



**Isle of Man
Government**

Reiltys Ellan Vannin



The Bank (Recovery and Resolution) Bill 2020

Consultation Response

Yn Tashtey
Treasury

December 2019

1. Introduction

- 1.1 The Public Consultation on the draft Bank (Recovery and Resolution) Bill 2020 was issued by the Treasury on the 5th November 2019 with responses requested by 13th December 2019.
- 1.2 The text of the draft Bill was accompanied by a document which set out the rationale for the introduction of a Bank Recovery and Resolution ('BRR') Framework in the Isle of Man, informed by international standards, adjusted where necessary to be proportionate and appropriate to the needs of the Isle of Man as a responsible International Financial Centre.
- 1.3 During the period of the development of the draft Bill, there has been ongoing engagement with the Isle of Man banking industry and their professional advisers, as well as with the Isle of Man Financial Services Authority.

2. Responses / Next Steps

- 2.1 The Public Consultation was published on the Isle of Man Government online Consultation Hub on 5 November 2019 and attracted 6 responses by the closing date of 13 December 2019. Details of the responses received are set out at [Appendix A](#).
- 2.2 The responses received were generally supportive of the objectives of the Bill. A number of responses commented on specific aspects of the Bill, with the majority of Parts of the Bill attracting no specific comments.
- 2.3 Following consideration of the feedback gained during the consultation process, there will be some minor modifications to the consultation draft version, to address non-material matters such as typographical errors. Thereafter, it is intended to progress the Bill into the branches of Tynwald early in 2020.

Appendix A Comments received on each question:

Consultation response summary

Six consultation responses were received in total –

- One respondent provided no comments on the consultation
- One respondent provided an overall comment on the consultation
- Two respondents provided comments to some of the questions and gave permission for their responses to be published anonymously (shown in table below)
- Two respondents provided comments on the consultation and asked that these not be published

Do you have any comments regarding Part 1 of the Bill? (Preliminary Matters)

-

Do you have any comments regarding Part 2 of the Bill? (Establishment of The Resolution Authority)

Response from	Response
ANON-XVUR-QBU2-F	The Bill provides for a flexible operational funding model and the expectation is that the banking industry will be required to cover the incremental costs of the Resolution Authority. Indications from the FSA are that these costs are expected to be approximately £200k per year split evenly between class 1 Licence holders, which would be approx. £10k each. It is suggested the FSA consider alternative methods of funding the Resolution Authority, for example could the funding be obtained from a general increase in licence fees across the whole financial sector given banks are located on the island to service retail / commercial customers and those businesses licenced by the IOMFSA.

Reply: The policy on funding operational expenses has not yet been determined and the Bill is drafted in such a way as to preserve flexibility of approach.

Do you have any comments regarding Part 3 of the Bill? (Recovery Planning)

-

Do you have any comments regarding Part 4 of the Bill? (Resolution Planning)

-

Do you have any comments regarding Part 5 of the Bill? (Bank Resolution Fund)

-

Do you have any comments regarding Part 6 of the Bill? (Administrative Provisions)

-

Do you have any comments regarding Part 7 of the Bill? (Valuation)

-

Do you have any comments regarding Part 8 of the Bill? (Resolution Tools)

-

Do you have any comments regarding Part 9 of the Bill? (Government Financial Assistance)

Response from	Response
ANON-XVUR-QBU1-E	No financial support should ever be used other than deposit guarantee (and then only to the extent the scheme is funded) - the island economy simply cannot afford to bail out big banks. The only last resort should be a Cyprus style 'Bail In'

Reply: The Bill is drafted to allow the Isle of Man to deploy a range of resolution options as may be appropriate in a given bank failure scenario, in line with international 'best practice'.



Do you have any comments regarding Part 10 of the Bill? (General Resolution Powers)

-



Do you have any comments regarding Part 11 of the Bill? (Recognition of Foreign Resolution Actions)

-



Do you have any comments regarding Part 12 of the Bill? (Post Resolution Action)

-



Do you have any comments regarding Part 13 of the Bill? (Bank Winding-Up Procedure)

-



Do you have any comments regarding Part 14 of the Bill? (Miscellaneous)	
-	
Do you have any comments regarding the Schedule?	
Response from	Response
ANON-XVUR-QBU1-E	DCS and non-exec salaries should be first priority period. Then deposits in excess of DCS second (they knew the risks), then everyone else after including execs. The whole premise of a depositor being an unsecured creditor is outrageous and should be illegal in my opinion. A tiered creditor hierarchy is a good introduction provided it is geared toward depositors. Isle of Man could lead the way with 'unsecured creditor' reform.
Reply: The proposed amendments to the Preferential Payments Act 1908 as per the Bill Schedule have been carefully calibrated to ensure that any public monies used to initially support the Bank Resolution Fund and thereafter the Depositors' Compensation Scheme fund, are prioritised ahead of all other types of unsecured creditor in the event of a bank failure occurring.	
Do you have any other comments or questions about the Bank Recovery and Resolution Bill 2020?	
Response from	Response
ANON-XVUR-QBU1-E	It is noteworthy that few mistakes (worldwide, not only in Isle of Man) from 2008 crisis have been learned and in many respects things now are magnitudes worse (derivative liability / exposure). This bill could become very real, very quickly in the next few years. The Isle of Man taxpayer must be protected / shielded from the financial 'house of cards'. In my opinion it is not a matter of if, it is a matter of when.
IoM Chamber of Commerce, Finance &	We recognise that the objective of the proposed Bill is to meet the 'Key Attributes of Effective Resolution Regimes for Financial Institutions', as established by the Financial Stability Board, and we welcome this effort to maintain the Island's standing and reputation as a leading financial centre. We also recognise the extensive industry consultation that has already been undertaken during the development of the proposed Bill. We have discussed the proposals with our colleagues at the Isle of

Professional Services Committee	Man Bankers Association, and we understand that they do not intend to submit a response to this consultation, instead deferring to their members to submit individual responses. Given the diversity of views on the proposals, the Chamber of Commerce Finance & Professional Services Committee has decided refrain from offering specific comments.
Reply: The Bill contains a number of safeguards to protect public monies and introduces a broad range of options to deal with a failing bank, in line with international standards. The comments from the IoM Chamber of Commerce Finance & Professional Services Committee are noted.	



ISLE OF MAN
TREASURY
Yn Tashtey



The Treasury
Government Office
Bucks Road
Douglas
IM1 3PN