

# Takaful – UK Regulatory Issues

---

Anne Foster

Lovells LLP

15 July 2008

# Regulation

---

- Financial Services and Markets Act 2000 ("FSMA")
- FSMA (Regulated Activities) Order 2001 ("RAO")

# Attitude of British Government

---

- Promote London as Islamic finance centre
- Provide UK Muslims with access to financial products consistent with religious belief
- "no obstacles, but no special favours"

# What is Takaful?

---

- insurance
- collective investment scheme (s235 FSMA)

# FSA View

---

- insurance

BUT

Takaful fund must not be a trust fund – must be risk and money transfer

- examine on case by case basis

# Regulated Activities (1)

---

- Effecting/carrying out contracts of insurance as principal (Article 10)
- Dealing in investments as principal (Article 14)
- Dealing in investments as agent (Article 21)
- Arranging deals in investments (Article 25)

## Regulated Activities (2)

---

- Assisting in the administration and performance of a contract of insurance (Article 39A)
- Establishing/operating a collective investment scheme (Article 51)
- Advising on investments (Article 53)

# Option (1)

---

- Establish Takaful operator in UK
  - Satisfy 5 threshold conditions of FSA
  - Provide business plan, details of key individuals and compliance regime
  - status of Shari'ah Board

# Alternative to Option (1)

---

- Mutual Society
- Friendly Society
- Discretionary Mutual

## Option (2)

---

- Existing UK conventional insurer/Islamic Bank
  - Scope of existing permissions sufficient?

## Option (3)

---

- Distribution in UK by overseas Takaful operator through UK authorised intermediary
  - Possible but needs care