

MALAYSIA DEPOSIT INSURANCE CORPORATION 2005

MALAYSIA DEPOSIT INSURANCE CORPORATION (TERMS AND CONDITIONS OF MEMBERSHIP) REGULATIONS 2008

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MALAYSIA DEPOSIT INSURANCE CORPORATION ACT 2005

MALAYSIA DEPOSIT INSURANCE CORPORATION (TERMS AND CONDITIONS OF MEMBERSHIP) REGULATIONS 2008

IN exercise of the powers conferred by sections 38 and 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 (Terms And Conditions Of Membership) Regulations 2008**.

(2) These Regulations come into operation on 15 September 2008.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“senior officer” means a person occupying or acting in the position of—

(a) chief executive officer;

(b) chief financial officer;

(c) chief operating officer;

(d) chief credit officer;

(e) chief risk officer; or

(f) chief internal auditor,

of a member institution or a person occupying or acting in any such position by whatever name called.

Compliance with regulations, rules and others

3. A member institution shall comply with and observe all regulations, rules, orders, by-laws, notifications, guidelines, circulars, notes, directions, specifications, requirements, notices, limits and restrictions made, issued, given, or imposed by Bank Negara Malaysia or the Corporation.

Adequate funds and assets

4. A member institution shall maintain an adequate level of capital funds unimpaired by losses and liquid assets in accordance with the requirements of Bank Negara Malaysia.

Risk management

5. A member institution shall have in place appropriate, effective and sound risk management policies, procedures and controls with respect to its business and affairs.

Qualified senior officers

6. A member institution shall employ senior officers who possess relevant qualifications or experience commensurate with their respective offices, duties and responsibilities at the member institution.

Compliance with undertaking and agreement

7. A member institution shall comply with and fulfill the terms of any undertaking given by it to the Corporation relating to the operations, safety or soundness of the member institution and any agreement it has made with the Corporation relating to the operations, safety or soundness of the member institution.

Maintenance of records

8. (1) A member institution shall prepare and maintain records that correctly describe and disclose all its assets and liabilities (whether on or off balance sheet) including but not limited to deposits, revenues, expenses and shareholders' equity.

(2) A member institution shall retain all deposit records in Malaysia.

True, correct and complete information

9. Any information provided or submitted by a member institution to the Corporation pursuant to any regulations, rules, order, by-law, notification, guideline, circular, note or directive made or issued by the Corporation shall be true, correct and complete.

Amended and certified return

10. (1) Where the Corporation, or a member institution, or any person authorized to make an examination, investigation or inspection of the member institution, finds any error in the return of the member institution, the member institution shall promptly submit to the Corporation a duly amended and certified return.

(2) Without prejudice to any rights and powers of the Corporation under the Act, where, based on an amended and certified return, the Corporation determines that there is a difference in the amount of premium, premium surcharge or overdue charges—

- (a) a member institution shall pay to the Corporation, or the Corporation shall refund or otherwise credit to the account of the member institution, such difference in amount, as the case may be; and
- (b) in respect of any additional amount of premium or premium surcharge which should have been paid or is payable, a member institution shall pay to the Corporation any overdue charges or other additional surcharge as determined by the Corporation.

Publication in daily newspaper upon merger and others

11. Where—

- (a) there is a merger or amalgamation involving a member institution; or
- (b) any deposit in a member institution is transferred to or acquired by another member institution or any other person,

the member institution shall publish in not less than two daily newspapers published in Malaysia, one of which shall be in the national language and the other in English, regarding the period of insurance coverage for the deposits held by it.

Notification of surrender or revocation of licence

12. A member institution shall notify the Corporation in writing when it surrenders its licence or its licence is revoked under the Banking and Financial Institutions Act 1989 [Act 372] or Islamic Banking Act 1983 [Act 276], as the case may be, within 7 days of such surrender or revocation.

Notification of approvals and events

13. (1) A member institution shall notify the Corporation in writing of an approval of any of the following events, within 7 days of such approval:

- (a) a change in control of the member institution or any of its subsidiaries;
- (b) a change in control of any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary;
- (c) a restructuring, amalgamation, merger, arrangement or otherwise which involves the member institution, or any of its subsidiaries, or a substantial portion of the assets or liabilities of the member institution or any of its subsidiaries;
- (d) a restructuring, amalgamation, merger, arrangement or otherwise which involves any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary;

- (e) a transfer of all or a substantial portion of the assets or liabilities of the member institution or any of its subsidiaries;
- (f) a transfer of all or a substantial portion of the assets or liabilities of any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary;
- (g) a substantial acquisition of assets or liabilities by the member institution or any of its subsidiaries; or
- (h) a substantial acquisition of assets or liabilities by any corporation related to the member institution, if it materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary.

(2) The member institution shall notify the Corporation in writing of any of the events set out in subregulation (1), within 7 days of the event.

Notification of other events

14. Without prejudice to the requirements under regulation 13, a member institution shall notify the Corporation in writing of any of the following events, within 7 days of the event:

- (a) a substantial withdrawal of deposits from the member institution or any problem with the liquidity of the member institution, which may be considered as not usual in the course of its business;

- (b) issuance of any demand or notice pursuant to paragraph 218(2)(a) of the Companies Act 1965 against the member institution;
- (c) commencement of any dissolution process or liquidation proceedings (whether voluntary or otherwise) in respect of the member institution or any of its subsidiaries including but not limited to a resolution to wind up the member institution or such subsidiary, an appointment of any receiver or manager over the member institution or such subsidiary, and a presentation of a winding up petition against the member institution or such subsidiary; or
- (d) commencement of any dissolution process or liquidation proceedings (whether voluntary or otherwise) in respect of any corporation related to the member institution including but not limited to a resolution to wind up such corporation, an appointment of any receiver or manager over such corporation, and a presentation of a winding up petition against such corporation, if such commencement materially affects or may materially affect the operations or financial condition of the member institution or any corporation of which the member institution is a subsidiary.

Copy of undertaking and agreement with authorities

15. (1) A member institution shall provide the Corporation with a copy of any undertaking given by it to or any agreement made with any regulatory or other authority, whether in or outside Malaysia, within 7 days of the undertaking or agreement.

(2) Where such undertaking relates to any deficiency or non-compliance in respect of the member institution, the member institution shall provide the Corporation with a copy of its corrective or action plan to address the deficiency or non-compliance and its progress report on the implementation of such corrective or action plan—

- (a) if the undertaking is given to Bank Negara Malaysia, within 7 days of it submitting to Bank Negara Malaysia the corrective or action plan, or the progress report, as the case may be; and
- (b) if the undertaking is given to any other regulator or authority, within such time and in such manner as determined by the Corporation.

Copy of order and others relating to non-compliance

16. A member institution shall provide the Corporation with a copy of any order, ruling, direction, notice, limit or restriction made, issued, given, or imposed by any regulatory or other authority or court, whether in or outside Malaysia, relating to any deficiency or non-compliance, within 7 days of such order, ruling, direction, notice, limit or restriction.

Notification of changes to information

17. A member institution shall notify the Corporation in writing of any material change to any information or document provided pursuant to regulation 13, 14, 15 or 16 within 7 days of such material change.

Access to and release of information

18. Under these Regulations, a member institution authorizes—

- (a) the Corporation to have access to any information or document regarding any matter relating to the business or affairs of the member institution which is held by or in the possession of any regulatory or other authority; and

- (b) the release of information or document by such authority to the Corporation.

Copy of annual report and others

19. A member institution shall provide the Corporation with a copy of the following documents, not exceeding 90 days after the end of each financial year of the member institution:

- (a) its annual report and audited financial statements approved by the board of directors of the member institution, together with a copy of its auditor's report;
- (b) a list of the related corporations of the member institution as at the date of submission to the Corporation;
- (c) a list of the names, addresses, telephone numbers and offices or designations of the directors and officers of the member institution as at the date of submission to the Corporation; and
- (d) a list of the names, addresses and telephone numbers of the auditors of the member institution as at the date of submission to the Corporation.

Copy of financial statements and others

20. A member institution shall provide the Corporation with a copy of the following documents when so required by the Corporation and within such period as deemed necessary or expedient by the Corporation:

- (a) financial statements of the member institution for any period determined by the Corporation, prepared on a consolidated or unconsolidated basis, other than the financial statements under paragraph 19(a);
- (b) financial statements of any of the related corporations of the member institution for any period determined by the Corporation, prepared on a consolidated or unconsolidated basis;
- (c) a list of the names, addresses, telephone numbers and offices or designations of the directors and officers of any of the related corporations of the member institution as at the date of submission to the Corporation;
- (d) a list of the names, addresses and telephone numbers of the auditors of any of the related corporations of the member institution as at the date of submission to the Corporation; or
- (e) a business plan of the member institution or any of its related corporations for any period determined by the Corporation.

Payment of premium surcharge and overdue charge

21. A member institution shall pay any premium surcharges or overdue charges imposed by the Corporation within such time and in such manner as determined by the Corporation.

Outstanding premium, premium surcharge and overdue charges

22. Where—

- (a) a member institution's membership is cancelled or terminated, and there are any outstanding amount of premiums, premium surcharges or overdue charges; or
- (b) any deposits in a member institution are transferred to or acquired by any person, or are involved in a merger or amalgamation, and there are any outstanding amount of premiums, premium surcharges or overdue charges in respect of such deposits;

such amount of premiums, premium surcharges or overdue charges shall remain due and payable to the Corporation by the member institution notwithstanding the member institution is no longer a member or such deposits are no longer held by the member institution, unless such amount of premiums, premium surcharges or overdue charges has been paid to the Corporation by the next member institution holding such deposits.

Cost incurred for examination and others

23. When so required by the Corporation, a member institution shall pay to the Corporation the costs incurred by the Corporation for any examination, investigation, inspection or resolution in relation to the member institution, within such time and in such manner as determined by the Corporation.

Made 27 August 2008
[PIDM/T&C/2008; PN(PU2) 651/11]

TAN SRI DATO' ABDUL AZIZ BIN HAJI TAHA
Chairman
Malaysia Deposit Insurance Corporation

Approved

TAN SRI NOR MD BIN YAKCOP
Second Minister of Finance

*[To be laid before the Dewan Rakyat pursuant to subsection 100(4) of the Malaysia
Deposit Insurance Corporation Act 2005]*