Takaful refers to cooperation among a group of individuals to mutually guarantee and aid each other in order to meet certain needs as agreed amongst them, such as, providing compensation for a particular loss or any other kind of financial needs. Such cooperation involves contribution of money based on tabarru` concept (voluntary contribution) by all takaful participants. A specific fund will be established as the source of monetary assistance to any participant in accordance with the terms and conditions as agreed amongst them. In line with the concept of mutual assistance (ta`awun) and the need of the Muslims to have a Shariah compliant alternative to the conventional insurance, the takaful industry has developed rapidly into a viable industry that is integrated into the main stream of the national financial system.

41. **Takaful Model Based on Tabarru` and Wakalah**

A takaful company proposed to adopt a takaful model based on tabarru` and wakalah. Under the concept of tabarru`, the takaful participants agree to relinquish all or a portion of their contribution as donation to aid other takaful participants who suffered particular losses or difficulties.

Under the wakalah contract, the takaful participants will appoint the takaful company as their agent to manage the takaful fund, which covers management of investment and payment of claims, retakaful, technical reserve and management costs. In return, the takaful company will receive commission or fee for the services rendered. The fee may be charged as a fixed amount or according to an agreed ratio based on investment profit or surplus in the takaful fund.

In this regard, the SAC was referred to on the issue as to whether the proposed takaful business model based on tabarru` and wakalah is permissible.
Resolution

The SAC, in its 24th meeting dated 24 April 2002, has resolved that the takaful business model based on tabarru` and wakalah is permissible. The wakalah contract is concluded between the participants and the takaful company, whereas the tabarru` contract is concluded amongst the participants only.

In the 2nd special meeting dated 18 June 2007, the SAC has also resolved that a retakaful business model based on tabarru` and wakalah is permissible in Shariah.

Basis of the Ruling

Tabarru` concept is a recognised concept in Shariah. This is based on the following verse of Allah SWT:

وَتَعاَوَنُواْ عَلَى ٌالْإِيَّاَرَ وَالْمَكْتُوبَ وَلَا تَعاَوَنُواْ عَلَى ٌالْإِيَّاَرَ وَالْمَعْدُوْنَ

“...help one another in furthering virtue and God consciousness, and not in what is wicked and sinful...” 66

The permissibility of applying tabarru` in takaful business operation is also consistent with the resolution of OIC Fiqh Academy which recommends the application of tabarru` concept in developing takaful institution.67

In addition, there is no objection in Shariah on application of wakalah in takaful business operation since scholars have unanimously agreed on the permissibility of wakalah. Wakalah is a contract between a party (principal) who appoints another party (agent) to perform certain duty on behalf of the principal in representable or assignable matters according to Shariah perspective, either voluntarily or with imposition of fee. In the contexts of takaful and retakaful, wakalah fee is paid by the participants to the takaful company as an agent for performing certain duties. The rate and mode of payment of the fee are subject to the agreement of the contracting parties.

66 Surah al-Ma‘idah, verse 2.
67 OIC Fiqh Academy, Majallah Majma` al-Fiqh al-Islami, 1985, 2nd Convention, resolution no. 9 (2/9).