

## 1. OBJECTIVES AND LEGAL AUTHORITY

- 1.1 Perbadanan Insurans Deposit Malaysia ("*PIDM*"), under sub-subsection 4(1)(d) of the Malaysia Deposit Insurance Corporation Act 2005 ("*the Act*"), is mandated to promote or contribute to the stability of the financial system.
- 1.2 As a deposit insurer, PIDM has an obligation to ensure that the public receives accurate and timely information about the deposit insurance system. Individuals who make informed decisions in respect of their deposits have greater confidence in the financial system. Depositor confidence enhances the effectiveness of the deposit insurance system which in turn promotes stability in the financial system.
- 1.3 In addition, as an integral part of the financial safety net, PIDM will be complementing the consumer protection initiatives of Bank Negara Malaysia ("*BNM*") to further promote consumerism in order to enhance market discipline on member institutions. This is also in line with the trend towards converging safety and soundness standards with consumer protection initiatives.
- 1.4 This Consultation Paper sets out the proposed *Malaysia Deposit Insurance Corporation (Provision of Information on Deposit Insurance) Regulations 2007* ("*draft Regulations*"), issued by PIDM pursuant to subsection 100(1)(a) of the Act. The draft Regulations are attached in Appendix 1.

## 2. CONSULTATION PROCESS AND EFFECTIVE DATE OF REGULATIONS

- 2.1 PIDM invites written comments from interested parties on the key considerations used for determining the approach adopted, the scope of the draft Regulations, or compliance issues, if any, that may be faced by member institutions. Written comments should be directed, no later than **31 July 2007**, to:

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- 2.2 All comments will be treated in strictest confidence. PIDM will collate comments to this Consultation Paper and publish its response, including any amendments to the draft Regulations on PIDM's website, by end September 2007. Thereafter, the draft Regulations will be forwarded to the Treasury Solicitor and the Attorney General's Chambers as part of the legislative process. Hence, there may be

amendments or refinements to the draft Regulations. The Regulations are subject to the approval of the Minister of Finance and the public will be informed through PIDM's website, of the expected date on which the Regulations will come into force. PIDM will also issue a press release announcing the salient points of the Regulations.

### 3. KEY CONSIDERATIONS

3.1 The principal objective of the draft Regulations is to ensure that depositors receive accurate and timely information to facilitate informed decision-making. Specifically, PIDM proposes to regulate the conduct of member institutions in the following areas:

- (i) The type and timing of deposit insurance information to be provided by member institutions to their customers;
- (ii) Disclosure as to which deposit products are covered by deposit insurance and which are not;
- (iii) Representation by member institutions on their membership in the deposit insurance system; and
- (iv) Role of member institutions as partners with PIDM in building public awareness and education on deposit insurance.

3.2 In determining the type and timing of information to be provided to depositors, the key considerations are:

- (i) **Relevance.** Information that is accurate, up-to-date and relevant to assist depositors in making informed decisions;
- (ii) **Availability.** As far as possible, member institutions will be required to provide deposit insurance information and make it readily available to their customers; and
- (iii) **Accessibility.** For information to be useful, such information should be easily and readily accessible to the public at Member Institutions' points of service.

### 4. FAILURE TO COMPLY

4.1 Failure to comply with any of the requirements under the draft Regulations would be a general offence under section 87 of the Act whereby any person who contravenes or does not comply with any provision of the Act or any specification or requirement made or any order in writing, direction, instruction or notice given, or any other thing done in exercise of any power conferred under, pursuant to or by virtue of any provision of the Act, commits an offence, and would, on conviction -

- subject a natural person liable to a fine not exceeding RM500,000 or imprisonment not exceeding 6 months or both and a daily fine not exceeding RM5,000 for every day of non-compliance after conviction; and
- subject a corporation to a fine not exceeding RM1 million.

## 5. SCOPE OF DRAFT REGULATIONS

The draft Regulations set out the obligations of member institutions in providing to their customers, information on deposit insurance and the eligibility of deposit products.

### A. General (paragraphs 3 and 4)

- 5.1 *Paragraph 3* specifically prohibits the making of any false, misleading or deceptive representation on deposit insurance and the eligibility of deposit products for deposit insurance. Representations to be made must be in accordance with the requirements as set out in paragraphs 5 to 15 of this draft Regulations. In addition, once membership has been terminated or cancelled, there shall not be any representation at all on deposit insurance and the eligibility of deposit products.
- 5.2 Member institutions may make representations on any information contained in PIDM's information brochure on deposit insurance provided by PIDM (*paragraph 4*).

### B. Representation on Membership (paragraphs 5, 6 and 7)

- 5.3 Member institutions are required to promote their membership in the deposit insurance system and also of PIDM in the following manner –

#### **Advertisements and collaterals (paragraphs 5 and 7)**

- 5.3.1 Paragraph 5 set out the parameters for clear communication of membership status to the public to avoid confusion. For all advertisements in print or electronic medium, other than television and sound broadcasting, a member institution is required to display after its name, its PIDM membership status, by using the words "*Member of Perbadanan Insurans Deposit Malaysia*" or a variation in substantially the same words ("Membership Statement").
- 5.3.2 If the advertisement involves bank deposit products, the member institution is required to state clearly whether the products are eligible for deposit insurance coverage or not. If the advertisement involves a non-member institution or uninsured products, it is a requirement that the Membership Statement must appear immediately below the member institution's name and the products identified as either insured or uninsured deposits. *Please see the illustrations in Appendix 2.*
- 5.3.3 Paragraph 5(6) requires that such Membership Statement should be of a size and print that is clearly legible.
- 5.3.4 Paragraph 7 allows member institutions the discretion to display any variant of the Membership Statement under paragraph 5(1) in any of its

stationery, promotional items and other publications (for instance, newsletters and annual reports) – provided that the representations are made in a size and print as to be clearly legible.

**Membership sign or decal (paragraph 6)**

5.3.5 Member institutions are required to display prominently the Membership Decal provided by PIDM –

- in physical form, at each entrance to each of its offices<sup>1</sup> (paragraph 6(1)); and
- in electronic form, at a member institution’s website and ATMs (savesaver or homepage) at which financial transactions can be carried out (paragraph 6(2)).

5.3.6 A member institution may display the Membership Decal at any other location including a place of business that it shares with a non-member institution provided it does not give rise to any perception that the Membership Decal confers membership on a non-member institution (paragraph 6(3)).

5.3.7 A member institution is required under paragraph 6(4) to remove all Membership Decals in vacating a place of business or point of service.

**C. Information on deposit insurance (paragraphs 8 to 10)**

5.4 As partners with PIDM in building awareness on deposit insurance, member institutions are required to provide information on deposit insurance to their customers by making available PIDM’s information brochure in physical form at their offices.

**Display of PIDM information brochures (paragraphs 8 and 9)**

5.4.1 Member institutions are required to –

- display prominently and make available copies of the PIDM information brochures (provided by PIDM) at each of their offices (paragraph 9(1)); and
- notify customers, prior to conducting financial transactions at ATMs, that such brochures are available in physical form at member institutions’ offices and in electronic form on PIDM’s website through a hyperlink.

<sup>1</sup> Section 2 of the Act defines “offices” to include the head office, principal place of business, a branch, an agency, a mobile place of business, a place of business set up and maintained for a limited period only and any other place of business.

5.4.2 PIDM may update the information in the PIDM information brochure from time to time and the updated brochure shall be provided to all member institutions (paragraph 8(2)).

**Deposit Insurance information on website (paragraph 10)**

5.4.3 Member institutions are required, under paragraph 10(1), to display deposit insurance information (minimum: Membership Decal and the PIDM information brochure referred to in paragraphs 6 and 8 respectively) in at least one of the following locations on its website –

- homepage;
- webpage of deposit products insured by PIDM; or
- a link to another webpage where the Membership Decal and the brochure are displayed.

5.4.4 If the website is shared by a member institution and a non-member institution, the Membership Decal and the PIDM information brochure shall be displayed on the webpage of deposit products insured by PIDM or on another webpage to which a hyperlink is provided (paragraph 10(2)).

5.4.5 The Membership Decal that is displayed on the website can be of a size that is different from the physical form provided by PIDM. However, such website display must be of the proportions as in the original form provided by PIDM.

**D. Representations on insured and uninsured deposits (paragraphs 11 to 16)**

5.5 It is pertinent that member institutions provide relevant and accurate information on the eligibility status of deposit products so that their customers are able to make informed financial decisions. In particular, information has to be provided prior to the customers committing to place their funds in products offered by member institutions.

**Determination of eligibility of deposit products (paragraph 11)**

5.5.1 Member institutions are required to provide to PIDM all documentation relating to:

- deposit products that are currently offered to the public; and
- new deposit products before they are offered to the public,

so that PIDM may review and determine the insured or uninsured status of such products. Documentation refers to pamphlets, application forms, publicity, terms and conditions, advertising and promotional materials.

**Register of Insured Deposits (paragraph 12)**

- 5.5.2 Member institutions are required to maintain a *Register of Insured Deposits* that lists all deposit products that are insured by PIDM. The Register shall be displayed prominently and made available to the public for reference at member institutions' offices.
- 5.5.3 A copy of the Register as at 31 March of each year shall be submitted to PIDM together with the Return of Total Insured Deposits.

**Positive disclosure on insured deposits (paragraph 13)**

- 5.5.4 Member institutions are required to display the statement "**Eligible deposit insured by PIDM**" (or any of the other two variants of the statement), in all documentation that evidences the placement of such deposits. This statement, also referred to as *positive disclosure*, should be of a size and print that is clearly legible.

**Negative disclosure on uninsured products (paragraph 14)**

- 5.5.5 Member institutions are required to display the statement "**Not insured by PIDM**" (or any of the other two variants of the statement), in all documentation that evidences the placement of such products. This statement, also referred to as *negative disclosure*, should be of a size and print that is clearly legible.
- 5.5.6 Paragraph 14(1) sets out a general statement on negative disclosure that may be used by member institutions in relation to uninsured products.
- 5.5.7 For the avoidance of doubt, paragraph 14(2) requires that a member institution and a related company, affix a negative disclosure statement on unit trust schemes.

**Instruments evidencing insured and uninsured deposits (paragraph 15)**

- 5.5.8 Member institutions are required to display prominently, on any instrument that evidences both insured and uninsured deposits, a disclosure statement that highlights clearly whether the products are insured or uninsured.

**Acknowledgement by depositors (paragraph 16)**

- 5.5.9 Member institutions are required, at the opening of any deposit account or purchase of any deposit product by their customers, to draw the attention of depositors as to whether the product is insured or uninsured, and provide to depositors, the PIDM information brochure. Thereafter, member institutions are required to obtain acknowledgement of receipt of the above from depositors.

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**E. Transitional period and applicability**

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- 5.6 An appropriate transitional period for implementation of the draft Regulations will be established, following PIDM's issuance and implementation of the *Guidelines on the Criteria for Determining Insured Deposits*.
- 5.7 The draft Regulations apply only to member institutions' operations and business in Malaysia.

Perbadanan Insurans Deposit Malaysia  
19 June 2007

**Draft****MALAYSIA DEPOSIT INSURANCE CORPORATION ACT 2005****MALAYSIA DEPOSIT INSURANCE CORPORATION  
(PROVISION OF INFORMATION ON DEPOSIT INSURANCE) REGULATIONS 2007**

In exercise of the powers conferred by section 100 of the Malaysia Deposit Insurance Corporation Act 2005 [Act 642], the Corporation, with the approval of the Minister, makes the following regulations:

**Citation and commencement**

1. (1) These Regulations may be cited as the Malaysia Deposit Insurance Corporation (Provision of Information on Deposit Insurance) Regulations 2007.

(2) These Regulations come into operation on [date] 2007.

**Interpretation**

2. (1) In these Regulations –

“Act” means the Malaysia Deposit Insurance Corporation Act 2005;

“advertisement” means the disseminating or conveying of information, invitation or solicitation, in print or an electronic medium other than television and sound broadcasting, for the purpose of offering or promoting the sale of a financial instrument, including by means of –

- (a) publication in any newspaper, magazine, journal or other periodical;
- (b) display of poster and notices; and
- (c) circulars, handbills, brochures, pamphlets, books or other documents.

“automated teller machine” means a computerised telecommunications device that provides a member institution’s customers the facility to carry out financial transactions without the need for a representative of the member institution;

“PIDM” or “Perbadanan Insurans Deposit Malaysia” means the Corporation.

(2) For the purposes of regulations 13 to 15, “instrument” excludes any bank slips, cheques, bank drafts or any other instrument which records or confirms the occurrence

of a financial transaction, payment or collection, or otherwise constituting an interim form of validation.

### **General**

**3.** (1) No person shall make any false, misleading or deceptive representation with respect to:

- (a) what constitutes, or does not constitute, a deposit;
- (b) what constitutes, or does not constitute, a deposit that is insured by the Corporation; or
- (c) who is a member institution.

(2) When a member institution makes representations with respect to any of the matters referred to in paragraphs 1(a) to (c), the representations shall be made in accordance with regulations 5 to 15.

(3) A member institution shall not make a representation with respect to any of the matters referred to in paragraphs 1(a) to (c) if its membership has been terminated or cancelled.

**4.** A member institution may make representations with respect to anything contained in the brochure referred to in regulation 8.

### **Membership Representations**

**5.** (1) A member institution shall, in its advertisements, make at least one of the following representations, or representations in substantially the same words as any of the following representations, with respect to its status as a member institution:

- (a) “Member of Perbadanan Insurans Deposit Malaysia” or “A Perbadanan Insurans Deposit Malaysia Member”; or
- (b) “Member of PIDM” or “A PIDM member”;
- (c) “(name of the member institution) is a member of the Perbadanan Insurans Deposit Malaysia”; or
- (d) “(name of the member institution) is a member of PIDM”.

(2) Where the advertisement deals exclusively with the member institution with regard to deposits insured by the Corporation, the representations referred to in sub-regulation (1) shall appear anywhere in the advertisement and the statement set out in regulation 13 shall appear in close proximity to the representations respecting the deposits that are insured by the Corporation.

(3) Where the advertisement deals exclusively with the member institution, without mentioning any deposit or other financial product, the representations referred to in sub-regulation (1) shall appear immediately after or below the name of the member institution.

(4) Where the advertisement deals exclusively with deposits insured by the Corporation and refers to a member institution and a person other than a member institution, the representations referred to in sub-regulation (1) shall appear immediately below the name of the member institution, and the statement set out in regulation 13 shall appear in close proximity to the representations respecting the deposits that are insured or not insured by the Corporation.

(5) Where the advertisement does not deal exclusively with deposits insured by the Corporation, the member institution shall make the representations referred to in sub-regulation (1) immediately following, or in close proximity to, the name of the member institution, and the advertisement shall contain such statements as are necessary to make a clear distinction between the deposits that are insured by the Corporation and other deposits or financial products that are not insured by the Corporation.

(6) The representations made in sub-regulation (1) shall be of such size and print as to be clearly legible.

### **Membership signs**

**6.** (1) A member institution shall display a membership sign provided by the Corporation in such form including size and proportion as may be required by the Corporation prominently at each entrance to each of its offices in such a manner that the sign is clearly visible during business hours.

(2) A member institution shall display an electronic form of the membership sign provided by the Corporation:

- (a) at the website of the member institution in accordance with regulation 10; and
- (b) on the member institution's screensaver or homepage at any automated teller machine.

(3) A member institution may display a membership sign at any other location including a place of business that it shares with a person other than a member institution, provided that the member institution ensures that its representations and the location or manner in which its membership sign is displayed do not give the impression that the other person is also a member institution.

(4) When a member institution vacates an office, it shall remove all membership signs from the vacated office.

## **Stationery and other publications**

7. A member institution may, after its name, include any of the representations, or representations in substantially the same words as any of the representations to in sub-regulation 5(1), on or in any of its stationery, promotional items and any publication other than an advertisement, provided that the representations are made in a size and print as to be clearly legible.

## **Brochures on deposit insurance**

8. (1) The Corporation shall supply to each member institution copies of a brochure that may include any of the following:

- (a) general information about the Corporation;
- (b) contact information for the Corporation;
- (c) the Corporation's logo or other identifiers;
- (d) information as to what constitutes a deposit that is insured by the Corporation;
- (e) information as to what constitutes a deposit that is not insured by the Corporation;
- (f) the maximum amount of deposit insurance coverage provided by the Corporation; and
- (g) such other information as to what a depositor needs to know when the Corporation is obliged to make an insurance payment.

(2) The Corporation may from time to time update the information contained in the brochure and supply copies of the updated brochure to each member institution for distribution to all its offices.

## **Display of brochures**

9. (1) A member institution shall, within such time as reasonably required by the Corporation, display prominently copies of the brochure on deposit insurance at each of its offices and shall make such copies of the brochure available to depositors or other persons.

(2) A member institution shall, on its home page or its screensaver on any automated teller machine, inform depositors or other persons that copies of the brochure are so available at each of its offices and that a copy of the brochure may be obtained at any its offices or in electronic form on the website of the Corporation, and where applicable, on the website of the member institution.

### **Deposit Insurance Information on Website**

**10.** (1) Subject to sub-regulation (3), a member institution that has its own website or shares a website with another member institution shall display deposit insurance information, consisting of at least the membership sign referred to in sub-regulation 6(2) and the brochure referred to in regulation 8, provided by the Corporation in electronic form in both instances, on that website, in at least one location:

- (a) on the home page;
- (b) where there are representations respecting deposits that are insured by the Corporation; or
- (c) on another web page, to which a hyperlink is provided at a location referred to in paragraph (a) or (b) that describes that page as the location where information about deposit insurance is available.

(2) Subject to sub-regulation (3), a member institution that shares a website with a person other than a member institution shall display deposit insurance information, consisting of at least the membership sign referred to in sub-regulation 6(2) and the brochure referred to in regulation 8, provided by the Corporation in electronic form in both instances, on that website, in at least one location:

- (a) where there are representations respecting deposits that are insured by the Corporation; or
- (b) on another web page, to which a hyperlink is provided at the location referred to in paragraph (a) that describes that page as the location where information about deposit insurance is available.

(3) When the membership sign is displayed by a member institution in accordance with sub-regulation (1) or (2), changes may be made to its overall sizing for the purpose of the electronic display but only if the proportions of the sign, as provided by the Corporation, are maintained.

### **Provision of Information on Insured or Uninsured Instruments**

**11.** (1) A member institution shall provide to the Corporation, as required by the Corporation in accordance with guidelines from time to time issued by the Corporation:

- (a) such information relating to all relevant financial instruments that are offered by the member institution; and
- (b) such information relating to any relevant new financial instrument before it is offered to the public for sale.

(2) For the purposes of this regulation, “relevant financial instrument” means any instrument not being a financial instrument excluded from the definition of “deposit” under subsections 36(a)(A) to (F) of the Act, evidencing that a member institution has received or is holding money from or on behalf of a person for safekeeping and, in the case of Islamic financial instruments, evidencing that a member institution has received or is holding money from or on behalf of a person in accordance with Shariah principles.

### **Register of Insured Deposits**

**12.** (1) A member institution shall prepare and maintain an up-to-date register of each type of instrument evidencing that the member institution has received or is holding money from or on behalf of a person:

- (a) that the Corporation had specified, under section 36(a)(iii) of the Act, is an instrument that constitutes a deposit that is insured by the Corporation; or
- (b) in respect of which the Corporation has confirmed or given its opinion, in accordance with the guidelines of the Corporation, that it is an instrument that constitutes a deposit that is insured by the Corporation.

(2) The register shall be:

- (a) in printed form; or
- (b) entered or recorded by any system of mechanical or electronic data processing or any other information storage device that is capable of reproducing any required information in intelligible written form within a reasonable time; and
- (c) displayed prominently and made available to the public for reference at the member institution’s offices.

(3) A member institution shall provide a copy of the register to any depositor or other person on request.

(4) A member institution shall provide a copy of the register as at 31<sup>st</sup> March of each year to the Corporation, including any return on insured deposits, in such form and with such representation as may be set out in guidelines by the Corporation..

### **Insured Deposits**

**13.** A member institution shall, in any instrument that evidences that a member institution has received or is holding money that constitutes a deposit that is insured by the Corporation and in respect of which the Corporation has made a specification or provided its confirmation or opinion in accordance with sub-regulations 12(1)(a) or (b), include a statement on its face in substantially the same words as one of the following statements:

- (a) “Eligible deposit insured by PIDM”;
- (b) “Eligible deposit insured by Perbadanan Insurans Deposit Malaysia”; or
- (c) “The deposit evidenced by this instrument constitutes a deposit that is eligible for insurance under the Malaysia Deposit Insurance Corporation Act”.

### **Uninsured Deposits**

**14.** (1) A member institution shall not issue an instrument, evidencing that the member institution has received or is holding money that does not constitute a deposit that is insured by the Corporation and in respect of which the Corporation has specified as not being a deposit in accordance with sub-section 36(a)(F) or has confirmed or given an opinion that it does not constitute a deposit that is insured by the Corporation, to any person in writing or by electronic or other means, unless the instrument bears a disclosure statement on its face in substantially the same words as one of the following statements:

- (a) “Not insured by PIDM”;
- (b) “Not insured by Perbadanan Insurans Deposit Malaysia”; or
- (c) “The deposit evidenced by this instrument does not constitute a deposit that is insured under the Malaysia Deposit Insurance Corporation Act.”

(2) For the avoidance of doubt, a member institution and a corporation related to any member institution shall affix to any instrument evidencing that the member institution or the related corporation has received or is holding money under a unit trust scheme, a disclosure statement on its face in substantially the same words as one of the following statements:

- (a) “Unit trust schemes are not insured by PIDM”; or
- (b) “Unit trust schemes are not insured by Perbadanan Insurans Deposit Malaysia”.

### **Instruments Evidencing Insured and Uninsured Deposits**

**15.** A member institution shall not issue an instrument that in addition to the facts referred to in sub-regulation 14(1), also evidences that the member institution has received or is holding money that constitutes a deposit that is insured by the Corporation and in respect of which the Corporation has made a specification or provided its confirmation or opinion in accordance with sub-regulations 12(1)(a) or (b), to any person in writing or by electronic or other means, unless the instrument bears disclosure statements on its face making a clear distinction between the deposits that are insured by the Corporation and the deposits that are not insured by the Corporation.

### **Acknowledgement by Depositors**

**16.** (1) Each of the statements made under any of regulations 13, 14 and 15 shall be of such size and print as to be clearly legible.

(2) Member institutions shall immediately before the opening of any account or the purchase of any financial instrument by any person from the member institution:

- (a) draw the attention of, and provide to such person, the instrument referred to in regulations 13 to 15 with respect to whether the money that the member institution has received or is holding, does or does not constitute a deposit that is insured by the Corporation;
- (b) provide such person with a copy of any brochure supplied by the Corporation in accordance with regulation 8; and
- (c) request for an acknowledgement of receipt of the said instrument and copy of brochure from such person.

(3) For the purposes of sub-regulation (2), the purchase of any financial instrument shall not include the receipt of any credit facility.

### **Application**

**17.** These Regulations shall only apply throughout Malaysia.



