Administration of the Act

The Bank has strengthened further the regulatory framework for the industry as envisaged in the Financial Sector Masterplan in order to further spur the development of the takaful industry. Towards this end, in 2003, the Bank reviewed the governing Shariah framework for the takaful industry and prescribed new assets that qualified as Malaysian authorised assets.

Legal Framework Development

Establishing Conducive Legal Framework
The Bank has formed the Law Review Committee comprising representatives from the Attorney General's Chambers, Treasury Solicitor's office, Malaysian Bar Council, industry players and legal practitioners in June 2003. The Committee will review the existing laws on commercial transactions and make recommendations to the relevant authorities on the necessary amendments to accommodate the execution of financial transactions based on Shariah principles. The review includes the tax and stamp duty law, company law, land law and procedural laws.

Enhancing Dispute Resolution Framework
A significant development in respect of dispute resolution framework was the establishment of a dedicated High Court in the Commercial Division of High Court Kuala Lumpur to adjudicate all muamalat cases pursuant to the Bank's recommendation to the Judiciary on the matter. The Chief Judge of Malaya had also issued a directive to the judicial officers to register muamalat cases such as Islamic banking and finance at all High Courts and Subordinate Courts using a special code number. The introduction of such measures will expedite the hearing of Islamic banking and finance cases and increase public confidence towards Islamic banking and finance.

As an alternative dispute resolution to the court system, the Bank will introduce an arbitration framework for the industry. Arbitration has been acknowledged as an appropriate mechanism for resolution of disputes especially for large risk takaful coverage in general takaful business. The parties involved may appoint a person who has special expertise in the case of dispute as the arbitrator. It also offers speedier settlement relative to the court's process, freedom of choice over laws, procedures and language of the proceedings to the parties.

In another related development, the Bank has initiated the establishment of Financial Mediation Bureau (FMB) as a single mediation centre for the banking and insurance industry, formed by merging the existing two mediation bureaus. The Islamic banks and takaful operators will also be included as the members of the FMB. This would enable the takaful industry to promote efficient customer service in providing a speedy and cost-effective solution for complaints by the public.

Strengthening the Shariah Framework
The Bank has enhanced the role and functions of the Shariah Advisory Council (SAC) of the Bank via the amendment to the Central Bank of Malaysia Act 1958. This amendment accorded the SAC the sole authority on Shariah matters pertaining to Islamic banking and takaful business. Under its enhanced function, the court and the arbitrator will have to refer Shariah issues in Islamic banking and takaful cases to the SAC for a ruling. Consequently, the requirement under the Takaful Act 1984 for a takaful operator to establish its own Shariah Supervisory Council that can function independently of the SAC has been amended. The takaful operator is required to establish a Shariah advisory body, known as Shariah Committee, which will make reference to the SAC for Shariah decisions. Corresponding to this development, the Bank will issue a comprehensive guidelines on the governance of the Shariah Committee specifying its structure, composition, duties and responsibilities.

Supervisory Framework Development

Examination and Surveillance on the Industry
The Bank conducts regular on-site examination and off-site surveillance on the takaful

operators to ensure effective oversight of the management of takaful business. In tandem with the commitment to achieve and maintain high quality of supervision and examination procedures, the Insurance Supervision Department had achieved certification for the ISO 9001:2000 Quality Management System in December 2003.

During the year under review, the examinations conducted by the Bank had focused on the corporate governance and market practices, internal controls, risk management systems and anti-money laundering measures. The Bank had also introduced the Informal Enforcement Actions Framework in ensuring effective enforcement of pre-emptive and corrective measures by the industry. Under the framework, informal enforcement actions may be taken by the Bank depending on the seriousness of the adverse findings in the examination reports. The enforcement actions include requiring the operators to provide the Bank with written Commitment, Board Resolution or Letter of Undertaking to address all the issues and concerns.

Based on the off-site surveillance and monitoring by the Bank during the year, several takaful operators were not able to meet the prescribed requirements for the investment of their takaful funds due to the scarcity of eligible Shariah-compliant financial instruments. Measures have been put in place following the inclusion of new authorised Malaysian assets to enable the takaful operators to meet the minimum requirements as required under the Act. The inclusion of new Malaysian assets had been gazetted in January 2003 as the Takaful (Prescribed Financial Institution, Loan and Investment) Regulations 2003. In this respect, the Bank had issued a circular to the industry to specify the categories of Islamic private debt securities and financing facilities that qualified as authorised assets. The salient specifications in the circular are enumerated in the chapter on **Policies and Developments**.

Developing Measures Against Money Laundering

The Bank has required all takaful operators to establish corporate statements and policies and adopt specific internal audit programme on anti-money laundering to ensure the enforcement of Anti-Money Laundering Act 2001. The takaful operators are required to appoint compliance officers, conduct structured training programme and observe operating procedures and manuals. The Malaysian Takaful Association has also carried out the task of developing minimum standards of anti-money laundering compliance framework for the industry.