Consultation on Enhanced Operational and Solvency Framework for Takaful and Retakaful Industry Volume 3 (insurance)

Industry Comments and Feedback
Volume 3
November 2013

Industry Comments		
General Comments:	**Ref**	**CBB's Response**
An insurer stated that as a Retakaful / Reinsurance company, many of the issues that are important to the direct company are not directly applicable or secondary to the operation of a Retakaful Company, specifically on the topics of pricing and the actuary. As a retakaful operator the health of the direct business is fundamental to their sustainability, they therefore encourage that focus be placed on the technical results of the takaful companies before wakala fees. If the takaful operator continuously produces a loss before charging Wakala fees, it is inevitable that the company will not survive. Furthermore it is necessary to clearly define which rules are applicable to a Takaful Operator and which are applicable to a Retakaful Operator, because of the fundamental differences in the operations.	GR1	Noted. Although there are fundamental differences in the operations of the retakaful company compared to Takaful operator, the CBB rules have been drafted in a way that is equally effective and relevant to the retakaful operators.
An insurer suggested, with regards to the proposed changes in Module AU, that the Head of Risk Management can be combined with the position of Compliance Officer or MLRO as an additional portfolio. This would enable the Insurance Company to use the experience and skill of the officer to the optimum level. They also stated that the proposed changes may be implemented in a phased manner over a period of 3 years to enable companies to comply with the new regulations.	GR2	The CBB agrees to the concept of combining the Risk Management function with any other relevant function provided that there is no conflict of interest and the person is competent and capable to perform multiple functions efficiently and effectively. Paragraph AU-1.2.3 will be amended accordingly to be read as follows: **<u>Controlled functions</u> may be combined with any other functions, subject to the CBB's prior written approval and such**

		combination must not result in any possible conflict of interest. The Takaful and Retakaful industry must fully comply with the new rules and requirements latest by 31 December 2014.
An actuary stated that the Motor and Medical business are the largest lines in most insurance companies in Bahrain, which puts companies under a potential pricing risk, especially with higher retention level or full retention. These lines of business are also highly competitive and when corners are cut, then the consumer suffers in terms of declined claims, delayed payout or outright refusal to pay. Therefore, insurance companies should set technically and actuarially adequate prices for these two lines of business. They recommend annual pricing exercises for motor and medical based on the company's historical claims data and experience per different risk factors, taking into consideration other elements such as claims cost inflation, expense loading, profit loading. This might be enshrined in Volume 3 (Insurance), or it might be set as a separate requirement by the CBB from time to time.	GR3	The CBB agrees that pricing should be adequate for all lines of businesses including motor and medical. Paragraph AA-4.3.1(g) sufficiently covers the issue raised and hence no change to the proposed rule is required.
An actuary stated that Risk Management is at its core an actuarial discipline, which is: consider future events, with a range of probability of occurring (frequency) and a range of severity of the impact of the outcome, should it occur. Combine frequency and severity to calculate expected outcomes and ranges of expected outcomes. The CBB may therefore wish to require actuarial input in the FCR (AA-4.3.1) on various Risks the company faces, the risk management program, and to provide recommendations.	GR4	The CBB agrees that Risk Management is also an actuarial discipline but it is also important that actuary possess the required certification of Chartered Enterprise Risk Analyst (CERA) or equivalent with relevant experience to perform the function. No change to the rules required.
An actuary noted that in line with the new requirements for a Financial Condition Report, a three to five year financial projection and business plan with actuarial sign-off would be ideal for all insurance companies. This will evaluate capital requirements, size	GR5	Disagree as this would be a too restrictive requirement for companies.

of business, expense, planned growth and other important factors and give an overall view as to where the Bahrain insurance market is heading.		No change to the rules required.
An actuary suggest also that an actuarially signed Business Plan and Financial Projections are made part of the application requirements for any entity wishing to establish a new insurance company in Bahrain.	GR6	See comments to GR5 above.
An actuary noted that 31 December reporting dates for all insurance companies place a strain on actuarial resource, and for the rest of the year there is little work. Possible staggering of reporting dates would be helpful.	GR7	Disagree. No change to be made for consistency purposes.
An insurer noted that currently receivables exceeding 6 months are disallowed for solvency calculations. Considering the delay of premium settlement from Government/ Government bodies and also receivables on account of motor subrogation claims from Insurance companies, they request CBB to consider extending the restriction to one year.	GR8	Do not agree with the comment. The CBB believes that assets receivable beyond six months must not be considered admissible for solvency calculations as the quality of capital is compromised.
Insurers noted that they would like to draw CBB's attention and due consideration to the following: 1. The Takaful Committee formed in January 2012 by CBB representing the takaful industry and the CBB discussed various issues in the Committee meetings and submitted individual company's feedback on the then proposed regulations prior to the memo as per point 2 below. 2. CBB vide letter EDFIS/176/2012 dated 13th September 2012 informed individual Takaful companies about CBB's intention to apply new approach in calculating the solvency status by combining the assets of both Shareholders Fund and Policyholders Funds. Qard Hassan will be required only in case of cash deficit.	GR9	Do not agree.

3. Based on the above memo, the Companies have obtained resolution from their respective Sharia Supervisory Boards approving the proposed application of solvency calculation by combining the assets of both Shareholders Fund and Policyholders Funds. 4. The Companies were taken by surprise with the fact that the new proposed framework subject to consultation covers various issues which were not agreed in the Committee meetings and also not mentioned in the CBB memo EDFIS/176/2012. 5. The new regulations, if applied, will be detrimental to Takaful companies on the following grounds: a. Bahrain Takaful industry is small and is still not matured enough unlike Malaysia, Sudan and other larger markets. b. The stringent and unique new proposals will deter any new entrants to the Bahrain Takaful market. c. The proposed writing off of the Qard Hassan and the Earmarking of assets involves a double impact on Takaful operators and it is like penalizing twice. d. The Companies are of the opinion that some of the proposals are not in accordance with Sharia principles (e.g writing off Qard Hassan) which will not be accepted or approved by companies' Sharia Supervisory Board and Board of Directors/Shareholders. e. Some of the proposals will trigger high level changes in the IT systems which will be time consuming and very costly thereby contribution to more deficits (viz. payment of commission from SH Fund). f. Some of the proposals (viz Head of Risk Management, Internal Sharia Reviewer, Actuarial valuation and Financial Condition Report) will add substantial cost and the Takaful companies being small will face undue severe financial burden.		Comment 5(c) was discussed at length with the Takaful and retakaful industry and has now been clarified to opt for write off or repayment. In case of comment 5(d), most of the firms are testing the impairment of Qard Hassan on an annual basis and disclosing it in their annual financial statements. Hence the comment is not valid.

6. The long pending request of Takaful companies is for an equal opportunity and an equal level playing field compared to Conventional Insurance companies. Whereas, what they get now is more stringent and biased proposals seemingly against the Takaful companies. A conventional company having accumulated losses with a positive capital available is not required to earmark assets, whereas if it is a Takaful company, it is required to write-off Qard Hassan and Earmark assets.		
7. The Companies still hope CBB should allow takaful companies to work out the solvency by combining the assets of Shareholders Funds and Policyholders Funds as agreed in the initial meetings and proposed by CBB as cited in point 2 above. This will put the takaful companies at par with conventional companies.		This is what CA-8.4.2 is allowing.
8. In the proposed regulations, the Companies are not allowed to charge any performance fees to the policyholders' fund. Performance fee is charged by the operator only when the Policyholders Fund generates surplus. In the absence of performance fee, there is no incentive to the operator to run the takaful funds profitably.		Performance fee will not be allowed as the CBB believes that the surplus generated by the Participants' fund is for the participants of that fund.
9. The application of the proposed regulations in its present form may force some of the Takaful companies to seek voluntary liquidation as they cannot afford to write off the Qard Hassan and simultaneously Earmark assets for solvency.		The Rule now allows for repayment as well
10. Though they firmly believe that the proposed regulations place the Takaful industry in Bahrain at a disadvantage compared to Conventional peers and that its application in its present form will be detrimental to the Takaful industry particularly and Bahrain's standing as an Islamic Finance Hub overall, they furnish below for the CBB's consideration the Companies' detailed comments on the critical regulations/rules proposed by CBB.		

Insurers noted that currently receivables exceeding 6 months are disallowed for solvency calculations. Considering the delay of premium settlement from Government/Government bodies and also receivables on account of motor subrogation claims from Insurance companies licensed by CBB, they request CBB to consider extending the restriction to ONE YEAR for all Policyholders receivables. Ideally the six months restriction on receivables from Insurance companies licensed by CBB towards Motor Subrogation claims to be removed completely. While they agree with the CBB's objective of having good quality assets backing solvency, motor subrogation recoveries do not involve any credit risk, it is just a matter of timing risk whereby the Companies' are unfairly penalized for the behavior of other counterparties who do not operate platforms that allow recovery within the 6-month window.	GR10	See comments to GR8 above.
An insurer noted that the consultation letter has raised some very important issues. Firstly, the question of the solvency margin which is closely related to risk management and the assets of the company come under the authority of the Board of Directors. Secondly, the changes proposed to the capital adequacy module refers to increasing the capital of the company in case the solvency margin falls below the required minimum without referring to the period within which the capital is to be raised and whether it is temporary or permanent. Thirdly, as the CBB knows, the solvency margin requirement can be more easily adjusted by ceding excess exposure to reinsurers. Because of the seriousness and the impact of the proposed changes on the companies, they have already appointed an actuarial firm, Sigma Actuaries, to address this issue as well as the controls required for all their risks. This report will be passed to the Board of Directors for their evaluation and only then it would be forwarded to the CBB. Due to the enormity of this requirement, they would appreciate if the CBB would allow them an extension of 45 days to provide their response to the CBB.	GR11	The new proposed solvency framework is for Takaful/ ReTakaful companies and not applicable to conventional companies. However, rules on Risk Management function and its requirements are applicable to both conventional and Takaful companies.

Specific Comments:

Reference to the draft Directive:	Comments	REF	CBB's Response
Module CA			
CA-1.2.8 Tier 1 capital comprises: (a) Paid-up ordinary shares (net of treasury shares); (b) Share premium reserve; (c) Perpetual non-cumulative preference shares. (d) All disclosed reserves brought forward, that are audited and approved by the shareholders, in the form of legal, general and other reserves created by appropriations of retained earnings, excluding fair value reserve; (e) Unappropriated retained earnings, excluding cumulative unrealised fair value gains, brought forward; (f) Audited current year's earnings net of unrealised fair value gains and before taxes; and	**An audit firm** noted the following: • Will the CBB consider accepting "Perpetual Sukuk" as tier 1 capital for Takaful and Retakful operators? • A number of regional regulators have accepted these types of Sukuk as Tier 1 Capital for Islamic banks to broaden their capital adequacy profile.	SP1	Noted. However, issues related to including 'Perpetual Sukuk' as part of Tier 1 Capital (Rule CA-1.2.8) is to be deferred at this stage.

(g) In the case of an overseas insurance firm, the audited net assets (excluding any unrealised fair value gains and the surplus assets of long-term funds), determined in accordance with accounting standards that would be applicable if it were a joint stock company incorporated in Bahrain.			
CA-8.2 (CA-8.2.1, CA-8.2.2, CA-8.2.2A, CA-8.2.2B, CA-8.2.2C, CA-8.2.2D and CA-8.2.6)	**An insurer** noted that to be reasonably precise in Wakala fee % may not be possible. To arrive at the close estimation of wakala fee %, it will require a number of assumptions and scenarios and past market historical trend/data which are not readily and widely available. However despite from these studies, there is still the probability that actual is not in line with upfront estimation. Further to this it would require significant investments in systems and processes. The current model is already adhering to CA-8.2.2 and CA-8.2.2A to the best estimate of the market. Due to the inherent limitations in making estimation, therefore the incentive fee is adopted in the existing model. Therefore, CA-8.2.1 should go along with CA-8.2.2B-D. They are related to each other and due to this; they believed that these proposals should be revisited.	SP2	Disagree with the comments made. Wakala fee must be calculated as specified under CA-8.2.2B.

CA-8.2 Page 2 of 2	**An audit firm** noted that the content is not clear, seems like a misplaced page break	SP3	Noted
CA-8.2.1 All Takaful firms licensed in Bahrain must organise and operate their business according to the al Wakala model. Specifically, in exchange for the provision of management services to participants' fund(s)(s), the shareholders of the Takaful firm must receive a specific consideration (Wakala fee). For the insurance assets invested on behalf of participants' fund(s)s, the Takaful operator must use the al Mudaraba model, and must receive a set percentage of the profits generated from the investment portfolio. No performance fees are allowed to be paid to the shareholders/Takaful operator of the Takaful firm.	**An insurer** agreed. No performance fees should be paid to the shareholders, if this is in violation of the Sharia otherwise this should be permitted, because it could lead to perhaps reductions in wakala fee upfront.	SP4	As mentioned in GR9 above, performance fee will not be allowed.
	An insurer does not understand why a performance fee would not be permissible as this incentivises the Takaful Operator to act in accordance with the interests of the Participants.	SP5	See comment SP4 above.
CA-8.2.2A The Wakala fee must be a fixed upfront fee and be expressed as a percentage of contributions. The Wakala fee must be clearly stated in the Takaful contract and	**An actuary** stated that the term "upfront wakala fees" should be made clearer. It is assumed that the suggestion is to fix the wakala fees up front (i.e., before the contract is issued). Also the suggestion to express the wakala fees as a	SP6	Wakala fees should be calculated and disclosed before a contract is issued. Wakala fee may vary from product to product.

agreed to by the participant.	percentage of contributions only is not supported as this will reduce flexibility. For example it is more equitable sometimes to charge the wakala fee as a fixed amount plus a percentage of contributions. If the intention is to limit the total charged to the participant this can be achieved by stating that the wakala fee should not exceed ??% of the contribution.		We agree with the comments that there are certain expenses which do not vary with the contribution size and hence it is not practical to express all the expenses, which constitutes Wakala fee, as a percentage of contributions. In light of the above, paragraph CA-8.2.2A may be amended as follows: ***"The Wakala fee must be a fixed upfront fee, which may be expressed as a percentage of contributions. The Wakala fee, once fixed, shall not be adjusted during the reporting period, and must be clearly stated in the Takaful contract and agreed to by the participant."***
	An insurer noted that expressing this as a percentage of upfront contributions is impractical as some form of charges do not vary with contribution size. For example, administration expenses and therefore administration charges are the same for unit-linked plans irrespective of the size of the contribution.	SP7	Please see the comments in SP6 above.
	An insurer stated that the Wakala fee should be charged on the entire pool, since the takaful contract is a unilateral contract, from a sharia perspective. What would the role of the SSB then be with regards to the management or as the	SP8	Disagree with the comments as the Wakala fee must be clearly stated in the ReTakaful contract and agreed to by the Takaful operator.

	trustees of the pool? Would varying wakala fees (due to negotiation) not then be assimilated with risk transfer as opposed to risk sharing? In their view Wakala fees are proprietary information and its disclosure would dilute the competitive advantage of one operator over the next. Full disclosure to the CBB is however agreed. From a Retakaful perspective they reflect in the Retakaful Contract the maximum wakala fee that they charge. Furthermore their Sharia Board has approved in principle an incentive wakala which can be paid to the Operator, subject to satisfactory performance of the Pool. They therefore are not in agreement to only fixed wakala fees. For the record they have to date, not receive incentive wakala.		Wakala fee is to be determined upfront on a prospective basis and should not be adjusted retrospectively, based on the performance of the pool. Hence, the incentive Wakala is not allowed under the new rules.
CA-8.2.2B The Wakala fee must cover the total sum of the following components: (a) The management expenses; (b) The distribution expenses including intermediaries' remuneration, agents' commission and other expenses involved in making Takaful products available to the public; and (c) A reasonable and appropriate margin of operational profit.	**An actuary** stated that the words "reasonable and appropriate" should be replaced by more objective guidance as these are too subjective.	SP9	It is left to an actuary to determine and justify what "reasonable and appropriate" is for a particular firm.
	Insurers noted the following: 1. Commission is a direct expense of PH Fund and hence cannot be paid out from SH Fund. Wakeel is a manager of the PH Fund and any direct or operational expenses of PH Fund should be paid from PH fund. 2. Will trigger substantial and high level changes in IT systems which will increase the management expense and consume more time. 3. Additional cost will be incurred for hiring	SP10	Disagree with the comments made. Commission under the new draft rules will be part of Wakala fees and hence to be charged to the Shareholders Fund.

	additional resources to manage commission payments, matching and its accounting between PH Fund and SH Fund. 4. Need clarification about commission paid on fac-inward business. 5. Need clarification about Reinsurance commission income. 6. Not beneficial to PH fund as it would increase wakala fee expense which would ultimately increase the deficit. 7. Wakala fee is to be fixed upfront at the year beginning - there are expenses such as incentives to distribution channels, bonuses, etc that are known only at the end of the year and as such it is not pragmatic to fix Wakala upfront. Wakala fee should be disclosed upfront "up to a maximum %" and not "as a fixed %" 8. Disclosure about wakala fee to policyholders of participants' fund – to be defined clearly 9. Performance fee is charged by the operator only when the policyholders fund generates surplus. In the absence of performance fee, there is no incentive to the operator to run the takaful funds profitably. Further, absence of performance fee might lead to acceptance of less than good takaful business to generate additional revenue by way of wakala fee to the Shareholders but might result in large deficit to participants.		Anything that constitutes Wakala fee will be charged to the Shareholders Fund. Wakala fee is to be determined upfront on a prospective basis and cannot be adjusted retrospectively, based on the actual expenses/performance of the fund. As stated in comment SP6 above, Wakala fee charged <u>may</u> be expressed as a percentage of contributions. Covered under Paragraphs CA-8.2.2A and CA-8.2.2B Performance fee is not allowed under the new rules. Please see comments in GR9 above.

	An insurer agreed in principle, however all technical expenses or expenses directly related to the takaful business should be for the account of the policyholder. Commissions for example, are a direct result of the insurance business as it is linked to a specific agreement and should therefore be charged to the participant's pool. In the case of Hannover Re, they charge all direct expense related to the technical operation of the Pool to the Pool. Management Expenses are charged to the Shareholder fund, which naturally comes out of the wakala fees.	SP11	Please see comments in SP10 above.
	An insurers noted that profit margins should be the decision of the Takaful Operator and not subject to pricing constraints, especially in a developing market where support is needed to establish and grow the industry.	SP12	As stated in SP9 above, reasonable and appropriate margin of operational profit is to be determined by an actuary, (as part of the Wakala fee) and recommended to the SSB for their approval.
CA-8.2.2C The Takaful operator must ensure that the management and distribution expenses referred to under Paragraph CA-8.2.2B are paid from the shareholders' fund and not from the participants' fund(s).	**An insurer** stated that in their view Commission and all expenses of a technical nature directly related to the takaful business should be for the account of the policyholder exclusively.	SP13	Do not agree with the comment. Please see comments in SP10 above.
CA-8.2.2D The Wakala fee must be certified by the Takaful firm's actuary (see Paragraph AA-4.2A.2) and must be considered	**An insurer** enquired that if the actuary is required to certify the wakala fee and the SSB approve it, is there a real need to have the participant's agreement? As a professional Retakaful Operator	SP14	The participant agreement is obtained once the participant signs the contract which specifies Wakala fees in clear terms.

and subsequently approved by the Shari'a Supervisory Board.	dealing with professional Takaful Operator's they advise the wakala fee that they charge to the takaful operation after agreement of their SSB. They do not in term of a Retakaful operator see the need for actuarial involvement in setting up Retakaful wakala fees. Their pricing mechanism takes that into account.		Under the new rules, actuarial involvement is necessary in determination of Wakala fee.
CA-8.2.6 Only direct expenses related to claims or investments can be paid out of participants' fund(s). The direct expenses related to claims and investments, charged to the participants' fund(s) must be approved by the Shari'a Supervisory Board and must be limited to the amount of expenses incurred.	**An insurer** stated that having the SSB approve every payment is not feasible. The authorities of the (Re)Takaful Operator may be defined and agreed with the SSB in overall management of the pool.	SP15	SSB need to approve the concept of claims related and investment related expenses and are not expected to approve each and every payment. For more clarity, Guidance CA-8.2.7 was added as follows: The Shari'a Supervisory Board (SSB) is not expected to approve each and every claims related and/or investment related expenses. However, the policy established dealing with the direct expenses related to claims and investments, charged to the participants' fund(s), should be approved by the SSB.
	An insurer noted the following concerns: 1. This restriction is not acceptable. 2. What about risk inspection survey fees? 3. What about TPA fees? 4. What about impairment on receivables? 5. What about bank charges on premium collections (i.e. credit card charges)? 6. Any direct expense related operation of PH Fund should be allowed to be accounted under PH Fund.	SP16	The CBB is of the view that it is the firm's responsibility to determine which expenses are direct expense related to claims and investments and accordingly allocate them to the participants' fund. All direct expenses related to claims and investments that are charged to the participants' fund will not form part of the Wakala fees.

	Insurers noted the following: 1. This restriction is very harsh and overlooks a number of practical considerations. 2. What about risk inspection survey fees? 3. What about TPA fees on Medical policies? 4. What about impairment on receivables? 5. What about bank charges on premium collections (i.e credit card charges)? 6. Any direct expense related operation of PH Fund should be allowed to be accounted under PH Fund	SP17	Please see the comments in SP16 above.
	An audit firm noted that reading this Paragraph in conjunction with CA-8.2.4A may raise a question of where the Investment Expenses is going to be charged? Is it from the Gross Investment Income or from the Participant's Fund directly	SP18	Investment expenses would be deducted from the gross investment income to arrive at the net investment income for the fund.
CA-8.3.8 The Rules in this Chapter in respect of the segregation of funds by a Takaful firm are similar to the Rules set out in Chapter CA-3 relating to long-term insurance business. In the case of a family participants' fund(s) this similarity is most pronounced.	**An audit firm** noted that the case of Family Participant's Fund refers to CA-3 twice. Reconciling both references in one statement would be clearer.	SP19	Noted.

However, the Rules set out in Chapter CA-3 still apply even if the participants' fund(s) is a family participants' fund(s), in particular the requirement to separate linked family Takaful business into a separate fund.			
CA-8.4	**An insurer** noted the following: • The concept of earmarked assets is positive to the market. It would avoid the need for Qard Hasan loan to meet solvency requirement. • They requested the CBB to clarify that the retakaful recoveries refers to the receivable from retakaful companies resulting from claims payment. They would need further clarification because if this refers to retakaful assets it also includes retakaful share on claims reserve including IBNR and unearned contribution. If this is the case, it would significantly impact the solvency position of most companies that has exposures on Property and Energy business. The retention of this type of risk is normally minimal due to the severity of loss when it occurs.	SP20	Noted. Earmarked assets' role is to allocate assets of specified quality for advancing Qard Hassan to the Participants' fund in case of a cash deficit. For solvency deficiency, capital is required to be injected, under the new rules. Retakaful recoveries that are deducted from the total assets of the participants' fund to arrive at the insurance business amount, consist of retakaful share of claims reserve including IBNR and does not include provision for unearned contributions.

	• They also requested the CBB to specify in CA-8.4.3; CA-8.4.5 that the Qard Hasan it is referring to is the future Qard Hasan to be granted (due to liquidity need) and this does not apply to existing Qard Hasan balance. • CBB should provide separate guidance on how the existing Qard Hasan to be treated under the new solvency. • The proposed changes on the need for granting Qard Hasan; going forward, is reasonable. • The purpose of Qard Hasan is to meet the liabilities of the participants fund, therefore, they suggest that an annual assessment of liquidity of the participants fund is required to identify the liquidity status of the pool and the percentage/amount of repayment of Qard Hasan, hence the profitability of the fund should not be the indicator to repay Qard Hasan, the liquidity should be the one. • They suggested that the terms of Qard Hasan be set or agreed at the time of granting Qard Hasan to avoid any complication.		CA-8.4.5 refers to Qard Hassan (due to liquidity needs) and is not applicable to the existing Qard Hassan. Already provided. Please refer to Paragraph CA-8.4.16 for guidance. Noted. Noted. No action required. Noted.

CA-8.4.6 For purposes of Paragraph 8.4.4, earmarked assets must meet the following criteria: (a) Availability: the asset is available and can be called on demand to meet any liquidity requirement where a Qard Hassan may be extended (see Section CA-8.4A); (b) Permanency: the asset is not callable and cannot be withdrawn; (c) Free of encumbrances: the asset is free of any encumbrances or mandatory payments; and (d) Highly liquid: the asset must be readily convertible to cash equivalent to a minimum of 90% of its reported value on the shareholder's fund statement of financial condition.	**An audit firm** noted the following: • The content of this Paragraph refers to Item 8.4.4 which is not existed • The criteria of stated earmarked assets is not reconciled i.e. to be called on demand (item a) versus the asset is not callable in item (b)	SP21	Noted and corrected. Disagree. There is no issue here.
CA-8.4.7 Earmarked assets must comply with the criteria outlined in Paragraph CA-8.4.6 and refer to the following allocated assets from the shareholder fund to the each of the participants' fund: (a) Cash and unencumbered current accounts with financial institutions; (b) Placements with financial institutions maturing	**Insurers** noted that though it is a welcome relief and relieves the burden of Qard Hassan, the following are to be considered: 1. Return on earmarked assets will be very low, nearly zero, with these restrictions 2. Not much beneficial to SH with these restrictions 3. Options to invest is very much restricted 4. Earmarked assets can be subject to 'Valuation and Admissibility of Assets' guidelines	SP22	Disagree.

within one month; (c) Readily marketable securities; (d) GCC government securities; (e) Other sovereign bonds and bills up to one year maturity, carrying an S&P minimum rating of AA- (or equivalent); and (f) Accounts receivable due within one month.	instead of these restrictions. 5. There should not be any restriction on the tenure of the placements with FIs or at least longer term Fixed Deposits up to ONE year be allowed. 6. There should be an option for non-marketable securities. Quoted and Unquoted investments be allowed. 7. There should be an option for non-GCC sovereign sukuks and unrated listed / good sukuks without any restriction on the maturity 8. Can be linked to Asset-Liability matching 9. What about Non-sovereign sukuks? Eg. Emirates Airlines sukuk is admissible up to 5% of IBA as per Solvency regulations		Disagree. This cannot be allowed as it is there to meet the short term liquidity needs. Disagree. For more clarity, Paragraph CA-8.4.7(b) has been modified as follows: ***"Placements with financial institutions which can be liquidated within one month;"*** Similarly, Paragraph CA-8.4.7(e) has been modified as follows: ***"Other sovereign securities, other than in Paragraph CA-8.4.7(c) and Paragraph CA-8.4.7(d) above, up to one year maturity, carrying an S&P minimum rating of A (or equivalent);"*** ALM should not be a concern here. Any security that is readily marketable is allowed to be considered for earmarked assets.

	whereas the same is not allowed for Earmarking. 10. Unrated sukuks listed on stock exchanges – Are these falling under 'Readily marketable securities'? 11. The following are to be considered while applying 'Valuation and Admissibility of Assets' guidelines: a) The restriction on reinsurance receivables/recoveries to be removed. b) The six months restriction on receivables from Insurance companies licensed by CBB towards Motor Subrogation claims to be removed completely. c) To raise the all PH's receivables restriction limit from 6 months to 1 year		As stated above, if the security is readily marketable than it could be considered for earmarking. Do not agree. This is not part of the consultation.
CA-8.4.9 The solvency requirements only apply to the insurance activities of the participants' fund(s) and are calculated in accordance with Chapter CA-2 for each of the participants' fund(s). The solvency required is the total of the solvency requirements for all participants' funds.	**An audit firm** noted the following: • Has the CBB considered reviewing the 'required solvency margin' and in particular unify the methodology of ratio calculation for Takaful operators with those of Insurance. • Takaful Operators feel they are at 'disadvantage' as they are currently required to calculate ratio on Shareholders' Fund as well as Participants' Fund. • Are the new measures confirming that the	SP23	The new rules specify a combined approach to calculation of solvency and determining the excess of available capital over the required solvency margin. This is not the case under the combined solvency ratio. The net admissible assets of the participants' fund are combined with the available capital of the shareholders' fund to see the surplus or deficiency over the required solvency margin of the

	solvency requirements only apply to the insurance activities of the participants' fund(s)?		participants' fund(s). The solvency required calculations have not changed and only apply to the insurance activities.
CA-8.4.11 Should the Takaful firm fail to meet its required solvency margin, it will be restricted from writing any new Takaful business until such time as the Takaful firm is in compliance with the solvency margin requirements.	**An audit firm** noted the following: • In some practices, Takaful firms are forced to opt to hold on its dividend payment in order to use funds to meet required solvency margin and avoid restriction on its operations. • This causes concerns from investors and may impact on questioning the Firm's Sharia' compliance as it fails to pay dividends obligations in the particular financial year.	SP24	It is very important that there is no deficiency in the fund(s). If the total available capital fails to meet the required solvency margin then under the new rules, capital must be injected. The company's investors/shareholders cannot get dividends when the company is technically insolvent. Note that any dividends paid are subject to CBB prior approval.
CA-8.4.13 A participants' fund is prohibited from providing any form of credit by way of loan, guarantee or other instrument to another participants' fund or to any other party, including but not limited to: (a) The Takaful operator (i.e. the shareholder fund);	**An audit firm** noted that according to CA-8.4.13 (a) participant Fund is prohibited from providing any form of credit by way of loan to the Takaful Operator. However, Item CA-8.4.3 allows this indirectly through the statement "including any Qard Hassan payable to the shareholder fund".	SP25	Qard Hassan payable to the shareholders' fund is a repayment of a free-loan. It is NOT an extension of credit by way of loan from the participants' fund to the shareholders' fund.
CA-8.4.14 In the case of Family Takaful, a participant credit facility (policyholder loan) may be granted should the **contact** of insurance allow for such event to	**An audit firm** noted the following: • The statement should be: In the case of Family Takaful, a participant credit facility (policyholder loan) may be granted should the **contract** of insurance allow for such	SP26	Noted. The word "contact" in CA-8.4.14 need be replaced with "contract".

take place and the contract outlines the various conditions attached to such credit.	event…		
CA-8.4.15 Where a Qard Hassan has been granted for solvency purposes under the Rules in place at that time, the amount of Qard Hassan: (a) Will be written off by 31st December 2013; or (b) Will be written off over a period not exceeding 5 years and disclosed as an off-balance sheet item (see PD-1.1.13A) and not included as part of available capital for solvency purposes.	**An insurer** stated that their wakala fees are reviewed every year in line with their business performance. They therefore expect the Qard to be fully repaid within the next 5 years and therefore this likely recovery does not qualify for impairment.	SP27	Noted.
	An insurer noted that CBB should reword CA-8.4.15 if the write off means write back.	SP28	Disagree. Write-off does not mean write-back.
	An audit firm noted with regards to item (a) that reference to December 31, 2013 is made, this may create some confusion on scope of the that Item in preceding years.	SP29	Based on the comments received and for more clarity, Paragraph CA-8.4.15 (now CA-8.4.16) is amended as follows: ***"Where a Qard Hassan has been granted for solvency purposes under the Rules in place at that time, the amount of Qard Hassan will be written off and/or repaid over a period not exceeding 5 years and disclosed as an off-balance sheet item (see PD-1.1.13A) and not included as part of available capital for solvency purposes."***
	Insurers noted the following: 1. Against takaful principles and not in-line with AAOIFI 2. Write-off not acceptable and not practical	SP30	See SP29 The concept of earmarking of assets and

	3. Earmarking of assets for complying with solvency of PH Fund is more than sufficient and Policyholders are well protected with earmarking 4. Both Earmarking and Write-off is a double blow to Takaful industry and penalized twice 5. QH given for solvency deficit is nothing but Earmarking of assets. Where is the question of writing off the Qard Hassan provided for solvency deficit? And why again, Earmarking for solvency? 6. The existing accumulated deficits in the PH Fund accounts can be discussed and agreed on case by case basis 7. Conventional companies are allowed to carry on business till they show positive capital available, whereas Takaful companies are required to write-off the Qard Hassan and Earmark assets even though there is positive capital available. This inequality requires CBB's attention and consideration. 8. Companies should be allowed to return back the existing Qard Hassan and instead an undertaking from Board confirming injection of liquidity to PH Fund as and when required can be obtained.		write-off of Qard was discussed at length with the Takaful industry, subsequent to receiving the comments on the consultation paper, and has been clarified to the industry.
	An insurer noted the following: 1. Strongly disagree with this as the amount is still owed by the participants to the Takaful operator and should be recognised as such. This	SP31	The writing off of Qard Hassan has got nothing to do with the new entrants and only meant for existing firms with

	rule would prevent new entrants into the market as from a start-up, a TO would have 5 years to recover Qard Hassan from participants or face full write-off of the amount. Start-ups require at least 5 years to break-even let alone generate surplus to be able to ensure that the Qard could start to be repaid. 2. Strongly disagree with this new requirement as the TO has already provided a policy which is approved by its board and Shariah Board. To require CBB approval for this is to overrule these governing mechanisms. Either the CBB should approve the distribution policy and when it is enforced or the CBB should delegate it to the board and Sharia board and allow the company to operate.		outstanding Qard Hassan at the time of implementation of the new rules. The new rules on Qard Hassan will be applicable to any new entrant licensed after these rules come into effect, which require Qard Hassan to be advanced only in case of cash deficit and to meet liquidity shortfall in the participants' fund(s). The CBB has given the firms up to 5 years to write off and/or repay the outstanding Qard Hassan, the mechanics of which are to be decided by the BoD/SSB of the firm. Surplus distribution policy as per rule CA-8.5.1 must be approved by the SSB as well as the BoD of the Takaful firm.
CA-8.4A.1 Where a participants' fund(s) has a cash deficit which results in its inability to meet its day to day expenses and obligations, a Qard Hassan must be extended immediately by the shareholder fund. The cash being sought by the participants' fund must be physically transferred from the shareholder fund to cover the cash deficit of the participants' fund.	**Insurers** noted the following: 1. Agree with the proposal which is sharia compliant. 2. The requirement of notification to CBB can be on quarterly basis along with IFR-T(Q)	SP32	Noted. The notification should be immediate if it impacts the regulatory requirements. Hence the rule CA-8.4A.3 has been amended as follows: ***"Where the shareholders' fund of Takaful firms provide Qard Hassan (free loan) to the participants' fund as***

			available for the purposes of meeting a participants' fund's liquidity needs and where the earmarked assets are to be reassessed as a result, the Takaful firm must notify the CBB immediately."
CA-8.4A.4 Where a Qard Hassan has been granted, the statement of financial condition of the shareholder fund must reflect the reduction in earmarked assets to fund the Qard Hassan as an asset and for the participants' fund(s), the amount of Qard Hassan must be shown as a liability. In addition, the CBB requires, as a minimum, that the Takaful firm include a specific note in the financial statements of the Takaful firm explaining the circumstances of the arrangement (Qard Hassan) and the implications for shareholders and participants. CA-8.4A.6 The Takaful operator must have a clear written policy on the mechanism to rectify the cash deficit of the participants' fund(s), duly approved by the Board. The policy must address the manner in which Qard	**An insurer noted that** these two rules should not apply to existing Qard Hasan loan and the proposed rule should reflect this clearly.	SP33	The concept of earmarked assets in the shareholders' fund for advancing Qard Hassan to meet the cash deficit or liquidity needs of the participants' fund is not applicable to the existing Qard Hassan. However, the requirement that the Takaful firm include a specific note in the financial statements of the Takaful firm explaining the circumstances of the Qard Hassan arrangement and the implications for shareholders and participants, is applicable to both the existing and new Qard Hassan. Paragraph CA-8.4A.6 applies to both the existing and new Qard Hassan.

Hassan will be repaid and specify Qard impairment testing mechanism. The Qard Hassan must be tested for impairment at least annually. Whenever there is a need for Qard Hassan, the Takaful operator must determine the time period for the repayment of Qard Hassan.			
CA-8.5.4 The policy developed in accordance with Paragraph CA-8.5.1 must form part of each and every policy sold by a Takaful firm. This policy may not be amended or changed without the approval of the Shari'a Supervisory Board.	**An insurer** stated that full disclosure with the CBB and the SSB is welcomed, however providing the insured with complete information is discouraged for the obvious reasons, i.e competitive advantage and restricting the areas open to negotiation. A comprehensive review by the actuary, who reports to the CBB is adequate supervision.	SP34	Noted and agreed. The Paragraph CA-8.5.4 has been amended as follows: ***"The policy developed in accordance with Paragraph CA-8.5.1 may not be amended or changed without the approval of the Shari'a Supervisory Board."***
CA-8.5.4A Distribution of surpluses from the Participants' fund(s) is subject to the CBB's prior written approval.	**An insurer** stated that in comparison with the conventional insurer who is not required to obtain approval prior to the distribution of the profit commission, the takaful operator and in their case the retakaful operator should not require approval prior to distribution of the surplus.	SP35	The comment is not valid as distribution of profit commission is not the same as distribution of surplus.
	An insurer strongly disagree with this new requirement as the TO has already provided a policy which is approved by its board and Shariah Board. To require CBB approval for this is to overrule these governing mechanisms. Either the	SP36	Surplus distribution policy as per rule CA-8.5.1 must be approved by the SSB as well as the BoD of the Takaful firm. The CBB approves the distribution of surplus from the Participants' fund. Hence the

	CBB should approve the distribution policy and when it is enforced or the CBB should delegate it to the board and Sharia board and allow the company to operate		comments are invalid.
CA-8.5.5 No Takaful firm is permitted to make any distributions to participants if either the participants' fund(s)(s) does not, or through the payment of the distribution, would not meet all the capital available and solvency requirements set out in Chapters 1 and 2 of the Capital Adequacy Module. In addition the surplus distribution must not cause adverse financial implications or a deficit in the participants' fund(s) and the Takaful operator must ensure that the participants' fund(s) is sufficiently liquid to cover any proposed surplus distribution.	**An insurer** agrees with the changes.	SP37	Noted.
	An audit firm enquired the following: How best the interest of Participants' Fund is maintained in order to receive their Surplus Distribution when and if the Takaful Firm is not in compliance with CBB's capital and solvency requirements?	SP38	Please see comments in SP34 above. The participants cannot receive a surplus if the Takaful firm is not in compliance with CBB's capital and solvency requirements. Please refer to Paragraph CA-8.5.4A for further clarification.

Specific Comments:

Reference to the draft Directive:	Comments	REF	CBB's Response
Module AA			
AA-4.1.4 All insurance firms that carry on general insurance business must ~~consider annually the need to~~ annually commission an actuarial opinion from a Registered Actuary or Signing Actuary. The actuary must satisfy the criteria in Paragraphs AA-4.2.1 to AA-4.2.12.	**Insurers** noted the following: 1. Difficult to accept as it will increase cost and will increase deficit of PH Fund 2. General Takaful products do not change every year and hence the current practice of once in 3 years can be continued 3. The actuarial opinion commissioned once in three years can include 'Premium Deficiency Reserve" if required by CBB. 4. Finding a suitable resident actuary at a reasonable cost will be difficult if all insurance companies are required to carry out annual valuation at the same time.	SP1	Disagree with the comments. It is not just about products, but also about operational controls in terms of certifying Wakala fees, working out earmarked assets quality, etc. Based on the comments received, for General insurance business, Paragraph AA-4.1.4 may be amended as follows: ***"An insurance firm that carries on general insurance business must commission an actuarial opinion, once every two years, from a Registered Actuary or Signing Actuary. The actuary must satisfy the criteria in Paragraphs AA-4.2.1 to AA-4.2.12."***
	An insurer noted that Insurance firms should be given an option "to consider the necessity of commissioning an actuarial opinion" as per the existing provision in the rule book.	SP2	Disagree. The requirement is mandatory.

AA-4.1.5 The Board of the insurance firm must resolve annually ~~either~~ to commission an financial condition report (FCR, ~~or that such a report is not necessary~~. ~~Where the Board resolves to obtain an actuarial report from an actuary~~, and a copy of this report must be provided to the CBB.	**Insurers** noted the following: 1. Not applicable to General Takaful business 2. It will increase cost and will increase deficit of both General Takaful and Family Takaful 3. Too much scope and authority is given to actuary and the need for this report is to be clarified further. 4. The actuarial valuation carried out once in three years would be more than sufficient. 5. The Companies can be asked to carry out actuarial valuation on adhoc basis if CBB requires such an action. 6. The Companies can obtain a certificate on wakala fees from external auditors. 7. Provision of FCR to policyholders is unacceptable as it represents an unnecessary disclosure of confidential information even to Motor TP policyholders. The Companies do not understand at all the background to this requirement nor its intended objective. It will delay the finalization of year-end audited financial statements as auditors may agree to finalize unless they review FCR.	SP3	The requirement of annual FCR is applicable to Family Takaful business. For General Takaful business, the requirement for an FCR has been revised to once every two years, as mentioned in SP1 above. Hence, Paragraph AA-4.1.5 may be amended as follows: ***"The Board of the insurance firm carrying out long-term insurance business must commission <u>annually</u> a financial condition report (FCR) and an insurance firm carrying out general insurance business must commission an FCR <u>once every two years</u>. A copy of this report must be provided to the CBB."*** Comment on the provision of FCR to policyholders is noted. Hence Paragraphs AA-4.3.6 and AA-4.3.7 have been deleted.

	An insurer noted that the proposal will be a heavy burden on the insurers in terms of cost and efforts as the insurers have to pay out significant fees and allot enormous time to actuary as the Actuary has to spend sufficient time to issue the Report. They would suggest to engage Actuary to issue the report once in every three years instead of engaging Actuary to issue report on yearly basis.	SP4	Disagree. Please see comment in SP3 above.
~~AA-4.1.6 An insurance firm carrying on the business referred to in Paragraph AA-4.1.4 must obtain an actuarial report by an actuary at least once in every three-year period, or else must apply to the CBB for an exemption to defer this requirement.~~	**An insurer** stated that According to AA-4.1.6 which states that an insurance firm carrying on the business referred to in Paragraph AA-4.1.4 must obtain an actuarial report by an actuary at least once in every three-year period, or else must apply to the CBB for an exemption to defer this requirement., their Board of Directors has approved the actuary report every two years. With the new changes, do they need to obtain the actuary report annually?	SP5	Please see the comments in SP3 above.
AA-4.2.5 Fellows and Associates (or members of equivalent status) in good standing of the Society of Actuaries (USA), the Institute and Faculty of Actuaries (UK) or the American Academy of Actuaries, or any other similar body with mutually reciprocal licensing arrangements with any of these bodies, will satisfy the requirement	**An actuary** suggest that only Fellows should be allowed to sign off on actuarial reports. Also should add in appropriate experience (at least 3 years) in the area in which the actuary is acting (life or non-life).	SP6	Noted and agreed. Only Fellows will be allowed to sign off on actuarial reports/ FCR.
	An insurer noted that the loosening of this requirement poses high risks for the CBB and for the industry as a whole. It is possible for graduates to become Associates on graduation or with very	SP7	Please see comments SP6 above.

in Paragraph AA-4.2.4.	little working experience. Indeed this may also be the case for a limited number of Fellows though less likely. It is conceivable then that signing authority is given to those who are wholly unsuited to this. My very strong recommendation is not to water down this requirement and to grant approval to Associates only on an exceptional basis where it is clear they have sufficient experience (at least 10 years appropriate experience in a life insurer or a non-life insurer) and standing to warrant this approval. The CBB has worked hard on asserting the training and competency regime but this reverse this work in the actuarial area and is not at all recommended.		
	An actuary stated that this paragraph allows for Fellows and Associates to sign off FCRs. They recommend that only Fellows sign off FCRs, together with a possible explicit experience requirement. An exception could possibly be made for Bahraini nationals who are Associates. The reasons for their recommendation are: • Associates are nearly half-way to qualifying as Fellows. They have no exam based specialist knowledge or specialisation in for example General Insurance or Life Insurance or Pensions. Associates can qualify by age 20 whereas Fellows normally qualify after age 25. • The Associate status gives technical abilities such as reserving or pricing, but	SP8	Please see comments SP6 above.

	does not give the professional insight that the further studies of the Fellow demands. Associates are qualified for Technical Judgement, whereas Fellows are qualified for in-depth specialist professional judgement in their chosen field. • Most Associates in the region are Associates of the Society of Actuary. Only in 2013 did the Society introduce exams related to General Insurance – which is the bulk of business in the region. Most currently qualified Associates have no General Insurance based study knowledge. If they have such knowledge it is experience based and usually from poorly run insurance companies in the GCC or subcontinent. • In their experience in neighbouring countries, even Fellows are hard-pressed to deliver quality FCRs. For example a Fellow with 10 years' life experience would not be able to perform a proper General Insurance Financial Condition Report – and their professional guidance would prohibit them from performing work where they have no relevant experience. They therefore recommend an explicit experience requirement is considered, (eg 10 years) in addition to the Fellowship requirement. • Associates do not have the experience and		

	status and power to resist Management pressure. The ability to withstand pressure, to accurately report, comes with experience and age and professional qualification and insight. • Having inexperienced Associates sign off FCRs subverts the intentions of the legislation. It will result in substandard FCRs, which will need expensive and time-consuming internal review at the CBB, followed by questions and rework. Insurance companies will not respect this process if they can hide problems from inexperienced Associate or pressure them into accepting misrepresented positions. • Having a flood of Associates available means that insurance companies can replace 'uncooperative' Associates. This is not as easy to do with Fellows. To summarise, Associates are Technically qualified, while Fellows are Specialist and Judgement qualified. For the specialist and demanding FCR, an experienced Fellow is recommended.		
AA-4.3 Content of Financial Condition Report	**An insurer** stated that in their view the solvency margin regime should prevail, alternatively the submission of either an agreed capital model or the CBB should allow companies to use their own internal capital models after these have been	SP9	The CBB does not allow the use of own internal capital models at this stage.

	approved by the CBB.		
	An insurer enquired if this is a new report or modifications on an existing report?	SP10	It is an extension of the actuarial report submitted by insurance firms.
AA-4.3.1 to AA-4.3.7	**An insurer** noted the following: • The FCR requires the actuary to report on a wide area such as but not limited to business overview, profitability, pricing and its adequacy, capital adequacy and management. This report is all encompassing one and may not fall within the direct responsibility of the actuaries. Further, the actuaries may not have the required expertise and may need to employ experts from other fields such as Finance and Investments. This will increase the operation cost and put additional pressure on the insurance firms. In addition, the required qualification and experience to render such services has not been defined. • The actuarial report already includes a good portion of the FCR requirement such as assessment of insurance liabilities, assumptions, adequacy and appropriateness of the data, models used, sensitivity analysis, etc. The purpose of one more report (FCR) with similar information will result not only in duplication but increased cost with limited added value. • The enhanced role of the actuary such as	SP11	Noted. The FCR is the responsibility of the actuary. Please refer to Paragraph AA-4.3.1A. The FCR is merely an extension of the actuarial report submitted by insurance firms, which will replace the actuarial report.

	providing objective assessment of the overall financial condition of the firm will result in overlapping of responsibilities with External Auditors who are already required to provide opinion on the same ("going concern"). Moreover, in the absence of a clear definition for the term "overall financial condition", it will be left to each party to interpret it. • The Actuary and External Auditors of the Firm may have conflicting view on the financial condition of the firm. This might delay the finalization of Annual accounts and in meeting the tight deadline for a company like Arig which is listed on more than one stock exchange. It is not clear whether Actuary should sign the IFR forms for conventional Insurance firm as the same has not been revised in the proposed amendment. (BR.1.1.23). If required, the process will delay the finalization and both the actuary and the external auditor may insist on the other finalizing the report first. • Assessment of pricing and adequacy of premium requires number of inputs particularly for a reinsurance company that writes business globally. It requires enormous time and resources to provide data to actuary and carry out this exercise every year. • As per Article AA 4.3.6, the insurance firm must make available copies of the report or a summary to all policy holders. As the scope		Disagree as the scope and the perspective is totally different. Disagree as the work of the external auditors complements the work of the actuary. The actuary signs specific certificates in the IFR and not the whole IFR. Noted. No change required. Noted and agreed. Please see comment on SP3 above. The CBB will delete rule AA-

	of FCR is quite wide to include areas such as analysis of the firm's profitability, pricing strategy, reinsurance arrangements etc., it may not be in the interest of the firm to share such confidential data, which in turn will be easily available to its competitors, especially those of reinsurers. • Hence they believe that the introduction FCR will have limited value to stakeholders.		4.3.6 and AA-4.3.7, accordingly.
AA-4.3.1 The financial condition report must provide an objective assessment of the overall financial condition of the insurance firm. The report must also comply with the following conditions: **(f)** An assessment of current and future capital adequacy and a discussion of the insurance firm's approach to capital management;	**An insurer** stated that they assume that the internal capital model of the Company can be used for this assessment.	SP12	Please see comment in SP9 above.
AA-4.3.1 The financial condition report must provide an objective assessment of the overall financial condition of the insurance firm. The report must also comply with the following conditions: **(g)** An assessment of pricing, including adequacy of premiums;	An insurer stated that there are various types of analysis for these issues which may vary to a great extent in terms of their complexity. They assume that the specific test on the need for any additional unexpired risk reserve (AURR) provision for the company which is undertaken under the actuarial valuation report will be adequate for this "assessment of pricing" requirement. In principle, the AURR checks whether the unearned premium provision net of deferred acquisition costs is	SP13	Noted. The adequacy of reserving in general partially covers the assessment of pricing requirement.

	sufficient to provide for the liabilities on the unexpired period of risks.		
AA-4.3.1 The financial condition report must provide an objective assessment of the overall financial condition of the insurance firm. The report must also comply with the following conditions: **(h)** An assessment of the suitability and adequacy of reinsurance/retakaful arrangements, including documentation of reinsurance/retakaful arrangements and the existence and impact of any limited risk transfer/sharing arrangements;	**An insurer** stated that this may take various forms starting from checking optimality of reinsurance programs and/ or simply expressing an opinion on the sufficiency of the overall reinsurance program and of in place related reinsurance processes and procedures. They assume that it will be acceptable to provide an opinion on the adequacy of reinsurance arrangements using the internal capital model of the Company as well as to comment on existing reinsurance policy.	SP14	Noted. It is up to the Company taking into consideration that it has to comply with the requirements outlined in Paragraph AA-4.3.1.
AA-4.3.1A The signing actuary or registered actuary may rely on other expert opinions in order to address those matters required in the financial condition report that are outside of scope of the actuary's qualifications. Where such outside opinions are sought, these should be clearly identified in the report.	**An insurer** noted that the CBB should specify clarify the broad category of experts as a guidance in order to clear the ambiguity both from Insurance firms and actuary's perspective.	SP15	Noted. The actuary can seek expert opinions where he may not have the sufficient expertise in areas like risk management…..etc.
AA-4.3.2A The CBB may require a financial condition report on a more frequent basis than the annual	**An insurer** noted that the following sentence may be added if CBB decided to call for financial condition report than the annual requirement:	SP16	Disagree, the CBB can require a firm to produce a financial condition report more frequently than is otherwise required.

requirement outlined. In addition, the CBB may appoint an actuary as an appointed expert as outlined in Section BR-3.5 to conduct a special purpose review of the insurance firm's operations, risk management, financial affairs or other areas as specified by the CBB.	"CBB would advise the Insurance Firms the basis on which it is commissioning such report and seek the insurance firm's response to it".		
AA-4.3A.1 In addition to the requirements under Section AA-4.3, all Takaful firms must submit to the CBB an annual financial condition report from their actuary which must comply with the requirements outlined in this Section as well as in other parts of this Chapter in carrying out their actuarial duties.	**An insurer** stated that unless there is significant change in the composition of the portfolio, an annual review of the General portfolio adds little value. Annual submission of a capital model and a comprehensive review by the actuary, every three years would be sufficient.	SP17	Please see comments in SP3 above. Rule AA-4.3A.1 may be amended as follows: ***"In addition to the requirements under Section AA-4.3, all Family Takaful firms must submit to the CBB an annual FCR and all General Takaful firms must submit an FCR once every two years from their actuary which must comply with the requirements outlined in this Section as well as in other parts of this Chapter in carrying out their actuarial duties."***
AA-4.3A.3 The actuary must ensure that the contributions charged to the participants, must, at a minimum, cover the claims costs and Wakala fees.	**An insurer** stated that it is essential that acquisition costs are considered a cost to the participant and not a cost to the operator.	SP18	Disagree. Acquisition costs under the new rules will be part of the Wakala fees and hence to be charged to the Shareholders Fund. Please refer to CA-8.2.2B for definition of Wakala fee.
AA-4.3A.4 Where a participants fund(s) incurs an underwriting loss, the Takaful firm actuary must provide in his financial condition report an explanation	**An insurer** stated that the concern here is who then has the ultimate authority for the business and does the actuary's authority then supersede management. The actuary's power must be limited to reporting, the directors should be	SP19	Disagree. Actuary explains the reasons and makes recommendation to the Management and the Board for their consideration.

which outlines the reasons for such loss and the remedial steps being taken by the Takaful firm to address any deficit in the participants' fund(s).	responsible for (possibly after consultation with experts) outlining the remedial steps to be followed.		
AA-4.3A.9 In light of the critical role of earmarked assets in assessing solvency and addressing any liquidity shortfall in a Takaful firm, the actuary must carry out quarterly, or more frequently as required, appraisals of the solvency and liquidity status of the participants' fund(s). AA-4.3A.11 As a follow up to the required appraisals of solvency and liquidity requirements outlined under Paragraph AA-4.3A.9, the actuary must determine if the level of earmarked assets meets the solvency and liquidity requirements and recommend to the Takaful firm any increase needed to the earmarked assets to comply with these requirements. The actuary's recommendation must also be approved by the	**An insurer** stated that this need not be done quarterly by an actuary since a liquidity need cannot be ignored, furthermore the assets prescribed as "earmarked assets" is limited and may be valued quarterly to ensure no deterioration of the required amount. If the entity has surplus capital this additional assessment of solvency seems excessive.	SP20	Disagree. Quarterly reporting or more frequently on earmarked assets is mandatory under the new rules.

Takaful firm's board of directors.			

Specific Comments:			
Reference to the draft Directive:	**Comments**	**REF**	**CBB's Response**
Module RM			
RM-1.1.10 Depending on the scale and complexity of their operations, licensees must ensure that they have a separate risk management function This function must be independent of risk-taking units and must report to the Board and senior management. The risk management function must have direct access to the Board.	**An audit firm** enquired the following: Has the CBB considered the specifics of Takaful and Retakaful operators to include Internal Sharia' Audit (ISA).	SP1	Yes. The paragraph has been amended slightly to specify that the Risk Management function must not be any conflict of interest with any other function. Paragraph RM-1.1.10 may be amended as follows: ***"Depending on the scale and complexity of their operations, licensees must ensure that they have a separate risk management function. This function must be independent of risk-taking units and must not have any conflict of interest with any other function. The risk management function must have direct access to the Board and must report to the Board and senior management."***

Risk Management Function RM-1.1.10 Depending on the scale and complexity of their operations, licensees must ensure that they have a separate risk management function This function must be independent of risk-taking units and must report to the Board and senior management. The risk management function must have direct access to the Board. RM-1.1.10A The CBB requires that all insurance firms establish an independent risk management function, staffed by a head of risk management, duly approved by the CBB in accordance with Paragraph AU-1.2.1. RM-1.1.11 Where there is a risk management function, the licensee must document the process by which it identifies and monitors material manages risks, and how it directly reports to the Board of directors and senior management on these risks.	**An insurer** stated that this is a step in the right direction as long as this function may reasonably, be combined with other functions always being cognizant of the size and complexity of the company.	SP2	Noted. Kindly refer to GR2 above.
RM-1.1.10A The CBB requires that all insurance firms establish an independent risk management function, staffed by a head of risk	**An insurer** enquired if it is a compulsory requirement to appoint Head of risk management? Can they combine this function with Compliance?	SP3	Please refer to GR2 above.

management, duly approved by the CBB in accordance with Paragraph AU-1.2.1.	**An insurer** noted that establishment of risk management function shall be the insurance firms discretion based on the scale and complexity of their operations as per the existing provisions.	SP4	Disagree. The risk management function is mandatory. However, based on the scale and complexity of the operations, the function may be combined with other relevant function provided that there is no conflict of interest and the person is competent and capable to perform multiple functions efficiently and effectively.
	An insurer noted that the requirement for risk management could easily be fulfilled by professionals already employed in the TO with no need to create a further controlled function and additional costs.	SP5	Disagree. Kindly refer to GR2 and SP4 above.
RM-6.1.1 Section RM-6.1 applies only to insurance firms and insurance brokers	**An audit firm** noted the same comment as SP1.	SP6	Please see comments in SP1 above.

Specific Comments:			
Reference to the draft Directive:	**Comments**	**REF**	**CBB's Response**
Module PD			
PD-1.1.12A For Takaful firms, the published financial statements must provide a detailed breakdown of the statement of financial condition, including a statement of financial position for the shareholder fund as well as statements of financial condition for any participant fund(s) of the Takaful firm.	**An insurer** stated that where the Takaful firm is not a publicly listed company, a statement of financial condition should not be mandatory since it would contain information that may dilute a company's competitive advantage. Furthermore the AAOIFI requirements are comprehensive and sufficient for disclosure purposes.	SP1	Disagree. All Takaful and Retakaful firms are required to publish a statement of financial position, irrespective of whether it is publicly listed company or not. The paragraph has been amended as follows: For Takaful firms, the published financial statements must provide a detailed breakdown of the statement of financial position and statement of comprehensive income for the shareholder fund and for any participant fund(s) of the Takaful firm.

Specific Comments:

Reference to the draft Directive:	**Comments**	**REF**	**CBB's Response**
Module BR			
BR-1.1.22 As required under Paragraph AA-4.3.1, an insurance firm must commission each financial year a financial condition report (FCR) and must submit to the CBB an abstract of the actuary's report as prescribed in Paragraph BR-1.1.23.	**An insurer** noted that this is in contradiction to the principle where the board decides whether this report is necessary as per AA 4.1.5.	SP1	Disagree. There is apparently no contradiction. Paragraph BR-1.1.22 has been split into two parts, BR-1.1.22 and BR-1.1.22A to incorporate the annual FCR requirement for Family Takaful business and "once every two years" FCR requirement for General Takaful business. Paragraph BR-1.1.22 has been amended as follows: ***"Rule BR-1.1.22:*** **An insurance firm carrying on long-term insurance business must commission a financial condition report (FCR) as required under Paragraph AA-4.1.3 and made pursuant to Paragraph AA-4.3.1 and must submit to the CBB an abstract of the actuary's report as prescribed in Paragraph BR-1.1.23.** ***Rule BR-1.1.22A:*** **An insurance firm**

			carrying on general insurance business must commission a financial condition report (FCR) as required under Paragraph AA-4.1.4 and made pursuant to Paragraph AA-4.3.1 and must submit to the CBB an abstract of the actuary's report as prescribed in Paragraph BR-1.1.23. **Please note as well that Paragraph AA-4.1.5 has been amended as follows:** **The Board of the insurance firm carrying out long-term insurance business must commission annually an FCR and an insurance firm carrying out general insurance business must commission an FCR once every two years. A copy of this report must be provided to the CBB.**
BR-1.1.26 Every Insurance Firm Return, including the Directors' Certificate required under Paragraph BR-1.1.12, the Actuary's Certificate made pursuant to Paragraph BR-1.1.18 and any report made by the actuary pursuant to Paragraph 1.1.22 must be deposited with the CBB within 3 months of the financial year end. One electronic copy of the IFR and one hard copy (with appropriate	**An insurer** noted that the proposed Financial condition report requires the Actuary to review in depth which in turn is time consuming and the insurers should be given sufficient time to submit to CBB. It should not coincide with the annual closing of accounts, etc.,	SP2	Disagree. Three months are sufficient and appropriate. Paragraph BR-1.1.26 has been amended, to incorporate the splitting of paragraph BR-1.1.22 into two parts, i.e. BR-1.1.22 and BR-1.1.22, as follows: **"Every Insurance Firm Return, including the Directors' Certificate required under Paragraph BR-1.1.12, the Actuary's Certificate made pursuant to**

signatures required) of the IFR must be submitted to the CBB.			**Paragraph BR-1.1.18 and any report made by the actuary pursuant to Paragraph BR-1.1.22 and/or Paragraph BR-1.1.22A, whichever is applicable, must be deposited with the CBB within 3 months of the financial year end. One electronic copy of the IFR and one hard copy (with appropriate signatures required) of the IFR must be submitted to the CBB."** Please refer to comment under SP1 as well.

Specific Comments:			
Reference to the draft Directive:	**Comments**	**REF**	**CBB's Response**
Module AU			
AU-1.2.2 Controlled functions are those of: (a) Director; (b) Chief Executive or General Manager; (c) Head of function; (d) Head of risk management; (e) Compliance officer; (f) Money Laundering Reporting Officer; (g) Member of	**An insurer** stated that depending on the size and complexity of the organisation, the combination of responsibilities should be allowed. If an entity has appointed an external Shari'a auditor, this should satisfy the requirement of the Shari'a reviewer.	SP1	Disagree. The function of external Shari'a auditor cannot be combined with the internal Shari'a reviewer as there is an apparent conflict of interest and both functions need to be independent.

Shari'a Supervisory Board (where applicable); (h) Internal Shari'a reviewer (where applicable); (i) Unit-linked investment adviser; and (j) Signing Actuary (where the function is undertaken by a Director or an employee of the insurance firm).			
	An insurer noted that an internal Sharia review is an unnecessary additional cost when one is already paying a substantial sum to the Shariah board. Either the Shariah board is disbanded altogether and the position of Shariah review is created as a controlled function or this requirement is dropped as it adds nothing in addition to the Shariah board. The head of risk management as an extra role is also unnecessary as many companies would have sufficient resource to complete this by combining it with other functions.	SP2	Disagree. Please see the comments in SP1 to Module AU and comments in SP4 to Module RM.
	An audit firm enquired the following: • Has the CBB set any conditions regarding country of residency? • Has the CBB set conditions of whether an Approved Person is Approved Person of other Firm?	SP3	The CBB has residency requirements for certain functions. As far as the internal shari'a reviewer is concerned, the approved function must be resident in Bahrain. No explicit conditions were set. However, they must reapply to the CBB for approval.

AU-1.2.10A The head of risk management is responsible for the management of all risk exposures arising from the activities of the insurance firm.	**Insurers** noted the following: 1. Currently, the companies have 'Risk Management Framework' which has been duly approved by Board. 2. Further, the implementation of the framework is overseen by a Risk Management Committee reporting to the CEO/GM and is reviewed by the Internal Auditors and any non-compliance is reported to Audit Committee. 3. Even rating agency look into the compliance to risk management during their annual review. 4. The market being small with low risk appetite, appointment of risk manager at 'Head' level will be huge financial burden on the companies.	SP4	Risk Management is a very specialized function and it is mandatory for insurance firms to appoint a "Head of Risk Management" approved by the CBB.
	An insurer noted the following: 1. Currently, the companies have 'Risk Management Framework' which has been duly approved by the Board. 2. Further, the implementation of the framework is reviewed by the Internal Auditors and any non-compliance is reported to Audit Committee. 3. Even rating agencies look into the compliance to risk management during their annual review. 4. The market being small with low risk appetite, appointment of risk manager at 'Head' level will be huge financial burden	SP5	Please see comment SP4 above.

	on the companies. 5. Can they outsource these functions?		The risk management function cannot be outsourced. However the CBB may consider intra-group outsourcing as outlined in RM-7.5.
	An insurer noted that the amendment requires all the Insurance firms to establish an Independent Risk Management Function and for smaller licensees, the risk management function may be undertaken by single risk manager or combined with another support function. However, in order to avoid ambiguity, it is ideal to provide definition for "smaller licensee". In addition, for bigger licensees, Risk Management function should be allowed to combine with other similar support functions. Since the proposed amendments have far reaching and substantial impact on the Industry, in order to explain their position, they hereby request the CBB to meet with the firms to understand their issues.	SP6	Paragraph RM-1.1.12 has been deleted and the reference to smaller licensees no longer applies. However, certain controlled functions may be combined. Please refer to comment under GR2.
AU-1.2.11B The internal Shari'a reviewer in a Takaful firm is responsible for the examination and evaluation of the adequacy and effectiveness of the Takaful firm's system of internal Shari'a control and the quality of performance in carrying out assigned	**Insurers** noted the following: 1. Currently, the Executive Member of Sharia Supervisory Board ("SSB") is carrying out the functions of Internal Sharia Reviewer. It would duplicate the roles if Internal Sharia Reviewer is to be appointed. 2. Further, it will add more cost to the Company and ultimately result in higher wakala fee to	SP7	Disagree. There is no added value in addition to the conflict of interest. In addition, both functions are mandatory under AAOIFI.

responsibilities. The internal Shari'a review function must comply with AAOIFI Governance standard for Islamic Financial Institutions No. 3.	PH Fund. 3. The Companies can have either Internal Sharia Reviewer or SSB but not both. 4. Can the Companies outsource these functions?		The internal Shari'a review function cannot be outsourced, and the Takaful firm must have both an SSB and internal Shari'a reviewer as dictated by AAOIFI.
	An insurer noted the following: 1. Currently, the Executive Member of Shari'a Supervisory Board ("SSB") is carrying out the functions of Internal Shari'a Reviewer. It would duplicate the roles of Internal Shari'a Reviewer to be appointed. 2. Further, it will add more cost to the Company and ultimately result in higher wakala fee to PH Fund. 3. They can have either Internal Shari'a Reviewer or SSB but not both. 4. Can they outsource these functions?	SP8	Kindly refer to SP7 above.