



Perbadanan Insurans Deposit Malaysia
Protecting Your Insurance And Deposits In Malaysia

CONFLICT OF INTEREST CODE FOR DIRECTORS



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Approved by the Board of Directors at the Board Meeting No. 43 on 30 September 2014



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1.0 INTRODUCTION

- 1.1 This Conflict of Interest Code for Directors is made pursuant to subsection 12(1)(b) of the Malaysia Deposit Insurance Corporation Act 2011 (the “Act”) in respect of PIDM’s Directors and those who are no longer on its Board.
- 1.2 The objective of this Code is to maintain and enhance public confidence and trust in the integrity, objectivity and impartiality of PIDM and its Directors.
- 1.3 This Code seeks to minimise the possibility of conflicts occurring or being perceived to exist between the private interests of Directors and their duties and to ensure that if any real, potential or apparent conflict does arise, it will be resolved appropriately.
- 1.4 Conforming to this Code does not absolve a Director from responsibility to take such additional actions as may be necessary to prevent or, if need be, resolve any real, potential or apparent conflict of interest, nor does it absolve an individual from any requirement to comply with a statutory, common law or contractual obligation or prohibition.¹
- 1.5 All Directors should review this Code on a regular basis and satisfy themselves that they have taken or are taking such actions as may be required for compliance with its principles. Directors and former Directors to whom this Code applies should note that a breach of this Code is also an offence under the Act.

[Note: The commentary in this paper is for explanatory purposes only and does not form part of the Code.]

2.0 DEFINITIONS

- 2.1 In this Code, words have the meaning given to them under the Act (unless otherwise defined in this Code) and the following words and expressions have the following meaning:

“Act” means the Malaysia Deposit Insurance Corporation Act 2011;

¹ E.g. the insider dealing provisions under the Securities Industry Act 1980, offences under the Penal Code and the Prevention of Corruption Act 1961



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“affiliate” means an entity that is affiliated with another entity within the meaning of the Schedule to this Code;

“Connected Person” means a spouse, children, stepchildren, parents or any person over whom you exercise or are able to exercise significant influence in relation to that person’s financial affairs, by reason of that person’s age, lack of capacity or otherwise;

“Designated Person”, is the Designated Person defined in paragraph 9;

“Director” means any director of the PIDM;

“hospitality” includes invitations to attend an event (including sporting and cultural events), meals or other similar occasion with someone who works for or represents a member institution, or an actual or potential supplier or service provider of PIDM, where it can be reasonably perceived that the person who attends such an event is representing PIDM;

“interest in a share” means beneficial ownership, direct or indirect, of a share or any part thereof, provided that:

- (a) beneficial ownership does not include ownership of a unit or right in a collective investment scheme such as a unit trust fund, a right under a pension, retirement savings or life insurance plan where investment decisions for the fund or plan are made without direction from or control by the owner or any beneficiary of the unit or right; and
- (b) an individual will be considered to have an interest in a share beneficially owned, directly or indirectly, by a Connected Person if:
 - (i) that Connected Person acquired that ownership using money or moneys worth directly or indirectly supplied by the individual and the individual is aware of the Connected Person’s beneficial ownership of the share; or
 - (ii) the individual exercises or is able to exercise significant influence of that Connected Person’s affairs, by reason of that Connected Person’s age, lack of capacity or otherwise and the individual is aware of the Connected Person’s beneficial ownership of the share;



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“**key management personnel**” means those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly of that entity;

“**member institution**” means a financial institution or a corporation that is deemed to be or prescribed as a member institution under the Act and the membership of which has not been cancelled under section 38 or terminated under section 39 respectively of the Act;

“**PIDM**” means Malaysia Deposit Insurance Corporation;

“**person**” includes a body of persons, corporate or unincorporated; and

“**share**” includes an accepted subscription for a share, a warrant for a share, a right to acquire or require the issuance of a share or a warrant by the conversion of or in exchange for other property and an option right to acquire or require the issuance of any of the foregoing.

2.2 Conflict of Interest and Private Interests

A “**conflict of interest**” involves a conflict between the official duties of the Directors and his or her private interest, in which the Director has private-capacity interest which could improperly influence the performance of his or her official duties and responsibilities. When a private interest has in fact compromised the proper performance of a Director’s official duties, this could constitute misconduct or even amount to an offence depending on the circumstances.

Conflict of interest that this Code seeks to minimise may be actual, apparent or potential. An *apparent* conflict may be said to exist where it appears that a Director’s private interest could improperly influence the performance of his or her official duties but this is not in fact the case. A *potential* conflict of interest arises where a Director has private interests which are such that a conflict of interest would arise if the person were to become involved in conflicting official responsibilities in the future.

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2.3 “Private interest” includes but is not limited to:

- (a) financial or pecuniary interest,
- (b) an interest which generates a direct personal benefit,
- (c) an otherwise legitimate private-capacity activities, personal affiliations and associations and family interests, if the interest could reasonably be considered likely to improperly influence the Director’s performance of his or her official duties.

[Commentary: Drawn from OECD’s Managing Conflict of Interest in the Public Sector, page 24]

2.4 Relation to Statutes

Under subsection 12(3) of the Act, a person who fails to comply with this Code commits an offence.

3.0 PRINCIPLES

3.1 Directors are required to conform to the following principles:

Principle 1: Promoting individual responsibility and personal example

- (a) A Director must uphold the highest ethical standards, so that public confidence and trust in the integrity, objectivity and impartiality of the Corporation are maintained and enhanced. In this connection a Director is expected to demonstrate his or her commitment to integrity and professionalism through his or her application of conflict of interest policies and practices.

[Commentary: **Promoting individual responsibility and personal example.** “Public officials are expected to act at all times so that their integrity serves an example to other officials and the public”. OECD Recommendations for Core Principles for Managing Conflict of Interest].

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- (b) A Director is responsible for, and must arrange his or her private affairs in a manner designed to prevent real, potential or apparent conflicts of interest from arising, but if such a conflict does arise between the private interests of a Director and his or her official duties, the conflict must be resolved in a manner satisfactory to the Board.

[Commentary: **Promoting individual responsibility and personal example.** “Public officials should accept responsibility for arranging their private-capacity affairs, as far as reasonably possible, so as to prevent conflicts of interest arising on appointment to public office and thereafter.” “Public officials should accept responsibility for identifying and resolving conflicts in favour of the public interest when a conflict does arise”. OECD Recommendations for Core Principles for Managing Conflict of Interest.]

Principle 2: *Serving the public interests*

- (c) A Director should dispose of, or restrict the operation of his or her private interests that could compromise official decisions in which he or she participates. Where this is not feasible, a Director should abstain from involvement in official decisions which could be compromised by his or her private interests and affiliations.

[Commentary: **Serving the public interests** “Public officials should dispose of, or restrict the operation of, private interests that could compromise official decisions in which they participate. Where this is not feasible, an official should abstain from involvement in official decisions which could be compromised by their private-capacity interests and affiliations”. OECD Recommendations for Core Principles for Managing Conflict of Interest]

- (d) A Director must not knowingly take advantage of, or benefit from, any information obtained by reason of his or her position as a Director and which is not generally available to the public.
- (e) A Director must not use his or her position or PIDM’s resources for private gain.

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- (f) A Director must not directly or indirectly use, or allow the use of, PIDM's property or facilities for anything other than officially approved activities.

[Commentary: **Serving the public interests** "Public officials should avoid private-capacity action which could derive an improper advantage from "inside information" obtained in the course of official duties, where the information is not generally available to the public, and are required not to misuse their position and government resources for private gain." OECD Recommendations for Core Principles for Managing Conflict of Interest]

- (g) A Director must not, directly or indirectly solicit or accept economic benefits, other than incidental gifts, customary hospitality or other benefits of nominal value, except pursuant to enforceable contractual or property rights of the Director.

[Commentary: **Serving the public interests:** "Public officials should not seek or accept any form of improper benefit in expectation of influencing the performance or non-performance of official duties of functions." OECD Recommendations for Core Principles for Managing Conflict of Interest]

- (h) A Director must not, after ceasing to be a member of PIDM's Board, act in such manner as to take improper advantage of his or her former position as a Director of PIDM.

[Commentary: **Serving the public interests:** "Public officials are expected not to take improper advantage of a public office or official position which they held previously, including privileged information obtained in that position, especially when seeking employment or appointment after leaving public office." OECD Recommendations for Core Principles for Managing Conflict of Interest]

Principle 3: Supporting Transparency and Scrutiny

- (i) A Director has an obligation to carry out his or her duties and exercise his or her powers as a Director, and to arrange his or her private affairs in a manner that will withstand the closest public scrutiny, an obligation that is not fully discharged simply by acting within the law.



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[Commentary: **Supporting transparency and scrutiny.** “Officials and public organisations are expected to act in a manner that will bear the closest public scrutiny. This obligation is not fully discharged simply by acting within the letter of the law; it also entails respecting broader public services values such as disinterestedness, impartiality and integrity.” OECD Recommendations for Core Principles for Managing Conflict of Interest]

- (j) A Director’s private interests and affiliations that could compromise the objective performance of his or her official duties should be disclosed appropriately, to ensure transparency and enable adequate control and management of a resolution.

[Commentary: **Supporting transparency and scrutiny.** Public officials’ private interests and affiliations that could compromise the disinterested performance of public duties should be disclosed appropriately, to enable adequate control and management of a resolution.” OECD Recommendations for Core Principles for Managing Conflict of Interest]

Principle 4: Confidentiality

- (k) Except as permitted by law, a Director must, both while serving as and after ceasing to be a member of PIDM’s Board, treat as confidential all information regarding the business or affairs of PIDM, Bank Negara Malaysia, any Member Institution, a customer of Bank Negara Malaysia, a customer of a member institution, or any person dealing therewith which is obtained by reason of his or her serving as a member of PIDM’s Board and which are not generally available to the public.

[Commentary: Section 24 of the Act provides that no director, officer or employee who for any reason has by any means access to any record, book, register, correspondence or other document whatsoever, material or information relating to the business and affairs of the Corporation, Bank Negara Malaysia, a member institution, a customer of Bank Negara Malaysia, or a customer of a member institution, which he has acquired in the performance of his duties or exercise of his functions, shall give, divulge, reveal, publish or otherwise disclose, to any person such document, material or information unless the disclosure is required under any law, for the

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performance of his duties or the exercise of this functions under the Act, or when lawfully required to do so by any court. Information should be used only for the purposes for which the information is obtained.]

3.2 The other provisions of this Part are not to be interpreted to derogate from, or to be exhaustive of the actions which may be necessary to conform to, the principles in paragraph 3.1.

4.0 INTERESTS IN MEMBER INSTITUTIONS AND AFFILIATES

4.1 A Director is subject to the following limitations in respect of any interest in shares of any member institution or any affiliate of a member institution:

(a) a Director may only have an interest in the shares of a member institution which is the lower of -

(i) the aggregate fair market value at the time which does not exceed (and upon the exercise of any right attaching to some or all of them would not produce an interest in shares of which the aggregate fair market value exceeds) ten percent of his or her net worth at the time; or

(ii) a number not exceeding at the time (and upon the exercise of any right attaching to some or all of them would not result in the number of shares exceeding) five percent of the relevant class of shares of the member institution outstanding at the time,

provided that he or she discloses the details regarding the interests in shares, and buying and selling activities in relation to the shares, to the Designated Person.

(b) a Director may only have an interest in the shares of an affiliate of a member institution where the affiliate is directly or indirectly controlled by, or under common control with, the member (e.g. a subsidiary or a sister company), and where the shares are publicly distributed and listed on a securities exchange, without any limitation, but subject to disclosures being made to the Designated Person.



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- 4.2 Notwithstanding paragraph 4.1, the Designated Person may request that a Director dispose of or otherwise cease to have an interest in shares of a particular member institution or any affiliate of a member institution if, in the opinion of the Designated Person, the interest creates a real, potential or apparent conflict of interest. A Director receiving such a request must comply with it or may apply in writing to the Board for a reconsideration of the matter, and if the Board concurs with the Designated Person's request, the Director must thereupon comply.
- 4.3 For the purposes of paragraph 4.2, a sale or transfer of an interest in shares to a family member of a Director will not suffice for the purposes of complying with the Code.
- 4.4 A Director holding or acquiring any interest in shares held in accordance with paragraph 4.1 above must declare such interests in writing to the Designated Person upon taking up office as a Director, and, upon acquisition of such an interest in shares. Where the Director disposes of any such interest or any part of such interest, he or she must also make a declaration to the Designated Person of the amount of such disposal.
- 4.5 A Director who, upon taking up office, has more than the prescribed level of interests in shares stated in paragraph 4.1 may, with the approval of the Designated Person, be granted a grace period to come into compliance with the provisions of paragraph 4.1.

5.0 FACILITIES AND DEPOSITS FROM MEMBER INSTITUTIONS AND INSURANCE AND TAKAFUL BENEFITS

- 5.1 Each Director must make a declaration to the Designated Person, on a confidential basis (but subject to the other provisions of this Code):
- (a) all loans, lines of credit, guarantees, any financial undertakings and any facilities whatsoever ("credit facilities") provided by any member institution:
 - (b) any deposits held amounting to RM250,000 or more with any member institution.

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5.2 Such a declaration must be made:

- (a) upon first taking office as a member of PIDM's Board, and thereafter on a yearly basis;
- (b) upon:
 - securing of any credit facility from by the member institution;
 - upon opening an account with any deposits of or above the relevant limit with any member institution;
 - upon any deposit reaching the RM250,000 limit or more, in any member institution.

5.3 A Director must not use or exploit his or her position in PIDM to solicit any credit facility or borrow money or purchase any insurance or takaful product from any member institution or any affiliate of a member institution on terms or conditions that are more advantageous than he or she could otherwise obtain in arm's length dealings with the member institution or affiliate.

5.4 The deposit limit wherever mentioned in this Code refers to the principal amount of such deposit.

6.0 GIFTS, HOSPITALITY AND OTHER BENEFITS

6.1 A Director must not solicit or accept, directly or indirectly, any gift (whether in cash or in kind), hospitality or other benefit arising out of any activity associated with his or her responsibilities with PIDM for himself or any Connected Person unless:

- (a) it is within the bounds of propriety, a normal expression of courtesy or within the normal standards of hospitality; is not such as to cast suspicion on the Director's objectivity and impartiality; and will not compromise PIDM; or
- (b) where it is provided to the Director by PIDM.

6.2 Where a gift, hospitality or other benefit is provided unexpectedly, or where it is not practicable or offensive to decline a gift, hospitality or other benefit that is prohibited under paragraph 6.1, the Director must make a disclosure on the matter to the Designated Person. On receiving such a disclosure, the Designated Person may

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require that the gift, hospitality or benefit, or its reasonable equivalent, be returned to the giver, if practicable, or turned over to PIDM, or be disposed of for charitable purposes.

7.0 POST-DIRECTORSHIP ACTIVITIES

A former Director must not, either personally or through or in the name of any other person, act for or on behalf of any person in any proposed or ongoing proceeding, transaction, negotiation, arrangement or case to which PIDM is a party in respect of which:

- (a) the former Director was involved at any time as part of his or her role as such and which would result in the conferring of an advantage or benefit that is not generally available; or
- (b) that is dependent on any special knowledge that the former Director obtained by reason of his or her position as such.

[Commentary: Similar to Canadian Conflict of Interest and Post-Employment Code for Public Office Holders (2006), paragraph 27(1)]

8.0 DIRECTORSHIPS OR INTERESTS IN PIDM'S CONTRACTORS

- 8.1 Every Director will be advised by Management about the types of entities with which PIDM conducts business, has contractual relationships, or with which PIDM is likely to conduct business or to have contractual relationships ("PIDM's Contractor(s)").
- 8.2 Every Director must, on a confidential basis, and upon being appointed as a member of the Board or as soon as practicable, advise the Corporate Secretary in writing if he or she holds any directorship in, or is a member of the key management personnel of, or has any interest in, any of PIDM's Contractors or any entity undertaking a similar business as PIDM's Contractors. If there are none, the Director shall confirm with the Corporate Secretary in writing, on a confidential basis, that he or she holds no such position or has no such interest.
- 8.3 A Director, on being appointed as director or key management personnel of PIDM's Contractor or on acquiring any interest in any such entity, shall additionally and on a confidential basis disclose this information in writing to the Corporate Secretary



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within thirty (30) days from the date of appointment or acquisition (whichever the case may be).

9.0 DESIGNATED PERSON

For the Chairperson of the Board, the “Designated Person” shall be the Chairperson of the Audit Committee of PIDM and in the case of all other Directors, it shall be the Chairperson of the Board.

10.0 CERTIFICATION

Every Director must, upon taking up office as such and annually thereafter (or at such other times as required under the Act or by PIDM), sign and provide to the Designated Person a document, substantially in the form set out in the Appendix, certifying that he or she has read and understands and is abiding by the applicable provisions of this Code.

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Schedule

For the purpose of determining whether or not an entity is an affiliate of another:

- (a) “beneficial ownership” includes ownership through one or more trustees, legal representatives, agents or other intermediaries;
- (b) “body corporate” means an incorporated body wherever or however incorporated;
- (c) “entity” means a body corporate, a trust, a partnership, a fund, an unincorporated association or organisation, the Government or the government of a foreign country or any political subdivision and any agency thereof;
- (d) “influence” in respect of an entity means the power, alone or in combination with one or more persons, directly or indirectly, to exercise influence over the management and policies of the entity, whether through the beneficial ownership of voting securities, or otherwise;
- (e) a person controls a body corporate if securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the voters attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
- (f) a person controls an unincorporated entity, other than a limited partnership, if more than 50 per cent of the ownership interests, however designated, into which the entity is divided are beneficially owned by the person and the person is able to direct the business and affairs of the entity;
- (g) a general partner of a limited partnership controls the limited partnership;
- (h) a person controls an entity if the person has any direct or indirect influence that, if exercised, would result in control in fact of the entity;
- (i) a person who controls an entity is considered to control any other entity that is controlled, or is considered to be controlled, by the first-mentioned entity;



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- (j) a person is considered to control an entity where the aggregate of any securities of the entity that are beneficially owned by any entity controlled by that person is such that, if that person and all of the entities that beneficially own securities of the entity were one person, that person would control the entity; and
- (k) an entity is affiliated with another entity if one of those entities is controlled by the other or both are controlled by the same person.

- End -



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Appendix

Note: Breach of this Code is an offence under the Malaysia Deposit Insurance Corporation Act 2011.

Certification

To the Designated Person²

I hereby certify that:-

- (1) I have reviewed and understand the Conflict of Interest Code for Directors of Perbadanan Insurans Deposit Malaysia;
- (2) I understand that I am required to comply with the principles and other provisions of the Code applicable to me;
- (3) I have considered my personal and family affairs in sufficient detail to be able to be satisfied in this regard; and
- (4) I am and will remain in compliance.

Recipient's signature

Recipient's name
(type or print)

Date: _____

² The Chairman of the Board, for all Directors except the Chairman. In the latter's case, the Designated Person is the Audit Committee Chairman