



ISLE OF MAN
FINANCIAL SERVICES AUTHORITY

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Consultation Response
Bank (Recovery and Resolution) Act 2020
Funding of administrative expenses of the
Resolution Authority

CR21-02

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Glossary

Authority	Isle of Man Financial Services Authority, acting as the Resolution Authority for the Isle of Man
BRRA20	The Bank (Recovery and Resolution) Act 2020
FSA08	The Financial Services Act 2008
Op-costs	The cost of the ongoing administrative operations of the Authority

1. Background

This Consultation Paper was issued by the Isle of Man Financial Services Authority in its capacity as the Resolution Authority of the Isle of Man ('the Authority'), under the Bank (Recovery and Resolution) Act 2020 ('BRRRA20'), which came into force on 4 January 2021. The Consultation Paper sought views in relation to the proposed method of funding of the Authority's ongoing administrative expenses incurred under BRRRA20.

The Consultation Paper proposed that the Authority would calculate its Op-costs annually, effective from the period 1 April 2021 to 31 March 2022, and then seek recovery of the amount in arrears, by means of a levy on the banking industry. It was further proposed that each bank should be levied for an equal amount, irrespective of size or profitability of the bank concerned.

2. Summary of responses

2.1 Overview

The Authority received 8 responses to the Consultation Paper. One respondent did not wish their responses to be published, albeit account has been taken of their input in the Authority responses set out below. Of the remaining respondents, two were from private individuals and 5 were from banks.

2.2 Responses relating to the Consultation Paper proposals

2.2.1 Calculation of Op-costs of the Authority

Amongst the responses received, none were against the proposed method of calculating the Authority's Op-costs. One individual respondent suggested these costs should be subject to independent oversight. One bank, whilst recognising the incremental work needing to be undertaken on resolution administration matters, queried whether the Authority had considered if this work could be absorbed within its existing headcount resources. Another bank sought further clarity as to how the estimated annual expenditure on Op-costs had been calculated.

Authority response:

The Authority carefully considered whether it could resource new resolution-related ongoing administrative tasks within its existing headcount budget and concluded that this was not possible, hence a business case was presented to Treasury for two additional headcount, which was subsequently approved. The estimated cost primarily reflects the full employment costs of one senior Executive and one Manager-level employee, using the mid-point of the Authority's pay scales, together with a small allowance for non-payroll costs such as travel and training course attendance. Resolution Op-costs will be 'ring-fenced' within the totality of the Isle of Man Financial Services Authority's cost base, in order to provide a high level breakdown of these to industry each year, alongside the levy request to cover these expenses. This will ensure that the nature and amount of Op-costs is transparent to industry stakeholders. As regards independent oversight, the Op-

costs form part of the financial statements of the Isle of Man Financial Services Authority, which are subject to external audit on an annual basis.

2.2.2 Basis of allocation of the Op-costs levy amongst the banks

Four respondents confirmed that they either had no comment on the proposed basis of allocation or were explicitly supportive of it.

Four respondents did not agree that the proposed basis of allocation was equitable. Three banks felt that their particular business model (all of which differ) should receive a lower level of levy, relative to other banks – one bank believed that large banks with large retail client numbers, would consume more of the Authority’s resources in resolution planning, and should be charged more. For similar reasons, another bank believed that systemically important banks should pay more than those which are not considered systemically important. In contrast, one other bank felt that branches which are part of large international groups, should pay a reduced levy on the basis that most resolution-related operational activity would take place outside of the Isle of Man.

Authority response:

The Authority fully understands that there are divergent views within the banking industry as to how the levy for resolution Op-costs should be attributed and respects the logic that underpins the differing views expressed by three respondents. At this early stage, what can be said for certain is that the Act requires the Authority to take steps to ensure that there is a resolution plan in place for each Class 1(1) or Class 1(2) bank, regardless of its size, business model or profitability. Where the bank is incorporated in another jurisdiction, the Authority must liaise with the resolution authority of the ‘home’ jurisdiction and must still satisfy itself as to the adequacy of any group resolution plan as it pertains to the Isle of Man operations of the bank concerned. Even where a bank is incorporated in the Island, if it is part of an international banking group, there may also be a need to collaborate with the ‘home’ resolution authority as part of a co-ordinated approach to resolution planning. It is for these reasons that the Authority believes, on balance, that each bank should pay an equal share of the Op-costs, as there is no direct correlation between a bank’s organisational form and the amount of resolution-related administration work to which it may give rise. However, if over time it becomes clear that there is a significant divergence between the degrees of ongoing administrative work required for the different types of bank operating on the Island, the Authority would be pleased to discuss this with the banking industry and to consider adapting the Op-costs levy allocation methodology accordingly.

One individual respondent felt that an equal basis of allocation may discourage other financial institutions or ‘start-up’ banks from establishing in the Island.

Authority response:

Whilst the Authority understands the point being made by the respondent, we consider that, in the totality of expenses to be incurred by any new entrant into the Isle of Man

banking industry, the resolution Op-costs levy (howsoever allocated) would not be a material consideration and therefore would be unlikely to be critical to any decision to enter the market or not.

2.2.3 Other comments received on the Consultation Paper Proposals

There was one other comment from an individual respondent, who stated “Whilst there is need for oversight there has to be a balance between adherence to standard compliance protocol and interference and intrusion into a Financial Institution's operation. In many jurisdictions "audits" or "inspections" are conducted on a cycle of 5 years or more and the bank's file an annual testimony as to compliance with the regulatory body. Since most of the FI regulations on the IOM are aligned with UK and are regularly inspected by internal auditors it would make sense that a similar cycle be adopted.”

Authority response:

The Authority considers that the point being raised is more relevant to work carried out by the Isle of Man Financial Services Authority in its capacity as regulatory supervisor. It is not directly relevant to the resolution Op-costs which are the subject of this consultation, as these tasks will generally not have an ‘audit’ or ‘inspection’ focus.

3. Next Steps

The Authority is grateful to all those parties who provided a response to this consultation. We note the agreement amongst respondents as to how resolution Op-costs will be calculated. We further note that, whilst some respondents expressed differing views as to the methodology for recovering these costs from the banking industry, half of all respondents were supportive of, or had no comments on, the proposed allocation methodology.

Resolution Op-costs will now be tracked over the financial year 2021-22, after which the Authority will consult with the Treasury in relation to an Order to recover these expenses, on an ‘equal share’ basis from each of the banks, to be laid before Tynwald circa May 2022. Subject to Tynwald approval of the Order, the levy notices for individual banks will be raised and issued for payment shortly thereafter.

In case of any query, please contact the undersigned —

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Appendix A – List of Representative Groups to which this Consultation Response has been sent

- Isle of Man Bankers' Association
- Isle of Man Society of Chartered Accountants
- Association of Chartered Certified Accountants (Isle of Man branch)