



NOTICE NO. TIU/N-4/2020/15

NOTICE ON ESTABLISHMENT AND MAINTENANCE OF TAKAFUL FUNDS FOR TAKAFUL OPERATORS

1. **INTRODUCTION**

- 1.1. This Notice is issued pursuant to section 90 of the Takaful Order, 2008 (“the Order”) with the aim of ensuring the proper attribution of assets and liabilities to businesses of registered takaful operators. This is fulfilled through appropriate segregation of takaful funds, implementing effective controls over withdrawals from takaful funds and establishing policies and procedures governing the takaful funds.
- 1.2. This Notice shall be read in conjunction with the following:
 - 1.2.1. Section 20 of the Takaful Order, 2008;
 - 1.2.2. Notice on Exemption for Valuation of Assets [Notice No. TIU/N-1/2016/1];
 - 1.2.3. Notice on Surplus Distribution for Takaful Operators [Notice No. TIU/N-1/2020/12]; and
 - 1.2.4. any other notices, directives or guidelines, which the Authority may issue from time to time.
- 1.3. This Notice shall take effect on 1 July 2021.

2. **DEFINITIONS**

- 2.1. For the purpose of this Notice:
 - 2.1.1. “actuary” has the same meaning as section 2(1) of the Order, 2008;
 - 2.1.2. “additional fund(s)” means as required by the Authority under section 20(2) of the Order;
 - 2.1.3. “assets” refer to movable and immovable property, or otherwise;
 - 2.1.4. “board” means the Board of Directors of the company;

- 2.1.5. “capitalised expenditure” has the same meaning as section 24(1) of the Takaful Order, 2008;
- 2.1.6. “takaful fund” refers to a fund established and maintained by that takaful operator pursuant to section 20 of the Takaful Order, 2008;
- 2.1.7. “takaful operator” means a registered takaful operator under the Takaful Order, 2008, unless it is otherwise specified; and
- 2.1.8. “shareholders’ fund” means a fund that represents the assets and liabilities of a takaful operator that is not attributable to takaful participants.

3. ESTABLISHMENT AND MAINTENANCE OF TAKAFUL FUND(S)

- 3.1. A takaful operator shall establish and maintain general takaful or family takaful funds established under section 20 of the Takaful Order, 2008 separate from its shareholders’ funds.
- 3.2. The takaful operator shall establish proper policies and procedures governing the establishment and maintenance of takaful fund(s). This includes investment and creation of additional takaful fund(s).
- 3.3. A family takaful operator shall establish and maintain separate takaful fund(s) for certificates in respect of investment-linked takaful business for each investment fund.
- 3.4. In the case that takaful operators find themselves in liquidation, the assets of each takaful fund shall be used to meet that fund’s liabilities to takaful participants before meeting liabilities of other takaful or shareholders’ funds.
- 3.5. The takaful operator establishing additional takaful fund(s) shall develop and implement policies which include, but are not limited to the following:
 - 3.5.1. objective of establishing and maintaining the additional takaful fund(s);
 - 3.5.2. investment and risk strategies of the additional takaful fund(s);
 - 3.5.3. impact of the additional takaful fund(s) to the management of existing takaful fund(s) and overall business strategy;
 - 3.5.4. process to assess performance of the additional takaful fund(s) and its long-term sustainability; and
 - 3.5.5. arrangement to report to the board and relevant stakeholders on paragraphs 3.5.1 to 3.5.4.
- 3.6. Subject to paragraph 3.8, the takaful operator is allowed to consolidate any additional takaful fund(s) if the takaful operator is of the view that the

consolidation will improve the long-term sustainability of the takaful fund(s) to the benefit of takaful participants.

- 3.7. The takaful operator shall establish and implement policies and procedures for the consolidation of additional takaful fund(s), that include, but are not limited to the following:
 - 3.7.1. requirement to conduct assessment on sustainability of the takaful fund(s) to meet future claims;
 - 3.7.2. requirement to conduct assessment on the impact of the consolidation on fair treatment to takaful participants;
 - 3.7.3. a summary of the actuary's assessment on the impact of the consolidation on the financial condition of the takaful fund(s) and the interest of takaful participants, and recommendations, if any; and
 - 3.7.4. requirement to verify that the affected takaful fund(s) have no outstanding Qard.
- 3.8. Upon deciding to consolidate or create takaful fund(s), the takaful operator shall notify the Authority in writing no later than 30 days from the date of any consolidation or creation of the fund(s).
- 3.9. The takaful operator shall maintain separation of the takaful fund(s) or create additional takaful fund(s) as may be required by the Authority where the Authority deems it is necessary to protect the interests of takaful participants and ensure sustainability of takaful fund(s).

4. EXPENSES ATTRIBUTED TO A TAKAFUL FUND

- 4.1. Takaful operators shall have sound internal processes to ensure that all receipts and expenses of each takaful fund are properly attributable to the takaful funds.
- 4.2. Expenses that cannot be clearly identified as relating to a specific takaful fund shall be allocated among all the takaful funds on an equitable basis. Each type of expense shall be determined by the actuary or officer in charge of the financial management of the family takaful operator, and be consistently applied annually.

5. COMPOSITION OF A TAKAFUL FUND

- 5.1. With regard to the assets attributed to a takaful fund:
 - 5.1.1. a takaful operator shall maintain the assets of each takaful fund separately; and

- 5.1.2. the value of assets shall be determined in accordance with the requirements specified in Notice No. TIU/N-1/2016/1.
- 5.1.3. the following shall not be included in a takaful fund:
- a) goodwill;
 - b) any amount of capitalised expenditure; and
 - c) any other item of expenditure similar to paragraph 5.1.3 (b) which cannot be distinguished or differentiated from the takaful operator's business, wholly or partly, to which that takaful fund relates.
- 5.1.4. the takaful operator shall maintain all relevant information supporting the valuations in paragraph 5.1.2 for the Authority's review as and when required by the Authority.
- 5.1.5. the takaful operator shall obtain a valuation by an independent professional valuer to validate material fair value changes or revaluations at any time should the Authority require of which the cost shall be borne by the takaful operator.
- 5.2. The takaful operator shall ensure that its records and accounts with regard to each takaful fund are kept in a manner that allows the assets of each takaful fund to be readily accountable and identifiable at all times. There shall be no uncertainty as to the assets comprised in each takaful fund.
- 5.3. The liabilities of a takaful fund shall be valued in accordance with the requirements of the Risk-Based Capital and Solvency Framework for Insurers.

6. SWITCHING OF ASSETS BETWEEN TAKAFUL FUNDS

- 6.1. A takaful operator shall not effect any switching of assets between takaful funds unless it is necessary to do so.
- 6.2. In the case the takaful operator effects any switching of assets between takaful funds, the following shall apply:
- 6.2.1. when switching of land or buildings between takaful funds, the takaful operator shall first obtain the Authority's approval, who may grant it subject to such conditions or restrictions as it thinks fit; and
 - 6.2.2. within 30 days from the date of any switching of assets, the takaful operator shall notify the Authority in writing the types of assets switched, the funds involved, the basis of determining the prices, the amount transferred, any transaction costs and reasons for the switch.

- 6.3. For the purpose of effecting any switching of assets between takaful funds, the takaful operator shall value the assets to be switched in accordance with Notice No. TIU/N-1/2016/1. For takaful operators registered to carry on family takaful business, it shall ensure that its appointed actuary certifies that all such transactions do not adversely affect the interests of the takaful participants.

7. **WITHDRAWALS FROM A TAKAFUL FUND**

- 7.1. A takaful operator shall not make any withdrawals from a takaful fund unless the takaful operator has complied with sections 20(5) and 20(6) of the Order.
- 7.2. For the purpose of withdrawals and allocation of the surplus of assets over liabilities in respect of the family takaful funds, the surplus shall be distributed in line with Notice No. TIU/N-1/2020/12.

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