its Eligible Capital unless it meets the following conditions:
  - (a) the claims of the subordinated creditors must rank behind those of all unsubordinated creditors;
  - (b) no interest or principal may be payable:
    - (i) at a time when the AIFC-Incorporated Takaful Operator is in breach of its minimum capital requirement; or
    - (ii) if the payment would mean that the AIFC-Incorporated Takaful Operator would be in breach of these Rules;
  - (c) the only events of default must be non-payment of any interest or principal under the debt agreement or the winding-up of the AIFC-Incorporated Takaful Operator;
  - (d) the remedies available to the subordinated creditor in the event of non-payment in respect of the subordinated debt must be limited to petitioning for the winding up of the AIFC-Incorporated Takaful Operator or proving for the debt and claiming in the liquidation of the AIFC-Incorporated Takaful Operator;
  - (e) any events of default and any remedy described in paragraph (d) must not prejudice the matters in paragraphs (a) and (b);



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- (f) in addition to the requirements about repayment in paragraphs (a) and (b), the subordinated debt must not become due and payable before its stated final maturity date except on an event of default complying with paragraph (c);
  - (g) the agreement and the debt are governed by the laws of a jurisdiction:
    - (i) under which the other conditions mentioned in this subrule can be met; or
    - (ii) that is otherwise acceptable, generally or in a particular case, to the AFSA;
  - (h) to the fullest extent permitted under the law of the relevant jurisdictions, creditors must waive their right to set off amounts they owe the AIFC-Incorporated Takaful Operator against subordinated amounts owed to them by the AIFC-Incorporated Takaful Operator;
  - (i) the terms of the subordinated debt must be set out in a written agreement or instrument that contains terms that provide for the conditions set out in paragraphs (a) to (h);
  - (j) the debt must be unsecured and fully paid up;
  - (k) the AIFC-Incorporated Takaful Operator has notified the AFSA that it intends to include subordinated debt as part of its Eligible Capital and the AFSA has not advised the AIFC-Incorporated Takaful Operator in writing within thirty days of the date of the notification that the subordinated debt must not form part of its Eligible Capital.
- (2) An AIFC-Incorporated Takaful Operator must not include in its Eligible Capital subordinated debt issued with step-ups in the first 5 years following the date of issue.
- (3) For the purposes of calculating the amount of subordinated debt that may be included in its Eligible Capital, an AIFC-Incorporated Takaful Operator must amortise the principal amount on a straight-line basis by 20% per annum in its final 4 years to maturity.

### 4.3 Legal opinions on Tier 2 Capital instruments

- (1) An AIFC-Incorporated Takaful Operator must obtain a written external legal opinion stating that the requirements of Rules 4.1 or 4.2 have been met in respect of any perpetual qualifying hybrid capital instrument or subordinated debt that the AIFC-Incorporated Takaful Operator is proposing to include as Eligible Capital.
- (2) An AIFC-Incorporated Takaful Operator must provide copies of the opinions referred to in subrule (1) to the AFSA if requested by the AFSA to do so.

### 4.4 Other Tier 2 Capital instruments

An AIFC-Incorporated Takaful Operator may include additional items in its Tier 2 Capital with the written approval of the AFSA.

#### **Guidance: ASFA approval of other items of Tier 2 Capital**

The matters that will be taken into account by the AFSA in considering an instrument for potential approval as Tier 2 Capital include (but are not limited to) the following:



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- (a) the extent to which and in what circumstances the proposed capital element is subordinated to the rights of policyholders in an insolvency or winding up;
- (b) the extent to which the proposed capital element is fully paid and available to avoid losses;
- (c) the period for which the proposed capital element is available; and
- (d) the extent to which the proposed capital element is free from mandatory payments or encumbrances.

### **5. Deductions from total of Tier 1 and Tier 2 Capital**

#### **5.1 Investments in subsidiaries and associates**

An AIFC-Incorporated Takaful Operator must deduct investments in subsidiaries and associates from the total of Tier 1 Capital and Tier 2 Capital.

#### **5.2 Connected lending of a capital nature**

An AIFC-Incorporated Takaful Operator must deduct connected lending of a capital nature from the total of Tier 1 and Tier 2 Capital.

#### **Guidance**

The AFSA regards connected lending of a capital nature to be any lending to a company in the same Group as the AIFC-Incorporated Takaful Operator for activities which that company would find hard to finance from another source, and is typically on a long term basis. Unless there is a genuine ability for the funds to be repaid within a short time, it is generally considered that the loan is of a capital nature.

#### **5.3 Inadmissible assets**

An AIFC-Incorporated Takaful Operator must deduct the following inadmissible assets from the total of Tier 1 Capital and Tier 2 Capital:

- (a) tangible fixed assets, including inventories, plant and equipment and vehicles;
- (b) deferred acquisition costs;
- (c) deferred tax assets;
- (d) deficiencies of net assets in subsidiaries;
- (e) any investment by a subsidiary of the AIFC-Incorporated Takaful Operator in the AIFC-Incorporated Takaful Operator's own shares;
- (f) holdings of other investments which are not readily realisable investments; and
- (g) any other assets to be deducted from Eligible Capital as directed by the AFSA.



### **Guidance**

The above assets have been identified as inadmissible assets because:

- (a) a sufficiently objective and verifiable basis of valuation does not exist;
- (b) their realisability cannot be relied upon with sufficient confidence;
- (c) their nature presents unacceptable custody risks; or
- (d) the holding of these may give rise to significant liabilities or onerous duties.

### **6. Limits on the use of different forms of capital**

#### **6.1 Instruments not to be included in Tier 2 Capital—exceeding 100% of Tier 1 Capital**

A capital instrument is not eligible for inclusion in Tier 2 Capital to the extent that its inclusion will result in the aggregate amount of Tier 2 Capital exceeding 100% of eligible Tier 1 Capital (net of deductions).



**Schedule 4 Calculation of Minimum Capital Requirement (MCR)**

**1. Minimum capital requirement (MCR)**

**1.1 The Capital Floor**

- (1) An AIFC-Incorporated Takaful Operator must maintain a paid up share capital of not less than the Capital Floor, or an equivalent sum in any currency acceptable to the AFSA.
- (2) An AIFC-Incorporated Takaful Operator must maintain minimum shareholders' funds of at least 75% of the Capital Floor or an equivalent sum in any currency acceptable to the AFSA.
- (3) The Capital Floor is:
  - (a) US\$7,000,000 for an AIFC-Incorporated Takaful Operator carrying on General Takaful Business;
  - (b) US\$7,000,000 for an AIFC-Incorporated Takaful Operator carrying on Family Takaful Business; or
  - (c) An amount specified in writing by the AFSA.

**1.2 The MCR for General Takaful Business**

- (1) The MCR for an AIFC-Incorporated Takaful Operator carrying on General Takaful Business is an amount not less than the higher of:
  - (a) 12% of that Takaful Operator's gross written contributions for all of the Takaful Funds operated by it during the previous financial year, net of:
    - (i) the amount of any taxes on contributions, rebates, refunds, and commissions accrued by the Takaful Operator, and
    - (ii) the gross amount of any Retakaful contributions (after deduction of any rebates or commissions receivable by the Takaful Operator) ceded by the Takaful Operator in respect of all of the Takaful Funds forming part of its General Takaful Business during that preceding financial year;
  - (b) 12% of the value of claims reserves and contribution reserves, net of Retakaful and amounts reserved to maximum; and
  - (c) the Capital Floor applicable to that Takaful Operator.
- (2) For the purposes of rule 1.2(1)(a) any funds received by a Takaful Operator in return for the assumption of Takaful obligations under a novation, portfolio transfer or other scheme or arrangement must be included in the gross contributions computation at a value:
  - (a) determined on a basis acceptable to the AFSA; and
  - (b) supported by an actuarial opinion acceptable to the AFSA.





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- (3) Retakaful or Reinsurance ceded by a Takaful Operator to an Associated Party shall not be taken into account for the purposes of the MCR calculation unless
  - (a) the Associated Party is an AIFC-Incorporated Takaful Operator and meets the solvency requirements in these Rules, or
  - (b) the AFSA, in any particular case, consents in writing to that Retakaful or reinsurance being taken into account.

### 1.3 The MCR for Family Takaful Business

- (1) The MCR of a an AIFC-Incorporated Takaful Operator carrying on Family Takaful Business is an amount not less than the higher of -
  - (a) 2.5% of that Takaful Operator's total reserves including the reserves of all of its Family Takaful Funds, net of Retakaful; and
  - (b) the Capital Floor applicable to that Takaful Operator.
- (2) Where a Takaful Operator has entered into Takaful Contracts falling within Family Takaful Category 3 Linked Family Takaful business, the value of the total reserves in rule 1.3(1)(a) should be reduced by the value of the linked liabilities.
- (3) Retakaful / reinsurance ceded by a Takaful Operator to an Associated Party shall not be taken into account for the purposes of the MCR calculation unless -
  - (a) the Associated Party is an AIFC-Incorporated Takaful Operator and meets the solvency requirements in these Rules, or
  - (b) the AFSA, in any particular case, consents in writing to that Retakaful / reinsurance being taken into account.



**Schedule 5 Calculation of Prescribed Capital Requirement (PCR)**

**1. Prescribed capital requirement (PCR)**

**1.1 Calculation of the PCR**

The PCR for an AIFC-Incorporated Takaful Operator is the higher of:

- (a) 150% of the AIFC-Incorporated Takaful Operator's MCR; and
- (b) the AIFC-Incorporated Takaful Operator's Risk-Based Capital Requirement.

**2. Definitions**

**2.1 Risk-Based Capital Requirement**

- (1) For an AIFC-Incorporated Takaful Operator that has been approved to use its own internal model to calculate its Risk-Based Capital Requirement under TRR 5.3.1, the amount calculated using that model is the Risk-Based Capital Requirement.
- (2) The Risk-Based Capital Requirement for an AIFC-Incorporated Takaful Operator that, under TRR 5.3.1 (Approval by AFSA), has been approved to use its own internal model to replace 1 or more components of its Investment, Takaful and Operational Risk Requirements is the amount calculated using those components as replaced and the other components of the AIFC-Incorporated Takaful Operator's Investment, Takaful and Operational Risk Requirements.
- (3) The Risk-Based Capital Requirement (RBC) for any other AIFC-Incorporated Takaful Operator is the aggregate of the Risk-Based Capital Requirements for each of the Takaful Funds operated by it and the Risk-Based Capital Requirements for its own operational and financial risk exposures.

RBC for the Takaful Operator

$$= \sum_i (\text{RBC for Takaful Fund}_i) + \text{RBC for the Takaful Operator's own risk exposures}$$

- (4) RBC for the Takaful Fund or for the Takaful Operator as the case may be, is calculated as the sum of the following component requirements:
  - (a) Investment Risk Requirement;
  - (b) Takaful Risk Requirement; and
  - (c) Operational Risk Requirement.

**Guidance**

Among the three components of RBC detailed in 2.1 (4) above, only the Investment Risk Requirement is applicable for the Takaful Operator. Therefore, the Takaful Risk and Operational Risk Requirements need not be calculated for the Takaful Operator. For each of the Takaful Funds operated by the Takaful Operator, all the three requirements must be calculated using the methodologies detailed below.



**2.2 Investment Risk Requirement**

The Investment Risk Requirement referred in 2.1 (a) above is defined as the sum of:

- (a) Asset Risk Component;
- (b) Off-Balance Sheet Asset Risk Component; and
- (c) Off-Balance Sheet Liability Risk Component.

**2.3 Takaful Risk Requirement**

The Takaful Risk Requirement referred in 2.1 (b) above is defined as the sum of:

- (a) Premium Risk Component;
- (b) Outstanding Claims Risk Component;
- (c) Family Takaful Risk Component; and
- (d) Takaful Concentration Risk Component.

**2.4 Operational Risk Requirement**

(1) The Operational Risk Requirement referred in 2.1 (c) above is defined as 2% of whichever is the higher of:

- (a) the gross contributions of the Takaful Fund in the 12 months ending on the Solvency Reference Date; and
- (b) the technical provisions for the Takaful Fund (without deduction for Retakaful / reinsurance) as at the Solvency Reference Date.

(2) However, if the amount calculated under sub-rule (1) is more than a ceiling, calculated as:

$$\left\{ \begin{array}{l} \text{Investment} \\ \text{Risk} \\ \text{Requirement} \end{array} + \begin{array}{l} \text{Takaful} \\ \text{Risk} \\ \text{Requirement} \end{array} \right\} \times \left( \frac{0.15}{0.85} \right);$$

then the Operational Risk Requirement is the amount of the ceiling.

**3. Counterparty Grades**

**3.1 Meaning of Counterparty Grade**

(1) In this Schedule:

- (a) Counterparty Grade (or Grade) has the meaning given by sub-rule (2); and



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(b) Invested Asset means an asset, right or interest held by a Takaful Operator or by a Takaful Fund for the primary purpose of generating revenue or for directly providing funds to meet potential cash outflows.

(2) For this Schedule, the Grade of an asset is its Grade according to the rating of its counterparty, in accordance with table A.

**Table A Grade of assets according to counterparty ratings**

Item	Rating of counterparty by:				Grade of asset
	Standard & Poor's	Moody's	A. M. Best	Fitch	
1	AAA	Aaa	A++	AAA	1
2	AA+ AA AA-	Aa1 Aa2 Aa3	A+	AA+ AA AA-	2
3	A+ A A-	A1 A2 A3	A A-	A+ A A-	3
4	BBB+ BBB BBB-	Baa1 Baa2 Baa3	B++ B+	BBB+ BBB-	4
5	BB+ or below	Ba1 or below	B or below	BB+ or below	5

Unrated assets, exposures and counterparties must be classified as Grade 4.

### 3.2 Using different credit rating agencies

- (1) An AIFC-Incorporated Takaful Operator must rely on the ratings issued by the same credit rating agency for determining Counterparty Grades unless the AIFC-Incorporated Takaful Operator has good reason to use a different credit rating agency or agencies.
- (2) If a counterparty or debt obligation has been rated by more than 1 rating agency and there are 2 or more ratings that lead to different capital charges, the AIFC-Incorporated Takaful Operator must use the credit rating that results in the highest capital charge.



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- (3) An AIFC-Incorporated Takaful Operator must not use the rating of an agency that is not in table A unless the AIFC-Incorporated Takaful Operator has the written permission of the AFSA.

### 4. Investment Risk Requirement

#### 4.1 Asset Risk Component

- (1) The Asset Risk Component for a Takaful Operator or for any Takaful Fund is the sum of the amounts obtained by multiplying the value of each asset held by the relevant entity categorised according to the Counterparty Grade of the asset, by the percentage applicable to that asset, as detailed below:
- (a) for assets that are not Retakaful / reinsurance assets—table B1;
  - (b) for assets that are Retakaful / reinsurance assets where the Retakaful Operator / reinsurer is subject to prudential supervision by a sub-rule (2) regulator—table B2; or
  - (c) for assets that are reinsurance assets where the Retakaful Operator / reinsurer is not subject to prudential supervision by a sub-rule (2) regulator—table B3.
- (2) A regulator is a sub-rule (2) regulator if it is located:
- (a) in the AIFC or the Republic of Kazakhstan;
  - (b) in 1 of the member states of the European Union;
  - (c) in Australia, Canada, Hong Kong, Iceland, Japan, Norway, Singapore, Switzerland, the United States of America; or
  - (d) in any other jurisdiction that is a signatory to the Multilateral Memorandum of Understanding on Cooperation and Information Exchange initiated by the International Association of Insurance Supervisors.

Note 1 For the list of the member states of the European Union, see [http://europa.eu/about-eu/countries/index\\_en.htm](http://europa.eu/about-eu/countries/index_en.htm).

Note 2 For the list of signatories to the Multilateral Memorandum of Understanding on Cooperation and Information Exchange, see <http://www.iaisweb.org/MMoU-signatories-605>.

**Table B1 Percentage applicable to assets that are not Retakaful / reinsurance assets**

Item	Asset	%
1	cash, bank deposits and other cash equivalents Grade 1 sovereign Sukuk	0.50



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Item	Asset	%
2	<p>Sukuk that mature, or are redeemable, in less than 1 year issued by a counterparty with a rating of Grade 1 or 2 (excluding subordinated debt and government debt obligations dealt with anywhere else in this table)</p> <p>cash management trusts with a counterparty rating of Grade 1 or 2</p>	1.00
3	<p>unpaid premiums due 6 months or less previously from a counterparty with a rating of Grade 1, 2 or 3</p> <p>Sukuk that mature, or are redeemable, in 1 year or more issued by a counterparty with a rating of Grade 1 or 2 (excluding subordinated debt and government debt obligations dealt with anywhere else in this table)</p>	2.00
4	<p>unpaid premiums due 6 months or less previously from an unrated counterparty or a counterparty with a rating of Grade 4 or 5</p> <p>bonds issued by a counterparty with a rating of Grade 3 (excluding subordinated debt)</p> <p>cash management trusts with a counterparty rating of Grade 3</p> <p>secured loans</p>	4.00
5	<p>unpaid premiums due more than 6 months previously from a counterparty with a rating of Grade 1, 2 or 3</p> <p>bonds issued by a counterparty with a rating of Grade 4 (excluding subordinated debt)</p> <p>cash management trusts with a counterparty rating of Grade 4</p>	6.00
6	<p>unpaid premiums due more than 6 months previously from an unrated counterparty or a counterparty with a rating of Grade 4 or 5</p> <p>bonds issued by a counterparty with a rating of Grade 5 (excluding subordinated debt)</p> <p>cash management trusts with a counterparty rating of Grade 5</p> <p>listed subordinated debt</p>	8.00
7	<p>unlisted subordinated debt</p> <p>preference shares</p>	10.00
8	<p>listed equity investment</p>	16.00



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<b>Item</b>	<b>Asset</b>	<b>%</b>
	listed trusts	
9	direct holdings of real estate unlisted equity investment unlisted trusts	20.00
10	loans to: (a) directors of the Takaful Operator; (b) directors of <i>related</i> parties; or (c) dependent relatives of such directors unsecured loans to employees (except loans of less than USD 1,000) assets subject to a fixed or floating charge	100.00
11	other non-reinsurance assets not mentioned in this table	20.00

**Table B2 Percentage applicable to reinsurance assets— reinsurer / Retakaful Operator supervised by sub-rule (2) regulator**

<b>Item</b>	<b>Asset</b>	<b>%</b>
1	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 1	1.00
2	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 2	2.00
3	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 3	4.00
4	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 4	6.00
5	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 5	8.00



**Table B3 Percentage applicable to reinsurance assets—reinsurer / Retakaful Operator not by supervised by sub-rule (2) regulator**

Item	Asset	%
1	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 1	1.20
2	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 2	2.40
3	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 3	4.80
4	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 4	7.20
5	reinsurance assets due from reinsurer / Retakaful Operators with a counterparty rating of Grade 5	9.60

#### **4.2 Effect of guarantee or collateral**

- (1) Assets that have been explicitly, unconditionally and irrevocably guaranteed for their remaining term to maturity by a guarantor with a counterparty rating in Grades 1, 2 or 3 who is not a related party to the AIFC-Incorporated Takaful Operator may be assigned the asset risk charge that would apply to a debt instrument issued from the guarantor.
- (2) Where an AIFC-Incorporated Takaful Operator holds collateral against an asset, and this collateral takes the form of a charge, mortgage or other security interest in, or over, cash, or any debt security whose issuer has a counterparty rating of Grades 1, 2 or 3, the AIFC-Incorporated Takaful Operator may apply the asset risk charge relevant to the collateral (instead of applying the asset risk charge that would otherwise apply to the asset).
- (3) The provisions in sub-Rules (1) and (2) above apply only to so much of the asset that is covered by the guarantee or the collateral.

#### **4.3 Assets subject to mortgage or charge**

- (1) Subject to (2), assets of the AIFC-Incorporated Takaful Operator that are under a fixed or floating charge, mortgage or other security are subject to an asset risk charge of 100% to the extent of the indebtedness secured on those assets. This would replace the asset risk charge that would otherwise apply to the secured assets.
- (2) Where the security supports an AIFC-Incorporated Takaful Operator's Takaful Liabilities, the asset risk charge of 100% is applicable only to the amount by which the market value of the charged assets exceeds the AIFC-Incorporated Takaful Operator's supported liabilities.





### 4.4 Excluded assets

An AIFC-Incorporated Takaful Operator need not include an amount in the asset risk charge for any asset excluded from Eligible Capital in accordance with the table B1 in rule 4.1.

## 5. Off-Balance Sheet Asset Risk Component

### 5.1 When Off-Balance Sheet Asset Risk Component must be calculated

The Off-Balance Sheet Asset Risk Component must be calculated, if the AIFC-Incorporated Takaful Operator or any of its Takaful Funds are, as of the Solvency Reference Date, a party to a Shari'ah-compliant Derivative contract, including a forward, future, swap, option or other similar contract, but not:

- (a) a put option serving as a guarantee;
- (b) a foreign exchange contract which has an original maturity of 14 calendar days or less; or
- (c) an instrument traded on a futures or options exchange which is subject to daily mark-to-market and margin payments.

### 5.2 How to calculate Off-Balance Sheet Asset Risk Component

The Off-Balance Sheet Asset Risk Component must be calculated as the sum of the amounts obtained by applying the calculations set out in paragraph 5.3 in respect of each Shari'ah-compliant Derivative contract entered into by the AIFC-Incorporated Takaful Operator or any of the Takaful Funds managed by it that meets the description in paragraph 5.1.

### 5.3 Amount of Off-Balance Sheet Asset Risk Component

To calculate the amount of the Off-Balance Sheet Asset Risk Component, the asset equivalent value of each Shari'ah-compliant Derivative (as determined in paragraph 5.4) is multiplied by the Asset Risk Component as though the asset equivalent value were a debt obligation due from the Derivative counterparty.

### 5.4 Asset equivalent value

- (1) The asset equivalent value is the current mark-to-market exposure of the Shari'ah-compliant Derivative (where positive) and a potential exposure add-on.
- (2) The potential exposure add-on is determined by multiplying the notional principal amount of the Shari'ah-compliant Derivative in accordance with the following table, according to the nature and residual maturity of the Shari'ah-compliant Derivative.



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Residual maturity	Interest rate contracts	Foreign exchange & gold contracts	Equity contracts	Precious metal contracts (except gold)	Other contracts
Less than 1 year	Nil	1.0%	6.0%	7.0%	10.0%
1 year to less than 5 years	0.5%	5.0%	8.0%	7.0%	12.0%
5 years or more	1.5%	7.5%	10.0%	8.0%	15.0%

### 6. Off-Balance Sheet Liability Risk Component

#### 6.1 How to calculate Off-Balance Sheet Liability Risk Component

- (1) The Off-Balance Sheet Liability Risk Component must be calculated by applying, to the face value of any credit substitute it has issued (including letters of credit, guarantees and put options serving as guarantees) the asset risk component that would be applied to the obligation or asset over which the credit substitute has been written.
- (2) Where the credit substitute is supported by collateral or a guarantee, the provisions of paragraph 4.5 (Effect of guarantee or collateral) may be applied by the AIFC-Incorporated Takaful Operator or any of the Takaful Funds managed by it.

### 7. Premium Risk Component

#### 7.1 Application

- (1) Paragraphs 7.2 to 7.4 apply to General Takaful Business.
- (2) The calculation of Premium Risk Component of the Takaful risk requirement is applicable only to every Takaful Funds and it does not apply to the Takaful Operator's own balance sheet.

#### 7.2 Premium Risk Component

- (1) The Premium Risk Component for each of the Takaful Funds, is calculated as the sum of the amounts obtained by multiplying the Takaful Fund's net contribution liability that falls within each Category of General Takaful Business by the percentage applicable to that liability under table C.

Table C Percentage factor— Premium Risk Component

Item	Category of General Takaful Business	Direct Takaful %	Retakaful: proportional %	Retakaful: non-proportional %
1	Category 1, 2	16	18	21
2	Category 3, 18	13	15	18



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Item	Category of General Takaful Business	Direct Takaful %	Retakaful: proportional %	Retakaful: non-proportional %
3	Category 4, 5, 6, 7, 8, 9, 16, 17, 19	16	18	21
4	Category 10, 11, 12, 13, 14, 15, 20	21	23	26

- (2) In this rule, net contribution liability means contribution liability less any expected retakaful and non-retakaful recoveries in respect of that contribution liability as at the Solvency Reference Date.

### 7.3 AIFC-Incorporated Takaful Operator may apply for different percentages

- (1) The AFSA may, on application of an AIFC-Incorporated Takaful Operator conducting General Takaful Business in Category 1, give written consent to the use of percentages other than those in table C if the AFSA is satisfied that:
- (a) adequate mortality and morbidity information exists in respect of that business; and
  - (b) the information provides a reasonable basis for reliance on actuarial principles.
- (2) The percentages that may be used must be those stated in the notice but may not be lower than:
- (a) 12% in the case of direct Takaful and proportional Retakaful; and
  - (b) 16% in the case of non-proportional Retakaful.

### 7.4 Certain contracts not included

- (1) If an AIFC-Incorporated Takaful Operator underwrites Takaful Contracts in General Takaful Categories 1 and 2 that are Family Takaful Contracts, the AIFC-Incorporated Takaful Operator need not calculate a Premium Risk component in respect of those contracts.
- (2) For Takaful Contracts in General Takaful Categories 1 and 2 that are Family Takaful contracts, the AIFC-Incorporated Takaful Operator must calculate a Family Takaful Risk Component.

## 8. Outstanding Claims Risk Component

### 8.1 Application

- (1) Paragraphs 8.2 to 8.4 apply to General Takaful Business.
- (2) The calculation of Outstanding Claims Risk Component of the Takaful risk requirement is applicable only to every Takaful Funds and it does not apply to the Takaful Operator's own balance sheet.



8.2 Outstanding Claims Risk Component

- (1) The Outstanding Claims Risk Component is calculated for each of the Takaful Funds, as the sum of the amounts obtained by multiplying the Takaful Fund’s net liability for outstanding claims that falls within each Category of Takaful Business by the percentage applicable to that liability under table D.

Table D Percentage factor— Outstanding Claims Risk Component

Item	Categories	Direct Takaful %	Retakaful: proportional %	Retakaful: non-proportional %
1	Category 1, 2	11	12	14
2	Category 3, 18	9	10	12
3	Category 4, 5, 6, 7, 8, 9, 16, 17, 19	11	12	14
4	Category 10, 11, 12, 13, 14, 15, 20	14	15	17

- (2) In this rule:  
  
net liability for outstanding claims means the liability in respect of future claims referred in TRR 8.3.2 (Treatment of value of future claims payments), less any expected retakaful and non-retakaful recoveries in respect of that liability as at the Solvency Reference Date.

8.3 AIFC-Incorporated Takaful Operator may apply for different percentages

- (1) The AFSA may, by written notice, allow the AIFC-Incorporated Takaful Operator to use percentages other than those in table D if the AFSA is satisfied that:
  - (a) adequate mortality and morbidity information exists in respect of that business; and
  - (b) the information provides a reasonable basis for reliance on actuarial principles.
- (2) The percentages that may be used must be those stated in the notice but may not be lower than 8%.

8.4 Certain contracts not included

- (1) Family Takaful Contracts written to cover risks in General Takaful Categories 1 and 2 need not be included in the calculation of Outstanding Claims Risk Component for the Takaful Funds to which they are attributed.
- (2) Family Takaful Contracts written to cover risks in General Takaful Categories 1 and 2, must be included in the calculation of the Family Takaful Risk Component.



## **9. Family Takaful Risk Component**

### **9.1 Application**

- (1) Paragraphs 9.2 and 9.3 apply to Family Takaful Business.
- (2) The calculation of Family Takaful Risk Component of the Takaful risk requirement is applicable only to Family Takaful Funds and it does not apply to the Takaful Operator's own balance sheet.

### **9.2 Family Takaful Risk Component**

The Family Takaful Risk Component is calculated as the sum of the following amounts, so far as they relate to the Family Takaful business of the AIFC-Incorporated Takaful Operator:

- (a) 1.25% of the amount of provisions in respect of Family Takaful Business that is [investment-linked Takaful, where the contracts are subject to a capital guarantee;]
- (b) 0.5% of the amount of provisions in respect of Family Takaful Business that is investment-linked Takaful, where the contracts are not subject to a capital guarantee;
- (c) 3% of the amount of provisions in respect of Family Takaful Business other than business described in paragraphs (a) and (b);
- (d) the amount obtained by multiplying the amount of capital at risk under paragraph 9.3 by 0.1%;
- (e) if the relevant Takaful Fund includes policies that are contingent on mortality—the amount of anticipated claims cost arising from a 0.5 per thousand increase in the rate of lives insured dying over the following year.

### **9.3 Capital at risk**

- (1) Capital at risk of a Family Takaful Fund means the total amount of sums assured on Family Takaful Contracts issued by that Family Takaful Fund, less:
  - (a) the total amount of mathematical reserves for those contracts; and
  - (b) any expected Retakaful and non-Retakaful recoveries as at the Solvency Reference Date.
- (2) For an annuity, the sum assured must be taken to be the present value of the annuity payments.
- (3) The contribution of each contract to capital at risk must be determined separately. If the capital at risk calculated for a contract is less than zero, the capital at risk for that contract is taken to be zero.

## **10. Takaful Concentration Risk Component**

### **10.1 Application**

- (1) Paragraphs 10.2 and 10.3 apply to General Takaful Business.



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- (2) The calculation of Takaful Concentration Risk Component of the Takaful risk requirement is applicable only to Takaful Funds and it does not apply to the Takaful Operator's own balance sheet.

### 10.2 Takaful Concentration Risk Component

- (1) The Takaful Concentration Risk Component for an AIFC-Incorporated Takaful Operator is:  
MER + CoR (if any) – RP (if any)

where:

MER has the meaning given in paragraph 10.3 (Maximum event retention).

CoR or cost of reinstatement, in relation to an extreme event, means:

- (a) the rate that a Takaful Fund has contractually agreed to pay the Retakaful Operator concerned to reinstate the retakaful cover relating to the extreme event; or
- (b) if the Takaful Fund has not agreed on the rate for the Retakaful / reinsurance cover—the Takaful Fund's estimate of the cost of reinstating that cover based on current Retakaful / reinsurance market conditions (but no less than the original rate of reinsurance cover).

RP or reinstatement premiums, for a Takaful Fund that also writes retakaful, means the amount of inward reinstatement premiums from cedants in respect of catastrophe retakaful if that Takaful Fund or the AIFC-Incorporated Takaful Operator managing it has a binding netting arrangement with the cedant.

- (2) An AIFC-Incorporated Takaful Operator must seek advice from its Approved Actuary about estimating the MER for every Takaful Fund it operates, if the AIFC-Incorporated Takaful Operator:
  - (a) issues policies that do not have a maximum amount insured;
  - (b) insures risks in multiple lines of business; or
  - (c) has a complex portfolio of Takaful risks.

### 10.3 Maximum event retention

- (1) MER or maximum event retention, in relation to an extreme event, is the maximum amount of loss to which the Takaful Fund will be exposed due to an accumulation of exposures, after netting out any potential reinsurance / Retakaful recoveries.
- (2) In calculating its MER, a Takaful Fund must:
  - (a) set the amount based on the accumulation of exposures of the Takaful Fund to a single extreme event;
  - (b) assume a return period of 1 in 250 years (or greater), where the return period is the expected average period within which the extreme event will re-occur; and



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- (c) take into account:
  - (i) its risk profile and risk tolerance;
  - (ii) its claims history (using available internal and external data);
  - (iii) the capital resources available to it;
  - (iv) its current and future solvency needs;
  - (v) its Retakaful / reinsurance programme;
  - (vi) the classes of Takaful business underwritten by it; and
  - (vii) the areas where it conducts business.
- (3) If the Takaful Fund is exposed to more than 1 extreme event, its MER is the largest of the MERs calculated for those events.
- (4) Despite anything in this rule, the AFSA may require the Takaful Fund or the AIFC-incorporated Takaful Operator, to make adjustments in calculating its MER.



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**Schedule 6 Prudential returns by Takaful Operators**

<b>Item</b>	<b>Title of return</b>	<b>Form number</b>	<b>Frequency for AIFC-Incorporated Takaful Operators.</b>	<b>Frequency for Takaful Operators which are not AIFC-Incorporated</b>
1	Statement of financial position / balance sheet	INS100	Annually quarterly and	Annually quarterly and
2	Statement of comprehensive income / income statement	INS200	Annually quarterly and	Annually quarterly and
3	Analysis of Derivative activities	INS111	Annually quarterly and	n/a
4	Analysis of investment concentrations in foreign currency	INS113	Annually quarterly and	n/a
5	Analysis of investment concentrations risk	INS114	Annually quarterly and	n/a
6	Supplementary information	INS210	Annually quarterly and	Annually quarterly and
7	Calculation of Eligible Capital	INS300	Annually quarterly and	n/a
8	Calculation of Prescribed Capital Requirement (PCR)	INS310	Annually quarterly and	n/a
9	Calculation of asset risk component	INS320	Annually quarterly and	n/a
10	Calculation of off balance sheet asset risk component	INS330	Annually quarterly and	n/a
11	Calculation of off balance sheet liability risk component	INS340	Annually quarterly and	n/a





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12	Calculation of Premium Risk Component	INS350	Annually quarterly	and	n/a
13	Calculation of technical provisions risk component	INS360	Annually quarterly	and	n/a
14	(For Long Term Takaful Operators only) Calculation of Family Takaful risk component	INS370	Annually quarterly	and	n/a
15	Calculation of Takaful concentration risk component	INS380	Annually quarterly	and	n/a
16	Statement of Retakaful / reinsurance	INS400	Annually		Annually quarterly and
17	Statement of premium information	INS500	Annually quarterly	and	Annually quarterly and
18	Statement of technical provisions and claims	INS600	Annually quarterly	and	Annually quarterly and
19	(For Long Term Takaful Operators only) Statement of changes in long term business	INS610	Annually		n/a
20	Statement of intra-group transactions	INS700	Annually quarterly	and	n/a
21	Statement of largest clients	INS800	Annually quarterly	and	Annually quarterly and