



Perbadanan Insurans Deposit Malaysia
Protecting Your Insurance And Deposits In Malaysia

**GUIDELINES ON
PREMIUM SURCHARGE FRAMEWORK**

ISSUE DATE : 30 OCTOBER 2013



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Ref No	GEN/GL14/2013(PS)	Issued on	30 October 2013
TITLE	Guidelines on Premium Surcharge Framework		

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SECTION 1: INTRODUCTION

BACKGROUND

- 1.1 The objective of the Premium Surcharge Framework is to provide incentives for identified member institutions (“MIs”) to take prompt correction actions to remedy non-compliance with any requirements that could materially impede Perbadanan Insurans Deposit Malaysia (“PIDM”) in fulfilling its mandate.
- 1.2 The Guidelines on Premium Surcharge Framework (“Guidelines”) set out the criteria to be applied by PIDM in determining the initiation of premium surcharge against an MI.

ENQUIRIES

Enquiries relating to these Guidelines may be directed to:

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Puan Afiza Abdullah	03-21737548	afiza@pidm.gov.my

SECTION 2: LEGAL PROVISIONS

- 2.1 These Guidelines are made pursuant to the powers conferred by sections 51, 75 and 209 of the Malaysia Deposit Insurance Corporation Act 2011 (“the Act”).
- 2.2 These Guidelines are applicable to deposit-taking members¹ and insurer members².
- 2.3 These Guidelines are also applicable to a corporation that is prescribed in the stabilisation coverage order by the Minister of Finance pursuant to section 146 of the Act, if any.³ The proposed approach that is applicable to an MI shall apply to a prescribed corporation.

¹ Section 51 of the Act

² Section 75 of the Act

³ Section 153 of the Act

SECTION 3: PREMIUM SURCHARGE FRAMEWORK

- 3.1 PIDM has a variety of mechanisms for imposing liability on an MI or any person for contravening a legal and regulatory requirement set out by PIDM.
- 3.2 Non-compliance with any provision of the Act by an MI or a natural person constitutes a criminal offence.
- 3.3 The Act also provides that PIDM may impose an administrative pecuniary sanction in the form of premium surcharge on an MI for non-compliance with legal and regulatory requirements as specified by PIDM.
- 3.4 A premium surcharge will be used as an enforcement tool against the identified MI for serious non-compliance that fulfils the criteria set out in Section 4.
- 3.5 A premium surcharge may also be used when there are repeated occurrences of a similar non-compliance, though the non-compliance may have less serious consequences.

SECTION 4: CRITERIA FOR DETERMINING TRIGGER FOR PREMIUM SURCHARGE

- 4.1 The nature and circumstances of each breach varies. In determining whether premium surcharge should be initiated against an MI for non-compliance with the PIDM's legal and regulatory requirements, PIDM will apply the following criteria:
- (a) the gravity or severity of the harm done by the violation, or in other words, the seriousness of the non-compliance;
 - (b) the frequency of occurrence and the nature of non-compliance, whether similar or different types of breach have previously been committed;
 - (c) the history of prior violation or conviction within the five-year period immediately before the present violation;

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- (d) the means by which such breach is identified;
 - (e) the degree of intention or negligence or culpability of the offender; or
 - (f) the MI's response track record and ability and willingness to rectify the identified breach.
- 4.2 For the purpose of paragraph 4.1(a) above, a "serious" non-compliance is defined as non-compliance that poses:
- (a) a serious risk to PIDM's ability to carry out its objects effectively under the Act;
 - (b) a serious risk to public confidence or PIDM's reputation;
 - (c) a serious risk of material financial loss to PIDM;
 - (d) a serious risk of material financial loss to the MI (arising from, among others, reputation and franchise value erosion) as a result of legal or regulatory sanctions taken against the MI; or
 - (e) a serious risk of material financial loss to the MI's customer(s).
- 4.3 The choice of enforcement actions is at the discretion of PIDM (in consultation with Bank Negara Malaysia), and depends on the severity of the circumstances. If PIDM is of the view that the breach warrants immediate attention or action, PIDM has the discretion to initiate a more severe enforcement action immediately, without first having to invoke the premium surcharge framework.
- 4.4 When premium surcharge is used as an enforcement action, the MI will be given an opportunity to make representations to PIDM within seven (7) days from the date of a written notice issued by PIDM to the MI.
- 4.5 In the event premium surcharge fails to promote compliance, criminal prosecution may be used as the next level of sanction.



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SECTION 5: PROHIBITION

- 5.1 An MI is prohibited from publicly disclosing the premium surcharge amount and the premium surcharge calculation basis.
- 5.2 However, where the breach is an event that requires immediate disclosure by the MI to the Securities Commission, Bursa Malaysia or other regulators, such disclosure of the breach could be made accordingly without disclosing the premium surcharge amount and calculation basis.

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