



Perbadanan Insurans Deposit Malaysia
Protecting Your Insurance And Deposits In Malaysia

**RESPONSE TO THE CONSULTATION PAPER ON
THE REVIEW OF THE MALAYSIA DEPOSIT INSURANCE
CORPORATION (DISCLOSURE REQUIREMENTS FOR
TRUST ACCOUNTS AND JOINT ACCOUNTS)
REGULATIONS 2012**

ISSUE DATE : 1 JULY 2019



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1.0 BACKGROUND

- 1.1 On 9 January 2019, Perbadanan Insurans Deposit Malaysia (“PIDM”) issued a consultation paper (“CP”) on the review of the Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2012 (“2012 Regulations”).
- 1.2 Written comments were received from a total of 29 respondents, comprising 23 deposit-taking members (“DTMs”), one (1) insurer member, one (1) industry association, one (1) investment bank, one (1) securities company and two (2) electronic money (e-money) issuers approved by Bank Negara Malaysia (“BNM”). As part of the consultation process, PIDM is publicly disclosing its responses to the comments received.
- 1.3 PIDM wishes to thank the respondents who have provided their written comments on the CP. PIDM has carefully considered these comments and our responses to the detailed comments are set out in Section 3. Given that some of the comments are similar, we have grouped the comments under broad topics and provided our responses on that basis.

2.0 OVERVIEW OF COMMENTS RECEIVED

- 2.1 The respondents were generally supportive of the proposed enhancements discussed in the CP.

Key changes

- 2.2 After assessing the views and feedback received, PIDM will remove the proposal to prescribe a specific timeframe of “within 24 hours upon request” for the trustees to submit beneficiary information. Management will carry out more engagements with the stakeholders on the appropriate timeframe, in view of the wide disparity in the suggested timeframes.
- 2.3 A summary of the existing disclosure requirements under the 2012 Regulations and the final proposed enhancements are set out in the *Appendix* for ease of reference.



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3.0 DETAILED COMMENTS RECEIVED AND PIDM'S RESPONSES

3.1 Proposal 1: Remove annual disclosure and annual notification requirements

PIDM proposed to remove the annual disclosure requirements imposed on all trustees, including those who act for two (2) or more beneficiaries in a single trust account. Also, the DTMs will no longer be required to make annual notifications to the trustees.

Further, it was proposed that the premium assessment for each trust account be capped at RM250,000 per trust account, as opposed to the current assessment basis of basing it on the total coverage provided by PIDM for all the beneficiaries of the trust account.

Comments Received

A majority of the respondents were agreeable to the proposal as this would minimise administrative tasks for the DTMs and the trustees. However, a few respondents indicated their preference for periodic submissions (e.g., to retain the annual disclosure requirements) rather than through ad-hoc thematic reviews, as it would allow for sufficient time to plan and prepare for a more accurate submission.

One (1) respondent sought clarification on whether the proposal will change the separate insurance coverage provided for each beneficiary of the trust account.

PIDM's Response

PIDM takes note of the suggestion to retain the annual disclosure and annual notification requirements to ensure readiness. However, PIDM will retain the proposal to remove the annual disclosure and annual notification requirements to minimise the unnecessary burden and operational challenges cited by most of the respondents. For those wishing to ensure readiness, they may continue to complete the beneficiary details file for submission under the Guidelines on Deposit Information Systems and Submission. The requirement for a thematic review is to ensure readiness of the trustees and the DTMs to determine timely and accurate deposit insurance for trust accounts at all times, particularly in a resolution scenario.

The separate insurance coverage provided for each beneficiary of the trust account remains the same. PIDM wishes to clarify that the assessment base cap of RM250,000 for each trust account is only for premium assessment purposes, regardless of the number of beneficiaries and their respective interests in the trust account.



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With proposal 1, PIDM will also make consequential amendments to the relevant guidelines upon the gazetting of the revised 2012 Regulations. PIDM will inform the DTMs once the changes come into effect.

3.2 Proposal 2: Require the trustees to submit relevant documents or information within 24 hours upon the request by PIDM

Proposal 2 of the CP was for the trustees to submit relevant documents or information on the trust accounts and their beneficiaries within 24 hours upon the request by PIDM.

Comments Received

A number of respondents commented that the proposed timeframe of 24 hours would be too short and would pose significant operational challenges. This was because trustees would need more time to compile and submit the information required. Instead, the timeframes suggested by the respondents ranged between 48 hours and 1 month. Reasons given included information being kept offsite, voluminous numbers of beneficiaries and the potential difficulties with contacting trustees (e.g. if out of the country). A few respondents also highlighted other operational challenges, such as where the beneficiaries are not known or where the interest has not vested at the time of a request, or where the consent from settlors or beneficiaries may be required prior to the disclosure of the beneficiary information.

It was also suggested that the submission of the beneficiary information be done through the PIDM Industry Portal.

PIDM's Response

In view of the wide disparity in the suggested timeframes as well as the operational challenges cited by the respondents, PIDM will carry out more engagements with the stakeholders to address the operational issues. PIDM will work on a more feasible approach for information submission, without compromising the timely access by the trustees and the beneficiary owners to their insured deposits.

PIDM therefore will remove the proposed timeframe of 24 hours for the submission of beneficiary information and will retain the current practice. Should there be a need to request any documents or other information from the trustees, the timeframe for submissions will be communicated to the trustees on a case-by-case basis.



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Following this removal, PIDM will make consequential amendments to exclude trust accounts from the deposit information that must be submitted by the DTMs in a standard file format within 24 hours from the completion of the end-of-day processing.¹

PIDM takes note of the suggestion relating to the submission through the Industry Portal. PIDM is adopting a gradual approach for the implementation of the Industry Portal. At this stage, the focus is on the regulatory submissions by the member institutions.

3.3 Proposal 3: Periodic thematic review on the trustees and the DTMs to ensure readiness

Proposal 3 of the CP was for PIDM to conduct a thematic review on a periodic basis or as and when necessary to ensure the readiness of the trustees and the DTMs.

Comments Received

A majority of the respondents agreed with the proposal. As mentioned under paragraph 3.2 above, several respondents commented that the proposed timeframe of 24 hours for the purpose of the thematic review would also be too short and would pose significant operational challenges.

A few respondents sought clarification on the manner in which the thematic review would be conducted and the implications of the thematic review on premium assessments.

PIDM's Response

PIDM aims to work collaboratively with the trustees and the DTMs on the thematic review to ensure a timely and accurate deposit insurance determination for trust accounts. The trustees and the DTMs will be given the opportunity to provide feedback in relation to the approach for the thematic review and will be provided sufficient time to address the findings from the thematic review. As mentioned under paragraph 3.2 above, PIDM plans to engage stakeholders to determine a reasonable timeframe for information submission, both during the thematic review and as and when required.

PIDM wishes to clarify that the DTMs are not expected to calculate the premium amount on trust accounts during the thematic review. Rather, the focus of the thematic review will be on the readiness of the trustees and the DTMs to facilitate prompt reimbursements by PIDM upon the failure of a DTM.

¹ Paragraph 3.11 under the Guidelines on Deposit Information Systems and Submission, updated as at 31 January 2019.



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3.4 Proposal 4: Enhance the role of the DTMs upon trust account opening

Proposal 4 of the CP proposed that the DTMs, upon opening of a trust account, must:

- (a) request each trustee to provide beneficiary information; and
- (b) inform each trustee of his or her ongoing obligation in accordance with the 2012 Regulations.

Comments Received

Most respondents were agreeable to the proposal. It was noted from the comments that some respondents are currently taking on an active role in requesting the information from the trustees, and/or educating trustees on their obligations.

Some respondents were concerned about the requirement to submit to PIDM the information obtained from the trustees upon the opening of a trust account. Hence, system enhancements might be needed to meet the proposal.

There were also suggestions for PIDM to take on a more active role in increasing the trustees' awareness of their obligations.

PIDM's Response

PIDM wishes to clarify that it is an existing requirement for the trustees to provide trust and beneficiary information to the DTMs on the opening of a trust account.² A DTM is not required to submit to PIDM information obtained from the trustees each time a trust account is opened with the DTM. Instead, Proposal 4 relates to the obligation of the DTMs to inform the trustees on the requirements under the 2012 Regulations. Should any system enhancements be necessary to meet this requirement, we will allow sufficient time for the DTM to prepare for implementation.

PIDM acknowledges the suggestions for it to take on a more active role. As mentioned earlier, PIDM will continue ongoing engagements with the trustees,³ and explore other avenues to work collaboratively with the trustees.

² Sub-regulation 3(1) of the 2012 Regulations.

³ For example, the engagements with the Malaysian Bar, the Sabah Law Society and the Advocates Association of Sarawak since 2012, as well as printed and digital advertisements on trust accounts.



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3.5 Proposal 5: Exemption of disclosure requirements for trustees of BNM's approved e-money schemes

PIDM proposed to provide exemptions for trustees of BNM's approved e-money schemes in respect of certain disclosure requirements, such as requirements upon the opening of a trust account and the scope of thematic review.

However, trustees of BNM's approved e-money schemes were expected to submit beneficiary information "within 24 hours upon request", and the DTMs were required to inform the trustees of such obligations upon trust account opening.

Comments Received

The respondents took note of and concurred with the proposal.

PIDM's Response

With the dispensation of Proposal 2, PIDM wishes to highlight that the trustees of BNM's approved e-money schemes are expected to submit beneficiary information to PIDM "within such period as stipulated by PIDM".

3.6 Proposal 6: Exclusion of uninsured trust accounts from the scope of application of the 2012 Regulations

The proposal was to exclude the trustees of uninsured trust accounts from the scope of disclosure requirements.

Comments Received

The respondents took note of, and concurred with, the proposal. Some respondents sought clarification on the definition of uninsured trust account.

PIDM's Response

Uninsured deposits are excluded deposits under the Malaysia Deposit Insurance Corporation Act 2011 (PIDM Act), and deposits that do not meet the PIDM's insurability criteria stipulated under the Guidelines on Deposit Insurance Coverage for Deposits dated 26 November 2013.

An uninsured trust account includes a deposit account held by a depositor acting as trustee:

- (a) at the Labuan branch of a DTM carrying on Labuan banking business under the Labuan Financial Services and Securities Act 2010 or Labuan Islamic banking business under the Labuan Islamic Financial Services and Securities Act 2010; and
- (b) in an investment account.



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4.0 GOING FORWARD

- 4.1 The draft Regulations 2012 incorporating the proposed enhancements will be submitted to the Minister of Finance for approval. The revised Regulations 2012 will be published on PIDM's website once they come into force.

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Appendix

Summary of the Existing Disclosure Requirements under the 2012 Regulations and the Final Proposed Enhancements

	<u>Existing Requirements</u>		<u>Proposed Enhancements</u>	
Scope of application	(a) Insured trust account (b) Uninsured trust account		(a) STATUS QUO (b) <i>[REMOVED]</i>	
	Responsibility of the DTM		Responsibility of the Trustee	
	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>
Upon account opening	NONE	(a) <i>[NEW]</i> Request each trustee, other than the trustee of BNM's approved e-money scheme, to provide beneficiary information.	Each trustee to disclose trust account information: (a) a statement that the deposit in the trust account is held in trust by the trustee; (b) the trust account number;	(a) STATUS QUO (b) <i>[REMOVED]</i>



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	Responsibility of the DTM		Responsibility of the Trustee	
	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>
		(b) <i>[NEW]</i> Inform each trustee of his or her ongoing obligations in accordance with the 2012 Regulations.	(c) the trustee’s name, address and identity card number or passport number or any other identification acceptable to the DTM; Each trustee to disclose beneficiary information: (d) the name and address of each beneficiary or the alphanumeric code or any other code or identifier for such beneficiary; and	(c) STATUS QUO <i>[NEW]</i> The trustee of BNM’s approved e-money scheme is exempted, provided that documentary evidence is presented to the DTM. (d) STATUS QUO



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	Responsibility of the DTM		Responsibility of the Trustee	
	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>
			(e) the amount or percentage of each beneficiary's interest in the trust account.	(e) STATUS QUO
Annually	Notify each trustee acting for two (2) or more beneficiaries on annual disclosure requirements, before 31 March of every assessment year.	[REMOVED]	A trustee acting for two (2) or more beneficiaries to update trust account information, on or before 31 March of every assessment year.	[REMOVED]
Periodic thematic review by PIDM, as necessary (Business-as-usual)	NONE	[NEW] Determine separate deposit insurance coverage for trust accounts based on information submitted by trustee, within a stipulated timeframe. The trustee of BNM's approved e-money scheme is exempted.	NONE	[NEW] Provide beneficiary information to the DTMs, within a stipulated timeframe. The trustee of BNM's approved e-money scheme is exempted.



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	Responsibility of the DTM		Responsibility of the Trustee	
	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>	<u>Existing Requirements</u>	<u>Proposed Enhancements</u>
At any time	<i>NONE</i>	<i>NONE</i>	All trustees are to submit any documents or other information to PIDM or to the DTM. No specific timeframe is prescribed.	STATUS QUO