

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

KEVIN J. MURRAY,

Plaintiff,

v.

TIMOTHY F. GEITHNER, in his official
capacity as Secretary, U.S. Department of
Treasury; BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM,

Defendants.

Case No. 08-CV-15147

Hon. Lawrence P. Zatkoff

Magistrate Mona K. Majzoub

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DECLARATION OF ROBERT SPENCER

I, Robert Spencer, make this declaration pursuant to 28 U.S.C. § 1746 based on my personal knowledge:

1. I am an adult citizen of the United States and declare the following to be true and correct based upon my personal knowledge and expert opinion.

2. I am an expert on the subjects of Islam, Shariah, and Shariah-compliant finance, including takaful (i.e., Shariah-compliant insurance products), as more specifically set forth in my Supplemental and Amended Disclosure of Expert Testimony pursuant to Federal Rule of Civil Procedure 26, a true and correct copy of which is attached hereto as Exhibit A (“Spencer Report”), and which is incorporated herein by this reference.

3. I was asked by Plaintiff Murray’s legal counsel to review and analyze the following materials:

- First Amended Complaint (Doc No. 26);
- Relevant excerpts from AIG’s website, including an “About Us” Web page (Doc No. 6-2, Ex. I), a “FAQs” Web page (Doc. No. 6-2, Ex. H), and an online Microsoft PowerPoint presentation posted as a hypertext-linked file titled, “What is Takaful?” (a true and correct copy of which is attached hereto as Exhibit B), all of which were accessible through an AIG website on or about May 9, 2008, and which remained published until sometime in 2009, after the filing of this lawsuit (original hypertext-links available at: <http://www.aigtakaful-enaya.com.wstub.archive.org/aig/takaful/aboutus.jsp> and now archived and available through hypertext-links accessed through the Web page located at

<http://web.archive.org/web/20080527124141/http://www.aigtakaful-enaya.com/aig/takaful/index.jsp> (last accessed on May 27, 2010)).

- AIG news release, announcing the introduction of a series of Shari'ah-compliant product offerings in the United States (a true and correct copy of which is attached hereto as Exhibit C); and
- All of the affidavits of various employees, officers, and directors of AIG and AIG subsidiaries filed by Plaintiff Murray concurrently herewith.

4. I reviewed this material in a manner consistent with expert analysis of such materials by professionals with an expertise in the subjects of Islam, Shariah, and Shariah-compliant financial products including takaful (i.e., Shariah-compliant insurance products).

5. The conclusions of my analysis as contained in the expert opinions set forth in the Spencer Report (and as more specifically set forth in Section I, paragraphs 1-13) remain valid, and I declare these to be my opinions for purposes of this declaration.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 1 day of June 2010.



Robert Spencer

EXHIBIT A
SPENCER REPORT

FEDERAL RULE OF CIVIL PROCEDURE 26

SUPPLEMENTAL AND AMENDED DISCLOSURE OF EXPERT TESTIMONY

ROBERT SPENCER

Case: *Murray v. Geithner, et al.*

Case No: 2:08-cv-15147-LPZ-MKM

Expert's Background and Experience

I am the director of Jihad Watch, a program of the David Horowitz Freedom Center, and the author of ten books, including the *New York Times* bestsellers *The Truth About Muhammad* and *The Politically Incorrect Guide to Islam (and the Crusades)* (both Regnery). I am coauthor, with Pamela Geller, of *The Post-American Presidency: The Obama Administration's War On America* (to be published July 2010 by Threshold Editions/Simon & Schuster).

I have led seminars on Islam and jihad for the United States Central Command, United States Army Command and General Staff College, the U.S. Army's Asymmetric Warfare Group, the FBI, the Joint Terrorism Task Force, and the U.S. intelligence community.

I have also written eleven monographs and hundreds of articles about jihad and Islamic terrorism. Along with the above books, I am the author of *Islam Unveiled* (Encounter); *Onward Muslim Soldiers* (Regnery); *Religion of Peace?* (Regnery); *Stealth Jihad* (Regnery); and *The Complete Infidel's Guide to the Koran* (Regnery). I am coauthor, with Daniel Ali, of *Inside Islam* (Ascension), and editor of the essay collection *The Myth of Islamic Tolerance* (Prometheus). My books have been translated into many languages, including Spanish, Italian, Finnish, and Bahasa Indonesia.

I have completed a full Qur'an commentary, *Blogging the Qur'an*, at Jihad Watch. It has been translated into Czech, Danish, German, Italian, Spanish and Portuguese. I am a contributing writer to Steven Emerson's Investigative Project on Terrorism. My articles on Islam and other topics have appeared in the *New York Post*, the *Washington Times*, the *Dallas Morning News*, Canada's *National Post*, *Middle East Quarterly*, *WorldNet Daily*, *First Things*, *Insight in the News*, *National Review Online*, and many other journals.

I've discussed jihad, Islam, and terrorism at a workshop sponsored by the U.S. State Department and the German Foreign Ministry. I have been a featured speaker at Dartmouth College, Stanford University, New York University, Brown University, the University of North Carolina at Chapel Hill, the University of Virginia, the College of William and Mary, Washington University of St. Louis, the University of Wisconsin at Madison, the University of Wisconsin at Milwaukee, and many other colleges and universities.

I have an MA in Religious Studies from the University of North Carolina at Chapel Hill and have been studying Islamic theology, law, and history in depth since 1980. As an Adjunct Fellow with the Free Congress Foundation in 2002 and 2003, I wrote a series of monographs on Islam: *An Introduction to the Qur'an*; *Women and Islam*; *An Islamic Primer*; *Islam and the West*; *The Islamic Disinformation Lobby*; *Islam vs. Christianity*; and *Jihad in Context*. More recently I have also written monographs for the David Horowitz Freedom Center: *What Americans Need to Know About Jihad*; *The Violent Oppression of Women In Islam* (with Phyllis Chesler); *Islamic Leaders' Plan for Genocide*; and *Muslim Persecution of Christians*.

I have written well over three hundred online articles about jihad and Islamic terrorism. The overwhelming majority of these can be found in these archives:

http://www.humanevents.com/search.php?topic_name=Jihad+Watch

<http://frontpagemag.com/author/robert-spencer/>

<http://frontpagemag.com/?s=Robert+Spencer>

<http://www.nationalreview.com/search/?q=Robert+Spencer&sa=Search+NRO&cx=partner-pub-7596656896688386%3Aktx6rmwscfs&cof=FORID%3A9&ie=ISO-8859-1#1011>

The data or other information considered by me in forming my opinions in this matter are contained herein, and include the First Amended Complaint, relevant excerpts from AIG's website, a takaful powerpoint included on the AIG website, and the December 2008, AIG news release, announcing the introduction of a series of Shari'ah-compliant product offerings in the United States.

Statement of opinions:

1. AIG, in conducting Sharia-compliant financing and insurance ("SCF"), is engaging in religious behavior because it subjects AIG to the dictates of a comprehensive financial system that is inextricably connected to Islamic law, which is not just a system of religious observances but a political and societal system. In sum, by engaging in SCF, AIG is engaging in an Islamic religious activity.
2. Islamic law (Sharia) inculcates hatred of and discrimination against Jews, Christians, and all others who do not accept the Qur'an as a divine book and Muhammad as a prophet. It mandates business practices that favor Muslims over non-Muslims.
3. By engaging in SCF, AIG thereby fosters an atmosphere of inequity, in which non-Muslims do not enjoy full rights as citizens, and do not enjoy the status of Muslims who adhere to Sharia—who thus become privileged members of the political class.

4. In abetting the spread of Sharia provisions in the U.S., AIG is abetting the same legal system that contains the principles that motivated the Islamic jihadists who murdered nearly 3,000 American citizens on September 11, 2001. This is so because al Qaeda bases all of its actions on Sharia.

5. AIG offers Takaful Insurance plans. By AIG's own account, this is "[i]nsurance that avoids prohibited elements in accordance with the Sharia law." It volunteers that it refuses to invest in anything forbidden by Sharia, and does not "borrow, lend or enter into any financial transaction that is unIslamic." This necessarily involves large segments of the American economy: anything involving interest, pork, or other things prohibited under Sharia.

6. AIG's involvement in Takaful Insurance necessitates its favoring of Muslims over non-Muslims and is based upon the authority of Islamic law. This is particularly and most clearly apparent regarding interest and the restructuring of financial transactions to avoid the appearance of charging interest. Thus, AIG is involved in supporting and promoting Islamic religious practices and principles.

7. In Islamic doctrine, Islamic law—Sharia—is not human law but divine law, the unalterable and perfect law of Allah. Its sources are the Qur'an and the Sunnah. AIG explicitly adopts Islamic religious language when it defines Sharia as "Islamic law based on Quran and the teachings of the Prophet (PBUH)." PBUH, Peace Be Upon Him, is a phrase Muslims say or write after mentioning an Islamic prophet.

8. Muslims consider the Qur'an to be the perfect and eternal divine word, valid for all time unless abrogated by another divine word as per Qur'an 2:106. The Sunnah is made up of the words and deeds of Muhammad, the excellent example of conduct for Muslims (cf. Qur'an 33:21). There is no higher authority for Muslims.

9. Islamic apologists hold as a point of pride the dictum that Islam is a total way of life. They eschew the West's sacred/secular distinction. Allah is the sole authority for every Muslim, superseding every authority, and governing every aspect of human existence and human behavior. Thus, Islam is not simply a religion in the Western sense, but a political, economic and social system as well. Consequently, Sharia is incompatible with the U.S. Constitution's non-establishment of religion.

10. Timur Kuran, a professor of economics and law at the University of Southern California, has explained why Muslim states and organizations are pushing Sharia finance so aggressively: "The real purpose of Islamic economics," Kuran explains, "has not been economic improvement but cultivation of a distinct Islamic identity to resist cultural globalization. It has served the cause of global Islamism, known also as 'Islamic fundamentalism,' by fueling the illusion that Muslim societies have lived, or can live, by distinct economic rules."

11. Traditional Islamic theology divides the world into two parts: the *dar al-Islam*, house of Islam, where Sharia prevails, and the *dar al-harb*, house of war, where non-Muslim laws and norms prevail. Muslims collectively have a responsibility to wage war to increase the dar al-Islam at the expense of the dar al-harb. The West and the U.S. are, of course, within the dar al-harb.

12. Islamic doctrine mandates no end to the conflict between the dar al-Islam and the dar al-harb until Sharia prevails over the entire world: the Qur'an commands Muslims to fight unbelievers "until all opposition ends and all submit to Allah" (8:39).

13. The mechanism for spreading Sharia is jihad. This may take the form of a hot war, or of economic, political, or other measures, but whatever the means, the goal is the same: Muslims must fight against even the "People of the Book," i.e., primarily Jews and Christians, until the non-Muslims "pay the jizya [a religion-based poll tax] with willing submission, and feel themselves subdued" (Qur'an 9:29). This necessarily involves a denial of equality of rights to non-Muslims in Islamic societies—a status that Islamic law codifies and commands.

14. This jihad is not fought in order to force people to convert to Islam; in fact, Sharia forbids forced conversion in accord with Qur'an 2:256, "there is no compulsion in religion." Rather, the purpose is to extend the rule of Sharia everywhere possible. As the influential Pakistani jihad theorist Maulana Maududi (1903-1979) put it, "[T]he purpose for which the Muslims are required to fight is . . .to put an end to the suzerainty of the unbelievers so that the latter are unable to rule over people. The authority to rule should only be vested in those who follow the True Faith."

15. Muslims who adhere to a particular school of Islamic jurisprudence (*madhhab*) generally consider themselves bound to obey the legal rulings (*fatawa*, singular *fatwa*) of its leading authorities. This includes the realm of Sharia finance.

16. No Islamic sect or school of Islamic jurisprudence considers individual Muslims free to ignore the teachings of recognized Sharia authorities.

17. Sharia finance involves the rejection and avoidance of investment in or dealing with financial transactions and industries that Islam forbids: interest, pork, alcohol, gambling, pornography, etc.—including any business involved with the U.S. military or any other entity considered to be "at war with Islam."

18. Sharia also obliges Muslims to contribute at least 2.5% of their annual income in *zakat*, or almsgiving. This is one of the five pillars of Islam. No able-bodied Muslim is excused from this obligation.

19. *Zakat* contributions often go to Islamic charities, many of which have been found, both in the U.S. and Europe, to have funneled contributions to jihad terrorist groups. This should not be surprising, since contributions to jihad activity is one of the purposes of *zakat* as specified by Islamic law.

20. Muslims who have engaged in forbidden financial transactions are obliged to make restitution by contributing to an Islamic charity.

21. Sharia is by its very nature not “moderate,” but supremacist, intolerant, violent, and intransigent.

My qualifications as an expert witness are included in the material at the beginning of this document, outlining my experience and publications.

My study, case preparation, and testimony in this matter is offered pro bono.

I have provided expert testimony previously in the following cases:

- *Elkund et al. v. Byron Union School District, case no. C-02-3004-PJH*
- *Skoros et al. v. City of New York et al., case no. 02-CV-6439*

A handwritten signature in black ink, appearing to read "Robert Jensen". The signature is fluid and cursive, with the first name "Robert" written in a larger, more prominent script than the last name "Jensen".

Signed:

Date: April 19, 2010

EXHIBIT B

AIG PowerPoint Presentation: “What is Takaful?”

Introduction

- ❧ Terminologies
- ❧ Takaful 101
- ❧ Takaful Process
- ❧ Key Features of a Takaful Model
- ❧ Need for Takaful Insurance
- ❧ Geographical Spread of Takaful Business
- ❧ Current Market Conditions
- ❧ 2015 Projections
- ❧ The Trend
- ❧ Challenges faced by Takaful
- ❧ Lines & Territories

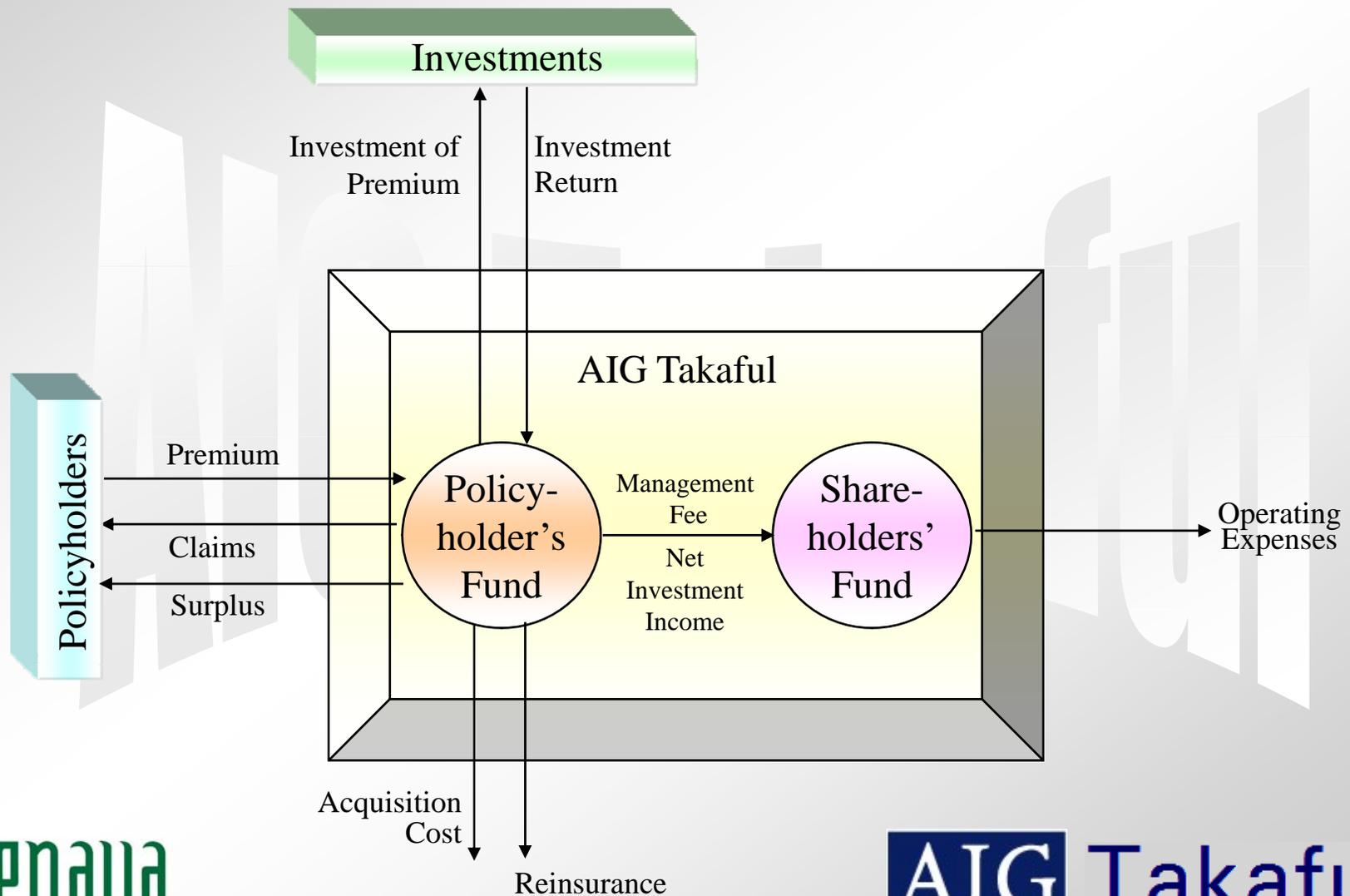
Terminologies

- ❧ Sharia : Islamic law based on Quran and the teachings of the Prophet (PBUH)
- ❧ Participants : Policyholders
- ❧ Operator : The company that invests the capital (aka shareholder)
- ❧ Haram : Prohibited elements in Islam according to Sharia
- ❧ Takaful : Insurance that avoids haram elements in accordance with the sharia law.
- ❧ General Takaful : Islamic equivalent of General Insurance
- ❧ Family Takaful : Islamic equivalent of Life Insurance
- ❧ Donation : Premiums paid by participants
- ❧ Benefits : Claims paid back to participants
- ❧ Wakala Fee : Fee paid by participants to operator
- ❧ Surplus : underwriting profit (belongs to participants)

Takaful-101

- ❧ In 1985 Islamic Fiqh (science of Sharia) Academy declared conventional insurance as unIslamic due to
 - ❑ Interest
 - ❑ Uncertainty (Gambling)
 - ❑ Investments in alcohol, entertainment, pork etc. companies
- ❧ Takaful - an Islamic alternative (avoiding the above)
- ❧ Similar to a conventional mutual insurance program
- ❧ Based on Sharia (Islamic) principles
- ❧ Models
 - ❑ Mudarabah (sharing of u/w profit with the operator)
 - ❑ Wakalah (agency)
 - ❑ Waqf (endowment fund)
- ❧ Sharia Compliant Investment strategies
- ❧ Retakaful – Sharia compliant reinsurance of Takaful companies

Takaful Process (Wakala Model)



Key Features of a Takaful Model

- Cooperative Risk-sharing for Protection
(cooperative risk sharing alone is not sufficient)
- Clear segregation of Operator and Participants Funds
- Qualified Sharia Board
- Sharia compliant Investment strategies and overall management

Need for Takaful Insurance

- ❧ Muslim countries only account for 5% of the global insurance market although they represent 25% of the world's population
- ❧ Most Muslim countries are on earthquake zones
- ❧ Improved education among Muslims – awareness of Insurance needs
- ❧ Enhancement of Islamic finance and banking
- ❧ Global economic growth
- ❧ Insurance penetration among Muslim countries as a % of GDP is relatively low: between 0.5% and 1.5%

Takaful – also an Ethical product

- ❧ Islamic financial services can also focus on non-Muslim consumers by emphasizing their high quality services, the opportunity to gain monetary reward as well as introducing them to a new way of life.
- ❧ Takaful can also be the alternative solution in Tariff driven Markets, e.g. Malaysia.
- ❧ Transparency of investment strategy with respect to ethical investment alternative.

Geographical Spread of Takaful Business

Country	Takaful	% of Total
Malaysia	\$143m	27%
Other Asia Pacific	\$50m	9%
Europe, Asia	\$6m	1%
Arab Countries	\$340m	63%
Total	\$538m	100%

These are estimated figures – 2000

http://www.islamic-banking.com/aom/takaful/ma_bhatti.php

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AIG Takaful

Current Market Conditions

- ⌘ High Capitalization frenzy to enter Takaful & Re-Takaful Markets:
 - ❑ Solidarity (2003): Paid up capital of USD 100M
 - ❑ Takaful Re Ltd. (2005): ARIG – Paid up capital of USD 125M
 - ❑ Salama Islamic Arab Insurance Co: Paid up capital of USD 272M
 - ❑ Owns BEST Re – worlds largest Re-Takaful company with over 60% global market share

- ⌘ AIG would be the first Multinational Takaful operator

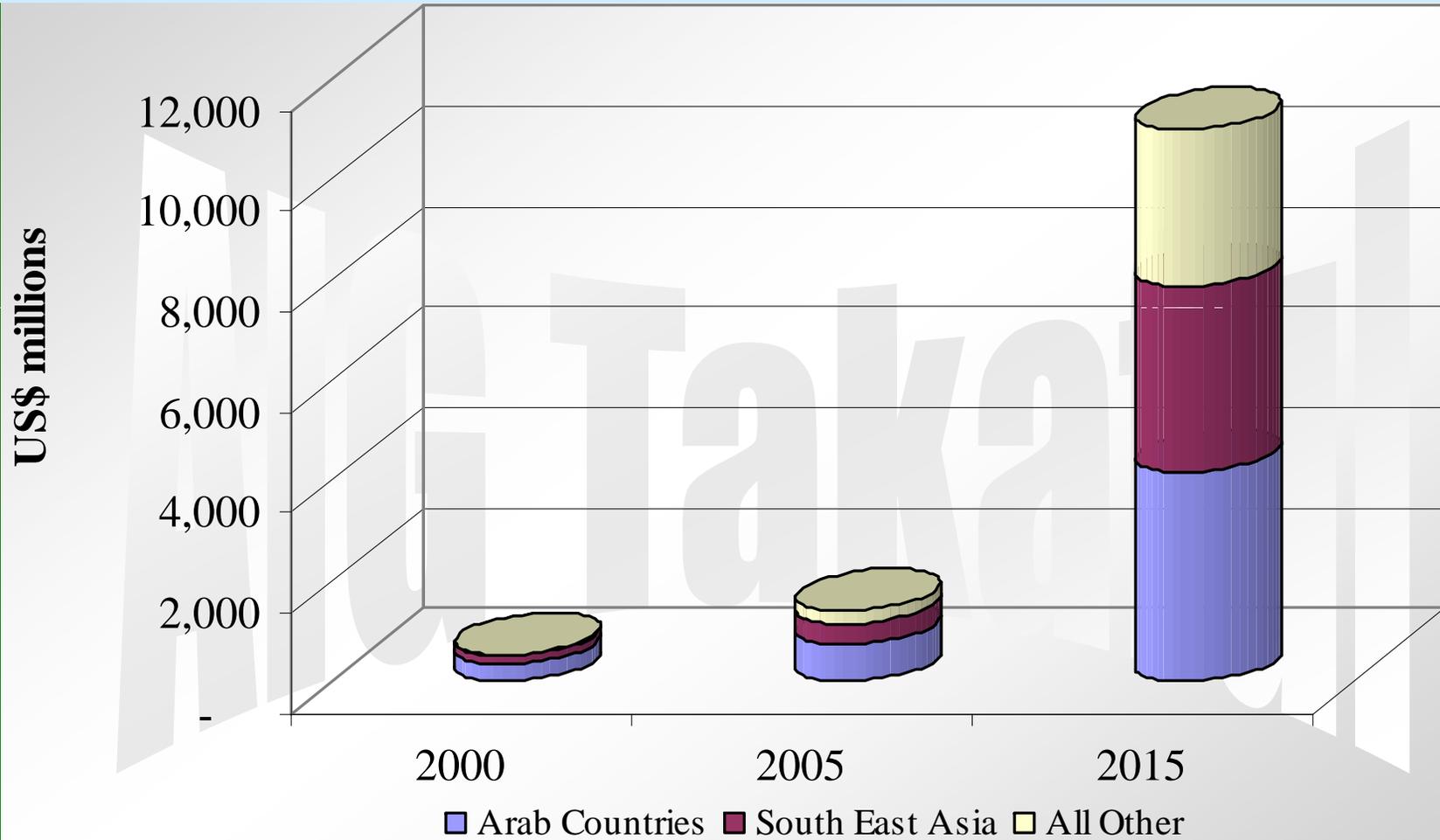
2015 Projection

Sector	US\$ (billion)	%
Global Conventional Insurance	1,600	99.3
Global Takaful Market	11	0.7
Total Insurance Industry	1,611	100.0

Region	US\$ (million)	%
Arabian Countries	4,200	38.2
South East Asia	3,700	33.6
All Other	3,100	28.2
Total	11,000	100.0

Type	US\$ (million)	%
General	4,125	37.5
Family	6,875	62.5
Total	11,000	100.0

The Trend



Challenges faced by Takaful

- ❧ Customer unawareness
- ❧ Islamic Financial Institutions need to distinguish their products
- ❧ Lack of variety among Islamic financial instruments
- ❧ Competition with Conventional Institutions
- ❧ Limited ReTakaful Capacity

Lines & Territories

- Personal & Retail Lines
- Property & Casualty
- Financial products - IFIs
- Marine coverage
- Energy
- Countries with high spending power (e.g. UAE, India etc.)
- Major industrial growth
- High concentration of risk

Takaful is it just an alternative?

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AIG Takaful

EXHIBIT C

**AIG December 1, 2008, Press Release Announcing Takaful Products for the
Domestic Market in the United States**

News



Contact: Peter Tulupman
Public Relations Manager
(212) 770-3141

RISK SPECIALISTS COMPANIES ANNOUNCES FIRST TAKAFUL HOMEOWNERS PRODUCT FOR U.S.

NEW YORK, December 1, 2008 -- Risk Specialists Companies, Inc. (RSC), a subsidiary of AIG Commercial Insurance, today announced it is introducing a Takaful Homeowners Policy, the first installment in Lexington Takaful Solutionssm, a series of Shari'ah-compliant (Takaful) product offerings in the U.S. The newly announced Takaful products are compliant with key Islamic finance tenets and based on the concept of mutual insurance.

"The introduction of Takaful products in the U.S. represents an important and emerging growth opportunity for AIG Commercial Insurance. We are pleased to offer socially responsible solutions to this segment of the domestic market," said Matthew F. Power, President, Risk Specialists Companies, Inc.

The Takaful Homeowners Policy is underwritten through RSC member company A.I. Risk Specialists Insurance, Inc., in conjunction with Lexington Insurance Company and in association with AIG Takaful Enaya. Headquartered in Bahrain, AIG Takaful Enaya was established in 2006 to provide a range of Takaful products, including accident and health, auto, energy, property and casualty products. AIG Takaful Enaya is licensed by the Central Bank of Bahrain and its Shari'ah Supervisory Board is composed of well known Shari'ah scholars Sheikh Nizam Yaquby, Dr. Mohammed Ali Elgari and Dr. Muhammad Imran Usmani.

"This is truly a global effort on the part of AIG" said Abdallah Kubursi, Global Head of AIG Takaful Enaya. "Being first to market in the U.S. is a testament to Lexington, RSC and AIG Takaful Enaya's commitment to offer consumers greater choice based not only on need but also social preference."

According to Ernst & Young's 2008 World Takaful Report, Takaful was estimated to be a \$5.7 billion market globally with over 130 providers in 2006. The Takaful market is estimated to be in excess of \$10 billion by 2010.

The Takaful Homeowners Policy builds on LexElite[®], the highly successful Homeowners policy from Lexington Insurance Company that combines broad coverages, high limits and individually tailored coverages to thousands of customers throughout the United States. Takaful Homeowners Policy is available in all 50 states.

Risk Specialists Companies, Inc. is a leader in the U.S. surplus lines brokerage industry, providing access to specialty casualty, property and personal lines insurance from Lexington Insurance Company and other AIG companies.

-more-

**Risk Specialists Companies Announces First Takaful Homeowners Product for U.S.
December 1, 2008**

Page two

For more information on Takaful Homeowners Policy, contact Jim Crain at 617-345-4105 or jim.crain@aig.com.

AIG Commercial Insurance serves a wide range of entities from multinational and middle-market companies to non-profit organizations and small entrepreneurs. Its extensive product offerings include general and excess liability, property, management and professional liability, workers' compensation, accident and health, environmental liability, and integrated global programs for multinational companies. AIG Commercial Insurance also maintains dedicated industry groups to serve the insurance needs of the aviation, energy, marine, healthcare, construction, financial institution, real estate and education sectors.

AIG Commercial Insurance is the marketing name for the domestic commercial property casualty insurance operations of American International Group, Inc. For additional information, please visit our website at www.aig.com. All products are written by insurance company subsidiaries of AIG Commercial Insurance Group, Inc. Coverage may not be available in all jurisdictions and is subject to actual policy language. Non-insurance products and services may be provided by independent third parties.

American International Group, Inc. (AIG), a world leader in insurance and financial services, is the leading international insurance organization with operations in more than 130 countries and jurisdictions. AIG companies serve commercial, institutional and individual customers through the most extensive worldwide property-casualty and life insurance networks of any insurer. In addition, AIG companies are leading providers of retirement services, financial services and asset management around the world. AIG's common stock is listed on the New York Stock Exchange, as well as the stock exchanges in Ireland and Tokyo.

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