

# CONSULTATION PAPER

P021 - 2014  
September 2014

## Proposed Amendments to the Deposit Insurance and Policy Owners' Protection Schemes Act

MAS

Monetary Authority of Singapore

## PREFACE

i The Deposit Insurance Scheme (“DI Scheme”) was introduced in 2006, with the primary objective of protecting the core savings of small depositors. The DI scheme is administered by the Singapore Deposit Insurance Corporation (“SDIC”). The primary legislation governing the DI scheme is the Deposit Insurance and Policy Owners’ Protection Schemes Act (the “DI-PPF Act”).

ii MAS proposes to make technical amendments to the DI-PPF Act and MAS Notice DIA-N01 to enhance the clarity and operational efficiency of the DI Scheme.

iii This consultation paper invites comments on the proposed amendments to the DI-PPF Act and MAS Notice DIA-N01. Electronic submission is encouraged. Please submit your written comments by 13 October 2014 to:

Prudential Policy Department  
Monetary Authority of Singapore  
10 Shenton Way  
MAS Building  
Singapore 079117

Fax: (65) 6220 3973  
Email: [policy@mas.gov.sg](mailto:policy@mas.gov.sg)

iv Please note that any submission received may be made public unless confidentiality is specifically requested for the whole or part of the submission.

## **1 INTRODUCTION**

1.1 The DI Scheme was introduced in 2006 to protect the core savings of small depositors in the event a full bank or finance company fails. The DI Scheme currently insures the first \$50,000 of Singapore dollar deposits placed by non-bank depositors in savings, current and fixed deposits accounts at full banks and finance companies.

1.2 The DI-PPF Act was last amended in 2011. MAS has since identified some technical amendments that could be made to the DI-PPF Act and MAS Notice DIA-N01 to enhance the operational efficiency and clarity of the DI Scheme.

## **2 AMENDMENTS TO ENHANCE SDIC'S OPERATIONAL EFFICIENCY**

### **Protection of SDIC's Directors and Employees**

2.1 Section 79 of the DI-PPF Act currently protects SDIC's directors and employees from liability for anything done in the exercise of their functions in good faith and with reasonable care. MAS proposes to expand the protection afforded to SDIC's directors and employees, by removing the reasonable care requirement. This would enable them to carry out their functions with greater assurance and timeliness, and facilitate DI pay-out to depositors within a short timeframe.

2.2 This is aligned with the recommendation in the Core Principles for Effective Deposit Insurance Systems, developed by the Basel Committee on Banking Supervision and the International Association of Deposit Insurers.

2.3 The removal of the "reasonable care" requirement will not affect depositors' rights to be compensated amounts insured under the DI scheme. MAS would retain the requirement for SDIC's directors and employees to act in good faith in the discharge of their mandate.

#### **Question 1**

MAS seeks comments on its proposal to delete the "reasonable care" requirement from section 79 of the DI-PPF Act.

### **Singapore dollar deposits exceeding \$50,000**

2.4 Depositors are protected up to \$50,000 under the DI scheme. Under the Companies (Winding Up) Rules, creditors are generally required to submit proofs of debt to the liquidator to claim for amounts due to them. Thus, depositors whose deposit balances exceed \$50,000 will have to submit proofs of debt to the liquidator to claim the excess amounts. However, lay depositors may not be aware of these legal requirements.

2.5 To assist depositors, MAS is proposing to amend the DI-PPF Act to expand SDIC's function to include the submission of a consolidated proof of

debt on behalf of the depositors to the failed Scheme member's liquidator, listing out depositors with Singapore dollar deposits in savings, current, and time deposit accounts exceeding \$50,000, and setting out the amounts exceeding \$50,000 for each depositor. The liquidator can then take reference from this list, without depositors having to file separate proofs of debt. This is similar to the approach taken in Canada.

2.6 When a DI compensation is triggered, SDIC intends to send a letter to each depositor informing him of the amount of DI compensation he will receive. Concurrently, SDIC could notify the depositor that SDIC will submit a consolidated claim on behalf of all the depositors for their deposit amounts that are in excess of \$50,000. Should any depositor disagree with the amount stated by SDIC, he can submit a supplementary claim to the liquidator.

2.7 To enable SDIC to extend its assistance to depositors, MAS also proposes to amend the DI-PPF Act to allow the DI Fund to be used to enhance SDIC's system for the generation of the consolidated proof of debt, and such other ongoing costs as may be incurred.

2.8 If the submission of a consolidated claim for amounts exceeding \$50,000 is included as one of SDIC's functions, the protection afforded to SDIC and its directors and employees pursuant to section 79 of the DI-PPF Act will also apply to this new function.

### **Question 2**

MAS seeks comments on its proposals to amend the DI-PPF Act to -

- (a) include the submission of a consolidated claim (for Singapore dollar deposits in excess of \$50,000) to the liquidator as part of SDIC's mandate and function; and
- (b) allow the DI Fund to be used to pay the cost of enhancing SDIC's system to generate a consolidated list of depositors with Singapore dollar deposits exceeding \$50,000, and such other ongoing costs as may be incurred.

**Expenses incurred in communicating with depositors**

2.9 Section 27(5) of the DI-PPF Act currently permits SDIC to recover “expenses incurred in the payment of any compensation to insured depositors” from the failed Scheme Member’s assets. MAS proposes amending section 27(5) of the DI-PPF Act to clarify that SDIC is also entitled to recover expenses incurred in connection with its communications with depositors and the public in the event of a DI compensation payout, from the failed Scheme member’s assets. As clear and timely crisis communications (including press advertisements and press conferences), are essential to keep depositors updated and to maintain depositor confidence, MAS is of the view that SDIC should be entitled to recover such necessary expenses.

**Question 3**

MAS seeks comments on its proposal to amend section 27(5) of the DI-PPF Act to clarify that SDIC is entitled to recover expenses incurred in connection with its communications with depositors and the public in the event of a DI compensation payout, and such other types of expenses as may be prescribed by MAS, from the failed Scheme member.

**Information provided to MAS by Scheme Members**

2.10 Currently, where a Scheme member furnishes information to MAS under section 84 of the DI-PPF Act, MAS treats such information as secret, and may only disclose such information under specific circumstances as listed in section 84(3) of the Act. However, section 84 does not explicitly allow MAS to disclose the information when required to do so under a written law or by an order of court in Singapore.

2.11 MAS proposes to insert a provision in section 84 of the DI-PPF Act to specifically enable MAS to disclose information collected from Scheme members under the DI-PPF Act, where it is required to do so under any written law or by an order of court in Singapore.

**Question 4**

MAS seeks comments on its proposal to amend section 84 of the DI-PPF Act to specifically enable MAS to disclose information collected from Scheme members under the DI-PPF Act, where it is required to do so under any written law or by an order of court in Singapore.

**SDIC's auditor**

2.12 The Sixth and Seventh Schedules of the DI-PPF Act currently provides for the accounts of the DI Fund, PPF Life Fund, PPF General Fund, and the SDIC to be audited by the Auditor-General, or such other auditor as may be appointed annually by SDIC in consultation with the Auditor-General.

2.13 Since SDIC's inception, SDIC has engaged commercial auditors for most years. In consultation with the Auditor-General's Office ("AGO"), MAS proposes to amend the Schedules to state more generally that the accounts of the DI Fund, PPF Life Fund, PPF General Fund and the SDIC must be audited annually by an auditor. The requirement to consult the Auditor-General before appointing commercial auditors will also be removed.

**Question 5**

MAS seeks comments on its proposal to amend the Sixth and Seventh Schedules of the DI-PPF Act to state more generally that the accounts of the DI Fund, PPF Life Fund, PPF General Fund and the SDIC must be audited annually by an auditor, and to permit SDIC to appoint commercial auditors without consulting the Auditor-General.

**Sharing of data with SDIC**

2.14 In the event a DI compensation payout is triggered, SDIC needs to assess the amount of insured deposits and number of insured depositors expeditiously, to determine its funding needs. Currently, MAS Notice DIA-N01

requires every DI Scheme member to submit to MAS information on its insured deposit base and the number of insured depositors as at the close of business on 31<sup>st</sup> December of each year. To enhance SDIC's operational efficiency, MAS is of the view that it would be useful to share the data returns under MAS Notice DIA-N01 with SDIC. Pursuant to section 80 of the DI-PPF Act, such data returns would be kept confidential by SDIC, and can only be disclosed under certain circumstances.

**Question 6**

MAS seeks comments on its proposal to amend MAS Notice DIA-N01 to include a clause providing that, by completing and submitting the returns prescribed in the Notice, the DI Scheme members would consent to MAS sharing the information in the returns with SDIC.

### **3 AMENDMENTS TO ENHANCE CLARITY OF THE DEPOSIT INSURANCE COMPENSATION PAYOUT SCHEME**

**Triggers for DI Compensation Payout**

3.1 Currently, under section 21 of the DI-PPF Act, MAS may make a determination for DI compensation be paid out of the DI Fund where:

- (a) a DI Scheme member is wound up by a court in Singapore or elsewhere; or
- (b) MAS is of the opinion that a DI Scheme member is insolvent, unable or likely to become unable to meet its obligations or about to suspend payments.

3.2 The DI-PPF Act currently does not include voluntary winding up as a possible trigger for DI compensation payout. Thus, if payout is to be made under a voluntary winding up, MAS must separately determine that the DI Scheme Member is insolvent, unable to or likely to become unable to meet its



obligations or about to suspend payments. MAS is of the view that it would be more expedient to rely on a Scheme member having been voluntarily wound up as one of the triggers to consider if DI compensation payout should be made.

### **Question 7**

MAS seeks comments on its proposal to include the voluntary winding up of a DI Scheme member as a separate trigger (apart from those currently present in section 21 of the DI-PPF Act) for DI compensation payout.

### **Date for quantifying insured deposits**

3.3 Under the DI-PPF Act, the “quantification date” for the DI compensation payout is the date on which the DI Scheme member is wound up; or where a DI Scheme member is not wound up, the date on which the notice of payment of compensation is published in the *Gazette* under section 21(4) of the DI-PPF Act. MAS seeks to amend the DI-PPF Act to further clarify the quantification dates for the various scenarios that would trigger the DI compensation payout, as spelt out in the Act.

#### *Where the DI Scheme member is wound up by a court order in Singapore*

3.4 Where a Scheme member is wound up, the quantification date for the DI compensation payout is currently defined as “the date on which the DI Scheme member is wound up”. There are two possible interpretations of this winding up date – that it refers to the date of the winding up application, or that it refers to the date of the winding up order.

3.5 MAS proposes to clarify that the quantification date refers to the date of commencement of winding up. Under section 255(2) of the Companies Act, winding up shall be deemed to have commenced at the time of the making of the application for the winding up.

*Where the DI Scheme member is wound up voluntarily in Singapore*

3.6 MAS is of the view that in the event a DI Scheme member is wound up voluntarily, the quantification date in the DI-PPF Act should be aligned with the date of commencement of winding up as provided in the Companies Act.

3.7 Under the Companies Act, the relevant dates of commencement of a voluntary winding up are, namely:

- (a) where the company's directors lodge a statutory declaration that the company is unable to carry on its business by reason of its liabilities, the date of lodgement<sup>1</sup>; and
- (b) where the companies' members pass a resolution for voluntary winding up, the date on which the resolution is passed<sup>2</sup>.

*Where the DI Scheme member is wound up under foreign law*

3.8 Where the Scheme member is wound up overseas, MAS proposes that the quantification date be the applicable date of commencement of winding up under the relevant foreign law. This would be consistent with the proposal above to align the quantification date in the DI-PPF Act with the relevant date of commencement of winding-up under Singapore law.

3.9 However, where the Scheme member is wound up both in Singapore and overseas<sup>3</sup>, we propose that the quantification date be pegged to the date of commencement of winding up under Singapore law, as this is the date that the Singapore liquidator will recognise.

---

<sup>1</sup> Section 291(1) read with section 291(6)(a) of the Companies Act.

<sup>2</sup> Section 291(6)(b) of the Companies Act.

<sup>3</sup> An example of a Scheme member being wound up both in Singapore and overseas, is where it is a branch of a bank incorporated outside Singapore, and its head office is wound up in its home jurisdiction and the branch in Singapore is wound up under the Companies Act.

*Where the DI compensation payout is triggered by MAS' opinion that the Scheme Member is insolvent, unable or likely to become unable to meet its obligations, or that the Member is about to suspend payments*

3.10 Where the DI compensation payout is triggered by MAS' opinion that the Scheme member is insolvent, about to suspend payments etc., the current definition of quantification dates suggest that there may two possible dates; specifically:

- (a) where the Scheme member is wound up, the quantification date is the date on which the Scheme member is wound up;
- (b) where the Scheme member is not wound up, the quantification date is the date on which the notice of payment of compensation is published in the Gazette.

3.11 A situation could therefore arise where a DI Scheme member has not been wound up at a particular point in time, and a payout was nevertheless triggered. The quantification date would then be the date on which the notice of payment of compensation is gazetted. However, under the DI-PPF Act, if this DI Scheme member is subsequently wound up, the quantification date will be *changed* to the date on which the DI Scheme member is wound up. This will create uncertainties for depositors and operational difficulties for SDIC. In practice, this may mean that SDIC will not be able to make payment of compensation until there is certainty as to whether the Scheme member will be wound up. Depositors will therefore not have access to their deposits for an extended period of time.

3.12 To enable the DI compensation payout to be paid expeditiously to depositors, MAS is therefore proposing to amend the definition of "quantification date" so that in the event DI compensation payout is triggered by MAS' determination that the DI Scheme member is insolvent, unable to meet its obligations or about to suspend payments, the quantification date shall be the date on which the notice of payment of DI compensation is gazetted, notwithstanding the subsequent winding up of the DI Scheme member.

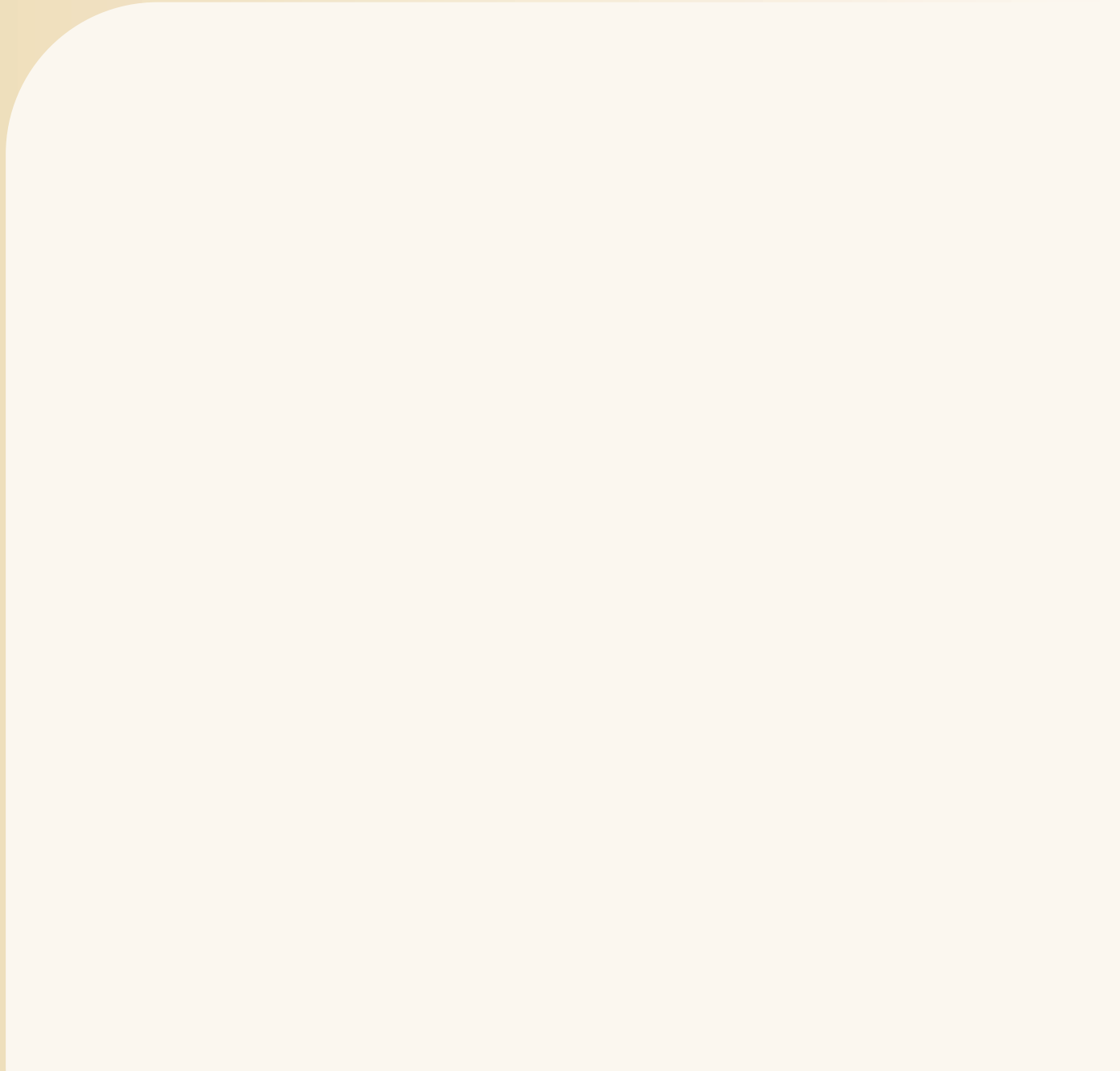
**Question 8**

MAS seeks comments on its proposal to amend the definition of “quantification date” for the triggering of the DI compensation payout, as follows:

- (a) In the event of the winding up of the Scheme member by a court in Singapore or elsewhere, the quantification date shall be-
  - (i) the date of commencement of winding up under the Companies Act, if the Scheme member is wound up by a court in Singapore;
  - (ii) the date of commencement of winding up under the relevant foreign law, if the Scheme member is wound up by a court elsewhere and not in Singapore;
- (b) In the event of the voluntary winding up of the Scheme member in Singapore or elsewhere, the quantification date shall be –
  - (i) the date of commencement of winding up under the Companies Act, if the Scheme member is voluntarily wound up in Singapore;
  - (ii) the date of commencement of winding up under the relevant foreign law, if the Scheme member is voluntarily wound up elsewhere and not in Singapore;
- (c) In the event that MAS determines that the DI Scheme Member is insolvent, unable or likely to become unable to meet its obligations, or about to suspend payments, the quantification date shall be the date on which the notice of payment of DI compensation is gazetted.

**4 Implementation Timeline**

4.1 MAS is targeting to effect the amendments to the DI-PPF Act by Q4 2015.



Monetary Authority of Singapore