

Overview

Learning the lessons of the 2008 global financial crisis, G20 countries recognized that an alternative to existing insolvency proceedings was required to manage the failure of systemically important financial institutions (“FIs”) in an orderly manner. This is because allowing such an FI to enter into existing insolvency proceedings would cause a sudden loss of access to the critical financial services that it provides, resulting in a significant negative impact on the financial system, economy and the wider public interest, both domestically and internationally – resulting in such institutions being “Too-Big-to-Fail” (“TBTF”). Therefore G20 leaders tasked the Financial Stability Board (“FSB”) with designing an alternative to address the TBTF problem, resulting in the FSB’s “Key Attributes of Effective Resolution Regimes for Financial Institutions” (“Key Attributes”).

The Financial Institutions (Resolution) Ordinance (“FIRO”) came into force in Hong Kong in July 2017 and provides the legal basis for a resolution regime in Hong Kong designed to be compliant with the standards set by the Key Attributes. The FIRO provides the resolution authorities, including the Monetary Authority, with the legal tools necessary to effect the orderly resolution of a failed systemically important FI, which means securing continuity of access to the critical financial services it provides, thereby mitigating the risks posed by failure to the stability and effective working of the financial system of Hong Kong, whilst minimising the risks posed to public funds by imposing losses on the institution’s shareholders and creditors.

This puts the Resolution Office (“RO”) at the forefront of domestic and international work to make bank resolvable and address the TBTF problem.

The RO’s responsibilities:

Established in 2017 as a separate office within the HKMA, the RO works to ensure the Hong Kong resolution regime is operational for authorized institutions (AIs). Its priorities are to:

- i. develop the legislation, regulations and policy requirements on AIs to ensure they are resolvable; given the international nature of AIs in Hong Kong, we also contribute to the G20 and the FSB’s efforts to address the causes of the financial crisis and bring an end to the TBTF problem;
- ii. define the preferred resolution strategy for AIs and ensuring that these firms make any necessary legal, financial and operational structural changes to facilitate their orderly failure under the Hong Kong resolution regime, including in coordination and cooperation with international counterparts for cross-border groups;
- iii. work with AIs to remove their structural impediments to resolvability; and
- iv. develop the HKMA’s operational capability necessary to execute orderly resolution.

This work helps to enhance the resilience of the local financial system, protects financial stability locally and supports coordinated cross-border resolution with other international authorities in the event of AI failure.

The RO’s structure

There are three teams in the RO:

- The Execution Team has an operational focus as it works to improve the HKMA’s readiness to resolve failing AIs in the future, by working with AIs today to structure, and restructure if necessary, their operations to support resolvability.
- The Policy Team has a focus on the development of domestic resolution legislation and related regulatory requirements on AIs so as to enhance AIs’ resolvability, as well as on

supporting the development of the international framework for resolution developed by the FSB and other international standard setting bodies.

- The Legal Team has a focus on providing legal advice on all of the RO's work in support of the MA's objectives and business priorities as a resolution authority.

Working in the RO involves close liaison with various stakeholders including with the Securities and Futures Commission, the Insurance Authority, the Hong Kong SAR Government, external advisers, individual AIs as well as international bodies and counterparts such as the FSB and overseas resolution authorities.

One of the many attractions of the RO is the very diverse subject matter of AI resolution and solving TBTF. RO also offers a diverse staffing mix from a wide range of professional backgrounds: policy officials, accountants, lawyers, investment banking and support staff.