



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

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

CP21-02

Issue Date: 8 February 2021

Closing Date: 22 March 2021

Consultation Paper – CP21-02

This consultation paper is 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 ('BRR20'), which came into force on 4 January 2021.

The purpose of the consultation is to obtain views in relation to the proposed method of funding the Authority's ongoing administrative expenses incurred under BRR20. The consultation is relevant to banks operating in the Island (other than Class 1(3) licence-holders, which are outside the scope of BRR20.)

The closing date for comments is 22 March 2021.

Please send comments in writing and preferably by email to:

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If you have a query in relation to how this consultation has been carried out, please contact John Coyle by email at john.coyle@iomfsa.im or by telephone on +44 (0) 1624 646006.

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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. Executive Summary

1.1 Overview

This consultation paper is issued by the Authority, under the BRRA20, which came into force on 4 January 2021.

Section 12 of BRRA20, entitled Funding of the Authority provides as follows:

- (1) The ongoing administrative operations of the Authority may be funded, inter alia, through —
 - (a) a subvention from the Treasury;
 - (b) borrowings;
 - (c) investment earnings; or
 - (d) a levy which the Authority may impose annually upon banks operating in the Island.

- (2) The amount and terms of a levy under subsection (1)(d) must be prescribed by an order made by the Authority under this subsection, after the Authority has consulted with the Treasury.

Tynwald procedure – affirmative.

The introduction of BRRA requires a new range of operational activities to be performed by the Authority, involving, inter alia, the preparation, maintenance and periodic testing of resolution plans for each bank operating on the Island. In many cases, aspects of this work involves regular dialogue and interaction with resolution authorities in other jurisdictions, for those banks which are part of cross-border groups. Two incremental staff positions have been created to deal efficiently with the new work of the Authority on an ongoing basis.

As has been discussed with the Isle of Man Bankers Association during the period of development of BRRA20, it is the intention of the Authority to fund the Op-costs incurred by the Authority fully by means of an annual levy on banks operating on the Island. For the avoidance of doubt, costs incurred by the Isle of Man Financial Services Authority ('FSA') in its capacity as a regulatory supervisor are not included in the definition of Op-costs to which this consultation relates. There is a separate financial services industry-wide consultation process ongoing, regarding the FSA's transition to a predominantly industry-funded model.

It is of note that the ongoing Op-costs of the Authority are different to the expenses that may be incurred should there be an actual bank resolution event. In those circumstances, the recovery of resolution-related costs will be dealt with in the manner set out in Section 37 of BRRA20. Resolution-related costs are not the subject of this Consultation Paper.

1.2 What is the purpose of this Consultation Paper?

This Consultation Paper sets out the basis of the Op-costs calculation and the proposed method of funding these by means of an annual levy on the banking industry. Views are sought on the proposed funding methodology.

1.3 Who may be affected by this Consultation Paper?

Banks operating in the Island (other than Class 1(3) licence-holders, which are outside the scope of BRRA20) may be affected by this Consultation Paper. This Consultation Paper will also be of relevance to the banks' professional advisers.

2. Consultation Process

2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the FSA08 as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;
- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island's financial services, insurance and pensions industries through effective regulation, thereby supporting the Island's economy and its development as an international financial centre.

The Authority is required to give consideration to certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this consultation are considered as follows:

Factor	Information
The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden.	The Authority needs to maintain sufficient income in order to be able to carry out its statutory functions effectively and achieve its regulatory objectives. The quantum of Op-costs to be recovered from the banking industry is not expected to significantly alter the regulatory burden.
The desirability of facilitating the development of the financial services, insurance and pensions industries.	The standards that international finance centres such as the Isle of Man are expected to meet are continually developing. The Island's regulatory framework needs to keep pace with these developments in order to remain competitive and help protect the Island's reputation. As such, the Authority will undertake new administrative tasks as a result of BRR20. In line with international norms, it is intended that the incremental costs of this activity will be recovered from the banking industry.
The impact of its decision on the stability of the financial system of the Island.	There are no impacts on the stability of the financial system of the Island arising from the decision to levy the banking industry to recover the annual Op-costs of the Authority.

2.2 Responding to the Consultation Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority's proposals and constructive feedback will help the Authority reach an informed

decision on the content of the proposals and manner of implementation. Respondents should note the following when responding to this Consultation Paper:

- As responses to the consultation may be subject to publication or disclosure in accordance with access to information regimes, respondents should state if they wish their response to remain confidential and, if so, the reasons for this.
- Submissions received by the closing date of the consultation will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a consultation as well as the methodology used to gain members' input.
- The Authority requests that submissions are not made anonymously as they will not be considered or included in the Consultation Response.

This Consultation Paper has been published on the Isle of Man Government's Consultation Hub¹. A list of specific representative groups to which this Consultation Paper has been sent is shown in the Appendix.

3. Proposals

3.1 Calculation of the Authority's Op-costs for the purpose of levy calculation

The Authority intends to separately identify the direct costs (such as staffing, professional services, training expenses etc...) incurred in relation to its role as the Resolution Authority from the commencement of its financial year beginning 1 April 2021 and annually thereafter.

At the conclusion of each financial year (i.e. commencing 31 March 2022), the Authority will calculate its total Op-costs for that year and then make an Order (after consulting with Treasury) under which the Op-costs will be recovered from the banking industry by means of a levy. This Order requires affirmation by Tynwald, after which the levy invoices will be raised in arrears and issued to the banks. The Authority would expect to issue the invoices around June or July of each year.

It is of note that significant costs have been incurred during the period of development of BRRA20, however these costs have been fully absorbed by the Treasury and the FSA (as regulatory supervisor) and will not be the subject of a retrospective levy on the banking industry.

¹ <https://consult.gov.im/>

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

According to statistical information held by the FSA, the combined cost base of the banking industry on the Island in 2019 was £219 million. Indicatively, the likely full-year annualised Op-costs will be in the region of £180,000 - £200,000 to be recovered from the banks.

Assuming, for illustrative purposes, that there are 10 banks in existence at the end of the Authority's financial year, the annual levy for each bank will be in the region of £18,000 to £20,000. For both simplicity and predictability purposes, it is proposed that an equal amount be levied against each bank within the scope of BRRA20, rather than operating a more complex recovery calculation based on factors such as individual banks' balance sheet size or level of profitability.

4. Impact Assessment

As explained in Section 3.2 above, the financial impact of the recovery of Op-costs incurred by the Authority is not considered to be significant at the level of each individual bank, when viewed in the context of the combined cost base of the banking industry on the Island.

5. Questions

Question 1

Do you have any comments regarding the proposed calculation of the Op-costs incurred by the Authority?

Question 2

Do you have any comments regarding the proposed 'equal' basis of allocation of the Op-costs levy amongst individual banks?

Question 3

Do you have any other comments in respect of this Consultation Paper?

6. Next Steps

Following closure of the consultation period, the Authority will review the responses received and publish a Consultation Response document on the Authority's website and the Isle of Man Government's Consultation Hub.

It is envisaged that any levy to be introduced on the banking industry in line with Section 12 of BRRA20 will not be until mid-2022 at the earliest for the financial year 2021/22.

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

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