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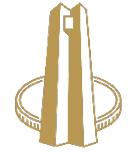
SOUTH AFRICAN RESERVE BANK
Prudential Authority

Ref.: 15/8/1/3

To: All banks, controlling companies, branches of foreign institutions, eligible institutions and auditors of banks or controlling companies

Proposed Directive issued in terms of section 6(6) of the Banks Act, 1990

Matters related to the requirements for measuring and controlling large exposures

Executive summary

The Basel Committee on Banking Supervision's (the Committee) standard issued in April 2014 titled "Supervisory framework for measuring and controlling large exposures[1]" (revised LEX framework) complements the Committee's risk-based capital standard as the revised LEX framework is designed to specifically protect banks from material losses resulting from the non-performance of a single counterparty or group of connected counterparties which could ultimately threaten the solvency and liquidity of the bank or the banking group.

The Prudential Authority (the Authority) issued proposed amendments to the Regulations relating to Banks on 29 July 2020, which amongst other things, incorporate the revised LEX framework into the Regulations relating to Banks (the proposed Regulations). The proposed Regulations provide the Authority with enabling provisions to specify conditions or limits in writing for measuring and controlling specific types of large exposures. The revised proposed implementation date of the proposed Regulations is 1 January 2022.

This proposed directive serves to direct banks, branches of foreign institutions and controlling companies (hereinafter collectively referred to as 'banks') to apply the conditions and/ or limits specified in this proposed directive as from the revised proposed implementation date of the proposed Regulations.

1. Introduction

1.1 The revised LEX framework issued by the Committee in April 2014 complements the Committee's risk-based capital standard as the revised LEX framework is designed to specifically protect banks from material losses resulting from the non-performance of a single counterparty or a group of connected counterparties which could ultimately threaten the solvency and liquidity of the bank or the banking group.

[1] Available online at: https://www.bis.org/basel_framework/standard/LEX.htm"

1.2 The Authority issued the proposed Regulations on 29 July 2020, which provide the Authority with enabling provisions to specify conditions and/ or limits in writing for measuring and controlling specific types of large exposures.

1.3 This proposed directive serves to direct banks to apply the conditions and/ or limits specified in this proposed directive as from the revised proposed implementation date of 1 January 2022.

2. Treatment and limits imposed on interbank exposures

2.1 Paragraphs 16 and 17 of the revised LEX framework specify that the sum of all the exposure values of a bank to a single counterparty or to a group of connected counterparties must not be higher than 25 per cent of the bank's tier 1 capital and reserve funds. The limit is set at 15 per cent for a global systemically important bank's (G-SIB) exposures to another G-SIB.

2.2 Paragraph 91 of the revised LEX framework specifies that member countries are at liberty to set more stringent standards, as with any other standards approved by the Committee. In particular, the concern related to contagion has led the Committee to propose a relatively tighter limit on exposures between G-SIBs, in principle, at the jurisdictional level to domestic systemically important banks (D-SIBs). The Committee therefore encourages jurisdictions to consider applying stricter limits to exposures between D-SIBs and to exposures of smaller banks to G-SIBs.

2.3 Paragraphs 65 and 66 of the revised LEX framework specify that only intraday interbank exposures are not subject to the revised LEX requirements but that in stressed circumstances, supervisors may have to accept a breach of an interbank limit ex post, in order to ensure stability in the interbank market.

2.4 Currently, credit concentration risk is not subject to pillar 1 capital requirements in terms of the capital framework and due to the banks' large exposures to other individual banking counterparties, it is important to limit banking institutions' exposures to each other where possible. One of the reasons why the interbank market in South Africa poses a significant credit concentration risk is due to the larger banking groups in South Africa creating a natural concentration in the interbank market. Therefore, in order to promote the safety and soundness of individual banks and to assist in limiting the systemic impact the failure of one large banking institution could have on the South African banking sector, it is equally important to limit the exposures between these larger banking institutions.

2.5 Previously, no limit was imposed on interbank exposures and in order to provide banks with sufficient time to implement the respective specified large exposure limits on a continuous daily basis, banks would be allowed, for a specified time period, to meet the respective specified limits for exposures, on an average daily balance for the month, where the average daily balance shall be calculated in accordance with the requirements specified in regulation 8 of the Regulations.

2.6 Furthermore, in order to provide an institution identified by the Authority or the Reserve Bank from time to time as a D-SIB with sufficient time to reduce their exposures to systemically important financial institutions (SIFIs), D-SIBs would be required to, through a transitional approach, reduce their maximum exposures to other identified SIFIs, where, based on an average daily balance for the month, a threshold of 15 per cent of the bank's qualifying common equity tier 1 capital and reserve funds and additional tier 1 capital and reserve funds (qualifying tier 1 capital) would need to be met from 1 January 2025 onwards.

3. Application of the LEX requirements on other banking entities within a banking group, where a bank within the group has been designated as a D-SIB/D-SIFI or a G-SIB

3.1 As specified in regulation 24(6)(c)(iv) of the proposed Regulations, D-SIBs and other domestic systemically important financial institutions (D-SIFIs) are designated by the Authority or the Reserve Bank, while a list of G-SIBs is published by the Financial Stability Board.

3.2 Furthermore, in terms of the provisions of regulation 24(6)(b) of the proposed Regulations, banks are required to determine whether a control relationship or situation of economic interdependence or connectedness, respectively envisaged in regulations 24(6)(b)(i)(A) and 24(6)(b)(i)(B), exists, which group of connected counterparties must for purposes of regulation 24(6) be regarded as a single counterparty.

3.3 As such where a bank within a banking group is designated as a D-SIB or a G-SIB, for large exposure purposes and when determining the limit applicable to other banking entities within the banking group, the D-SIB/G-SIB designation would be applicable to the controlling company of the D-SIB/G-SIB as well as all other subsidiaries of the bank and controlling company.

3.4 Therefore, the D-SIB/G-SIB limit would apply to all subsidiaries of the bank holding company and not only to the designated D-SIB/G-SIB. For each entity within the banking group, the limit would be based on the qualifying tier 1 capital as prescribed in regulation 24(7)(c) of the proposed Regulations.

4. Application of the LEX requirements on intragroup exposures

4.1 Essential criteria 5 of Core Principle 20 of the Core Principles for Effective Banking Supervision issued by the Committee (Core Principles), which deals with transactions with related parties, requires that laws or regulations are set, or the supervisor shall have the power to set on a general or case by case basis, limits for exposures to related parties, to deduct such exposures from capital when assessing capital adequacy, or to require collateralisation of such exposures. When limits are set on aggregate exposures to related parties, those are at least as strict as those for single counterparties or groups of connected counterparties.

4.2 Paragraphs 8 and 9 of the revised LEX framework specify the application of the large exposure framework to types of concentration risk other than a single counterparty or a group of connected counterparties and indicate that intragroup exposures have not been included in the scope of the revised LEX framework, although it could be considered as another source of concentration risk that might potentially endanger banks' survival.

4.3 Consequently, regulation 24(6)(c)(vii) of the proposed Regulations specifies that a bank shall manage its intragroup exposures in such a manner that the aggregate amount of its exposure to entities within the group complies with such conditions or limits as may be specified in writing by the Authority from time to time, in addition to any conditions or limits that may be specified in these Regulations or by the board of directors of the relevant bank or controlling company.

4.4 The Authority acknowledges the interconnectedness between entities within the group, but also acknowledges that for the large exposure requirements, intragroup exposures cannot necessarily and in all cases be regarded as a group of connected counterparties and be regarded as a single counterparty. Therefore, as specified in the proposed Regulations, the Authority proposed the insertion of an enabling provision to specify conditions where certain intragroup exposures would not be subject to all of the large exposure requirements.

5. Application of the LEX requirements on a foreign subsidiary of a controlling company required to report on a solo basis

5.1 Core Principle 12 of the Core Principles, which deals with consolidated supervision, states that an essential element of banking supervision is that the supervisor supervises the banking group on a consolidated basis, adequately monitoring and, as appropriate, applying prudential standards to all aspects of the business conducted by the banking group worldwide.

5.2 Essential criteria 5 of Core Principle 12 of the Core Principles requires the supervisor to review the main activities of parent companies, and of companies affiliated with the parent companies, that have a material impact on the safety and soundness of the bank and the banking group, and to take appropriate supervisory action.

5.3 As such, regulation 24(6)(a) of the proposed Regulations requires a bank or controlling company to calculate and report its credit concentration risk at every relevant tier within the banking group, that is, as a minimum, at every relevant branch, bank solo and consolidated level, in accordance with the relevant requirements.

5.4 The Authority acknowledges that foreign subsidiaries would be subject to the regulatory requirements and concentration risk requirements as imposed by the prudential supervisors in the countries where they conduct business (host supervisor) and that the controlling company would be subject to regulatory requirements and concentration risk requirements as imposed by the Authority as the home supervisor. Therefore, the large exposure limit imposed on a

foreign subsidiary, will be based, unless otherwise instructed by the Authority, on the controlling company's qualifying Tier 1 capital.

5.5 Foreign subsidiaries are however exposed to concentration risk similar to any other separately capitalised institution or bank, which might potentially endanger their survival and ultimately the survival of their bank controlling companies or potentially even the wider banking group. Therefore, in order for the Authority to monitor and supervise concentration risk within a foreign subsidiary in accordance with the requirements specified in the revised LEX framework read with the Core Principles, the said subsidiary will be required to report credit concentration risk exposures on the form BA610 based on the foreign subsidiary's own qualifying Tier 1 capital.

6. Directive

Based on the aforesaid and in accordance with the provisions of section 6(6) of the Banks Act 94 of 1990, from the revised proposed implementation date of the proposed Regulations, that is from 1 January 2022 onwards, banks are hereby directed to ensure that:

6.1 For the purpose of regulation 24(6)(c)(iv)(A)(i) of the proposed Regulations, a bank other than a D-SIB or D-SIFI shall manage its business in such a manner that the aggregate amount of its concentrated credit exposure, calculated in accordance with the relevant requirements specified in subregulation (6) to an institution identified by the Authority or the Reserve Bank from time to time as a D-SIB or D-SIFI, complies with the requirements specified below:

6.1.1 For the period from 1 January 2022 to 31 December 2024, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 25 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates.

6.1.2 From 1 January 2025 onwards, the aggregate exposure does not at any time exceed 25 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates.

6.2 For the purpose of regulation 24(6)(c)(iv)(A)(ii) of the proposed Regulations, following the 12th month after the date that the bank or controlling company itself has been identified as a D-SIB or D-SIFI, the aggregate amount of its concentrated credit exposure calculated in accordance with the relevant requirements specified in subregulation (6) to an institution identified by the Authority or the Reserve Bank from time to time as a D-SIB or D-SIFI, complies with the requirements specified below:

6.2.1 For the period from 1 January 2022 to 31 December 2022, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 20 per cent of the sum of the bank or controlling

company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 25 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.2.2 For the period from 1 January 2023 to 31 December 2024, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 18 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 20 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.2.3 From 1 January 2025 onwards, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 15 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 18 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.3 For the purpose of regulation 24(6)(c)(iv)(B)(i) of the proposed Regulations, a bank other than a D-SIB or a G-SIB shall manage its business in such a manner that the aggregate amount of its concentrated credit exposure, calculated in accordance with the relevant requirements specified in subregulation (6) to an institution identified as and included in the list of G-SIBs (which includes any branch of a G-SIB), published by the Financial Stability Board (FSB) from time to time, complies with the requirements specified below:

6.3.1 For the period from 1 January 2022 to 31 December 2024 the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 25 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates.

6.3.2 From 1 January 2025 onwards, the aggregate exposure does not at any time exceed 25 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates.

6.4 For the purpose of regulation 24(6)(c)(iv)(B)(ii) of the proposed Regulations, a bank identified as a D-SIB shall manage its business in such a manner that the aggregate amount of its concentrated credit exposure, calculated in accordance with the relevant requirements specified in subregulation (6) to an institution identified as and included in the list of G-SIBs (which includes any branch of a G-SIB), published by the FSB from time to time, complies with the requirements specified below:

6.4.1 For the period from 1 January 2022 to 31 December 2022, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 20 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 25 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.4.2 For the period from 1 January 2023 to 31 December 2024, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 18 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 20 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.4.3 From 1 January 2025 onwards, the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 15 per cent of the sum of the bank or controlling company's qualifying tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates, provided that the maximum daily exposure shall at no stage exceed 18 per cent of the aforementioned sum of the bank or controlling company's qualifying tier 1 capital.

6.5 For the purpose of regulation 24(6)(c)(vii) of the proposed Regulations, a bank reporting on a solo basis and/or a controlling company reporting on a consolidated basis shall manage its intragroup exposures in such a manner that the aggregate amount of its exposure to entities within the group complies with the requirements specified below:

6.5.1 Unless otherwise specified in writing by the Authority, intragroup exposures risk weighted at 0 per cent in terms of regulation 23(6)(j) of the Regulations, will be exempted from the large exposure limit.

6.5.2 For the period 1 January 2022 to 31 December 2024, for intragroup exposures other than intragroup exposures risk weighted at 0 per cent in terms of regulation 23(6)(j) of the Regulations, the bank or controlling company would not be required to determine the connectedness of the intragroup entities, however the aggregate exposure to each intragroup entity must comply with the large exposure limit specified in regulation 24(6) of the proposed Regulations.

6.5.3 Where the bank or controlling company is of the opinion that the large exposure limit specified or imposed would not be appropriate for a certain intragroup entity, the bank or controlling company shall demonstrate to the satisfaction of the Authority that due to the existence of specific circumstances, a different large exposure limit or treatment should be considered.

6.6 For the purposes of regulation 24(7)(a)(iii) of the proposed Regulations, in the case of a foreign subsidiary of a controlling company required to report on a solo basis, where the Authority is also responsible for the supervision of the controlling company, the specified amount as contemplated in section 73(1)(a) of the Banks Act, 1990 shall for reporting purposes be 10 per cent of the sum of the qualifying tier 1 capital of the relevant foreign subsidiary.

6.7 For the purposes of regulation 24(7)(c)(iii) of the proposed Regulations, in the case of a foreign subsidiary of a controlling company required to report on a solo basis, the specified percentage and the specified amount shall, unless specifically otherwise directed in writing in specific cases, be the relevant percentage of the sum of the qualifying tier 1 capital and reserve funds of the controlling company of the foreign subsidiary.

7. Invitation for comment

7.1 Banks and other interested persons are hereby invited to submit their comments in respect of this proposed directive to: SARB-PA@resbank.co.za and to este.nagel@resbank.co.za, for the attention of Ms Esté Nagel, by no later than 20 August 2021.

7.2 All comments received may be published on the website of the PA, unless a respondent specifically requests confidential treatment.

Kuben Naidoo
Deputy Governor and CEO: Prudential Authority

Date: 2021-07-23

Encl.1

Annexure 1

1 January 2022 - 31 December 2022		Exposure to		
		Banks other than a D-SIB or G-SIB	**D-SIB**	**G-SIB**
Exposure of	**Banks other than a D-SIB or G-SIB**	**maximum (on any day) of 25%**	Monthly average of 25%	Monthly average of 25%
	D-SIB	maximum (on any day) of 25%	Monthly average of 20% Maximum of 25% during the month	Monthly average of 20% Maximum of 25% during the month
	G-SIB	maximum (on any day) of 25%	maximum of 25%	**maximum (on any day) of 15%**

1 January 2023 - 31 December 2024		Exposure to		
		Banks other than a D-SIB or G-SIB	**D-SIB**	**G-SIB**
Exposure of	**Banks other than a D-SIB or G-SIB**	**maximum (on any day) of 25%**	Monthly average of 25%	Monthly average of 25%
	D-SIB	maximum (on any day) of 25%	Monthly average of 18% Maximum of 20% during the month	Monthly average of 18% Maximum of 20% during the month
	G-SIB	maximum (on any day) of 25%	maximum (on any day) of 25%	**maximum (on any day) of 15%**

1 January 2025 onwards		Exposure to		
		Banks other than a D-SIB or G-SIB	**D-SIB**	**G-SIB**
Exposure of	**Banks other than a D-SIB or G-SIB**	**maximum (on any day) of 25%**	maximum (on any day) of 25%	maximum (on any day) of 25%
	D-SIB	maximum (on any day) of 25%	Monthly average of 15% Maximum of 18% during the month	Monthly average of 15% Maximum of 18% during the month
	G-SIB	maximum (on any day) of 25%	maximum (on any day) of 25%	**maximum (on any day) of 15%**

Responses to comments received on the proposed Directive relating to the supervisory framework for measuring and controlling large exposures.

July 2021

Introduction

1. In order to strengthen the international financial system and reduce the risk of fragmentation, members of the Basel Committee on Banking Supervision (BCBS), including South Africa, have committed to the full, timely and consistent implementation of all relevant internationally agreed frameworks, standards and requirements. As such, deviations from or inconsistencies with internationally agreed frameworks, standards and requirements are considered only when compelling evidence indicates that the consistent implementation of relevant internationally agreed frameworks, standards and requirements will have material unintended consequences for banks, other financial institutions or markets in South Africa that outweigh the potential benefits associated with compliance with such internationally agreed frameworks, standards and requirements

2. The Prudential Authority (PA) issued a proposed Directive, dated 3 December 2019 in respect of proposed amendments to the Regulations relating to Banks which, amongst other things, incorporated the BCBS paper titled "The supervisory framework for measuring and controlling large exposures[1]" (proposed LEX Regulations). Interested persons were invited to submit comments to the PA before 15 February 2020.

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[1] Available online at: https://www.bis.org/basel_framework/standard/LEX.htm

3. On 29 July 2020, the PA issued for comment draft 2 of the proposed LEX Regulations. A proposed Directive was issued on 31 July 2020 for comment which proposed a 15% limit to exposures of domestic systemically important banks (D-SIBs) to other D-SIBs and global systemically important banks (G-SIBs). All interested persons were invited to submit their comments on draft 2 and the proposed Directive by no later than 11 September 2020.

4. On 16 March 2021, an updated proposed LEX Directive was issued, and all interested persons were invited to submit comments by no later than 16 April 2021.

5. All written comments received were considered and the table below outlines all unclassified comments received in respect of both proposed LEX Directives and provides the PA's responses.

List of Commentators

Name of organisation	
1. Absa Group Limited (AGL)	6. Capitec Bank
2. Access Bank (previously known as Grobank)	7. Discovery Bank
3. African Bank	8. FirstRand Bank Limited (FSR/FirstRand)
4. Albaraka Bank (Albaraka)	9. HBZ Bank (HBZ)
5. Banking Association South Africa (BASA)	10. Standard Bank Group (SBG)

Comments on the proposed Directive dated 31 July 2020.

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
1	BASA	Given the structural nature of South Africa's closed Rand system (which ensures that the South African Rand circulates exclusively within the clearing banks in South Africa), the imposition of the proposed directive before the implementation of the secured money market clearing process is likely to impact the efficient operations of the interbank market as there are a limited number of banks to transact with. Considerations include: - The ability to predict day end interbank exposures is limited. Day end exposures are driven by client activity and while steps can be taken to make end of day balances smaller, client activity will be the deciding factor on final balances that need to be squared overnight. - Interbank overnight exposures are volatile and a large interbank overnight exposures means spreading these exposures to a greater number of banks, which will be complicated by managing group, solo, foreign subsidiary solo limits to a single counterparty while making sure the different group bank(s) are squared off before the cut-off time of 17:00 (the time available to undertake this activity will not be extended commensurately with the level of complexity); - The SARB Financial Markets Division have on multiple occasions indicated that squaring off against the SARB (as a last resort given the deliberate additional cost imposed in placement) is not encouraged but that finding the market participant that can be the other side of the trade is desirable. The proposed rule limit requires that even when the counterparty has been identified a trade may be prohibited due to previous positions taken. Our current expectation is that the proposed regulation will result in banks going to the window more often. - The ability to utilise collateral between the interbank market and other market participants is limited as the collateral on Strate is not immediately available to utilise on the SAMOS system and vice versa. This is different to what is experienced in other jurisdictions where a bank has a single custodian compared to South Africa where it is mandatory to have two, one being the SARB for prudential asset management and another for market related activity (mostly Strate).	*The PA also acknowledges that previously no limit was imposed on interbank exposures and in order to provide banks with sufficient time to implement the prescribed large exposure limit on a continuous daily basis, banks would be allowed, for a specified period, to meet the specified limit for exposures to an institution identified by the Authority or the Reserve Bank from time to time as a domestic systematically important bank (D-SIB), a domestic systematically important financial institution (D-SIFI) or a global systemically important bank (G-SIB), on a monthly average daily basis, where the average daily balance for the month shall be calculated in accordance with regulation 8 of the Regulations.* *Furthermore, in order to provide an institution identified by the Authority or the Reserve Bank from time to time as a D-SIB with sufficient time to reduce their exposures to systemically important financial institutions (SIFIs), D-SIBs would be required to, through a transitional approach, reduce their maximum exposures to other identified SIFIs, where, based on an average daily balance for the month, a threshold of 15 per cent of the bank's qualifying*

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
		- The volatility experienced in the interbank overnight would not have been captured in the snapshot taken in the large exposures questionnaire completed in 2019. - The impact will be on the management of daily liquidity, as SA D-SIBs currently have additional exposures (e.g. markets exposures and trade finance exposures) to each other. - The interbank clearing relationships currently in place have taken several years to build. - Also, there is likely to be an adverse impact on exposures to G-SIBs in the short-term, as there are well entrenched relationships with a few G-SIBs and it may take some time to diversify exposures and develop relationships with other G-SIBs/ international banks - to hedge market exposures and manage money market placements. These are important in managing the interbank overnight exposures in multiple currency balances. If interbank overnight is not exempted as requested in our response to the proposed regulations both now and previously then it is proposed that: If interbank overnight is not exempted as requested in our response to the proposed regulations both now and previously then it is proposed that: **D-SIB limit** Be calibrated based on a quantitative impact study that is based on timeseries data to take into account the volatility in interbank overnight balances. Given the closed rand system, lack of secured money market clearing process as well as other practical complexities detailed, that the imposition of any limit be phased in with the implementation of the secured money market clearing process. **G-SIB limit** Aligning the phasing in with the implementation of a secured money market clearing process.	*common equity tier 1 capital and reserve funds and additional tier 1 capital and reserve funds (qualifying tier 1 capital) would need to be met from 1 January 2025 onwards.* *A proposed Directive dated 16 March 2021 has been issued in this regard.*
2	**BASA**	Reference is made to [Regulation] 24(6)(c)(iv)(B)(ii) of the proposed regulations, which refers to D-SIBs and D- SIFIs and then stipulates a limit of 15% of Tier 1 for D- SIBs only. Please clarify on whether the intention is to apply a 15% limit for D-SIBs and D-SIFIs in the Republic of South Africa.	

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
3	AGL	The limitation of exposures for D-SIBS to 15% of tier 1 capital and reserves funds is an area we would appreciate being calibrated based on a quantitative impact study that is based on timeseries data to take into account the volatility of interbank overnight balances and that this request be considered given: i. the structural nature of South Africa's closed Rand system (which ensures that the South African Rand circulates exclusively within the clearing banks in South Africa); ii. the impact will be on the management of daily liquidity, as South African D-SIBs currently have additional exposures (e.g. markets exposures and trade finance exposures) to each other; iii. the ability to predict day end interbank exposures is limited. Day end exposures are driven by client activity and while steps can be taken to make end of day balances smaller, client activity will be the deciding factor on final balances that need to be squared overnight; iv. interbank overnight exposures are volatile and large interbank overnight exposure means spreading such exposure to a greater number of banks. This will be further complicated by managing group, solo and foreign subsidiary solo limits to a single counterparty while making sure the different group bank(s) are squared off before the cut-off time of 17:00 (the time available to undertake this activity will not be extended commensurately with the level of complexity); v. there are a limited number of banks to transact with, given the interbank clearing market with relationships currently in place. These relationships have taken several years to build and are linked to the end of day requirements of those banks. Building new relationships will take time given that the secured money market clearing process has taken longer to implement than was originally anticipated; vi. the directive would be less impactful post the implementation of the secured money market clearing process, which will reduce the net exposures. The secured money market clearing process will allow more efficient and effective use of collateral which is currently limited. This is because the collateral on Strate is not immediately available to utilise on the SAMOS system and vice versa; vii. the SARB Financial Markets Division have on multiple occasions indicated that squaring off against the SARB (as a last resort given the deliberate additional cost imposed on placement) is not encouraged and that finding a market participant that can be the other side of the trade is desirable. The proposed rule limit requires that even when the counterparty has been identified a trade may be prohibited due to previous positions taken. Our current expectation is that the proposed regulation will likely result in banks going to the window more often; and	

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
		viii. The observed volatility resulting from the above and other factors would not have been captured in the snapshot view taken in the large exposures questionnaire completed in 2019. We thus request that the effective date of the limits applying to interbank overnight exposures be aligned with the implementation of the secured money market clearing process. We note the response from the Prudential Authority in the "Public comments received on the requirements relating to the supervisory framework for measuring and controlling large exposures" with respect to ample time being given to prepare for implementation and submit the following: i) Basel published the large exposures framework in April 2014. ii) The implementation of the secured money market clearing process, which would allow for the meeting of the Basel large exposures framework was first discussed at the SARB Money Markets Sub-Committee, which is a sub-committee of the Financial Markets Liaison Group in October 2014. Much work has since been done by various market participants including the SARB Financial Markets Department, SA Banks and Strate and various hurdles have been addressed. iii) The current solution envisaged, and being worked towards, will give us the ability to move collateral more flexibly between the SARB and South African banks' other custodians. iv) In South Africa it is mandatory to have a custody account linked to SAMOS with the SARB for prudential asset management (HQLA etc.) and in order to facilitate market activity it is necessary to have at least one other custodian (mostly Strate). Currently, the movement of collateral between trading platforms and custodians can result in significant ineffective collateral usage. v) Additional implementation time is thus proposed to align to the finalization of the secured clearing process.	

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
4	**FSR**	BASA and FSR noted that the four largest banking groups create a natural concentration in the SA liquidity, settlement and clearing processes. It was important that any threshold under consideration for LEX do not unintentionally introduce risk and adverse implications on liquidity management in SA financial markets. The proposal was that either a limit should be calibrated to a higher percentage than 25% to incorporate overnight liquidity management or an exception or carve out of inter day/ overnight exposure in exposure calculation for LEX. **The PA's response on Draft 1 of the proposed LEX Regulations** The PA does not deviate from internationally agreed frameworks. Banks should be able to meet the 25% threshold per data analysis performed if interbank placements are more evenly distributed. Given the structural nature of South Africa's closed Rand system (which ensures that the South African Rand circulates exclusively within the clearing banks in South Africa), the imposition of the proposed directive before the implementation of the secured money market clearing process is likely to impact the efficient operations of the interbank market as there are a limited number of banks to transact with. Also, there is likely to be an adverse impact on exposures to G-SIBs in the short-term, as there are well entrenched relationships with a few G-SIBs and it may take some time to diversify exposures and develop relationships with other G-SIBs/ international banks - to hedge market exposures and manage money market placements. **FSR's response** From the Prudential Authority's response to the LEX regulations (specifically where you refer to the 25% threshold per the data impact analysis performed) kindly clarify whether the intention is to apply a lower limit of 15% for D-SIBs and G- SIBs in the Republic of South Africa. In such event we do propose the data impact analysis to be updated accordingly for the lower threshold. To balance the credit and liquidity management matters as raised by BASA and the PA we recommend further engagement with your offices and the industry. We propose that If interbank overnight is not exempted as requested now and previously that DSIB and GSIB limits be phased in, aligning with the implementation of the secured money market clearing process.	

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
5	**FSR**	Interbank exposure in South Africa We note that the four largest banking groups in South Africa may be regarded as D- SIBs for regulatory purposes. These banks create a natural concentration in the South African liquidity, settlement and clearing processes of the local financial markets. It is important that any threshold credit limit under consideration for large exposure purposes amongst these D-SIBs not unintentionally introduce additional risk and have an adverse impact on the liquidity management, clearing and settlement processes of the South African banking and financial markets. **The PA's response on Draft 1 of the proposed LEX Regulations** The revised LEX framework complements the risk-based capital standard as the revised LEX framework is designed to specifically protect banks from material losses resulting from the non-performance of a single counterparty or a group of connected counterparties which could ultimately threaten the solvency of the bank or the banking group. However, the PA acknowledges that trade-off exists between credit risk and liquidity risk in this regard. In order to strengthen the international financial system and reduce the risk of fragmentation, members of the Basel Committee on Banking Supervision, including South Africa, have committed to the full, timely and consistent implementation of all relevant internationally agreed frameworks, standards, and requirements. As such, deviations from or inconsistencies with internationally agreed frameworks, standards and requirements are considered only when compelling evidence indicates that the consistent implementation of relevant internationally agreed frameworks, standards and requirements will have material unintended consequences for banks, other financial institutions or markets in South Africa that outweigh the potential benefits associated with compliance with such internationally agreed frameworks, standards and requirements Based on the data analysis conducted by the PA, banks would be able to meet the 25% threshold if interbank placements are more evenly distributed between all banks, including branches of foreign banks operating in South Africa. Therefore, the PA has decided not to deviate from the internationally agreed LEX framework. **FSR's response** We noted that the data analysis impact study was performed on a 25% threshold, not the proposed 15% threshold set for GSIBs and DSIBs. We recommend an updated data impact analysis should a lower threshold be considered.	

No	Commenter	Comment/Issue (as provided by the commenter)	PA Response
6	**FSR**	Threshold of 15% of tier 1 for DSIB. A more restrictive limit for DSIBs will have unintended consequences in SA system on liquidity and flows. FirstRand supports the limit threshold for exposures to GSIBs and DSIB per the proposed directive, provided that the following are in place: - effective resolution regime covering designated institutions, with an open resolution, in South Africa. - Inter-bank CCP for Non-Government Collateral management. The project starts in October 2020, with a deadline at the end of March 2021. If the above have not been completed and effected, it is proposed that a transitional approach to be considered and agreed to provide for the smooth functioning of the “end of day” square off process within the inter-bank market.	

Comments on the proposed Directive dated 16 March 2021.

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
General comments				
1	BASA		The proposed directive currently under consideration is seen to replace the proposed directive circulated for comment in August 2020. Please confirm.	*Yes. After taking into consideration the comments received on the proposed Directive dated 31 July 2020, the updated proposed Directive dated 16 March 2021 was issued.*
2	BASA		Although the regulations were due to "go live" on 1 April we have still not received feedback on the comments/proposals submitted in the 2nd round of consultation in Q3 2020.	*The PA acknowledges that banks have not received feedback in terms of comments/proposals submitted on draft 2 of the proposed LEX Regulations. The PA has taken all comments/proposals into consideration and will provide formal responses to the comments not included in this document in due course.*
Implementation date				
3	BASA		The proposed directive stipulated 1 July 2021 as the planned effective date. Significant differences exist between this directive and the previous directive and the PA feedback provided on interpretative issues for example: 1. Intragroup exposures and foreign subsidiaries are subject to the 25% limit (par 3.3 and par 4.5) vs guidance that any potential limit is still to be consulted on (item 22 of PA Responses published July 2020). 2. Lack of clarity on whether existing condonations will be valid post the effective date. The clarification of the response to any excesses will be dealt with at the discretion of the PA (proposed Reg 24(7)(b)) vs 1250% deduction for foreign subsidiaries in excess (par 4.5). Recommend that a QIS be done for the intragroup exposures and 1250% treatment for foreign subsidiaries. This will quantify the expected impact and whether the proposed quantification measure and resultant outputs are proportionate and appropriate to the actual level of risk being managed. Recommend that the QIS study also consider and evaluate that alternative LEX framework options/approaches including those from other G20 countries to identify which approach is the most appropriate for our markets. It is further recommended that to minimise market disruption the effective date be pushed out to 2022: 1. To allow sufficient time to conduct an impact assessment of the new	*The PA conducted an impact assessment based on the quarterly data submitted on the forms BA210 and the BA600, to determine the possible impact on the proposed application of the LEX requirements on foreign subsidiaries and intragroup exposures. Having taken into consideration the possible impact, the proposed Directive dated 16 March 2021 was issued.* *Based on the comments received on the proposed Directive dated 16 March 2021, the PA is again engaging and formally consulting the industry before the implementation of the proposed LEX Regulations.* *As per Guidance Note 4 of 2021 dated 8 July 2021, the new proposed implementation date of the proposed LEX Regulations is 1 January 2022.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
			requirements. 2. To provide more time to respond to the changes proposed in this directive which are significantly different from the previous proposed directive. 3. To provide sufficient consultation time before the final regulations are to be published. 4. To provide clarification on existing condonations post effective date. 5. To provide sufficient time to allow banks to assimilate and respond to any differences between the proposed and final framework. That, if still required post QIS study, the intragroup exposures and the treatment of foreign subsidiaries implementation be phased, in an appropriate timeframe relative to impact. This would allow for the timely remediation of existing positions and avoid a supply-side capital shock	
4	SBG		The proposed directive stipulates 1 July 2021 as the proposed revised implementation date. We recommend that the effective date be postponed to 2022 in order to allow sufficient time for appropriate impact assessments and engagement with the industry on the newly proposed requirements for intragroup exposures and foreign subsidiaries. We believe that the outcome of these should inform the final adoption approach and date.	
5	Investec		Significant changes were introduced between the previous consultation and the new directive, especially regarding intragroup exposures limits and treatment of exposures in foreign subsidiaries. We recommend further industry consultation and impact assessments to be done before implemented in SA. A further phased-in implementation date related to new items, especially where SA is super-equivalent to Basel III, should be considered (potentially at least 1 year may be required for effective implementation to avoid market disruption)	
6	Capitec		Whilst the staggered approach in terms of the timing of implementation as outlined under section 5 of the directive and in Annexure A to the directive, is appreciated and reduces the impact on Capitec from a counterparty and systems perspective, we believe consideration should be given to extend the implementation date to 2022 in order for all remaining queries to be satisfactorily concluded and communicated. This will provide Capitec sufficient time to finalise all system and reporting amendments arising from the conclusion of these queries.	

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
Intragroup				
7	BASA	Item 22, Expected statement of impact.	The Expected Statement published in December 2019 based on September 2018 data (large exposures' questionnaire submitted Q1 2019), did not include the impact of Intragroup exposures being limited to 25% of qualifying tier 1 capital and reserves. Recommend that an Expected Statement of Impact be done including if the connected entity exemption is removed.	*The PA conducted an impact assessment based on the quarterly data submitted on the forms BA210 and BA600, to determine the possible impact on the proposed application of the LEX requirements on foreign subsidiaries and intragroup exposures. Having taken into consideration the possible impact, the proposed Directive dated 16 March 2021 was issued. The updated Statement of expected impact will be issued together with the proposed LEX Regulations.*
8	BASA		The proposed directive stipulated 1 July 2021 as the planned effective date. Significant differences exist between this directive and the previous directive and the PA feedback provided on interpretative issues for example: 1. Intragroup exposures and foreign subsidiaries are subject to the 25% limit (par 3.3 and par 4.5) vs guidance that any potential limit is still to be consulted on (item 22 of PA Responses published July 2020). 2. Lack of clarity on whether existing condonations will be valid post the effective date. The clarification of the response to any excesses will be dealt with at the discretion of the PA (proposed Reg 24(7)(b)) vs 1250% deduction for foreign subsidiaries in excess (par 4.5).	*1. As indicated in paragraph 5.3 of the proposed Directive dated 16 March 2021, regulation 24(6)(c)(vii) of the proposed LEX Regulations specifies that a bank shall manage its intragroup exposures in such a manner that the aggregate amount of its exposure to entities within the group complies with such conditions or limits as may be specified in writing by the Authority from time to time, in addition to any conditions or limits that may be specified in these Regulations or by the board of directors of the relevant bank or controlling company.* *Therefore, unless otherwise specified by the PA, all intragroup exposures should adhere to the conditions or limits imposed by the proposed LEX Regulations. Consequently, the proposed Directive provides specific conditions or limits imposed on intragroup exposures.* *2. The Basel LEX framework was issued in 2014 with an international implementation date of 1 January 2019. Draft 1 of the proposed LEX Regulations was issued in South Africa on 5 December 2019 and the proposed implementation date has been postponed to 1 January 2022. Also, based on the Basel LEX*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
				framework and the proposed Regulations, a limit of 25% is explicitly included. Therefore, banks had ample time to ensure compliance with the limit. *Regulation 23(6)(g) of the proposed LEX regulations allows a bank to report its failure or inability to comply with the specified limit in writing to the Authority, stating the reasons for such failure or inability to comply.* *Paragraph 4.5 of the Proposed Directive dated 16 March 2021 applies only to single large exposures of foreign subsidiaries where the PA is also responsible for the supervision of the controlling company. Specifically, the portion in excess of 25% would attract a risk weight of 1250% that should be held at controlling company level.* *However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital. However, for the PA to monitor and supervise concentration risk within a foreign subsidiary, the said subsidiary will be required to report concentration risk exposures on the form BA610 based on the foreign subsidiary's own qualifying Tier 1 capital. Consequently, based on the updated proposed Directive date 23 July 2021, a foreign subsidiary would not be allowed to exceed the prescribed limit based on the controlling company's qualifying Tier 1 capital.* *Regulation 24(7)(b) of the proposed LEX Regulations relates specifically to the sum of all large exposures and where the aggregate exposure amount is in excess of 800% of qualifying*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
				tier 1 capital, the PA can impose additional capital requirements on aggregated concentration risk.
9	BASA	Proposed Directive Section 3.	Whilst our understanding is that intra-group exposures will be excluded in the scope of the proposed LEX framework, the proposed regulation mentions that there is an exclusion of intra-group limits from the LEX framework on the condition that zero risk weight condition is applied, but there are further provisions which may result in certain intragroup exposures not being exempt from the LEX framework. The proposed regulation may be very vague in the application and potentially introduce a large degree of interpretation as it is not clear what is the criteria for the exception (intragroup to be included).	*As per paragraph 6.5 of the proposed Directive dated 23 July 2021, a bank reporting on a solo basis and/or a controlling company reporting on a consolidated, for intragroup exposures risk weighted at 0 per cent in terms of regulation 23(6)(j) of the Regulations, will be exempted from the large exposure limit. Furthermore, until 31 December 2024, for intragroup exposures of the bank or controlling company that are not risk weighted at 0 per cent, the bank/controlling company would not be required to determine the connectedness of the intragroup entities. Furthermore, the aggregate exposure limit to each intragroup entity should be determined in accordance with regulation 24(6) of the proposed Regulations.* *Where the PA is of the view that stricter requirements than what it is proposed in the proposed Directive should not be applied to a specific bank and its intragroup exposures, the PA will communicate that bilaterally to the bank in question.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
10	BASA	Proposed Directive Section 3	Is the intention for the intragroup exposures larger than 25% to be subject to the 1250% penalty treatment? Request clarification.	*Paragraph 4.5 of the Proposed Directive dated 16 March 2021 applies to large exposures of foreign subsidiaries where the PA is also responsible for the supervision of the controlling company, Furthermore, paragraph 4.5 of the proposed Directive dated 16 March 2021 only applies to single large exposures of foreign subsidiaries where the portion in excess of 25% would attract a risk weight of 1250% which should be held at controlling company level. Therefore, for entities other than foreign subsidiaries (where the PA is also responsible for the supervision of the controlling company), the prescribed limit may not be exceeded.* *However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital. However, in order for the PA to monitor and supervise concentration risk within a foreign subsidiary, the said subsidiary will be required to report concentration risk exposures on the form BA610 based on the foreign subsidiary's own qualifying Tier 1 capital. Consequently, based on the updated proposed Directive dated 23 July 2021, a foreign subsidiary would not be allowed to exceed the prescribed limit based on the controlling company's qualifying Tier 1 capital.* *Regulation 23(6)(g) of the proposed LEX Regulations allows a bank to report its failure or inability to comply with the specified limit in writing to the Authority, stating the reasons for such failure or inability to comply.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
11	BASA	Proposed Directive & Reg 24 & Proposed Financial Conglomerate standards	It is not clear how the intragroup limits will interact with other subsidiary exposures that are currently outside of the application of the BA 210 e.g., insurance or collective investment schemes that are regulated separately, when the Financial Conglomerates standards are introduced on 1 January 2022. Request clarification.	*The Financial Conglomerate Standards apply in addition to the financial sector laws applicable to specific financial institutions within the financial conglomerate. The requirements in the Standards do not derogate from any existing requirements contained in other financial sector laws applicable to a financial institution within the financial conglomerate and must therefore be read with such other financial sector laws which impose specific requirements.*
12	BASA	Proposed Directive Par 3.4 & item 22 of previous consultation feedback.	The scope of application is different from what has previously been clarified i.e., limits in the proposed directive apply with exception to items zero risk weighted vs do not apply and in future limits will be developed and imposed, which was seen to be in line with BCBS283.Current - " Therefore, as specified in the proposed Regulations, the Authority proposed the insertion of an enabling provision to specify conditions where certain intragroup exposures would not be subject to all of the large exposure requirements."Previous – " Although the proposed Regulations currently do not set a limit…. Regulation 24(6)(c)(vii) provides the enabler for the PA to impose a limit on intragroup exposure. Before the PA imposes a limit on intragroup exposures, the PA will formally consult with the banking industry." The implementation requirements therefore significantly different from what has previously been communicated.Where there are instances that the intragroup exposures exceed the 25% limit, it will take time to restructure in terms of legal agreements, etc. It is recommended that:1) a phased-in approach over 5 years, like the phase-out of the recognition of preference shares that would have introduced a capital supply-side shock. 2) That the phase-in only starts from the next year 2022, giving banks some time to start remediation.	*As indicated in paragraph 5.3 of the proposed Directive dated 16 March 2021, regulation 24(6)(c)(vii) of the proposed LEX Regulations specifies that a bank shall manage its intragroup exposures in such a manner that the aggregate amount of its exposure to entities within the group complies with such conditions or limits as may be specified in writing by the Authority from time to time, **in addition to** any conditions or limits that may be specified in these Regulations or by the board of directors of the relevant bank or controlling company.* *Therefore, unless otherwise specified by the PA, all intragroup exposures should adhere to the conditions or limits imposed by the proposed LEX Regulations. Consequently, the proposed Directive dated 16 March 2021 provides specific conditions or limits imposed on intragroup exposures. These conditions have not changed in the updated proposed Directive dated 23 July 2021.* *As per Guidance Note 4 of 2021 dated 8 July 2021, the new proposed implementation date of the proposed LEX Regulations is 1 January 2022.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
13	BASA	Proposed Directive Section 3 and Proposed Regulations.	The current intragroup exposures are measured in relation to the South African balance/capital at the various levels of consolidation. Not from the foreign subsidiary balance sheet/capital base as is required in the LEX framework. Confirm that intragroup exposure will continue to be monitored relative to the South African entities and not from the perspective of a foreign subsidiary?	*As per the paragraph 5.5.2 of the proposed Directive dated 16 March 2021, the aggregate exposure limit to each intragroup entity that is not risk weighted at 0%, should be determined in accordance with regulation 24(6) of the proposed Regulations.* *The proposal in this regard did not change in the proposed Directive dated 31 July 2021. However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.*
14	Grobank/ Access Bank	5.5.3	Item 5.5.3 "Where the bank or controlling company is of the opinion that the large exposure limit specified or imposed would not be appropriate for a certain intragroup entity, the bank or controlling company shall demonstrate to the satisfaction of the Authority that due to the existence of specific circumstances, a different large exposure limit or treatment should be considered." Should a bank wish to apply for this exemption, must approval be received from the PA prior to the bank engaging in that exposure? A proposal to also include other related bank entities within a global banking organisation.	*Until 31 December 2024, for intragroup exposures other than intragroup exposures risk weighted at 0% in terms of regulation 23(6)(j) of the Regulations, the bank or controlling company would not be required to determine the connectedness of the intragroup entities. Therefore the 25% limit will be imposed on each intragroup entity on a standalone basis.* *As indicated in the proposed Directive dated 16 March 2021, the bank or controlling company shall demonstrate to the satisfaction of the PA that due to the existence of specific circumstances, a different large exposure limit or treatment should be considered. The proposal in this regard did not change in the proposed Directive dated 23 July 2021.* *Therefore, unless otherwise specified in writing by the PA, the limit in the proposed LEX Regulations will need to be applied.*
15	ABL		The LEX Framework excludes Intragroup Exposures. Are banks required to obtain approval from the SARB if the Single Related Party Exposure exceeds the prescribed Limit of Tier 1 Capital and not grouped as a connected counterparty?	

<table>
<tr><th>No</th><th>Commenter</th><th>Ref in proposed Directive</th><th>Comment/Issue (as provided by the commenter)</th><th>PA Response</th></tr>
<tr><td>16</td><td>BASA</td><td></td><td>I. The connectedness tests for intergroup exposures are not clear post the proposed phased in timeline.
II. Are zero percent risk-weighted exposures only for similar regulated financial entities meeting specific criteria?
III. For entities excluded, will bank entities be allowed to exclude all financial entities regulated under the scope of the Prudential Authority in SA?
Is the test to exclude entities captured under the scope of the PA only at the group consolidation level?

I. Request clarification and detail
II. Will the PA provide a list of similar regulated entities in SA that will meet this requirement for exclusion as detailed in LEX30.32 to LEX30.62, for Sovereign exposures and entities connected with sovereigns, Interbank exposures related to payment and settlement processes, Covered bonds, exposures to CCPs, Collective investment undertakings, securitisation vehicles, and other structures.
III. Request clarification.</td><td rowspan="2">I. As specified in the proposed Directive dated 16 March 2021, until 31 December 2024, for intragroup exposures other than intragroup exposures risk weighted at 0 per cent in terms of regulation 23(6)(j) of the Regulations, the bank or controlling company would not be required to determine the connectedness of the intragroup entities. Thereafter, that is, from 1 January 2025 onwards, for large exposure purposes, banks will be required to determine the connectedness between non-zero risk weighted intragroup exposures. The proposal in this regard did not change in the proposed Directive dated 23 July 2021.

II. Regulation 23(6)(j) of the Regulations explicitly indicates the minimum requirements that should be met for an intragroup exposure to be risk weighted at 0%.

III. If the requirements as specified in regulation 23(6)(j) of the Regulations are not met, the intragroup exposure would be subject to the 25% limit, where until 31 December 2024, the limit will be imposed on each intragroup entity on a standalone basis (i.e., the bank is not required to take into consideration the connectedness between intragroup entities).

The PA will not provide a list of similar regulated entities.</td></tr>
<tr><td>17</td><td>Investec</td><td></td><td>The connectedness tests for intergroup exposures are not clear. Zero percent risk-weighted exposures are only for similar regulated financial entities meeting a specific criterion. Can the PA provide a list of similar regulated entities in SA that will meet this requirement for exclusion, for example can we exclude all financial entities regulated under the scope of the Prudential Authority in SA i.e., JSE or solvency requirements or is the test to exclude entities captured under the scope of the PA via group consolidation?</td></tr>
</table>

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
18	FirstRand		FSR is comfortable with the directive issued March 2021 pertaining to the treatment of intragroup exposures however further clarification on the envisaged treatment post the 31 December 2024 date in terms of, inter alia, the 25% limit and the application of connectedness. FSR recommends that the intention of the PA on intragroup exposures is made clearer in the directive on, inter alia, (a) whether intragroup exposures are generally excluded from the large exposure regulations (as previously advised) and only specific intragroup exposures will be included if specific criteria are met and (b) the treatment of connectedness and the 25% limit threshold post the 31 December 2024 date pertaining to included intragroup exposures. In addition, we recommend a phased in approach over the next three years for the 25% limit where intragroup exposures are included in the large exposure regulations.	
19	Investec		An alternative approach to manage intergroup risks, other than the LEX framework, may include standards for financial conglomerates. This will eliminate any duplication in the supervisory framework of financial entities in the SA bank industry.	*The Financial Conglomerate Standards apply only to entities that are designated as financial conglomerates. Therefore, to ensure that intragroup exposures are managed and monitored at a bank and banking Group level, the PA proposes to impose limits and conditions on intragroup exposures as indicated in the proposed Directive date 16 March 2021. The proposal in this regard did not change in the proposed Directive dated 23 July 2021*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
Interbank				
20	BASA		Clarification is required in the average balances' application of para 2.5 i.e., average daily balance for the month when applied in respect of derivative exposures after set-off of risk mitigations where netting agreements are in place. We are concerned that the guidance provided under regulation 8 may not be sufficient to provide clarity on the application of derivative exposures which make a large part of exposure under interbank exposures. Furthermore, bank derivative exposures do not follow regulation 23(4) requirements. It is unclear if the limit at month-end is measured as the daily exposure on any day during the month or the average of all the daily balances during the month?	*As part of the reporting requirement on the form BA325, banks are required to report to the PA its total counterparty credit exposure (CCR) on a daily basis. The value reported on the form BA325 could therefore be used to determine the average CCR exposure during a particular month.* *Furthermore, as proposed in the Proposed Directive dated 16 March 2021, on any given day, the exposure may not exceed the maximum limit and the average of all the daily balances during the month may not exceed the average limit as proposed in the proposed Directive. The proposal in this regard did not change in the proposed Directive dated 23 July 2021*
21	Investec		Clarification regarding the use of average balances is required i.e., bank derivative exposures does not follow regulation 23(4) requirements, also it is unclear if the limit at month end is measured as the daily exposure on any day during the month or the average of all the daily balances during the month?	
22	FirstRand		FSR also requires additional clarity on the application of the average daily balance for the month for derivative and repo style transactions in relation to the disclosure requirement of exposures after set-off of risk mitigations?	
23	Investec		It is unclear if exposures to a foreign subsidiary of a banking group classified as a D-SIB or G-SIB, should also be classified as a D-SIB/G-SIB (based on either the home or host regulator's classification) when measuring any exposure limits.	*As specified in paragraph 3 of the proposed Directive dated 23 July 2021, where a bank within a banking group is designated as a D-SIB or a G-SIB, for large exposure purposes and when determining the limit applicable to other banking entities within the banking group, the D-SIB/G-SIB*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
24	FirstRand		[The comment below was changed to only reflect non-confidential information of the comment received] - Do the new regulations and transition periods for G-SIB's/D-SIB's also apply to subsidiaries i.e. there may be unintended consequences in a small economic environment with very few liquidity placement options. - FSR seeks further clarity on, if FSR in the South African context is classified as a D-SIB, will a subsidiary of FSR operating in outside of South Africa take on the same classification, or would the subsidiary's classification be determined by the local bank regulator? - FSR seeks further clarity on, if a foreign subsidiary has an exposure to a subsidiary of another designated D-SIFI, does the foreign subsidiary need to comply with the D-SIB's threshold? - FSR seeks further clarity on, if a foreign subsidiary has an exposure to a subsidiary of another designated D-SIFI and the designated D-SIFI in South Africa does the aggregated exposure need to comply with the D-SIB's threshold? - FSR seeks further clarity on, if a foreign subsidiary has exposures to more than one subsidiary of another designated D-SIFI, does the aggregated exposure need to comply with the D-SIB's threshold?	*designation would be applicable to the controlling company of the D-SIB/G-SIB as well as all other subsidiaries of the bank and controlling company.* *Therefore, the D-SIB/G-SIB limit would apply to all subsidiaries of the bank holding company and not only to the designated D-SIB/G-SIB.*
25	Grobank/ Access Bank/	2.3	Item 2.3. "Paragraphs 65 and 66 of the revised LEX framework specify that only intraday interbank exposures are not subject to the large exposures framework but that in stressed circumstances, supervisors may have to accept a breach of an interbank limit ex post, in order to ensure stability in the interbank market." We seek clarity on whether the condition on "stressed circumstances" will be applicable to the banking industry in general as determined by the PA or it can relate to a specific bank? Is it possible that the PA can provide examples that can be regarded as "stressed circumstances"?	*As specified in the proposed Directive dated 16 March 2021 and with specific reference to paragraph 66 of the Basel LEX framework, to ensure stability in the interbank market, the PA may need to accept a breach ex-post, that is after the breach occurred. Stress circumstances will need to be assessed at the specific point in time and whether the stress circumstances of a specific bank and/or the banking industry in general would result in instability in the interbank market. The proposal in this regard did not change in the proposed Directive dated 23 July 2021.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
26	Grobank/ Access Bank	2.5	"Item 2.5. ""Previously, no limit was imposed on interbank exposures and in order to provide banks with sufficient time to implement the respective specified large exposure limits on a continuous daily basis, banks would be allowed, for a specified time period, to meet the respective specified limits for exposures, on an average daily balance for the month, where the average daily balance shall be calculated in accordance with the requirements specified in regulation 8 of the Regulations."" It is noted that "banks other than a D-SIB" would not be allowed to apply a monthly average of 25% in exposures to "banks other than a D-SIB" from the onset. Kindly please confirm and if so, will the PA consider an average balance calculation for a limited time?	*Based on the data of the LEX questionnaire submitted to the PA in 2019, together with the quarterly data submitted on the forms BA210, non-DSIBs would not have difficulty meeting the 25% interbank limit to another non-DSIB. Also, no comments were received from the banking industry on the proposed LEX Regulations, or the proposed Directives dated 31 July 2020 and 16 March 2021, which confirms that the 25% limit between non-DSIBs will be attainable. The proposal in this regard did not change in the proposed Directive dated 23 July 2021.*
27	Grobank/ Access Bank	5.3	"Item 5.3. ""For the purpose of regulation 24(6)(c)(iv)(B)(i) of the proposed Regulations, a bank other than a D-SIB or a G-SIB shall manage its business in such a manner that the aggregate amount of its concentrated credit exposure, calculated in accordance with the relevant requirements specified in subregulation (6) to an institution identified as and included in the list of G-SIBs (which includes any branch of a G-SIB), published by the Financial Stability Board (FSB) from time to time, complies with the requirements specified below: For the period from 1 July 2021 to 31 December 2024 the aggregate exposure does not at any time on an average daily balance basis for the month (calculated in accordance with the requirements specified in regulation 8 of the Regulations) exceed 25 per cent of the sum of the bank or controlling company's tier 1 capital, as reported in item 77 of the form BA 700, as at the end of the reporting date immediately preceding the reporting date to which the current form BA 210 relates" Please confirm that exposures to other entities within a GSIB in different jurisdictions would also be considered as part of a single exposure and thus be subject to a single limit?	*In terms of the provisions of regulation 24(6)(b) of the proposed LEX Regulations, banks are required to determine whether a control relationship or situation of economic interdependence or connectedness, respectively envisaged in regulations 24(6)(b)(i)(A) and 24(6)(b)(i)(B), exists, which group of connected counterparties must for purposes of regulation 24(6) be regarded as a single counterparty.*

No	Commenter	Ref in proposed Directive	Comment/Issue (as provided by the commenter)	PA Response
28	ABL		The Proposed Directive indicates limits to be imposed on Interbank exposures. Should the Interbank Exposure exceed 25% of Tier 1 capital, does the Bank have to obtain approval from the Reserve Bank for each counterparty even if the Excess above the Limit is risk weighted at 1250%? o The Proposed Directive only addresses Intra-day Interbank for Payments and Settlements process being exempted from the LEX Framework. Are the Daily Call Placements with Interbank exempted from LEX Framework? o Investments in Funds which were previously reported under the "Corporate" asset class within the Credit Risk returns have now moved to the Equity Risk return under Equity Investment in Funds. Does the LEX Framework apply to these exposures as they are now reported on the BA340 and no longer classified as Credit Risk Exposure and reported in the BA200 / BA210? o Should the answer to the above question be that the LEX Framework applies to the Equity Investments in Funds reported on the BA340, which of the following two approaches is to be used to determine concentration risk: - the exposure with the asset manager, or - the look-through approach	*As specified in the proposed LEX Regulations, a limit of 25% will be imposed on all exposures, unless exempt in terms of regulation 23(8) of the proposed LEX Regulations, where for interbank exposures only intraday exposures are exempt from the 25% limit. Therefore, daily interbank call placements are subject to the 25% limit.* *Based on the proposed Directive dated 16 March 2021, until 31 December 2024, interbank exposures of a non-DSIB to a D-SIB should meet the 25% limit on a monthly average. Therefore, the 25% limit may be exceeded on a specific day provided that on average over the month the exposure should be below 25%. The proposal in this regard did not change in the proposed Directive dated 23 July 2021.* *Regulation 24(6)(c)(i) of the proposed LEX Regulations specifies the types of exposures that should be taken into consideration when determining the exposure amount for large exposure calculation purposes. Specifically, regulation 24(6)(c)(iii) of the proposed LEX Regulations provides the requirements relating to exposures incurred via structures with underlying assets, which will include equity investment in funds.*
29	ABL		This paragraph indicates that a limit of 20% is to be applied on the average daily balance calculated as per regulation 8. However, the paragraph also indicates that the maximum daily exposure shall at no stage exceed 25%. Should the 25% limit be applied consistently throughout the month, there may be instances where the 20% limit may be breached. Is it intended that the banks will manage the risk associated with both the limits being applied or will further communication be received regarding the streamlining of the limits.	*Based on the proposed Directive dated 16 March 2021, until 31 December 2024, interbank exposures of a D-SIB to another D-SIB/G-SIB should meet a specified monthly average limit of 20% and may not exceed a specified limit (25%) on any given day. Therefore, the monthly average limit may be exceeded on a specific day provided that on average over the month, the exposure is below the monthly average limit of 20%.*

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30	Investec		The new rules may create an unintended consequence on the interbank cash market, especially overnight bank placements, as there may be a flight of cash to short term sovereign assets rather than interbank liquidity. Volatility in fx rates and yields during the COVID crisis may further impact any FV HQLA reserves in the income statement that will further constrain a bank's available capital.	*As specified in the proposed Directive dated 16 March 2021, in order to provide banks with sufficient time to implement the large exposure limits on a continuous daily basis, banks would be allowed, for a specified time period, to meet the respective specified limits, on an average daily balance for the month. One of the reasons the PA proposed this option was to, where possible, limit any unintended consequences on the interbank market.* *However, the interbank market in South Africa poses a significant credit concentration risk due to the natural concentration within the interbank market. Therefore, in order to promote the safety and soundness of individual banks and to assist in limiting the systemic impact the failure of one banking institution could have on the South African banking sector, it is important to limit the exposures between banking institutions.* *The PA's view in this regard did not change in the proposed Directive dated 23 July 2021.*
31	BASA		The last column of the tables is not the same as the bottom row with corresponding intersections. Recommend amending the bottom rows of the tables to match the column to remove ambiguity.	*The PA is of the view that the tables included in Annexure 1 of the proposed Directive dated 16 March 2021 correctly reflect the proposed interbank limits. Consequently, no changes were made in this regard on Annexure 1 of the proposed Directive dated 23 July 2021*
32	BASA		In some cells, there is a % listed, while in others the language is more detailed e.g., "Monthly average of 20% Maximum of 25% during the month". Recommend including the average and maximum for all exposure limits listed for clarity.	*Annexure 1 of the proposed Directive dated 23 July 2021 was updated to ensure clarity and certainty.*

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33	BASA		We have not identified a definition of intraday interbank referred to in the proposed regulations or directives. Recommend including a definition of intraday interbank.	*The PA is of the view that the definition of intraday interbank is clear and therefore no definition would be required in the proposed LEX Regulation.*
Foreign Subsidiaries				
34	BASA		We understand the 1250% applies to Corporates' only as: Banks' supervision has resulted in lower potential contagion risk and risks to financial stability e.g., 15% to G-SIBs, the introduction of resolution regimes, capital requirements, etc., while these safeguards are not in place for corporates who are not as strictly supervised. Confirm that our understanding is correct.	*Paragraph 4.5 of the Proposed Directive dated 16 March 2021 applied to any (bank and corporate) exposures of foreign subsidiaries where the PA is also responsible for the supervision of the controlling company. Specifically, the portion of the exposure in excess of 25% would attract a risk weight of 1250% which should be held at controlling company level.* *However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital. Consequently, based on the updated proposed Directive dated 23 July, a foreign subsidiary would not be allowed to exceed the prescribed limit for any entity (whether a bank or a corporate entity), where the limit would be determined based on the qualifying Tier 1 capital of the controlling company.*

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35	BASA		I. It is not clear as to whether currently condoned excesses will be subject to the 1250% application from the proposed 1 July 2021 effective date. - Request clarification II. If it is, then we request that a phase-in approach be followed to accommodate unplanned supply-side shocks which would currently be exacerbated by the market conditions resulting from the COVID-19 pandemic. - Recommend a phase-in approach like that proposed in Annexure A for existing condonations if the 1250% is expected to apply from 1 July 2021 on existing condoned excesses for corporates and public sector entities. Should the host supervisor specify limits higher than 25 percent for concentration risk, the foreign subsidiary will be allowed to exceed the imposed large exposure limit of 25 percent specified by the SARB Prudential Authority, provided that the exposure over the limit shall be risk weighted at 1250 percent and held by the relevant controlling company. Recommend a phased-in approach over 5 years, like the phase-out of the recognition of preference shares that would have introduced a capital supply-side shock.	*The Basel LEX framework was issued in 2014 with an international implementation date of 1 January 2019. Draft 1 of the proposed LEX Regulations was issued in South Africa on 5 December 2019 and the proposed implementation date has been postponed to 1 January 2022.* *However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *Consequently, once the proposed LEX regulations become effective the 25% limit should be met.* *However, Regulation 23(6)(g) of the proposed LEX regulations allows a bank to report its failure or inability to comply with the specified limit in writing to the Authority, stating the reasons for such failure or inability to comply.*

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36	BASA		To more closely align between foreign subsidiary and local regulations and still adhering to the Basel text it is proposed that the “the foreign subsidiary’s own qualifying Tier 1 capital” refers to the host jurisdictions' eligible capital as listed in the BA 610. Recommend that the reference to the subsidiary’s own qualifying Tier 1 capital be the “in-country” / host jurisdictions per the BA 610 (locally recognised capital of the entity in the local currency).	*Foreign subsidiaries are required to apply and meet the PA’s minimum capital adequacy requirements based on the Regulations. The proposed large exposure requirements complement the minimum capital adequacy requirements and therefore should also be based on the same capital base, that is the qualifying capital amount as determined in accordance with the Regulations.* *However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company’s qualifying Tier 1 capital.*
37	BASA		Where an excess is a result of FX volatility which can cause transactions that are originated within the cap to be outside the caps during periods of excessive volatility, despite the buffers and headroom that are set to allow for margin for currency movement. This is generally temporary in nature. Recommend that if the excess is because of significant FX volatility and temporary in nature to not apply the 1250% treatment to this excess. This will help mitigate the impact of FX volatility on supply-side capital and the further potential knock-on implications thereof.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company’s qualifying Tier 1 capital.* *Consequently, once the proposed LEX Regulations become effective, irrespective of currency fluctuations, the limit may not be exceeded. Therefore, banks will need to ensure that adequate buffers are in place to ensure that during periods of excessive volatility, the limit would not be breached.*
38	BASA		Application of the 1250% in the BA return submissions. Recommend that where the 1250% treatment is applied to a foreign subsidiary excess, that the application be applied at the relevant subsidiaries level in the BA 600 before aggregation to the consolidated group level submission. The impact will then be identifiable to source as well as held at the group level.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company’s qualifying Tier 1 capital.* *However, in order for the PA to monitor and supervise concentration risk within a foreign subsidiary where the PA is also responsible for the supervision of the controlling company, the report*

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				of concentration risk exposures on the form BA610 should be based on the foreign subsidiary's own qualifying Tier 1 capital.
39	BASA		Impact on foreign liquidity placements: In certain markets there are a limited number of entities with whom liquidity can be placed and, in some jurisdictions, regulators treat bank placements as HQLA. In order to diversify where the PA requirements extend beyond the local requirements, liquidity would have to be placed with other entities which may represent higher levels of risk beyond the entity's risk appetite and may not qualify as HQLA for local regulatory purposes. Recommend that application to foreign subsidiaries only be applied to exposures to non-Financial Institutions.	*However, Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *Furthermore, the limit would be imposed on all types of institutions, that is, both financial and non-financial institutions.*
40	BASA		If supply-side capital were to decline resulting in and excess, it would be very punitive to be forced to sell down remunerative and good quality assets based on capital reduction. It would also create a distraction from resolving the issue that had resulted in the situation in the first place. Recommend that if an excess is a result of capital supply declining, the 1250% treatment to this excess does not apply and that the PA examine other remedial actions in this situation.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *Consequently, once the proposed LEX Regulations become effective, the limit may not be exceeded. Therefore, to ensure that the limit would not be breached due to the supply-side capital declines, the exposures amount to counterparties would need to be monitored and managed accordingly.*

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41	FirstRand		As per par 4.5, the limit imposed on a foreign subsidiary shall be based on the foreign subsidiary's own qualifying Tier 1 capital. Should the host supervisor specify limits higher than 25 per cent, the foreign subsidiary will be allowed to exceed the imposed large exposure limit of 25 per cent, provided the exposure in excess of the limit shall be risk weighted at 1250 per cent and be held by the controlling company. FSR recommends a phased-in approach of three to five years for the implementation of the risk weight of 1250 percent to be held by the controlling company.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.*

42	SBG		[The comment below only reflects the non-confidential information of the comment received] There are a limited number of entities with whom liquidity can be placed in certain markets and in some jurisdictions, regulators treat bank placements as HQLA or prudential assets. Many of our subsidiaries do not have sufficient alternatives in terms of banking relationships in order to achieve sufficient diversification on a solo basis. This is partly due to global compliance concerns which result in markets such as Angola, DRC, Tanzania, Zambia, and Zimbabwe not having a diversity of providers for foreign currency placements. The group has no concerns on applying Large Exposure (LEX) limits on a group basis and has actively done so in anticipation of LEX regulations. It is our preference to bank with reputable, highly rated G-SIB entities and to diversify our exposure amongst these banks at a group level where possible.. In order to diversify sufficiently to accommodate the PA requirements where these requirements extend beyond local requirements, liquidity would have to be placed with other entities which may represent higher levels of risk beyond that of the entity's own risk appetite. In addition, these placements may then not qualify as HQLA for local regulatory purposes. In terms of local currency domestic interbank exposures, the group is cognisant of tier 2 bank failures in some of the jurisdictions that we operate in. In order to mitigate our foreign subsidiaries' risk, our preference is that they place liquidity with domestic tier 1 banks, even at the expense of increased concentration to these reputable entities. The ability to transition to secured interbank activity in many of these markets is limited. Whilst Standard Bank is actively pushing for greater repo and secured money markets infrastructure, in many cases the market and legal environment needs further development including new legislation. In addition, many of the peer banks in these markets lack the infrastructure that Standard Bank has in this regard. A number of G20 countries that have adopted the BCBS LEX framework have been assessed to be fully compliant in their RCAPs including Australia, Brazil, Canada and Saudi Arabia despite only applying the rules on a consolidated basis. It is recommended that the PA engage with these jurisdictions to establish how the G20 regulators gained comfort in applying the LEX framework on a consolidated basis as this approach may be more suitable for our markets.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *However, in order for the PA to monitor and supervise concentration risk within a foreign subsidiary where the PA is also responsible for the supervision of the controlling company, the report of concentration risk exposures on the form BA610 should be based on the foreign subsidiary's own qualifying Tier 1 capital.* *Furthermore, based on the proposed Directive dated 23 July 2021, the limit would be imposed on all counterparties and the foreign subsidiary would not be allowed to exceed the prescribed limit at any time.*

			The new proposal for the application of the BCBS LEX framework to foreign subsidiaries on a standalone basis is of material concern to SBG. The structure of the financial markets in many of our presence countries limits our foreign subsidiaries' ability to safely diversify exposures (particularly bank exposures) within a specific jurisdiction. This has also been recognised in many host jurisdictions' regulatory requirements, where exposures to banks have been excluded from Single Obligor limits and other concentration limits. We The PA should consider alternative approaches to gain complete comfort with regards to African foreign subsidiary large exposures. These options would include: • Application of the BCBS LEX on a group consolidated basis only • Application of the LEX framework to foreign subsidiaries' exposures to non-banks only • Reduction of the percentage for risk weighting of any excess above 25%	

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43	Absa		[The comment below only reflects the non-confidential information of the comment received] Whilst the proposed directive acknowledges the existing local regulatory framework in respect of large exposures in foreign subsidiaries, it does serve to introduce punitive capital measures against excesses above the 25% limit. These measures seem to negate the fact that the large exposures are already subject to stringent controls by the local regulators, which includes prior written approvals and monitoring. Whilst the introduction of the large exposure framework and the supervision at both controlling and subsidiary entity level appears sensible, the practical application of the framework has an all-encompassing impact which potentially does not account for product specific risk and the systemic needs of a country where the support of the local banks is required. The issues for consideration include: • The proposed penalty and implementation timeline does not allow the banks the opportunity to undertake a quantitative impact study to accurately establish what this translates into from an additional risk weighted asset perspective. • . Although foreign exchange rate risk is hedged within tolerable market risk limits local currency, depreciation will always result in a relative increase in the carrying amount of foreign currency exposures as the in-country bank's Tier 1 capital is denominated in local currency. Therefore, the risk of limit breaches can only be partially mitigated at origination by setting a large enough buffer to cater for extreme currency volatility. • Trade related activity makes up a large part of the economies in Africa and banks play a meaningful role in the facilitation of trade. Noteworthy is that the majority of the facilities in Foreign Currency support trade in relation to the importation and export of basic commodities, maize, oil, and gas, etc. and are short-term in nature. •Subsidiaries of South African banks in Africa moreover compete with local and international banks on the continent and which are arguably not subject to similar regulations. It therefore follows that the Absa operations in presence countries will likely be severely curtailed and detract from their ability to play a meaningful role in local economies, as per the expectations of the in-country regulators.. Investigations on the remediation options have revealed the following: • A prevailing illiquidity in the market;	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *Furthermore, based on the proposed Directive dated 23 July 2021, the limit would be imposed on all counterparties and the foreign subsidiary would not be allowed to exceed the prescribed limit at any time.*

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			• Price pressure due to the negative re-rating of African credit is likely to have a negative impact on available capital; • Potential issues with obtaining client consent for the transfer of the loans; and • The use of guarantees and insurance products as an eligible mitigation for excess exposures are likely to be expensive;	
44	Investec		4. A 1250% risk weight for exposures >25% may not be in line with the Basel standard. We request further clarity regarding the need to be super-equivalent to the Basel standard.	*Paragraphs 5.4 and 5.5 of the Proposed Directive dated 23 July 2021 specify that the large exposure limit imposed on a foreign subsidiary, will be based, unless otherwise instructed by the PA, on the controlling company's qualifying Tier 1 capital.* *Furthermore, based on the proposed Directive dated 23 July 2021, the limit would be imposed on all counterparties and the foreign subsidiary would not be allowed to exceed the prescribed limit at any time.*
Other				
45	BASA		The proposed directive is silent on the capital base to be used for the calculation of LEX for Foreign Branches. The PA should confirm that the parent company's capital base can continue to be used for LEX calculation for foreign branches.	*No change was made in terms of which financial institution's capital base should be used in the case of a foreign institution that conducts the business of a bank through its branch. However, in the proposed LEX Regulations, the capital base was changed and should be based only on the qualifying Tier 1 Capital and no longer the total qualifying capital.* *Specifically, as specified in regulation 24(7) of the proposed LEX Regulations, for a foreign institution that conducts the business of a bank through a branch in the Republic, the limit should be based on the qualifying tier 1 capital and reserve funds of the said foreign institution that conducts the business of a bank through its branch in the Republic.* *Furthermore, as specified in the proposed Directive dated 16 March 2021, since a branch of a foreign*

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				institution is regarded as an extension of the foreign institution itself, if the foreign institution/parent entity is designated as (G-SIB), the limits imposed on the G-SIB in the proposed LEX Regulations and proposed Directive would also be applicable to the branch of the G-SIB. The application of the G-SIB designation on the branch of the D-SIB operating in South Africa did not change in the proposed Directive dated 23 July 2021.
46	BASA		We interpret PA LEX framework D-SIB reference to mean that it only applies to SARB designated D-SIBs where their home jurisdiction is South Africa. D-SIB designations by other jurisdictions are not applicable. Request confirmation	*As specified in regulation 24(6)(c)(iv) of the proposed LEX Regulations, for large exposure purposes, D-SIBs/D-SIFIs refer to entities designated by the Authority or the Reserve Bank, while for G-SIBs it refers to the list published by the Financial Stability Board.*
47	BASA		Footnote 1 references the original Basel text issued. This does not reference the additional FAQs issued and incorporation into the Basel framework. Recommend expanding Footnote 1 as follows: "available online at: https://www.bis.org/publ/bcbs283.htm. This has since been incorporated into the Basel Framework together with subsequent FAQs and is online at: https://www.bis.org/basel_framework/standard/LEX.htm"	*The link in the proposed Directive dated 23 July 2021 was updated to reflect the online Basel LEX framework.*