



NOTICE NO. TIU/N-1/2020/12

NOTICE ON SURPLUS DISTRIBUTION FOR TAKAFUL OPERATORS

1. **INTRODUCTION**

- 1.1. This Notice is issued pursuant to section 90 of the Takaful Order, 2008 (“the Order”) to require Takaful operators to have policies in place specifying the basis of determining the surplus and method of transferring it.
- 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 Corporate Governance for Insurance Companies and Takaful Operators [Notice No. TIU/N-3/2017/7];
 - 1.2.3. Notice on Public Disclosure for Insurance Companies and Takaful Operators [Notice No. TIU/N-4/2017/8];
 - 1.2.4. Notice on Syariah Governance Framework for Financial Institution in Brunei Darussalam [Notice No. IFAU/N1/2018];
 - 1.2.5. Any other notices, directives or guidelines, which the Authority may issue from time to time.
- 1.3. This Notice shall take effect on 1 January 2021.

2. **DEFINITIONS**

- 2.1. For the purpose of this Notice:
 - 2.1.1. “Board” means the Board of Directors of the Takaful operator;
 - 2.1.2. “Participants’ risk fund” means a fund to which contributions paid by takaful participants are allocated for the purpose of meeting claims by takaful participants on the basis of mutual assistance of protection;
 - 2.1.3. “Surplus” refers to underwriting surplus;

- 2.1.4. "Takaful operator" means a registered takaful operator under Takaful Order, 2008, unless it is otherwise specified;
- 2.1.5. "Underwriting surplus or deficit" means the participants' risk fund or retakaful risk fund's financial result from the risk elements of its business, being the balance after deducting expenses and claims (including any movement in provisions for outstanding claims) from the contributions income and adding the investment returns (income and gains on investment assets);

3. DETERMINING AND ALLOCATING SURPLUS

- 3.1. A takaful operator must develop a policy with clear methodology for determining the surplus or deficit arising from takaful operations, the basis of determining and allocating that surplus or deficit to the participants, and the method of transferring any surplus or deficit to the participants.
- 3.2. The policy must be approved by the Syariah Advisory Body as well as the Board.
- 3.3. More than one policy may be developed where the takaful operator offers different types of takaful products. In this event, any surplus or deficit allocation shall be in line with the policy developed under paragraph 3.1.
- 3.4. The policy developed in accordance with paragraph 3.1. shall not be amended or varied without the approval of the Syariah Advisory Body and endorsement from the respective Board and shall be made ready for inspection by the Authority as and when requested.

4. DISTRIBUTION OF SURPLUS

- 4.1. No takaful operator is permitted to make any distributions to participants if either the Participants' risk fund(s) ("PRF"), does not, or through the payment of the distribution, will not meet all the capital available and solvency requirements set by the Authority.
- 4.2. The surplus distribution shall not cause adverse financial implications or a deficit in the PRF and the takaful operator must ensure that the PRF(s) is sufficiently liquid to cover any proposed surplus distribution.
- 4.3. On an annual basis, takaful operator shall determine any surplus or deficit arising from each separate PRF. The surplus distribution or remedial action for deficit reduction shall be approved by the actuary and acknowledged by the Syariah Advisory Body and the Board.
- 4.4. In determining the amount of surplus to be recommended for distribution, the actuary shall:

- 4.4.1. Assess the strength of the PRF(s) to ascertain the extent it would be appropriate for surplus to be distributed such that the long-term sustainability of the PRF(s) is not affected; and
- 4.4.2. Refrain from recommending the distribution of surplus should it be that in the actuary's professional judgment, the surplus should remain in the PRF as a buffer to maintain the ability of the PRF(s) to meet future liabilities, if there is an outstanding Qard in the PRF(s), or participants' reasonable expectations not specifically provided for in the actuarial valuation.
- 4.5. A takaful operator shall not retain or accumulate the distributable surplus allocated to the shareholders with the PRF(s).
- 4.6. In addition to section 20 of the Takaful Order, 2008 the surplus shall only be distributed to participants who have not received indemnity during the financial year in a manner that may include, but is not limited to the following:
 - 4.6.1. Retain the distributable surplus in the PRF(s), where the amount shall be made available and to be paid upon claim, maturity or surrender;
 - 4.6.2. Accumulate the distributable surplus in investment or savings of the individual participants;
 - 4.6.3. Pay the distributable surplus directly to the bank account of each individual participants; or
 - 4.6.4. Donate to charitable organisation, in the case where individual participants agree to forgo their rights to the distributable surplus.

The mode of surplus above shall be clearly stipulated in the Takaful certificates.

- 4.7. Any variation (wholly or partially) of the distribution method from paragraph 4.6 shall be approved by the Syariah Advisory Body and the Board of the takaful operator.

Issue date: 17 Jamadilawal / 13 January 2020