



Perbadanan Insurans Deposit Malaysia
Malaysia Deposit Insurance Corporation

RESPONSE ON
CONSULTATION PAPER ON PROPOSED DISCLOSURE REQUIREMENTS
FOR JOINT ACCOUNTS AND TRUST ACCOUNTS REGULATIONS 2006

Response on Consultation Paper on Proposed Disclosure Requirements for Joint Accounts and Trust Accounts Regulations 2006

Background

On 19th June 2006, Perbadanan Insurans Deposit Malaysia (“PIDM”) issued a Consultation Paper on the Proposed Disclosure Requirements on Joint Accounts and Trust Accounts Regulations 2006 (“draft Regulations”) to Member Institutions and the public. Written comments were invited on the scope of the draft Regulations, the key principles used for determining the compliance requirements and compliance issues, if any, that may be faced by depositors and Member Institutions. The closing date for written comments was 31st July 2006.

PIDM wishes to thank Member Institutions for their written comments on the Consultation Paper. It is noted that no comments were received from the public.

Comments from Member Institutions were centred on two areas, namely, (1) the extent of and *modus operandi* for information to be submitted; and (2) the timeline for submission of specified information.

The written comments on the Consultation Paper have been given due consideration and PIDM’s response is as follows:

A. EXTENT OF AND MODUS OPERANDI FOR INFORMATION TO BE SUBMITTED –

Paragraph 4 of the draft Regulations:

Disclosure on opening trust account

4. On opening a trust account, in order to have the deposit therein separately insured, a trustee shall submit to the member institution the following information:
 - (a) A statement that the deposit is held in trust by the trustee;
 - (b) The trustee’s name, address and identity card number or passport number or any other equivalent identification acceptable to the member institution;
 - (c) The name and address of each beneficiary or the alphanumeric code or any other code or identifier for such beneficiary, at the time of opening the trust account; and
 - (d) The amount or percentage of each beneficiary’s interest in the deposit at the time of opening the trust account.

Paragraph 5 of the draft Regulations:

Annual disclosure in respect of trust account

5. On or before 31 March of every assessment year, in order to have the deposit therein separately insured, a trustee shall submit to the member institution the following information:
 - (a) A statement that the deposit is held in trust by the trustee;

- (b) The trustee's name, address and identity card number or passport number or any other equivalent identification acceptable to the member institution;
- (c) The name and address of each beneficiary or the alphanumeric code or any other code or identifier for such beneficiary, as at 31 December of the preceding assessment year; and
- (d) The amount or percentage of each beneficiary's interest in the deposit as at 31 December of the preceding assessment year.

Comments Received

- A. In general, the suggestions received from Member Institutions were aimed at facilitating Member Institutions' computation of premiums and these pertained to the following additional information to be submitted:
- (i) the identity card number or passport number of each beneficiary (in addition to name and address);
 - (ii) the account number of the trust account maintained with a Member Institution;
 - (iii) one code or identifier for the same beneficiary be used if the trustee maintains several accounts in a particular Member Institution;
 - (iv) A predetermined standard format for information to be submitted;
 - (v) Information be submitted via electronic means and directly to the Member Institution's data processing centres instead of the branches where the accounts are maintained;
- B. However, a suggestion was received that in respect of paragraph 4, only subparagraphs (a) and (b) are sufficient. There would not be a need for the names and addresses of each beneficiary to be provided since the names of beneficiaries would change throughout the year.

PIDM's Response

1. In establishing the level of detailed information to be submitted by trustees, PIDM has considered the minimum level of information that would enable determination of separate deposit insurance coverage for beneficiaries. In addition, PIDM also aims to balance the interests of Member Institutions and trustees. The underlying principle is to ensure that only necessary information that is available to trustees should be submitted.
2. **PIDM will, as suggested, include into the draft Regulations the requirement to disclose the account number of the trust account, in order to differentiate beneficiaries of different trust accounts maintained at the same bank.** In respect of the other suggested information requested by Member Institutions, PIDM is aware that there are many beneficiaries who are not direct clients of trustees. Trustees would therefore not have the identity card number or passport number of each beneficiary.
3. On the suggestion that PIDM sets out a standard format or template and electronic filing, PIDM is of the view that the specification of the mode of submission of records does not contribute to

determination of deposit insurance coverage. Accordingly, the manner or mode of submission of records need not be included in paragraphs 4 and 5 of the draft Regulations.

4. In respect of suggestion B, Member institutions should note that subsection 49(3)(c) specifies that no separate deposit insurance coverage would be provided except for named beneficiaries of a trust account. As such, to exclude the names and addresses of beneficiaries would exclude separate deposit insurance coverage for beneficiaries of newly opened trust accounts.

Comments Received –

- C. PIDM has also received a suggestion that the trustees should file a statutory declaration certifying the accuracy of the records submitted to Member Institutions, as provided for in subparagraph (ii)(C) of subsection 49(3)(c) of the Malaysia Deposit Insurance Corporation Act 2005.

It has also been suggested that the draft Regulations should make it the responsibility of trustees to protect beneficiaries' interest by making the relevant disclosures to the Member Institution.

PIDM's Response

5. The Regulations will be issued pursuant to section 49 of the Act, more specifically, to explain or clarify the timeframe and particulars required for deposit insurance disclosures. In the case of a trust account, section 49 of the Act clearly requires the trustee to submit information to the Member Institution concerned. Paragraph (iii) subsection 49(3)(c) already imposes significant responsibilities on trustees as to the accuracy of the information submitted and allows the Member Institution to rely on such records. Accordingly for Member Institutions to require a statutory declaration under normal circumstances would impose an unnecessary burden on trustees.

B. TIMELINE FOR SUBMISSION OF INFORMATION –

Paragraph 6(2) of the draft Regulations:

Trustee's failure to comply

6(2) A trustee who fails to comply with the requirements under paragraph 4 or paragraph 5 but who subsequently submits the required information to the member institution, shall, for the purpose of these Regulations, be deemed as at the date of submission of the information to be opening a new trust account under paragraph 4.

Paragraph 9 of the draft Regulations:

Submission at other times

9. The Corporation may require, at any time, a trustee or a joint owner to submit to the Corporation or to the member institution in which the respective trust account or joint account

has been or is held, any documents or other information as may be deemed necessary or expedient by the Corporation.

Comments Received –

- D. Member Institutions have suggested that PIDM specify the following additional requirements into the draft Regulations:
- (i) the cut-off date for submission of relevant information, on an annual basis and for newly opened trust accounts should be 31st March of each year, after which Member Institutions should not be required to assess deposit insurance premium for the affected beneficiaries; and
 - (ii) submission of information should only be allowed once a year and it should be by 31st March since there would always be changes in the list of beneficiaries and their respective deposits.

PIDM's Response

6. PIDM is not minded to incorporate the above suggestions to ensure that beneficiaries receive separate deposit insurance coverage upon submitting the specified information. PIDM will separately address the cut-off date for computation of premiums with Member Institutions.