

Feature

KEY POINTS

- As part of the overarching business continuity management framework, financial institutions are expected to have sufficiently robust business continuity plans to cope with the disruptions arising from the COVID-19 pandemic.
- Financial institutions should appreciate the unique challenges that business continuity management for pandemics have to address – low staff availability, and the ability to deliver financial services to customers.
- Financial institutions and employers in general should also focus on the health and safety of their employees, as part of their business continuity management process. They should also carefully manage employment cost concerns.
- Importantly, financial institutions should actively monitor the continued development of COVID-19 and scale their risk mitigation efforts accordingly.

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The Coronavirus (COVID-19) pandemic: testing the adequacy of a financial institution's pandemic measures

Financial Institutions (FIs) regulated by the Monetary Authority of Singapore (MAS) are required to have in place business continuity plans (BCPs) to deal with disruptions. The World Health Organization (WHO) has in March 2020 declared the outbreak of the coronavirus disease (COVID-19) to be a pandemic. Business continuity management (BCM) for a pandemic presents different challenges from other emergencies. FIs will need to address the unique risks and impacts arising from a pandemic in their BCPs such as the health and safety of their employees and customers. For FIs, COVID-19 is a litmus test of the adequacy of the pandemic section of their BCPs. This article outlines important considerations in relation to planning and implementation of BCPs in a pandemic.

BCM FOR PANDEMICS

All Financial Institutions (FIs) operating in Singapore are expected to have in place business continuity plans (BCPs) to ensure appropriate organisation-wide preparedness and response in the face of emergencies. Specifically, such plans must enable the continued operation of an FI's critical business functions during periods of disruption. An FI's BCP is the tangible culmination of its business continuity management (BCM) process. To formulate an effective BCP, FIs must establish a sound BCM framework.

In Singapore, the Monetary Authority of Singapore (MAS) Guide on Risk Management – Business Continuity Management (BCM Guidelines) establishes key principles to be incorporated in an FI's BCM framework. As a general matter, the key elements which will need to be included in a BCM framework include risk assessment to identify risks arising from disruptions, business impact analysis (BIA) to identify critical business functions to assess the impact

these identified risks may have on them, the development of strategies to manage and mitigate these risks, and ongoing surveillance and risk monitoring to ensure the relevance of their BCP as the disruption evolves.

BCM for a pandemic differs from other types of emergencies due to the unique challenges presented by it.

While BCM is generally aimed at ensuring the rapid restoration of critical business functions, the aim for a pandemic is geared towards the sustainable mitigation of risks to critical business functions, since the disruption brought about by a pandemic is inherently unpredictable. Not only is its magnitude of disruption on a global scale, the duration of a pandemic is usually prolonged as well. Past pandemics have been observed to occur in multiple waves. Some waves may also appear mild, only to be followed by another more severe outbreak.

It would follow that an institution's BCP must be sufficiently flexible to deal with the range of possible effects that could arise from a pandemic.

To assist FIs address the unique challenges presented by pandemics, MAS supplemented its BCM Guidelines with a BCM circular in January 2006 to help institutions address the risks which arise from an avian influenza. Subsequently in 2007, MAS issued an Information Paper on 'Preparedness for Avian Influenza Pandemic' (MAS Information Paper), which records the good practices that key FIs had put in place to deal with avian influenza. The best practices observed by MAS which an institution could adopt in the preparation and implementation of their BCP to mitigate the impact arising from a pandemic are discussed in greater detail below.

BOARD AND SENIOR MANAGEMENT OVERSIGHT AND SUPPORT

It is crucial for the board of directors and senior management of the organisation to provide oversight and support for the planning and preparation of the preparedness and response plans. Senior Management are expected to steer BCM with policies and strategies necessary for the continuation of critical business functions, having awareness of the risks, mitigating measures and state of readiness of the institution.

CROSS-FUNCTIONAL TASK FORCE

The impact arising from a pandemic is likely to be felt throughout the entire organisation which necessitates the need for BCM to be conducted across all functional departments together with clear senior management and board oversight. The establishment of a cross-functional taskforce involving relevant business

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and support units would be a necessary prerequisite to develop, implement and maintain pandemic readiness and response capabilities on an organisation-wide basis. Terms of reference as well as roles and responsibilities of the taskforces should be established. To ensure effective management oversight, the taskforces will need to provide regular updates to the institutions' senior management.

SCALING OF ORGANISATION-WIDE PREPAREDNESS AND RESPONSE

The preparation and response plans must include strategies that provide for the scaling of an institution's pandemic efforts which are consistent with the effects of a particular stage of a pandemic outbreak. In Singapore, the framework for gauging the severity of a pandemic is the Disease Outbreak Response System Condition (DORSCON) framework which comprises of four colour-coded levels showing the current situation and the measures to be taken to reduce the impact of infections. The pandemic preparedness and response plans will need to clearly spell out goals and objectives relating to different stages of an outbreak.

It should also include strategies to recover from a pandemic wave, proper preparations for any following wave(s) and plans for re-entry of personnel into the workplace.

BUSINESS CONTINUITY STRATEGIES FOR CRITICAL BUSINESS FUNCTIONS

The MAS Information Paper recognises that the critical business functions of an institution are likely to be impacted during a pandemic by low staff availability and the ability to deliver financial services to their customers.

The business continuity strategies adopted by institutions in Singapore to minimise disruption to critical functions, as recorded in the MAS Information Paper include:

- intra-function separations such as setting up more than one operating site for each critical business function in different locations for normal business operations;
- "work-from-home" strategy (ie telecommuting); and
- identifying and deploying alternate pools of staff in other locations to take over critical operations.

An important requisite for the implementation of such strategies would involve the enhancement of an FI's remote access capabilities, by increasing its network bandwidth and remote access to office applications.

The ability to deliver financial services should also be the focus of an FI's BCP. Following the outbreak of COVID-19, MAS issued an advisory to FIs on 7 February 2020 to adopt additional measures and precautions whilst carrying out their BCPs in order to be prepared for, amongst others, an increase in demand for certain financial services, such as cash withdrawal or online financial services to ameliorate customers' reluctance to utilise services simply because they are only accessible at customer facing locations. An institution's BCP would need to also consider the required infrastructural capacity needed to support these electronic platforms, and ways in which such measures can be effectively communicated to its customers.

FIs should also remain vigilant of the potential cybersecurity risks that accompanies the increased reliance on technological alternatives. Adequate due diligence will need to be conducted before implementation of these technological solutions. In Singapore for example, the Cyber Security Agency has issued an advisory on how to mitigate cybersecurity risks while implementing telecommuting arrangements.

Another important factor that could impact an institution's critical business function is the readiness of its critical service providers in a pandemic. In this respect, FIs will need to have appropriate frameworks in place to ensure that their critical service providers have implemented appropriate and relevant business continuity measures. If not, then additional mitigating measures must be in place to ensure the continuity of their business operations.

CARING FOR THE HEALTH AND SAFETY OF EMPLOYEES

In implementing their BCPs, FIs will also have to consider the health and safety of their employees. To prevent and delay the spread of the infection, FIs must comply with the Safe Management Measures issued by the Tripartite Partners (comprising the Ministry of Manpower (MOM), the National Trades Union Congress (NTUC) and the Singapore National Employers Federation (SNEF)).

Precautionary measures that must be adopted to mitigate the risk of infection at the workplace

To mitigate the risk of infection spreading at the workplace, employers must:

- conduct regular temperature screening of all employees (twice daily) and visitors (prior to entering premises). Employees and visitors who are unwell must be refused entry;
- require employees to submit health and travel declarations;
- ensure that the workplace is cleaned frequently, especially areas with high human contact;
- provide cleaning and disinfecting agents at all toilets/hand-wash stations and all high human traffic stoppage points;
- ensure all employees and visitors wear a mask and any necessary personal protective equipment at all times;
- establish clear guidelines on how to evacuate employees or visitors who are unwell;
- implement a follow-up plan in the event of a confirmed case;
- implement safe distancing measures and reduce the need for physical interaction at the workplace; and
- keep up to date and observe relevant advisories issued by government agencies.

Where telecommuting is viable, employers must ensure employees telecommute.

Responding to a suspected or confirmed COVID-19 infection at the workplace

Upon notification of a confirmed case, employers must immediately vacate and cordon off the section of the workplace premises where the confirmed case worked. Employers must thoroughly clean and disinfect of all areas exposed to the confirmed case. While there is no legal requirement for employers to inform its employees of a suspected or known COVID-19 infection amongst its employees, nevertheless, to manage employees' anxieties, employers could opt to do so, with appropriate measures to protect the privacy of the affected employee.

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MANAGING EMPLOYMENT COSTS

Despite the implementation of BCPs not only by FIs, but any organisation in general, the COVID-19 pandemic will invariably impact the economic viability of the various organisations and institutions. This gives rise to the issue of how FIs should manage its employment costs, when faced with both reduced revenue and decreased productivity in its employees.

The Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (Tripartite Advisory), issued by the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP), provides guidance on how employers should implement employee cost saving measures during economic downturns.

In summary, retrenchment should be a last resort; other adjustments to work arrangements should be considered first. The National Wage Council (NWC) 2020/2021 Guidelines (NWC Guidelines) recommends that, as far as possible, employers make full use of Government support, announced in the Resilience and Solidarity budgets on 26 March 2020 and 6 April 2020, respectively, to offset business and wage costs.

In most cases, cost-cutting measures will likely amount to a change in employment terms. In such situations, employers need to obtain the consent of the affected employee(s). In this respect, the Tripartite Advisory suggests that employers consult and obtain the consent of the employees before implementing cost-saving measures.

Adjustments to work arrangements, involving cost-saving measures, include implementing:

- part-time work, job sharing, or flexible work arrangements;
- shorter work weeks (where such reduction in working days should not exceed three days or not last longer than three months);
- temporary layoffs (which should not last longer than a month);
- direct wage cuts to variable or discretionary components of remuneration (such as bonus payments). When doing so, senior management should lead by example by taking deeper wage cuts; or
- no pay leave schemes, as a last resort.

Ultimately, cost-saving measures should be implemented in a manner which ensures that fewer jobs are lost. Employers should also bear in mind the spirit of the Tripartite Advisory, which suggests that employees should not lose more than half of their wages for the period of time their working hours are reduced.

Employers should exercise fairness across all employees when implementing cost-saving measures. Employers should not discriminate against any particular group of employees on the grounds of age, nationality, race, gender, marital status and family commitments, disability or religion.

Generally, no statutory redundancy payments are required. However it is recommended under the Tripartite Advisory. Further, in light of COVID-19, the tripartite partners have issued a new advisory on redundancy payments (New Advisory). Under the New Advisory, employers in a sound financial position should make redundancy payments as stipulated in existing employment contracts, collective agreements, or the prevailing norm of between two weeks and one month salary per year of service. Where employers' businesses are adversely affected, such employers should make a fair redundancy payment linked to the affected employee's years of service, as renegotiated between the employer and the employee or unions. For employers facing severe financial difficulties, unionised employers should make a mutually acceptable redundancy payment as negotiated with their unions, while non-unionised employers should make a lump sum redundancy payment of between one and three months of salary.

From 7 April 2020 to 1 June 2020, in light of COVID-19, employers who implement any cost-saving measures are required to notify the Ministry of Manpower (MOM) if the employer: (i) is registered in Singapore; (ii) has at least 10 employees; and (iii) implements cost-saving measures that result in employees' salaries falling below: (i) 75% of gross monthly salary for local employees; and (ii) 75% of basic monthly salary for foreign employees.

It is possible that notification requirements may continue if COVID-19 remains an ongoing concern for employers seeking to manage employee costs.

TESTING OF ESCALATION AND RESPONSE PLANS

A testing program is a key element to ensure that the institution's pandemic planning practices and capabilities are effective and will allow critical operations to continue. Testing should be conducted on business continuity strategies and plans for critical business functions and also on the response and escalation plans in the management of staff with symptoms suggestive of infection.

SURVEILLANCE AND ESCALATION FRAMEWORK

As with past pandemics, it appears that the COVID-19 pandemic is evolving. Given this backdrop, it will be necessary for organisations to update their strategies and plans. In Singapore, FIs have established surveillance and escalation frameworks which include surveillance responsibilities and objectives, the sources and types of information to monitor, frequency of surveillance, escalation process and regular updates to senior management on latest developments. Information sources include the websites of local ministries and agencies, international health authorities and news wires.

CONCLUDING THOUGHTS

While most FIs would have activated their BCPs to deal with the COVID-19, the pandemic continues to persist. The state of an FI's preparedness will be continuously tested in the event of a prolonged period of disruption. In these circumstances, FIs will need to stay vigilant and ensure that their BCPs are scaled and updated appropriately in light of on-going developments. ■

Further Reading:

- COVID-19 relief measures and international financings: the law of unintended consequences? (2020) 4 JIBFL 267.
- Coronavirus: the impact on financing transactions (2020) 5 JIBFL 287.
- LexisPSL: Risk & Compliance: Business Continuity plan: BCP – overview.