

**SHARĪ'AH ISSUES IN THE OPERATION OF
RETAKĀFUL AND REINSURANCE:
A PRELIMINARY EXPLORATION FROM
SHARĪ'AH PERSPECTIVE***

*Dr. Aznan Hasan***

ABSTRACT

This article attempts at exploring various Shari'ah issues related to the practice of takāful, retakāful, insurance and reinsurance and interaction between them in the practice of retakāful. It explores the practice of retakāful and its importance in modern takāful. The paper discusses the ruling disallowing takāful companies to cede part of their exposure to reinsurance companies on the premise of ḥājah and necessity. It also discusses the permissibility of allowing retakāful companies to accept ceding from conventional insurance. Various opinions, fatwa and rulings and other relevant issues have

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** Assistant Professor, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia. In the area of Takāful and Retakāful, he is the Chairman, Shari'ah Advisory Committee, ACR Retakāful MEA, Bahrain and ACR Retakāful SEA Malaysia. Nevertheless, all opinions expressed or implied in this paper are the personal views of the writer and do not, in anyway whatsoever represent nor reflect the decisions of the company.

been analysed. It is found that these practices could be accepted subject to certain conditions. The paper argues that since they are allowed based on hājah and ḍarūrah, a revision should be conducted from time to time to ensure that the practice is really in compliance with this exceptional ruling.

Keywords: insurance, reinsurance, takaful, retakaful, shariah, hājah, ḍarūrah.

ISU-ISU SYARIAH DALAM OPERASI TAKAFUL SEMULA (RETAKAFUL) DAN INSURANS SEMULA (REINSURANS): SATU PENJELAJAHAN AWAL DARI PERSPEKTIF SYARIAH

ABSTRAK

Makalah ini cuba menjelajah pelbagai isu Syariah berkaitan dengan amalan takaful, takaful semula (retakaful), insurans dan insurans semula (reinsurans) dan kesalingan bertindak antara satu sama lain dalam amalan takaful semula. Ia menjelajah amalan takaful semula dan kepentingannya dalam takaful moden. Makalah ini membincangkan arahan tidak membenarkan syarikat takaful untuk menyerah sebahagian daripada risiko mereka kepada syarikat takaful semula atas dasar keinginan dan keperluan. Ia turut membincangkan kebenaran kepada syarikat takaful semula untuk menerima serahan dari insurans konvensional. Pelbagai pendapat, fatwa dan arahan dan lain-lain isu berkaitan dianalisis. Didapati bahawa amalan-malan ini boleh diterima tertakluk kepada syarat-syarat tertentu. Makalah ini menghujahkan bahawa oleh kerana amalan-amalan ini berdasarkan keinginan dan keperluan, satu semakan perlu dilakukan

dari semasa ke semasa untuk memastikan amalan ini benar-benar mematuhi hukum pengecualian ini.

Kata kunci: insurans, insurans semula (reinsurans), takaful, takaful semula (retakaful), syariah, keinginan, keperluan.

INTRODUCTION

Conventional insurance is very much consistent with the sharī'ah from its concept and philosophy, for insurance as described by al-Sanhūrī:¹ “is nothing but an attempt made by a group of people to assist one another in facing certain calamity whereby the members of the group agree to help any of them who faces certain difficulties. Without this assistance, the difficulty faced by the person may be so severe that he may feel it to be unsurmountable.”

After the widespread practices of conventional insurance, a number of scholars have conducted more thorough studies on various types of conventional insurance. A majority of scholars maintained that though conventional insurance, by its nature is inherently Islamic, its practices do not comply with the principles of Sharī'ah.² There are others who provided a more detailed ruling, by allowing some forms of conventional insurance while disallowing the other,³ while some went further by generally allowing conventional insurance.⁴ It is not the intention of this article to elaborate on various

¹ Al-Sanhuri, Abd al-Razzāq, *al-Wasit*, 2, 1086. See also the opinion of Shaykh Muṣṭafā al-Zarqā, *al-Ta'mīn wa al-Ta'mīn 'Ala al-Hayah, Majallat Majma' al-Fiqh al-Islāmī*, no. 2, vol. 2, at 611-615.

² Among those who disallow: Shaykh Najīb al-Mutī'ī, Shaykh Muḥammad Rashīd Reḍā, Shaykh Abū Zuhrah, Shaykh al-Darīr, Shaykh Jād al-Ḥaq, Hay'at Kibār al-'Ulamā fī al-Mamlakat al-Sa'ūdiyyah, *Majma' al-Fiqh al-Islāmī (Rābitah)*, *Majma' al-Fiqh al-Dawī*, *al-Mu'tamar al-'Ālamī li al-Iqtīd al-Islāmī*, Hay'at al-Rīqābah al-Shar'īyyah, Bank Fayṣal al-Islāmī al-Sudānī.

³ Among those who subscribe to this opinion with their varieties in allowing or disallowing: Shaykh Muḥammad al-Ḥasan al-Ḥijawī, 'Abdullah ibn Zayd 'Alī Maḥmūd.

⁴ Among those who allow: Shaykh Muṣṭafā al-Zarqā', Shaykh 'Alī al-Khafīf, Shaykh 'Abd al-Wahhāb Khallāf.

issues surrounding this discussion. It suffices to note here that the majority of scholars rule that though the idea and purpose of conventional insurance is well celebrated in Islamic law, its practical application had raised various Sharī'ah issues which led to its prohibition. This opinion has been supported by almost every collective ijtihad on this, including International Fiqh Academy⁵ and Sharī'ah Standard, Accounting and Auditing Organisation For Islamic Financial Institution (AAOIFI).⁶

Realising the need for insurance, a new framework has been suggested as an alternative to conventional insurance. This Islamic insurance is based on the concept of *tabarru'* in which participants agree to donate to a common fund which shall be used to assist members in case of certain known difficulties. The fund will be managed by a takāful company which is appointed to manage the fund and also to manage the investment of the fund. The introduction of Islamic insurance has paved the way for Muslims and non Muslims alike to have the needed protection in times of financial difficulties. This had ignited the introduction of various models of Islamic insurance, which can mainly be divided into commercial takāful and co-operative takāful. Since, the authorised and paid up capital of takāful companies were small, there arose a need to spread the risk of financial loss that may be incurred by the takāful fund over the time, hence the need for retakāful. Since there were not many retakāful companies, besides the fact their rating was not good and the "coverage" they offered was relatively more expensive compared to reinsurance companies, the jurists discussed the need to allow for ceding of takāful to reinsurance companies. Various rulings have been passed that allow ceding of takāful to reinsurance companies based on *ḍarūrah* (necessity) or *ḥājah* (dire need), and certain conditions have been established to restrict this allowance. Nevertheless, no proper study has been made to investigate⁷ whether

⁵ Resolution no. 9 (2/9) on Ta'mīn and I'ādat al-ta'mīn, *Majallat al-Majma'*, No. 2, vol. 1, at 545.

⁶ Article 2 of Sharī'ah Standard no 26, *al-Ma'āyir al-Shar'iyyah*, 1431H-2010AC, at 364.

⁷ I do not deny the fact that there are scholars who sit on Sharī'ah boards of certain takāful companies who question the takāful companies on this matter, but we do not see any broad research that

these conditions have been fulfilled and whether they are still valid, after the establishment of many more retakāful companies with a better rating. To spark up more debate on retakāful, of late, there are retakāful companies which are underwriting conventional insurances, basing the arguments that for it to be able to grow to a sizeable capability, it needs to undertake such business. Is this practice acceptable? If the answer is in the affirmative, what is the basis for such an allowance? Should we set up criteria and guidelines for the underwriting of these businesses and what are they? In case of reinsurance (or rather co-reinsurance), can retakāful companies partner with reinsurance to undertake a large underwriting task? On what terms should this co-reinsurance work? Should we oblige the reinsurance companies to follow the terms set up by the retakāful company where the retakāful company is the leader? What is the position when the retakāful company is just the follower in that co-reinsurance? Can it follow the terms and conditions of the co-reinsurance, or should it use and supply its own terms and conditions? What if, after that retakāful underwriting, those retakāful companies reinsure part of their exposure to another reinsurance company? This practice is known as retrocession and the chain of insurance and reinsurance can be unlimited.⁸ Even in some cases, there is possibility that the original reinsurance company unknowingly gets some of its own business (and therefore its own liabilities) back.⁹ To

have been undertaken to study the matter on a larger scale rather than certain particular takāful companies.

⁸ The reinsurance company is called *retrocedent* and the accepting reinsurer is a *retrocessionaire*. The *retrocessionaire* may then reinsure its exposure to another retrocessionaire and this chain can be continuous and only business decision will show its end.

⁹ This is known as a “spiral” and was common in some specialty lines of business such as marine and aviation. Sophisticated reinsurance companies are aware of this danger and through careful underwriting attempt to avoid it. In the 1980s, the London market was badly affected by the creation of reinsurance spirals. This resulted in the same loss going around the market thereby artificially inflating market loss figures of big claims (such as the Piper Alpha oil rig). The LMX spiral (as it was called) has been stopped by excluding retrocessional business from reinsurance covers protecting direct insurance accounts.

make thing more difficult, unlike insurance, the type of reinsurance is so well diversified and to many people, not so easy to understand. The form and wording of reinsurance contracts are not as closely standardised as are insurance contracts, and there is no regulation of reinsurance between private companies. A reinsurance contract is often a manuscript contract setting forth the unique agreement between the two parties. Because of the many special cases and exceptions, it is difficult to make a correct generalisation about reinsurance.¹⁰

RETAKAFUL VIS-A-VIS REINSURANCE

Reinsurance is a means by which an insurance company can protect itself with other insurance companies against the risk of losses. Individuals and corporations obtain insurance policies to provide protection for various risks (hurricanes, earthquakes, lawsuits, collisions, sickness and death, etc.). Reinsurers, in turn, provide insurance to insurance companies. The company requesting the cover is called the cedant and the reinsurer can be called the ceded, although the latter term is not common in use.¹¹

If in insurance, the risk of financial loss arising from specified uncertain events to which individuals or organisations are exposed is mitigated by paying a certain premium to the insurance company, with reinsurance, this risk is further transferred to a reinsurer, by paying a certain premium from the insurer to the reinsurer. That is why reinsurance is always referred to as “insuring the insurer.”

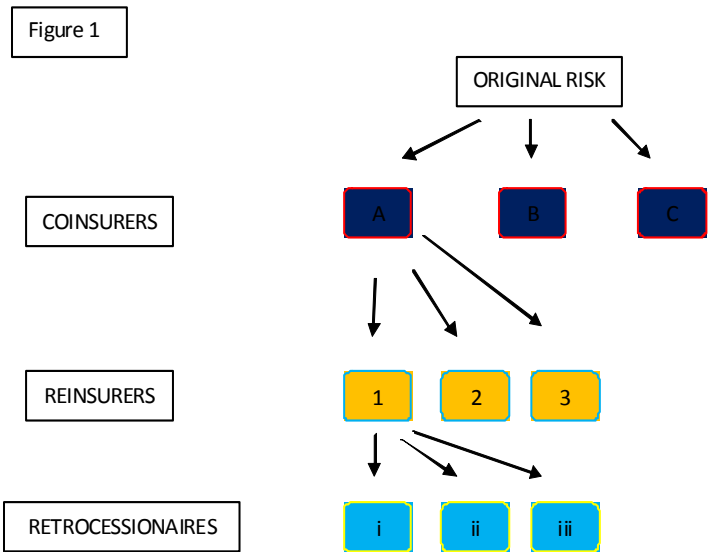
Essentially, therefore, reinsurance is the insurance of liabilities assumed by an insurer under contracts of insurance, the reinsurer agreeing to assume a liability to pay all or part of the claims that may arise under the contracts of insurance the reinsurance has written.¹²

¹⁰ Patrick, Gary S., Kensicki, Peter R., Cass, Micheal, Reinartz, Robert C., *Reinsurance Practices*, Insurance Institute of America, 2nd Edition, 1997, at 343.

¹¹ <http://en.wikipedia.org/wiki/Reinsurance>, retrieved on 25 October 2009.

¹² Carter, Robert L., Lucas, Leslie D, *Reinsurance Essentials*, Reactions Publication, London, n.d., at 9.

It should be mentioned here that the transfer of risk in insurance and reinsurance can happen in many ways. This can be explained by this Figure:



Reinsurance differs from coinsurance in many areas, but the most important is that there is no contractual relationship between the direct insured and reinsurer whilst in coinsurance; there is contractual relation between insured and the coinsurance. In the former, the insured can only claim from the insurer who will either pay all the claims or share the claim with its reinsurer. On the other hand, in case of coinsurers, the insured can claim directly from each and every one of them, depending on the underwriting agreement that he has with each of them.¹³

¹³

Riley, Keith, *Reinsurance: The Nuts and Bolts*, 2nd Edition, Witherby Publishers, 2001, at 5-6.

Retakāful is normally known as an Islamic way of reinsurance. This very literal definition of retakāful may create some confusion on an actual basis regarding retakāful and obscure a real understanding of the retakāful contract as it renders the retakāful contract to be the same as conventional reinsurance, albeit Islamic. For instance, the Central Bank of Bahrain defines retakāful as a:¹⁴ “Risk transfer contract analogous to an insurance contract where one of the parties is an Islamic institution licensed as an insurance or reinsurance firm. It is known in some markets as Islamic insurance’ or “cooperative insurance.” Though this simplified definition may work within a regulatory framework, there is conceptual difference between reinsurance and retakāful from Sharī’ah point of view. In short, whilst reinsurance transfers the risk from insurer to reinsurer (depending on the structure), retakāful adheres to the risk sharing principle, similar to takāful practice.

THE FUNCTIONS OF REINSURANCE

The main drivers for an insurance company to buy reinsurance can be concluded in these points, bearing in mind the discussion on insurance and reinsurance, is equally applicable to takāful and retakāful.

a) Risk Sharing

The nature and purpose of reinsurance is to reduce the financial cost to insurance companies arising from the potential occurrence of specified insurance claims, thus further enhancing innovation, competition, and efficiency in the marketplace. The cession of shares of liability spreads risk further throughout the insurance system.

¹⁴

Central Bank of Bahrain Rulebook, volume 3: Insurance, n.d.

b) Income smoothing

Like other companies, an insurance company needs to earn a profit to remain solvent and to be able to raise fresh capital to finance the expansion of its business. Every move of underwriting shall be calculated wisely to ensure that all risks have been evaluated carefully when pricing. To mitigate further the risk, reinsurance ceding will be employed to avoid any miscalculated risk and to make the company's results more predictable by absorbing larger losses and reducing the amount of capital needed to provide coverage.

c) To protect its margin of solvency and to allow for better underwriting flexibility and capacity.¹⁵

The ability of insurance company to underwrite business depends largely on its balance sheet. This test is known as solvency margin. When the limit is reached, an insurance company cannot underwrite further business unless it enlarges its capital by injecting new capital and this is not easy. This requirement to have sufficient capital is to protect the capability of the insurer to meet the claims, especially when large risk and catastrophic losses occur. Another way to allow for more underwriting capacity is by buying "surplus relief" reinsurance, where some of the risks are passed to another party. By doing so, it will be able to underwrite more, because some of its capital has been "freed" by transferring its risks to the insurers. Hence, by having reinsurance coverage, a cedant can write higher policy limits while maintaining a manageable risk level. Thus smaller insurers can compete with larger insurers, and policies beyond the capacity of any single insurer can be written. This is why reinsurance underwriting is very important for insurance companies to be able to compete with conventional insurance which have a bigger balance sheet to absorb the net retained loss exposure.

¹⁵ Solvency margin is normally referred to as the ratio of the capital and free reserve to the gross premium income after the deduction of reinsurance premium. The rule of thumb in calculating the solvency margin is the larger an insurer's margin of solvency the greater is the security it provides for its policyholders.

d) Stabilization of insurance portfolio

Reinsurance can help stabilize the cedant's underwriting and financial results over time and help protect the cedant's surplus against shocks from large, unpredictable losses. Reinsurance is usually written so that the cedant retains the smaller, predictable claims, but shares the larger, infrequent claims. It can also be written to provide protection against a larger than predicted accumulation of claims, either from one catastrophic event or from many. Thus the underwriting and financial effects of large claims or large accumulations of claims can be spread out over many years. This decreases the cedant's probability of financial ruin

e) Underwriting Assistance

Reinsurers deal with a wide variety of insurers in many different circumstances. Consequently, they accumulate a great deal of information regarding experience of various insurers with a particular coverages and the method of rating, underwriting and handling various coverages. This experience can be quite useful particularly to small or medium size operators planning to launch new products. As such, a small or medium size insurer or takāful operator can underwrite risk, usually reserved for the big operators, by reinsuring a sizable portion of it to a retakāful operator.

THE FORMS OF REINSURANCE¹⁶

The types of reinsurance contracts can briefly be arranged into several types of arrangements. It should also be noted here that retakāful

¹⁶ This section relies heavily on these references: Riley, Keith, *Reinsurance: The Nuts and Bolts*, Witherby Publishers, 2nd Edition, 2001, Carter, Robert L. and Lucas, Leslie D, *Reinsurance Essentials*, A Reactions Publication, London, n.d., and various sources on internet mainly (Wikipedia) en.wikipedia.org/wiki/Reinsurance en.wikipedia.org/wiki/Reinsurance, retrieved on 20 October 2009, West's Encyclopaedia of American Law (www.answers.com/topic/reinsurance), retrieved on 20 October 2009.

contracts are largely modeled after the conventional framework. Briefly, the reinsurance contract can be arranged as:

1) Facultative

Facultative reinsurance is issued on an individual analysis of the situation and facts of the underlying policy. It may cover all or a part of the underlying policy. By deciding coverage case by case, the reinsurer can determine if it wants to take the risk associated with that particular policy. Facultative reinsurance is used by the reinsured to reduce the chance of loss or risk associated with a certain policy. It is also known as Single Risk Reinsurance.

2) Treaty Reinsurance

Treaty reinsurance, on the other hand, is written to cover a particular class of policies issued by insurance. Examples of classes covered by treaty reinsurance are all property insurance policies or all casualty insurance policies offered by insurance operators. Treaty reinsurance automatically passes the risk to the reinsurance for all policies that are covered by the treaty, not just one particular policy. Treaty policies are more general than facultative policies because the reinsurance decision is based on general potential liability rather than on a specific enumerated risk.

To differentiate between the two, we can simply say that treaty reinsurance covers a set of subject policies, for a specified period of time. An example of this would be "all homeowner policies." This is more obligatory because all the terms of the contract between the primary insurer and the reinsurer must be met. The primary insurer must cede the business and the reinsurer is obliged to assume the business (under the contract stipulations) this is more popular when a large number of homogeneous risks are being insured.

On the other hand, facultative insurance covers only one underlying insured, and is written one account at a time. The reinsurer retains the "faculty" or the ability to accept or reject a risk that is offered. Facultative is more commonly used on larger or unusual risks, for example an oil tanker. Also differently than treat, facultative

reinsurance is non obligatory, meaning the he primary insurer does not have to cede the business and the reinsurer is not obliged to accept the risk.

3) Facultative Obligatory

Facultative obligatory contracts are proportional (surplus) reinsurance arrangements limited to the type (s) of business specified in the agreement (e.g. a specified industry in the case of property business). They fall between the wholly voluntary facultative and the obligatory treaty contracts by leaving the ceding company free to decide whether it will offer a risk for reinsurance, but the reinsurer is obliged to accept any risk that falls within the scope of their agreement. Because the business ceded tends to be less balanced than with a surplus treaty plus the fact that the ceding company is not bound to cede but the reinsurer is obligated to accept, facultative obligatory covers are not popular with reinsurer.

In addition to the three types of reinsurance issued, there are two ways that coverage can be allotted between the parties: either proportionally or non-proportionally,

- 1) Proportional reinsurance is where the insurer obtains coverage for only a portion or percentage of the loss or risk from the reinsurer. The proportion of coverage is typically based on the percentage of premiums paid to the reinsurer. For example, if the reinsured pays 40 percent of the premiums to the reinsurer, then the insurer recovers 40 percent of its losses when it pays the original policyholder according to the original policy terms. The insurer can only recover a portion of its total loss, not the entire amount. The amount actually paid by the insurer is not figured into the reinsurance contract, only the percentage of loss the policy will cover.

In addition, the reinsurer will allow a ceding commission to the insurer to compensate the insurer for the costs of writing and administering the business (agents' commissions, modeling, paperwork, etc.).

- 2) Non proportional reinsurance only responds if the loss suffered by the insurer exceeds a certain amount, which is called the “retention” or “priority.” An example of this form of reinsurance is where the insurer is prepared to accept a loss of \$1 million for any loss which may occur and they purchase a layer of reinsurance of \$4 million in excess of \$1 million. If a loss of \$3 million occurs, then insurer will retain 1 Million and will recover \$2 million from its reinsurer(s). In this example, the reinsured will retain any loss exceeding \$5 million unless they have purchased a further excess layer (second layer) of say \$10 million excess of \$5 million.

SOME SHARI'AH ISSUES IN RETAKAFUL

The previous discussion serves as an important ground for further discussion on various Sharī'ah issues surrounding the practice of retakāful and reinsurance. This section will discuss these Sharī'ah issues in a more detailed manner.

i. Sharī'ah Ruling on the needs of reinsurance vis-a-vis retakāful

Reinsurance contracts have suffered a similar fate to conventional insurance contracts. The majority of modern scholars, fiqh academies, Sharī'ah setting bodies etc. have ruled that conventional reinsurance is not Sharī'ah compliant.¹⁷ This is in its original ruling (*al-aṣl*). Nevertheless, looking at the necessity for takāful companies to have retakāful arrangement and due to the insufficiency of retakāful coverage (for many reasons, among others: small capacity, higher contribution (premium) rate, relatively poor rating as compared to conventional reinsurance, etc.),¹⁸ various opinions and resolutions

¹⁷ See, the most well-known ones: Resolution no. 9 (2/9) on Ta'mīn and I'ādat al-ta'mīn, *Majallat al-Majma'* No. 2, Vol. 1, at 545, Article 2/3 of Sharī'ah Standard No 41, *al-Ma'āyir al-Shar'iyyah*, 1431H-2010AC, at 564.

¹⁸ Some of these reasons may be disputed now.

have been passed in allowing takāful companies to have reinsurance arrangements with conventional reinsurance on *ḥājah* (dire needs) or *ḍarūrah* (necessity) basis.¹⁹

The same resolution has been made by various Sharī'ah Boards. Most of them base their opinion on *ḥājah* (need) basis. The Jordanian Takāful Company explained the concept of needs by stating that: "Public needs may result in *ḍarūrah*." Some others maintained that the basis is traceable to *ḥājah* and not *ḍarūrah* as understood in the Sharī'ah framework. However, it should be allowed because the *ḥājah* may take the rules of *ḍarūrah* especially when it involves a wide-spectrum of people. The latest AAOIFI Sharī'ah standard clarifies the issue whether allowing the takāful operators to cede part of the contribution to reinsurance is based on *ḥājah* or *ḍarūrah* by stating that it is a general need that takes the rule of *ḍarūrah*.²⁰

The matter has been clarified further in a compilation of fatwa on Insurance and Reinsurance in *Fatāwā al-Ta'min*. Whilst discussing a fatwā relating to the ruling of allowing conventional reinsurance when there is no equivalent *retakāful*, the collectors of the fatwa explain that:²¹ "*Ḍarūrat* in its real juristic sense is not conceivable in the ruling allowing reinsurance because the *fiqhi*

¹⁹ See for instance: Article 2 /3 of Sharī'ah Standard no 41, *al-Ma'āyir al-Shar'īyyah*, at 564, *Fatwā*, Faysal Islamic Bank, Sudan, al-Zuhaylī, Wahbah, al- Ta'min and I'adat al-ta'min, *Majallat Majma' al-fiqh Islāmī*, Dawrah Thānīyah, Vol. 2, 547-554. It should be noted that most *Fatāwā* based on the needs basis only (*ḥājah*), not *ḍarūrah*. See, for examples, *Qarārat al-Nadwah al-Fiqhiyyah al-Rabi'ah*, Bayt Tamwīl al-Kuwaitī, *Fatāwā Sharī'ah Supervisory Board*, Bank Faisal al-Islāmī al-Sudani, al-Zuhaylī, Wahbah, al-Ḍawābit al-Shar'īyyah li Suwar wa 'uq'd al-Ta'mīn'ala al-hayāt wa I'adat al- Ta'mīn, *A'māl al-Nadwah al-Fiqhiyyah al-Rābi'ah*, Bayt al-Tamwīl al-Kuwaitī, 1995, at 122-123, al-Qurahdāghī, 'Alī Muḥyiddīn, al-Ḍawābit al-Shar'īyyah li'Uqūd al-Ta'mīn 'alā al-ḥayāt, *A'māl al-Nadwah al-Fiqhiyyah al-Rabi'ah*, Bayt al-Tamwīl al-Kuwaitī, 1995, at 214 (in footnote).

²⁰ Article 2 /3 of Sharī'ah Standard no 41, *al-Ma'āyir al-Shar'īyyah*, at 564.

²¹ *Fatawā al-Ta'mīn*, Collected and commented by Dr. Abū Sattār Abū Ghuddah and Dr. 'Iz al-dīn Muḥammad Khūjah, *Majmū'at Dallah al-Barakah*, al-Amānah al-Āmah li al-Hay'at al-Shar'īyyah, n.d., at 237.

darūrah can only be acceded when the necessity has reached its stage where the non-application of *darūrah* will lead to annihilation of the person or near annihilation. It is obvious that the use of *darūrah* here means *hājah*, for the non-existence of takāful or retakāful would not lead to destruction.

Based on this ruling, it is a requirement of the Sharī'ah for the takāful operator to reinsure their exposure in compliance with Sharī'ah, i.e. by way of retakāful and it is not allowed for takāful companies to reinsure their exposure by ceding it to conventional reinsurance, except if a retakāful contract is not available.²²

This allowance, however, is made not without conditions. Among the most important conditions are:²³

1. The ceding to conventional reinsurance should be as small as possible (conversely, the ceding to retakāful companies should be as large as possible). This determination shall be left to the expert to decide with the help of the Sharī'ah Advisory Board.
2. The takāful company shall not take any commission fees from the conventional reinsurance.
3. The takāful company shall not take any profit from the reinsurance company.
4. The takāful company shall not hold any reserves on behalf of the reinsurance company, if it has to pay interest for that holding.

²² Article 6 of Sharī'ah Standard No 41, *al-Ma'āyir al-Shar'īyyah*, at 565 requires that any ceding to reinsurance company shall be done only after approval of The Sharī'ah Advisory Board of the respective takāful company.

²³ See among other: Article 6 of Sharī'ah Standard No 41, *al-Ma'āyir al-Shar'īyyah*, at 565, Fatāwā Shar'īyyah Supervisory Board, Bank Fayṣal al-Islāmī al-Sūdānī, Fatwā No. 5, Sharī'ah Supervisory Board, *al-Sharikat al-'Arabiyyah al-Islāmiyyah li al-Ta'mīn*. See: *Fatāwā al-al-Ta'mīn*, at 239-241.

5. There shall be no arrangement for the takāful to be involved in the investment of the reinsurance company, and there is no sharing of profit from that investment (in whatsoever way) by the takāful.
6. The period of the ceding should be as short as possible.

It should be noted at this juncture that allowing reinsurance practice on the basis of *ḍarūrah* is not a unanimous opinion. There are scholars who still disallow reinsurance by takāful company even though for the purpose of maintaining its solvency. Dr ‘Abd Azīz Khayyāt, for instance maintains that reinsurance practices can only be allowed in one situation, where there is regulatory requirement for reinsurance and the takāful company fails to find any retakāful company for the purpose.²⁴ Some other takāful companies allow for the takāful companies to take the fees paid by the reinsurance, but must be channelled to charity. Dr. Yusuf Qasim, on the other hand believe the reinsurance arrangement has obliterated the idea of mutual assistance that has been promoted in takāful.²⁵ Dr. Muḥammad ‘Uthmān Subayr believes that with the existence of some retakāful companies, there is no needs or necessity to cede the takāful coverage to any reinsurance company at all.²⁶ Nevertheless, a majority of scholars hold the opinion that ceding part of takāful exposure to reinsurance company is still needed.

Having considered the opinion that reinsurance practice is allowed based on needs, one question that needs to be discussed here is whether the need to have the reinsurance arrangement on the needs basis is still valid. One should be mindful that the first ruling made in allowing takāful operators to cede with conventional reinsurance was by Faisal Islamic Bank Sudan in year 1982. A lot of development has occurred in the area of takāful and retakāful. A lot of retakāful operators have opened shop. Their ratings have been improved and are not inferior to their conventional counterpart. The

²⁴ Al-Khayyāt, ‘Abd Azīz, *al-Ta‘mīn wa l’ādat al-Ta‘mīn*, Dirāsah Muqārananbi al-Qanūn al-Maghribi, *Majallat Majma‘ al-fiqh Islāmī*, al-Dawrah al-Thānīyah, Vol. 2, at 567-610.

²⁵ Qasim, Yusuf, *al-Ta‘amul al-Tijārī fi Mizān al-Sharī‘ah*, at 302.

²⁶ Shubayr, *al-Mu‘āmalāt al-Māliyah al-Mu‘āsirah*, at 142-144, 157-159.

variety of retakāful companies which underwrite various segments of insurance coverage should be able to cover, if not all, a substantial portion of the takāful coverage. I believe the time has come for a concerted effort for a re-examination this fatwā. As a suggestion, several points can be discussed:

1. The number of retakāful companies worldwide vis-à-vis takāful operators.
2. The rating of these retakāful companies.
3. The quantum of retakāful coverage needed by takāful operator vis-a-vis retakāful capacity to underwrite.
4. The segments of takāful that are covered by retakāful or to be covered by retakāful operators. For instance, it is always cited that for (Large and Specialised Risk (LSR), the number of retakāful companies which are able to provide “good” underwriting is limited.
5. The structures of fees and charges of these retakāful operators vis-a-vis reinsurance.

Based on these queries and the like, the decision to allow reinsurance arrangement by takāful companies may take the following form:

1. No need for reinsurance anymore. So, all takāful should go to retakāful instead of reinsurance.
2. There is still a need for reinsurance, but unlike previously decided, preference must be given to retakāful companies first. Only a certain percentage can go to conventional reinsurance.
3. Since only a certain percentage of the takāful portion can be ceded to conventional reinsurance, a suitable percentage must be established. The approach towards this can be in two forms. It can be from the regulator's initiative or the

regulator can undertake an empirical field research into the matter and provide guidelines and regulations on reinsurance arrangements to be made by takāful companies. This may call for strong political will and may take a long time for implementation. Another option lies with the takāful operators themselves. The Sharī'ah Boards of these takāful operators can take the initiative by asking the management to brief them on the practice of reinsurance subscribed to by the company. Based on that, they can assess the need for reinsurance in the company and can decide on the percentages to be allocated to retakāful and reinsurance.

I believe this is the best way in implementing the ruling which allows the reinsurance arrangement based on need limited to its necessary level. Undoubtedly, this limit shall change with the change of time and retakāful capacity. Only then, will we be able to realise the true meaning of general need that was expounded in the rulings. It should be noted also that the building up of the retakāful capacity relates a lot to the seriousness of takāful operators to cede their underwriting portfolio to retakāful rather than to a reinsurance programme. How can retakāful build up capacity if takāful operators continue to use reinsurance rather than retakāful?

In addition to the previous reason, for the purpose of preserving and enhancing retakāful capacity and sustainability, some retakāful companies applied or intend to apply (from regulators in respective jurisdictions in which they operate) for an exemption to allow them to underwrite conventional insurance. Again the rules of general need are invoked here. What is the Sharī'ah response to that? Briefly, there are two main opinions expressed on that matter. First opinion indicates that the retakāful companies can underwrite insurance underwriting on *al-aṣl* (general principle) basis, because by doing that we have changed the conventional to Islamic, a practice that should be appraised. The Sharī'ah Standard of the AAOIFI on this matter reads:²⁷

²⁷

Article 8/3 of Sharī'ah Standard No 41, *al-Ma'āyir al-Shar'īyyah*, at 565.

“There is no harm for retakāful company to accept ceding from conventional insurance with these conditions:

1. The contract used is retakāful contract.
2. There is no relation (other than the retakāful ceding arrangement) between the conventional insurance and retakāful company.
3. The underlying activities of insurance coverage that is ceded to retakāful company shall not be prohibited activities.”

It seems that the Shari‘ah Standard of the AAOIFI subscribes to the opinion that this allowance is based on *al-aṣl* (general principle), for there is no mention about any exceptional situation at all.

On the other hand, the second opinion maintains that this practice is not allowed in its original rule (*ḥukm al-aṣl*), yet we can allow that on the premise of general needs. This general need can be seen from the perspective of allowing this retakāful company to build their portfolio and enhancing their capacity. This ruling anticipates that the retakāful company should refrain from accepting insurance ceding once it is able to continue operating by only underwriting takāful ceding.

In my humble opinion, the argument that the practice of retakāful companies receiving ceding from conventional insurance should be allowed on *al-aṣl* basis cannot stand, because in actual fact, we do not change the practice from conventional to Islamic. Instead, it may help to strengthen the conventional insurance, by allowing them to have a wider opportunity of ceding part of their portfolio to retakāful. To make thing worse, there is a possibility that this retakāful then will enter into retrocession agreement with another reinsurance company. So, retakāful capacity may be “used” as a conduit to strengthen the underwriting capacity of the insurance, not to change them. If this ruling were to be made on *al-aṣl* basis, it is suggested that the Shari‘ah Advisory Board of the respective retakāful company should make a ruling that any ceding from the insurance company shall not be “leaked” to conventional reinsurance again by entering into retrocession with any reinsurance

company, a practice which is widely used in conventional reinsurance and retrocession.

All in all, both opinions as far as the current situation of takāful and retakāful market are concerned, will lead to the practice of retakāful companies to accept the ceding from insurance companies. This will lead to another question that needs to be addressed, can retakāful companies underwrite all businesses of the insurance companies or this allowance is specific to certain areas of insurance only. The Sharī'ah Standard of AAOIFI²⁸ states that, and I concur with this opinion, that this allowance should only be confined to ceding where the underlying underwritings made by insurance company do not contravene Sharī'ah principles. In that sense, a careful screening is needed to determine which areas that can be underwritten. Though it may be seen to be easy, to determine the methodology of screening is not as simple as it appears. Several questions need to be addressed:

1. Should we confine that to sector screening only, or should it be on financial ratio as well? The AAOIFI Sharī'ah standards on Retakāful is silent on that. Nevertheless, in Sharī'ah standard pertaining to investment in companies, the standard has adopted both screenings.²⁹ Should we follow this methodology, or should a different methodology be adopted in accepting ceding from insurance companies. If we screen the financial ratio as well, what about the practice of takāful when they underwrite any business? Do they confine themselves to sector screening only, or do they screen the financial ratio as well? All in all, this must be in tandem with that as different standards will lead to confusion in the market practice.
2. Reinsurance can be facultative and treaty insurances. Whilst screening facultative reinsurance is easy because the retakāful can decide whether to underwrite or not, screening on treaty

²⁸ *Ibid*, See also *Fatāwā al-Ta'mīn*, at 242.

²⁹ Sharī'ah Standard No 21 regarding dealing with shares of a company and rulings relating to the company, *al-Ma'āyir al-Shar'iyyah*, at 295 ff.

reinsurance is not simple due to the nature of treaty reinsurance which requires the retakāful to accept the whole bulk of treaty insurance that comes to them. Though I do not find any opinion directly on this matter, a fatwā from Sharī'ah Advisory Board, Sharikat al-Ta'min al-Islāmiyyah in Jordan has issued a fatwā which disallows Islamic takāful to enter into any co-insurance arrangement with conventional insurance, except in facultative insurance. This is because:³⁰ “..in this way, it can avoid underwriting non-Sharī'ah compliant activities.” This fatwā will definitely lead to the decision disallowing a retakāful company to accept ceding from conventional insurance, because the reason for the prohibition is the same here, i.e, to avoid retakāful companies underwriting non-Sharī'ah compliant activities through conventional insurance that it has accepted ceding from.

One may argue that this ruling, if to be followed, may defeat the purpose of allowing these retakāful companies to build up their capability by underwriting conventional insurance, especially in large and specialised risk (LSR) reinsurance, where the bigger part of reinsurance will be allocated. To solve the problem, some Sharī'ah Advisors allow for treaty retakāful on certain criteria. Some arrangements can be made (for example):

- i) Based on the experience of the market, the total non halal risk may not reach certain percentage (say for instance 10%). Therefore the retakāful companies are not allowed to underwrite above 20% (10% almost known non halal portion plus 10% precaution).
- ii) To agree with the insurance company, that in case where the claim is made against the non halal underwriting, the retakāful company would not be involved in the payment. In case of co-reinsurance with conventional co-reinsurance (as leader or follower), in the case of non-halal claims, the co-

³⁰

Fatwā Shar'iyyah Supervisory Board, *Sharikat al-Ta'min al-Islāmiyyah bi al-'Urdūn*. See: Fatwā al-Ta'min, at 245.

insurance will settle such claims. Certainly, the pricing of the insurance premium would need to be negotiated. Anyway, pricing of reinsurance underwriting is very much negotiable.

iii) If it is not possible, a mechanism of cleansing is needed and the Shari'ah supervisory board shall put in place such mechanism.

ii. Types of Reinsurance contract and can all these types be adopted in retakāful

In the previous section, I have attempted to explain the types of reinsurance contracts. I have to admit that this explanation is rather general and not detailed. This is because a detailed explanation on these types would require a large space which this paper is unable to accommodate. Nevertheless, this general discussion is sufficient to lead us to one important question - are all these types of reinsurance acceptable to be used in retakāful. What are the retakāful contracts and slips³¹ to be used? I have not seen any writing that clearly explains all types of reinsurance and how they are practiced within the ambit of retakāful. Nevertheless, we can approach it from two perspectives:

- a) If it is from takāful to reinsurance. Since it is based on needs (or necessity) and the practice of reinsurance itself is based on that, therefore, again the type of reinsurance contract is also based on needs and necessity.
- b) If it is from takāful to retakāful. The contract used is *tabarru'* and uncertainty in the contract is condoned. Therefore, the contract can be structured and devised in whatsoever way,

³¹

A cover note often includes more than one reinsurer to a reinsurance programme. At Lloyd's of London, the slip is carried from underwriter to underwriter for initialling and subscribing to a specific share of the risk. It is also known as binder.

provided it is acceptable and fairness is maintained to all parties.

After explaining types of reinsurance programme, Dr Muḥammad Sulaymān al-Ashqār noted that:³² “It is obvious that all these types of programme are acceptable for Islamic Insurance company to follow because the Islamic Insurance company which deals with all the contribution made will decide what it sees most beneficial to the participants, and I do not see anything in these types of programme that are blameworthy in Sharī‘ah.”

In my humble opinion, whilst it is true to state the above-mentioned reasons in subscribing to the reinsurance programme, and accepting all the types of reinsurance contract, I believe that we should also scrutinize these contracts to ensure that they are in line with the spirit of the Sharī‘ah in takāful and retakāful especially on the use of terms and conditions in the agreements. This is in line with the AAOIFI’s Sharī‘ah Standard which requires that the retakāful contract should be using a Sharī‘ah compliant retakāful contract.³³

iii. Fees paid by reinsurance and retakāful companies to takāful companies

The practice among the insurance and reinsurance companies is that the reinsurer will allow a ceding commission to the insurer to compensate the insurer for the costs of writing and administering the business (agents’ commissions, modeling, paperwork, etc.). In certain circumstances, the reinsurance will pay some “allowances” to the insurance company for “obtaining” business to the reinsurance.

There are three scenarios here:

a) Takāful ceding to conventional reinsurance. In this situation various rulings have been passed in not allowing takāful

³² Al-Ashqār, Muḥammad Sulaymān and others, *al-Ta’min ‘Alā al-Ḥayāh Wa I’ādat al-Ta’min*, *Buḥūth Fiqhiyyah Fi Qaḍayā Iqtisādiyyah*, Mu’āshirah, Dār al-Nafā’is, First Edition, 1998–1418, Vol. 1, at 33-34.

³³ Article 8/3 of Sharī‘ah Standard No. 41, *al-Ma‘āyir al-Shar‘iyyah*, at 565.

company to receive any payment or fees from reinsurance, neither to cover its cost nor for the commission. The Sharī'ah Standard of the AAOIFI on this matter states:³⁴

“It is not allowed for a takāful company to take any fees for reinsurance arrangement from conventional reinsurance, however, it is allowed for takāful company to ask for reduction in the amount of subsequent contribution (for the next ceding period).”

The same opinion has also been adopted by the Sharī'ah Supervisory Board of Bank Fayṣal al-Islāmī al-Sudānī. Nevertheless, instead of asking for reduction in the amount of subsequent contribution (as in the Sharī'ah Standard of AAOIFI), the Sharī'ah Board recommends that takāful company should negotiate with the reinsurance company that the actual contribution from the takāful company shall be on net contribution basis (initial contribution less commission fees).³⁵

On the other hand, the Sharī'ah Supervisory Board for al-Sharikat al-‘Arabiyyah al-Islāmiyyah li al-Ta’mīn opines that the takāful company can take the money but it should be channelled to charity.

- b) Takāful ceding to retakāful. The Sharī'ah Standard of the AAOIFI states that any payment made by retakāful company can be accepted by takāful company, but for the account of the takāful fund, not the takāful company.

Dr Sulaymān al-Ashqar opines that takāful company is only allowed to take payment for its “work” like modelling, paperwork, etc. However, it is not allowed for the takāful company to take any commission fees for its work.³⁶ It seems that he allows the company

³⁴ Article 7/2 of Sharī'ah Standard No 41, *al-Ma‘āyir al-Shar‘iyyah*, at 565.

³⁵ Fatwā Sharī'ah Supervisory Board, Bank Faisal al-Islāmī al-Sudānī, Fatwā No. 5. See: *Fatāwā al-Ta‘mīn*, at 243-246.

³⁶ *Ibid.*

to take the payment for the account of the company (i.e shareholders) and not the takāful fund.

The Shari'ah Supervisory Board of Bank Fayṣal al-Islāmī al-Sudānī, whilst allowing the takāful company to take fees, does not elaborate on the issue of under whose account the money shall be accounted for, to the account of the common takāful fund, or to the takāful company.³⁷

In my opinion, the takāful company can take any fees paid by retakāful company, but it must be accounted for the account of the takāful fund, not the takāful company. The company cannot claim that it is paid for the “work” that it did, as claimed by Dr. al-Ashqar. This is because, by taking the payment, the takāful company is actually paid twice for its job. It should be noted that when the participants contribute their money through the takāful company, the takāful company will take upfront fees for its work. Among its work includes managing the claims and expenses, and also cost for retakāful (including the work that they have to do to investigate the retakāful company, etc). So, they are paid already for the work and they cannot claim two payments for one job. Even to cover their actual cost, in actual fact, the fees that they take from the contribution already covers expenses related to the retakāful work. Therefore I believe, the takāful company cannot take the payment for itself. Nevertheless, the company may take the payment and direct it back to the common takāful fund.³⁸

Shaykh al-Ḍarīr also shares the same opinion that the company is already paid by the participants, and all its costs should be covered by the contribution made by the participant. He said:³⁹ “This practice (commission from reinsurance) is not right for the takāful company is rendering their service to the participants and

³⁷ Fatwā Shari'ah Supervisory Board, Bank Fayṣal al-Islāmī al-Sudānī, Fatwā No. 5. See: Fatāwā al-Ta'mīn, at 243-246.

³⁸ This opinion is also held by Dr. Aḥmad Sālim Mulhim, I'ādat al-Ta'mīn, Wa Tatbīqātihā Fī Sharikat al-Ta'mīn al-Islāmī, Dār al-Shaqāfah, Amman, 2005, at 154.

³⁹ Al-Ta'mīn al-Tijārī wa I'ādat al-Ta'mīn bi al-Suwar al-Mashrūhah wa al-Munawwa'ah, 'Amāl al-Nadwah al-Fiqhiyyah al-Thānīyah, Bayt al-Tamwīl al-Kuwaytī, Kuwait, 1990, at 135.

therefore, should take their payment for all its expenses from them, not from the reinsurance company...”

He nevertheless, did not allow for takāful company to take any commission. Instead, he suggested that the contribution should be on “*ṣāfi al-aqṣāt* (net contribution), as in takāful ceding to conventional reinsurance.”⁴⁰

What about the commission paid? According to Dr. al-Ashqar, the company should not take any profit from that work. I agree with him on that. Nevertheless, I believe that similar to the previous situation, the company shall take the money and pay it in the common takāful fund. This opinion is line with the Sharī‘ah Standard of the AAOIFI.⁴¹

It might be said that the payment made by the retakāful is as a “token” for the takāful company to bring business to the retakāful, but we should understand that the takāful is already paid for its works by the participants. So, if we allow them to claim twice, this may lead to conflict of interest, whereby they will try to find a retakāful company that can give them good fees. And if we say that the payment is a token for them to bring business to the retakāful, why do we allow them to claim only the actual cost? They should be allowed to also take some commission.

c) Insurance ceding to retakāful.

The Sharī‘ah Standard of the AAOIFI is silent on this. Nevertheless, Sharī‘ah Supervisory Board, Bank Fayṣal al-Islāmī al-Sūdānī, maintains that though a retakāful company is allowed to pay fees to an insurance company, it is preferable for the ratkaful company to accept ceding from the insurance company on net contribution basis, in order to maintain the different nature of the two systems of insurance.⁴² I believe that this opinion and reasoning is appealing and sensible. Therefore the retakāful company should be encouraged

⁴⁰ *Ibid*, at 136.

⁴¹ Article 9, Sharī‘ah Standard No 41, *al-Ma‘āyir al-Shar‘iyyah*, at 565.

⁴² Fatwā Sharī‘ah Supervisory Board, Bank Fayṣal al-Islāmī al-Sudānī, Fatwā No. 5. See: *Fatāwā al-Ta‘mīn*, at 246.

to accept ceding from conventional insurance (if it decides to do so) on net contribution basis.

iv. Capital Adequacy Ratio and Qard Hasan Fund

To acquire a good rating, it is important for the retakāful company to create a Qard Hasan Fund to ensure availability and capability of the retakāful company in case of a deficit call on the retakāful fund. This Qard Hasan is required to be allocated upfront for credit rating purposes.⁴³ The question here is that, who is the owner of the Qard hasan fund? Is it the company or the common retakāful fund? It is important to decide on this matter because this qard hasan fund would not be left unused. Instead it will be deposited in Islamic accounts that will generate return. This return belongs to whom?

To answer this issue, we will have to see how this qard hasan fund is established. If the qard hasan contract is concluded from the day the fund is created, then the common fund (where the participants are the owners of the fund) is the owner of the money, hence any return shall be accounted for the account of common retakāful fund. However, if the fund is created in the name of the company, or on trust for the future benefit of the common fund in case of a possible deficit call and no Qard contract has been concluded yet, and only a promise is given that in case of a deficit, the Qard hasan fund will be used to rectify deficit in the common retakāful fund to protect its solvency, then the retakāful company is still the owner of the fund and is therefore entitled absolutely to any return so generated.

v. Premium and loss reserve deposits held by takāful companies as security against retakāful / reinsurance

A proportional treaty may provide that the ceding company may retain the ceded reinsurance premium, sufficient to cover the

⁴³ See, for instance, Best's Rating Methodology to Insurance Companies and Understanding Universal BCAR - A.M. Best's Capital Adequacy Ratio for Insurers at <http://www.ambest.com/ratings/methodology.asp>, retrieved on 30 October 2009.

unexpired liability of policies in force. The intention of this reserve is to protect the ceding company against the inability of the reinsurer to pay claim. In the event that the reinsurers become insolvent, or unable to pay claims for any reason, the ceding company can purchase new reinsurance with the retained premium, or alternatively meet the reinsurers' share of future claims out of the premium reserve it was withholding. In other words, premium reserves are designed as a form of security against the non-performance of reinsurer.

Loss reserves have exactly the same purpose as premium reserves as they are also intended to secure the ceding company against the possible non performance of the reinsurer. Loss reserves cover those losses which have already occurred, but have not yet been paid to the ceding company as at particular date (usually the anniversary date of the treaty). The deposit is usually set at 40% of the annual premium, and it is usually retained in the account for the quarter, and released into the reinsurance account next year.

Each year that the treaty remains in force, the reinsurer will be deprived of investment earnings on the deposits held by the ceding company. Therefore the treaty may require the cedant to pay interest on the deposits it holds, specifying how the interest is to be calculated, and when it is to be paid. Two common methods are normally used:

- 1) Interest to be credited quarterly on the balance held at the commencement of the quarter; and
- 2) Interest to be credited annually on the amount released in each quarterly account.⁴⁴

What is the position of the Shari'ah in these situations?

- i) In the case of takāful ceding to retakāful
- ii) In the case of takāful ceding to reinsurance
- iii) In the case of retakāful accepting premium from conventional insurance.

To answer the questions, in my opinion:

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Carter & Lucas, *Reinsurance*, at 231-233.

- i) In the case of takāful ceding to retakāful.
It is allowed for takāful cedant to retain the amount as security for non performance. It goes without saying that the payment or receipt of interest is definitely unacceptable in this situation. Nevertheless, another arrangement can be made to the same effect. Therefore, there must be another arrangement on the structure, either *muḍārabah* or *wakālah*, for the takāful cedant to invest the money and share the profit (*muḍārabah*) or charge some fees (*wakālah bi al-istithmār*).
- ii) In the case of takāful ceding to reinsurance.
The takāful company is allowed to retain the reserves. Again a proper arrangement based on, either *muḍārabah* or *wakālah* shall be applied to encapsulate this relation, and there shall be no arrangement that leads to the payment of interest.⁴⁵ If this is not possible, the takāful cedant cannot have this arrangement at all,⁴⁶ they may, in lieu, want to request for less takāful “premium” based on net contribution.
- iii) In the case of retakāful accepting premium from conventional insurance.
It is allowed for retakāful company to allow the insurance cedant to retain the amount, but again a proper arrangement based on either *muḍārabah* or *wakālah* shall be raised to encapsulate this relation, and there shall be no arrangement that leads to the payment of interest. Further, they must have a positive and negative covenant that the insurance company shall only invest the money in shari'ah compliant investment. If this is not possible, and the retakāful company cannot have this arrangement at all, they may, in lieu, want to negotiate for less takāful “premium” based on net contribution to be made by insurance companies.

⁴⁵ Al-Ashqar, *al-Ta'mīn 'Alā al-Hayāh*, Vol. 1, at 36.

⁴⁶ Al-Zuhayli, *al-Ḍawābit al-Shar'iyyah*, at 138.

CONCLUSION

Though the practice of reinsurance is very important to takāful operators, the time has come for the regulators, shari'ah advisors, the management teams and all the stakeholders in takāful and retakāful to review the opinion that allows for ceding of takāful to reinsurance companies. The time and circumstances of the practice have changed. This shall warrant a revisit to the practice. Moving forward, several possibilities as mentioned have been explored to ensure the level of general need to continue the practice. On the other hand, the practice of retakāful underwriting the insurance businesses also needs a lot of attention and monitoring, especially on the business that the insurance companies cede to them, and the nature of their relationship, as the most important thing is again the level of need in this case. Additionally continuous effort shall be taken refine the retakāful contracts and slips to ensure better appreciation of Islamic principles and philosophy in the practice of takāful and retakāful.