

CHAPTER 20

The Bahrain model

20.1 Introduction

Bahrain is central to the development of further regulations for the Islamic finance industry. As the global Islamic financial services industry gains momentum both in terms of confidence and recovery in a global economy that is still coming to terms with the effects of the credit crunch and financial crisis, the 7th IFSB Annual Summit was held in May 2010 at the Ritz-Carlton Hotel in Bahrain under the patronage of the Central Bank of Bahrain (CBB). The event attracted widespread interest from regulators and market participants from various parts of the world, including countries that attended the Summit for the first time. The CBB was the first financial regulatory authority to allow the Islamic window concept, where conventional banks are allowed to carry on Islamic banking business using their existing infrastructure, and Bahrain was the first country to develop and implement regulations specific to the Islamic banking industry¹.

20.2 The Central Bank of Bahrain

The Islamic finance sector is supervised by the CBB, which since 2002 has functioned as the single regulator for the entire financial system. This enables businesses in Bahrain to operate throughout the Kingdom with no 'free zone' restrictions.

The CBB is internationally recognised as the most successful monetary authority in the Arab world in terms of regulation, innovation, non-discriminatory treatment, licence management, and operational efficiency, whose regulations have created a business friendly environment to international standards.

The CBB was the first to make the AAOIFI standards

mandatory for all Islamic institutions. The CBB also has rules covering capitalisation, risk management, financial crime and disclosure and is pushing to train Shari'a scholars to aid industry growth².

Bahrain has rapidly become a global leader in Islamic finance, playing host to the largest concentration of Islamic financial institutions in the Middle East. In addition, Bahrain is at the forefront in the market for Islamic securities (sukuk), including short-term government sukuk as well as leasing securities. The CBB has played a leading role in the introduction of these innovative products.

The CBB has installed a comprehensive prudential and reporting framework, tailor-made for the specific concepts and needs of Islamic banking and insurance. The CBB Rulebook covers areas such as licensing requirements, capital adequacy, risk management, business conduct, financial crime and disclosure/reporting requirements in relation to Islamic banks³. Similarly, the specific features of takaful and retakaful firms are assessed in the insurance rulebook⁴. Both rulebooks were amongst the first comprehensive regulatory frameworks in the Middle East that sought to regulate the Islamic finance industry.

20.2.1 Other regulators

In addition to the numerous IFIs active in its financial sector, Bahrain also plays host to a number of organisations central to the development of Islamic finance, including the AAOIFI; the Liquidity Management Centre (LMC); the International Islamic Financial Market (IIFM); and the Islamic International Rating Agency (IIRA).

There are five principal pieces of legislation which govern the financial system of Bahrain namely the Central

¹ Islamic Finance news, Bahrain Report 2007 (<http://www.islamicfinancenews.com/pdf/bahrain%20supplement.pdf>)

² <http://www.reuters.com/article/id-USLDE6431N920100510>

³ Volume 2 CBB Rulebook

⁴ Volume 3 CBB Rulebook

Bank of Bahrain and Financial Institutions Law 2006, the Bahrain Stock Exchange Law 1987, the Commercial Companies Law 2001, The Anti Money Laundering Law 2001 and the Financial Trust Law 2006.

20.2.2 The sector continues to grow strongly

Bahrain's banking sector comprises both conventional and Islamic banking and is the largest segment within the Kingdom's finance sector. Banks provide professional services and products to retail, wholesale and private wealth clients. Several locally incorporated banks have either branches or subsidiaries in other countries throughout the Middle East, Far East, Africa, Europe and the USA.

There is a growing need for venture capital and other sources of innovative financing to encourage and respond to the rise in entrepreneurs. The increase in private wealth has fuelled demand for private and retail banking services as more personal wealth remains in the region, an affluent middle class continues to grow, and customer needs become ever more sophisticated.

20.3 Islamic financing structures - regulatory aspects

Due to the nature of Islamic banking transactions, Islamic banks, as opposed to their conventional counterparts, are additionally exposed to price risk in their banking book. The CBB recognizes that such risks need to be identified and measured for regulatory capital purposes. Islamic banks are therefore subject to different capital adequacy and disclosure requirements from conventional banks.

20.3.1 Capital Adequacy

The CBB's Capital Adequacy Module (CA)⁵ sets out regulations and provides guidance on the risk measurement for the calculation of capital requirements for all Islamic bank licensees. These requirements vary according to the category of Islamic bank licensee concerned, their inherent risk profile, and the volume and type of business undertaken.

The purpose of such requirements is to ensure that Islamic bank licensees hold sufficient capital to provide some protection against unexpected losses, and otherwise allow conventional banks to effect an orderly wind-down of their operations, without loss to their depositors.

Although, the CA's regulations are consistent in all substantial respects with the approach recommended by the Basel Committee on Banking Supervision and IFSB for capital adequacy, the CBB recognises that the Basel Committee guidelines may not address specific characteristics of the various products and services offered by Islamic banks. Therefore, the CBB has adopted a risk-based approach and has tailored the regulations to address the specific risk characteristics of Islamic banks.

(a) Capital Adequacy Ratio (CAR)

Under CA's regulations, all locally incorporated banks are required to maintain a CAR (both on a solo and a consolidated basis where applicable) above the minimum "trigger" CAR of 8 %⁶. Any breach of the minimum trigger CAR of 8 % will subject the bank to a formal licensing reappraisal by the CBB.

For Islamic banks, CAR is calculated by applying the regulatory capital to the numerator and risk-weighted assets (RWAs)⁷, credit risk, market risk, operational risk (plus other factors such as unrestricted Profit Sharing Investment Accounts (PSIA)) to the denominator⁸.

Islamic banks are not contractually obliged to make good losses arising from Islamic financing assets funded by investment accounts.⁹ However, to be prudent, the CBB requires Islamic banks to provide regulatory capital to cover minimum requirement arising from 30 % of the RWAs and contingencies financed by the unrestricted investment accounts. Therefore, for the purpose of calculating its CAR, the RWAs of an Islamic bank consist of the sum of the RWAs financed by the Islamic bank's own capital and liabilities, plus 30 % of the RWAs financed by the Islamic bank's unrestricted PSIA's. This is to account for the additional risk potentially arising from Islamic financings in unrestricted PSIA's.

(b) Governance and disclosure for Islamic banks

Under the CBB disclosure and governance rules,¹⁰ Islamic bank licensees are subject to additional governance requirements and disclosures to provide assurance to stakeholders that they are following Shari'a principles. In ensuring compliance with Shari'a principles, each Islamic bank licensee must establish an independent SSB consisting of at least three Shari'a scholars and complying with AAOIFI's Governance Standards for Islamic Financial Institutions No.1 and No.2¹¹.

All Islamic bank licensees are required to have a Corporate Governance Committee (CGC) which must comprise (in addition to independent directors) a Shari'a scholar (who is a member of the SSB) for the purpose of leading the CGC on Shari'a-related governance issues, and also to coordinate and link the complementary roles and functions of the CGC and the Shari'a Board¹². In addition, all Islamic bank licensees are required to have an Audit Committee which communicates and coordinates with the CGC and the SSB to ensure that information on compliance with Shari'a rules and principles is reported in a timely manner.

20.3.2 Mudaraba

The CBB has set out contractual and capital adequacy requirements specific to mudaraba contracts to ensure that these contracts are Shari'a-compliant, that the associated risks are properly reflected in the CAR, and that such risks are properly disclosed to customers.

(a) Background and general requirements

A mudaraba is an arrangement between the bank and a customer whereby the bank contributes capital to an

⁵ This module is issued under the powers available to the CBB under Article 38 of the CBB Law and is applicable to all Islamic bank licensees

⁶ All locally incorporated banks will be required to maintain capital ratios above individually set "target" CARs on a solo and on a consolidated basis. These target CARs will be set at an initial minimum of 8.5% and may in the case of high risk banks be set at levels above the 12.5% target ratio set prior to January 2008

⁷ The RWAs are determined by multiplying the capital requirements for market risk and operational risk by 12.5 and adding the resulting figures to the sum of risk-weighted assets for credit risks.

⁸ CA-A.3.2

⁹ Unless these losses arise from the negligence on the part of the Islamic bank as manager (mudarib) or as agent (Wakeel)

¹⁰ HC-9

¹¹ HC-9.2.6, it is a requirement under the CBB rules that all Islamic bank licensees comply with the AAOIFI issued accounting standards as well as applicable Shari'a pronouncements issued by the SSB of AAOIFI. The Islamic Bank Licensee must have a separate function of Shari'a review to verify compliance with the above. The internal Shari'a review must be carried out in accordance with AAOIFI governance standard No.3. The Shari'a review function may be located in the internal audit function of the Islamic Bank Licensee.

¹² HC-9.2.4

enterprise or activity which is to be managed by the customer as the mudarib (labour provider). Profits generated by that enterprise or activity are shared in accordance with the terms of the mudaraba contract whilst losses are to be borne solely by the bank unless the losses are due to the mudarib's misconduct, negligence or breach of contracted terms. Mudaraba financing can be carried out on either a "restricted basis"¹³ or an "unrestricted basis"¹⁴.

(b) Minimum terms and conditions for mudaraba contracts

The CBB has set out the type of terms and conditions (mudaraba terms) which it believes Islamic banks should include, as a minimum, in such contracts¹⁵ (where the bank acts as mudarib).

According to the mudaraba terms, all mudaraba contracts should include (amongst other things) details relating to limits/restrictions on investments to be made by the bank, specific reference to the segregation of the contract assets from the bank's assets, the liability of the bank for breach of contract and negligence, the liability of investment account holders (customers) being limited to their contributions under the contract, and the deduction from profits of the bank's fees, the valuation of the contract assets and the bank's share of profits as mudarib. It is clear that the purpose of these terms is to ensure that customers are fully aware of the risk born by them when entering into a mudaraba¹⁶. Under the mudaraba terms, all Islamic bank licensees should ensure that the relevant terms and conditions are clear, concise and unambiguous, and are not intentionally misleading.

(c) Policy statement - mudaraba

Banks must have a policy statement as to the policies and procedures in place to safeguard the interest of the PSIA holders. The statement must include, amongst other things, the basis of allocation of expenses, profit or loss to the PSIA, the policy on the priority for investment of own funds and those of unrestricted investment account holders and for making provisions and reserves against assets and equity for PSIA.¹⁷

(d) Capital adequacy requirements for mudaraba

As the fund provider, the bank is exposed to the risk of losing its capital investment (or capital impairment risk) upon making payment of the capital to the mudarib. Any loss on the investment is to be borne solely by the capital provider, but is limited to the amount of his capital.¹⁸ The CA requires that these risks of mudaraba are included in the calculation of the RWAs so that risks are properly reflected in the CAR¹⁹.

20.4 Collective Investment Undertakings (CIUs) and Private Placement Memorandums (PPMs)

20.4.1 Regulation of CIUs

The activity of offering CIU holdings to investors resident in Bahrain is a regulated activity²⁰ which requires the appropriate CBB licence. It is not possible to offer CIU holdings to investors resident in Bahrain on a 'cross-border' basis from outside Bahrain. Where an overseas operator of a CIU wishes to offer an overseas domiciled CIU to investors resident in Bahrain, it must itself hold the appropriate CBB licence or appoint an appropriate CBB licensee as its distributor.

No person may offer holdings in a CIU unless that CIU is either authorised by, or registered with, the CBB. Where a CIU is structured as a series of separate offerings, such as an umbrella fund with a series of sub funds, each sub-fund will require a separate authorisation or registration.

To avoid supervisory duplication, the Module CIU provides that overseas domiciled CIUs which are already approved by their 'home' regulator in certain recognised jurisdictions are simply required to register with the CBB, prior to being marketed in Bahrain.

20.4.2 Three classes of CIUs

(a) **Retail CIUs** are open to all investors and are subject to detailed regulation and supervision by the CBB. The CBB's "New Collective Investment Undertaking Rules" provides that every Bahrain domiciled retail CIU requires the publication of a prospectus.

(b) **Expert CIUs** may only be offered to expert investors, which are individuals or institutions which have financial assets of at least USD 100,000. The minimum investment is set at USD 10,000 or equivalent. Expert CIUs have greater flexibility than retail CIUs. Notably, they are able to utilise higher aggregate and individual exposure limits and they may invest in a wider range of asset classes, including, amongst other things, real estate, commodities, unlisted securities and hedge funds. An expert CIU must be authorised by the CBB.

(c) **Exempt CIUs** may be offered only to accredited investors, which are individuals or institutions with financial assets with a value of at least USD 1,000,000. The minimum investment is USD 100,000 or equivalent. Exempt CIUs are only 'regulated' to the extent that they must register with the CBB prior to being offered to investors. Exempt CIUs are not subject to any restrictions on their investment policies and as a result of this, they may exhibit high risk characteristics, such as, high levels of leverage and the taking of large speculative positions. Bahrain domiciled exempt CIUs may only be offered to accredited investors when offered within the Kingdom of Bahrain. They may not be promoted through mass communication channels (such as the press, radio or television). Exempt CIUs must not quote the CBB as the regulator of the CIU and must clearly display a statement of the fact that the CIU is considered exempt for the purposes of the CBB's CIU regulations. In addition, exempt CIUs must disclose all relevant features of the CIU in their offering documentation.

(d) **Shari'a-compliant CIUs** (which apply to Expert and

¹³ Where the capital provider allows the mudarib to make investments subject to specified investment criteria or certain restrictions such as types of instrument, sector or country exposures

¹⁴ Where the capital provider allows the mudarib to invest funds freely based on the latter's skills and expertise

¹⁵ Appendix BC-7

¹⁶ Under the mudaraba terms, "the mudaraba contract should make it clear (in a prominent position and manner in the contract itself) that the contractual risk including the currency risk, is totally on the investment account holder at all times"; Appendix BC-7

¹⁷ Banks must agree their policy statements with the CBB

¹⁸ While it is not permissible for a mudarib to give a guarantee against such losses, such a guarantee may be given by a third party on the basis of tabaru (donation). In such a case, the amount of the mudaraba capital so guaranteed may be considered as subject to credit risk with a risk weighting equal to that of the guarantor

¹⁹ CA-3.7

²⁰ That of dealing in financial instruments

²¹ Volume 6 of the CBB Rulebook (Capital Markets)

²² Minimum Requirements for Private Placement Memorandum for Financial Instruments issued by CBB Licensees for raising Regulatory Capital

²³ The most significant difference between takaful and conventional insurance is that a takaful operator (which is effectively the insurer) is prohibited under Shari'a law from investing in certain investments. These include interest-earning investments, such as government bonds or gilts, and certain equity investments which are haram (i.e. forbidden), such as equity investments in companies interested in armaments, gambling, the manufacture or sale of alcohol, and pork products.

²⁴ The latter approach appearing to be favoured by Shari'a scholars

²⁵ Significantly, the agent does not share in any underwriting surplus or profits, which will be distributed exclusively to the participants

²⁶ Generally, these risk-sharing arrangements allow the operator to share in the underwriting results from operations as well as the favourable performance returns on invested premiums. However, the operator's fixed %age is not guaranteed as there may be no surplus

²⁷ This model combines elements of the wakala and mudaraba models and is structured so that the takaful operator retains two funds; one for the shareholders and the other for participants. The underwriting activities are conducted by reference to the wakala model, whereby the shareholders manage the funds as agent on behalf of the participants. In exchange for managing the funds, each participant is charged a wakala fee, which is normally a %age of the contribution paid by each participant. As an incentive for effective management, the operator is also entitled to earn a fee if there is a surplus in the participants' fund. With regard to investment activities, the operator invests the surplus contributions in different Shari'a-compliant instruments based on the mudaraba contract. The operator acts as the investment manager or mudarib on behalf of the participants and the ratio of profit is fixed and agreed between the parties at the inception of the contract

²⁸ TA-2.2.3

Retail CIUs only) have special provisions in the Module CIU²¹. The operator of the CIU must appoint two or more Shari'a advisers. All offering documentation must contain provisions describing the Shari'a-compliant nature of the CIU, the process for achieving such compliance and the names of the Shari'a advisers. The operator of the CIU must ensure that the operations and investments are subject to compliance reporting and monitoring by its Shari'a advisers in accordance with applicable AAOIFI standards.

(e) **Overseas CIUs** must provide the most recent copy of their prospectus available to the CBB within 30 calendar days of any revision. The CBB licensee responsible for distributing an overseas domiciled retail CIU or overseas domiciled expert CIU must ensure that the CIU's prospectus (and simplified prospectus where applicable) are kept up-to-date. In addition, the CBB licensee responsible for distributing an overseas domiciled retail CIU or overseas domiciled expert CIU must provide explanations and such other information supplementary to the prospectus as may be reasonably required by a potential investor.

20.4.3 PPMs

A private placement is a private solicitation of funds which is not made available to retail investors by public offer or advertising. It is made only to "accredited investors" and/or entities whose shareholders are all "accredited investors" and/or the issuer's or promoter's directors, management and staff members. A PPM must be made in denominations of at least USD 100,000 or equivalent in other currencies. The solicitation is made by way of a memorandum offering of shares or subordinated debt instruments for capital raising purposes. All PPMs relating to the issue of financial instruments by licensees of the CBB on their own account (e.g. for new licensees that want to raise regulatory capital and existing licensees that want to increase their regulatory capital), must be approved by the CBB's before they are distributed²².

The PPM must contain statements relating to the suitability of investors as well as statements on risk. This means that statements to the effect that all prospective investors should make their own investigation into the offer, and consult their own advisers concerning the risks of the investment and the suitability of the financial instruments for their individual requirements should be included. In addition, there must be a statement as to the liquidity and possible lack of a public market for the financial instruments on offer.

The memorandum must outline the particular types of risks associated with the financial instruments to be issued. The list of requirements in this document is not intended to be exhaustive. Financial institutions have an obligation to ensure that all relevant financial and risk information is placed in the PPM to allow investors to make an informed decision.

Comparative summary with mudaraba

As can be concluded from the above, the requirements applicable to CIUs and PPMs in Bahrain are clearly de-

finied by the CBB.

CIUs' prospectuses and PPMs must effectively disclose all intrinsic features and risks related to the investments in question. The requirements to issue a prospectus or PPM ensure that a certain level of disclosure is satisfied, and thereby ensures that investors are able to make an informed decision to invest or not.

The rules applicable to CIUs and PPMs differ somewhat from the requirements of mudarabas as these are less stringently regulated. Guidelines and rules exist as we have seen, but mudarabas continue to flourish in what remains a relatively flexible regulatory system that applies differing disclosure standards to conventional CIUs.

20.5 Takaful

20.5.1 Background

Takaful is the Islamic counterpart of conventional insurance and is based on concepts of mutual solidarity and financial aid whereby a group of participants agree among themselves to support one another jointly for the losses arising from specified risk. Most Islamic scholars agree that takaful, which is based on the concept of ta'awun (i.e. mutual assistance), is fully consistent with Shari'a law²³.

20.5.2 Takaful Models

(a) "Wakala" Model: the operator is the agent of the participants, and is entitled to a fee which is deducted from the contributions made by the participants into a general takaful fund or the investment profits derived from investing the general takaful fund²⁴ and which may be performance-related²⁵.

(b) "Mudaraba" Model: the operator is entitled to a fixed %age of any investment profits or surplus, which will be paid into the participants' takaful fund.²⁶

(c) "Mixed" Model: the wakala contract is adopted for underwriting activities, while the mudaraba contract is employed for the investment activities of the takaful fund.²⁷

20.5.3 Regulation in Bahrain

(a) The CBB's Takaful Module (TA) sets out regulations and requirements on takaful relating to principles of business, capital adequacy, disclosure, management, systems and control. Most of the CBB's laws and regulations on takaful apply in full to conventional insurance firms (some special rules relating to disclosure and capital adequacy apply only to takaful firms):

(i) Conduct of Business: The CBB has adopted international standards of regulation and its principles of business²⁸ apply to both insurance and takaful firms. These rules are similar to the ones applied in the UK. In the UK, for instance, the Insurance Conduct of Business rules require (amongst other things) that all insurance/takaful firms observe proper standards of market conduct and high standards of integrity, act with due skill, care and

diligence, ensure transparency, and maintain adequate resources to run the business²⁹.

The takaful firms are additionally required³⁰ to disclose clearly to participants and shareholders information about the performance of their business, plus other details relating to wakala/mudaraba fees paid to the takaful operator. As a minimum, this information is required to comply with relevant AAOIFI standards³¹.

(ii) Capital adequacy

The capital framework laid out by the CBB for Takaful operators maintains that all takaful funds are subject to available capital and solvency requirements equivalent to their conventional counterparts. Each takaful fund must maintain and calculate its solvency requirements as if each were a separate licensed insurance firm³².

Takaful firms must maintain separate books of account in respect of each type of business and for each fund. The wakala fee charged for a takaful contract must be directly proportional to the costs associated with establishing and maintaining that contract³³.

In instances where the takaful fund's available capital fails to meet the required solvency requirements³⁴, the shareholder fund must provide a loan to the takaful fund in order for the deficient fund to meet its solvency requirements³⁵. Any loan from the shareholder fund will present an additional risk to the shareholders of the takaful operator. Due to this additional risk, the minimum the takaful operator must include is a specific note in its financial statements explaining the arrangements and their implications to shareholders³⁶.

(iii) Shari'a Supervisory Board

Each takaful firm is required to have a SSB, whose duty is to direct, review and supervise the activities of the firm in order to ensure that they are in compliance with Shari'a rules and principles. The same provisions exist in the newly enacted UAE takaful law (the UAE Takaful Law)³⁷ which substantially reflect the Shari'a Standards recommended by AAOIFI standards, and reflect an additional layer of corporate governance that Takaful operators will need to satisfy³⁸.

(iv) Governance Committee

One of the major regulatory issues relating to takaful is the potential conflicts of interest arising between the shareholders and participants of the takaful fund³⁹. The IFSB has recently issued a governance paper on this aspect suggesting the creation of a "Governance Committee" to look after the interests of the participants and ensure that they are fairly treated⁴⁰. Similar rules apply under the CBB to both insurance and takaful firms (though not dealing specifically with the issue of the takaful-related conflicts of interest) requiring insurance and takaful firms to treat all policyholders and shareholders fairly and act with honesty, integrity and in the best interests of all policyholders and shareholders⁴¹.

(v) Analysis

Although the CBB does not propose to establish rules as to what constitutes a takaful product, as this is a matter for each firm's SSB, the CBB has an obligation to ensure that consumers of takaful products are afforded the same level of protection as that afforded to the purchasers of conventional insurance products. In addition, the CBB has an obligation to ensure that the operations of takaful firms do not represent a threat to the stability of Bahrain's financial services industry or wider economy. This explains the reason why most of the rules under the CBB are applicable to both insurance and takaful firms. As the CBB governs both insurance and takaful firms under the same regulatory regime (which does not favour one over the other), companies from both fields have been able to conduct their businesses in a fair and competitive environment.

The CBB implemented special requirements for takaful (in relation to solvency requirements, business conduct and disclosure) to provide protection for participants against the additional risk associated with takaful products and ensure that such products are Shari'a-compliant. International standards of insurance regulation, such as conduct of business, capital adequacy, management, systems and control apply to all insurance and takaful firms in Bahrain. Despite this, the following issues should be considered:

(A) Challenges for the takaful industry

A big challenge for takaful operators, particularly in Bahrain where both insurance and takaful firms operate in competitive environment, is that they compete on a global basis with conventional international insurance firms. Low entry barriers, which encourage new players, may raise the standards of insurance and takaful offerings in the market, but at the same time increases competition. The advantage conventional insurance has is the huge resources that they have and their brand strength that provides assurance to potential clients.

(B) Adopting the "National Shari'a Supervisory Board"

As the CBB does not advise on what constitutes a takaful product (it is the duty of the Shari'a Supervisory Board), adopting a supreme supervisory body like the National Shari'a Supervisory Board under the UAE Takaful Law may be pivotal. This law established the Supreme Committee for Fatwa and Shari'a supervision (Supreme Committee), a national Shari'a board for the takaful industry whose job is to issue fatwas on takaful and investment issues for the takaful industry and to classify and explain fatwas and opinions relating to takaful issued by the SSBc of the takaful operators⁴². The Supreme Committee has a supervisory role on the takaful industry as a whole and has the power to investigate the Shari'a-compliance of takaful operators and to require them to adjust their operations in the event that issues are identified. This will ensure consistency and clarity as to the Shari'a requirements of takaful, which is to the benefit of the takaful industry as a whole.

²⁹ Similar rules apply to Takaful firms under the CBB rules; the Principles of Business Module and Business Conduct Module

³⁰ This does not apply to conventional insurance firms

³¹ Modules PB and BC

³² CA-8

³³ All Bahraini insurance licensees require CBB pre-approval for the distribution of dividends to shareholders; CA-8

³⁴ This requirement is specific to Takaful firms, CA-8

³⁵ Such a loan from the shareholder fund to the Takaful fund must be pre-approved by the CBB as well as ensuring that the loan represents capital meeting the permanency and quality requirements outlined in the capital adequacy rules of the CBB; CA-8

³⁶ CA-8

³⁷ Resolution No. 4 of 2010 of The UAE Insurance Authority Board

³⁸ TA-1.1.7

³⁹ The takaful funds belong to the participants and not the takaful operator; the takaful operator will be remunerated, whether in the form of a wakala fee or an investment profit share, for managing the underwriting investment activities of the takaful funds

⁴⁰ The primary objective of the Governance Committee would be to find an appropriate balance in addressing the interests of all stakeholders (i.e. shareholders and participants), while giving special attention to the interests of the Takaful participants who are largely underrepresented and lack adequate access to information (Islamic Financial Services Board, Guiding Principles on Governance for Takaful (Islamic Insurance) Undertakings, December 2009)

⁴¹ Modules HCl.1.10 and HCl.1.11

⁴² It is not permitted for a scholar who is a member of the Supreme Committee to also be a member of any Shari'a Supervisory Board of any UAE takaful operator