

A BILL

*i n t i t u l e d*

An Act to amend the Malaysia Deposit Insurance Corporation Act 2011.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

1. (1) This Act may be cited as the Malaysia Deposit Insurance Corporation (Amendment) Act 2021.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

**General amendment**

2. The Malaysia Deposit Insurance Corporation Act 2011 [*Act 720*], which is referred to as the “principal Act” in this Act, is amended—

(a) by substituting for the words “Companies Act 1965” wherever appearing including in the shoulder note the words “Companies Act 2016”; and

- (b) by substituting for the words “provisional liquidator” wherever appearing the words “interim liquidator”.

### **Amendment of section 2**

#### **3. Subsection 2(1) of the principal Act is amended—**

- (a) by inserting before the definition of “Islamic bank” the following definition:

‘ “investment account” has the same meaning as defined under subsection 2(1) of the Islamic Financial Services Act 2013;’;

- (b) in the definition of “related”, by substituting for the words “section 6” the words “section 7”;

- (c) by substituting for the definition of “Islamic deposit” the following definition:

‘ “Islamic deposit” has the same meaning as defined under subsection 2(1) of the Islamic Financial Services Act 2013;’;

- (d) by substituting for the definition of “conventional deposit” the following definition:

‘ “conventional deposit” has the same meaning assigned to the definition of “deposit” under subsection 2(1) of the Financial Services Act 2013 and does not include an Islamic deposit;’;

- (e) in the national language text, in the definition of “manfaat insurans”, by inserting after the word “kejadian” the words “atau lebih”;

- (f) by substituting for the definition of “Registrar of Companies” the following definition:

‘ “Registrar of Companies” means the Registrar designated under subsection 20A(1) of the Companies Commission of Malaysia Act 2001 [Act 614];’;

- (g) in the definition of “corporation”, by substituting for the words “section 4” the words “section 3”; and
- (h) in the definition of “insurance company”, by substituting for the words “and Danajamin Nasional Berhad” the words “, Danajamin Nasional Berhad and any person carrying on solely financial guarantee insurance business or credit guarantee insurance business”.

#### **Amendment of section 11**

**4.** Section 11 of the principal Act is amended by inserting after subsection (2) the following subsections:

“(2A) The Minister, in appointing the directors under paragraphs 2(d) and (e), shall have regard to—

- (a) diversity of the Board of directors in terms of interest, knowledge, skill and experience;
- (b) the person’s probity and standing; and
- (c) the person’s knowledge, skill and experience in banking, insurance, economics or in any other relevant discipline, which will enable him to discharge his functions as a director.

(2B) Each director referred to in paragraph (2)(b) or (c) may assign in writing a position within his organization as the alternate director who shall attend meetings of the Board in place of the director when the director is for any reason unable to attend.

(2C) For the avoidance of doubt, for the purposes of subsection 15(9) of the Central Bank of Malaysia Act 2009 [*Act 701*], the position of the Deputy Governor of Bank Negara Malaysia may be assigned as the alternate director under subsection (2B).

(2D) When attending meetings of the Board in place of the directors referred to in paragraph (2)(b) or (c), the alternate directors shall for all purposes be deemed to be directors of the Board.”.

**Amendment of section 12**

5. Subsection 12(1) of the principal Act is amended by inserting after paragraph (c) the following paragraph:

“(ca) the quorum of a meeting of the Board;”.

**Amendment of section 13**

6. Section 13 of the principal Act is amended by inserting after subsection (2) the following subsection:

“(3) An alternate director assigned in subsection 11(2B) by a director referred to in paragraph 11(2)(b) or (c) (referred to in this subsection as “principal director”) shall, unless the assignment is sooner revoked in writing or the position is no longer in existence, cease to be an alternate director when the principal director ceases to be a member of the Board.”.

**Amendment of section 16**

7. Section 16 of the principal Act is amended by inserting after the word “director” the words “including alternate director”.

**Amendment of section 18**

8. Section 18 of the principal Act is amended by deleting subsection (3).

**Amendment of section 28**

9. Section 28 of the principal Act is amended by inserting after subsection (2) the following subsection:

“(3) The Corporation is empowered to transfer monies or assets from any of the funds to another fund, as may be necessary for or in connection with, or reasonably incidental to, the furtherance of its objects, the performance of its functions or the discharge of its duties, and subject to such conditions as the Corporation may specify.”.

**Amendment of section 34**

**10.** Subsection 34(1) of the principal Act is amended by substituting for the word “certified” the word “audited”.

**Amendment of section 41**

**11.** Section 41 of the principal Act is amended—

(a) in subparagraph (1)(a)(i), by inserting after the words “primarily liable” the words “and which meets the criteria as specified by the Corporation”;

(b) in subsubparagraph (1)(a)(E), by deleting the word “and” at the end of the subsubparagraph;

(c) by inserting after subsubparagraph (1)(a)(E) the following subsubparagraph:

“(EA) an investment linked to derivatives; and”; and

(d) by deleting subsection (2).

**New section 46A**

**12.** The principal Act is amended by inserting before section 47 of Chapter 2 of Part IV the following section:

**“Definitions**

**46A.** (1) For the purposes of this Chapter—

(a) “total insured deposits” means the total deposits separately insured as Islamic deposits or conventional deposits under section 42, calculated in such manner as specified by the Corporation;

(b) “transferring party” means a person, including a deposit-taking member, which transfers its business under a business transfer scheme;

- (c) “business transfer scheme” refers to a scheme of transfer for the whole or material part of the deposit-taking business; and
- (d) “transfer date” means the date on which a business transfer scheme takes effect as specified by the Corporation.

(2) For the purposes of paragraph (1)(c), the Corporation may specify what constitutes a material part of the deposit-taking business.”.

### **Substitution of section 47**

**13.** The principal Act is amended by substituting for section 47 the following section:

#### **“First premium in respect of new deposit-taking members**

**47.** (1) Subject to subsections (2), (3) and (4), the Corporation shall assess and collect the first premium payable by a new deposit-taking member for the assessment year in which it becomes a member institution as follows:

- (a) two hundred and fifty thousand ringgit; or
- (b) an amount based on a rate to be prescribed by the Minister on the recommendation of the Corporation and calculated in accordance with section 47A,

whichever is higher.

(2) Except as provided under subsection (3), where the business of one or more transferring parties is transferred under a business transfer scheme to a new deposit-taking member, the Corporation shall assess and collect the first premium payable by the new deposit-taking member as follows:

- (a) two hundred and fifty thousand ringgit; or

- (b) an amount based on a rate to be prescribed by the Minister on the recommendation of the Corporation and calculated in accordance with section 47A,

whichever is higher.

(3) Where the business of one or more deposit-taking members only is transferred under a business transfer scheme to a new deposit-taking member—

- (a) before the annual due date referred to in subsection 48(1) in an assessment year, no annual premium shall be required to be paid by the deposit-taking members for that assessment year; and
- (b) after the annual due date referred to in subsection 48(1) in an assessment year, no first premium shall be required to be paid by the new deposit-taking member.

(4) For the avoidance of doubt, where the transferring parties are deposit-taking members which have been approved under paragraph 15(1)(a) of the Financial Services Act 2013 to carry on Islamic banking business and their Islamic banking business is transferred under a business transfer scheme to a new deposit-taking member before the annual due date referred to in subsection 48(1) in an assessment year, no annual premium shall be required to be paid by the deposit-taking members for that assessment year in respect of the Islamic banking business.

(5) For the avoidance of doubt, different rates may be prescribed under subsections (1) and (2) for categories in which new deposit-taking members are classified under premium regulations and different rates may apply to different categories of new deposit-taking members.

(6) A new deposit-taking member shall pay the first premium to the Corporation within thirty days from the date it becomes a member or such other period as may be specified by the Corporation.”.

**New section 47A**

14. The principal Act is amended by inserting after section 47 the following section:

**“Calculation of first premium in respect of new deposit-taking members**

47A. (1) The first premiums shall be calculated as follows:

- (a) the first premium to be paid by a new deposit-taking member shall be calculated on the basis as may be prescribed by the Minister;
- (b) the first premiums of Islamic and conventional deposits shall be calculated separately; and
- (c) the applicable premium rates for each new deposit-taking member shall be based on such criteria as may be prescribed in the regulations.

(2) The first premium payable by a new deposit-taking member shall be based on returns to be certified by the chief executive of the new deposit-taking member and submitted in such form and within such period as the Corporation may require.”.

**Amendment of section 48**

15. Subsection 48(1) of the principal Act is amended—

- (a) by substituting for the word “Every” the words “Subject to paragraph 47(3)(a) and subsection 49A(1), every”; and
- (b) in the national language text, by substituting for the words “menjadi anggota penerima deposit” the words “menjadi institusi anggota”.

**Amendment of section 49**

16. Subsection 49(1) of the principal Act is amended—

- (a) by substituting for the words “The annual premiums” the words “Subject to section 49A, the annual premiums”; and



(b) by substituting for paragraph (a) the following paragraph:

“(a) the annual premium to be paid by a deposit-taking member shall be calculated on the basis as may be prescribed by the Minister;”.

**New section 49A**

17. The principal Act is amended by inserting after section 49 the following section:

**“Annual premium in respect of deposit-taking members under business transfer scheme**

**49A.** (1) Where the business of one or more transferring parties is transferred under a business transfer scheme to a deposit-taking member (referred to in this subsection as the “transferee member”) before the annual due date referred to in subsection 48(1) in an assessment year—

- (a) the transferee member shall pay annual premium for that assessment year calculated on the basis as may be prescribed by the Minister;
- (b) the annual premium payable under paragraph (a) shall be—
  - (i) based on the rates and subject to the minimum amounts to be prescribed by the Minister on the recommendation of the Corporation; and
  - (ii) calculated in such manner and paid within such period as may be specified by the Corporation;
- (c) the transferring parties shall not be required to pay annual premium under section 48 for that assessment year; and
- (d) for the avoidance of doubt, where the transferring parties are deposit-taking members which have been approved under paragraph 15(1)(a) of the Financial Services Act 2013 to carry on Islamic banking business and their Islamic banking business

is transferred under a business transfer scheme to a transferee member before the annual due date referred to in subsection 48(1) in an assessment year, no annual premium shall be required to be paid by the deposit-taking members for that assessment year in respect of the Islamic banking business.

(2) Where the business of one or more non-deposit taking members is transferred under a business transfer scheme to a deposit-taking member (referred to in this subsection as the “transferee member”) after the annual due date referred to in subsection 48(1) in an assessment year—

(a) the transferee member shall, notwithstanding that it has paid annual premium under subsection 48(1), pay additional annual premium calculated on the basis as may be prescribed by the Minister; and

(b) the additional annual premium payable under paragraph (a) shall be—

(i) based on the rates and subject to the minimum amounts to be prescribed by the Minister on the recommendation of the Corporation; and

(ii) calculated in such manner and paid within such period as may be specified by the Corporation.

(3) For the avoidance of doubt, the rates prescribed under subsections (1) and (2) and the minimum amounts prescribed under subsections (1) and (2) may relate to categories in which deposit-taking members are classified under premium regulations and different rates and minimum amounts may apply to different categories.

(4) Any deposit-taking member which contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit and shall, in addition, be liable to a daily fine not exceeding thirty thousand ringgit for every day the offence continues after conviction.”.

**Amendment of section 54**

18. Section 54 of the principal Act is amended—

- (a) by renumbering the existing provision as subsection (1);
- (b) in subsection (1) as renumbered, by substituting for the word “Any” the words “Subject to subsection (2), any”; and
- (c) by inserting after subsection (1) as renumbered the following subsection:

“(2) The Minister may, on the recommendation of the Corporation, by order published in the *Gazette*—

- (a) provide for the partial or total reduction, waiver, refund or rebate of the amount of any premium or premium surcharge to such deposit-taking member; and
- (b) specify any condition in respect of paragraph (a).”.

**Amendment of section 63**

19. Section 63 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**index-linked deposit**” the words “**investments linked to derivatives previously specified as insured by Corporation**”;
- (b) by substituting for the words “a deposit held by a deposit-taking member” the words “investments linked to derivatives held by a deposit-taking member and previously specified as insured by the Corporation”; and
- (c) by substituting for the words “in respect of the deposit” the words “in respect of the investments linked to derivatives”.

**Amendment of section 67**

**20.** Section 67 of the principal Act is amended in the shoulder note by substituting for the word “**claim**” the word “**action**”.

**Amendment of section 69**

**21.** Subsection 69(6) of the principal Act is amended by substituting for the words “or (*h*)” the words “, (*g*) or (*i*)”.

**New section 70A**

**22.** The principal Act is amended by inserting before section 71 of Chapter 2 of Part V the following section:

**“Definitions**

**70A.** (1) For the purposes of this Chapter—

- (a) “transferring party” means a person, including an insurer member, which transfers its business under a business transfer scheme;
- (b) “business transfer scheme” refers to a scheme of transfer for the whole or material part of the business of family takaful or life insurance or the business of general takaful or general insurance; and
- (c) “transfer date” means the date on which a business transfer scheme takes effect as specified by the Corporation.

(2) For the purposes of paragraph (1)(b), the Corporation may specify what constitutes a material part of the business of family takaful or life insurance or the business of general takaful or general insurance.”.

**Substitution of section 71**

**23.** The principal Act is amended by substituting for section 71 the following section:

**“First levy in respect of new insurer members**

**71.** (1) Subject to subsections (2) and (3), the Corporation shall assess and collect the first levy payable by a new insurer member for the assessment year in which it becomes a member institution as follows:

- (a) two hundred and fifty thousand ringgit; or
- (b) an amount based on a rate to be prescribed by the Minister on the recommendation of the Corporation and calculated in accordance with section 71A,

whichever is higher.

(2) Except as provided under subsection (3), where the business of one or more transferring parties is transferred under a business transfer scheme to a new insurer member, the Corporation shall assess and collect the first levy payable by the new insurer member as follows:

- (a) two hundred and fifty thousand ringgit; or
- (b) an amount based on a rate to be prescribed by the Minister on the recommendation of the Corporation and calculated in accordance with section 71A,

whichever is higher.

(3) Where the business of one or more insurer members only is transferred under a business transfer scheme to a new insurer member—

- (a) before the annual due date referred to in subsection 72(1) in an assessment year, no annual levy shall be required to be paid by the insurer members for that assessment year; and

(b) after the annual due date referred to in subsection 72(1) in an assessment year, no first levy shall be required to be paid by the new insurer member.

(4) For the avoidance of doubt, different rates may be prescribed under subsections (1) and (2) for categories in which new insurer members are classified under levy regulations and different rates may apply to different categories of new insurer members.

(5) A new insurer member shall pay the first levy to the Corporation within thirty days from the date it becomes a member or such other period as may be specified by the Corporation.”.

#### **New section 71A**

**24.** The principal Act is amended by inserting after section 71 the following section:

#### **“Calculation of first levy in respect of new insurer members**

**71A.** (1) The first levies shall be calculated as follows:

- (a) the first levy to be paid by a new insurer member shall be calculated on the basis as may be prescribed by the Minister;
- (b) the first levies in respect of the business of family takaful, general takaful, life insurance and general insurance shall be calculated separately; and
- (c) the applicable levy rates for each new insurer member shall be based on such criteria as may be prescribed in the regulations.

(2) The first levy payable by a new insurer member shall be based on returns to be certified by the chief executive of the new insurer member and submitted in such form and within such period as the Corporation may require.”.

**Amendment of section 72**

**25.** Section 72 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the word “Every” the words “Subject to paragraph 71(3)(a) and subsection 73A(1), every”; and

(ii) in the national language text, by substituting for the words “ia menjadi anggota penanggung insurans” the words “ia menjadi institusi anggota”; and

(b) in the national language text, in subsection (3), by inserting after the words “anggota penanggung insurans” the words “bagi suatu tahun taksiran”.

**Amendment of section 73**

**26.** Section 73 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “The annual levies” the words “Subject to section 73A, the annual levies”;

(ii) by substituting for paragraph (1)(b) the following paragraph:

“(b) the annual levy to be paid by an insurer member shall be calculated on the basis as may be prescribed by the Minister;”;

(iii) by deleting paragraphs (c), (d) and (e); and

(iv) by substituting for paragraph (f) the following paragraph:

“(f) the annual levies in respect of the business of family takaful, general takaful, life insurance and general insurance shall be calculated separately.”; and

(b) by deleting subsection (2).

**New section 73A**

27. The principal Act is amended by inserting after section 73 the following section:

**“Annual levy in respect of insurer members under business transfer scheme**

**73A.** (1) Where the business of one or more transferring parties is transferred under a business transfer scheme to an insurer member (referred to in this subsection as the “transferee member”) before the annual due date referred to in subsection 72(1) in an assessment year—

- (a) the transferee member shall pay annual levy for that assessment year calculated on the basis as may be prescribed by the Minister;
- (b) the annual levy payable under paragraph (a) shall be—
  - (i) based on the rates and subject to the minimum amounts to be prescribed by the Minister on the recommendation of the Corporation; and
  - (ii) calculated in such manner and paid within such period as may be specified by the Corporation; and
- (c) the transferring parties shall not be required to pay annual levy under section 72 for that assessment year.

(2) Where the business of one or more non-insurer members is transferred under a business transfer scheme to an insurer member (referred to in this subsection as the “transferee member”) after the annual due date referred to in subsection 72(1) in an assessment year—

- (a) the transferee member shall, notwithstanding that it has paid annual levy under subsection 72(1), pay additional annual levy calculated on the basis as may be prescribed by the Minister; and



(b) the additional annual levy payable under paragraph (a) shall be—

- (i) based on the rates and subject to the minimum amounts to be prescribed by the Minister on the recommendation of the Corporation; and
- (ii) calculated in such manner and paid within such period as may be specified by the Corporation.

(3) For the avoidance of doubt, the rates prescribed under subsections (1) and (2) and the minimum amounts prescribed under subsections (1) and (2) may relate to categories in which insurer members are classified under levy regulations and different rates and minimum amounts may apply to different categories.

(4) Any insurer member which contravenes subsection (1) or (2) commits an offence and shall, on conviction, be liable to a fine not exceeding three million ringgit and shall, in addition, be liable to a daily fine not exceeding thirty thousand ringgit for every day the offence continues after conviction.”.

### **Amendment of section 78**

**28.** Section 78 of the principal Act is amended—

- (a) by renumbering the existing provision as subsection (1);
- (b) in subsection (1) as renumbered, by substituting for the word “Any” the words “Subject to subsection (2), any”; and
- (c) by inserting after subsection (1) as renumbered the following subsection:

“(2) The Minister may, on the recommendation of the Corporation, by order published in the *Gazette*—

- (a) provide for the partial or total reduction, waiver, refund or rebate of the amount of any levy or levy surcharge to such insurer member; and

(b) specify any condition in respect of paragraph (a).”.

### **Amendment of section 93**

29. Section 93 of the principal Act is amended in the shoulder note by substituting for the word “**claim**” the word “**action**”.

### **New section 97A**

30. The principal Act is amended by inserting after section 97 the following section:

#### **“Resolution planning**

**97A.** The Corporation may draw up, review and amend a resolution plan for the orderly resolution of a member institution.”.

### **Amendment of section 102**

31. Subsection 102(4) of the principal Act is amended—

(a) by substituting for the words “subsection 64(1)” the words “subsection 116(1)”; and

(b) in paragraph (a), by substituting for the words “section 64” the words “section 116”; and

(c) in paragraph (b), by substituting for the words “subsections 64(9) and (10)” the words “section 122 and subsections 116(9), 116(10) and 116(12)”.

### **Amendment of section 129**

32. Section 129 of the principal Act is amended by substituting for the words “sections 217 and 218 and subsection 221(1)” the words “sections 464, 465 and 466 and subsections 469(1) and (2)”.

**Amendment of section 131A**

**33.** Subsection 131A(1) of the principal Act is amended by substituting for the words “paragraph 236(1)(a) of” the words “subparagraph 1(a) of Part II of the Twelfth Schedule to”.

**Amendment of section 131B**

**34.** Subsection 131B(1) of the principal Act is amended by substituting for the words “paragraph 236(1)(a) of” the words “subparagraph 1(a) of Part II of the Twelfth Schedule to”.

**Amendment of section 132**

**35.** Section 132 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “section 228” the words “subsection 478(1)”; and

(b) in subsection (3), by substituting for the words “subsection 232(3)” the words “subsection 479(2)”.

**Amendment of section 133**

**36.** Section 133 of the principal Act is amended by substituting for the words “subsection 237(4)” the words “subsection 487(4)”.

**Amendment of section 134**

**37.** Section 134 of the principal Act is amended by substituting for the words “subsection 292(1)” the words “subsection 527(1)”.

**Amendment of section 134A**

**38.** Section 134A of the principal Act is amended—

(a) in paragraph (2)(a), by inserting after the words “its Islamic banking business” the words “including the Islamic banking funds or any accounts established under subsection 15(3) of the Financial Services Act 2013, subject to paragraph (aa)”; and

(b) in subparagraph (2)(a)(ii)—

- (i) by substituting for the words “subsection 292(1)” the words “subsection 527(1)”; and
- (ii) by deleting the word “and” at the end of the subparagraph;

(c) by inserting after paragraph (2)(a), the following paragraph:

“(aa) notwithstanding subsection 527(1) of the Companies Act 2016, but subject to any costs and expenses of the winding up set out in paragraph 527(1)(a) of the Companies Act 2016 directly incurred in realising the assets of the investment accounts and any tax set out in paragraph 527(1)(f) of the Companies Act 2016 which is attributable to the investment accounts, the assets of the investment accounts managed by the deposit-taking member in Malaysia, shall be available, in the order set out as follows:

- (i) to pay outstanding costs or expenses of the investment accounts;
- (ii) to pay any profit, fees, gains or other remuneration due to the deposit-taking member; and
- (iii) to meet the liabilities to the investment account holders; and”;

(d) by deleting subsection (3).

### **Substitution of section 134B**

**39.** The principal Act is amended by substituting for section 134B the following section:

#### **“Priority of payments in the winding up of a deposit-taking member that is an Islamic bank**

**134B.** In the winding up of a deposit-taking member that is an Islamic bank in or outside Malaysia—

- (a) the assets of the deposit-taking member, subject to paragraph (b) shall be available to meet all liabilities of that deposit-taking member in respect of its Islamic deposits in Malaysia in priority to all other unsecured liabilities of that deposit-taking member other than the preferential debts set out in subsection 527(1) of the Companies Act 2016 in the order set out in that subsection and the debts due and claims owing to the Government under section 10 of the Government Proceedings Act 1956 and the order of priority for payments of different categories of Islamic deposits may be prescribed by regulations made under section 209; and
- (b) notwithstanding subsection 527(1) of the Companies Act 2016, but subject to any costs and expenses of the winding up set out in paragraph 527(1)(a) of the Companies Act 2016 directly incurred in realising the assets of the investment accounts and any tax set out in paragraph 527(1)(f) of the Companies Act 2016 which is attributable to the investment accounts, the assets of the investment accounts managed by the deposit-taking member in Malaysia, shall be available, in the order set out as follows:
  - (i) to pay outstanding costs or expenses of the investment accounts;
  - (ii) to pay any profit, fees, gains or other remuneration due to the deposit-taking member; and
  - (iii) to meet the liabilities to the investment account holders.”.

#### **Amendment of section 137**

**40.** Paragraph 137(a) of the principal Act is amended by substituting for the words “sections 243 and 249 and subsections 236(3), 277(2), 277(3) and 277(4)” the words “sections 492, 493, 494, 502 and 510 and subsection 486(2)”.

**Amendment of section 138**

**41.** Section 138 of the principal Act is amended—

- (a) in paragraph (a), by substituting for the words “subsection 235(3)” the words “section 485”; and
- (b) in paragraph (b), by substituting for the words “prescribed form referred to in subsection 281(1)” the words “documents referred to in subsection 514(1)”.

**Amendment of section 139**

**42.** Section 139 of the principal Act is amended by substituting for the words “section 234” the words “section 484”.

**Amendment of section 142A**

**43.** Section 142A of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “paragraph 292(1)(f)” the words “paragraph 527(1)(f)”; and
- (b) in subsection (3), by substituting for the words “subsection 292(1)” the words “subsection 527(1)”.

**Amendment of section 142B**

**44.** Section 142B of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “subsection 292(1)” the words “subsection 527(1)”; and
- (b) in paragraph (2)(c), by substituting for the words “subsection 292(1)” the words “subsection 527(1)”.

**Amendment of section 144**

**45.** Paragraph 144(1)(a) of the principal Act is amended by substituting for the words “sections 176, 237, 241, 242, 246, 267 and 278” the words “sections 366, 367, 368, 370, 487, 499 and 512, subsections 454(2) and 454(3) and paragraphs 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of the Tenth Schedule”.

**Amendment of section 146**

**46.** Paragraph 146(3)(c) of the principal Act is amended by substituting for the word “(E)” the word “(F)”.

**Amendment of section 150**

**47.** Paragraph 150(2)(b) of the principal Act is amended by inserting after the words “Part IV” the words “and Chapter 2 of Part V”.

**Amendment of section 160**

**48.** Subsection 160(1) of the principal Act is amended in the definition of “secured creditor”, in paragraph (e), by substituting for the words “marketable securities (as defined in the Companies Act 1965)” the word “securities”.

**Amendment of section 181**

**49.** Subsection 181(1) of the principal Act is amended in the definition of “director” by substituting for the words “section 4” the words “section 2”.

**Amendment of section 182**

**50.** Section 182 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “, had it been done by or against an individual, would in his bankruptcy under the law of bankruptcy be void or voidable” the words “would in the event of the affected person being wound up under the Companies Act 2016 be void or voidable”; and

(b) in subsection (2)—

(i) by substituting for the words “law of bankruptcy” the words “Companies Act 2016”; and

- (ii) by substituting for the words “the effect of bankruptcy” the words “the effect of winding up”.

### **Amendment of section 186**

**51.** Subsection 186(7) of the principal Act is amended by substituting for the words “marketable securities” the word “securities”.

### **Amendment of section 207A**

**52.** Section 207A of the principal Act is amended by substituting for the words “subsection 132(1)” the words “subsection 213(1)”.

### **Amendment of section 209**

**53.** Subsection 209(3) of the principal Act is amended by deleting paragraph (*ea*).

### **Amendment of Second Schedule**

**54.** The Second Schedule to the principal Act is amended—

(*a*) in subparagraph 3(6)—

(i) in subsubparagraph (*a*)—

(A) by substituting for the words “paragraph 6<sub>A</sub>(9)(*b*)” the words “paragraph 8(9)(*b*)”; and

(B) by inserting after the word “money” the words “or the giving of financing”; and

(ii) in subsubparagraph (*b*), by substituting for the words “section 6A” the words “section 8”; and

(*b*) in subparagraph 6(2), by substituting for the words “subsection 112A(1)” the words “subsection 359(1)”.



**Amendment of Third Schedule**

**55.** The Third Schedule to the principal Act is amended—

(a) in subparagraph 3(9)—

(i) in subparagraph (a)—

(A) by substituting for the words “paragraph 6A(9)(b)” the words “paragraph 8(9)(b)”; and

(B) by inserting after the word “money” the words “or the giving of financing”; and

(ii) in subparagraph (b), by substituting for the words “section 6A” the words “section 8”; and

(b) in subparagraph 7(2), by substituting for the words “subsection 112A(1)” the words “subsection 359(1)”.

**Saving**

**56.** (1) All references to “index-linked deposit” in the principal Act shall, on the coming into operation of this Act, be construed as references to “investments linked to derivatives”.

(2) Notwithstanding subparagraph 41(1)(a)(EA), all investments linked to derivatives previously specified as insured by the Corporation shall continue to be insured by the Corporation until they reach maturity, are fully withdrawn or are otherwise terminated, whichever is earlier.

(3) For the avoidance of doubt, Islamic deposits accepted by a deposit-taking member under the repealed Islamic Banking Act 1983 [*Act 276*] which are deemed to be Islamic deposits under section 288 of the Islamic Financial Services Act 2013 and which have been specified as insured by the Corporation shall continue to be insured by the Corporation until they cease to be deemed as Islamic deposits under the Islamic Financial Services Act 2013.

## EXPLANATORY STATEMENT

This Bill seeks to amend the Malaysia Deposit Insurance Corporation Act 2011 (“Act 720”). The proposed amendments seek to provide for matters, among others, relating to the appointment of alternate directors in relation to ex officio directors, enhancing the assessment of premiums and levies for new member institutions and member institutions involved in an amalgamation, power to plan an effective resolution.

2. *Clause 1* contains the short title of the proposed Act and seeks to empower the Minister to appoint the date of commencement of the proposed Act including the power to appoint different dates for the coming into operation of different provisions of the proposed Act.

3. *Clause 2* seeks to provide for the general amendments to Act 720 by substituting for the words “Companies Act 1965” and “provisional liquidator” wherever appearing the words “Companies Act 2016” and the words “interim liquidator” respectively as a consequence to the coming into operation of the Companies Act 2016.

4. *Clause 3* seeks to amend subsection 2(1) of Act 720 to introduce a new definition of “investment account”, and to amend existing definitions used in Act 720.

5. *Clause 4* seeks to amend section 11 of Act 720 to introduce new subsections (2A), (2B), (2C) and (2D) into Act 720.

The proposed new subsection (2A) seeks to provide for the criteria that the Minister shall have regard to in appointing directors under paragraphs 11(2)(d) and (e).

The proposed new subsection (2B) seeks to allow for the appointment of alternate directors for the Governor of Bank Negara Malaysia and the Secretary General of the Treasury.

The proposed new subsection (2C) seeks to allow the position of the Deputy Governor of Bank Negara Malaysia be assigned as alternate director.

The proposed new subsection (2D) seeks to provide that the alternate directors shall for all purposes be deemed to be directors of the Board when attending meetings of the Board.

6. *Clause 5* seeks to amend subsection 12(1) of Act 720 to introduce a new paragraph (ca) into Act 720 to allow the Board to make by-laws in relation to quorum of a meeting of the Board.

7. *Clause 6* seeks to amend section 13 of Act 720 to provide for the term of office for alternate directors assigned under the new proposed subsection 11(2B).

8. *Clause 7* seeks to amend section 16 of Act 720 to provide that alternate directors are entitled for fees, allowances and remuneration as may be determined by the Minister, on the recommendation of the Board.

9. *Clause 8* seeks to delete subsection 18(3) of Act 720 consequential to the amendment made in *clause 5*.

10. *Clause 9* seeks to amend section 28 of Act 720 to introduce a new subsection (3) into Act 720. The proposed new subsection (3) seeks to empower the Corporation to transfer monies or assets from one fund to another fund that are maintained and administered by it, as may be necessary for or in connection with, or reasonably incidental to, the furtherance of its objects, the performance of its functions or the discharge of its duties, and subject to such conditions as the Corporation may specify.

11. *Clause 11* seeks to amend section 41 of Act 720.

*Subclause 11(a)* seeks to amend subparagraph 41(1)(a)(i) of Act 720 to clarify that the protection of bank drafts, traveller's cheques, prepaid letter of credit, money order or other similar instrument is subjected to the criteria as specified by the Corporation.

*Subclause 11(c)* seeks to introduce a new subparagraph 41(1)(a)(EA) into Act 720 to exclude investments linked to derivatives from the scope of deposit insurance coverage.

12. *Clause 12* seeks to introduce a new section 46A under Chapter 2 of Part IV into Act 720 to provide for new definitions of "total insured deposits", "transferring party", "business transfer scheme" and "transfer date".

13. *Clause 13* seeks to amend section 47 of Act 720 to empower the Corporation to also assess and collect the first premium payable by a new deposit-taking member involved in an amalgamation. This *clause* also seeks to provide for the circumstances in which a new deposit-taking member and transferring member involved in an amalgamation are not required to pay premium. This *clause* further clarifies that different rates may be prescribed under subsections 47(1) and (2) of Act 720 for categories in which new deposit-taking members are classified under premium regulations and different rates may apply to different categories of new deposit-taking members.

14. *Clause 14* seeks to introduce a new section 47A into Act 720 to provide for the calculation of first premium in respect of new deposit-taking members.

15. *Clause 16* seeks to amend section 49 of Act 720 to empower the Minister to prescribe the base for calculation of annual premium to be paid by a deposit-taking member.

16. *Clause 17* seeks to introduce a new section 49A into Act 720 to provide for the obligation of a deposit-taking member to pay annual premium or additional annual premium under a business transfer scheme. This *clause* also seeks to make it an offence if the deposit-taking member fails to pay the annual premium or additional annual premium.

17. *Clause 18* seeks to amend section 54 of Act 720 to empower the Minister, on the recommendation of the Corporation, to provide for the partial or total reduction, waiver, refund or rebate of the amount of any premium or premium surcharge to a deposit-taking member.

18. *Clause 19* seeks to amend section 63 of Act 720 consequential to the exclusion of investments linked to derivatives from the scope of deposit insurance coverage.

19. *Clause 22* seeks to introduce a new section 70A under Chapter 2 of Part V into Act 720 to introduce new definitions for the terms “transferring party”, “business transfer scheme” and “transfer date”.

20. *Clause 23* seeks to amend section 71 of Act 720 to allow the Corporation to also assess and collect levy payable by a new insurer member involved in an amalgamation. This *clause* also seeks to provide for the circumstances in which a new insurer member and transferring member involved in an amalgamation are not required to pay levy. This *clause* further seeks to provide that different rates may be prescribed under subsections 71(1) and (2) of Act 720 for categories in which new insurer members are classified under levy regulations and different rates may apply to different categories of new insurer members.

21. *Clause 24* seeks to introduce a new section 71A into Act 720 to provide for the calculation of first levies in respect of new insurer members.

22. *Clause 26* seeks to amend section 73 of Act 720 to empower the Minister to prescribe the base for calculation of annual levies to be paid by an insurer member.

23. *Clause 27* seeks to introduce a new section 73A into Act 720 to provide for the obligation of an insurer member to pay annual levy or additional levy under a business transfer scheme. This *clause* also seeks to make it an offence if the insurer member fails to pay the levy or additional levy.

24. *Clause 28* seeks to amend section 78 of Act 720 to empower the Minister, on the recommendation of the Corporation, to provide for the partial or total reduction, waiver, refund or rebate of the amount of any levy or levy surcharge to an insurer member.

25. *Clause 30* seeks to introduce a new section 97A into Act 720 to provide that the Corporation will draw up, review and amend a resolution plan for the orderly resolution of its member institutions.

26. *Clause 38* seeks to amend section 134A of Act 720.

*Subclause 38(a)* seeks to provide that the assets acquired by the deposit-taking member in the course of its Islamic banking business shall include the Islamic banking funds or any accounts established under subsection 15(3) of the Financial Services Act 2013.

*Subclause 38(c)* seeks to introduce a new paragraph 134A(2)(aa) into Act 720 to provide for the priority of payments in the winding-up of a deposit-taking member carrying Islamic banking business relating to the assets of the investment accounts managed by the deposit-taking member in Malaysia.

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27. *Clause 39* seeks to amend section 134B of Act 720 to provide for the priority of payments in the winding-up of a deposit-taking member that is an Islamic bank in respect of its Islamic deposits in Malaysia.

28. *Clause 47* seeks to amend paragraph 150(2)(b) of Act 720 to provide that Chapter 2 of Part V is not applicable to a prescribed person.

29. *Clauses 48 and 51* seek to amend subsections 160(1) and 186(7) of Act 720 respectively to substitute for the words “marketable securities” the word “securities” as the Companies Act 2016 does not provide for the definition of “marketable securities”.

30. *Clause 56* seeks to provide for saving provisions.

31. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

This Bill will not involve the Government in any extra financial expenditure.

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