



PRIVATE SECTOR CONSULTATION

**Rule and Statement of Guidance –
Recovery and Resolution Planning**

Private Sector Consultation

Rule on and Statement of Guidance on Recovery and Resolution Planning

A. Introduction

1. Section 34(1)(a) of the Monetary Authority Act (2020 Revision) ("MAA") states that:

"After private sector consultation and consultation with the Minister charged with responsibility for Financial Services, the Authority may –

- a) *issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory laws may apply."*

2. Requirements specific to the private sector consultation are outlined in section 4(1) of the MAA as follows:

"When this Law requires private sector consultation in relation to a proposed measure –

- a) *the Authority shall give to each private sector association a draft of the proposed measure, together with –*
 - i. *an explanation of the purpose of the proposed measure;*
 - ii. *an explanation of the Authority's reasons for believing that the proposed measure is compatible with the Authority's functions and duties under section 6;*
 - iii. *an explanation of the extent to which a corresponding measure has been adopted in a country or territory outside the Islands;*
 - iv. *an estimate of any significant costs of the proposed measure, together with an analysis of the benefits that will arise if the proposed measure is adopted; and*
 - v. *notice that representations about the proposed measure may be made to the Authority within a period specified in the notice (not being less than thirty days or such shorter period as may be permitted by subsection (3)); and*
- b) *before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations, and shall give a written response, which shall be copied to all the private sector associations."*

3. The Cayman Islands Monetary Authority ("the Authority") seeks consultation and comment from the private sector associations concerning the proposed **Rule and Statement of Guidance on Recovery and Resolution Planning** ("**the RSOG**") (attached as Appendix I).

B. Background

4. A comprehensive crisis management framework aims to prepare, prevent and respond to financial distress within an institution or broader financial system. It typically includes two (2) main components:
 - a) Recovery Planning – Planning undertaken by a financial institution to restore its financial health and stability in the event of severe stress or financial distress. It includes details on the triggers, steps and resources necessary to recover from crises, to ensure the institution can continue to operate and provide critical services without requiring external intervention or threatening the broader financial system or economy; and
 - b) Resolution Planning – Collaborative planning between a systemic financial institution and designated authority to minimise the adverse impact of an entity’s non-viability on the financial system or economy, protect critical services, and avoid the need for public funding. It includes steps to ensure the continuity of essential services, management of the assets and liabilities of the entity, and coordination with regulatory authorities, domestic and cross-border, during the resolution process.
5. Such a framework is crucial to a jurisdiction's financial system as it mitigates systemic risks, maintains the continuity of critical financial services, protects stakeholders, and reduces the likelihood of taxpayer-funded bailouts. A comprehensive crisis management framework fosters financial stability, investor confidence, and overall economic health by ensuring that financial institutions are resilient and capable of managing crises.
6. An effective Crisis Management Framework involves comprehensive strategies and structured procedures designed to ensure financial institutions can recover from distress situations and, if necessary, be resolved in an orderly manner with as little disruption to the financial system as possible.
7. The Authority is proposing an RSOG that will seek to provide guidance to regulated entities, as applicable, on effective recovery and resolution planning and include binding rules on those entities that pose a financial stability risk as designated by the Authority.
8. Notably, the guidance component of the RSOG, while not enforceable, is intended to give broad guidance to all applicable regulated entities based on the importance of effective recovery and resolution planning to financial system stability. While all entities may not pose a systemic threat if failing(ed), effective recovery and resolution planning is crucial as it ensures the entity is prepared to manage financial distress and, if necessary, support an orderly resolution with limited disruption.
9. The **Rule and Statement of Guidance on Recovery and Resolution Planning (Appendix I)** sets out, among other things, the requirements for recovery and resolution planning, as applicable, the Authority’s role in monitoring entities’ compliance with the RSOG, and the frequency with which Recovery and Resolution Plans should be submitted and tested.

C. International Standards

10. The Financial Stability Board (“FSB”) issued standards in 2014 entitled “*The Key Attributes of Effective Resolution Regimes for Financial Institutions*” (“Key Attributes”). The Key Attributes set out the core elements that the FSB considers to be necessary for an effective resolution regime. The implementation of these elements “should allow authorities to resolve financial institutions in an orderly manner without taxpayer

exposure to loss from solvency support while maintaining continuity of their vital economic functions”.

11. The FSB has set out twelve (12) key features that should be part of the resolution regimes of all jurisdictions:
 - (1) **Scope**—The regime should specify which financial institutions are covered under the regime.
 - (2) **Resolution Authority**—The regime should identify a resolution authority within the jurisdiction and define its duties and functions.
 - (3) **Resolution Powers**—Authorities shall possess resolution powers required for the orderly resolution of a failed entity.
 - (4) **Set-off, netting, collateralisation, segregation of client assets**—A legal framework for governing these matters should be established.
 - (5) **Safeguards**—Authorities should exercise resolution powers in a way that respects the hierarchy of claims. The laws should not allow for judicial actions that could restrain the authorities from taking actions in good faith and within their legal powers.
 - (6) **Funding of firms in resolution**—Jurisdictions should have arrangements in place for funding the resolution (i.e., Privately financed resolution funds such as deposit insurance).
 - (7) **Legal framework conditions for cross-border cooperation**—The authorities should have arrangements in place to achieve a cooperative solution with foreign resolution authorities regarding an entity's resolution.
 - (8) **Crisis Management Groups**—Both home and key host authorities should establish crisis management groups with a view to enhance the preparedness for and facilitate the management and resolution of a cross-border financial crisis.
 - (9) **Institution-specific cross-border cooperation agreements**—These agreements should be in place between home and host authorities and shall set out processes for coordination and cooperation between the home and host authorities with respect to planning and crisis resolution.
 - (10) **Resolvability assessments**—Authorities shall conduct resolvability assessments for entities (at least for G-SIFIs) to evaluate the feasibility of resolution strategies.
 - (11) **Recovery and resolution planning (“RRPs”)**—Recovery plans should be prepared by regulated entities, whereas resolution plans should be prepared by the authorities. RRP assist in the recovery or resolution of a distressed entity.
 - (12) **Access to information and information sharing**—Jurisdictions should have systems in place for exchanging information between competent authorities.
12. The Key Attributes state that supervisory and regulatory authorities should ensure that entities’ recovery plans identify options to restore financial strength and viability when it comes under severe stress. The recovery plans should include three elements: (i) credible options to cope with a range of severe stress scenarios, including both idiosyncratic and market-wide stress; (ii) scenarios that address capital shortfall and liquidity pressures; and (iii) processes to ensure timely implementation of effective

recovery options in a range of severe stress situations. Resolution plans should include five elements: (i) financial and economic functions for which continuity is critical; (ii) suitable resolution options to preserve those functions or wind them down in an orderly manner; (iii) data requirements on the entity's business operations, structures, and systemically important functions, (iv) actions to protect insured depositors and insurance policyholders and ensure the rapid return of segregated clients assets; and (v) clear options or principles for the exit from the resolution process.

13. The Key Attributes further state that both the recovery and resolution plans should be updated regularly, at least annually or when there are material changes to a firm's business or structure, and subject to regular reviews within the entity's designated crisis management team. Additionally, if resolution authorities are not satisfied with an entity's recovery and resolution plan, the authorities should require appropriate measures to address the deficiencies.

D. Purpose of Proposed Measure and Consistency with the Authority's Functions

14. Section 6(1) of the MAA outlines the principal functions of the Authority, which include, among others, *"to regulate and supervise financial services business carried on in or from within the Islands"*.

15. Section 6(2) (a and b) of the MAA provides that "In performing its functions and managing its affairs, the Authority shall:

- (a) *act in the best economic interests of the Islands; and*
- (b) *promote and maintain a sound financial system in the Islands..."*

16. The purpose of the proposed measure is to set out:

- a) rules and guidance on the requirements and key elements of effective recovery and resolution planning;
- b) and to set out the Authority's approach to, and expectations in, reviewing recovery and resolution plans and the manner in which the Authority's powers relating to recovery and resolution planning requirements are to be exercised.

E. Jurisdictional Comparison

17. The Authority conducted a jurisdictional comparison comprising eleven (11) jurisdictions – *Australia, Canada, United States, European Union, Switzerland, Hong Kong, Bermuda, Singapore, Trinidad and Tobago, The Bahamas and the United Kingdom.*

18. The jurisdictional comparison covered various components of recovery and resolution planning for each of the jurisdictions. These included:

- (1) legislative frameworks that provide for recovery and resolution requirements;
- (2) key components of recovery and resolution planning frameworks;
- (3) scope of application of each jurisdiction's RRP;
- (4) the incorporation of the FSB's Key Attributes in each jurisdiction's RRP;
- (5) frequency of the submission of RRPs by regulated entities; and
- (6) frequency of review of RRPs by regulatory authorities.

19. While the scope of applicability may differ by jurisdiction, the components of the recovery and resolution plan frameworks reviewed remain consistent among territories and in line with the FSB's Key Attributes.

20. By referencing the legislative frameworks of the jurisdictions noted above, which include key components for recovery and resolution planning, the Cayman Islands can draw on these established best practices and legal precedents to develop a robust and effective crisis management framework tailored to the financial system of the jurisdiction.

F. Cost and Benefit Analysis

21. **Table 1** provides a summary of the estimated costs and benefits of the proposed measure.

Table 1 – Cost-Benefit Analysis of Implementing the Proposed Measure

	Costs	Benefits
CIMA	<p>The Authority will incur usual administrative costs and initial/ongoing costs of developing and maintaining the framework:</p> <ol style="list-style-type: none"> 1. Conducting private sector/MFSC consultation on the proposed <i>Rule and Statement of Guidance Recovery and Resolution Planning for Regulated Entities</i>. 2. Gazetting and publishing of the <i>Rule and Statement of Guidance Recovery and Resolution Planning for Regulated Entities</i>. 3. Amending internal supervisory manuals/procedures further to issuance of regulatory measure and approval of the proposed legislative amendments by Cabinet. 4. Providing training to staff on the regulatory measures and understanding and implementing the framework. 5. Administrative costs related to the assessment and approval of RRP. 6. Costs of conducting regular stress tests and simulation exercises. 	<p>The Authority stands to benefit from:</p> <ol style="list-style-type: none"> 1. Enhanced regulatory oversight and ability to manage crises effectively. 2. Improved credibility as a robust financial institution regulator, including potentially heightened ratings by international standard-setting bodies against crisis management principles. 3. Enhanced reputation for its legislative and regulatory regime for crisis management due to having clearer and more streamlined regulation and supervision in this regard. 4. Greater ability to prevent systemic risks and financial instability. 5. Potentially less regulatory burden in cases of crisis as the framework will support the mitigation of these risks, particularly through effective and proactive recovery and resolution planning within the financial industry. 6. Enhanced coordination with international regulatory bodies based on the significance of effective crisis management as well as the cross-border nature of financial services within the jurisdiction.
Cayman Islands	<p>Jurisdictional cost associated with:</p> <ol style="list-style-type: none"> 1. Potential public funding to support the establishment and initial implementation of the framework. 2. Public education and communication on framework implementation. 3. Potential legal and regulatory costs to adapt existing/new laws and regulations to support the framework. 	<p>The jurisdiction stands to benefit from:</p> <ol style="list-style-type: none"> 1. Increased financial stability and resilience, reducing the likelihood of economic crisis. 2. Enhanced attractiveness to international investors and financial institutions due to a stable financial system. 3. Protection of taxpayers and public from the costs associated with financial institution

	Costs	Benefits
		<p>bailouts, as the framework supports effective and proactive crisis management planning and implementation.</p> <p>4. Increased confidence in the financial industry from both domestic and international stakeholders.</p> <p>5. Improved alignment of the jurisdiction with international standards and best practices.</p>
Regulated Entities	<p>Regulated entity cost associated with:</p> <ol style="list-style-type: none"> 1. Developing and maintaining comprehensive RRP. 2. Ongoing compliance with crisis management framework, including staff training, system needs for reporting etc. 3. Conducting stress tests and participating in simulation exercises. 4. Possible restructuring costs to simplify legal and financial structures for easier resolution 	<p>Regulated entities will benefit from:</p> <ol style="list-style-type: none"> 1. Clear guidelines and expectations for recovery and resolution planning. 2. Enhanced ability to manage and recover from financial distress, protecting business continuity. 3. Improved risk management and governance practices. 4. Increased market confidence and potentially lower funding costs due to enhanced stability.
<p>Based on the above analysis, it is evident that the benefits to CIMA, the Cayman Islands and the regulated entities outweigh the costs of implementing a comprehensive crisis management framework, including recovery and resolution planning, within the Cayman Islands. Implementing a crisis management framework, while incurring costs, provides significant benefits relating to financial stability, market confidence and protection against systemic risk.</p>		

G. Consultation Feedback and Comments

22. Before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations only. Feedback submitted by individuals, entities, or other bodies, unless acting on behalf of private sector associations, will not be accepted by the Authority. Representations from private sector associations must be submitted as a consolidated document, and a listing of the entities which provided feedback should be included. Private sector associations should ensure that conflicting positions are resolved prior to submission to the Authority. Where positions conflict within or across associations, the Authority will consider all available information in making a decision, which will be at its sole discretion.
23. To ensure that all responses are given due consideration, it is important that private sector associations make clear reference to the sections of the measure being commented on, and that responses are unambiguous, clearly articulated and based on fact. The consultation process is not designed to address complaints or grievances. Feedback of this nature should be submitted through the established complaints process.
24. In cases where the feedback proposes to change a policy position of the Authority or substantially amend any requirement of the draft measure, information to support the

position of the association must be provided. The table below provides an example of the Authority’s expectation with regard to feedback for the proposed measure.

Reference	Example of a Helpful Comment	Examples of Comments needing more Support
Rule 4.2 ¹	<p>In Rule 4.2 the current text omits the fair value measurement of liabilities. Also, as defined it is not asymmetrical with the Market Price definition and thus scenarios exists that fall into neither category.</p> <p>Suggested wording: <i>Hard-to-Value Securities means an asset or liability for which there is no Market Price which is required to be measured at fair value pursuant to 5.2</i></p>	<ul style="list-style-type: none"> × This is not what is done in other jurisdictions. × I don’t think we should do this. × CIMA is not considering the position of the experts.

25. All feedback submitted by private sector associations will be given due consideration, nevertheless, the decision to adopt any feedback provided into a proposed measure will be at the sole discretion of the Authority.

H. Notice of Representations

26. The Authority seeks consultation through written comments and representations from the private sector associations concerning the proposed:
- a) *Rule and Statement of Guidance on Recovery and Resolution Planning (Appendix I)*; and
27. The Authority must receive representations by 1700hrs on **Friday, February 28, 2025**. Representations received after this deadline may not be considered and will not form part of the collated written response provided to private sector associations.

¹ This example is not reflective of the content of the proposed measure.

28. Comments and representations must be addressed to²:

The Chief Executive Officer
Cayman Islands Monetary Authority
P.O. Box 10052
SIX, Cricket Square
Grand Cayman KY1-1001
Cayman Islands
Tel: 345-949-7089
Fax: 345-946-5611
Email:

consultation@cima.ky

and copied to [charissaevelyn@cima.ky]

29. The Authority shall have due regard to any representation made by the private sector associations and industry stakeholders. The Authority shall provide a written response collating the feedback received and the Authority's position on this feedback. This response shall be copied to all relevant private sector associations only.

² Where the private sector association or industry stakeholder has no comments or representations on the proposed measure, it is recommended that the Authority be informed of this fact.



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