

BUSINESS CONDUCT MODULE

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MODULE	BC: Business Conduct
CHAPTER	BC-A: Introduction

BC-A.1 Purpose

- BC-A.1.1 This Module presents requirements that have to be met by insurance licensees with regards to their dealings with customers. Reinsurance business is exempted from the scope of these requirements.
- BC-A.1.2 The rules contained in this Module aim to ensure that insurance licensees deal with their customers in a fair and open manner, and address their customers' information needs.
- BC-A.1.3 The rules build upon several of the Principles of Business (see Module PB (Principles of Business)). Principle 1 (Integrity) requires insurance licensees to observe high standards of integrity and fair dealing, and to be honest and straightforward in their dealings with customers. Principle 7 (Customer Interests), requires insurance licensees to pay due regard to the legitimate interests and information needs of their customers, and to communicate with them in a fair and transparent manner.
- BC-A.1.4 The rules contained in this Module are largely principles-based and focus on desired outputs rather than on prescribing detailed processes. This gives insurance licensees flexibility in how to implement the basic standards prescribed in this Module.

MODULE	BC: Business Conduct
CHAPTER	BC-A: Introduction

BC-A.2 Module History

BC-A.2.1 This Module was first issued in April 2005, together with the rest of Volume 3 (Insurance). It is numbered as version 01. All subsequent changes to this module are annotated with a sequential version number: Chapter UG-3 provides further details on Rulebook maintenance and version control.

BC-A.2.2 A list of recent changes made to this module is detailed in the table below:

Module Ref.	Change Date	Description of Changes
BC-3.4	01/07/05	Clarified language of takaful disclosure

BC-A.2.3 This Module does not replace any regulations or circulars in force prior to April 2005.

BC-A.2.4 Further guidance on the implementation and transition to Volume 3 (Insurance) is given in Module ES (Executive Summary).

MODULE	BC: Business Conduct
CHAPTER	BC-B: Scope of Application

BC-B.1 Insurance Licensees

BC-B.1.1 The requirements in this Module apply to all insurance licensees, with respect to their direct insurance activities carried on from the Kingdom of Bahrain with a person who is a resident of Bahrain ('domestic business').

BC-B.1.2 The requirements of this module therefore apply to insurance firms and insurance intermediaries who are selling, intermediating or advising on direct insurance contracts from their offices in Bahrain, with respect to customers who are resident of Bahrain. The requirements in this Module do not, therefore, apply to direct insurance activities carried on from overseas branches and subsidiaries of Bahraini insurance licensees, or to activities carried on with non-residents.

BC-B.1.3 Reinsurance business is exempted from the requirements of this Module because the reinsurance market is limited to dealings between insurance market professionals.

BC-B.1.4 The activities of insurance managers and operators of insurance exchanges do not fall within the scope of this Module. However, the BMA expects the insurance manager to consider the requirements of this Module in relation to the service provided, on behalf of the captive insurer or insurance firm, to its “clients”, namely insured members of the group.

BC-B.1.5 Although the requirements of this Module apply in full to all direct insurance activities in relation to domestic business, BMA recognizes that customers’ needs vary. For example, because a captive insurer is insuring the risks of its parent group, it would be acceptable for the level of sales documentation and written disclosure to be less than would be required for retail customers. Large corporate customers may also require less extensive written disclosures than retail customers. The rules in this Module give insurance licensees the flexibility to adapt their processes to suit the different needs of different customer types.

MODULE	BC: Business Conduct
CHAPTER	BC-1: General Requirements

BC-1.1 General Rules

BC-1.1.1 This Module applies to the direct insurance activities of all licensees in relation to domestic business.

BC-1.1.2 This Module aims to encourage high standards of business conduct, which are broadly applicable to all licensees, all types of direct insurance business (i.e. excluding re-insurance), and all types of customers. However, it is recognized that some types of licensees or business (such as captive insurance or commercial insurance) may present lower regulatory risks in relation to business conduct. For these types of business, the BMA therefore accepts that less detailed arrangements are likely to be sufficient to implement the principles contained in this Module. The BMA will monitor the regulatory performance of the market, and may in due course allow for specific exemptions or relaxations for certain types of business or licensees (see also BC-1.1.11 and BC-1.1.12).

BC-1.1.3 Where packaged investment products include insurance elements, this Module applies to the insurance elements.

BC-1.1.4 It is recognized that investment products represent different features and risks that require separate regulatory treatment. Specific rules applying to business conduct in relation to investment products will be developed over time.

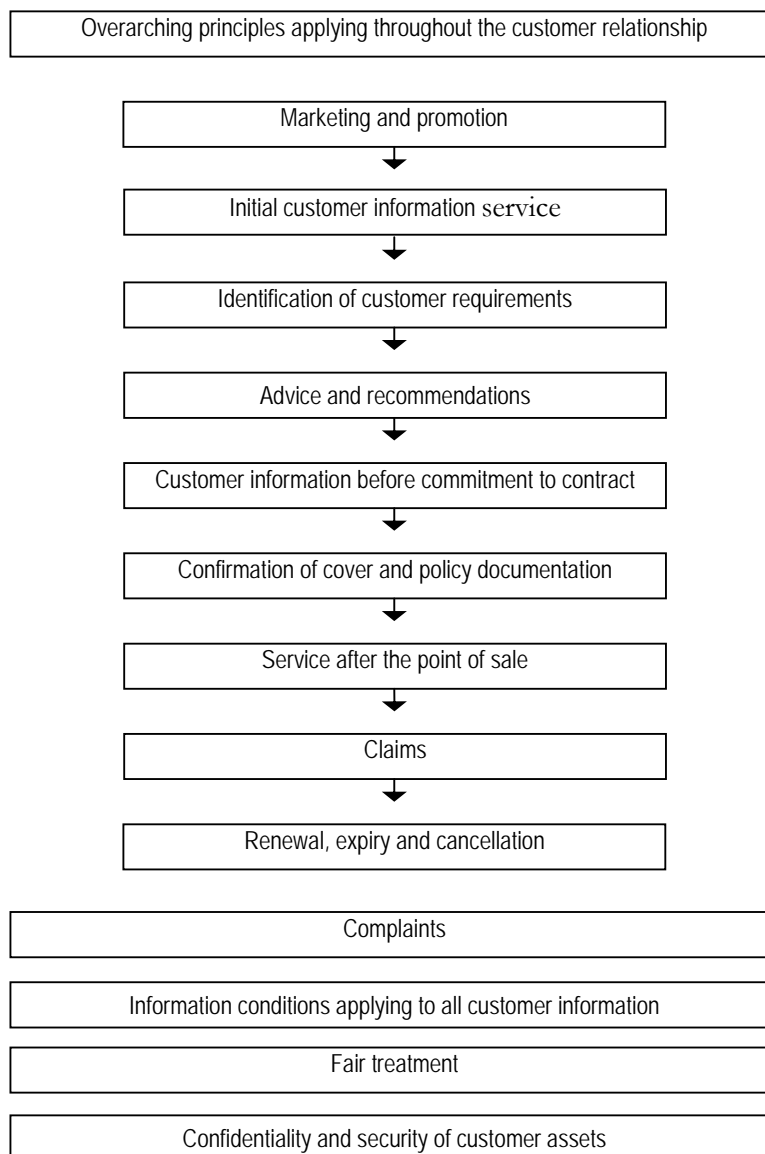
BC-1.1.5 All licensees must comply with the Insurance Code of Practice for business conduct with customers, which sets out the minimum standards of good practice for market conduct in relation to direct insurance activities.

BC-1.1.6 The Code comprises a number of overarching principles and a number of principles-based rules in relation to the conduct of direct insurance business with customers. The structure of the Insurance Code of Practice for Business Conduct with customers reflects the key stages and activities over the lifetime of the customer relationship for insurance products and services (see Illustration 1).

MODULE	BC: Business Conduct
CHAPTER	BC-1: General Requirements

BC-1.1 General Rules (continued)

Illustration 1: Structure of Insurance Code of Practice for Business Conduct



MODULE	BC: Business Conduct
CHAPTER	BC-1: General Requirements

BC-1.1 General Rules (continued)

BC-1.1.7 Licensees must maintain compliance with the Code throughout the lifetime of their relationships with all of their customers.

BC-1.1.8 The Code focuses on desired outcomes, rather than prescribing in detail measures required to achieve those outcomes. Licensees therefore have the flexibility to design arrangements that implement the Code, in a way that suits the particular nature of their business.

BC-1.1.9 Insurance licensees must take responsibility for compliance with the Code of all persons carrying out direct insurance activities on their behalf (including, but not limited to, appointed representatives and insurance managers).

BC-1.1.10 Licensees must put in place appropriate measures across all their business operations and distribution channels to ensure compliance with the Code. Licensees must maintain adequate records to demonstrate compliance with the Code.

BC-1.1.11 The BMA will monitor compliance with the Code and standards of business conduct. If required, the BMA may develop more detailed rules and guidance to supplement the existing Code.

BC-1.1.12 The BMA will apply these rules in a way that allows them to be adapted to fit the circumstances of licensees' businesses, to be achieved through a pragmatic approach to supervision. However, in exceptional circumstances, it may be appropriate for the BMA to consider and grant rule waivers where strict compliance would be unduly burdensome or would not achieve the purpose for which the rule was intended. Each application for rule waiver will be considered on its individual merits. The fact that a rule waiver has been granted to a particular licensee should not be regarded as an indication that similar rule waivers will be issued to any other licensee.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.1 Overarching Principles

BC-2.1.1

In the course of direct insurance activities, licensees must:

- (a) act with due skill, care and diligence in all dealings with customers;
- (b) act fairly and reasonably in all dealings with customers;
- (c) identify customers' specific requirements in relation to the products and services about which they are enquiring;
- (d) ensure that any advice to customers is aimed at the customers' interests and based on adequate standards of research and analysis;
- (e) provide sufficient information to enable customers to make informed decisions when purchasing insurance products and services offered to them;
- (f) provide sufficient and timely documentation to customers to confirm that their insurance arrangements are in place and provide all necessary information about their products, rights and responsibilities;
- (g) maintain fair treatment of customers through the lifetime of their insurance products and customer relationships, and ensure that customers are kept informed of important events;
- (h) handle claims fairly and promptly;
- (i) ensure that all information provided to customers is clear, fair and not misleading, and appropriate to customers' information needs; and
- (j) take appropriate measures to safeguard any money and property handled on behalf of customers and maintain confidentiality of customer information.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.2 Marketing and Promotion

BC-2.2.1	Licensees must ensure that all advertising and promotional material is clear, fair and not misleading.
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MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.3 Initial Customer Information about Service

- BC-2.3.1** At the initial point of contact, before any contract is concluded between the customer and the insurance licensee, licensees must advise customers of the nature of the service they can offer and their relationship with the customer, including:
- (a) the types of services that can be provided;
 - (b) the choice of products and services that can be offered; and
 - (c) whether the licensee acts on behalf of an insurer or insurers, or acts independently on behalf of the customer in arranging insurance.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.4 Identification of Customer Requirements

BC-2.4.1	<p>Licensees must identify <u>customers</u>' requirements by seeking from <u>customers</u> such information about their circumstances and objectives as might reasonably be expected to be relevant in establishing their specific insurance needs in relation to the products and services about which they are enquiring.</p>
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MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.5 Advice and Recommendations

BC-2.5.1 Any recommendations made must be appropriate to the customer's needs. The recommendation must include an explanation as to how the recommended product suits the customer's identified needs. Where more than one product is recommended as appropriate to the customer's needs, the recommendation must include an explanation of the differences in and relative costs in the alternative options.

BC-2.5.2 In the case of compulsory insurance, such as third party motor liability insurance, the explanation of the product's suitability may be limited to a brief explanation of the obligation to hold such insurance, and the options available to satisfy the obligation.

BC-2.5.3 The objective of Paragraph BC-2.5.1 is to ensure that a customer is provided with sufficient information with which to make an informed decision. An insurance firm is able to rely on the customer's explanation of his insurance needs and is not otherwise required to verify the customer's own assessment of his needs. Given the customer's stated needs, the insurance firm must explain how the proposed contract(s) would meet those needs, and provide sufficient information regarding the different options that the customer is able to make an informed decision.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.6 Customer Information before Commitment to the Contract

BC-2.6.1 Before customers make their final commitment to enter into a contract of insurance, licensees must provide to the customer sufficient information on the key features of the product being proposed to enable the customer to make an informed purchasing decision, including:

- (a) the identity of the insurance licensee;
- (b) all the important details of cover and benefits;
- (c) any significant or unusual restrictions or exclusions, conditions or obligations attaching to the customer; and
- (d) the period of cover.

BC-2.6.2 Before customers make their final commitment to enter into a contract of insurance, licensees must provide to the customer full details of costs of the insurance products and services being offered, including:

- (a) the level of insurance premiums, the periodicity of payment and any grace periods allowed for payment;
- (b) the consequences of discontinuing the payment of any premium; and
- (c) any fees and charges other than the insurance premium.

BC-2.6.3 While an insurance broker may not approach every possible underwriter for each risk, he should make reasonable efforts to make his selection from a panel of insurance firms. An insurance broker's submission of quotations should incorporate the reasons for recommending or choosing an insurance firm.

BC-2.6.4 Except for clients with turnover exceeding BD 1 million per year, an insurance intermediary must draw the client's attention to the status of the insurance firm: i.e. whether or not the insurance firm is locally licensed (as a Bahraini insurance firm or overseas insurance firm) and, if not, the reasons for recommending or choosing that insurance firm. In respect of these clients, this advice must be delivered in writing.

BC-2.6.5 An insurance intermediary should recommend, in the first instance, a policy from a BMA licensed insurer (which, for the avoidance of doubt, may be an overseas insurance firm) that he considers best suited to the needs of his client, and offering ease of client service, claims handling, etc. Paragraph BC-2.6.4 covers the situation where an insurance intermediary proposes use of an overseas insurer not licensed or incorporated in Bahrain, because of the lack of availability of local cover.

BC-2.6.6 Insurance intermediaries acting on behalf of customers in arranging their insurance must, on request, disclose the amount of commission payable to them from the insurance premium, and any other remuneration received for arranging the insurance contract.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.6 Customer Information before Commitment to the Contract (continued)

BC-2.6.7 Before customers make a final commitment to enter into a contract of insurance, licensees must inform the customer of their key obligations and rights with regard to the transaction, including:

- (a) the customer's duty of disclosure to the insurance licensee;
- (b) cancellation rights and conditions;
- (c) the licensee's internal complaints procedure; and
- (d) the licensee's obligations in respect of this Code.

BC-2.6.8 There are no specific rules prescribing customers' cancellation rights or required standards of cancellation terms for insurance products and customers. It is expected that licensees will put in place cancellation terms that are fair, reasonable and appropriate with respect to their customers and the products provided, in line with the overarching principles requiring fair dealings with customers (see Paragraph BC-2.1.1). The BMA will monitor the regulatory performance of the market in this area, and may make rule amendments over time (see Paragraphs BC-1.1.11, BC-1.1.12).

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.7 Confirmation of Cover and Policy Documentation

BC-2.7.1 On the conclusion of contracts, licensees must provide customers with prompt written confirmation and details of the insurance that has been effected, including:

- (a) the date when cover starts and the period of cover;
- (b) any certificates or documents which the customer is required to have by law;
- (c) details of how the customer can make a claim, and their responsibilities in relation to making claims;
- (d) the address of the insurer to which all communications in respect of the policy should be sent; and
- (e) proof of payment where applicable.

BC-2.7.2 Licensees must provide full policy documentation promptly following the conclusion of contracts, unless this has already been issued with the confirmation of cover.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.8 Service after the Point of Sale

- BC-2.8.1** Licensees must respond to and administer customers' requests for amendments to their insurance policies in a timely manner. In particular, licensees must:
- (a) provide written confirmation of any changes/amendments to the policy;
 - (b) provide full details of any additional premium or charges to be paid by or returned to the customer;
 - (c) provide any certificate or documentation which the customer is required to have by law;
 - (d) provide proof of payment of additional premium or charges where applicable; and
 - (e) remit any refunds of premiums or charges due to customers without undue delay.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.9 Claims

- BC-2.9.1** Where licensees' insurance activities include the handling of claims, they must:
- respond promptly when claims are first notified, and provide customers with an explanation about how the claim will be handled and any actions required of the customer;
 - provide reasonable guidance to customers in pursuing their claim;
 - consider and handle claims fairly and promptly, and keep the customer informed of progress;
 - inform customers in writing, with an explanation, if the licensee is unable to deal with all or any part of the claim;
 - forward settlement of claims without undue delay, once settlement has been agreed.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.10 Renewal, Expiry and Cancellation

- BC-2.10.1** Licensees must notify customers of the renewal or expiry of their policy in time to allow the customer to consider and rearrange any continuing cover they may need, including:
- (a) details of the renewal terms, if offered; and
 - (b) details of any changes to the cover, service or insurance firm being offered.
- BC-2.10.2** On expiry or cancellation of insurance policies, at the request of the customer, licensees must make available all documentation and information to which the customer is entitled in a timely manner.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.11 Complaints

BC-2.11.1 Licensees must disclose their process of dispute resolution to customers and this should be easily accessible to enable them to complain at any time during the insurance process. Complaints must be accepted either orally or in writing.

BC-2.11.2 On receiving complaints from customers, licensees must:

- (a) acknowledge complaints promptly, and provide customers with an explanation about how the complaint will be handled and any actions required of the customer;
- (b) consider and handle complaints fairly and promptly, keeping customers informed of progress; and
- (c) provide final responses to customers' complaints without undue delay.

BC-2.11.3 In their final responses to customers' complaints, licensees must:

- (a) accept (or partially accept) the complaint and where appropriate offer compensation or other form of redress; or
- (b) reject (or partially reject) the complaint, informing customers with a full explanation of the licensee's position.

BC-2.11.4 Licensees must maintain adequate records and performance, reporting all complaints to such standards as required by the BMA for supervision purposes.

BC-2.11.5 In recording complaints activity, licensees should consider the types of data and reports that will enable them to demonstrate compliance with the above rules for handling complaints, together with the overarching principles requiring fair dealings with customers (see Paragraph BC-2.1.1). More specific rules and standards for complaints records will be developed over time in line with BMA supervision and reporting requirements (see Paragraphs BC-1.11, BC-1.12).

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.12 Information Conditions

BC-2.12.1 Licensees must ensure that all information presented to customers in accordance with this Code shall be clear, fair and not misleading, and comprehensible to the customer having regard to the complexity of the products and services being offered and the customer's knowledge.

BC-2.12.2 Licensees must ensure that customer information presented to customers in accordance with this Code is provided in an appropriate format with regard to the complexity of the product being discussed. In particular:

- (a) as a general rule, all information to be provided to the customer in accordance with this Code is to be in writing, on paper or other durable medium available and accessible to the customer. If the information is initially presented orally, supporting written information must be provided in addition;
- (b) in the case of telephone selling and other forms of selling where it is impractical to provide information to the customer in writing at the point of sale, information shall be provided to the customer in accordance with Subparagraph BC-2.12.2(a) immediately following conclusion of the contract; and
- (c) by way of derogation from Subparagraph BC-2.12.2(a), information may be provided orally without supporting written information where the customer requests it, or where immediate cover is necessary.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.13 Fair Treatment and Conflicts of Interest

BC-2.13.1 Licensees must avoid conflicts of interest, or if conflicts are unavoidable, must explain the position fully and manage the situation so as to avoid prejudice to any party. In particular, licensees who act on behalf of their customers must not put their own interests above their duty to any customers for whom they act.

BC-2.13.1 Insurance intermediaries must disclose in writing to the client any relationship that he may have with an insurance firm that he is recommending to his client and which may result in a potential conflict of interest including, but not limited to, disclosure in writing any association arising from common shareholder/controller/director.

MODULE	BC: Business Conduct
CHAPTER	BC-2: The Insurance Code of Practice

BC-2.14 Confidentiality and Security of Customer Assets

BC-2.14.1 Licensees must ensure that any information obtained from customers must not be used or disclosed except in the normal course of negotiating, maintaining or renewing insurance for that customer, unless:

- (a) they have the customer's consent;
- (b) disclosure is made in accordance with the licensee's regulatory obligations; or
- (c) the licensee is legally obliged to disclose the information.

BC-2.14.2 Licensees must take appropriate steps to ensure the security of any money, documents, other property or information handled or held on behalf of customers.

MODULE	BC: Business Conduct
CHAPTER	BC-3: Takaful Firms

BC-3.1 General Requirements

BC-3.1.1 This chapter of the BC Module applies only to those insurance firms licensed to conduct insurance business under takaful principles.

BC-3.1.2 The BMA acknowledges that the nature of takaful and the operation of a takaful business are not entirely equivalent to and in some respects different from a conventional insurance business. The specific rules and guidance set out in this chapter aim not only to allow takaful firms to operate in Bahrain within the BMA's insurance regulatory regime on a basis consistent with conventional insurers but also to recognize some of the differences in takaful that are relevant to the way in which takaful business is carried on.

BC-3.1.3 The specific rules and guidance in this chapter are additional to Chapters BC-A to BC-2. The rules and guidance in Chapters BC-A to BC-2 apply to takaful firms unless those rules are specifically modified or waived by this chapter.

MODULE	BC: Business Conduct
CHAPTER	BC-3: Takaful Firms

BC-3.2 Restriction on the Use of Terms

BC-3.2.1 The use of the terms “takaful”, “retakaful”, “general takaful” and “family takaful” may only be used to describe the products of insurance firms that are Islamic financial institutions within the meaning of the BMA Rulebook.

BC-3.2.2 For the purposes of these regulations, references to takaful shall be taken as including “takaful”, “retakaful”, “general takaful” and “family takaful”.

BC-3.2.3 The use of the term “Islamic insurance” should be avoided and may never be used by a firm not licensed to conduct the regulated activity of takaful.

MODULE	BC: Business Conduct
CHAPTER	BC-3: Takaful Firms

BC-3.3 Marketing and Promotion

BC-3.3.1 An insurance firm may only offer takaful products if it is licensed to do so. An insurance intermediary may offer both conventional insurance and takaful products but must provide clear information to enable consumers to make informed choices.

BC-3.3.2 Any comparison between takaful and conventional insurance products must draw the customer's attention to the principal differences between these products. These differences may include:

- (a) whether there is a contractual right to claims or benefits or whether these are discretionary on the part of the firm;
- (b) the basis on which benefits and surpluses are allocated to, and between, policyholders and participants; and
- (c) whether there is any future liability of policyholders (or participants), individually or collectively, for deficits in the policyholders' (participants') funds.

MODULE	BC: Business Conduct
CHAPTER	BC-3: Takaful Firms

BC-3.4 Disclosure

BC-3.4.1 Takaful firms must provide participants and shareholders with clear information about the performance of their business. This information must, as a minimum, comply with relevant AAOIFI standards, in particular Standard 13 (Disclosure of Bases for Determining and Allocating Surplus or Deficit in Islamic Insurance Companies) and 12 (General Presentation and Disclosure in the Financial Statements of Islamic Insurance Companies).

BC-3.4.2 Takaful firms must clearly disclose to participants the calculation (percentage) and amount of Wakalee fee and Mudharaba share of profits paid by the takaful fund to the takaful operator.