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Staff Country Reports

**Malaysia: Publication of Financial Sector Assessment Program Documentation—
Detailed Assessment of Observance of Core Principles for
Effective Deposit Insurance Systems**

This Detailed Assessment of Observance of Core Principles for Effective Deposit Insurance Systems in Malaysia was prepared by staff of the International Monetary Fund and the World Bank as background documentation for the periodic consultation with the member country. It is based on the information available following the FSAP discussions that ended on September 7, 2012, with the officials of Malaysia. Based on the information available at the time of these discussions, the assessment was completed in February 2013. The related ROSC was published together with the FSSA on February 28, 2013. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Malaysia or the Executive Board of the IMF.

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FINANCIAL SECTOR ASSESSMENT PROGRAM

MALAYSIA

CORE PRINCIPLES FOR EFFECTIVE DEPOSIT INSURANCE
SYSTEMS

DETAILED ASSESSMENT OF OBSERVANCE

FEBRUARY 2013

INTERNATIONAL MONETARY FUND
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GLOSSARY

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| BNM | Bank Negara Malaysia |
| DFI | Development Financial Institutions |
| DIS | Deposit Insurance System |
| DPS | Differential Premium System |
| FRS | Financial Reporting Standards |
| FSAP | Financial Sector Assessment Program |
| FSEC | Financial Stability Executive Committee |
| GDG | Government Deposit Guarantee |
| GDP | Gross Domestic Product |
| ICP | Integrated Communications Plan |
| IDIF | Islamic Deposit Insurance Fund |
| IFR | Intervention and Failure Resolution Framework |
| IFRS | International Financial Reporting Standards |
| MI | Member Institution |
| MoF | Minister of Finance |
| NPL | Non Performing Loans |
| OFC | Labuan Offshore Financial Center |
| OTC | Over The Counter |
| PIDM ACT | Malaysia Deposit Insurance Corporation Act |
| PIDM | Perbadanan Insurans Deposit Malaysia |
| RM | Malaysian Ringgit |
| SAA | Strategic Alliance Agreement |
| SC | Securities Commission |
| TIPS | Takaful and Insurance Benefits Protection System |

I. BACKGROUND INFORMATION ON THE ASSESSMENT

1. **This assessment of compliance with the Core Principles for Effective Deposit Insurance Systems (Core Principles) was conducted as a part of the Financial Sector Assessment Program (FSAP) performed by the International Monetary Fund and the World Bank at the request of the Malaysian government. This assessment was conducted by Claire McGuire, Senior Financial Sector Specialist with the World Bank, during a mission to Malaysia from March 27 to April 13, 2012.**

II. METHODOLOGY USED FOR THE ASSESSMENT

2. **The evaluation of the compliance with the Core Principles for Effective Deposit Insurance Systems was conducted on the Malaysia Deposit Insurance Corporation (Perbadanan Insurans Deposit Malaysia or PIDM) utilizing the Methodology for Compliance Assessment adopted in December 2010 by the Bank for International Settlements and the International Association of Deposit Insurers. The Assessment addresses PIDM's compliance with the Core Principles solely with respect to its operations as an insurer of deposits in commercial banks. In accordance with the Methodology, the Assessment is designed to assess to the extent possible whether the criteria are fulfilled in practice and not just in theory (Methodology at 2).**

3. **The assessment was based on a review of relevant laws, regulations and regulatory and supervisory practices related to the conventional banking sector and the operations of PIDM.** Multiple meetings were held with various members of PIDM staff as well as senior management of PIDM, staff and senior management of Bank Negara Malaysia (BNM), local and foreign commercial and Islamic banks, personnel at the Ministry of Finance and a lawyer in private practice. PIDM completed a self-assessment in preparation for the FSAP and conducted a Workshop using the Core Principles Methodology to assist in the FSAP review.

4. **There has been no experience with bank failures in Malaysia since PIDM's establishment in 2005.** As a result the Assessment looked at the relevant provisions of the legal framework without consideration of how the laws had been applied in practice or interpreted by the courts. Several weaknesses in the legal framework have been noted in this Assessment.

5. **The Core Principles assessor would like to express her sincere gratitude to PIDM, BNM, MoF and the private sector institutions for their assistance.** The assessor received excellent cooperation from the Malaysian authorities and representatives of the private sector.

III. INSTITUTIONAL AND MACROPRUDENTIAL SETTING, AND MARKET STRUCTURE OVERVIEW

A. Supervisory Environment

6. **Financial oversight is performed by BNM and the Securities Commission (SC).** BNM supervises the banking sector (conventional, Islamic, investment (responsibility shared with SC) and development banks) as well as the insurance sector (conventional and Islamic (or takaful) and reinsurance). It also licenses or registers a range of financial intermediaries (leasing, factoring, financial advisors), as well as overseeing the money and foreign exchange markets and the payment, clearing and settlement systems. The SC regulates the securities industry as well as

derivatives (other than interest and exchange rate related OTC contracts). PIDM is an operationally independent deposit insurance agency reporting to Parliament through the Minister of Finance.

B. Overview of the Financial System

7. **The financial system – both banking and non-banking – is concentrated.** The top 5 commercial banks comprise 70 percent of total banking system assets. The onshore banking sector – with some 200 percent of GDP – comprises nearly 60 percent of financial sector assets (Islamic banks are around 20 percent of the banking sector and Labuan Offshore Financial Center banks are an additional 3.5 percent). The majority of bank assets are held by eight financial groups.

8. **The banking sector’s asset quality remained healthy with steady improvement in gross NPL ratios from 3.6 percent in 2009 to 2.7 percent in 2011.** Total provisions (general and specific) were 99.6 percent of NPLs in 2011; NPLs net of specific provisions stood at 1.8 percent in 2010, below the 5-year average of 2.3 percent. Banks remained well capitalized with system-wide risk weighted capital and core capital ratios at 14.9 percent and 12.9 percent respectively in 2011, a slight decline compared to 2009. This can be attributed to actions by BNM including the tightening of underwriting standards and an increase in risk weights for housing loans.

9. **Non-bank credit intermediation is sizable at some 90 percent of GDP.** This is accounted for predominantly by the state-run Employee Provident Fund, insurance companies and Development Financial Institutions (DFIs) (specialized financial institutions established by the Government with specific mandates to achieve socio-economic development objectives).

10. **There is a small offshore financial sector in Labuan.** At year-end 2010 there were 61 approved banks operating in the Labuan OFC, with approximately one-third operating as part of Malaysian financial groups. There are also insurance entities, leasing companies and trust companies operating from Labuan. In recent times, reinsurance activities have grown with many Labuan-based reinsurers having a global scope of operations.

IV. GENERAL PRECONDITIONS FOR AN EFFECTIVE DEPOSIT INSURANCE SYSTEM

A. Macroeconomic Environment

11. **The Malaysian economy grew 5.1% in 2011 after registering growth of 7.2% in 2010.** Commodity exports have remained strong but the growth of manufacturing exports has slowed. This follows a strong recovery from the fallout from the global financial crisis. Domestic demand registered strong growth of 8.2% in 2011 as a result of household and business spending and higher public sector consumption. Private investment expanded by 14.4% in 2011 and the public sector continued to provide support to growth, with public consumption expanding by 16.8% in 2011.

12. **The Government was proactive in responding to the global financial crisis.** Pre-emptive measures were taken by BNM, including reductions in the Overnight Policy Rate from

3.5% in October 2008 to 2.0% in February 2009, extension of access to the BNM's standing liquidity facility to insurance companies, temporary reduction of the Statutory Reserve Requirement to 1% (subsequently returned to 4%) and the extension of a Government Deposit Guarantee (GDG) on all RM and foreign currency deposits with commercial, Islamic and investment banks, including all domestic and locally incorporated foreign banking institutions, and deposit taking Development Financial Institutions (DFIs) regulated by BNM. The GDG was lifted in accordance with the announced schedule, accompanied by an increase in deposit insurance coverage from RM 60,000 to RM 250,000 per depositor per member institution.

13. **BNM has recently launched a second 10 year Financial Sector Blueprint, covering 2011 to 2020.** BNM's first Blueprint was in large measure a response to the 1997-98 financial crisis and focused on building a stable and strong financial system. The second Blueprint retains the focus on financial sector stability but seeks to strike a balance between tightening regulation in line with global trends in response to the recent global financial crisis while liberalizing other restrictions. The Blueprint also expresses a strong intent to enhance institutional arrangements for effective and orderly resolution of distressed financial institutions by enhancing PIDM's role as a resolution authority beyond its role with regard to its Member Institutions (MIs) to any large, non-viable financial institution in Malaysia that can affect financial stability. The Blueprint is consistent with the Tenth Malaysia Plan for 2011-2015 which focuses on stimulating private sector investments and inclusive socio-economic development and names financial services as one of the national key economic areas.

B. SOUND GOVERNANCE OF AGENCIES COMPRISING THE FINANCIAL SAFETY NET

14. **The Central Bank of Malaysia Act of 2009 provides BNM with a broad range of powers to avert or reduce a risk to financial stability¹.** These include intervention and resolution measures, including powers to reduce systemic risks that emanate from both regulated and non-regulated entities and to stem institutional or market liquidity shocks. BNM is operationally independent and is able to use its powers without undue influence from external parties.

15. **BNM assumes responsibility for addressing financial stability concerns given its mandate, powers and responsibilities and its role as the central bank and supervisory authority for the banking and insurance sectors.** Within BNM there is a Financial Stability Committee which serves as BNM's internal forum for discussing risks to financial stability and deciding on the appropriate policy responses. It is at this Committee that a decision would be made as to the non-viability of an institution, including member institutions of PIDM.

16. **BNM also has a Financial Stability Executive Committee (FSEC) established in 2010 under Section 37 of its Act which considers proposals related to its various powers.** These powers include the issuance of orders or provision of liquidity assistance to persons or financial institutions which it does not supervise, the purchase of shares or other capital instruments or

¹ Section 29 of the Act defines a risk to financial stability as a risk which, in the opinion of BNM, disrupts or is likely to disrupt the financial intermediation process, including the orderly functioning of the money market and foreign exchange market or risk that affects or is likely to affect public confidence in the financial system or the stability of the financial system.

businesses or assets of a financial institution or the vesting of the business, assets or liabilities of a financial institution in BNM, a corporation established by BNM or another financial institution or other person. Two executive members from BNM and four other members (Ministry of Finance, PIDM, an accountant and a lawyer) make up the FSEC. The private sector members of the FSEC are subject to a Code of Ethics and Conflict of Interest; they are also required to submit annual declarations of compliance with the Code and filings of assets and exposures.

17. **BNM is empowered to enter into arrangements with other supervisory authorities to coordinate financial stability measures.** BNM engages with the Securities Commission Malaysia and PIDM on a regular basis; the Governor of BNM sits on PIDM's Board. BNM coordinates with both agencies in the area of surveillance and supervision to facilitate the timely identification of pre-emptive responses to systemic risk.

C. Strong Prudential Regulation and Supervision

18. **BNM supervises four-fifths of the current financial system.** Banks are well-capitalised and follow prudent risk management practices. BNM conducts regular and thorough reviews of individual banks and bank groups and the system for prudential regulation and supervision is broadly compliant with the Basel Core Principles for Effective Banking Supervision.

D. Well-Developed Legal Framework

19. **The legal system is well-developed with clear property rights.** The judiciary in Malaysia is independent, professional and benefits from protection of tenure and of an adequate remuneration system. The effective operation of the insolvency and creditor rights framework relies, to a large extent, on the intervention of the courts. The standing of the courts and judges has improved over the years, especially with the creation of commercial judges in Kuala Lumpur. As of a few years ago, there was a substantial backlog of bankruptcy and winding-up cases throughout the Malaysian court system. However, a new case management system has apparently significantly reduced the backlog of old cases as well as made the handling of new cases more efficient. There is general satisfaction with the quality of judges handling insolvency matters in Malaysia's major commercial centers, particularly in certain jurisdictions such as Kuala Lumpur where such matters are handled by judges in a specially established Commercial Court.

20. **Laws are in place under which the banking system and the deposit insurer can operate.** The legal structure in Malaysia supports the banking system and the deposit insurer although there is a need to develop a more modern insolvency regime for companies and individuals. There are at present a number of credit information providers, with a supervisor for the activities of all credit information systems, in line with best international practices.

21. **A legal framework exists for handling a bank failure that includes a method for effective failure resolution in a timely manner.** PIDM's and BNM's statutes provide for various methods by which a financial institution can be effectively resolved. The factors that govern decisions on early intervention and non-viability should be made part of PIDM's statute.

22. **Banking laws and regulations are updated as necessary to ensure that they remain effective and relevant to a changing industry.** Both PIDM and BNM have had recent, extensive changes to their governing statutes. A significant effort is underway to amend the Banking and Financial Institutions Act of 1989 with a very advanced draft circulating for comment that BNM plans to table in the June Parliamentary session.

23. **Information exchange between the deposit insurance system participants and the supervisor is legally protected for all measures necessary in order to protect the deposits and to enable safety-net participants to intervene in case a bank is at risk.** All communications are subject to bank secrecy protections under Section 24 of the PIDM Act and PIDM and BNM have ongoing access to information on MIs.

24. **Appropriate participants in the financial safety net are entitled to protect depositors through a number of options including transferring deposits from a troubled bank to a healthy bank.** PIDM has the power to transfer deposits from a troubled bank to a MI or other institution established for such purpose.

25. **Relevant authorities can take legal action against the management of a failing bank.** There is authority to take action against those responsible for a failing or failed bank both with PIDM (through a referral to the public prosecutor) and BNM. The public prosecutor also has the authority to take action if appropriate under the Penal Code and a liquidator may pursue a suit under the Companies Act if needed.

E. Sound Accounting and Disclosure Regime

26. **Accounting and disclosure regimes support the ability of the supervisor and deposit insurer to adequately evaluate the health of individual banks and the banking system as a whole.** Banking institutions in Malaysia are subject to Financial Reporting Standards (FRS) established by the Malaysian Accounting Standards Board which are in full compliance with the International Financial Reporting Standards (IFRS). Banking institutions are also subject to additional disclosure requirements established by BNM, including the Guidelines on Financial Reporting for Banking Institutions (requiring disclosures on deposits, loans, impairment provisions and remuneration) and Pillar II disclosure requirements under Basel II (risk management practices and the capital adequacy of banking institutions). Banking institutions listed on the local stock exchange are subject to additional disclosure requirements set forth by Bursa Malaysia Securities, the securities exchange. In addition, the majority of locally owned banking institutions and several of the foreign owned banking institutions with significant operations in Malaysia are rated by the domestic credit rating agencies.

27. **Accounting and disclosure regimes support the accurate and timely identification of information on depositor accounts for the purposes of prompt reimbursements.** PIDM is able to collect information on depositors directly from its MIs. PIDM also requires that MI's external auditors validate filings made with PIDM for the purposes of its Differential Premium System (DPS). There is also high level collaboration and co-ordination between the accounting profession and the regulatory reporting agencies.

28. **Accounting and disclosure regimes support the use of risk-adjusted differential premium systems adopted by the deposit insurer.** PIDM is able to validate its DPS both directly with its MIs and through validation by MIs' external auditors.

29. **The deposit insurer has the right to carry out or provide for an audit or inspection of a member bank in a timely manner if evidence shows that deposits may be at risk.** PIDM has special examination powers under Section 97 of its Act. Such an examination may include the examination of records, books, accounts or other documents and transactions of the MI.

V. MAIN FINDINGS

30. **The deposit insurance framework in Malaysia, managed by PIDM, broadly conforms to best international practice.** PIDM was established in 2005 under the Malaysia Deposit Insurance Corporation Act (PIDM Act). PIDM administers a Deposit Insurance System (DIS) which covers deposits in conventional and Islamic banks as well as a takaful and insurance benefits protection system (TIPS) which insures policy owners and takaful certificate holders against the loss of part or all of their benefits in the event of a member institution failure. TIPS coverage was added to PIDM's mandate on December 31, 2010. Member institutions include all commercial banks, including locally incorporated foreign subsidiaries, Islamic banks licensed under the Islamic Banking Act of 1983, all insurance companies licensed under the 1996 Insurance Act except Danajamin Nasional Berhad and takaful operators registered under the 1984 Takaful Act (except international takaful operators). As of February 1, 2012, PIDM's membership consisted of 41 banks (25 commercial including 8 domestic and 16 Islamic banks) and 47 insurers (35 insurance companies and 12 takaful operators). The top five commercial banks make up over 60% of total insured deposits.

31. **PIDM is funded by annual premiums collected from member banks for both conventional and Islamic deposits, with TIPS funded by annual levies for takaful and insurance benefits.** The funds for conventional and Islamic deposits are separately administered with the Islamic deposit insurance fund administered in accordance with Shariah principles. PIDM administers an additional four funds (Family Solidarity Takaful Protection, Life Insurance Protection, General Takaful Protection and General Insurance Funds) for a total of six separate and distinct Funds. PIDM reports to Parliament through the Minister of Finance and is governed by a nine member Board of Directors, including two ex officio members (the Governor of Bank Negara Malaysia and the Secretary General of Treasury, Ministry of Finance).

32. **Deposit insurance is compulsory for all deposit-taking conventional and Islamic banks.** PIDM protects all retail depositors, including corporate depositors, small businesses and individuals, up to the maximum of RM 250,000 per depositor per member institution. PIDM is legally mandated to reimburse depositors promptly, no later than 3 months after a winding up order. The current reserve level for conventional deposits is 0.14 percent of total insured deposits.

33. **PIDM is Compliant with 14 of the 18 Core Principles.** PIDM has a number of strengths, including a culture of cooperation with other safety net players, strong performance in its exit from the GDG, a robust public awareness program, ongoing efforts at readiness and planning for potential financial institution resolutions and openness and transparency in its

operations and reporting. However, there are several areas for improvement, most importantly the need for MoF to execute a back-up funding agreement with PIDM and to limit MoF's legislatively mandated involvement in the day-to-day operations of PIDM. A summary of the detailed assessment of compliance with the Core Principles is presented below.

VI. ASSESSMENT OF THE OBSERVANCE OF THE CORE PRINCIPLES

34. The ratings for compliance were awarded according to the methodology prescribed in the Core Principles Methodology (December 2010). This methodology established five levels of compliance: compliant, largely compliant, materially non-compliant, non-compliant and not applicable. The criteria for awarding these ratings are as follows:

- **Compliant** – When the Essential Criteria are met without any significant deficiencies.
- **Largely Compliant** – When only minor shortcomings are observed and the authorities are able to achieve full compliance within a prescribed time frame.
- **Materially Non-compliant** – Severe shortcomings which cannot be rectified easily.
- **Non-compliant** – No substantive implementation of the Core Principle.
- **Not Applicable** – Not considered given the structural, legal and institutional features of the deposit insurance system.

VII. MALAYSIA'S ISLAMIC DEPOSIT INSURANCE SYSTEM

35. PIDM was established in 2005 as a dual deposit insurance system. In addition to covering deposits in conventional banks, PIDM also covers eligible Islamic deposits (savings, current and investments accounts based on Shariah contracts including *wadiah*, *qard*, *mudharabah*, *murabahah* and *wakalah*). The Shariah compliant design is based on an arrangement of guarantee with fee or *kafalah bil ujr*. This system of insuring Islamic deposits was endorsed by the Shariah Advisory Council of Bank Negara Malaysia.

36. The deposit insurance limit for Islamic deposits is at the same level as conventional deposits – RM 250,000 – and the limit is separate from the limit for conventional deposits. There is also separate coverage for trust accounts, joint accounts, professional practice, sole proprietorship and partnership accounts. Islamic and conventional banking businesses pay separate premiums and PIDM manages an Islamic Deposit Insurance Fund (IDIF) separately from its Fund for conventional deposits. Investments for the IDIF are made in Shariah-compliant instruments. Expenditures are charged to IDIF directly if attributable to Islamic member institutions and charged proportionately between Funds if the expenditures are not directly attributable.

37. In 2010 PIDM's mandate was enlarged to protect takaful and insurance certificate owners in the event of an insurer member failure. The takaful benefits protection system was also endorsed by the Shariah Advisory Council.

**TABLE 1. CORE PRINCIPLES FOR EFFECTIVE DEPOSIT INSURANCE SYSTEMS ASSESSMENT
SUMMARY TABLE**

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| <p>Core Principle 1: Public policy objectives. The first step in adopting a deposit insurance system or reforming an existing system is to specify appropriate public policy objectives that it is expected to achieve. These objectives should be formally specified and well integrated into the design of the deposit insurance system. The principal objectives for deposit insurance systems are to contribute to the stability of the financial system and protect depositors.</p> | |
| Description | <p>The public policy objectives (PPOs) for PIDM are clearly specified in Section 4 of Act 720, the 2011 Law on the Malaysia Deposit Insurance Corporation. The formal objectives as specified are to administer a deposit insurance system and a takaful and insurance benefits protection system, to provide insurance against the loss of part or all of the deposits for which a deposit taking member is liable and to provide protection against the loss of part or all of the takaful or insurance benefits for which an insurer member is liable, to provide incentives for sound risk management in the financial system and to promote or contribute to the stability of the financial system in a manner to minimize costs to the financial system.</p> <p>PIDM issues a rolling three year Corporate Plan in addition to its Annual Report that describes how it meets its public policy objectives. This Plan describes in detail PIDM’s strategic direction and initiatives for meeting its public policy objectives.</p> |
| Assessment | C |
| Comments | PPOs are explicitly stated in the PIDM Act and are also regularly discussed in PIDM’s Annual Reports and made part of its Corporate Plans, including the current plan for 2012-2014. |
| <p>Core Principle 2: Mitigating moral hazard. Moral hazard should be mitigated by ensuring that the deposit insurance system contains appropriate design features and through other elements of the financial system safety net.</p> | |
| Description | <p>Malaysia’s deposit insurance system is designed to effectively mitigate moral hazard. The deposit insurance system applies limited coverage and has a risk based premium system in place for its member banks. It is also supported by a strong bank supervision and prudential regulatory regime. Although the coverage levels were recently substantially increased (from RM 60,000 to RM 250,000) there is no plan to increase the limit in the near future. PIDM reviews its limits and scope of coverage every five years.</p> |
| Assessment | C |
| Comments | All appropriate design features are present in the PIDM framework. The PIDM has limited coverage in the amount of RM 250,000 per depositor per member institution, an amount that covers 99% of depositors in the system |

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| | but only 36.9% of total conventional and Islamic bank deposits held by member institutions. PIDM also has in place a Differential Risk Premium System as authorized by Article 53 of its Act so that higher deposit insurance premiums are assessed against banks that fall into higher risk categories. |
| Core Principle 3: Mandate. It is critical that the mandate selected for a deposit insurer is clearly and formally specified and that there is consistency between the stated public policy objectives and the powers and responsibilities given to the deposit insurer. | |
| Description | PIDM has enhanced powers as a deposit insurer to resolve non-viable banks. PIDM's mandate was enhanced in 31 December 2010 to include the administration of a takaful and insurance benefits protection system in addition to insuring deposits in conventional and Islamic banks. It also has the power to act as the resolution authority for non-viable MIs. PIDM's mandate is consistent with its public policy objectives, particularly its objective to contribute to the stability of the financial system |
| Assessment | C |
| Comments | PIDM's mandate includes sound risk management as well as a role in the resolution process for non-viable banks. The preamble to its governing Act states that PIDM is empowered to implement promptly authorized resolution actions at minimum cost to the financial system. Article 4 of its Act also states that PIDM should, in achieving its PPOs, act in such manner as to minimize costs to the financial system. PIDM's powers are described in Sections 25 and 99 of its Act as including all powers as may be necessary for the furtherance of its objectives or the performance of its functions and duties. |
| Core Principle 4: Powers. A deposit insurer should have all powers necessary to fulfil its mandate and these should be formally specified. All deposit insurers require the power to finance reimbursements, enter into contracts, set internal operating budgets and procedures, and access timely and accurate information to ensure that they can meet their obligations to depositors promptly. | |
| Description | PIDM has been given a broad array of powers in its Act. PIDM has the necessary powers to provide deposit insurance to its member institutions and to assess premiums for such insurance. PIDM has also been given expanded powers to resolve member institutions, including the power to provide loans to member and non-member institutions, assume control of a MI, arrange purchase and assumption transactions and establish bridge institutions. PIDM has the power under Sections 25 and 99 of its Act to take all actions necessary to further its objectives, the performance of its functions or the discharge of its duties. |
| Assessment | C |

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| Comments | PIDM’s mandate includes sound risk management as well as a role in the resolution process for non-viable banks. The preamble to its governing Act states that PIDM is empowered to implement promptly authorized resolution actions at minimum cost to the financial system. Article 4 of its Act also states that PIDM should, in achieving its PPOs, act in such manner as to minimize costs to the financial system. PIDM’s powers are described in Sections 25 and 99 of its Act as including all powers as may be necessary for the furtherance of its objectives or the performance of its functions and duties. |
| Core Principle 5: Governance. The deposit insurer should be operationally independent, transparent, accountable and insulated from undue political and industry influence. | |
| Description | Some elements of the current framework potentially limit PIDM’s operational and organizational independence. For instance, PIDM requires MoF approval to issue rules and regulations, terminate membership, set annual premium rates, assess a premium surcharge against member institutions as a penalty for failing to comply with rules and making discretionary payments of insured deposits where a member institution is unable to make such a payment for specified reasons. These various required approvals seem particularly unnecessary as the Secretary General of the Treasury is an ex officio member of PIDM’s board. The Secretary General of Treasury reports to the MoF. PIDM’s operational funding is provided through member institution contributions and there is no evidence that funding is not sufficient to perform its functions. |
| Assessment | MNC |
| Comments | Although there are no examples of any interference with PIDM’s operational independence, there are a large number of approvals it must seek from MoF in performing its functions. These approvals present the possibility that PIDM’s independence or effectiveness in meeting its mandate could be compromised or necessary actions could be delayed by the need to seek approval from MoF. These approvals are especially unnecessary given that the Secretary General of the Treasury is an ex-officio member of PIDM’s Board. PIDM can only take the following actions with Minister of Finance approval: termination of membership (Section 39), setting annual premium rates (Section 48), assessing a premium surcharge against a member institution as a penalty for failing to comply with rules, regulations, its terms and conditions of membership or other requirements of PIDM or BNM (Sections 51, 153), making discretionary payments of insured deposits where a member institution is unable to make such payment for specified reasons (Section 57) and issuing rules, regulations or orders (Section 209). |
| Core Principle 6: Relationships with other safety-net participants. A framework should be in place for the close coordination and information sharing, on a routine basis as well as in relation to particular banks, among the deposit insurer and other financial system safety-net participants. Such information should be accurate and timely (subject to confidentiality when required). | |

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| Information-sharing and coordination arrangements should be formalized. | |
| Description | C |
| Assessment | Information is shared on an ongoing basis and joint initiatives are undertaken on a regular basis to further strengthen the financial safety net. PIDM has conducted simulation exercises and plans to expand such exercises to include other safety net participants in the future. Member banks are required to provide relevant deposit information in a pre-specified file format. PIDM is testing and validating the data that is being received from its member banks. Section 97 of PIDM's Act also allows it to conduct special examinations at banks for the purpose of verifying depositor data. |
| Comments | There is a strong culture of cooperation between PIDM and other safety net players. PIDM and BNM work closely on major initiatives and share all relevant information on a regular basis, with PIDM having ongoing access to BNM's supervisory files. PIDM undertakes risk assessment and monitoring of all its MIs and shares all its information with BNM. |
| Core Principle 7: Cross-Border Issues. Provided confidentiality is ensured, all relevant information should be exchanged between deposit insurers in different jurisdictions and possibly between deposit insurers and other foreign safety-net participants when appropriate. In circumstances where more than one deposit insurer will be responsible for coverage, it is important to determine which deposit insurer or insurers will be responsible for the reimbursement process. The deposit insurance already provided by the home country system should be recognized in the determination of levies and premiums. | |
| Description | All foreign banks in Malaysia are incorporated as subsidiaries. PIDM does not protect deposits that are not payable in Malaysia although it does protect foreign currency deposits. BNM has established working relationships with other relevant jurisdictions and information obtained by BNM on MIs is shared with PIDM. |
| Assessment | C |
| Comments | |
| Core Principle 8: Compulsory membership. Membership in the deposit insurance system should be compulsory for all financial institutions accepting deposits from those deemed most in need of protection (eg retail and small business depositors) to avoid adverse selection. | |
| Description | Membership in PIDM is compulsory for all licensed commercial and Islamic banks. However, there are other deposit taking institutions which together comprise about 10 percent of the deposits in the banking system which are not members of PIDM. The majority of these deposits are held in institutions that are subject to explicit or implicit government guarantees of their deposits (although these institutions do not pay a premium for the coverage) but there |

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| | <p>are others (credit cooperatives) that are not part of any deposit insurance system and do not have such guarantees. It is not clear that the credit cooperatives are subject to the same level of supervision and regulation as the commercial banks. BNM and PIDM should undertake a study to determine if there is a way to rationalize the differing levels of protection for deposit taking institutions without creating unnecessary risk. The first step in such a review is to catalogue the products and services offered by these institutions to determine if the accounts qualify as deposits and are part of the payment system or if in fact the accounts represent shareholdings or investments. Deposit taking institutions must be financially viable before joining a deposit insurance system. No institution should become part of a deposit insurance system if it could pose a threat of loss to the system immediately upon becoming a member institution. As part of the review of the operations of these non-member deposit taking institutions PIDM and BNM should assess their viability.</p> |
| Assessment | LC |
| Comments | <p>All commercial banks and Islamic banks regulated by BNM are required to be members of PIDM. However, there are a number of financial institutions that take deposits from the public that are not part of the PIDM deposit insurance scheme. Several of these institutions are covered either by explicit or implicit Government guarantees but others (the credit cooperatives) are not covered by any insurance scheme. These cooperatives (with one exception) are not supervised by BNM but rather by the Malaysia Co-operative Societies Commission. The fact that the deposit taking institutions covered by explicit or implicit guarantees do not pay premiums for such coverage presents the possibility that such institutions are gaining an unfair advantage in that their costs are lower than deposit taking members of PIDM.</p> |
| <p>Core Principle 9: Coverage. Policymakers should define clearly in law, prudential regulations or by-laws what is an insurable deposit. The level of coverage should be limited but credible and be capable of being quickly determined. It should cover adequately the large majority of depositors to meet the public policy objectives of the system and be internally consistent with other deposit insurance system design features.</p> | |
| Description | <p>The level of coverage is defined by PIDM and was recently increased to RM 250,000 per depositor per member institution. Although limited, this level of deposit insurance covers the vast majority of depositors in covered institutions. There are no exclusions from coverage for insiders or shareholders but there is an exclusion for accounts that are established solely to increase deposit insurance (Section 42(5) of the Act) or for certain other accounts where PIDM determines that the person is not entitled to coverage (Section 56(2) of the Act).</p> |
| Assessment | C |

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| Comments | |
| <p>Core Principle 10: Transitioning from a blanket guarantee to a limited coverage deposit insurance system. When a country decides to transition from a blanket guarantee to a limited coverage deposit insurance system, or to change a given blanket guarantee, the transition should be as rapid as a country’s circumstances permit. Blanket guarantees can have a number of adverse effects if retained too long, notably moral hazard. Policymakers should pay particular attention to public attitudes and expectations during the transition period.</p> | |
| Description | <p>Malaysia has twice implemented blanket guarantees, in 1998 in response to the Asian financial crisis and in 2008 in response to similar actions by other regional players. The exit from the 1998 guarantee was timed to coincide with the establishment of PIDM in 2005. The more recent guarantee was precautionary and not based on any weakness in the domestic financial system. During the period of the Government Deposit Guarantee (GDG), PIDM and BNM subjected member institutions to heightened oversight and supervision and prohibited institutions from using the guarantee as a marketing tool to attract deposits.</p> <p>Member institutions paid a fee for the GDG, with a funding agreement in place between PIDM and the Government of Malaysia represented by the Ministry of Finance. PIDM was responsible for the coverage up to its insurance limit of RM 60,000 during the time of the GDG, with the Government agreeing to provide funds if necessary to cover any claim in excess of that amount. PIDM collected the fee for the additional coverage and remitted those funds to the Government. Approximately RM 180 MN was collected by PIDM on Ministry of Finance’s behalf during this period. There was no call on the GDG during the time it was in existence.</p> |
| Assessment | C |
| Comments | <p>Malaysia successfully exited from the GDG at the end of 2010 with careful planning and an effective communications strategy. At the same time as it exited from the GDG, a substantial increase in deposit insurance coverage, from RM 60,000 to RM 250,000, was implemented effective December 31, 2010.</p> |
| <p>Core Principle 11: Funding. A deposit insurance system should have available all funding mechanisms necessary to ensure the prompt reimbursement of depositor’s claims including a means of obtaining supplementary back-up funding for liquidity purposes when required. Primary responsibility for paying the cost of deposit insurance should be borne by banks since they and their clients directly benefit from having an effective deposit insurance system. For deposit insurance systems (whether ex-ante, ex-post or hybrid) utilizing risk-adjusted differential premium systems, the criteria used in the risk-adjusted differential premium system should be transparent to all participants. As well, all necessary resources should be in place to administer the risk-adjusted differential premium system appropriately.</p> | |

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| Description | <p>As a relatively new deposit insurer PIDM has reserves that represent only a small portion of the deposits it insures. Deposit insurance is funded by premiums collected from member institutions based on total insured deposits. PIDM has no statutory target for its funds but instead has developed an internal model which will allow it to reach its target fund within the next ten to twelve years. PIDM has decided that it should establish a range for its fund of 0.6 to 0.9 percent of total insured deposits, a rate not inconsistent with rates set by deposit insurers in Hong Kong and Singapore.</p> <p>Given the limited size of its reserve fund it is critical that MoF provide PIDM with a plan for liquidity funding. PIDM’s statute provides only that MoF “may” lend funds or provide funding to PIDM (Section 29 of PIDM Act). There is no agreement in place that would operationalize this process to make clear when and under what conditions MoF would provide this funding. PIDM should also consider increasing its premium rate to meet its target fund in less than the currently estimate 10 to 12 years.</p> <p>PIDM has adopted a differential premium system (DPS) for its deposit taking members and is working on a system to set differential premiums for its insurer members. The rules governing the DPS are available on PIDM’s website which describes the applicable financial ratios, the respective weights assigned to each ratio and the options for member banks to appeal their computed risk category. BNM’s supervisory rating represents 35 percent of the rating and is not subject to appeal by member institutions.</p> |
| Assessment | MNC |
| Comments | <p>PIDM has established a target fund and has determined that it will reach that funding level in ten to twelve years. The banking system in Malaysia consists of many large institutions that are part of financial groups. As a relatively new deposit insurer the current level of PIDM’s reserves is small and may not be sufficient to handle the resolution costs of a medium-sized bank. For that reason it is even more critical that adequate back-up funding be available. However, PIDM’s statute provides only that MoF “may” lend money or provide funds to PIDM (Article 29 of the PIDM Act) and no funding agreement is in place that would make clear that such funding would be available when needed and under what conditions.</p> |
| <p>Core Principle 12: Public Awareness. In order for a deposit insurance system to be effective it is essential that the public be informed on an ongoing basis about the benefits and limitations of the deposit insurance system.</p> | |
| Description | <p>PIDM has a comprehensive public awareness program. PIDM’s public awareness activities are guided by an Integrated Communications Plan or ICP. Member banks make extensive use of materials provided by PIDM on its deposit insurance coverage. Member banks are required to disclose the status of insurability when an account is opened and any new deposit product must</p> |

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| | be submitted to PIDM for an insurability determination before its launch. PIDM makes use of the same public awareness materials concerning deposit insurance coverage for conventional and Islamic banks. It may be that different disclosures concerning deposit insurance coverage are required for conventional versus Islamic banks. |
| Assessment | C |
| Comments | PIDM works closely with member institutions to make sure the public is aware of the existence and limits of coverage on their accounts. New deposit products must be submitted to PIDM for a determination of insurability before its launch. |
| <p>Core Principle 13: Legal Protection. The deposit insurer and individuals working for the deposit insurer should be protected against lawsuits for their decisions and actions taken in “good faith” while discharging their mandates. However, individuals must be required to follow appropriate conflict-of-interest rules and codes of conduct to ensure they remain accountable. Legal protection should be defined in legislation and administrative procedures, and under appropriate circumstances, cover legal costs for those indemnified.</p> | |
| Description | Under section 207 of the PIDM Act no action or suit may be brought against employees of PIDM for actions taken in good faith in execution of duties under the Act. PIDM has in place procedures to cover legal costs that may be incurred for any legal actions brought against PIDM’s directors, officers, employees and agents when carrying out their duties. PIDM believes the statute provides protection for former employees although that is not explicitly specified in the Act. |
| Assessment | C |
| Comments | Under section 207 of the PIDM Act directors, officers and employees of PIDM as well as its subsidiaries and a bridge institution are granted immunity from suit for actions taken in good faith while discharging PIDM’s mandate. Costs associated with any suit would be covered by PIDM pursuant to a written policy which specifically includes former employees. |
| <p>Core Principle 14: Dealing with parties at fault in a failure. A deposit insurer, or other relevant authority, should be provided with the power to seek legal redress against those parties at fault in a bank failure.</p> | |
| Description | Relevant parties have the power to seek legal redress against parties at fault in a bank failure. Criminal penalties may be assessed for offences under the Banking Act, the Islamic Banking Act and the Companies Act. In case of liquidation, a civil suit could be pursued by the liquidator for the bank. PIDM would, as a creditor, be able to apply to the court with regard to the exercise of the liquidator’s power to take legal action. |

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| Assessment | C |
| Comments | |
| <p>Core Principle 15: Early detection and timely intervention and resolution. The deposit insurer should be part of a framework within the financial system safety net that provides for the early detection and timely intervention and resolution of troubled banks. The determination and recognition of when a bank is or is expected to be in serious financial difficulty should be made early and on the basis of well-defined criteria by safety-net participants with the operational independence and power to act.</p> | |
| Description | <p>PIDM has developed an Intervention and Failure Resolution Framework (IFR) which sets forth its powers in responding to a failing member institution. The IFR documents the working arrangements between BNM and PIDM during the planning and undertaking of an intervention and sets forth a PIDM Board approved Authority Matrix to define the roles of the two agencies.</p> <p>PIDM is part of the risk assessment framework for banks. Its role in timely intervention and resolution of MIs is potentially constrained by the requirement under Section 98 of the PIDM Act that BNM issue a non-viability determination for a MI before PIDM’s resolution powers are triggered. There is no statutory definition of non-viability.</p> <p>In principle, the absence of a clear statutory non-viability standard might present a risk that a delay in declaring non-viability might increase the losses to the deposit insurer. This risk is mitigated by the close working relationship between BNM and PIDM as well as BNM’s recognition of PIDM’s growing expertise through training and other initiatives in the resolution of troubled financial institutions.</p> |
| Assessment | C |
| Comments | <p>PIDM undertakes insurance and risk assessment to assess and monitor the risk inherent in providing deposit insurance. PIDM and BNM have developed early intervention and non-viability criteria as part of the SAA. PIDM has developed an Intervention and Failure Resolution Framework (IFR) which sets forth its powers in responding to a failing MI. The SAA outlines the working arrangements between BNM and PIDM during the stages of planning for and undertaking an intervention and sets forth a PIDM Board approved Authority Matrix to define the roles of the two agencies (The Governor of BNM is an ex officio member of PIDM’s Board).</p> |
| <p>Core Principle 16: Effective resolution processes. Effective failure-resolution processes should: facilitate the ability of the deposit insurer to meet its obligations including reimbursement of depositors promptly and accurately and on an equitable basis; minimise resolution costs and disruption of markets; maximise recoveries on assets; and, reinforce</p> | |

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| <p>discipline through legal actions in cases of negligence or other wrongdoings. In addition, the deposit insurer or other relevant financial system safety-net participant should have the authority to establish a flexible mechanism to help preserve critical banking functions by facilitating the acquisition by an appropriate body of the assets and the assumption of the liabilities of a failed bank (eg providing depositors with continuous access to their funds and maintaining clearing and settlement activities).</p> | |
| <p>Description</p> | <p>Once BNM issues a non-viability determination on a MI, PIDM has the power to resolve the institution using a variety of resolution tools, including purchase and assumptions and bridge banks. PIDM must seek High Court approval for the appointment of a Receiver or a winding up order which may make these tools less effective in terms of providing certainty as to the timing of such actions by PIDM. PIDM can assume control of a MI without the appointment of a Receiver and is provided with extensive powers to deal with the MI while in control. PIDM must seek High Court approval under Section 102 of its Act to reduce share capital where it has assumed control of a member institution. This has the potential of delaying PIDM’s actions with regard to that institution.</p> <p>There is a risk that the effectiveness of the resolution tools provided to PIDM could be compromised by the requirement that there be a finding of non-viability by BNM before such tools can be utilized. To establish some factors that should go into a non-viability determination PIDM and BNM have signed a Strategic Alliance Agreement (SAA) in which the concerns that would trigger a non-viability determination are outlined. BNM made clear that the viability triggers in the SAA are designed to make sure that institutions are placed into resolution in a timely manner.</p> <p>There has been experience in the last three years of PIDM and BNM working closely together in connection with institutions under stress. This indicates that PIDM will be in close coordination with BNM before any finding of non-viability is made. However, making the PIDM Act clearer, where the requirement for a non-viability determination is set forth, with regards to when BNM will make a non-viability determination by referencing the factors currently outlined in the SAA would provide a greater level of assurance that such a determination would be made in a timely fashion as well as provide transparency as to the factors that BNM would consider in making a non-viability determination. It would also make it more likely that an institution would be found non-viable early enough to make PIDM’s resolution tools effective in managing costs to the financial system.</p> |
| <p>Assessment</p> | <p>LC</p> |
| <p>Comments</p> | <p>Once BNM issues a non-viability determination on a MI, PIDM has the power to resolve the institution using a variety of resolution tools, including the assumption of control of a MI, purchase and assumptions and bridge banks. PIDM must seek High Court approval for the appointment of a Receiver or a</p> |

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| | winding up order which may make these tools less effective in terms of providing certainty as to the timing of such actions by PIDM, although by assuming control under Section 99 of its Act the appointment of a receiver may not be critically time sensitive. The requirement that BNM declare an institution non-viable before PIDM can undertake resolution actions also presents the possibility that action will not be taken early enough to allow for effective use of all of PIDM’s resolution tools especially given the absence of any definition of the term “non-viable” in the relevant legislation. |
| Core Principle 17: Reimbursing depositors. The deposit insurance system should give depositors prompt access to their insured funds. Therefore, the deposit insurer should be notified or informed sufficiently in advance of the conditions under which a reimbursement may be required and be provided with access to depositor information in advance. Depositors should have a legal right to reimbursement up to the coverage limit and should know when and under what conditions the deposit insurer will start the payment process, the time frame over which payments will take place, whether any advance or interim payments will be made as well as the applicable coverage limits. | |
| Description | Under Section 56 of its Act PIDM is obliged to make payments to depositors as soon as possible and not later than three months after a winding up order. Although PIDM has not had to reimburse depositors it has developed and tested a payout system that would allow it to promptly process a large number of deposit accounts. PIDM also has continuous access to information on its member institutions and can require such institutions to provide it with depositor data on a priority basis if necessary. |
| Assessment | C |
| Comments | Payments are computed as of the date of the filing of the petition for winding up (Section 59). PIDM has continuous access to information on its MIs and can require such institutions to provide it with depositor data on a priority basis if necessary. PIDM has the authority under Section 58 of its Act to make advance payments if necessary. |
| Core Principle 18: Recoveries. The deposit insurer should share in the proceeds of recoveries from the estate of the failed bank. The management of the assets of the failed bank and the recovery process (by the deposit insurer or other party carrying out this role) should be guided by commercial considerations and their economic merits. | |
| Description | PIDM is a creditor of the failed bank’s estate and subrogated to the depositor’s rights and interests on the deposit for any payments made to depositors. Depositors receive priority of payment from the estate over the claims of unsecured creditors. PIDM is given the authority under Sections 131 and 133 of its Act to direct the liquidator, thereby giving it control over the course of the liquidation proceedings. PIDM is empowered to establish an Asset Management Company under Section 25 of its Act and is authorized to appoint a conservator over corporate borrowers of the failed member bank or |

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| | its subsidiaries. PIDM's Asset Management Disposition policy provides guidance in its management of assets acquired from a failed bank. |
| Assessment | C |
| Comments | |

TABLE 2. SUMMARY OF COMPLIANCE WITH THE DEPOSIT INSURANCE CORE PRINCIPLES

[Key: C = Compliant; LC = Largely Compliant; MNC= Materially Noncompliant; NC =Noncompliant; NA = Not Applicable]

Detailed Assessments

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| 1. Public Policy Objectives (PPOs) | C | PPOs are explicitly stated in the PIDM Act and are also regularly discussed in PIDM's Annual Reports and made part of its Corporate Plans, including the current Plan for 2012-2014. |
| 2. Mitigating Moral Hazard | C | All appropriate design features are present in the PIDM framework. The PIDM has limited coverage in the amount of RM 250,000, an amount that covers 99% of depositors in the system but only 36.9% of total conventional and Islamic bank deposits held by member institutions. PIDM also has in place a Differential Premium System as authorized by Article 53 of its Act so that higher deposit insurance premiums are charged for banks that fall into higher risk categories. |
| 3. Mandate | C | PIDM's mandate includes sound risk management as well as a role in the resolution process for non-viable banks. The preamble to its governing Act states that PIDM is empowered to implement promptly authorized resolution actions at minimum cost to the financial system. Article 4 of its Act also states that PIDM should, in achieving its PPOs, act in such manner as to minimize costs to the financial system. PIDM's powers are described in Sections 25 and 99 of its Act as including all powers as may be necessary for the furtherance of its objectives or the performance of its functions and duties. |
| 4. Powers | C | PIDM has been given significant powers to operate in accordance with its mandate, including the powers needed to perform its resolution functions. PIDM also has early intervention powers under Section 25 of its Act. |
| 5. Governance | MNC | Although there are no examples of any interference with PIDM's operational independence, there are a large number of approvals it must seek from MoF in performing its functions. These approvals present the possibility that PIDM's independence or effectiveness |

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| | | <p>in meeting its mandate could be compromised or necessary actions could be delayed by the need to seek approval from MoF. These approvals are especially unnecessary given that the Secretary General of the Treasury is an ex-officio member of PIDM's Board. PIDM can only take the following actions with Minister of Finance approval: termination of membership (Section 39), setting annual premium rates (Section 48), assessing a premium surcharge against a member institution as a penalty for failing to comply with rules, regulations, its terms and conditions of membership or other requirements of PIDM or BNM (Sections 51, 153), making discretionary payments of insured deposits where a member institution is unable to make such payment for specified reasons (Section 57) and issuing rules, regulations or orders (Section 209).</p> |
| 6. Relationship with Other Safety Net Participants | C | <p>There is a strong culture of cooperation between PIDM and other safety net players. PIDM and BNM work closely on major initiatives and share all relevant information on a regular basis, with PIDM having ongoing access to BNM's supervisory files. PIDM is a risk manager for its MIs and shares all its information with BNM. An appropriate national crisis management framework for managing a financial crisis should be established to include all safety net players.</p> |
| 7. Cross-border Issues | C | <p>All foreign banks in Malaysia are licensed as subsidiaries and their deposits are covered by PIDM. BNM shares information with PIDM about cross-border banks that it obtains as a result of its formal and informal agreements and ongoing cooperation with relevant foreign home and host authorities. However PIDM should consider entering into agreements with deposit insurers in relevant jurisdictions for the purpose of resolution planning and exchange of deposit data and other information to facilitate resolution of a bank with cross-border operations.</p> |
| 8. Compulsory Membership | LC | <p>All commercial banks regulated by BNM are required to be members of PIDM. However, there are a number of financial institutions that take deposits from the public that are not part of the PIDM deposit insurance system. Several of these institutions are covered either</p> |

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| | | by explicit or implicit Government guarantees but others (the credit cooperatives) are not covered by any insurance scheme. These cooperatives (with one exception) are not supervised by BNM but rather by the Malaysia Co-operative Societies Commission. |
| 9. Coverage | C | The level of coverage is limited to RM 250,000 per insured account, an amount which covers almost 99% of depositors but only 36.9% of deposits held by MIs. |
| 10. Transitioning from Blanket Guarantee | C | Malaysia successfully exited from a Government Deposit Guarantee (GDG) at the end of 2010 with careful planning and an effective communications strategy. At the same time as it exited from the GDG the law was amended with a substantial increase in deposit insurance coverage, from RM 60,000 to RM 250,000. |
| 11. Funding | MNC | PIDM has established a Target Fund and has determined that it will reach that funding level in ten to twelve years. As a relatively new deposit insurer the current level of PIDM's reserves is small and may not be sufficient to handle the resolution costs of a medium-sized bank. For that reason it is even more critical that adequate liquidity funding be available. However, PIDM's statute provides only that MoF "may" lend money or provide funds to PIDM (Article 29 of the PIDM Act) and no funding agreement is in place that would make clear that such funding would be available when needed and under what conditions. |
| 12. Public Awareness | C | PIDM has a comprehensive public awareness program and works closely with member institutions to make sure the public is aware of the existence and limits of coverage on their accounts. New deposit products must be submitted to PIDM for a determination of insurability. |
| 13. Legal Protection | C | Under section 207 of the PIDM Act directors, officers and employees of PIDM as well as its subsidiaries and a bridge institution are granted immunity from suit for actions taken in good faith while discharging PIDM's mandate. Costs associated with any suit for current and former directors and employees would be covered |

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| | | by PIDM pursuant to a written policy. |
| 14. Dealing with Parties at Fault | C | Relevant authorities have the power to seek legal redress against parties at fault in a bank failure. |
| 15. Early Detection and Timely Intervention and Resolution | C | PIDM undertakes insurance and risk assessment to assess and monitor the risk inherent in providing deposit insurance. PIDM and BNM have developed early intervention and non-viability criteria as part of the SAA. PIDM has developed an Intervention and Failure Resolution Framework (IFR) which sets forth its powers in responding to a failing MI. The SAA outlines the working arrangements between BNM and PIDM during the stages of planning for and undertaking an intervention and sets forth a PIDM Board approved Authority Matrix to define the roles of the two agencies (the Governor of BNM is an ex officio member of PIDM's Board). |
| 16. Effective Resolution Processes | LC | Once BNM issues a non-viability determination for a MI, PIDM has the power to resolve the institution using a variety of resolution tools, including the assumption of control of a MI, purchase and assumptions and bridge banks. PIDM must seek High Court approval for the appointment of a Receiver or a winding up order which may make these tools less effective in terms of providing certainty as to the timing of such actions by PIDM, although by assuming control under Section 99 of its Act the appointment of a receiver may not be critically time sensitive. The requirement that BNM declare an institution non-viable before PIDM can undertake resolution actions also presents the possibility that action will not be taken early enough to allow for effective use of all of PIDM's resolution tools especially given the absence of any definition of the term "non-viable" in the relevant legislation. |
| 17. Reimbursing Depositors | C | Under Section 56 of its Act PIDM is obliged to make payments to depositors as soon as possible and not later than three months after a winding up order. Payments are computed as of the date of the filing of the petition for winding up (Section 59). PIDM has |

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| | | continuous access to information on its MIs and can require such institutions to provide it with depositor data on a priority basis if necessary. PIDM has the authority under Section 58 of its Act to make advance payments if necessary. |
| 18. Recoveries | C | PIDM has control over the liquidation process under Sections 131 and 133 of its Act through its powers to direct the liquidator's actions. PIDM is a creditor of the failed bank's estate and is subrogated to the depositor's rights and interests on the deposit for any payments made to depositors. PIDM has developed an Asset Management and Disposition Policy which governs its actions when handling asset recovery. |

TABLE 3. RECOMMENDED CORRECTIVE ACTION PLAN TO IMPROVE COMPLIANCE WITH THE DEPOSIT INSURANCE CORE PRINCIPLES

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| 5. Governance | MNC | The MoF should request that PIDM bring forward amendments to its enabling statute to remove those areas of approval that may interfere with its operational independence and effectiveness, such as approvals to set annual premium rates (Article 48), assess a premium surcharge (Article 51), issue rules and regulations (Article 209) and make discretionary payments of an insured deposit (Article 57) as well as the ability to disagree with PIDM on the termination of membership of a member institution (Article 39). |
| 8. Compulsory Membership | LC | A study should be undertaken to understand whether deposits at the DFIs and credit cooperatives qualify as deposits within the meaning of the terms “conventional deposit” or “Islamic deposit” under PIDM’s Act. To the extent that such institutions are deemed to be deposit taking, consideration should be given to the supervisory and regulatory framework under which those institutions operate that are not members of PIDM. Only those institutions that are subject to strong prudential regulation and supervision and are financially viable should be considered for membership in a deposit insurance system. The extent of coverage if any for depositors at any institution that is not part of the deposit insurance system should be made clear in communications to depositors at those institutions. |
| 11. Funding | MNC | MoF should execute an agreement for back-up funding to make clear the obligation by the government to provide such funding if needed by PIDM to meet its mandate and to set out the process by which such funding should be requested and how it would be made available. |
| 13. Legal Protection | C | PIDM should make coverage of former employees explicit in providing legal protection for protected acts done in the course of their employment. |
| 16. Effective Resolution Processes | LC | There is no statutory definition of non-viability. The criteria governing early intervention in a MI and for a determination of non-viability should be transparent and disclosed by amending PIDM’s statute. |

TABLE 4. DETAILED ASSESSMENT OF DEPOSIT INSURANCE PRINCIPLES

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| Principle 1 | Public policy objectives The first step in adopting a deposit insurance system or reforming an existing system is to specify appropriate public policy objectives that it is expected to achieve. These objectives should be formally specified and well integrated into the design of the deposit insurance system. The principal objectives for deposit insurance systems are to contribute to the stability of the financial system and protect depositors. |
| Description | The public policy objectives for PIDM are clearly specified in Section 4 of Act 720, the 2011 Law on the Malaysia Deposit Insurance Corporation. The objectives are also disclosed and discussed in PIDM’s Annual Report and 2012-2014 Corporate Plan. These materials are available to all interested parties both in hard copy and on PIDM’s website. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The public policy objectives of the deposit insurance system are clearly defined and formally specified, for example, through legislation or documents accompanying legislation. ² |
| Description | The formal objectives for PIDM as specified in its Act at Section 4(1) are to administer a deposit insurance system and a takaful and insurance benefits protection system, to provide insurance against the loss of part or all of the deposits for which a deposit taking member is liable and provide protection against the loss of part or all of the takaful or insurance benefits for which an insurer member is liable, to provide incentives for sound risk management in the financial system and to promote or contribute to the stability of the financial system and to fulfill its objectives in a manner that will minimize costs to the financial system. |
| Comments | |
| Essential | |

² The public policy objectives of the deposit insurance system refer to the objectives or goals the system is expected to achieve. The mandate of the deposit insurer refers to the set of official instructions or statement of purpose describing its roles and responsibilities. There is no single mandate or set of mandates suitable for all deposit insurers. Existing deposit insurers have mandates ranging from narrow, so-called “paybox” systems to those with broader powers or responsibilities, such as preventive action and loss or risk minimisation/management, with a variety of combinations in between.

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| Criteria | 2. The public policy objectives of the deposit insurance system are publically disclosed. |
| Description | In addition to the description of its public policy objectives in its Act, PIDM prepares a detailed Annual Report which is publicly available in which it describes its objectives and outlines how it is meeting those objectives on a long-term basis through operational planning and enhancement of the organization's capacity and the competence of its employees. It also prepares a rolling three year publicly available Corporate Plan in which it describes how it intends to meet its objectives and the individual initiatives undertaken in pursuit of those objectives. |
| Comments | |
| Essential Criteria | 3. There is a review of the extent to which a deposit insurance system is meeting its public policy objectives on a regular basis (eg between two to five years or on a more frequent basis as deemed necessary). This review takes into consideration the views of stakeholders. |
| Description | PIDM prepares a rolling three year Corporate Plan in addition to its Annual Report that describes how it believes it is meeting its public policy objectives. PIDM also has adopted a yearly Corporate Scorecard using a balanced scorecard approach. The Corporate Scorecard is made part of its Annual Report and outlines PIDM's Corporate Objectives, Key Performance Indicators or Corporate Initiatives, its yearly Target and year-end Results. In addition PIDM undertakes a review of its enabling legislation at least every five years or on an as needed basis through its Board Governance and Risk Policies which require Management to identify on an ongoing basis any needed legislative enhancements and discuss those issues with the Board. |
| Comments | |
| Principle 2 | Mitigating moral hazard Moral hazard should be mitigated by ensuring that the deposit insurance system contains appropriate design features and through other elements of the financial system safety net (see Core Principles for Effective Deposit Insurance Systems "Preconditions" paragraph 16). |
| Description | Malaysia's deposit insurance system is designed to properly mitigate moral hazard and is supported by a strong bank supervision and prudential regulatory regime. PIDM applies limited coverage and has a risk based premium system in place. |
| Assessment | Compliant |

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| Comments | |
| Essential Criteria | 1. The design of the deposit insurance system recognises the existence of moral hazard and mitigates it as much as possible in-line with public policy objectives. Specific design features that mitigate the risk of moral hazard may include: limited deposit insurance coverage and scope; where appropriate, deposit insurance premiums that are assessed on a differential or risk-adjusted basis; and, minimizing the risk of loss through timely intervention and resolution by the deposit insurer or other participants in the safety net with such powers. |
| Description | PIDM's Act does not set forth an insured amount limit but instead allows it to be prescribed by the Minister of Finance on the recommendation of PIDM. In accordance with this procedure the coverage limit of RM 250,000 was established effective December 31, 2010 (an increase from the previous limit of RM 60,000). Deposits eligible for coverage include current and savings accounts, fixed deposits and foreign currency deposits, with separate protection up to the insured limit for other accounts including trust accounts, joint accounts and accounts of sole proprietorships, partnerships or persons carrying on professional practices. There is separate deposit insurance for Islamic accounts. Ineligible accounts include deposits not payable in Malaysia, inter-bank money market placements, negotiable instruments of deposit and other bearer deposits, repurchase agreements and unit trusts. |
| Comments | |
| Essential Criteria | 2. The financial safety net creates and supports appropriate incentives to mitigate moral hazard. These may include: the promotion of good corporate governance and sound risk management of individual banks, effective market discipline and frameworks for, and enforcement of, strong prudential regulation, supervision and laws and regulations (to be assessed through a review of "Preconditions", see pages 8-9.). |
| Description | PIDM is part of an effective system of prudential supervision and regulation that promotes good governance and sound risk management at individual banks. |
| Comments | |
| Principle 3 | Mandate It is critical that the mandate selected for a deposit insurer is clearly and formally specified and that there is consistency between the stated public policy objectives and the powers and responsibilities given to the deposit insurer. |
| Description | PIDM has enhanced powers as a deposit insurer to be part of the resolution |

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| | <p>process for non-viable banks. The preamble to its governing Act states that PIDM is empowered to implement promptly authorized resolution actions at minimum cost to the financial system. Article 4 of its Act states that PIDM should, in achieving its Public Policy objectives (PPOs), act in such manner as to minimize costs to the financial system. PIDM's powers are described in Section 25 of its Act as including all powers as may be necessary for the furtherance of its objectives or the performance of its functions and duties. PIDM's mandate includes the promotion of sound risk management at its MIs. In furtherance of its mandate PIDM has in place a risk based deposit insurance premium system and works jointly with BNM on a director's education program to improve corporate governance at its MIs (Financial Institutions Directors Education Program or FIDE).</p> |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | <ol style="list-style-type: none"> 1. The deposit insurer has a mandate that is clearly defined and formally specified, for example, through legislation or documents accompanying legislation. The mandate clarifies the role and responsibilities of the deposit insurer within the financial safety net. |
| Description | <p>PIDM's mandate was enhanced in Act 720 enacted on December 31, 2010. It is now responsible for administering a takaful and insurance benefits protection system in addition to insuring deposits in conventional and Islamic banks; it also has the power to act as the resolution authority for non-viable member institutions. It has certain powers in parallel with BNM in Section 25(2) of the Act for the purpose of averting a risk to the financial system or a threatened loss to PIDM, including acquiring assets or shares from member institutions, make loans or advances with or without security to a member institution, guaranteeing deposits and holding or disposing of assets acquired from a member institution. PIDM also has the power to make loans to a non-member corporation in connection with its resolution powers or for the purpose of reducing or averting a risk to the financial system or threatened loss to PIDM (Section 26). These powers are similar to the powers granted to BNM in the 1989 Banking and Financial Institutions Act (Section 78). PIDM has extensive early intervention powers Section 25 of its Act and has extensive powers to take control of an institution even without the appointment of a receiver.</p> |
| Comments | |
| Essential Criteria | <ol style="list-style-type: none"> 2. The mandate is consistent with the stated public policy objectives and the powers, roles and responsibilities given to the deposit insurer. |
| Description | <p>PIDM's mandate is consistent with its public policy objectives, particularly its</p> |

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| | objective to contribute to the stability of the financial system. |
| Comments | |
| Principle 4 | Powers A deposit insurer should have all powers necessary to fulfil its mandate and these should be formally specified. All deposit insurers require the power to finance reimbursements, enter into contracts, set internal operating budgets and procedures, and access timely and accurate information to ensure that they can meet their obligations to depositors promptly. |
| Description | PIDM has been given a broad array of powers in the Act, including in Sections 7, 8, 9, 10 and 25. |
| Assessment | Compliant |
| Comments | PIDM has been given significant powers to operate in accordance with its mandate, including the powers needed to perform its resolution functions. |
| Essential Criteria | 1. The powers (legal authority) of the deposit insurance system are clearly defined and formally specified in law or regulation (including approved self-regulation in the context of private or public deposit insurance systems). |
| Description | PIDM's powers are clearly described in its enabling Act. |
| Comments | |
| Essential Criteria | 2. The powers of the deposit insurer are aligned to its mandate and public policy objectives. |
| Description | PIDM has the necessary powers to provide deposit insurance to its member institutions and to assess premiums for such insurance. PIDM has also been given expanded powers to resolve member institutions, including the power to provide loans to member and non-member institutions, arrange purchase and assumption transactions and establish bridge institutions. |
| Comments | In some respects the powers given to PIDM in the area of troubled institutions are identical to powers given to BNM, creating the possibility of disagreement over how best to handle a problem situation. PIDM and BNM have entered into a SAA which governs areas of cooperation and collaboration, including the provision of loans or advances before issuance of a non-viability notice by BNM. The SAA also provides that PIDM will exercise its intervention and resolution powers with respect to its member institutions and BNM's parallel powers will be applicable to the resolution of financial institutions other than members of PIDM. In the future, PIDM will have a greater role in facilitating |

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| | resolution of a wider range of financial institutions, including non-member institutions, consistent with BNM's Financial Sector Blueprint for 2011-2020 (Recommendation 4.1.9). |
| Essential Criteria | 3. The deposit insurer has the following minimum powers: |
| Description | |
| Comments | |
| | a. compel member banks to comply with their obligations to the deposit insurer, or request that the supervisor or another safety-net participant do so on behalf of the deposit insurer; |
| Description | The terms and conditions of PIDM membership are prescribed by PIDM and failure to comply with any such terms is enforceable under Sections 37 and 195 of the PIDM Act. Offences are listed in Part X of PIDM's Act. PIDM cannot issue cease and desist orders. PIDM enforces compliance by making referrals to the public prosecutor for the filing of an action against a member institution (MI). PIDM also has the authority to impose a premium surcharge on MIs under Section 51 of its Act when it deems a MI not to be complying with its rules and regulations. |
| Comments | |
| | b. have the legal authority and capability to reimburse depositors; |
| Description | PIDM has the authority under its Act (Section 25) to take all actions necessary to further its objectives, the performance of its functions or the discharge of its duties. It is obliged to make payment under Section 56 of the Act whenever a winding up order is entered, as soon as possible and, in any case, within three months of the date of the order. PIDM also has the authority to make discretionary and advance payments under Sections 57 and 58 of its Act. |
| Comments | Although PIDM has not had to make a deposit payout it has engaged in planning for such a payout and conducted simulation exercises in 2010 and 2011, with future simulations planned. It has developed detailed payout policies and procedures and developed IT systems to assist it with a payout if needed. Recent testing of its operational readiness shows that it can process for payment a significant number of accounts within a relatively short period of time. |
| | c. enter into contracts (eg agreements/transactions to obtain goods and services/insurance); |
| Description | PIDM may enter into contracts or agreements and appoint persons to |

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| | assist it in the performance of its functions under Section 25 of its Act. |
| Comments | |
| | d. set internal operating budgets and internal policies and procedures (eg in areas such as human resources and information technology); |
| Description | Powers for internal management are provided to PIDM under Section 12 of its Act. PIDM's Board of Directors has the power to approve the annual Corporate Plan which includes operating budgets. |
| Comments | |
| | e. access timely and accurate information to promptly meet their obligations to depositors; |
| Description | PIDM has access to all depositor records and banks are required to provide any needed depositor record information to PIDM within 48 hours of a request. Section 202 of the PIDM Act requires banks or related corporations to provide PIDM with any information it requires. |
| Comments | |
| | f. share information with other safety-net participants; |
| Description | PIDM and BNM share information on all aspects of the condition of member institutions. PIDM attends BNM meetings with MIs and may attend Board of Directors meetings at MIs. PIDM will participate in the Crisis Management Group (CMG) for the large foreign bank operating in Malaysia in which BNM participates. BNM also shares information with PIDM from its various supervisory colleges. BNM and PIDM also have joint working groups on many issues, including the current work on establishing a risk based premium regime for insurance and takaful PIDM members and developing a program for Recovery and Resolution Plans for Malaysian SIFIs. |
| Comments | |
| | g. engage in information sharing and coordination agreements with deposit insurers in other jurisdictions (subject to confidentiality when required); and |
| Description | PIDM has Memoranda of Understanding with deposit insurers in the region, including Thailand, Indonesia and Taiwan for purposes of knowledge transfer, training and development. PIDM is also very active in the International Association of Deposit Insurers (IADI) which provides opportunities for information sharing on a broader basis. BNM has the authority to enter into sharing agreements with foreign supervisory authorities under Article 40(1) of |

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| | the Central Bank of Malaysia Act of 2009 and such information can be shared with PIDM under the SAA. PIDM also has the legal authority under Article 25 of its Act to enter into any agreements necessary in furtherance of its objectives. PIDM should negotiate information sharing agreements with all relevant jurisdictions for the purposes of resolution of any cross-border banks. |
| Comments | |
| | h. engage in contingency planning. |
| Description | PIDM engages in contingency planning on an ongoing basis, including through the use of simulation exercises. |
| Comments | |
| Essential Criteria | 4. In support of the deposit insurance system, the other participants in the financial safety net are provided with all powers necessary to fulfill their mandates (see Preconditions). |
| Description | Other safety net participants are given the necessary powers to fulfill their mandates. |
| Comments | |
| Principle 5 | Governance The deposit insurer should be operationally independent, transparent, accountable and insulated from undue political and industry influence. |
| Description | There are no examples of any interference with PIDM's operational independence although the large number of matters on which it must seek MoF approval presents the possibility that its independence or effectiveness in meeting its mandate could be compromised. There are a significant number of actions that PIDM can only take with Minister of Finance approval, including termination of membership (Section 39), setting annual premium rates (Section 48), assessing a premium surcharge against a member institution as a penalty for failing to comply with rules, regulations, its terms and conditions of membership or other requirements of PIDM or BNM (Sections 51, 153), making discretionary payments of insured deposits where a member institution is unable to make such payment for specified reasons (Section 57) and issuing rules, regulations or orders (Section 209). These approval powers have the potential for affecting the independence of PIDM or delaying required action, although to date there has been no example of PIDM not being able to accomplish its objectives because of the lack of an approval of its action by MoF. There is no undue influence on PIDM's Board as industry members cannot be appointed to the Board (Section 14). Ex officio members of the Board |

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| | cannot be appointed as Chairman (Section 11). |
| Assessment | Materially Non- Compliant |
| Comments | |
| Essential Criteria | 1. The deposit insurer is able to use the powers and means assigned to it without undue influence from external parties. There is in practice no significant evidence of government or industry interference in the operational independence of the deposit insurer and its ability to obtain and deploy the resources needed to carry out its mandate. |
| Description | Although there are a number of areas in PIDM's operations that require MoF approval (notably to issue regulations, making discretionary insurance payments and assessing a premium surcharge) there is in practice no evidence of interference in its operations. |
| Comments | |
| Essential Criteria | 2. The operational funding of the deposit insurer is provided in a manner that does not undermine its autonomy or independence and permits it to fulfill its mandate. Examples include: |
| Description | PIDM funds its operations through the assessment of annual premiums on member institutions. |
| Comments | |
| | a. Salary scales that allow it to attract and retain qualified staff; |
| Description | PIDM is able to offer salaries that allow it to attract qualified staff. Salary scales are reviewed annually by the Board Remuneration Committee against market benchmarks. As of year end 2011, PIDM had 120 employees (with plans to increase staff to 148 by year end 2012) and total salary and benefit costs for 2012 are planned at 50% of the 2012 annual budget (Corporate Plan 2012-2014 at page 29). Compensation authority is with the Board of PIDM (Section 12). |
| Comments | |
| | b. The ability to hire outside experts to deal with special situations, subject to appropriate confidentiality restrictions; |
| Description | PIDM is able to hire outside experts to assist it in its operations, including contingency planning. In order to bolster the expertise for outside firms on bank failures PIDM is working with an outside accounting firm to make such expertise available should the need arise in the future. Confidentiality agreements are in place to ensure that information remains restricted. |

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| Comments | |
| | c. A training budget and programme that provides appropriate training opportunities for staff; |
| Description | PIDM staff are able to avail themselves of training opportunities and regularly participate in training provided by other deposit insurers or deposit insurance organizations or associations. The current training budget is RM 1.8 mn. |
| Comments | |
| | d. A budget for computers and other equipment sufficient to equip its staff with tools needed to fulfil its mandate; and |
| Description | PIDM's budget is sufficient to allow it to provide for the necessary computer and other equipment for its work. The budget for these purposes in 2012 is RM 14.6 mn. |
| Comments | |
| | e. A travel budget that allows appropriate on-site work. |
| Description | PIDM staff are able to travel to do any necessary on-site work. |
| Comments | |
| Essential Criteria | 3. The governing statute, internal policies of the deposit insurer or other relevant laws or policies specify: |
| Description | |
| Comments | |
| | a. the governing body and management are fit and proper persons and have the requisite knowledge or experience; |
| Description | Board members are required to have relevant experience (Section 11) and are subject to qualification criteria (Section 14). The Board is also subject to a Conflict of Interest Code and Code of Business Conduct and Ethics which is equally applicable to all PIDM employees. Breaches of the Code of Business Conduct and Ethics can be enforced by the public prosecutor and can also be the subject of internal disciplinary proceedings. Members of the Board have access to training through FIDE and also have an annual Education Plan. |
| Comments | |
| | b. members of the governing body (with the exception of ex-officio appointees) and the |
| | c. head of the deposit insurer are subject to limitations on their term of |

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| | appointment; and |
| Description | Directors of PIDM's Board are appointed for three year terms and are eligible for reappointment (Section 13 of PIDM Act). |
| Comments | |
| | d. members of the governing body can be removed from office during their term only for reasons specified or defined in law or rules of professional conduct, and not without cause. |
| Description | Section 14 of the PIDM Act specifies the grounds for termination or suspension of any Director by the MoF and these grounds are consistent with these criteria. |
| Comments | |
| Essential Criteria | 4. The members of the governing body (eg directors or officers) and management of the deposit insurer are held accountable to a higher authority, whether public or private, through a transparent framework for the discharge of the system's duties in relation to its objectives and mandate. |
| Description | PIDM reports to Parliament through the MoF. MoF appoints members of the Board (other than ex officio members). |
| Comments | |
| Essential Criteria | 5. The deposit insurer operates in a transparent and responsible manner. It discloses and publishes on a regular basis appropriate information on its activities, governance practices, structure and financial results. |
| Description | PIDM publishes an Annual Report as well as three year rolling Corporate Plans which contain detailed information on its operations, activities and financial performance. These materials are available on PIDM's website along with significant additional information about its structure and ongoing work. |
| Comments | |
| Essential Criteria | 6. The deposit insurer is structured such that the potential for conflicts of interest for or between members of the governing body and management is minimised and that they are subjected to appropriate codes of conduct/ethics. |
| Description | All employees of PIDM and its Board of Directors are subject to Codes of Business Conduct and Ethics and Conflict of Interest. The Chairman of PIDM's Board cannot be one of the ex officio members; the CEO of PIDM is not a member of the Board but the CEO is accountable to the Board under Section 19 of the Act. No representative of MIs can be a member of PIDM's Board. |
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| Essential Criteria | 7. The deposit insurer takes into consideration the views of stakeholders. |
| Description | PIDM engages in extensive public consultation with its member banks before issuing, modifying or varying relevant policies, regulations and guidelines. All comments from stakeholders and PIDM's response to the comments are posted on PIDM's website. The SAA also provides for consultation between BNM and PIDM in relation to any new or proposed regulatory policies or decisions that could impact each other's operations. |
| Comments | |
| Essential Criteria | 8. Where decision making is delegated by the governing body of the deposit insurer to its employees, the governing body has appropriate procedures to oversee the exercise of delegation. |
| Description | PIDM has an authority matrix that outlines the approval and recommending authorities of the Board, CEO, corporate officers appointed by the Board and staff, with a separate authority matrix for the Intervention and Failure Resolution (IFR) framework. Job descriptions are in place for the Chairman of the Board, CEO and individual directors. The Chief Risk Officer and Chief Internal Auditor (through the Audit Committee) report directly to the Board. |
| Comments | |
| Essential Criteria | 9. The deposit insurer is subjected to regular external audits with reports provided to the authority to which it is accountable. |
| Description | Section 33 of the PIDM Act requires PIDM's accounts to be audited by the Auditor General. The Annual Report includes the audited financial statements, which must be tabled with MoF within three months after year-end by law, followed by tabling in Parliament. PIDM also has a strong internal audit process. |
| Comments | |
| Essential Criteria | 10. The deposit insurer has a governing body approved strategic plan in place. ³ |
| Description | PIDM has a rolling three Corporate Plan process with the latest plan issued for 2012-2014. These plans are approved by the Board of Directors. |

³ The term "strategic plan" refers to a document which sets out an organisation's goals and how it plans to achieve them.

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| Comments | |
| Essential Criteria | 11. Regular board meetings are held (eg on a quarterly basis or more frequently as deemed necessary). |
| Description | Section 18 of the PIDM Act requires the Board to meet no less than quarterly or more often as deemed necessary. Board committees have also been established with approved charters. |
| Comments | |
| Additional Criterion | 1. The deposit insurer adheres to best practices in corporate governance, such as: |
| Description | |
| Comments | |
| | a. Regular assessments of the extent to which the governing body is meeting its objectives are carried out. Systems and practices are in place to facilitate assessments of its effectiveness; and |
| Description | The Board assesses itself and management on a yearly basis and the assessment is reported in the Annual Report. |
| Comments | |
| | b. The governing body has a well-defined charter that outlines the specific powers reserved for the board and those delegated to management. |
| Description | The Board has approved a Board Governance Policy and Authority Matrix which defines the role of the Board and the delegation to Management. |
| Comments | |
| Principle 6 | Relationships with other safety-net participants A framework should be in place for the close coordination and information sharing, on a routine basis as well as in relation to particular banks, among the deposit insurer and other financial system safety-net participants. Such information should be accurate and timely (subject to confidentiality when required). Information-sharing and coordination arrangements should be formalised. |
| Description | There is a strong culture of cooperation between PIDM and BNM. Information is shared on an ongoing basis and joint initiatives are undertaken to further the strength of the financial safety net on a regular basis. PIDM has access to all |

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| | information it requires as outlined in the SAA and BNM has access to all information it requires from PIDM under Sections 96 and 203 of its Act. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. A framework for timely information sharing and the coordination of actions among the deposit insurer and other safety-net participants, on a routine basis as well as in relation to particular banks, is explicit and formalised through legislation, regulation, memoranda of understanding, legal agreements or a combination of these instruments. |
| Description | PIDM's Act provides for information sharing between BNM and PIDM (Sections 95 and 203) and PIDM can examine member institutions. The SAA provides for ongoing consultation, cooperation and sharing of information on issues related to the safety and soundness of member institutions and maintaining stability of the financial system. |
| Comments | |
| Essential Criteria | 2. Planning and operations of safety-net participants, both individually and together, not only cover past and ongoing circumstances but also consider plausible future scenarios. |
| Description | PIDM has conducted simulation exercises to test its readiness to respond to a bank failure. BNM regularly shares the results of its stress tests with PIDM. PIDM is planning to conduct simulation exercises in the future with BNM. |
| Comments | |
| Essential Criteria | 3. All deposit insurers are provided with information on a timely basis to be able to reimburse depositors' claims promptly including information on the amount of insured deposits held by individual depositors. |
| Description | Member banks are required under PIDM's Guidelines on Deposit Information System and Submission to provide relevant deposit information promptly in a pre-specified file format over the next several months. The first date for compliance is May 2013, with 29 MIs already having completed their trial submission. These systems are being tested and validated by PIDM. Section 97 of the PIDM Act allows PIDM to conduct special examinations at banks for the purpose of verifying depositor data, and Section 202 of the Act requires member banks to provide PIDM with information about their business and affairs to allow PIDM to perform its functions and discharge its duties. |
| Comments | |
| Essential | 4. Rules regarding confidentiality of information apply to all safety-net |

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| Criteria | participants and the exchange of information among them. |
| Description | Both BNM in Section 42 of the Central Bank of Malaysia Act and PIDM in Section 24 of its Act are subject to confidentiality obligations. |
| Comments | |
| Essential Criteria | 5. The safety-net participants make information on banks that are in financial difficulty or are expected to be in financial difficulty available to the deposit insurer in advance and, where confidentiality requirements prevent this, or where the information is not available from other safety-net participants, the deposit insurer has the power to collect information directly from such banks. |
| Description | Section 95 of the PIDM Act requires BNM to provide written reports to PIDM after examination and, as a matter of practice, all supervisory correspondence is made available to PIDM. It also has the power to examine member institutions for specified purposes under Sections 96 and 97 of its Act. PIDM undertakes risk assessment and monitoring on all its MIs and shares all its information with BNM. |
| Comments | |
| Additional Criterion | 1. A deposit insurer with a broader mandate, such as “loss-” or “risk-minimisation”, has access to timely and accurate information so that it can assess the financial condition of individual banks, as well as the banking industry. These deposit insurers may also need access to information regarding the value of the bank’s assets and the expected time frame for the liquidation process, given that the value of a bank’s assets depends, in part, on the time necessary to liquidate them. |
| Description | |
| Comments | |
| Principle 7 | Cross-border issues Provided confidentiality is ensured, all relevant information should be exchanged between deposit insurers in different jurisdictions and possibly between deposit insurers and other foreign safety-net participants when appropriate. In circumstances where more than one deposit insurer will be responsible for coverage, it is important to determine which deposit insurer or insurers will be responsible for the reimbursement process. The deposit insurance already provided by the home country system should be recognised in the determination of levies and premiums. |

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| Description | All foreign banks in Malaysia are incorporated as subsidiaries. PIDM does not protect deposits that are not payable in Malaysia. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. Appropriate cross-border bilateral/multilateral agreements are in place in circumstances where, due to the presence of cross-border banking operations, coverage for deposits in foreign branches is provided by the deposit insurer in another jurisdiction or by a combination of deposit insurers in different jurisdictions. For example, where the home country system provides coverage for the branches of its domestic bank, banks in the host countries and/or the host country system provides supplementary coverage for foreign bank branches. |
| Description | There are cross-border agreements for information sharing purposes in place with BNM and all relevant information obtained from foreign authorities is shared with PIDM. PIDM protects all covered deposits payable in Malaysia. Under the SAA, BNM agrees to provide PIDM with all information regarding cross-border arrangements of BNM or other central banks. |
| Comments | |
| | a. The agreements involve appropriate home and host deposit insurers as well as other appropriate financial safety-net participants when appropriate, including in circumstances where one deposit insurer will be solely responsible for coverage. |
| Description | PIDM is the responsible insurer for deposits payable in Malaysia. |
| Comments | |
| | b. The agreements provide for ongoing close coordination and information sharing between home/host deposit insurers and possibly other safety-net participants, as well as in relation to particular banks when necessary. |
| Description | BNM has formal or informal agreements in place with all relevant foreign authorities for information sharing purposes and all relevant information obtained from those authorities is shared with PIDM. BNM is also involved in relevant Crisis Management Groups and works closely with PIDM on the work undertaken by those groups. |
| Comments | |
| | c. The agreements specify which deposit insurer or insurers will be responsible for reimbursement as well as premium assessment, cost sharing, and the deposit insurance public awareness issues raised by cross-border banking. |

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| Description | N/A |
| Comments | |
| Essential Criteria | 2. Depositors in the jurisdictions affected by cross-border banking arrangements are provided with clear and easily understandable information on the existence and identification of the deposit insurance system legally responsible for reimbursement and the limits and scope of coverage. Information on the deposit insurance system's source of funding and standard claims procedures and reimbursement options is also available to affected depositors (eg such as on the deposit insurer's website, through printed materials or similar means). |
| Description | N/A |
| Comments | |
| Additional Criterion | 1. Where a deposit insurer perceives a real risk that it may be required to protect depositors in another jurisdiction, its contingency planning allows for cross-border arrangements or agreements. For example, it has an agreement with the deposit insurer in that jurisdiction to provide for insured depositor reimbursements. |
| Description | |
| Comments | |
| Principle 8 | Compulsory membership Membership in the deposit insurance system should be compulsory for all financial institutions accepting deposits from those deemed most in need of protection (eg retail and small business depositors) to avoid adverse selection. |
| Description | Membership in PIDM is compulsory for all licensed commercial and Islamic banks (Section 36 of PIDM Act) which are regulated and supervised by BNM. However, there are other deposit taking institutions that are not part of any deposit insurance system, including credit cooperatives. Several Development Financial Institutions (DFIs) are also not members of PIDM but have either explicit or implicit Government deposit guarantees in place. Together these institutions have approximately 10% of the deposits in the system (the majority of the deposits are in the DFIs). |
| Assessment | Largely Compliant |
| Comments | With one exception the credit cooperatives are not subject to supervision by BNM but are regulated and supervised by the Malaysia Cooperative Societies Commission. |

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| Essential Criteria | 1. Membership in a deposit insurance system is compulsory for all financial institutions accepting deposits from those deemed most in need of protection (eg retail or individual depositors and small business depositors). |
| Description | Individual and small business depositors are covered by PIDM for banks subject to supervision by BNM. Deposits that are not payable in Malaysia, money market deposits, negotiable instruments and bearer deposits, repurchase agreements and any other liability or financial instrument specified by PIDM are excluded from overage (Section 41 of PIDM Act). |
| Comments | |
| Essential Criteria | 2. Policymakers determine whether eligible banks will be given membership as a part of the licensing process or upon application to the deposit insurer. |
| Description | Membership in PIDM is automatic for banks receiving a commercial or Islamic bank license from the MoF. Under the SAA, PIDM and BNM cooperate in the areas of the granting of new licenses and the recommendation of new members to PIDM. The SAA provides that the decision to recommend a financial institution regulated and supervised by BNM as a member is under the purview of both BNM and PIDM. |
| Comments | |
| Essential Criteria | 3. Criteria for membership that detail the conditions, process and time frame for attaining membership are explicitly stated and transparent. |
| Description | Membership in PIDM is compulsory for all licensed commercial and Islamic banks under Section 36 of the PIDM Act. Pursuant to Section 4 of the Banking and Financial Institutions Act of 1989 (BAFIA) any bank licensed under Section 6 of BAFIA shall be deemed a member of PIDM. The SAA outlines the process for consultation with PIDM on the licensing of new institutions that will become members of PIDM. |
| Comments | |
| Essential Criteria | 4. If the deposit insurer does not control membership (ie cannot refuse membership), the law or administrative procedures describe a clear time frame in which the deposit insurer is consulted about or informed in advance of “newly licensed” banks. |
| Description | PIDM provides input on any application before approval by BNM and MoF for new licenses under the SAA. The recommendation for certain financial institution to become a member is done jointly by BNM and PIDM. |

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| Comments | |
| Essential Criteria | 5. When deposit insurance membership is terminated by the deposit insurer, arrangements are in place that provide for coordination in withdrawing the bank's operating license by the relevant authority. If relevant, an appropriate general notice is given to depositors (eg on the deposit insurer's website) to inform them that any new deposits issued will not receive deposit protection. |
| Description | Section 38 of PIDM's Act requires the cancellation of the membership of any institution if the license has been revoked. PIDM provides for termination of membership and the process is detailed in the law. Membership can be revoked even before the license is revoked by the MoF. Under Section 7 of BAFIA where membership in PIDM is terminated the bank's license may be revoked by MoF. There are protections for depositors specified in PIDM's Act, including continued insurance coverage for deposits outstanding on the date of license withdrawal (less any withdrawals) for as long as two years. |
| Comments | |
| Essential Criteria | 6. All financial institutions accepting deposits are subject to strong prudential regulation and supervision and are financially viable when they become members of a deposit insurance system. ⁴ |
| Description | Credit cooperatives are not supervised by BNM (with one exception) and are not members of PIDM. The credit cooperatives are supervised and regulated by the Malaysia Cooperative Societies Commission. All other insured institutions are subject to strong prudential regulation and supervision by BNM. Section 27 of PIDM's Act governs new membership (other than licensed commercial and Islamic banks) along with the criteria in the SAA. |
| Comments | |
| Principle 9 | Coverage Policymakers should define clearly in law, prudential regulations or by-laws what is an insurable deposit. The level of coverage should be limited but credible and be capable of being quickly determined. It should cover adequately the large majority of depositors to meet the public policy objectives of the system and be internally consistent with other deposit insurance system design features. |
| Description | The level of coverage is limited to RM 250,000 per depositor per MI, an amount which covers almost 99% of depositors but only 36.9% of deposits held |

⁴ See discussion "Preconditions" pages 2, 6 and 8.

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| | by MIs. There are no explicit exclusions from coverage for insiders or shareholders except for accounts that are established solely to increase deposit insurance coverage. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. Insured deposits are clearly and publicly defined. This comprises the level and scope of coverage. If certain depositors are ineligible for deposit protection, the criteria are clearly defined. |
| Description | Insured deposits are clearly and publicly defined by PIDM’s Act and the list of products which are insured by PIDM is available at the member institution and the rules for what accounts are covered are available on PIDM’s website. PIDM has issued Guidelines on Deposit Insurance Coverage for Deposits 2011 which are readily available to the public and member institutions. PIDM has the authority under section 41 of its Act to decide on the insurability of new products. MIs must inform depositors what is and is not insured at the time of sale. |
| Comments | |
| Essential Criteria | 2. The definition of “insured deposit” reflects the public policy objectives of protecting depositors and promoting public confidence and financial stability (eg protect small transaction accounts). |
| Description | PIDM covers deposit accounts up to the insured limit including corporate depositors, small businesses and individuals. There are no exclusions from coverage for insiders but Section 42 of its Act allows PIDM to exclude from coverage any trust account that exists primarily for the purpose of obtaining or increasing deposit insurance. |
| Comments | |
| Essential Criteria | 3. The level of coverage is limited but credible (eg the level of coverage is high enough to maintain confidence, but limited to maintain market discipline). The level of coverage is consistent with the deposit insurer’s public policy objectives. |
| Description | The current coverage level of RM 250,000 is limited and covers the majority of |

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| | depositors (almost 99%) but only 36.9% of deposits in MIs. |
| Comments | |
| Essential Criteria | 4. Depositors have sufficient information readily available to determine the amount of coverage for their individual deposits. |
| Description | PIDM has issued Guidelines on Deposit Insurance Coverage for Deposits 2011 and information brochures which are readily available to the public and member institutions. |
| Comments | |
| Essential Criteria | 5. The coverage limit applies equally to all banks in a deposit insurance system. |
| Description | The coverage limit applies equally to all commercial and Islamic banks. |
| Comments | |
| Essential Criteria | 6. The deposit insurance system does not incorporate co-insurance, where depositors absorb some portion of the loss under the coverage limit in the event of bank failure. ⁵ |
| Description | There is no co-insurance. |
| Comments | |
| Essential Criteria | 7. Deposit insurance coverage is reviewed periodically to ensure that it can meet the public policy objectives of the deposit insurance system. |
| Description | PIDM's internal policy is to review the coverage limit every five years. The last change to coverage was made in 2010 (coverage was increased from RM 60,000 to RM 250,000) and implemented on the same date as the exit from the Government Deposit Guarantee (GDG). |
| Comments | |
| Additional Criteria | 1. If set-off is utilised by a deposit insurance system, it is consistent with the prevailing legal framework. |

⁵ Although the use of co-insurance can encourage depositors to monitor bank risk taking, it presents a number of serious problems. In order to provide effective market discipline it assumes that depositors will have access to the necessary financial information and that most retail/individual depositors can accurately assess risk. And, even when depositors are in a position to make such determinations, co-insurance provides strong incentives for depositors to run on a bank to avoid even a small loss of their funds.

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| Description | |
| Comments | Section 81 of BAFIA provides for the right of set-off in paying depositors although PIDM does not allow set-off under its rules. The Draft Financial Services Bill in Section 203 does not appear to require set-off. There is no right of set-off in the PIDM Act. |
| Additional Criteria | 2. In the event of a merger of separate banks that are members of the deposit insurance system, depositors of the merged banks enjoy separate coverage (up to the maximum coverage limit) for each of the banks for a limited but publicly stated period in which case the merging banks must be held responsible for notification of affected depositors, including the date at which time the separate coverage will expire. |
| Description | Mergers are addressed in Sections 43 and 44 of the PIDM Act. |
| Comments | |
| Principle 10 | Transitioning from a blanket guarantee to a limited coverage deposit insurance system When a country decides to transition from a blanket guarantee to a limited coverage deposit insurance system, or to change a given blanket guarantee, the transition should be as rapid as a country's circumstances permit. ⁶ Blanket guarantees can have a number of adverse effects if retained too long, notably moral hazard. Policymakers should pay particular attention to public attitudes and expectations during the transition period. |
| Description | Malaysia successfully exited from the GDG at the end of 2010 with careful planning and an effective communications strategy. At the time it exited from the GDG PIDM substantially increased its deposit insurance coverage, from RM 60,000 to RM 250,000. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. A situational analysis of the economic environment as it affects the banking system is conducted before a country begins a transition from a blanket guarantee to limited coverage. |

⁶ A "blanket guarantee" is a declaration by authorities that in addition to the protection provided by limited coverage deposit insurance or other arrangements, certain deposits and perhaps other financial instruments will be protected. A wide range of factors need to be considered when introducing blanket guarantees, including decisions on the scope of the guarantee (eg the type of institutions, products and term maturities covered) and whether the banks utilising the guarantees will be required to contribute in some manner to the costs of providing the guarantees.

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| Description | Although there is no blanket guarantee currently in place, Malaysia has in the past adopted such guarantees, including in 1998 during the Asian crisis. Concurrent with its exit from that guarantee Malaysia established a limited deposit insurance system by establishing PIDM (in 2005). More recently, in response to similar actions by other regional players, Malaysia put in place a GDG, with coverage above the deposit insurance limit provided by the Government. The GDG was in existence from October 16, 2008 until December 31, 2010. The GDG was precautionary and did not result from any perceived weakness or vulnerability in the financial system but rather was designed to provide a level playing field for the Malaysian financial system given the adoption of guarantees by neighboring jurisdictions. |
| Comments | Although there is no specific situational analysis document, PIDM and BNM, in consultation with regional players carefully planned for the exit. The exit was designed to correspond to similar action by Singapore and Hong Kong. PIDM and BNM monitored the condition of the financial system throughout the time of the GDG to ensure that lifting it would not create a threat to financial stability. |
| Essential Criteria | 2. The situational analysis assesses structure and soundness of the banking system including an evaluation of the condition of banks' capital, liquidity, credit quality, risk management policies and practices, and the extent of any problems; and an evaluation of the number, type and characteristics of banks. |
| Description | During the period of the GDG, BNM and PIDM subjected member institutions to heightened oversight and supervision and prohibited institutions from using the GDG as a marketing tool to attract deposits. These efforts were designed to prevent excessive risk taking. PIDM also assessed an annual fee for deposits covered by the GDG. |
| Comments | |
| Essential Criteria | 3. The situational analysis assesses the strength of prudential regulation and supervision, the effectiveness of the legal framework, and the soundness of the accounting and disclosure regimes. |
| Description | All of these factors were assessed during the period of the GDG and before its termination date. |
| Comments | |
| Essential Criteria | 4. The pace of the transition to limited coverage is consistent with the state of the banking industry, prudential regulation and supervision, legal framework and accounting and disclosure regimes. |

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| Description | The GDG was announced as a temporary measure (about two years) with a fixed date for exit. |
| Comments | |
| Essential Criteria | 5. Policymakers are aware of the tradeoff between the length of time it takes for the transition to the limited coverage system and the degree of moral hazard in the system, and have planned the transition accordingly. |
| Description | PIDM in coordination with BNM planned carefully for the exit from the GDG and monitored MIs carefully before and after the exit. |
| Comments | |
| Essential Criteria | 6. Policymakers are aware of and anticipate the reaction of the public to a reduction in coverage levels. Policymakers develop effective communication strategies to mitigate adverse public reaction to the transition. |
| Description | All safety net players planned for the transition from the GDG. As part of the transition MoF announced a significant increase in coverage limits (from RM 60,000 to RM 250,000) which provided additional confidence to depositors about the strength of the financial system. PIDM also expanded its scope of coverage to include foreign currency deposits. It also planned and executed an extensive public awareness campaign on the new coverage limits which banks described as very effective in assisting the public with the transition. |
| Comments | |
| Essential Criteria | 7. Where there is a high level of capital mobility, and/or a regional integration policy, the decision to lower coverage levels (and/or scope) considers the effects of different countries' protection levels and related policies. |
| Description | PIDM monitored the coverage levels for deposit protection in neighboring countries while planning the transition from the GDG. PIDM's actions were taken at the same time as similar actions in Singapore and Hong Kong. |
| Comments | |
| Essential Criteria | 8. The new limited-coverage deposit insurance system has access to adequate funding during and after the transition. Policymakers consider the capacity of the banking system to fund a limited-coverage deposit insurance scheme. If the banking system is unable to fund the cost of the blanket guarantee, government funding may be needed. |
| Description | PIDM manages an ex-ante fund and is able to establish its own fund target ratio and set premiums accordingly. However, as a relatively new deposit insurer the current level of its fund is relatively low (see further discussion under CP 11). |

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| | <p>During the period of the GDG the Government was responsible for funding the coverage in excess of PIDM’s then-existing coverage limit of RM 60,000, with the member institutions paying an annual fee for such coverage (PIDM collected RM 180 mn for Ministry of Finance during the period of the GDG). There was an agreement between the Government of Malaysia represented by the Ministry of Finance and PIDM requiring the Government to provide funding to PIDM to reimburse it for any loss incurred as a result of providing the guarantee. There were no funding requirements during the existence of the GDG.</p> |
| Comments | |
| Principle 11 | <p>Funding</p> <p>A deposit insurance system should have available all funding mechanisms necessary to ensure the prompt reimbursement of depositors’ claims including a means of obtaining supplementary back-up funding for liquidity purposes when required. Primary responsibility for paying the cost of deposit insurance should be borne by banks since they and their clients directly benefit from having an effective deposit insurance system. For deposit insurance systems (whether ex-ante, ex-post or hybrid) utilising risk-adjusted differential premium systems, the criteria used in the risk-adjusted differential premium system should be transparent to all participants. As well, all necessary resources should be in place to administer the risk-adjusted differential premium system appropriately.</p> |
| Description | <p>PIDM has established a target for its fund and has determined that it will reach that funding level in ten to twelve years. PIDM has the ability to adjust premiums and has access to government liquidity support and private borrowings. As a relatively new deposit insurer the current level of PIDM’s reserves is small and may not be sufficient to handle the resolution costs of a medium-sized bank failure even after reaching its target level. For that reason it is even more critical that adequate back-up funding be available. PIDM’s statute provides only that MoF “may” lend money or provide funds to PIDM (Article 29 of the PIDM Act). However, no agreement is in place that would make clear that such funding would be available when needed and under what conditions. PIDM should also consider increasing its premiums to build its fund sooner.</p> |
| Assessment | Materially Non-Compliant |
| Comments | |
| Essential Criteria | <ol style="list-style-type: none"> 1. Funding arrangements for the deposit insurance system are provided on an ex-ante or an ex-post basis or some (hybrid) combination of these and are clearly defined and established in law or regulation. |

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| Description | PIDM operates an ex-ante fund for commercial banks and Islamic banks and assesses premiums based on total insured deposits. PIDM also has the power to adjust premium rates on an annual basis with the approval of the MoF (Article 48 of the PIDM Act). The funding mechanism is clearly described in PIDM's regulations and policies. |
| Comments | |
| Essential Criteria | 2. Funding arrangements for the deposit insurance system ensure the prompt reimbursement of depositors' claims and include a pre-arranged and assured source(s) of back-up funding for liquidity purposes. Such sources may include a funding agreement with the central bank, a line of credit with the government treasury, or another type of public fund or market borrowing. If market borrowing is used by the deposit insurer it should not be the sole source of back-up funding. The deposit insurer should not be overly dependent on a line of credit from any single private source. |
| Description | The obligation of MoF to lend to PIDM if needed should be codified. PIDM is able to issue Government-guaranteed debt securities as an additional source of funding if necessary, although it is estimated that such issuance could take two to three months. Sections 29 and 156 of PIDM's Act address the issue of back-up funding to be provided by the Government. Section 29 provides that the MoF "may, upon the request of the Corporation, lend money or provide funds to the Corporation on such terms and conditions as the Minister may determine." If such lending is made the MoF must inform the Parliament. There is no funding agreement in place that would operationalize this section of the Act, leaving it to be determined if MoF would lend and how and under what conditions and within what time frame such funding would be provided if it should be needed by PIDM to meet its obligations to depositors. Section 156 of PIDM's Act addresses the issue of funding in the case of the provision of stabilisation coverage (a blanket guarantee) and provides that the MoF "shall" provide to PIDM such funds as it may require in order to administer and implement stabilization coverage. Again there is no agreement in place that would operationalize this provision of the Act; however, there is a past practice of having such an agreement when the prior blanket guarantee was in force. PIDM's investments are kept largely at BNM so there is no need for a repo agreement to be put in place in case securities had to be liquidated before maturity. |
| Comments | |
| Essential | 3. Primary responsibility for funding the deposit insurance system is borne by member banks and is enforceable by the deposit insurer. |

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| Criteria | |
| Description | Deposit insurance coverage and all operations of PIDM are funded by premiums collected from the member institutions based on total insured deposits. |
| Comments | |
| Essential Criteria | 4. If an ex-ante deposit insurance fund is established the size of the fund (eg the fund reserve ratio) is defined on the basis of clear, consistent and well-developed criteria that aim at meeting the public policy objectives. If an ex-post funding arrangement is used the main source of funding is credible and readily available. |
| Description | PIDM does not have a statutory target ratio but has adopted an internal target fund based on a detailed assessment of its projected funding needs. In its 2011 Annual Report PIDM discusses its methodology which resulted in its adoption of a target fund range between 0.6 and 0.9% of total insured deposits for both its conventional and Islamic deposit funds. At current deposit levels the conventional target fund would range from RM 1.96bn to RM 2.94bn (the amount in the fund at year-end 2011 is RM 450mn or 0.14% of total insured deposits). PIDM estimates that it will take 10 to 12 years to reach its target fund ratio given current premium estimates. |
| Comments | |
| Essential Criteria | 5. The deposit insurance fund has sound investment policies and procedures, internal controls and disclosure and reporting systems. These are approved by the deposit insurer's governing body and subjected to regular review by an independent party. Investment policies emphasise the need to ensure the preservation of fund capital and liquidity. |
| Description | Section 30 of the PIDM Act sets forth the approved investments for PIDM, including government securities, deposits with BNM or other financial institutions and other investments approved by the MoF. PIDM has a Board approved investment policy which is reviewed on an annual basis. As a matter of policy PIDM does not deposit its funds with member institutions except with one MI for purposes of banking services. |
| Comments | |
| Essential Criteria | 6. For deposit insurers that use risk-adjusted differential premium systems: |
| | a. the system for calculating premiums is transparent to all participants; |

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| Description | PIDM adopted a Differential Premium System (DPS) in 2008 as described in its regulation and guidelines on DPS (revised in 2011). These materials are available on PIDM's website and describe the applicable financial ratios, the respective weights assigned to each ratio and the options for member banks to appeal their computed risk category. The DPS has been implemented by a regulation and is transparent to all MIs. BNM's supervisory rating represents 35% of the rating and is not subject to appeal by member institutions. |
| Comments | |
| | b. The ratings and rankings resulting from the system pertaining to individual member banks are kept confidential; and |
| Description | Ratings and rankings are subject to bank secrecy rules under Section 24 of the PIDM Act. |
| Comments | |
| | c. policymakers ensure that the deposit insurer has the necessary authority, resources and information in place to carry out its responsibilities with regard to the operation of such systems. |
| Description | PIDM has the requisite authority to assess differential premiums under Sections 48 and 53 of its Act. PIDM has access to all necessary supervisory information to implement its ratings and administers the DPS through access directly to MIs and to information from BNM. PIDM also requires that MIs' external auditors validate DPS directly with PIDM. |
| Comments | |
| Essential Criteria | 7. In so far as the funds of the deposit insurer may be used by other members of the safety net for the purposes of depositor protection and/or bank resolution, those circumstances are clearly stated and public and known to member banks. The deposit insurer has adequate information to: |
| Description | N/A |
| Comments | |
| | a. understand the use of the funds; |
| Description | |
| Comments | |
| | b. seek reimbursement for the estate of the failed bank or participate in recoveries from the bank; |

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| Description | |
| Comments | |
| | c. restrict the resolution or depositor reimbursement amount to the costs the deposit insurer would otherwise have incurred without such intervention or resolution. |
| Description | |
| Comments | |
| Principle 12 | Public awareness In order for a deposit insurance system to be effective it is essential that the public be informed on an ongoing basis about the benefits and limitations of the deposit insurance system. |
| Description | PIDM has a comprehensive public awareness program and works closely with member institutions to ensure that accurate information is available to the public on the existence and limits of coverage on their accounts. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The deposit insurer is responsible for promoting public awareness of the deposit insurance system and how the system works, including its benefits and limitations, on an on-going basis. |
| Description | PIDM has a robust public awareness program that is guided by an Integrated Communications Plan or ICP. There is a plan under development for 2012-2016 which is designed to further increase awareness of the deposit insurance system and promote confidence in the role of PIDM, actively contribute to the enhancement of national financial awareness and literacy through education initiatives and programs and enhance engagement with member banks and strategic partners. Member banks make extensive use of materials provided by PIDM on its deposit insurance coverage and believe PIDM has established good awareness of its role in the financial safety net. Member banks are required to disclose what deposit products are insured and those that are not and any uninsured amount at the point of sale. |
| Comments | |
| Essential Criteria | 2. The objectives of the public awareness programme are clearly defined and consistent with the public policy objectives and mandate of the deposit insurance system. |

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| Description | PIDM has clearly defined the objectives of its public awareness programme and those objectives are consistent with the PPOs of PIDM as well as its mandate. |
| Comments | |
| Essential Criteria | 3. The public awareness programme or activities convey information about the following: |
| | a. which financial instruments are covered by deposit insurance and which are not (eg whether the system covers foreign deposits); |
| Description | Under PIDM's regulations, prior to the sale of a deposit product, member banks are required to inform depositors about the applicability of deposit insurance to that product. Certification is required from PIDM as to each deposit product so as to ensure that products that do not meet the criteria for insurability will not be protected. The criteria for insurability are contained in PIDM's Guidelines on Deposit Insurance Coverage for Deposits 2011. |
| Comments | |
| | b. which financial institutions offer insured deposits and how they can be identified; |
| Description | Member institutions are required to prominently display PIDM membership decals and PIDM's brochures on deposit insurance. Member banks are listed on PIDM's website or membership can be confirmed by calling a toll-free number at PIDM. |
| Comments | |
| | c. deposit insurance coverage limits and the potential for losses on deposits in excess of those limits; and |
| Description | PIDM's brochure clearly sets forth the deposit insurance limits and provides a computational tool to show how the deposit insurance limit works. This message is reinforced through advertisements and other methods of media communication. |
| Comments | |
| | d. the reimbursement process – how, when and where depositors may file claims and receive reimbursements in the event of a bank failure. |
| Description | PIDM's brochure and website explain the reimbursement process and make clear that depositors would not need to file a claim with PIDM if a member institution should fail. |
| Comments | |

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| Essential Criteria | 4. There is an effective contingency planning process for public awareness and communication that addresses plausible future scenarios and that involves the cooperation and coordination of other safety-net participants as appropriate. |
| Description | PIDM has developed a set of Crisis Communications Policies and Procedures to guide its communications with the press, public and other stakeholders in times of crisis. PIDM has developed several templates to address plausible bank resolution scenarios such as a bank run or assumption of control. PIDM is working on policies to guide its work on coordinating with other safety net players in the event of a need for communication about deposit insurance. |
| Comments | |
| Essential Criteria | 5. The deposit insurer works closely with member banks and other safety-net participants to ensure consistency in the information provided and to maximize awareness on an ongoing basis. |
| Description | PIDM works closely with banks and BNM to ensure consistency in messaging. The ICP 2012-2016 will outline ways to enhance PIDM's engagement with member banks, including training of bank employees. In 2011 PIDM conducted 74 briefings/roadshows to banks and other stakeholders. |
| Comments | |
| Essential Criteria | 6. The deposit insurer receives or conducts a regular evaluation of the effectiveness of its public awareness programme or activities. |
| Description | PIDM conducts nationwide consumer surveys twice annually to monitor the level of public awareness and has been conducting at least annual surveys since its establishment in 2005. The most recent survey shows that as of the end of 2011 public awareness of deposit insurance increased from 21% to 27%. Overall awareness of PIDM was measured at 40%. In the 2011 survey PIDM also measured the level of awareness of the Takaful and Insurance Benefits Protection System (TIPS) and awareness of TIPS was measured at 37%. Net awareness (awareness of any of PIDM, deposit insurance or TIPS) was measured at 59% as of the end of December 2011 as compared to 29% at the end of 2010. |
| Comments | |
| Additional Criterion | 1. The public awareness program is tailored to the needs of clearly defined target audience and utilises a variety of communication tools. The desired level of visibility and awareness among the target audiences is a primary factor in determining the budget for the public awareness programme. |

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| Description | The program is comprehensive in its approach and designed for different target audiences. The budget for the public awareness program for 2012 is RM 10 mn. |
| Comments | |
| Principle 13 | Legal protection The deposit insurer and individuals working for the deposit insurer should be protected against lawsuits for their decisions and actions taken in “good faith” while discharging their mandates. However, individuals must be required to follow appropriate conflict-of-interest rules and codes of conduct to ensure they remain accountable. Legal protection should be defined in legislation and administrative procedures, and under appropriate circumstances, cover legal costs for those indemnified. |
| Description | Under section 207 of the PIDM Act directors, officers and employees of PIDM as well as its subsidiaries and a bridge institution are granted immunity from suit for actions taken in good faith while discharging PIDM’s mandate. Conflict of Interest Code and Code of Business Conduct and Ethics are in place for both directors and employees. Costs associated with any suit would be covered by PIDM. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The deposit insurer and individuals working for the deposit insurer are protected against lawsuits for their decisions and actions taken in “good faith” while discharging their mandates. |
| Description | Section 207 of PIDM Act provides that no action or suit may be brought against the Government of Malaysia, the Minister, PIDM, BNM, any of their directors, officers or employees either personally or in their official capacity, any person appointed by PIDM under its powers over non-viable institutions or for receiverships or conservatorships, employees or directors or officers of a bridge institution or subsidiary owned by PIDM or any person lawfully acting on behalf of PIDM or BNM for acts taken in good faith in execution of duties under the PIDM Act. |
| Comments | Former employees are not explicitly covered by the language of the Act but PIDM states that a former employee is covered under the Act if it relates to his/her action(s) taken while he/she was a PIDM employee (provided that such act or statement was done or made, or was omitted to be done or made, in good faith). |

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| Essential Criteria | 2. Individuals are required to follow appropriate conflict-of-interest rules and codes of conduct to ensure they remain accountable. |
| Description | The Board and employees of PIDM are subject to a Conflict of Interest Code for Directors and a Conflict of Interest Code for Employees which require annual declarations of relevant matters, a Code of Business Conduct and Ethics for Directors and Code of Business Conduct and Ethics for Employees and a Policy for Disclosure of Information Concerning Wrongdoing in the Workplace have also been implemented and approved by the Board. |
| Comments | |
| Essential Criteria | 3. Legal protection is defined in legislation and administrative procedures, and under appropriate circumstances, cover legal costs for those indemnified. |
| Description | PIDM has in place a written policy and procedures to cover legal costs that may be incurred for any legal actions brought against PIDM's current or former directors, officers, employees and agents when carrying out their duties. |
| Comments | |
| Additional Criterion | 1. Legal protections do not prevent depositors or other individual claimants, or member banks from making legitimate challenges to the acts or omissions of the deposit insurer in public or administrative review (eg civil action) procedures. |
| Description | |
| Comments | |
| Principle 14 | Dealing with parties at fault in a bank failure A deposit insurer, or other relevant authority, should be provided with the power to seek legal redress against those parties at fault in a bank failure. |
| Description | Relevant authorities have the power to seek legal redress against parties at fault in a bank failure. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The conduct of parties responsible for or who contributed to the failure of a bank (eg officers, directors, managers, auditors, asset appraisers and related parties of the failed bank) are subject to investigation by the deposit insurer or other relevant national authority. The investigation of |

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| | the conduct of such parties may be carried out by one or more of the following: the deposit insurer, supervisor or regulatory authority, criminal or investigative authorities, or a professional or disciplinary body, as applicable. |
| Description | Depending on the nature of the conduct at issue parties at fault may be charged by the public prosecutor under the Penal Code, may (with the public prosecutor's consent) be prosecuted by BNM for offences under BAFIA or by various other authorities under the Companies Act. The Penal Code also allows for the court involved in a winding up action to direct the liquidator to pursue an action or refer the action. For a civil suit, the action would be pursued by the liquidator for the bank under the Companies Act, subject to the control of the court. Any creditor can apply to the court with regard to such powers and PIDM would, as a creditor, be able to apply to the court with regard to the exercise of the liquidator's power to take legal action. PIDM would as a matter of policy undertake a forensic examination after any failure of a MI to determine whether there were any parties responsible for the failure. |
| Comments | |
| Essential Criteria | 2. If identified as culpable for the failure of a bank, such parties are subject to sanction and/or redress. Sanction or redress may include personal or professional disciplinary measures (including fines or penalties), criminal prosecution, and civil proceedings for damages |
| Description | Criminal penalties can be assessed for offences under BAFIA, the Islamic Banking Act and the Companies Act. Civil sanctions may be assessed against culpable directors, managers and officers under the Companies Act. Under BAFIA, a person who contravened any written law designed for protecting members of the public against financial loss involved in banking will not be deemed fit and proper to be appointed as a director. |
| Comments | |
| Failure resolution | The deposit insurer may, but often does not, perform many or most of the roles identified in Core Principles 15 and 16. However, it is essential that one or more of the financial safety net participants performs these roles. |
| Principle 15 | Early detection and timely intervention and resolution The deposit insurer should be part of a framework within the financial system safety net that provides for the early detection and timely intervention and resolution of troubled banks. The determination and recognition of when a bank is or is expected to be in serious financial difficulty should be made early and on the basis of well defined criteria by safety-net participants with the operational independence and power to act. |

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| Description | PIDM has developed an Intervention and Failure Resolution Framework (IFR) which sets forth its powers in responding to a failing MI. The IFR documents the working arrangements between BNM and PIDM during the stages of planning for and undertaking an intervention and sets forth a PIDM Board approved Authority Matrix to define the roles of the two agencies (BNM is part of PIDM's Board). PIDM undertakes insurance and risk assessment to assess and monitor the exposure inherent in providing deposit insurance. PIDM and BNM have developed and agreed on early intervention and non-viability criteria in the SAA. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The deposit insurer is part of a framework within the financial system safety net that provides for the early detection and timely intervention and resolution of troubled banks (failure resolution framework). |
| Description | PIDM is part of the risk assessment framework for banks. Its role in timely intervention and resolution of troubled banks is potentially constrained by the requirement under Section 98 of the PIDM Act that BNM issue a non-viability determination for a member institution before PIDM's resolution powers are triggered. Prior to that determination BNM has powers that are parallel to those of PIDM. There is no legislative definition of non-viability; instead BNM looks to Section 29 of the Central Bank of Malaysia Act definition of risk to financial stability ("a risk which in the opinion of the Bank disrupts, or is likely to disrupt, the financial intermediation process including the orderly functioning of the money market and foreign exchange market, or affects, or is likely to affect, public confidence in the financial system or the stability of the financial system") in assessing the viability of a troubled bank. In an attempt to provide further clarity on when a non-viability determination will be made BNM and PIDM signed an updated SAA on April 19, 2012 as referenced in Section 25 of the PIDM Act. The first SAA was signed in 2006. The SAA is designed to document the areas of collaboration between PIDM and BNM so as to coordinate their activities, promote consultation and facilitate the exchange of information. The resolution role for PIDM as described in the SAA is not as a supervisor but as the party responsible for the intervention and failure resolution actions for its member institutions (MI). As part of the SAA BNM agrees to issue a notification under Section 98 if it is of the opinion that "(i) the Member Institution is not following sound business and financial practices and further regulatory actions would not reasonably improve the MI's prospects of restoring or preserving its business and financial soundness; (ii) shareholders are unlikely to restore the Member Institution's capital to its required minimum regulatory level within an appropriate time frame and failure to do so would |

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| | jeopardise the interests of depositors or certificate/policy holders; (iii) the Member Institution is dependent, to an excessive extent, on loans, advances, guarantees or other financial assistance, including lender of last resort facilities to sustain its operations; or (iv) the Member Institution has lost the confidence of depositors and the public.” |
| Comments | In principle, the absence of a clear legal standard for assessing non-viability might present a risk that by the time a non-viability determination is made and a MI is turned over to PIDM for resolution there is little value remaining, thereby increasing the loss to PIDM from resolution of the institution. However, this risk is mitigated in the current environment because of the close working relationship between PIDM and BNM as well as BNM’s recognition of PIDM’s growing expertise through training and other initiatives in the resolution of troubled financial institutions. There are recent examples of BNM and PIDM working closely on troubled institutions to assess their viability and plan for how to deal with weaknesses in the institutions’ operations. However to assure greater assurance that intervention/resolution will be timely the early intervention and non-viability criteria should be codified. |
| Essential Criteria | 2. The failure resolution framework is established by law or regulation, and is effective at the early detection and timely intervention and resolution of troubled banks. The failure resolution framework is insulated against legal actions that aim at the reversal of early and timely decisions related to corrective procedures, interventions and resolutions of troubled banks. |
| Description | Under Section 7 of BAFIA, BNM can make a recommendation to the MoF to revoke the license of an institution. Any institution dissatisfied with such an order may appeal to the High Court which has the power to quash the MoF decision or substitute an order to restrict rather than revoke the license. Proposed changes in the Draft Financial Services Bill would simplify the license revocation process by providing for approval of BNM’s decision to revoke a license by MoF. PIDM’s Act has various provisions that provide for finality in its resolution actions, including that non-viability decisions by BNM shall be final and binding (Section 98) and that where PIDM has assumed control of an institution no suit may be filed in respect of the assumption of control (Section 109). |
| Comments | The ability of the High Court to overturn BNM’s license revocation decision as opposed to providing an aggrieved party a damages remedy presents the possibility that a court action could halt a resolution of a troubled institution or impede BNM’s and PIDM’s efforts to conclude a merger between two or more institutions. PIDM would take control of an institution which would mitigate the effects of this provision but the possibility remains that resolution could be |

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| | made more complicated because of this provision. |
| Essential Criteria | 3. The safety-net participants have the operational independence and power to perform their respective roles in the failure resolution framework and a clearly defined early intervention mechanism exists (including resolution tools) to ensure that appropriate action is taken (to allow the orderly resolution of a troubled bank) by the responsible party without delay. |
| Description | Although PIDM has been given substantial power to resolve its member institutions it is potentially constrained by the necessity of having a non-viability order issued by BNM before it can exercise its powers. |
| Comments | In recognition of the necessity for a measure of clarity around the decision to make a non-viability declaration PIDM and BNM have signed a new SAA to replace the one in existence since 2006 (before the changes to PIDM's Act providing it enhanced resolution tools). This SAA more clearly sets forth the roles and responsibilities of the two agencies in the resolution process and documents what is an already close working relationship on managing risks to the financial system. |
| Essential Criteria | 4. The failure resolution framework includes a set of criteria that are used to identify banks that are or are expected to be in serious financial difficulty and are used as a basis to initiate some form of early intervention or corrective action to reduce the likelihood that a resolution would be necessary. Such action should minimise losses to the deposit insurance fund. |
| Description | Both BNM and PIDM closely monitor banks for signs of financial difficulty. BNM has a full panoply of powers to enforce its prudential regulations and take corrective action, including Board Resolutions, Supervisory Letters and Undertakings. PIDM conducts independent risk assessment and monitoring of its member banks and meets regularly with BNM to discuss higher risk banks. PIDM also has early intervention powers under Section 25 of its Act that allow it to acquire assets from a MI, make loans or advances, acquire shares, make deposits or guarantee deposit liabilities. These actions can be taken to avert a risk to the financial system or a threatened loss to PIDM. There is no legal requirement that resolution actions minimise losses to the deposit insurance fund. PIDM's Act requires that it implement its resolution actions at minimum cost to the financial system. In its Intervention and Failure Resolution Framework, PIDM outlines this "least cost analysis" and specifies three components of costs, including the impact to the insurance fund. In the SAA PIDM and BNM have spelled out the way their respective powers will be used in dealing with a MI that may become non-viable. |
| Comments | |

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| | a. The criteria are clearly defined in law or regulation and are well understood by banks and their stakeholders; and |
| Description | The SAA is not a public document but the laws governing PIDM's and BNM's activities with regard to troubled institutions (Section 29 of the Central Bank Act) describe the test for non-viability as presenting a threat to the financial system. |
| Comments | |
| | b. The criteria will be country specific and may reflect concerns about a bank's capital, liquidity, and asset quality, among other factors. |
| Description | The SAA describes the concerns that will be taken into account by BNM when making a non-viability determination. |
| Comments | |
| Additional Criterion | 1. A mechanism exists to review decisions taken with respect to the early detection and timely intervention and resolution of troubled banks. |
| Description | |
| Comments | |
| Principle 16 | Effective resolution processes Effective failure-resolution processes should: facilitate the ability of the deposit insurer to meet its obligations including reimbursement of depositors promptly and accurately and on an equitable basis; minimise resolution costs and disruption of markets; maximise recoveries on assets; and, reinforce discipline through legal actions in cases of negligence or other wrongdoings. In addition, the deposit insurer or other relevant financial system safety-net participant should have the authority to establish a flexible mechanism to help preserve critical banking functions by facilitating the acquisition by an appropriate body of the assets and the assumption of the liabilities of a failed bank (eg providing depositors with continuous access to their funds and maintaining clearing and settlement activities). |
| Description | Once BNM issues a non-viability determination on a MI, PIDM has the power to resolve the institution using a variety of resolution tools, including the assumption of control of a MI under Section 99 of its Act, purchase and assumptions and bridge banks. However, PIDM must seek High Court approval for the appointment of a Receiver or a winding up order which may make these tools less effective in terms of providing certainty as to the timing of such actions by PIDM. PIDM also must seek approval from the High Court under Article 102 of its Act to reduce share capital where it has assumed control of a |

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| | MI which may also cause delay in restructuring the MI. However, through its powers to assume control of a MI, PIDM has significant powers without the appointment of a Receiver. |
| Assessment | Largely Compliant |
| Comments | In principle there is a risk that the effectiveness of the resolution tools provided to PIDM could be compromised by the requirement that there be a finding of non-viability by BNM before such tools can be utilized. PIDM believes this requirement of a non-viability finding provides for clear accountability for the non-viability framework and does not see it as an impediment to the use of its resolution tools. This risk is also mitigated by the close working relationship between PIDM and BNM, including enhanced supervision if a MI should begin to exhibit problems in its operations. BNM made clear that the viability triggers outlined in the SAA are designed to make sure that institutions are placed into resolution in a timely manner. There has been experience within the last three years of BNM and PIDM working closely together on the review of the operations and business plan of a MI experiencing stress. However, fleshing out the non-viability trigger in the Act by reference to the indicators now outlined in the SAA would provide a greater level of certainty that an institution would have to be found to be non-viable early enough to make PIDM's resolution tools effective in managing costs to the financial system. The non-viability and early intervention criteria should be transparent and disclosed through codification so as to provide greater assurance that intervention and resolution will be timely. |
| Essential Criteria | 1. The overall national legal framework ensures the effective and timely functioning of the failure resolution framework, permitting the orderly liquidation of the bank, the payout or transfer of insured deposits and the intervention by a receiver to carry out the resolution functions. |
| Description | Although PIDM has not had the opportunity to test the effectiveness or timeliness of its failure resolution framework it has engaged in substantial planning for such activities, including through the use of simulation exercises. |
| Comments | No legal impediments to such actions have been identified by PIDM but the ability of the High Court to reverse a license revocation decision might in some circumstances constrain PIDM and BNM in using all their resolution tools. Such a possibility of reversal of BNM's license revocation actions by the High Court is inconsistent with the recently approved Key Attributes of Effective Resolution Systems (5.5) where the Financial Stability Board states that "The legislation establishing resolution regimes should not provide for judicial actions that could constrain the implementation of, or result in a reversal of, measures taken by resolution authorities acting within their legal powers and in good faith. Instead, it should provide for redress by awarding compensation, if |

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| | justified.” There is no requirement that MoF approve the appointment of a conservator under Section 161 of the Act, which provides PIDM the power to appoint a conservator to deal with specific assets of an “affected person” (a company or other borrower with an obligation to PIDM). Consistent with the Key Attributes, shareholders cannot stop a resolution but are limited to challenging the valuation of any shares through an assessment committee process outlined in Section 104 of PIDM’s Act. |
| Essential Criteria | 2. The mandate of the deposit insurer or other safety-net participants allows for the effective resolution of banks of all sizes. |
| Description | PIDM has a wide range of resolution tools to utilize once a non-viability determination has been made that would allow it to resolve banks of all sizes. |
| Comments | |
| Essential Criteria | 3. Bank resolution and depositor protection procedures are not limited to depositor reimbursement. The deposit insurer or other safety-net participant has effective resolution tools designed to help preserve critical bank functions, to achieve a transfer of accounts or assets/businesses and/or maintain continuity of banking services. |
| Description | PIDM has a wide range of resolution tools at its disposal, including the ability to create subsidiary corporations such as Asset Management Companies and purchase and assumption and bridge bank powers. |
| Comments | |
| Essential Criteria | 4. Where no single authority is responsible for all resolution processes, the mandate, roles and responsibilities of each safety-net participant is clearly defined and formally specified. |
| Description | BNM and PIDM have responsibility for resolution processes and those responsibilities have been formally specified in legislation. BNM and PIDM have further defined their respective roles in the SAA to provide for PIDM to be the resolution authority for MIs. |
| Comments | |
| Essential Criteria | 5. One or more of the resolution procedures allows the flexibility for resolution at a lesser cost than otherwise likely on a depositor reimbursement in a liquidation. |
| Description | PIDM has a full range of tools to undertake different approaches to allow for resolution procedures other than liquidation. |
| Comments | |
| Essential | 6. A clear and well-sustained methodology is available to the deposit |

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| Criteria | insurer or other safety-net participant to provide for the transfer of insured deposits to stronger banks. |
| Description | PIDM has the power to transfer insured deposits to another MI. |
| Comments | |
| Essential Criteria | 7. Resolution procedures clearly ensure that bank shareholders take first losses. |
| Description | There is no legal requirement that shareholders take first losses but PIDM's IFR framework provides for shareholders to take first losses (for example by being subordinated to PIDM's rights in recovery if PIDM provides financial assistance). |
| Comments | |
| Principle 17 | Reimbursing depositors The deposit insurance system should give depositors prompt access to their insured funds. Therefore, the deposit insurer should be notified or informed sufficiently in advance of the conditions under which a reimbursement may be required and be provided with access to depositor information in advance. Depositors should have a legal right to reimbursement up to the coverage limit and should know when and under what conditions the deposit insurer will start the payment process, the time frame over which payments will take place, whether any advance or interim payments will be made as well as the applicable coverage limits. |
| Description | Under Section 56 of its Act PIDM is obliged to make payments to depositors as soon as possible and not later than three months after a winding up order. Payments are computed as of the date of the filing of the petition for winding up (Section 59). PIDM has continuous access to information on its MIs and can require such institutions to provide it with depositor data on a priority basis if necessary. PIDM has the authority under Section 58 of its Act to make advance payments if necessary. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. The deposit insurer is able to reimburse depositors promptly after the deposit insurance system is triggered by law, contract or the relevant authority. ⁷ |

⁷ A prompt reimbursement is defined to be when depositors are reimbursed within a time frame that does not undermine financial stability and the proper functioning of payment systems.

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| Description | Although PIDM has not had to reimburse depositors it has developed and tested a payout system that allows it to process 20 million accounts within 15 hours (including loading data and aggregating accounts up to the generation of the depositor payment list) as the first step in completing a payout. |
| Comments | |
| Essential Criteria | 2. The time frame for accomplishing the reimbursement process is prompt and clearly stated to meet the public policy objectives of protecting depositors and promoting public confidence and financial stability of the deposit insurance system. The time frame is made public. |
| Description | PIDM is currently required to reimburse depositors within three months after a winding up order. Although PIDM has not experienced a bank failure it has developed systems that will allow it to respond to inquiries from depositors (the Depositors Support Management System or DSMS). This system will provide call center operators with a single customer view of each depositor's position (insured and uninsured amounts). Plans for informing depositors on methods of reimbursement include the use of the internet to make such information available. |
| Comments | |
| | a. Depositors are provided information after the failure on when and under what conditions the deposit insurer will start the reimbursement process and when the process is expected to be completed; |
| Description | This process will be possible through use of PIDM's DSMS. PIDM's communication plans would ensure that the public and depositors are made aware of the reimbursement process and the timelines for reimbursement. |
| Comments | |
| | b. Information on coverage limits, scope of coverage and whether advance or interim payments will be made is provided; and |
| Description | This information will be available through use of the DSMS. |
| Comments | |
| | c. If there is an interest-bearing account, the deposit insurer shall reimburse depositors for interest as provided by contract, law or regulation up until at least the date the deposit insurance obligation is triggered. |
| Description | Under section 60 of the PIDM Act, interest is paid up to the date of the filing of the winding up order. |

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| Comments | |
| Essential Criteria | 3. In order to promptly reimburse depositors, the deposit insurer has: |
| | a. Access to necessary data, including deposit account records, to prepare for reimbursing depositors as soon as the supervisor is aware of a likelihood of failure. |
| Description | PIDM has access to depositor data on an ongoing basis. PIDM has requested banks to submit individual depositor information in a standard file format. PIDM also has the power under Section 97 of its Act to undertake a special examination for the purpose of preparing for a payout. |
| Comments | |
| | b. The power to review in advance by itself (or by request from the supervisory authority) the way depositor records are kept by banks to ensure the reliability of records, to reduce the time needed for calculation and verification of depositors' claims; |
| Description | PIDM has the power to conduct a special examination for this purpose. PIDM is also working with its MIs to develop and test a "single view" system to speed up processing of depositor accounts in the event of a failure. |
| Comments | |
| | c. A range of payment methods for reimbursing depositors; and |
| Description | PIDM has the power to reimburse depositors with checks, through agent banks and Automated Teller Machines. |
| Comments | |
| | d. Access to adequate and credible sources of funding (eg reserve fund, Ministry of Finance, central bank) to meet its obligations under the established time frames. |
| Description | PIDM has not secured an agreement with the MoF for back-up funding as discussed more fully under CP 11. |
| Comments | |
| Essential Criteria | 4. The deposit insurer has the capacity to carry out the reimbursement process in a timely manner, including: |
| Description | |
| Comments | |

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| | a. Adequate information technology; and |
| Description | PIDM has developed a comprehensive IT based reimbursement system. |
| Comments | |
| | b. Adequate personnel (in-house or contractor). |
| Description | In addition to its core employees PIDM has the authority to contract for specialized service providers to assist it in its reimbursement related activities. |
| Comments | |
| Essential Criteria | 5. In situations where there may be extended delays in reimbursements, the deposit insurer can make advance, interim or emergency partial payments. |
| Description | PIDM has the power to make interim payments to depositors under Section 58 of its Act. |
| Comments | |
| Additional Criteria | 1. The deposit insurer has contingency plans as well as regularly scheduled tests of its systems. |
| Description | PIDM undertakes periodic simulations on its systems. |
| Comments | |
| Additional Criteria | 2. The reimbursement process is audited by an independent auditor or authority. |
| Description | PIDM's payout process includes the retention of an independent auditor to validate its payout process. |
| Comments | |
| Principle 18 | Recoveries The deposit insurer should share in the proceeds of recoveries from the estate of the failed bank. The management of the assets of the failed bank and the recovery process (by the deposit insurer or other party carrying out this role) should be guided by commercial considerations and their economic merits. |
| Description | PIDM is a creditor of the failed bank's estate and is subrogated to the depositor's rights and interests on the deposit for any payments made to depositors. PIDM has developed an Asset Management and Disposition Policy |

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| | which governs its actions when handling asset recovery. |
| Assessment | Compliant |
| Comments | |
| Essential Criteria | 1. If the deposit insurer plays a role in the recovery process, its role is clearly defined in law or regulation and the deposit insurer maximises recoveries to the extent that it can from the failed bank on a commercial or economic basis. |
| Description | PIDM's role in the recovery process is specified in its Act. Under Section 99, PIDM has the authority to apply to the High Court to appoint a receiver, and, with the approval of the MoF, to apply to the High Court for a winding up order. The liquidator is to be specified by PIDM (except if the winding up order is filed by BNM) (Section 132). Under Section 133 the liquidator is required to carry out his functions under the direction and control of PIDM. PIDM has powers under its Act that will allow it to maximize recoveries, including through the use of vesting certificates which allows it to obtain rights free from various encumbrances and claims and to vest interest in security to a third party acquirer without being subject to court foreclosure proceedings (Section 159 and Fourth Schedule). PIDM is guided by its Asset Management and Disposition Policy (AMD), which allows it to set performance and recovery targets. |
| Comments | |
| Essential Criteria | 2. The deposit insurer shares in the proceeds of the recoveries arising from the failure of its member banks. The deposit insurer is clearly recognised as a creditor of the failed bank for the reimbursement of losses and costs it incurs; and receives recoveries from the estate of the failed bank directly. |
| Description | Under its Act, PIDM is a creditor of the failed bank estate and is subrogated to the depositor's rights and interests on the deposit for any payments made to depositors (Section 65). Under Section 81 of BAFIA and Section 134 of the PIDM Act, depositors receive priority of payment over unsecured creditors. PIDM has control over the liquidation process under Sections 131 and 133 of its Act. |
| Comments | |
| Essential Criteria | 3. The deposit insurer has at least the same or comparable creditor rights or status as a depositor in the conduct of the estate of the failed bank, and has access to information to make and pursue its recovery claim against the estate and to exercise the appropriate degree of influence on the conduct of the estate. |

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| Description | |
| Comments | |
| Essential Criteria | 4. If, in addition to creditor status, the deposit insurer is the receiver/liquidator/ conservator of the failed bank or of only some assets of the failed bank, then: |
| Description | N/A (PIDM does not act as a liquidator) |
| Comments | |
| | a. the role played by the deposit insurer for asset management and recovery is clearly defined in law or regulation; and |
| Description | PIDM will be a creditor of the estate under Section 130 of its Act. |
| Comments | |
| | b. its asset management and recovery approaches are guided by such factors as: the quality of the assets, market conditions, expert advice, and any legal requirements. ⁸ |
| Description | |
| Comments | |
| Essential Criteria | 5. In determining the asset management and recovery approaches, the interests of all creditors are given appropriate weight and decisions on asset disposal are made using concepts such as net present value to balance the competing goals of securing maximum value and early disposal. |
| Description | PIDM is empowered to establish an Asset Management Company under Section 25 of its Act and is authorized to appoint a conservator over corporate borrowers of the failed member bank or its subsidiaries. PIDM's AMD policy provides guidance to PIDM in its management of assets acquired from a failed bank. |
| Comments | |
| Additional Criterion | 1. The deposit insurer is entitled or authorised to be a member of the committee of creditors to follow the liquidation process of the failed bank as it is usually subrogated to the rights of the insured depositors. |
| Description | |
| Comments | |

⁸ In some circumstances the deposit insurer may seek to pursue the parties responsible for fraud or misconduct even though costs may exceed recoveries.