

Speech at FWU

Branch Opening in Dubai

(on 18 October 2003)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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الحمد لله وحده والصلاة والسلام على من لا نبي بعده وعلى آله وصحبه .. وبعد:

Brothers & Sisters

Respected Colleagues,

It is indeed a great honor and pleasure to be with you today albeit not in person. The area of wealth management is an essential part of any modern banking industry. It was thought that this is a field closed to Islamic finance. Not any more. We are witnessing here the birth of a whole new industry that will not only meet the needs of Muslim savers and investors but it will create opportunities limited only by our imagination.

As the Chairman of the FWU Shari'ah board I would like to congratulate Dr. Manfred Dirrhemer, Mr. Sohail Jaffer, Mr. Ikram Shakir and all members of the team.

The dedication I saw at FWU especially Mr. Ikram Shakir is truly exceptional. I never felt FWU wanted to be just another face in the crowd. They were keen to produce something unique and so superior to everything else in the market that it had to take a great institution like NCB to really appreciate it.

But this is now history. Let us today start thinking of the "encore"

As a member of the Shari'ah board of NCB, I would like to congratulate Mr. Abdul Hadi Shaif, Mr. Abdulkareem Abu Alnasr for this exceptional accomplishment. In the last few years NCB has done all the right moves to position itself at the forefront of the banking sector in Saudi Arabia and to become a truly world-class bank. A breed apart. You need not be a customer of NCB to know this. Just pick up the phone and call the 800 number and you can immediately feel the difference. An institution that respects its customers, value them and most importantly listen to them. NCB tried and succeeded in being number one in everything it does. Al-Ahli Takaful is no exception.

Now, I would like to seize this opportunity to say a few words about the concept of Takaful.

Insurance, no matter what kind, is pooling of risks and applying the law of large numbers. The peril will only affect a small portion of those whose risks are pooled. Hence, if our probability calculation is accurate, a small premium from every one in the pool will be sufficient to compensate fully the small portion who will suffer during the term of the policy.

The problem with conventional insurance is that it creates an "exchange contract" between the insurance company and the insured in the form of "policy". It simply says: you pay a premium of \$ 100, and you will be covered from the specified risk (fire for example). If your house is destroyed by fire, the company will pay; say \$500,000 as compensation. This is problematic from Shari'ah point of view.

An exchange contract (such as sale contract) must be free from Gharar (contractual uncertainty). This means that the rights and obligations of the two parties must not be uncertain. If they are only probable, the contract is void. If we look at the conventional insurance contract we see that the insured will pay a "certain" premium in exchange for a "probable" payoff. Hence, the contract is void.

It is an established rule in Shari'ah that "Gharar" will only void exchange contracts and not benevolent contracts such as

"Takaful". In other words, if I sell a sealed box the content of which is not known, then such sale contract may be void for the content may turn out to be equal, much more, or much less than the paid price. This is Gharar because one party has received a "certain" price, the other bought an "uncertain" stuff. However, it would be O.K from Shari'ah point of view to give that same box as a gift or as an altruistic contribution or donation even though the Gharar remains but it will not void the contract (in Shari'ah a gift is also considered a contract).

The whole concept of Takaful is based on the idea of moving the insurance program from the realm of exchange contracts to that of benevolent giving.

Hence, the structure of Takaful does include that same idea of pooling risks and applying the law of larger numbers.

However, the form of contract is different. The insurance company will now manage this pool, and the insurance policy is simply a certificate through which the holder participates in the pool. What he pays is not a price but a contribution which may be considered a donation to this Takaful scheme. As a manager, the insurance company needs to manage the pool for the benefit of the participants. Insurance Company is only an agent and not an owner of the pool. It is compensated either by receiving

management fees based on the net asset value of the pool, or a portion of profit generated from investing the same (or both).

Takaful, therefore, have two contractual arrangements. One between the insurance company and the totality of the participants represented by this pool. This is an agency contract. The other between the insured themselves being partners in the pool and this is the Takaful contract.

Contributions are collected by the manager (insurance company), compensations are paid to those who are subject to the peril and then at the end of every year the manager will see the pool. If there is extra money, it should be paid back to the participants for this is their pool. If funds are not sufficient, then the manager should re-asses these basic contributions and go back to all participants for payment of more in the pool.

Because going back to the participants is not easy especially on our countries (although it is well known and practiced in the U.S.A). Takaful companies do two things to avoid these eventualities:

- 1- They purposely increase the donation rate (the equivalent of premium) so that they are saved from shortage.
- 2- They extend an interest free loan to the pool that can be collected at a late stage from donations.

This Takaful program is capable of serving every insurance need. It can be a substitute for life, auto, and fire ... etc. It can also be part of saving-cum-life, or disability insurance program, as is the case with Al-Ahli Takaful.

It goes without saying that the investment of this pool must be in line with Islamic Shari'ah.

Thank you very much.