Resolution Planning Exposure Draft (RSP ED) - Industry Briefing
17 August 2022

Questions raised by the industry

No	Questions	PIDM’s Response
	General Questions	
1	Would there be a resolution fund which will be established? How will resolution be funded as PIDM funds are currently for deposit insurance? Would there be a proportion to be allocated for resolution funding from the premium?	All the premiums and levies collected from member institutions (MIs) form the Deposit Insurance System (DIS) and Takaful and Insurance Benefits Protection System (TIPS) funds. DIS and TIPS are resolution funds for PIDM to carry out its resolution mandate, which can involve “going-concern” and “gone-concern” resolution strategies. Reimbursement of depositors and policy holders during the closure and liquidation of a failed MI is a “gone-concern” resolution strategy and a transfer to a bridge institution is a form of “going-concern” resolution strategy.
2	At what point will resolution be triggered or conducted? For BNM/PIDM, when will a bank be deemed to be failing, or likely to fail? Are there criteria/framework for FIs’ reference?	PIDM's resolution powers will be triggered when BNM notifies PIDM under section 98 of the PIDM Act, in writing, that BNM is of the opinion that an MI has ceased to be viable, or is likely to cease to be viable. In determining non-viability, the primary supervisor, BNM, may take into consideration a combination of criteria, which may include capital, liquidity, profitability positions, business viability, the confidence of the primary supervisor over the management of the MI and extent of regulatory non-compliance.
3	What is the main difference between BNM’s Recovery Planning and PIDM’s Resolution Planning?	Recovery planning which is led by BNM, and resolution planning which is led by PIDM, are two distinct yet inter-related advanced planning tools. A recovery plan, which is prepared and owned by a bank under the supervision of BNM, aims to restore the long-term viability and return the bank to its business-as-usual position when it comes under severe stress. Under the recovery phase, any decision relating to recovery options is made by the bank. In the event the bank’s recovery options would no longer be feasible to restore its viability, the focus would then switch to achieving a prompt and orderly resolution of the failing or failed bank. Towards this end, PIDM is mandated under the PIDM Act to act as the resolution authority for its deposit-taking member (DTM), and in doing so, fortifying the resilience of the Malaysian financial system. Under the resolution phase, resolution will be undertaken and implemented by PIDM who will be leveraging on its legislative tools to manage the failure of a DTM.

No	Questions	PIDM’s Response
4	As we see recovery and resolution as under two different parts, will PIDM also be helping a bank during the recovery phase or only during a bank resolution?	Under section 98 of the PIDM Act, PIDM's resolution powers are triggered when BNM notifies PIDM, in writing, that BNM is of the opinion that an MI has ceased to be viable, or is likely to cease to be viable. Prior to a resolution, PIDM also has precautionary intervention tools under section 25 of the PIDM Act which may be exercised for the purpose to reduce or avert a risk to the financial system or a threatened loss to PIDM. To ensure financial stability, PIDM will collaborate and coordinate with BNM, as the primary supervisor, on the application of these precautionary intervention tools over a DTM prior to a resolution.
	Questions related to Exposure Draft (ED)	
1	With reference to Para 2.26 of the ED, subsequent continuous review of the resolution plan will be performed: a) by PIDM or respective DTMs? b) periodically by a frequency of annual review?	In line with the principle that “market knows best”, resolution planning is an iterative process to be implemented progressively over the time in close consultation and interaction with a DTM. At the initial stages of resolution planning, it is anticipated that the review of resolution plan (including its developmental progress) might be undertaken on an annual basis. The resolution planning review process will be led and conducted by PIDM. Following the phase under which a DTM has addressed substantially key impediments to resolution and also developed key resolvability capabilities specific to the DTM (e.g. following after several subsequent years), we foresee that the frequency and intensity of resolution planning review exercise may be reduced (for example, to be conducted once every two years). Notwithstanding this, a DTM is responsible to inform PIDM of a material changes to its business, structure, profile and size which may impact the execution of its resolution plan.

No	Questions	PIDM's Response
2	If there is no critical function identified, would a bank still need to ensure operational continuity of its services and shared services (or to ensure transferability) to support its functions while under resolution/winding down?	The objective of a "transfer-ready" approach is to ensure that all or parts of the business, assets and liabilities or shares of a DTM may be effectively transferred, either during business-as-usual or during a resolution. Therefore, regardless of whether there is a critical function performed by a DTM, any issues arising from an intra-group dependency which may impede transfer should appropriately be considered and addressed to achieve continuity of operational services to or from a third party.
3	Under Stage 2 - Conduct Resolvability Assessment Could you please provide further clarity on the extent of assessment required. Is this part of the fire-drill under the Recovery Plan where it is primarily a desktop exercise or would a test cell with actual execution be required?	The resolvability assessment contemplated under Stage 2 of the resolution planning process comprise both feasibility assessment (to be conducted by a DTM and guided by PIDM) and credibility assessment (to be conducted by PIDM and BNM). A feasibility assessment is a DTM-specific assessment intended to identify and address institution-specific impediments that may impede an effective transfer or disposal of all, or parts of the DTM's business, assets and liabilities or shares. These impediments may be operational, financial or legal in nature. It is also an opportunity for DTMs to give feedback or comments to PIDM on PIDM's assessment in Stage 1, given DTMs know their banks and operations best. A credibility assessment is a horizontal level assessment to identify and address industry-wide impediments that may affect the implementation of a transfer strategy in resolution. PIDM will be providing further guidance on the requirements relating to feasibility assessment. In essence, the extent of feasibility assessment to be conducted would be guided by the principle of proportionality, based on the specificities of each DTM. Following the conduct of resolvability assessment, PIDM together with the DTM, may carry out testing of the resolution plan (for example, through simulation exercises, as appropriate) to ensure that the plan is feasible and credible.

No	Questions	PIDM’s Response
4	Do all identified Recovery Options need to be tested under Stage 2?	Resolution planning focuses on the transfer-strategy. As a starting point, the assessment under Stage 2 will focus on the recovery options which may involve the sale, transfer or disposal of all or parts of the business, assets and liabilities or a subsidiary of a DTM. Hence, not all recovery options such as cost-cutting measure, suspension of dividend payment, de-risking strategies, corporate fund-raising exercise and debt issuance would need to be assessed under Stage 2.
5	Could you please provide an example of the principle of proportionality to be applied towards a non-DSIB and how will this apply under a market-wide scenario?	In Malaysia, non-DSIBs may comprise a range of small to mid-sized banks. As a general principle, the smaller and less complex a bank is, the lower the regulatory expectations towards information requirements and remediation measures. For example, the resolution planning process and the development of resolution plan for a small-sized bank with basic banking activity involving deposit-taking and lending business, would require primary transfer and/or winding up/down strategies, as compared to a D-SIB.

No	Questions	PIDM's Response
6	Please clarify the extent to which a DTM is required to be "transfer-ready" and in what form and substance should this strategy be?	Being "transfer-ready" envisaged that a DTM developed the necessary capability to support an effective transfer, which may be applied during business-as-usual, or in a resolution. This include having the relevant capability to implement an effective transfer from the perspective of operational continuity, liquidity and funding as well as management information system (MIS). For example, from the perspective of MIS capability to support a transfer, a DTM's information technology infrastructure should be capable to generate timely and accurate information in a form and manner which may be required to support an informed and timely valuation. There is no-one-size-fit-all approach for a DTM to demonstrate its resolvability. The type and extent of capabilities required to remove resolution impediments varies from a DTM to another. It is possible for a DTM to demonstrate that certain capabilities might not be relevant to them or if they have other mitigation strategies to minimize resolvability impediments. Resolvability is non-binary (not a pass/fail test) and entails a spectrum of varying degrees of positions. While efforts are aimed to minimize transfer impediments under the "transfer-ready" approach of PIDM's resolution planning process, the level and extent of being transfer-ready may differ across DTMs given the differences in size and complexities, in line with the principle of proportionality. For example, the level and extent for a D-SIB to be transfer-ready may be different from that of a small bank.

No	Questions	PIDM's Response
7	Please provide examples of the availability of robust contractual arrangements to support a transfer in resolution.	Depending on the nature, type and purpose of a legal contract, some examples of robust contractual arrangement or clauses which may support an effective transfer include a provision which may: (a) Preclude an automatic termination in the event of a resolution or transfer; (b) Allow a service provider to support an orderly transition within a reasonable time frame and/or costs; (c) Allow services rendered by a service provider to be transferred, novated or assigned.
8	When will the resolvability assessment expected to be implemented under PIDM's Differentiated Premium System (DPS) Framework?	The resolvability assessment will be incorporated into PIDM DPS Framework when PIDM and DTMs collectively have progressed towards and achieved an advanced stage of resolvability. Based on the experiences in other jurisdictions, achieving maturity in resolvability assessment and the ability of DTMs to identify and remediate impediments to resolution may be a journey for several years. For example, some jurisdictions which commenced resolution planning following the Global Financial Crisis (GFC) are still working on certain key areas of resolvability, even after more than 10 years. As part of the incentive to promote and maintain resolvability of DTMs, PIDM has proposed three new resolvability-centric criteria within the revised DPS Framework that was issued for public consultation in August 2021. The DPS Framework will be further enhanced to incorporate resolvability assessment in the future.

No	Questions	PIDM's Response
9	Will the resolution strategy of PIDM be based upon the single point of entry, multiple point of entry, or both? What are the key considerations?	Internationally, the Single Point of Entry (or "SPE") and Multiple Point of Entry (or "MPE") are resolution strategies intended for G-SIBs. The consideration to opt between the strategies include the legal and operational structure of a bank, its financial structure, loss-absorbing capacity and other cross-border considerations. Generally, an SPE is a common resolution strategy adopted in jurisdictions with statutory bail-in powers with the aim to keep the banking group intact during a resolution. For Malaysia, the "transfer-ready" approach would provide PIDM the flexibility and optionality to support either a SPE or MPE strategy for an internationally-active bank. The choice will be made during the time of actual crisis, having regard to PIDM's resolution objectives as laid out in the RSP ED.
10	With regard to the resolution tools of transfer, restructuring and winding down, what are the key considerations in choosing between these resolution tools by PIDM?	During a bank failure, the resolution tools to be applied will be guided by PIDM's resolution mandate to ensure an effective and orderly resolution which minimize disruption and cost to the financial system. Towards this end, PIDM may apply one or a combination of its resolution tools. In view of the structure of the domestic banking system in Malaysia, the resolution transfer tool would be most appropriate as this tool will help stabilize and ensure continuity of key functions and services, and at the same time preserve franchise value. The resolution transfer tool may also be used together with other tools such as bridge institution, restructuring and assets carved-out, as appropriate, having regard to PIDM's resolution objectives and mandate. And for a smaller and less complex DTM, the winding-up and liquidation resolution tool may be applied in the event of the absence of a private sector solution in times of crisis, if such tool would be least disruptive and costly to the financial system.

No	Questions	PIDM's Response
11	Noticed from the exposure draft that it was not mentioned specifically when the resolution planning process will begin to commence. Would it begin after the bank's first submission of recovery plan (by 31 March 2023)? After the submission of recovery plan to BNM, the recovery plan could be subject to changes following BNM's feedback and the whole process may still be very fluid. How will the resolution planning information gathering process be adjusted with this?	As a general principle, the commencement of resolution planning process will take place after: 1. the final Resolution Planning Policy Document by PIDM is issued. PIDM Resolution Planning Policy Document is expected to be issued in 1H 2023; and 2. a DTM has submitted its recovery plan, as required by BNM. This is because PIDM will leverage significantly on information submitted under the recovery planning process. The commencement of resolution planning will be sequential and in line with BNM's recovery planning phased approach. Resolution planning will commence with the first group of banks which were notified and required by BNM to submit recovery plans pursuant to BNM Recovery Planning Policy Document.
12	What is the expected timeline from Stage 1 to Stage 2 and Stage 3? Will it be different for each DTM depending on a DTM's size and complexity?	Given that each DTM is different in term of size, profile, complexity and resources, the timeline to progress within the resolution planning stages of each DTM may be different. Nonetheless, PIDM expects that resolution planning would be less extensive and takes lesser time for a smaller and less complex DTM, in line with the principle of proportionality. Internationally, it has been observed that Stage 2 (i.e. resolvability assessment) might take up the longest time to complete (e.g. more than 10 years in some jurisdictions), depending on the extent of resolution impediments and the effectiveness and efficiency of a DTM to remediate these impediments.

No	Questions	PIDM's Response
13	For a DTM which is a subsidiary of a bank incorporated outside Malaysia, what would be the role expected from the parent bank? Will parent bank's involvement be required in any stages of resolution planning?	The purpose of resolution planning is to develop a feasible and credible resolution plan specific to a DTM based on PIDM's resolution mandate and objectives. For a DTM which is foreign-owned, the aim is to develop a local resolution plan which is customized for the locally-incorporated DTM, for implementation, if required. Nevertheless, on a concurrent basis, PIDM and BNM participate in crisis management groups (CMGs) or resolution colleges of DTMs' foreign parent bank to discuss cross-border issues and expectations in resolution planning, with the intent to facilitate cross-border cooperation and coordination in crisis management and resolution, having regard to the foreign parent group's resolution plan.

No	Questions	PIDM's Response
14	The resolution plan will be developed based on a legal entity basis. However, the recovery plan as prescribed by BNM's policy document is implemented on a group basis. Suggest updating the resolution plan requirement to be on a group basis (with entity breakdown, if required for legal purposes) so that the numbers and recovery options may be tied to the recovery plan easily.	From a legal standpoint, PIDM's resolution powers are applicable on a legal entity basis (i.e. to a DTM) and resolution is undertaken on a legal entity basis. Nevertheless, for purpose of resolution planning and the development of a DTM-specific resolution plan, the assessment will need to cover inter- and intra-group dependencies as well as a DTM's key assets, businesses and investments in subsidiaries that could extend beyond the DTM's entity level. For example, there may be material financial and operational dependencies which may impact the DTM at the holding company, related companies, subsidiaries or associated entities level within the DTM's financial group. In other words, for purposes of resolution planning and in developing a feasible and credible resolution plan, the assessment would need to cover issues affecting the DTM from the group perspective. Where there are more than one DTM within a financial group, the DTMs should, as much as practicable, ensure that Resolution Planning-related information and assessment to be submitted to PIDM are coherent across DTMs within the same financial group, so as to minimize unnecessary overlap and duplication. Given the high reliance on recovery planning information for resolution planning, a DTM may leverage on the existing governance structure, process and arrangements in undertaking recovery planning to complement resolution planning.

No	Questions	PIDM's Response
15	Is a DTM allowed to appoint a third party (e.g. an external consultant) to assist in the conduct of feasibility assessment? In this case, does the feasibility assessment need to be independently reviewed?	PIDM does not recommend nor prohibit the use of an external consultant or advisor to conduct the feasibility assessment, or be involved in any part of the resolution planning process. Nevertheless, as set out in Section 3 and Appendix 3 of the RSP ED, PIDM wishes to highlight that the Board of Directors and the senior officers of a DTM are ultimately responsible and accountable for resolution planning requirements. As for the independent review under Paragraph 3.4.2 of the RSP ED, it is expected that PIDM may only consider applying this requirement under exceptional circumstances, for example, where a DTM has neglected or failed to rectify significant information gaps in the feasibility assessment despite various attempts or efforts to do so.
16	Under paragraph 3.3.1, must senior officer for resolution planning be the same designated officer for recovery planning?	It is not a requirement for the senior officer for resolution planning to be same for recovery planning. The DTM will need to assess and consider the arrangement which best suits the DTM, considering the roles and responsibilities expected of the senior officer in resolution planning, as set out under para 3.3 and Appendix 3 of the RSP ED. Nonetheless, if it is feasible and practicable, it may be more advantageous for a DTM to have cross membership of the recovery planning and resolution planning teams to ensure efficiency and continuity, given the close inter-linkages between recovery planning and resolution planning, including the need to coordinate information requirements.
17	Under stage 2 in providing feedback on assessment, it was highlighted that a DTM may rely on internal audit or external adviser. Does this mean this exercise will be led by audit and PIDM?	Under Stage 2 of resolution planning, a DTM is required to carry out feasibility assessment (with guidance from PIDM) of the transfer-strategy specific to the DTM. Under paragraph 3.4.2 of the RSP ED, PIDM, may at its discretion, require a DTM to engage its internal auditor or an external party to carry out an independent review of its feasibility assessment, for example, under a situation where the DTM has neglected or failed to rectify significant information gaps in the feasibility assessment despite various attempts or efforts to do so.

No	Questions	PIDM's Response
18	In slide 18, execution risks and suitability of buyers are also listed as a transfer-ready element. However, these do not seem to be something that DTMs can address upfront. What is the expectation on DTMs with regards to these aspects?	To the extent possible, DTMs are expected to share execution risks and suitability of buyers based on DTM's market knowledge and past experiences, for example if it has been approached in the past by an interested buyer for a possible acquisition. This sharing will be useful for PIDM in considering the transfer strategy specific to the DTM. For avoidance of doubt, this information will only be used for purpose of exploratory discussions and assessment in resolution planning between the DTM and PIDM.
19	Should a DTM only start to develop resolution planning upon receipt of notification from PIDM?	Yes.
20	Will there be list of standard templates to be provided by PIDM under Stage 1 to develop PRS? Would there any duplication of information required under BNM Recovery Planning Policy Document?	For Stage 1 of resolution planning for the development of Preferred Resolution Strategy (PRS), PIDM will leverage on the information submitted by a DTM in during recovery planning, in particular under the strategic analysis section as well as the related recovery options. Depending on the extent and quality of the information received under a DTM's recovery plan, PIDM may coordinate with BNM to engage with the DTM to clarify and address any information gaps, as appropriate, for the purpose of achieving the intended outcome under Stage 1.
21	For DTM to submit recovery plan under Stage 1, is this the same as the recovery plan that we need to submit to BNM in March 2023?	For the purpose of Stage 1 resolution planning, the information from the recovery plan that PIDM will refer to will be the same recovery plan that a financial institution or DTM submits to BNM. PIDM will receive a copy of the same from BNM.
22	Would a financial institution know which category they are in with regard to the proportionality principle.	PIDM anticipates that resolution planning will be implemented with each DTM on a tailored and targeted basis based on the specificities of the DTM. During the iterative process, PIDM will inform and guide the DTM of the type, nature and extent of specific information required as part of the iterative process.
23	As recovery planning involves assessment on various aspects for significant entities in the organisation, what are the expectation from resolution planning on the assessment on the significant entities?	Significant portion of assessment under resolution planning will focus on assessing the transferability of the DTM, for example, focusing on identifying the potential issues and impediments that may hamper an effective transfer of all or part of the business, assets and liabilities, shares or subsidiaries in the DTM.

No	Questions	PIDM's Response
		The assessment in resolution planning will focus largely on the key aspects of operational, financial and legal structures of the DTM, including its inter-dependencies among the related entities of the DTM and its financial group, as well as critical third-party providers that could impede separability or a transfer.