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Chairman speaking:

بسم الله الرحمن الرحيم. We are having this session today for our committee on reviewing insurance bill to have more informations on the concept of Takaful for the committee members. So, I would like to give the floor to Amana Takaful representatives to start the presentation. Thank you. Please carry on.

Managing Director of Amana Takaful, Mr. Hareez Sulaiman speaking:

With your permission will start a small presentation on the Takaful concept. That's we have got our Sharia Scholar from South Africa, Mr. Shafique A Jakhura. So, he will do about 20 minutes presentation with question-and-answer session, and subsequently other matters we can discuss further. Thank you.

Member of Shari'ah Advisory Council, Mr. Mufti Shafique A Jakhura speaking:

بسم الله الرحمن الرحيم. الحمد لله رب العالمين. والصلاة والسلام على أشرف المرسلي. سيدنا محمد وعلى آله وأصحابه أجمعين. اَمّا بَعْد، فـأعوذ بالله من الشيطان الرجيم. بسم الله الرحمن الرحيم. وتعاونوا على البر والتقوى ولا تعاونوا على الإثم والعدوان. وقال رسول الله صلى الله عليه وسلم اعقلها و توكل عليه. جزاكم الله.

And I would like take the opportunity to thank the honorable house for affording us the opportunity to be present here this morning. It is a great honor for us to be present in your honorable presence. And we just like to present the concept of Takaful today. I am sure your quite learned it in this particular field. But just from a procedural point of view how we understand it and how we envisage it should be part of the regulations and the ongoing development of the Takaful industry in the Maldives. Just very principally, Islam has got a on conventional insurance. The issue with conventional insurance is a bilateral commercial contract in which there is high level of what we term in Islamic commercial law as a ‘Gharar’. ‘Gharar’ is uncertainty. And when we have a high level of ‘Gharar’ in a commercial contract, then that becomes problematic from Islamic point of view. Those transactions are termed ‘fasid’ or ‘voidable’. And there for that becomes an issue. And Islamic Insurance which is also known as the Takaful is not based on commercial transactions. It is based on co-operative insurance, co-operative, ‘cross subsidization’, hat what it is based on. So, instead of risk transferring, it is all about risk sharing. And I like to give the example that I learned from one of my honorable colleagues. The example is, first of all the concept of risk mitigation and managing risk. This is something that is established in our ‘Deen’. Established in Islam. Established in the Sharia. It is all about how we go about managing that ‘Deen’, that risk, that is, that makes it acceptable or unacceptable according to Islamic commercial principles. So, the example that the scholar gives is, let’s assume, in our part of the world people have dogs in their houses as pets etc. for security they keep dogs. So, let’s assume I need to go from my house to the Masjid, to the Mosque. So, there are three types of risk mitigation, risk management that we can adopt. One is, now on the way to the Masjid, there is a very vicious, ferocious dog, that is there. So, what I can do is, I can instead of going on that road to the Mosque, I avoid that road completely and I take another road to the Mosque. So, that is what we called risk avoidance. You avoided the risk all together. The other way is, that I go with my fellow colleague Mr. Hareez. And if the dog has to attack us. I put him Infront, and I carry on to the Mosque. So, this is what you called risk transfer. I transferred my risk to him. And that is not a very, you know it’s one of us gain and the other one loses. The other way and this is the bases on which Islamic Insurance is based and very much also medical aid scheme in South Africa, other co-portative insurance schemes, they are based on the concept of risk sharing. So, in that what happens is, that we all go to the Mosque together. We all go to the Mosque together. And the likelihood of that dog attacking us when we all are together is very minimal. And the ability for us to fend of that dog, if it has to attack us is also greater and stronger. And this is what we refer to as a risk sharing, cross subsidizations, co-operative insurance. And this is the bases on which Islamic Insurance is founded. And there are many examples of this in our Islam as well. So, this is a very very broad overview of what, you know Takaful is based on. From a historic perspective the first

Takaful company was actually founded in Sudan, in 1979. Just before that, there was a 'Fatwa' from the middle east, from Saudi Arabia etc to explain the impermissibility of convention insurance in terms of Islamic commercial law. And then this company was actually started off in Sudan. The Father of the Takaful from a Sharia scholars' point of view is known as a gentleman, a great scholar by then, he passed away recently by few years back, by the name of Sheikh Siddiq Al Ameen Al Lareer. He founded this particular concept, and it was established as the first Takaful Company in Africa, in Sudan, in the world. And later on in around 1984, it started off in Malaysia, in this part of the world, recently in Pakistan, in the middle east. There are many Takaful companies and as well as re-takaful companies that have now been established. And they are running on these particular principles. So, if you have to look at it as a you know, very superficially if you just look at the end result, both of these conventional insurance company, the customers, the customers pay premiums in the event of an unfortunate loss. They get a claim, they get paid out. Exactly the same thing happens in a Takaful company. Except that the procedure, the documentation, the legal implementation, all of that is fundamentally different. And therefore, in our 'Deen' and in Islam, a lot of emphasis is given on the procedure, how we go about concluding something. How we go about accomplishing something. So, the end result might be the same. Or might, let's not say might be the same. Might appear to be the same. But the method in which a transection, a contract is concluded meets all the difference between permissible and impermissible. And that is something I like to explain through an example as well. Let us assume, there is a couple who have agreed to live together for the rest of their lives. They will be loyal to each other. And they spend the rest of their lives being loyal to each other. But they don't contract a formal 'nikah'. There is no marriage, they've just agreed to live together. And let's assume they are living in a building. And after 10 years they have 3 children, and they are living together happily. And right next door to them, there is another couple who have solemnize their marriage through and offer and acceptance in the presence of two witnesses, what the Islamic requirement is. And they live right next door to them. And after 10 years they also have three children. So, the end result outwardly appears to be both are the same. But no person was an Islamic background or legal background will ever said that both of them are living the same lives. One is living out of marriage and the other is living in marriage. And therefore, the procedure, the difference was in the procedure. So, the procedure in which something is concluded is of utmost importance, not only in Islamic low. But even legally in the legal system as well. So, it appears as though they may not be any difference. But, of course there is differences. The key function of both is risk management. What the differences are what we basically explained in the form of, one is structured on the basis of risk transfer. And the other is structured on the basis of corporative insurance, cross subsidization. We are sort of working together to mitigate each other's risks. And that is the very basic and fundamental principal that we have. So, let us take a conversional insurance. We don't really need go about you know, explaining a lot of details. But what happen is, you buy a policy from a conventional insurance company, and you transferred your risk to them. In the Islamic system, in the Takaful system, we don't buy a policy. We contribute to a fund. So, you contribute to the fund and each member of that fund cross subsidizes each other. I cover the other person's risk by contributing to the fund, he covers my risk to contributing to, when we contributing to that fund. And in that particular way, risk is shared. Another core differences, if we go to the next slide, another core difference that is, there is also, yeah, so, Takaful is based on risk sharing mechanism in terms of the policy or the membership contract. Participants pay contributions and they become member of the pool and they become entitle to certain benefits under the rules of that particular fund. On the other hand, in conventional insurance you buy, there is actually a commercial contract, a bilateral commercial contact in which a premium is paid and you transfer the risk to the insurance company, and they will take over that risks and become the owners of the premium. Whereas in a Takaful scheme the contribution is to the fund. No one owns that fund. That fund is structed on the basis of a 'WAQF' particularly in the model that is used at Amana Takaful, that contribution goes to the fund. What's in it for Amana Takaful or any other Takaful operator for that matter? They manage that fund, and they get a management fee for managing the fund. That's it. Of course, there are certain rulings on that. If there is a surplus in the fund, if they have managed the fund well, that they may be able to share in the surplus according to certain regulations, the actuaries, the Shariya board, the Board of Directors all get Involved. Of course, the regulator will have a say, and that is how the surplus is distributed. But in principle just by virtue of managing the fund. They don't became the owners of that fund. That fund is held separately. And the owners of that fund or the owner of that fund is الله سبحانه وتعالى. Because, it is actually structured on this principals of a 'WAQF'. In terms of a definition, there is an organization and I'm sure the honorable members are aware of this organization, known as the Accounting and Auditing organization for Islamic Financial institutions, which is 'AAOIFI'. It's an organization set up more than two decades ago in Bahrein. And they have harmonized, just like how in accounting, we have a accounting standards. And companies all over the world they report their financials in accordance to ‘IFRS’ (Internationally recognized the counting standards), this organization ‘AAOIFI’ is a well-known organization globally. It has come up with Sharia standards, and two sets of standards they have come are both, Sharia standards and Accounting and governance standards. So, companies around the world, globally it has harmonized differences opinions, they have come up with these standards, and companies thrive to adhere to ‘AAOIFI’ standards. AAOIFI Sharia standards and AAOIFI accounting and governance standards. So, they have come up, they have a separate sort of standard on Takaful as well. And this is now a recognized form of insurance that is happening globally. They have defined Takaful as an insurance system through which the participants donate part of the contributions. The contribution is as a donation which are used to pay claims for damages of by some of the participants. The company’s role is to manage, is to manage the insurance operations, and to invest insurance contributions in line with the Islamic principles. So, they will use those for manage the funds. They will use the funds to pay out claims according to rules of the fund. And they will also invest surplus funds into Sharia Complaint Investment avenues. And this is something that is quit key difference. Because we can’t invest anyway, like we can’t invest in conventional bonds, conventional treasury bills. You have to invest it in a Sharia complaint. Otherwise, if you do invest it in a conventional bond, you have no options, but to give that income away in charity. Because it is regarded impermissible income. So, it has to be invested in line with Islamic commercial principle. Who owns the Takaful fund? I think we have already touched on it. The fund has its own, what we call in Arabic it is a “Ah Shakhsul maunavee”, a juristic person. A legal entity or personality, the company acts as an agent, and manages that fund for which it becomes entitle to an agency fee. When it comes to the differences on technical aspects, they are differences in terms of the contract. So, in conventional insurance, it’s a bilateral commercial contract that is there· And the terminology, the wording using that contract is also fundamentally different from one used in an Islamic policy. In an Islamic policy it’s a combination of contribution and indemnity, arrangement between the individual policy holder and the fund. And the fund is of course managed by the Takaful operator. When it come to the ownership of the fund, conventional insurance premiums are owned by the company in Islam. In Islamic insurance of Takaful, it’s owned, that fund has its separate legal juristic entity and it’s owned by that. So, these are fundamental differences that we hope would be very much part of you know, the regulations. The companies’ roles in conventional insurance, the company owns the fund. In Islamic insurance, the company is the trustee, the entrepreneur, or the manager of that particular fund. The relationship between the company and the policy holder in conventional is the insure and the insured. Here we like to terminate you know, like to call them the operator and the participants. So, we have two separate funds. One is called, the Operators Takaful fund. One is called the GTF, for the General Takaful fund. In other companies it might be slightly different. But this is how the separate funds are managed, their cord. Consideration, in other words, the premiums that are paid, those are premiums, policy holder pay premiums to the insurer. And here the participants make contributions through the fund. So, we don't even call it a premium. When it comes to the surplus of the fund, that in conventional insurance goes directly to the shareholder. Here in Islamic insurance, it belongs, not to the policy holders as per say that may not that accurate. But it's distributed among participants. It's also distributed, and Amana Takaful Maldives I think has a long track record. In which every year there is some amount of the surplus that is distributed to the participants. When it comes to the legal you know, operational aspects and legally the conventional insurance is governed by secular law by the regulations of the country. Islamic insurance is governed by the Islamic law, commercial law, the 'AAOIFI' standards and it would be governed of course by the regulation. Because Islamic law recognizes the role that an Islamic state or Islamic government has to play. The verse of the Quran says, يٰأَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوااللَّه وَأَطِيعُواْالرَّسُولَ وَأُوْلِي الْأَمْرِ مِنْكُمْ that follow those in authority above you. So, there is no question about you know not following the authority and that sort of things. It says that together with that we must follow the Islamic commercial principles as well. In terms of coverage limitations, investment of the fund, I think we've touched all of this. Investment profits, the nominee, all of this we've really touched on. The whole process, from beginning to end has to be in accordance with Islamic commercial principles. Just on the last slide, how Amana Takaful Maldives now actually operates. You can get it in a sort of snapshot. That is Amana Takaful Maldives. They have established a waqf fund, which is also known as the participants funds or the General Takaful fund. The participants they contribute to this particular fund, and they contribute; 40% of that contribution goes back to Amana Takaful Maldives as a 'VAKALA' or management fee for managing that fund. And sixty percent goes to the waqf fund. That 60% then is also investment by the fund. The profits are distributed between the fund and Amana Takaful Maldives. So, that brings an extra stream of revenue for the company. It's a separate stream of revenue. But it also brings a stream of revenue for the waqf fund itself. And then from the waqf fund you also pay out operational and re-takaful cost. Operational cost will be like the acquisition costs of acquiring Takaful, re-takaful cost and Takaful benefits and claims are also paid out from this ‘WAQF’ fund. So, and of course those are paid out to participants. If there is a surplus, then that surplus is also given out to participants. And this is a what we like to believe a very, you know beautiful model that we have in please. And we hope and pray that it’s a model that is appealing to the general public and something that will be beneficial to the community. I like to believe that, as you know the world must actually move to a more co-operative form of insurance. Because insurance started as a co-operative. It became very commercial later on. And we must try and move more towards a co-operative form of insurance. Would that, I hope I didn’t bore you with my presentation. And it was enlightening. If there are sort of any questions, any discussions that we need to engage in, we can engage in that now. جزاكم الله. السَّلاَمُ عَلَيْكُمْ.

Member of Thimafafushi Constituency Abdullah Riyaz speaking:
Thank you. Just one question. Thank you very much. It is very elaborate. Thank you. The only question that I have is, in your opinion, do we need both the licenses? For example, a conventional license and a Takaful license. Is it a necessity? For, because we are discussing the bill at the moment. So, do you think it is necessary to have it two different kind of license that we need to take? And if yes, do you think that Takaful should go on Islamic insurances rather than going on conventional? Because at the moment I understand, we don’t have the regulation itself doesn't really explain, whether you will need it. I mean, your company can get the insurance of anything and not necessary it should go to Islamic. But show opinion on that. Thank you.

Member of Shari’ah Advisory Council, Mr. Mufti Shafique A Jakhura speaking:
Thank you. I will comment initially. And then Brother Hareez can also comment. I myself feel that you can have one license. You don't have to have separate licenses that are, they, it should be an insurance license that is there. But the bill must cater for Islamic insurance. There must be provisions in the bill. So, that, you see as a regulator, even like us as Islamic scholars in different companies etc. we must create a level playing field through the regulations. So, that each company that is there can then compete with each other or get market share in accordance with their service levels, with their competence. It should not be that the regulation of the bill is skewed towards one end. And it gives other companies an unfair advantage, you see. So that's what we

must make sure in the regulations. And You know, what the last point that I mentioned about co-operative insurance maybe our regulations must be more. Because we must try and co-operative of insurance is something that must be promulgated. That is good for the public. And that's what I believe is something that would be beneficial to the public at large.

Managing Director of Amana Takaful Mr. Hareez Sulaiman speaking:

Yes sir, adding just a few more points sir, to Mr. Shafique Jakhura, as he mentioned it's about a giving the recognition to Takaful, and to have a level playing field when it comes to operating in this conventional environment. We appreciate at least to this stage; we have got the discussion level has to how we can have a regulation accordingly. If you take Malaysia as an example, in 1983 that the Takaful concept introduced. All the Sudan took over way before 1979 Malaysia became their Hub for Takaful and it prospered. And every conventional companies has opened up their separate Takaful company, not a window even. That is because they got the fullest support from the regulators, from the government. And they championed did systematically to bring the Takaful act. So, Malaysia today has, today in the sense 1984 itself Takaful act was formed. They had the support; they had the vision to promote Islamic finance. With that it prospered so fast. We aspire Maldives to be in that stage, In Sha Allah when time to come. But today at least we have got the discussion to have the regulations in place which really will come. I think at this early stage we can still go ahead with what term of Shafique mentioned here. But in time to come we can have it separately. Because that's why we aspire more and more Takaful place to come, more and more Islamic banks to come. Thank you.

Chairman speaking:

Thank you. Now I'll give the floor to honorable Ibrahim shareef.

Member of Maradhoo Constituency Ibrahim Shareef speaking:

Thank you chair. This new bill allows for Takaful insurance. There is no difference between Takaful and Conventional insurance as far as the bill is concerned. Because you see, most of the companies that operates in Maldives are foreign companies. Yes. Tourist resorts etc, etc. Some of the companies now take insurance from insurance companies abroad, internationally. Sometimes group insurance. Because companies like Hilton or intercontinental they have group insurance. Now this particular case, when this bill comes into operation it becomes law. One company, whether insured in abroad or with the foreign or international insurer they will have a local fronting company. That is only difference. Because although the conventional insurance companies don't have a waqf fund. They still share the risk. Because what the insurer pays to the policy holder, is also the money that is pool together from the premiums. Actually, as you said the difference between, as if I didn't understand wrong. Is that you take, Amana Takaful takes a part of the contributions as a management fee, whereby the conventional insurance if I understood you correctly takes whatever is paid out to the insurance claims the risk remains as profit of the insurance company where it's in Amana Takaful model. The 40 percent is goes to the as a management fee. The rest is contributed towards waqf fund, whereby there are any surpluses then it is distributed to the policy holders or what you called is participants. So, I think I understood fully well the slight difference methods used for risk management between the conventional insurance and takaful insurance. The major difference is the operation of the waqf fund and the company which operates the fund takes a management fee, whereby in conventional fund the profits goes to the company itself. They don't have a separate fund. Reinsurance, I would like you to explain little bit further, what is re-takaful? Is it the same thing as a reinsurance which as like Swiss Re, or Reinsurance Group they reinsure the risk from a bigger company a smaller insurance operator here in the Maldives. So, actually we want to regulate the insurance. Because now there are no regulations, whereby the Maldives Monetary Authority issues the license even today. But they don't have rules and regulations to govern the operation of insurance in the Maldives. So, we want to strengthen the regulatory framework. And we assure you that we will allow a level plan field for Islamic insurance called Takaful and conventional insurance as well. Because this law will cover both aspects of this. So, can you explain the re-takaful thing?

<u>Member of Shari'ah Advisory Council, Mr. Mufti Shafique A Jakhura speaking:</u>
So just as we have reinsurance companies now globally. We also have re-takaful companies that run on the same basis, but they are doing re-takaful. So, you have Swiss Re that is doing re-takaful, Hannover Re, Labuan and Saudi Re, and many other companies they do re-takaful. So, as far as possible, the Sharia Supervisory Boards, Sharia Advisory Councils of the Takaful companies globally, they insist that their companies, the companies that they are overseeing they, instead of taking out reinsurance they must take out re-takaful. Because those companies are available. But it

happens in many instances, that re-takaful may not have, because we are in the primary stages. We are infant stages. So, particular in the Maldives now for example, it's not possible for them to cover every and all risks that we have. Yes, majority of the risks that are covered, are covered through re-takaful. But there is a small percentage which is coming through reinsurance. And this is based on need and necessity. Conventional. Conventional. And re-takaful is Islamic insurance. So, this is, it structured on that basis. So, as we were going through the figures yesterday, maybe just for the information, 83% of the risks of Amana Takaful Maldives is covered through re-takaful. There is 15-17% that is covered through reinsurance. Not because it was a choice. Because re-takaful was not available for that. And we as the Shariah Advisory Council, we look at that in every meeting. It's a standing item on our agenda. That you know, there is always a push to try and move in that direction. That we must be 100% covered. So, as soon as that happens, we will do that. But like regulations you have to leave it to the Shariah, you have to give some sort of leeway currently for that. Maybe like in the absence of regulation, we as the Shariah Advisory Council have given that, you know majority of the risks must be with re-takaful. And so, but far they are maintaining an overwhelming majority of 83% with re-takaful. So, this is how; I don't know you want to, if anyone want to add anything else. Riyaz or Fazeel. Brother Hareez?

Chairman Speaking:

Alright, thank you very much for the informative presentation on Takaful. And more or less I understood that we are doing the same thing. But it's a different approach of mitigating the risk. So, I think we have got some very crucial answers that we, I mean we require to while reviewing the bill whether the allocations or provisions that we could considered to make. But we will, we have actually noted down the important aspects of your presentation, and we will have a final meeting with the authority, Maldives Monitory Authority and then we will decide on what sort of arrangements that we or allowances that we could bring to the bill or to the regulatory. So, thank you very much once again for your time and I think it was a…

Member of Shari'ah Advisory Council, Mr. Mufti Shafique A Jakhura speaking:

Only a Pleasure, If there is anything that this, we can contribute in any way or we can, any questions, clarifications we are always available for that. So, from our side that we extend that In sha Allah.

Chairman Speaking:

Yeah. We will definitely get, in next two weeks we will be going clause by clause to review the bill. So, if we have any areas that we need your assistant, will definitely contact you. Thank you very much for your time. So. I will conclude today’s meeting. Thank you once again.

Member of Shari’ah Advisory Council, Mr. Mufti Shafique A Jakhura speaking:

السلام عليكم ورحمة الله.

Chairman Speaking:

والسلام عليكم.

Managing Director of Amana Takaful Mr. Hareez Sulaiman speaking:

Thank you very much.
