



Perbadanan Insurans Deposit Malaysia
Protecting Your Insurance And Deposits In Malaysia

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

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1.0 INTRODUCTION

- 1.1 Perbadanan Insurans Deposit Malaysia (“PIDM”) provides separate insurance coverage for deposits held in a trust or joint account, provided that the trusteeship or the joint ownership is disclosed on the records of the deposit-taking member (“DTM”).¹ Each beneficiary of an eligible trust account is also protected separately for their portion of the deposit up to RM250,000.
- 1.2 The Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2012 (“2012 Regulations”) require a depositor who is acting as a trustee (“trustee”) or as a joint owner to disclose certain information about the trust or joint accounts to the DTMs.² The 2012 Regulations set out what information and when such information should be submitted by a trustee or a joint owner to the DTMs. The 2012 Regulations also require the DTMs to notify trustees who act for two (2) or more beneficiaries to update the trust accounts information annually.
- 1.3 PIDM is reviewing the 2012 Regulations to:
- (a) ensure that the disclosure requirements remain current and relevant, especially with the emergence of innovative financial products that involve trust accounts for the service provider’s customers; and
 - (b) address feedback received or issues encountered by the trustees and the DTMs since the implementation of the 2012 Regulations.

2.0 OBJECTIVE

- 2.1 The purpose of this consultation paper is to seek views and comments on the proposed enhancements to the disclosure requirements under the 2012 Regulations, as discussed under Section 4.0. Apart from the proposed enhancements, the other requirements under the 2012 Regulations remain unchanged.

¹ Subsection 42(4) of the Malaysia Deposit Insurance Corporation Act 2011.

² The disclosure requirements for trust and joint accounts were made pursuant to the Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2007, which came into operation on 15 February 2007 and were subsequently revoked and replaced with the 2012 Regulations, which came into operation on 27 November 2012.



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3.0 THE CONSULTATION PROCESS

- 3.1 PIDM welcomes written comments from interested parties on any aspect of this consultation paper. Comments should be sent no later than **4 February 2019**, to:

Ms. Sejal Mehta / Ms. Hoh Li Yun
Policy and International Division
Perbadanan Insurans Deposit Malaysia
Level 12, Axiata Tower
No. 9, Jalan Stesen Sentral 5
Kuala Lumpur Sentral
50470 Kuala Lumpur

Enquiries: 03 2173 7479 / 2173 7561
Fax: 03 2173 7533
Email: policyenquiry@pidm.gov.my

- 3.2 PIDM will collate the comments on this consultation paper. PIDM's response to the comments may be made public. If you do not wish for any of your comments to be made public, please indicate accordingly in your submission.

4.0 PROPOSED ENHANCEMENTS TO THE 2012 REGULATIONS

Background

- 4.1 The insurance coverage amount for a trust account depends on the number of beneficiaries and their respective interests in the trust account. Each beneficiary of the trust account will be protected up to RM250,000.
- 4.2 PIDM's objective is to reimburse insured deposits promptly following the failure of a DTM. This will enable prompt access by the depositors, including the beneficiaries of trust accounts, to their insured deposits in meeting their financial needs and obligations. Prompt reimbursement of insured deposits maintains public confidence in the banking system and the overall financial stability.
- 4.3 To meet the objective of prompt reimbursement of insured trust accounts, PIDM requires up-to-date beneficiary information to accurately determine separate insurance coverage amounts. This, in turn, is dependent on the readiness of the trustees and the DTMs to submit the necessary information upon PIDM's request.

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Current disclosure requirements

4.4 Under the 2012 Regulations:

- (a) trustees who act for two (2) or more beneficiaries in a single trust account are required to submit certain information relating to the trust and the beneficiaries to DTMs by 31 March of every assessment year (“annual disclosure”).

The information to be submitted includes the name of each beneficiary, and the amount or the percentage of each beneficiary’s interest in the trust accounts as at 31 December of the preceding assessment year.

Trustees acting for a single beneficiary are exempted from the requirements for annual disclosure; and

- (b) DTMs are required to notify the trustees who act for two (2) or more beneficiaries in a single trust account on the annual disclosure requirements before 31 March of every assessment year (“annual notification”).

Our proposed approach

4.5 We have reviewed the trust accounts’ and the beneficiaries’ information submitted by the trustees to the DTMs for the past five (5) years and noted that the majority of trust accounts held at the DTMs comprised those with a single beneficiary.³

4.6 We have also received feedback that it is administratively challenging for certain trustees to comply with the annual disclosure requirements, in particular for trust accounts with beneficiaries’ details (including balances and composition) that change frequently often with small transactional balances.

4.7 Hence, PIDM proposes to adopt an approach that is more reflective of the profile of trust accounts in supporting our prompt reimbursement objective. PIDM is mindful of not burdening the trustees and DTMs with unnecessary administrative tasks while ensuring it obtains the necessary information promptly from both parties to undertake accurate and prompt reimbursement during resolution of a DTM.

³ Deposits information in standard file format submitted by the DTMs under the Guidelines on Deposit Information Systems and Submission since first year of compliance based on position as at 31 December 2012 to 2017, and includes information on trust accounts and the beneficiaries.



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Proposal 1: Remove annual disclosure and annual notification requirements

4.8 PIDM proposes that:

- (a) all trustees, including those who act for two (2) or more beneficiaries in a single trust account, will no longer be required to make annual disclosures to the DTMs; and
- (b) consequently, the DTMs will no longer be required to make annual notifications to the trustees.

4.9 PIDM is of the view that removal of the requirements to provide annual disclosures and annual notifications will benefit both the DTMs and the trustees as it will minimise the administrative burden on both parties.

4.10 Further, PIDM proposes 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.

Feedback required 1:

PIDM seeks your comments on Proposal 1, explained in paragraph 4.8.

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

4.11 Under the 2012 Regulations, PIDM may, at any time, require a trustee to submit any documents or other information to PIDM or the DTMs. The 2012 Regulations do not prescribe a specific timeframe for such submission.

4.12 PIDM acknowledges that most trustees have a duty to maintain proper beneficiary information in their records. In view of Proposal 1, PIDM will place more reliance on the trustees to maintain updated beneficiary information from time to time.

4.13 Under the new proposal, the trustees would be expected to be able to provide the necessary information on the trust accounts and their beneficiaries, to either PIDM or the DTMs, within 24 hours upon the request by PIDM. The required information would include, amongst others, the name of each beneficiary and the amount or the percentage of each beneficiary's interest in the trust account.⁴

⁴ The name of each beneficiary or alphanumeric code or any other code or identifier for such beneficiary.

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- 4.14 As mentioned in paragraphs 4.2 and 4.3 above, PIDM aims to accurately determine separate insurance coverage amounts and make reimbursements as promptly as possible upon failure of a DTM, so that the trustees and the beneficiaries would have prompt access to insured trust accounts. The delay by the trustees in submitting the required information may affect the prompt determination and payment of separate coverage amounts by PIDM.

Feedback required 2:

Feedback required from the trustees

PIDM seeks your comments on the proposal for the trustees to submit relevant documents or information within 24 hours upon the request by PIDM.

Do you foresee significant impediments in complying with the requirements? If you answer yes:

- (a) please elaborate on the significant impediments, and suggest a reasonable timeframe for the trustees to submit the required documents or information to PIDM, upon the request by PIDM, to allow for prompt determination and payment of separate coverage amounts by PIDM; and
- (b) please provide alternative mechanism(s) for PIDM to obtain the up-to-date information on trust accounts and beneficiaries to make accurate and prompt determination and payment of insured trust accounts upon failure of a DTM.

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

- 4.15 In light of Proposal 1, PIDM proposes to conduct thematic review on a periodical basis or as necessary to ensure readiness of the trustees and the DTMs. The thematic review will focus on the capability of:

- (a) the trustees to provide accurate and complete beneficiary information to the DTMs within a stipulated timeframe, as determined by PIDM; and
- (b) the DTMs to determine separate deposit insurance coverage for trust accounts, based on the beneficiary information received from the trustees, within a stipulated timeframe, as determined by PIDM.

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- 4.16 PIDM may conduct thematic review on different types of trust accounts, in phases, to better manage resources required from the trustees and the DTMs.⁵ For example, in a particular year, the DTMs may be required to request their depositors holding certain type of trust accounts to submit beneficiary information to them within 24 hours upon request. The DTMs are then required to record the information received and calculate deposit insurance coverage for trust accounts within 24 hours.
- 4.17 PIDM considers this is a more proportionate approach than the annual disclosure requirements. PIDM plans to collaborate with the trustees and the DTMs to address findings from thematic review(s) and work towards ensuring a speedy and accurate deposit insurance determination for trust accounts.

Feedback required 3:

PIDM seeks your comments on the proposed thematic review approach. Do you foresee significant impediments with this approach? If yes, please elaborate and provide alternative approach(s) that may be more outcome-based and practical to implement.

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

- 4.18 Currently, on opening of trust accounts, trustees are required to provide trust and beneficiary information to the DTMs. This requirement will be retained for the purposes of confirming that the trust account is held for beneficiaries.
- 4.19 PIDM expects the DTMs to continue to take on an active role in elevating the level of awareness of the trustees on their obligations. This would promote understanding on the type of information required by PIDM and facilitate prompt submission of the information by the trustees following the failure of a DTM.
- 4.20 Therefore, upon trust account opening, a DTM shall:
- (a) request each trustee to provide beneficiary information.⁶ Currently, the 2012 Regulations do not impose any obligation on the part of the DTMs to request for the information from the trustees; and

⁵ For example, clients accounts operated by law firms, client accounts operated by trust companies and housing development accounts.

⁶ The DTMs are to submit such trust account and beneficiary information to PIDM in a standard file format in accordance to the requirements under the Guidelines on Deposit Information Systems and Submission.

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- (b) inform each trustee of his or her ongoing obligation in accordance to the 2012 Regulations, including to maintain updated record on beneficiary information to be submitted to PIDM or the DTM, within 24 hours upon request.⁷

- 4.21 This exercise will elevate the level of awareness amongst the trustees on their responsibilities.

Feedback required 4:

Feedback required from the DTMs

PIDM seeks your comments on Proposal 4 described in paragraph 4.20 above. Do you foresee significant impediments in complying with the requirements? If yes, please elaborate, and provide your suggestions on other alternative mechanism(s), if any.

Feedback required from the trustees

PIDM seeks your view on whether the proposal for the DTMs to inform each trustee on his or her obligation upon trust account opening is sufficient and effective. Please provide your suggestion(s) on other appropriate mechanism to raise the level of understanding and readiness of the trustees in complying with PIDM's requirements.

Proposal 5: Exemption of disclosure requirements for trust accounts of approved electronic money (e-money) issuers

- 4.22 Currently, large non-bank e-money issuers approved by Bank Negara Malaysia ("BNM") are required to deposit customers' funds in a trust account with a licensed institution, including a DTM.⁸
- 4.23 PIDM notes that the statutory purse limit for each customer (i.e. beneficiary) of an approved e-money issuer is less than the maximum deposit insurance coverage of RM250,000.⁹ The total trust account balance would always be protected in full.
- 4.24 Further, PIDM is cognisant that it may be operationally challenging for the trustees to submit beneficiary information, and for the DTMs to maintain this information, considering the voluminous number of beneficiaries of some large e-money issuers.

⁷ This proposal has been captured under the proposal on opening of deposit account, as stated in the PIDM's consultation paper on the proposed enhancements to the Malaysia Deposit Insurance Corporation (Provision of Information on Deposit Insurance) Regulations 2011.

⁸ In accordance with BNM's Guideline on Electronic Money.

⁹ The maximum purse limit for large e-money scheme is capped at RM1,500 or any amount as approved by BNM.

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4.25 Hence, PIDM proposes the following:

- (a) to exempt the trustees for trust accounts of BNM’s approved e-money issuers from the disclosure requirements upon the opening of a trust account, provided that documentary evidence is presented to the DTMs confirming their status as trustees for such trust accounts;¹⁰
- (b) to exempt the DTMs from requesting beneficiary information from such trustees upon trust account opening; and
- (c) to exclude trust accounts of such trustees from the scope of thematic review.

4.26 For the avoidance of doubt, the trustees for trust accounts of BNM’s approved e-money issuers are expected to submit beneficiary information “within 24 hours upon request”, and the DTMs are required to inform the trustees of such obligations upon trust account opening.

Feedback required 5:

PIDM seeks your comments on Proposal 5. Particularly, for BNM’s approved e-money issuers, please indicate whether you act as a trustee or you appoint a separate trustee(s) for the trust accounts held with DTMs. If a separate trustee is appointed, please indicate whether the beneficiary of the trust account is the e-money issuer or the e-money issuer’s customers.

Further, please identify if there are any other types of trust accounts where the statutory entitlement of each customer or beneficiary in a trust account is always less than the maximum deposit insurance coverage of RM250,000 per depositor (beneficiary), and hence should be exempted by PIDM. Please cite the provision of the Act of the statutory entitlement amount.

Please support each of your comments and suggestions with clear explanation, and provide necessary supporting / reference document(s), if any.

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

4.27 The 2012 Regulations are currently applicable to all trust accounts maintained with the DTMs, regardless of their insurability status.

¹⁰ For example, a trust deed.



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- 4.28 PIDM proposes to exclude the trustees of uninsured trust accounts from the scope of disclosure requirements, in view of the fact that separate insurance coverage is not applicable to uninsured trust accounts. The disclosure requirements are only applicable to trust accounts that are eligible for protection by PIDM.

Feedback required 6:

PIDM seeks your comments on proposal 6.

- 4.29 A summary of the existing disclosure requirements under the 2012 Regulations and the proposed enhancements are set out in *Appendix* for ease of reference.

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	Responsibility of the DTM		Responsibility of the Trustee	
	Existing Requirements	Proposed Enhancements	Existing Requirements	Proposed Enhancements
		(b) [NEW] Inform each trustee of his or her ongoing obligations in accordance to 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 [NEW] The trustee for trust account of BNM’s approved e-money issuer 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	
	Existing Requirements	Proposed Enhancements	Existing Requirements	Proposed Enhancements
			(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.	<i>[REMOVED]</i>	A trustee acting for two (2) or more beneficiaries to update trust account information, on or before 31 March of every assessment year.	<i>[REMOVED]</i>
Periodic thematic review by PIDM, as necessary (Business-as-usual)	NONE	<i>[NEW]</i> Determine separate deposit insurance coverage for trust accounts based on information submitted by the trustee, within a stipulated timeframe.	NONE	<i>[NEW]</i> Provide beneficiary information to the DTMs within a stipulated timeframe.



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	Responsibility of the DTM		Responsibility of the Trustee	
	Existing Requirements	Proposed Enhancements	Existing Requirements	Proposed Enhancements
		Trust account of BNM's approved e-money issuer is exempted.		The trustee for trust account of BNM's approved e-money issuer is exempted.
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.	[NEW] All trustees are to submit any documents or other information (including beneficiary information) to PIDM or to the DTM, within 24 hours upon the request by PIDM.