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Administration of the Act

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Administration of the Act

Legislation

The takaful industry is governed by the Takaful Act 1984, which came into force on 1 January 1985. The Act empowers regulation making authority whereby Bank Negara Malaysia (BNM) may prescribe detail mandatory requirements under the relevant provisions of the Act. A list of the subsidiary legislation made under the Act, which was in force as at end 2001 are shown in Appendix I.

Registration of Takaful Operators

As at end 2001, two takaful operators have been registered under section 8 of the Act to carry on family solidarity takaful business (family takaful) and general takaful business. These two registered operators are Syarikat Takaful Malaysia Berhad (STMB) and Takaful Nasional Sendirian Berhad (TNSB). The addresses and names of the operators and their respective principal officers are given in Appendix II.

Syariah Supervisory Council

Under section 8(5)(b) of the Act, one of the requirements to registration as a takaful operator is for the Articles of Association of that operator to contain provision allowing for an establishment of the Syariah Supervisory Council. The main function of the Syariah Supervisory Council is to advise the operator to ensure that the operations of its business comply with the requirements of Syariah and to ensure that the activities of the takaful operator do not involve any elements not approved by Syariah. Both operators had set up their Syariah Supervisory Councils and the members of the Syariah Supervisory Councils are listed in Appendix III.

Appointment of Director, Chief Executive or Principal Officer of Takaful Operator

A takaful operator is required under section 32 of the Act to notify the Director General in writing of the fact that any person has become or ceased to be its managing director, director,

chief executive or principal officer. The notice must be given before the expiration of a period of 14 days from the day following the date where such information comes to the knowledge of the operator. As for the appointment of the managing director, director, chief executive or principal officer, the takaful operators are required under an administrative requirement imposed by BNM, to obtain prior written approval of the Director General. This is to ensure that only fit and proper persons are appointed to the management team of the takaful operators. In year 2001, BNM had been notified that one director and the principal officer of one takaful operator had ceased office. Approval was granted to the takaful operator to appoint a new director and an acting principal officer to replace the director and the resigned principal officer respectively.

New Offices of Takaful Operators

It is the requirement of section 30 of the Act that prior written approval of the Director General must be obtained before a new branch office in Malaysia can be opened by a takaful operator. However, pursuant to Bank Negara Malaysia's (BNM) circular JPI: 33/1999 on 'Review of Branching Policy', enforced with effect from 27 August 1999, takaful operators were granted blanket approval to place electronic terminals and install internet websites. Pursuant to the same circular, the processing for branching was streamlined whereby applications for the opening of offices will be processed twice a year, namely at the end of March and September. In year 2001, approval was granted to one takaful operator to set up a new branch office. The total number of takaful branches and takaful desks as at 31 December 2001 was 125.

Statutory Accounts and Valuation Reports

Within six months from the close of their financial year, takaful operators are required under sections 41 and 42 of the Act to submit to the Director General statements of accounts as prescribed in the Second Schedule of the Act. In addition, takaful operators carrying on family

takaful business are required to lodge an abstract of their respective actuarial report and certificate. For the financial year ended 2001, both takaful operators have submitted their statutory returns within the prescribed deadline. Extracts of the statutory returns are appended to this Report as statistical tables.

Statutory Asset Requirements

Assets of Takaful Funds

Sections 17(2)(a) and 17(2)(b) of the Act respectively requires takaful operators to maintain at least 80% of each takaful fund in authorised Malaysian assets specified in the First Schedule of the Act and at least 15% of each takaful fund in securities of the Federal or State Government issued in Malaysia.

During the year, one takaful operator did not comply with the requirements of sections 17(2)(a) and 17(2)(b) in respect of its general and family takaful funds. The non-compliance of section 17(2)(a) was due to the restrictions of the authorised Malaysian assets as prescribed in the Act, while the non-compliance of section 17(2)(b) was caused by the inadequate supply of Government Investment Issues in the market. However, part of the takaful funds are invested in low risks assets including Government guaranteed bonds and private debt securities with minimum rating of BBB or P3 as specified by BNM. The takaful operator was reminded to rectify the non-compliance. Meanwhile, BNM is also reviewing this requirement.

Statutory Deposits

Under section 13 of the Act, the takaful operators are required to maintain a deposit with the Accountant General of Malaysia at all times the prescribed amount in respect of each class of business. This deposit can be held in the form of cash or securities as specified in the First Schedule of the Act, or a combination thereof as long as it is not contrary to Syariah. Section 14 of the Act further provides that a bank covenant issued by a bank licensed under the Islamic Banking Act 1983 is also acceptable in lieu of the statutory deposit, provided the covenant complies with the requirements of the Director General. All income accruing in respect of such deposits are payable to the takaful operator concerned. This deposit may be utilised if there is any winding up process of the

operator and also for purposes of meeting liabilities of issued certificates. In the event of any shortfall due to fluctuations in the value of securities, the Director General may direct the takaful operators to add up to that required amount. In year 2001, both takaful operators complied with the statutory deposit requirement.

Changes in Equity

As at end 2001, the total paid-up capital of takaful operators was RM90 million. The distribution of ownership in both takaful operators achieved the National Development Policy with effective Malaysian equity participation accounting for 99.9%, of which 97.6% constituted equity held by Bumiputera.

Examination

The Insurance Supervision Department of BNM conducted examinations on the takaful operators in 2001 to ensure that they carried out their operations in a safe and prudent manner in meeting their obligations to participants. The examinations covered an in depth review of the operators' earnings performance, management, asset quality and solvency position under the EMAS framework. The areas of concern highlighted in the examinations formed the basis for remedial measures. In this regard, the commitment of the Board and management of the operators were sought to address the findings raised by the examiners.

Employment

Total employment in the takaful industry increased by 15.5% from 1,345 as at end 2000 to 1,553 as at end 2001. Staff at the managerial and supervisory levels accounted for 55.2% of the total employment while the rest are in the clerical and non-clerical categories.

Compounding of Offences

The Takaful (Power to Compound) Regulations 1985 which was made pursuant to section 61 of the Act empowers the Director General to compound offences committed under the Act. As in the previous years, no takaful operator was compounded under the Act in 2001.

Public Complaints

In year 2001, BNM received 60 written complaints against the takaful operators. Most of the complaints were related to delay in settlement of claims, delay in reply to correspondence, repudiation of claims or disputes on claims amount. Out of these complaints, 88% have been resolved with the respective takaful operators. Others are still being reviewed by the respective takaful operators and awaiting response from the conventional insurance companies as well as the Insurance Medation Bureau.