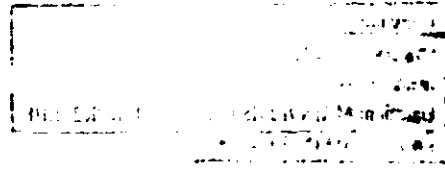


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The Chancellor Guide to the Legal and Shari'a Aspects of Islamic Finance

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A Chancellor Publication

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478271

Copy no:	11144 303
Initial:	Roslina Hasan
Date:	11/11/10
Location:	MAIN/PJ/ISTAC/NILAI/K/K2/TIBF

Chancellor Publications Limited
32-33 Hatton Gardens, London EC1N 8DL, United Kingdom
Telephone: +44 (0) 20 7269 9150
Facsimile: +44 (0) 20 7269 9151

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ISBN 978-1-899217-09-0

First published July 2009

Text design: The Flying Fish Studios Ltd
Printed in Malta by Gutenberg Press

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Takaful: Philosophy, Legitimacy and Operation

Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah

13.1 The Philosophy of Takaful

Islam as a way of life emphasises on the balanced well-being and development of an individual at various levels; personal, family, society, state and the ummah at large. Islam prescribes guidelines and prioritises rights and obligations as a basis of interaction among people at each different level – integrated in the five objectives of the Shari'a (popularly known as the maqasid al-Shari'a).

- The obligation to protect the Religion
- The obligation to protect the life
- The obligation to protect the mind.
- The obligation to protect the wealth
- The obligation to protect the progeny.

These objectives are a device to prevent harm and bring benefits not only to individuals, but also to the whole community. Failure to preserve or even promote these objectives will lead to total disruption and disorder in society. And it is in the light of these objectives that Islamic insurance (takaful) assumes a broader and more holistic significance to Muslims.

The recent surge of interest in takaful is widely attributed to the incompatibility of conventional insurance with the Shari'a. In a conventional insurance contract with a proprietary insurance company, the insurer takes money (premium) from the insured with the hope of making a commercial profit. The company anticipates that the claims made by the insured, for the period covered by the insurance, would be less than the amount of the premium. This invokes the issue of gambling (maysir) which is prohibited in Islam. Moreover the insured pays for an uncertain