



**Majlis Peguam
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**Circular No 052/2018
Dated 23 Feb 2018**

To Members of the Malaysian Bar

**Compliance with Malaysia Deposit Insurance Corporation
(Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2012**

We refer to [Circular No 024/2013](#) dated 23 Jan 2013, whereby we informed Members of the Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2012 (“Regulations 2012”), which came into operation on 27 Nov 2012.

Malaysia Deposit Insurance Corporation (also known as Perbadanan Insurans Deposit Malaysia, “PIDM”) has once again requested the Bar Council to remind Members to comply strictly with Regulations 2012 and to submit their trust account information to banks or financial institutions by **31 Mar 2018 (Saturday)**.

To facilitate the submission by Members, PIDM has provided a submission checklist with information on the annual submission requirement, as Appendix 1 (a copy of which is attached).

The relevant portion of the notice we received from PIDM is reproduced below.

Also attached is a copy of PIDM’s “Frequently Asked Questions Relating to Insurance Cover” (“FAQs”), which provides information regarding PIDM’s deposit insurance coverage and PIDM’s requirements in relation to trust accounts.

For enquiries on PIDM, you may contact PIDM’s officers, Sejal Mehta (03- 2173 7479) or Hoh Li Yun (03-2173 7561); or send an email to policyenquiry@pidm.gov.my.

Thank you.

**Roger Chan Weng Keng
Secretary
Malaysian Bar**

Dated: 29 January 2018

Re: Reminder to update trust account information by 31 March 2018

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- Under the Regulations, if your members hold a trust account¹ for two (2) or more beneficiaries at our member banks, they are required to update and submit certain information about the trust account on an annual basis. However, members who hold



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a trust account for only a single beneficiary are not required to provide this annual submission.

- The submission should include updated information relating to the trust account, the beneficiaries, and the amount held for each separate beneficiary of the trust account or percentage interest in the trust account to which the beneficiaries are entitled to. Your members are given the flexibility to submit the required beneficiary information by way of a separate alphanumeric code or other identifier to preserve the beneficiaries' confidentiality. To facilitate the submission by your members, we have attached a checklist as a guide on the details of the annual submission requirement, in Appendix 1.
- The deadline for the 2018 submission, based on trust account balances as at 31 December 2017², is by 31 March 2018. The updated information is to be submitted directly to our member bank where the trust account is maintained.
- A trustee who fails to comply with this annual submission requirement commits an offence under section 195 of the Malaysia Deposit Insurance Corporation Act 2011 and may be liable to a fine, or to imprisonment, or to both.

It is important that the information submitted by your members to our member banks is up-to-date and accurate. This would ensure that both the trustees and beneficiaries enjoy full deposit insurance protection. Further details on PIDM's deposit insurance coverage and PIDM's requirement relating to trust accounts are available on its website at pidm.gov.my.

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Afiza Abdullah (Ms.)
General Manager
Policy and International Division

¹ For example, client account (e.g. current or fixed deposit account) held by a law firm at a bank.

² Refers to the closing balance (e.g. closing balance shown in the bank statement) as at 31 December 2017.

2018 CHECKLIST:

What do I need to do to enjoy full deposit insurance protection for my trust account?

Refer to the step-by-step guide below:

1 Do I need to submit the information?

As at 31 December 2017:	YES	NO
(i) Do you hold monies in trust, in a trust account ¹ at any of PIDM member banks ² ?	<input type="checkbox"/>	<input type="checkbox"/>
(ii) Do you have two (2) or more beneficiaries in one trust account?	<input type="checkbox"/>	<input type="checkbox"/>
"YES" to both Question (i) & (ii)	✓ Submission is required. Please proceed to Step 2	
"NO" to either 1 or both Question (i) & (ii)	✗ Submission is NOT required for 2018	

2 What information do I need to submit?

Update/ provide all the following information on each trust account:	YES
(a) the assigned trust account number by your bank	<input type="checkbox"/>
(b) details of the trustee/ account holder, comprising: <ul style="list-style-type: none"> name and address identity card number/ passport number/ any other identification acceptable to your bank 	<input type="checkbox"/>
(c) details of the beneficiary, as at 31 December 2017,³ comprising: <ul style="list-style-type: none"> each beneficiary's name and address⁴ each beneficiary's entitlement in the trust account (in RM or %) 	<input type="checkbox"/>

3 Where and when do I submit the information?

Submit all the information listed under Step (2) above, directly, to your bank where the trust account is maintained, by 31 March 2018	YES <input type="checkbox"/>
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For more information:

- Call PIDM's toll-free information line: **1-800-88-1266**, between 8.30 am to 5.30 pm (Monday to Friday); or Ms. Sejal Mehta at 03-2173 7479/ Ms. Hoh Li Yun at 03-2173 7561
- Email to: **policyenquiry@pidm.gov.my**
- Visit PIDM's website: **pidm.gov.my**

¹ Trust account may include client account (e.g. current or fixed deposit account) held by a law firm at a bank

² The list of PIDM member banks is available on PIDM's website at pidm.gov.my

³ Based on closing balance of the trust account (e.g. closing balance shown in the bank statement) as at 31 December 2017

⁴ Alphanumeric code or other identifier may be used to represent each beneficiary



FREQUENTLY ASKED QUESTIONS RELATING TO INSURANCE COVER BY PERBADANAN INSURANS DEPOSIT MALAYSIA (PIDM)

1. What is PIDM?

Perbadanan Insurans Deposit Malaysia (“PIDM”) is a statutory body established in 2005 to protect financial consumers. PIDM reports to Parliament through the Minister of Finance and is governed by a Board of Directors headed by a non-executive Chairman. A Chief Executive Officer is responsible for the oversight and management of the daily operations of PIDM.

As an integral part of the national financial safety net system, PIDM administers the Deposit Insurance System and the Takaful and Insurance Benefits Protection System (“TIPS”) under the Malaysia Deposit Insurance Corporation Act 2011 (“PIDM Act”). PIDM insures depositors against the loss of part or all of their deposits and protects takaful certificate and insurance policy owners against the loss of part or all of their takaful or insurance benefits in the event of a member institution failure. PIDM is also mandated to provide incentives for sound risk management in the financial system, as well as to promote or contribute to the stability of the financial system.

2. How does PIDM work?

PIDM administers the Deposit Insurance System and TIPS in Malaysia. PIDM is entirely funded by premiums assessed on its member institutions and does not receive public funds to operate. PIDM collects premiums from member institutions comprising banks, takaful operators and insurance companies. The premiums collected by PIDM are used to fund PIDM’s operations and surplus funds are accumulated to build reserves to meet future obligations of depositors, takaful certificate and insurance policy owners. PIDM manages six (6) separate and distinct funds – two (2) for deposit insurance and four (4) for takaful and insurance benefits protection. Further, PIDM has the means under the PIDM Act to borrow or raise such funds as may be needed to fulfil its statutory obligations to protect financial consumers of its member institutions.

PIDM promotes public confidence in the Malaysia’s financial system by providing protection to the depositors, takaful certificate and insurance policy owners. In the event of a member bank failure, PIDM will reimburse depositors eligible deposits up to the protection limit, as soon as possible and no later than three (3) months from the date of the winding-up order. Should an insurer member fail, PIDM will make payment of the protected benefits up to the protection limit in respect of eligible takaful and insurance benefits following the occurrence of a claim event, on maturity or on surrender of the takaful certificate or insurance policy provided the claims are made within a specified time frame under the circumstances provided in the PIDM Act.

PIDM works closely with Bank Negara Malaysia (“BNM”), which is the primary regulator and supervisor of the financial system. PIDM complements BNM’s role in contributing to the stability of the financial system by providing incentives for member institutions to implement sound risk management practices. PIDM, as the resolution agency of member institutions, is empowered with a wide range of legislative tools to undertake early intervention and resolution of member institutions.

3. How does PIDM protect the Office Accounts of the Law Firm?

PIDM provides deposit insurance protection of up to RM250,000 (principal and interest or return) per depositor per member bank to all depositors if they hold eligible deposit accounts with a member bank.

Deposits held under joint accounts, trust accounts, accounts of sole proprietorships, partnerships, professional practices and companies, are also separately protected by PIDM from deposits of a depositor held on his or its own behalf provided that the ownership information of that deposit account is disclosed on the records of the member banks. Deposits of a law firm acting on its own behalf, such as office accounts, would be separately protected by PIDM under the aforementioned account types. Refer to *Illustration (3)*.

For further clarification, in the case of partnerships, professional practices or companies, the maximum protection for each of such entities is RM250,000 collectively and not RM250,000 per partner. Similarly, the maximum protection for a joint account is RM250,000 collectively and not RM250,000 per joint account holder.

Refer to *Illustration (1)*.

4. How does PIDM protect the Clients' Accounts of the Law Firm?

PIDM provides separate insurance protection for deposits held by a trustee in a trust account at a member bank in the event the member bank becomes bankrupt. This would include clients' accounts held by a law firm in a fiduciary capacity. Further, deposits held in trust for each beneficiary of the trust accounts can receive separate protection.

Refer to *Illustration (1)*.

Illustration 1:

Account	Account holder	Nature of account	Beneficiary name or code	Amount (RM)	Protected by PIDM (RM)
1	Law Partners & Co	Office account	N/A	300,000	250,000
2	Law Partners & Co	Trust account* (Trustee for clients' accounts)	X001	400,000	250,000
			X002	200,000	200,000
			X003	100,000	100,000
			Total deposits	1,000,000	800,000

**if it is disclosed as a trust account on the records of the member bank*

5. What are the procedures that need to be complied with to be eligible for PIDM cover for Office Accounts of the Law Firm?

As mentioned in our reply in paragraph 3 above, if the deposit account is opened under a partnership acting on its own behalf, the ownership information must be provided by the depositor and disclosed on the records of the member banks.

6. What are the procedures that need to be complied with to be eligible for PIDM cover for Clients' Accounts of Law Firm, keeping the issue of confidentiality in mind?

The PIDM Act specifies that a trustee is required to submit to the member banks such records as may be required by PIDM. The disclosure by the trustees would ensure that both the trustees and beneficiaries enjoy full deposit insurance protection.

Disclosure of the trust accounts

To give effect to the separate insurance protection as mentioned in our reply in paragraph 4 above, the **Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2012** ("PIDM Trust Accounts Regulations 2012") set out what information and when such information shall be submitted by a trustee to the member bank. A copy of the PIDM Trust Accounts Regulations 2012 is attached for your reference.

The disclosure obligations are two-fold:

- (i) **On opening a trust account**, a trustee is required to submit the information specified in paragraph 3(1) of the PIDM Trust Accounts Regulations 2012 to the member bank; and
- (ii) Aside from the requirement to notify member banks on opening of an account that the account is a trust account, there is a requirement for trustees **to update information about the trust account and beneficiaries** to the member banks on **an annual basis ("annual disclosure")**. **By 31 March of each year**, a trustee acting for two (2) or more beneficiaries is required to submit the following information directly to the member bank where the trust account is maintained:
 - the trust account number;
 - the trustee's name, address and identity card number or passport number (if applicable) or any other identification of the trustee acceptable to the member bank;
 - the name and address of each beneficiary or the alphanumeric code or any other code or identifier for each beneficiary, as at 31 December of the preceding year; and
 - the amount or percentage of each beneficiary's interest in the trust account as at 31 December of the preceding year.

PIDM Trust Accounts Regulations 2012

Please be informed that the PIDM Trust Accounts Regulations 2012 were gazetted on 27 November 2012 and it came into operation on the same day. With the coming into force of the PIDM Trust Accounts Regulations 2012, the Malaysia Deposit Insurance Corporation (Disclosure Requirements for Trust Accounts and Joint Accounts) Regulations 2007 (“**the Old Regulations**”) are revoked.

The PIDM Trust Accounts Regulations 2012 also impose an obligation on the member banks to notify each trustee who acts for two (2) or more beneficiaries in one trust account, before 31 March of every assessment year, of the annual disclosure requirements.

Client confidentiality

The trustee need not disclose the name and address of each beneficiary if the trustee is prohibited by law or the terms of the trust to make such disclosure. Instead, **the trustee may use a separate alphanumeric code or other identifier to represent each beneficiary on the records of the trustee.** There should be only one code or identifier for the same beneficiary if a trustee holds several accounts in the same member bank. Refer to *Illustration (2)*.

For more details on the submission of information on trust accounts, kindly refer to the PIDM Trust Accounts Regulations 2012, a copy of which is attached and also available at PIDM’s website (pidm.gov.my).

7. How does PIDM deal with different types of placement accounts (e.g. Current Account, Fixed Deposit Account, Money Market Placement) maintained by Law Firms with Commercial Banks and Investment Banks?

Membership

Member banks of PIDM are all commercial banks licensed under the Financial Services Act 2013 and all Islamic banks licensed under the Islamic Financial Services Act 2013, including foreign banks operating in Malaysia. Investment banks are not member banks of PIDM and therefore, deposits placed in investment banks are not protected under the Deposit Insurance System administered by PIDM.

A list of member banks of PIDM can be obtained either by contacting PIDM at 1-800-88-1266 or by accessing PIDM’s website at pidm.gov.my. Further, under the Malaysia Deposit Insurance Corporation (Provision of Information on Deposit Insurance) Regulations 2011, member banks are required to signify their membership with PIDM by displaying the PIDM membership sign at their offices, on their websites and the screensaver or homepage of their automated teller machines.

Scope of coverage and protection limit

Eligible deposit accounts include savings, current, fixed deposit accounts and Islamic deposit accounts in Ringgit Malaysia and foreign currency. Interbank money market deposits, deposits not payable in Malaysia, negotiable instruments of deposit, other bearer deposits and investment accounts are amongst the deposit products that are not protected by PIDM.

Under the Malaysia Deposit Insurance Corporation (Provision of Information on Deposit Insurance) Regulations 2011, member banks should inform depositors whether a deposit product is eligible or not eligible for deposit insurance protection by PIDM before they place their funds. All eligible deposit products are listed in a register by each member bank and this register is available for public reference.

All eligible deposit accounts held by the same depositor with the same member bank would be aggregated and be protected up to RM250,000.

Further, all eligible trust accounts held by the same trustee for the same beneficiary with the same member bank would be aggregated and be protected only up to RM250,000.

Refer to *Illustration (2)*.

Illustration 2:

Account	Type of deposit	Account holder	Beneficiary name or code	Amount (RM)	Protected by PIDM (RM)
1	Fixed	Law Partners & Co (Office account)	N/A	150,000	250,000
2	Current			150,000	
3	Savings	Law Partners & Co (Trustee for clients' accounts)	X001	200,000	250,000
4	Current		X001	100,000	
5	Fixed		X001	100,000	
6	Savings		X002	200,000	200,000
7	Fixed		X003	100,000	100,000
			Total deposits	1,000,000	800,000

8. Is there a difference in the coverage by PIDM for accounts maintained with Conventional Banks and Islamic Banks?

Eligible deposit accounts held by a depositor in different member banks (irrespective of conventional or Islamic banks) are protected separately by PIDM. The RM250,000 limit is applicable per depositor per member bank.

Further, Islamic and conventional deposits in the same member bank are eligible for a separate protection limit of RM250,000.

9. Is there a requirement for the beneficiary of the relevant placements to be informed of the maximum cover by PIDM notwithstanding the amount of the placements?

It is not a requirement under the PIDM Act for trustees to inform their beneficiaries on PIDM's coverage or protection limit for deposits held in trust accounts. Beneficiaries of trust accounts are not required to disclose information to the member banks directly. However, to protect their interest, beneficiaries may wish to ensure that their trustee has made the relevant disclosures to the member banks.

10. What will happen if the Law Firm do not follow the procedural requirements of PIDM with regard to placements?

A trustee who fails to comply with the requirements under the PIDM Trust Accounts Regulations 2012 commits an offence under section 195 of the PIDM Act and may be liable to a fine, or to imprisonment, or to both.

11. Whether there are additional reporting for monies held for the benefit of or received from foreign clients?

There are no additional reporting requirements for monies held by a law firm in a member bank for the benefit of or received from foreign clients for the purpose of deposit insurance protection. Please refer to our replies in paragraphs 6 and 7 above.

12. Whether the limit of RM250,000 is per client, per account or per firm basis?

Subject to the aggregation rule and other matters mentioned in paragraphs 4 and 7 above, PIDM protects eligible deposits up to RM250,000 per depositor per member bank. The RM250,000 limit includes both the principal amount of a deposit and the interest or return.

Refer to *Illustration (3)*.

Illustration 3:

Account	Account holder	Nature of account	Type of deposit	Amount (RM)	Protected by PIDM (RM)
1	Maria	Individual	Savings	130,000	250,000
2	Maria	Individual	Fixed	130,000	
3	Maria and husband	Joint	Fixed	260,000	250,000
4	Maria Partners & Co (Law firm)	Professional practice	Current	300,000	250,000
5	Maria Flowers and Gifts Sdn Bhd	Company	Current	180,000	180,000
			Total deposits	1,000,000	930,000

For more information:

- Call PIDM's toll-free information line: **1-800-88-1266**, between 8.30 am to 5.30 pm (Monday to Friday); or Ms. Sejal Mehta at 03-2173 7479/ Ms. Hoh Li Yun at 03-2173 7561
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