Annexure 4

Comments to Draft 2 of the 5th set of proposed amendments to the Regulations relating to Banks

COMMENTS RECEIVED FROM INDUSTRY VIA THE BANKING ASSOCIATION SOUTH AFRICA

NR	REFERENCE IN DOCUMENT	COMMENT	PROPOSED WORDING/COMMENT	PA response
1.	Regulation 23(11)(d)(iv)(C)	Under the Basel framework, retail exposures do not qualify for treatment under the foundation IRB approach. The current, and draft regulations, in sub-regulation 23(11)(d)(iv) incorrectly states the following: (iv) Retail exposures A bank that adopted the foundation IRB approach for the measurement of the bank's exposure to credit risk shall calculate its risk-weighted assets in respect of retail exposures through the application of the relevant formulae and risk components specified below: The draft regulations, in sub-regulation 11(d)(iv)(C) then includes the following drafting error: *LGD is the loss-given-default ratio as estimated by the bank, provided that the LGD ratio* ***shall in no case be lower than 30 per cent*** **The 30 per cent floor is only for unsecured exposures in the original Basel text.**	**Recommendation:** Sub-regulation 13(d)(iv) states that for retail exposures, banks who adopted the advanced IRB approach should calculate its retail RWA by following the requirements in sub-regulation 11(d). 1. In order to correct the drafting error, we recommend that sub-regulation 11(d)(iv)(C) (Other retail exposures) be amended as follows: *LGD is the loss-given-default ratio as estimated by the bank, provided that the LGD ratio* ***<u>for unsecured exposures</u>*** *shall in no case be lower than 30 per cent.* Or alternatively, by removing that paragraph altogether given that the LGD floors for both secured and unsecured Other Retail Exposures are correctly specified under revised sub-regulation 11(b)(vi)(B)(x). 2. We recommend that the pre-amble to sub-regulation 11(d)(iv) (Retail exposures) be redrafted as follows:	Agree, the Regulations will be amended.

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			*A bank that adopted the **advanced** ~~foundation~~ IRB approach for the measurement…….* This will bring the text in line with the Basel framework and the PA intent (that retail exposures must be treated under the advanced IRB approach, given that sub-regulation 11(c) makes it clear that LGDs for retail must be estimated by the banks)	
2.	Regulation 23(6)(c)(v)(B), Pg 12	The limitation on the valuation in a high inflation environment is potentially problematic.	**Recommendation:** Suggestion to include paragraph to enable changes in valuation should inflation exceed certain set levels at the discretion of the PA.	This comment is linked to comments 19 and 28 below, which capture the industry's request for the PA to consider upward revaluations of property values under the real estate asset class. As discussed with the industry, through the engagements with the Banking Association South Africa (BASA), the PA is awaiting compelling evidence from industry before considering changes to this requirement.
3.	Regulation 23(6)(j), Pg 21	High frequency of changes in official MDB's list by Basel.	**Recommendation:** The recommendation is merely to enable ease of future changes. Recommend that a phrase stating "and any other entity as specified by the authority from time to time" be added, to be able to include new MDBs	The inclusion of this proposed enabler in the Regulations will be a deviation from the Basel framework. The decision whether to include or exclude multilateral development banks (MDB) from the list resides entirely with the Basel Committee on Banking Supervision (BCBS) and not with

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				national supervisors. To make the decision on inclusions or exclusions, the BCBS considers the evaluation of the MDB against the criteria contemplated in paragraph 59 of the Basel II text (CRE 20.14 in Basel III). In the event that an MDB gets added to the list by the BCBS the PA will issue Tier 3 legislation to inform and direct the banks on the appropriate risk weighing.
4.	Regulation 23(8)(a) Table 1, Pg 27	Clarification pertaining to holding companies of financial institutions not being included in the reference of financial institutions.	**To clarify:** Sector classification guide suggests that a holding company is classified based on their holdings. Is the intent to distinguish between Holding companies that are financial institutions based their holdings being predominantly financial institutions versus holding companies of financial institutions whose holdings are not predominantly financial in nature?	Please refer to regulation 36(6)(d) of the Regulations which provides the definition of financial institution.

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5.	Regulation 23(8)(a) Table 1 footnote 9	**Claims on banks risk weighting floored at that of the sovereign**. The Basel Framework addresses transfer and convertibility risk[1] by specifying that the sovereign floor applies when: (i) the exposure is not in the local currency of the jurisdiction of incorporation of the debtor bank; and (ii) for a borrowing booked in a branch of the debtor bank in a foreign jurisdiction, when the exposure is not in the local currency of the jurisdiction in which the branch operates.	**Recommendation:** The BIS text has been changed to recognise that while claims on banks in FCY should be floored at the risk weighting of the sovereign, this shouldn't apply to local currency claims. Given that no convertibility risk exists when exposure is in the local currency of the jurisdiction of incorporation of the bank we recommend that that this be recognised by adjusting the wording of footnote 9 to table 1.	Footnote 9 of Table 1 in regulation 23(8)(a) of the Regulations relates to external credit assessment approach (ECRA) banks' exposures and adequately addresses the principle to be applied by banks. CRE 20.32 relates to the standardised credit risk assessment approach (SCRA) banks' exposures. The PA will issue a Tier 3 instrument to provide clarity, where necessary.
6.	Sub-regulation (6)(j) Table 1 Footnotes 4-page 23	The in-writing by the Authority requirement is stipulated both in the body of the footnote as well as in footnote 4.	**Recommendation:** Propose removing footnote 4.	The "in-writing by the Authority" requirement is stipulated both in the body of the Regulations as well as in footnote 4 because it references two enablers, i.e. footnote 4 references an enabler in respect of the "or higher" risk weights, whereas in the body the Regulations refers to an enabler in respect of further assets or instruments which the Authority can stipulate in writing.
7.	Sub-regulation (6)(j) Table 1	The start of the phase-in period aligns with previous implementation dates that were amended by Guidance note 3 of 2023.	**Recommendation:** Propose aligning with latest timelines as listed in G3-2023.	Agree. Draft 2 of the Regulations has been amended to refer to 2024 and not 2023 and the specified risk weight to refer to 130% and 160% respectively

[1] CRE 20.32: https://www.bis.org/basel_framework/chapter/CRE/20.htm?inforce=20230101&published=20221208

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	Footnotes 2,3-page 23			and not 100%. The Regulations will be further updated to make provision for the 2025 implementation date. Banks must inform the PA of the decision to fully adopt on day 1, when relevant. If full adoption is on day 1, the full impact will be in 2025. Furthermore, please refer to the PA's response to comment 1 of *Annexure 7 Comment Matrix ERIBB.*
8.	23(6)(c)(i)-(ix)	**Lending secured by agricultural and forestry land** The Basel framework ensures that agricultural and forestry land (with or without intention for planning permission) can be treated as a secured property exposure in the following way: 1. By specifically excluding agriculture and forestry land from the requirement that the exposure must be secured by a fully completed immovable property[2], and 2. By specifically excluding agriculture and forestry land from the treatment as ADC exposures Based on draft 2 of our regulations, agricultural and forestry land must be treated as unsecured under the standardised approach. Furthermore, the PA in your feedback to our responses to draft 1 states that:	**Recommendation:** We recommend that sub-regulation 6(c)(ii) be amended to carve out agricultural and forestry land from the requirement that the property must be "finished". This will align the regulations to the Basel framework and ensure that the exposure can be treated as a secured loan.	The PA will issue a Tier 3 instrument to address this matter.

[2] https://www.bis.org/basel_framework/chapter/CRE/20.htm?inforce=20230101&published=20221208&tldate=20231102 (CFRE 20.71(1))

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		"When regulation 23(6)(c)(i)-(ix) of the Regulations is read in its broader context, agricultural forestry land will not qualify for treatment as regulatory real estate because of other operational criteria. *Accordingly, the default risk weight is 100%, unless specified differently. Therefore, a risk weight of 100% should be used in this regard."* Given that agricultural financing is critical for the growth of an essential industry we see this punitive approach as inappropriate, in addition to it being a departure from the Basel framework.		
9.	General	In the full set of standards published by the BCBS on the BIS website, the committee included responses to several frequently asked questions around climate risk and its impact on the standardised approach for credit risk (e.g., due diligence of external ratings, bucketing of unrated banks, valuation of property collateral, supervisory slotting criteria for specialised lending, etc.).	**Recommendation:** The regulations should be aligned to the Basel framework in terms of consideration of climate risk in the sections dealing with standardised approach for credit risk RWAs.	The Regulations only incorporate the minimum requirements in line with the Basel framework. Basel III related FAQs are available for guidance on the minimum requirements, and the PA will issue relevant communication/ Tier 3 instruments where required. However, the PA expects the banks to put in place the necessary risk management policies and processes to account for all the risks the bank has identified that may impact its risk profile.
10.	General	There are several issues published in *Annex 4: Draft 1 credit risk comments matrix*, received from BASA, to which the PA responded by indicating that they will consider updating Guidance Notes, issue a Circular or issue further guidance, in particular, issues pertaining to Tier 3 instruments and further contemplation required.	**Recommendation:** Request that Draft 3 be published for commentary alongside the drafted Tier 3 instruments (including BA 200 and 210) to allow banks the ability to comment on the full scope of credit risk changes and identify any items where the regulations	The concern expressed in the comment is noted. To date, the PA has already published a tier 3 instrument relating to threshold amounts and a discussion paper on the Treatment of Defaulted Loans.

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		In addition, there are still changes expected to the BA200 and BA210 based on feedback from Draft 1 feedback. This results in (1) considerable uncertainty in the final treatment of several portfolios and (2) given that there is a significant amount of detail in the regulations there may be a clash.	and Tier 3 instruments may contradict, or conflict with, Tier 2 legislation. Furthermore, some points impacted (e.g., model changes and reporting systems) may require a long period of preparing for implementation.	The PA intends to publish additional Tier 3 instruments in due course to address the comments to drafts 1 and 2. As mentioned through the engagements with BASA it may, however, not be feasible to publish all the Tier 3 instruments at once given ongoing engagements with industry.
11.	Form BA 610 Consolidated supervision: foreign operations of South African banks	The revised Form BA 610 has not been issued.	**To clarify:** Please provide an indication of when the updated form BA 610 will be published. The bank notes that the PA intends to finalise the BA 200 before commencing with the BA 610 form.	The PA had informal engagements with industry to date and plans to issue the revised forms BA600 and BA 610 for formal engagement in due course.
12.	3(y) 23(8(a)(iv) and (v)	In South Africa, external ratings are allowed for regulatory purposes, therefore the ECRA approach must be used for exposures to corporate. However, there is a very low coverage of corporates by ECAIs in South Africa and these exposures will be classified as 'unrated'. ECRA corporate entities that are unrated are risk weighted at 100%. The bank believes this treatment of unrated corporates to be assigned a 100% risk weight does not accurately reflect the credit worthiness of the counterpart and can lead to the output floor being reached sooner than anticipated. Furthermore, in the revised standardised approach, unrated exposure to banks must be risk weighted in accordance with the SCRA approach. We propose that ECRA banks, when risk weighting unrated exposure to corporates,	**To clarify/confirm:** Concern again is regarding the low penetration/coverage of externally rated corporates, in comparison to global standards, of which many corporates will then attract the punitive unrated corporate RW of 100%. For example, where a bank has more unrated corporate clients and is in a jurisdiction where external credit assessments are allowed and the IRB model currently results in an average of 45% to 50% risk weight for the portfolio and using the standardised approach where a risk weight of 100% is applied to the unrated corporate exposure, which could be the majority of the	The PA's response, as articulated in the quoted comment remains. In other words, the ECRA, and the related risk weight for unrated corporate exposures under ECRA, will apply to all corporate exposures in South Africa. By extension, the SCRA is applicable to corporate exposures incorporated in jurisdictions that do not allow the use of external credit ratings, issued by eligible (and nominated) external credit assessment institutions (ECAIs). It is the PA's view that a hybrid approach will be a deviation from the Basel framework. The PA's position in this regard, is to only deviate if there is compelling evidence to support such a proposed deviation.

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		also be allowed to be risk weighted in accordance with the SCRA approach to corporate exposures. Given the low rating penetration, the SCRA approach for corporates can yield increased risk differentiation and risk management. This would reflect a fair and reasonable RWA for unrated exposure to corporates in assessing the bank's output floor. PA's response to above comment: • The requirement clearly states that the SCRA approach is applicable to corporate exposures incorporated in jurisdictions that do not allow the use of external credit ratings, issued by eligible (and nominated) external credit assessment institutions (ECAIs). Accordingly, and given that the PA allow banks to use credit ratings issued by ECAIs, banks will be expected to use the ECRA approach for all corporate exposures incorporated in South Africa. • The 100% risk weight for unrated corporate exposures is prescribed under ECRA for jurisdictions that allows for the use of external credit ratings. Accordingly, the PA will retain the risk weight in line with agreed international global standards. The response from the PA states the following: "Accordingly, and given that the Prudential Authority (PA) allows banks to use credit ratings issued by ECAIs, banks will be expected to use the external credit risk assessment (ECRA)	portfolio, this will result in a significant increase in risk-weighted exposure. Will the PA consider the bank's proposal that ECRA banks, when risk weighting unrated exposure to corporates, also be allowed to be risk weighted in accordance with the SCRA approach to corporate exposures. Furthermore, what is required for South African banks with operations outside of South Africa, specifically operations in the rest of Africa as the response only specifies corporate exposures incorporated in South Africa.	For corporate exposures incorporated outside South Africa, regulation 37 of the Regulations shall apply.

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		approach for all corporate exposures incorporated in South Africa." It is unclear whether this applies to exposures incorporated in the rest of Africa.		
13.	3(qqqqqqq) 23(14)(c)(iii)	Clarification needed I. given that the guaranteed exposure uses the risk-weight function of the relevant guarantor, does this mean that the asset-class in the BA 200 that should be used should be that of the guarantor? II. if there is also other collateral (such as cash) placed by the underlying counter can this be taken into consideration. As per the comment, exposures remaining on advanced approaches can substitute both PD and LGD as per EBA rules, confirm that in the advanced approach this will be restrictive to either PD or LGD, not both. Recommend that the advanced approach may also adjust the PD and the LGD ratio for the presence of guarantees, rather than the PD or the LGD ratio, subject to the resulting risk weight should not be lower than direct exposure to the guarantor. PA's response: The PA takes note of several clarification questions raised by the comments in relation to the interpretation of Regulation 23 (12) and (13) of the Regulations relating to the recognition of	**To clarify:** The bank's interpretation of the PA's response is as follows and seeks confirmation/clarification from the PA. Specifically, where is the bank allowed to model default rates (PD) and losses (LGD). The PA does not want banks to double count the effect of risk mitigation in modelling PDs and LGDs. Due to Regulation 23(14)(c)(iii)(A)(ii) the bank is electing to apply the FIRB treatment which is to substitute the PD of the guarantor <u>and</u> apply the LGD of a guaranteed position (with additional collateral, if any) as well as apply the guarantor's risk weight function – in most cases this would not change (for example, to the SME RWA function) but the AVC adjustment may be applied. The bank effectively does this by removing the EAD from the obligor and moving it to the protection provider – in doing so it can report a pre-CRM and post-CRM view for both the obligor and protection provider in the form BA 200, form BA 210 and LEX tables.	The PA will clarify this comment through a Tier 3 instrument.

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		credit risk mitigation in the capital requirement calculations. Accordingly, the PA will issue Tier 3 legislation in due course, to provide clarity and guidance on the interpretation and implementation of the related requirements in this regard. However, in practice the PA expects IRB banks to reflect the risk mitigation effect of credit guarantee by adjusting either the PD ratio or LGD but not both at the same time, and only in exceptional circumstances to use the risk weight function of the guarantor.	Banks await guidance/clarification from the PA as per Guidance Note 9 of 2022 (various matters related to the credit risk models of banks using the internal ratings-based approach to calculate required capital and reserve funds for credit risk exposures). We would appreciate an engagement to understand the concern with applying both PD and LGD substitution.	
14.	3(uuuuuu) 23(13)(b)(v) (D)(v)	Certain currently approved A-IRB models might not comply with new regulations. Will there be an expectation for all models to be compliant on 1 July 2025 or will a phased-in approach be considered given the model development and approval processes? PA's response: The PA will in due course communicate further details and practical arrangements with regards to the effective implementation of the revised IRB approach and related impact.	**To clarify/confirm:** Banks are still seeking guidance and confirmation from the PA on this matter.	The PA response as quoted in the comment remains. The industry was requested to submit their development plans. Therefore, the PA will communicate further details in this regard in due course.
15.	3(k 23(6)(j) Table 1	The change in the treatment of cancellable facilities from 0% to 10% could have a cliff effect upon adoption. PA's response: The PA takes note of the suggestion but is nonetheless not supportive of a 5-year phase-in proposal.	**To clarify:** Will the PA provide feedback on their consideration of an acceptable phased-in approach?	The PA is still not supportive of a phase-in approach. As a member of the BCBS, the PA remains committed to implement the internationally agreed standards in a full and timely manner.
16.	3(uuuu) 23 (11)(c)(iii)(B)	The draft Regulations are not clear on the treatment of exposures to Public Sector Entities under the IRB approaches. See appendix B for more context.	Retaining comment for the PA to provide the necessary directive.	Noted. The PA response as quoted in the comment remains. The PA is in the process of finalising a proposed directive on the classification and

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		PA's response: Noted. The PA is in the process of finalising a Directive on the treatment of local government and public sector entities (PSE) under the advanced internal ratings based (AIRB) approach. This follows from the discussion paper published in 2021, "Consultative document on the modelling of local government and PSE portfolios". The PA will use this Directive to clarify the treatment of PSEs in the context of the IRB revisions.		modelling of exposures to local government and public sector entities. This proposed directive will be issued in due course.
17.	3(yyyyy) 23 (12)(b)(ii)(B)(v)	Under this section of the Regulations, the PA is required to specify in writing which types of physical collateral are eligible as mitigation under the FIRB approach. PA's response: The PA will consider issuing a directive providing physical collateral types.	Retaining this comment for the PA to provide the necessary resolution.	The PA will address the comment through a Tier 3 instrument.
18.	3(vvvvvv) 23(13)(d)(i)(A)(i)(cc)(i) or Proposed directive – Threshold Amounts, section 6.2	Shall not apply the AIRB approach to corporates > R15 billion total consolidated revenues.	**Recommendation:** Follow up comment for the PA to consider the use of a 3-year rolling average in determining the threshold amount.	The threshold amounts-including the threshold for corporate relating to the STA and IRB approaches has been finalised and incorporated in the Directive 8 of 2023 (D8/2023). Given the focus on other Basel III post-crisis reforms implementation related issues, the PA is not in a position to review or revise the directive at least until the implementation of the amended Regulations from 1 July 2025.

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19.	3(f) 23(6)(c)(v)	In the previous *Comments to draft 1 of the 5th set of proposed amendments to the Regulations relating to Banks*, the proposed comment (comment 1) was "Recommend an update to this regulation to allow property values to be updated in consideration of the higher inflation environment in South Africa: i.e., that the LTV is based on the limit to the current valuation. The PA's response is "it makes an exception, by allowing upward adjustments in cases where **modifications to the property** unequivocally increase the value of the property. In essence, allowing increases of property values to be driven by fundamentals of real estate markets." The response implies that only modifications to the property may justify a valuation increase.	**To clarify:** Does this prevent the use of valuation models to determine the market price (including indices such as the HPI)?	As discussed with the industry, through the engagements at the BASA the PA is awaiting compelling evidence from industry before considering changes to this requirement.
20.	Regulation 23(7)(c)(i), Pg 26	Guarantees that are correlated not being eligible as security via the substitution of risk weight approach.	**Recommendation:** Recommend that at a minimum correlated security (as guarantee) be recognized in the instance where the substitution approach thereof results in a better risk weighting of the underlying secured exposure, like the general substitution approach.	Regulation 23(7)(c)(i) of the Regulations is clear. The PA doesn't consider it prudent to recognise the "minimum correlated security", due to the potential inconsistencies with the internationally agreed Basel framework this will likely introduce.
21.	Regulation 23(9)(b)(iii)(A), Pg 42	Clarification required relating to the treatment of eligible credit risk mitigants held with a third-party bank in contrast to credit risk mitigants issued by a third-party bank. Under the Collateral – Simple and Comprehensive approach credit risk mitigants issued by South-African banks (based on their current external ratings) are ineligible and guarantees issued by South-African banks	**Recommendation:** 1. Please can you clarify if this means that cash held with a South-African bank is not an eligible credit risk	For risk mitigation purposes, the instruments specified in regulation 23(9)(b)(iii)(A) of the Regulations are regarded as eligible collateral in terms of the simple approach. Moreover, these instruments are held as collateral at a third-party bank in a non-custodial arrangement, the bank may assign the

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		are ineligible under the Collateral – Simple approach because of their risk weight which is 100% based on current external ratings.	mitigant under the Simple Standardised approach? Almost all South African institutions are now sub- investment grade. As such, their debt is no longer eligible as collateral. A guarantee from them (which is at the same level of seniority, but with a slower execution speed) is eligible. We are proposing that an additional sub-investment grade collateral eligibility be allowed with a similar haircut to the criteria for trading book collateral eligibility.	risk weight related to the third-party bank to the exposure amount protected by the collateral. Thus, given the current SA sovereign rating of BB-/B (ceiling), this implies that the subsequent rating of the exposure held with a third-party bank shall receive risk weight equivalent to the sub-investment grade.
22.	Regulation 23(9)(xi)(E), Pg 50	Consultation will be welcomed given the current SFT market is in a developmental phase in the South African context and introducing this requirement now would not enable the development of the SFT market in South Africa. We note that the UK PRA is not yet consulting on the implementation of minimum haircut floors for securities financing transactions (SFTs) in the capital framework. The PRA will consider whether implementation in the capital framework is appropriate in due course, considering data available under SFT reporting.	**Recommendation:** We request that, like the EU and the UK, the PA delay implementation of the minimum haircut floors for SFTs. The South African SFT market, in proportion and in absolute terms is meaningfully smaller than the markets for which this regulation is intended.	For now, the PA will retain the framework in the draft Regulations. Nonetheless, the PA will consider the evidence submitted by banks as part of Draft 1 comments, and where warranted consult further with banks and other role players before making a final decision in this regard.
23.	Regulation 23(9)(c)(ii), Pg 59 to 60	Credit insurance is an integral credit risk mitigant in the South African context of which the growth is exponential further emphasizing the importance thereof. Additionally alternative credit risk mitigants in South Africa have far more limiting considerations that are detrimental to appropriate mitigation of credit risk.	**Request for further engagement:** The BIS doesn't prohibit insurance as a mitigant and in their explicit recognition of insurers as eligible CRM providers, imply its eligibility. As such, interpreting insurance to fit within the wording for	The PA will address the comment through a Tier 3 instrument.

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			guarantees is a standard market practice. In addition, due to the lack of developed credit markets and dearth of eligible financial collateral, insurance is one of the most important mitigants across Africa (outside of direct sell-down). This is also due to the currency difficulties with almost all other forms of mitigation (especially securitisation and sell-down). Removing insurance as an eligible CRM would effectively remove a material form of direct foreign investment as well as negatively impacting many of South Africa's most needed debt areas which rely heavily on this market. We would appreciate an in-depth discussion on the concerns the PA have with allowing this CRM, given its central nature in our market.	
24.	Annex 2 – Draft Government Notice re proposed amendments to the Regulations Sep 2023, (D) off-balance sheet items, (ii) definition of 'commitment', p. 159 (Regulation 67, Definitions, specifically refers to:	Clarify whether the proposed definition of commitment (commitment = offer + acceptance) extends to unadvised limits. We understand that the PA is adopting the Basel definition of commitment which is based on offer + acceptance, and that a commitment would be considered to exist where a firm has entered into a binding contractual arrangement. Given the Basel-proposed definition of commitment, it's not unreasonable to conclude that unadvised limits would not meet the definition, as a client cannot accept what they are not aware of.	**To clarify:** Clarification from the PA whether an unadvised limit constitutes a 'commitment' or not.	The PA has adopted the Basel definition of commitment fully. Therefore, any contractual arrangement that has been offered by the bank and accepted by the client to extend credit, purchase assets or issue credit substitutes, etc will constitute a commitment. This excludes bank offers and unadvised limits which the client is unaware of and cannot accept (non-binding).

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	“committed undrawn facility or loan commitment”, p. 1195, Banking Regulations “irrevocable undrawn commitment or facility”, p.1206, Banking Regulations “revocable undrawn commitment or facility”, p.1217, Banking Regulations “uncommitted undrawn facility or loan commitment”, p.1220, Banking Regulations)			
25.	3(f) / sub -regulation (6)(c)	**Business loans secured by property collateral.** While noting note the response received and the changes to regulation 23(6) and regulation 67, the feedback submitted to Draft 1 of the regulations, in October 2022, included the following:	**Recommendation:** Where these business loans secured by property meet the criteria set out in sub-regulation 6(c)(i) to (x) it is proposed that the approach provided for in sub-regulation 6(c) be allowed.	If the loan is not used for property acquisition it should be categorised as general corporate exposure.

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		Regarding the treatment of lending where property acquisition or refinancing is not the primary purpose of the lending, can such exposures be treated as commercial real estate albeit with a potentially high LTV? Or should it be classified as a general, unsecured corporate exposure? Property collateral is used extensively in relationship and corporate banking to support both property acquisition as well as business loans. The underwriting and valuation processes are as rigorous for business loans as it is for acquisition funding.		
26.	Sub-regulation 12(d)(ii) Sub-regulation 12(e)(ii)	Per the final Basel framework, the range of eligible guarantors under the F-IRB approach is the following: • Sovereigns • PSEs • All MDBs • Banks • Securities firms • Other "prudentially supervised" financial institutions • Other externally rated entities including parents, subsidiaries, and affiliates of the obligor. Under sub-regulation 12(d)(ii) the range of eligible guarantors are *the eligible guarantors specified in the standardised approach in sub-regulation (7)(c),* and other internally rated	**Recommendation:** The regulations should be aligned to the Basel framework in terms of the range of eligible guarantors. This can be achieved by removing the reference to sub-regulation 7(c) in sub-regulation 12(d)(ii) and replacing it with a reference to sub-regulation 9(c)(ii).	The PA agrees with the recommendation and will update the Regulations accordingly.

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		guarantors. Eligible guarantors under sub-regulation 7(c) only include "*guarantors qualifying for a risk weight of 20 per cent or better*". The effect of this is, for example, under South-African regulations, African Export-Import Bank (with an external rating of BBB+/Baa1) will not qualify as an eligible guarantor whilst it will qualify under the framework. This issue will have a significant impact as South-African banks use guarantees from non-zero rated MDBs on an extensive basis. There is a further disconnect in that the range of eligible credit derivative providers under the F-IRB approach points to sub-regulation 9(d)(ii) which is aligned to the framework and is a more extensive list of eligible providers. The effect of this is, for example, that if the bank receives mitigation in the form of a credit derivative from African Export-Import Bank it will be eligible under the F-IRB approach whilst a guarantee will not be eligible (as set out above).		
27.	Sub-regulation 7(c)(iii), 9(c)(ii), 9(d)(iii), 12(d)(ii) & 12(e)(ii)	The framework allows guarantees, protection or credit derivatives from externally rated parents, subsidiaries, and affiliates of the obligor. This is not included in the draft regulations.	**Recommendation:** The regulations should be aligned to the Basel framework in terms of range of eligible guarantors, protection providers and credit derivative providers by allowing it where the provider is an externally rated parent, subsidiary, or affiliate of the obligor.	The Regulations are appropriately aligned to the Basel framework, based on subsequent policy decisions related to these matters.
28.	Sub-regulation (6)(c)(v)	We note that in their consultation for the implementation of the final Basel framework (CP 16/22), that the Bank of England introduced the	**Recommendation:**	The PA awaits the proposal, with the detailed appropriate alternatives from the BASA working group, on the

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		concept of a 'valid re-valuation event' (CP: section 3.195) which supports proposed rulebook text "to replace an existing loan" under Article 124C(2). The CP text is however not explicit on what would constitute a trigger event. In their response to the CP, UK Finance (an industry organisation which is the collective voice for the banking and finance industry and representing more than 250 firms in the UK) the following examples are provided: • Re-valuations when setting a new payment structure. • Re-valuations driven by administrative processes or on the event of default. • Re-valuations when a customer requests and undertakes a new valuation. We note that under Final Prudential Standard 112, the Australian Prudential Regulatory Authority (APRA) allows for a re-valuation if an updated valuation is obtained as part of a new loan application process in relation to the mortgaged property (i.e., a re-financing). We note the Monetary Authority of Singapore (MAS) will, for refinanced loans, allow banks to use the valuation at the date of loan refinancing for computing the LTV. We note that the Hong Kong Monetary Authority (HKMA) "considers it acceptable that an authorised institution ('AI') uses the current market value ('CMV') of the mortgaged property to calculate the LTV of any genuine refinancing	Given that regulators in several major jurisdictions have adopted approaches to property valuations which deviates materially from the Basel framework we believe a similar approach will better capture risk whilst still supporting the objectives of a safe and sound financial system. It will also ensure a level playing field whilst not creating an environment where high mortgage churn is encouraged.	approach it should consider concerning upward revaluations of property as envisaged in regulation 23(6)(c)(v)(B) of the Regulations.

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		loan (e.g., one provided by the AI to refinance an outstanding mortgage loan owed to another AI), whether with an increase in loan amount. In June 2023 the EU parliament and Council reached a provisional agreement on the implementation of Basel III. The EU will allow upward or downwards adjustments (in a departure from the Basel III standards) following the regular monitoring of the value of property pledged as collateral. A re-valuation is only allowed up to the average value over the last three years (for commercial property) or six years (for residential property) as foreseen in article 229 of the Council proposal for revision of the Capital Requirement Regulations. Draft 2 of the proposed regulations as well as the comments received from the PA maintains its position regarding the property valuations for LTV calculations under standardised approach.		
29.	Sub-regulation 8(a) Table 1, footnote 14	This footnote states that exposures to individuals cannot be included in the corporate asset class. Sub-regulation 6(b)(ii)(C)(ii) however states that no derivative exposures can be included in the retail portfolio. Our understanding is that such exposures should be classified as corporate exposures.	**Recommendation:** We note the clarification received. Please can the regulations be amended to reflect same.	Correct, such exposures should be classified in the corporate asset class. Accordingly, the PA doesn't consider it necessary to amend the Regulations. Should further clarification be required, a Tier 3 instrument will be issued.
30.	Sub-regulation 8 (a)(iv) & (v)	Proposal to adopt a hybrid approach to unrated corporates: We understand that the intention of the BCBS when finalizing the framework was to reduce the reliance of corporates on bank funding and to make capital markets a more attractive source of	Whilst we acknowledge that our proposed hybrid approach to the risk weighting of unrated corporates is not aligned to the framework, it is aligned to the modifications adopted by regulators in most major jurisdictions. Furthermore,	The 100% risk weight for unrated corporate exposures is prescribed under ECRA for jurisdiction that allows for the use of external credit ratings. Accordingly, the PA will retain the risk weight in line with agreed international standards.

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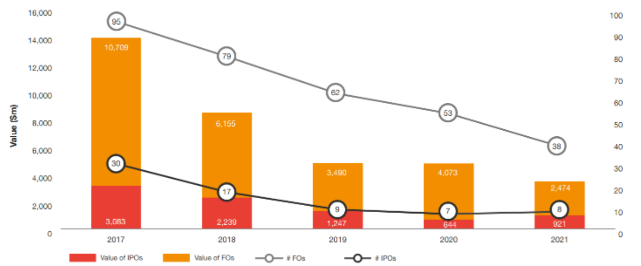
		funding, thus reducing systemic risk in the banking sector by disseminating the risk to the wider financial services industry. In PWC's Africa Capital Market Watch 2021[3], they state that d*espite a global surge in IPOs during 2021 on the world's stock exchanges, Africa has seen companies systematically pulling away from the equity markets,* with a reduction of IPOs and capital raising in 2021. This is symptomatic of an increasing trend observed in the last 5 years, with high costs associated with equity transactions and low valuations being cited as a major deterrent. In 2021, there was not a single IPO on the JSE, which also had a record number of de-listings. **Figure 2: ECM activity, 2017 – 2021**  Source: Dealogic In terms of debt capital markets, although there has been a recovery post-Covid, issuance levels remain very low at $15.2 billion (27 issuances). The figure below illustrates the comparative	it brings some risk differentiation into the RWA calculations. Retaining the 100% blanket risk weight will be punitive compared to non-SA based banking groups which could lead to migration of business. The UK's 135% proposal for non-investment grade corporates seems overly punitive. **Recommendation:** To avoid competitive distortion, we propose the adoption of an approach more closely aligned to that of the European Union. Whilst one of the objectives of the output floor is to 'level the playing field', this will not be achieved with the current draft of the regulations given wide-spread global divergence.	

[3] Published March 2022 https://www.pwc.co.za/en/asets/pdf/africa-capital-markets-watch-2021.pdf

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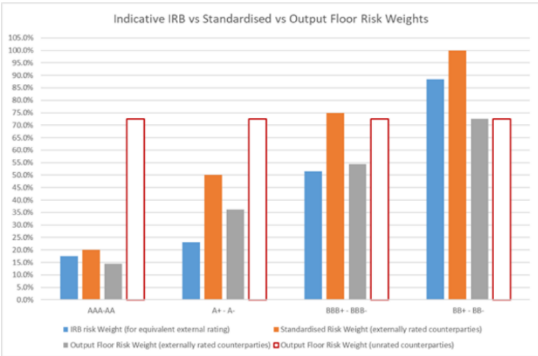
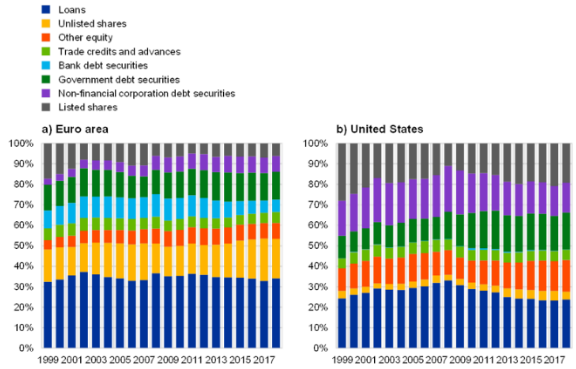
		disadvantage in risk weighting between investment grade corporate exposures and unrated high quality corporate exposures. This disproportionate disadvantage will likely lead to an increase in funding costs for those corporates should banks be impacted by the output floor.  Under US implementation of the final framework, it is expected that banks will not be able to use external ratings. Large US banks will thus be able to tap into the “investment grade” discount, leaving European, South-African and other jurisdictions at a competitive disadvantage. The dominance in financial markets by lending and unlisted shares observed in South-Africa is also seen in, for example, the Eurozone. Financing structure of the US and Euro economies, by type of instrument:		

NR	REFERENCE IN DOCUMENT	COMMENT	PROPOSED WORDING/COMMENT	PA response
		 Source: *ECB: Financial Integration and Structure in the Euro Area, March 2020* Given the fact the global economy is in a period of post-Covid recovery, regulatory measures that has a negative impact on the access to, and cost of, corporate funding has been a focus area for regulators finalizing localization of the final framework. What we have seen in several major jurisdictions is the adoption of a hybrid approach to risk weighting of corporates where rated corporates will follow the ECRA approach, but unrated corporate exposures risk weighted following the "investment grade" approach. **European union** The EU, in its proposed amendments to Regulation (EU) No 575/2013, will apply the hybrid approach with clients who are assigned an		

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		internal PD of 0.5% or better being classified as investment grade (during a transitional period whilst initiatives are underway to increase access to and coverage of external ratings). The concession applies to both listed and unlisted entities. **Canada** The Canadian regulator is allowing banks to risk weight unrated corporates at a 100%, or 65% for "investment grade" unrated corporates and 150% for "non-investment grade" unrated corporates (note this is at the discretion of banks). An "investment grade" corporate is a corporate entity that has been determined to have *adequate capacity to meet its financial commitments in a timely manner and its ability to do so is assessed to be robust against adverse changes in the economic cycle and business conditions. The entity must be assessed as "investment grade" according to an institution's own internal credit grading system. When making this determination, the institution should assess the corporate entity against the investment grade definition considering the complexity of its business model, performance against industry and peers, and risks posed by the entity's operating environment.* They have removed the framework requirement for these to be listed entities (or have listed parents) and instead provide banks with the		

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		option to apply it to "investment" grade corporates with a turnover exceeding CA$75m where the listing criteria is not met. In these cases, the bank must be able to access on a regular basis certain documentation of the client to enable due diligence (e.g., annual reports, audited financial statements, quarterly financial statements, and business plans projecting the activities and financial condition for the next 12 months). **UK** In CP 16/22 the PRA proposes to permit two possible approaches to risk-weighting unrated corporate exposures: (i) a risk-sensitive approach that would be available where a firm has sound, effective and comprehensive strategies, systems and due diligence processes to accurately assess the risk of unrated corporate exposures, and (ii) a risk-neutral approach of a 100% risk weight where the risk-sensitive approach is too costly or complex for a firm to implement, or the firm lacks the capability to robustly assess the risk of unrated corporate exposures. Under the risk-sensitive approach exposures assessed by firms as IG would be risk-weighted at 65%, while exposures assessed by firms as Non-IG would be risk-weighted at 135%. The proposal aims to increase risk-sensitivity in the framework and better reflect the underlying risk of different unrated corporate exposures, while seeking to maintain an aggregate level of RWAs which is broadly consistent with that calibrated under the		

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		final Basel standards. That is, it is anchored around an average risk weight of 100% according to the PRA's analysis of available firm data.		
31.	Sub-regulation 9 (b) (iii) (A)	Regarding cash on deposit, certificates of deposit or comparable instruments issued by the lending bank which are held as collateral at a third-party bank in a non-custodial arrangement, we note the feedback received from the PA that under the F-IRB approach such collateral will be treated as a guarantee from the third-party bank (subject to compliance with the requirements of regulation 23, sub-regulations (7), (9) and (12) of the Regulations).	**To clarify:** Please confirm if this collateral should be added to the total exposures to such a third-party bank for Large Exposure monitoring and reporting purposes.	The PA agrees with the interpretation that collateral held at a third-party bank in a non-custodial arrangement should be added to the total exposure to such a third-party bank for Large Exposure monitoring and reporting purposes.
32.	Sub-regulation (6)(j) Table 1 page 22	A 150% risk weight applies to sub-ordinated debt instruments.	**To clarify:** Is this risk weight applicable to **FLAC** instruments.	The PA takes note of the comment and will clarify the treatment of FLAC instruments after the implementation of the Prudential Standards which are anticipated to be effective on 1 January 2025.
33.	Sub-regulation (6)(j) Table 1 page 22	The 150% risk weight for sub-ordinated debt instruments, is listed as applying to all sub-ordinated debt except for the instruments assigned under the 250% and 400%. The "other" categorisation where the in-writing enabler is included is not listed as part of the exception list for the 150%, potentially resulting in a clash in treatment.	**Recommendation:** Proposed amending the list of exceptions under the 150% risk weight treatment to also exclude items listed in writing by the Authority.	The PA doesn't agree with the recommendation. The enabler offers the PA a discretion to assign 150% or higher risk weight to any debt instrument that may not be explicitly covered in Table 1 of sub-regulation (6)(j) of the Regulations.
34.	Sub-regulation (6)(c)	We acknowledge the feedback received from the PA on the definition of ADC exposures and note the changes to regulation 67. However, we believe that the point that not all property in	Property financing is an important source of capital for businesses delivering economic and social benefits. Regulations must achieve a balance	This comment will be clarified through a Tier 3 instrument.

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		development/construction should be classified as ADC is still not resolved. **In previous feedback, the following was included:** In the earliest drafts to the final framework (BCBS424) the committee indicated that they envisaged two specialised lending categories for property exposures to corporates (income producing real estate and ADC exposures) because these two sub-classes exhibit the characteristics of specialised lending exposures. This clarity was not retained in the final version of the revised framework. Our interpretation of the framework is thus that ADC exposures, in the context of the standardised approach, are ADC exposures where the source of repayment at origination is either the future uncertain sale of property or cash flows whose source of repayment is substantially uncertain. This is borne out in the Prudential Authority's draft changes to the BA200 where ADC under the standardised section of the return is linked to specialised lending in the IRB section of the returns. The European Banking Federation's interpretation is that exposures are classified as ADC exposures only when there are insufficient other income and assets of the obligor for mitigating the risk of losses, and they further propose the use of the slotting approach under the standardised approach for these exposures.	between ensuring safety and soundness of the financial system, and supporting the real economy whilst capturing risk accurately, fairly, and appropriate. The very wide scope of the current definition of ADC loans may reduce lending in some key areas (purpose-built student accommodation, industrial infrastructure, affordable housing etc). **Recommendation:** We propose a narrower definition of ADC loans which will mean that only speculative development and construction loans with a dependency on the underlying cash flows from the property under development will be included in the ADC definition. Other construction loans should attract the counterparty risk weight (effectively treating the loan as unsecured). Whilst we acknowledge that the wording in the final Basel III text retain some uncertainty around interpretation of the definition and treatment of ADC loans, we believe that our proposed treatment will be aligned to the original intent of the BCBS, ensure a level playing field and limits unintended impacts on the real economy.	

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		Our view is that where we depend on the credit quality of the borrower for repayment i.e., there is sufficient other income and assets of the obligor to ensure repayment/mitigate risk of losses, we would exclude from classification as ADC. So, the fact that an exposure is classified by us as a "development" loan is not enough to classify it as an ADC exposure for capital purposes. In the US, the Office for the Comptroller of Currency's definition of ADC excludes "*commercial real estate projects where (A) the loan-to-value ratio is less than or equal to the applicable regulator's maximum permitted amount (depending on the type of loan and such bank's applicable regulator-typically 80%), and (B) the borrower contributes capital to the project in the form of cash or unencumbered readily marketable assets (which can include certain development costs out of pocket) of at least 15% of the real estate project's "as completed" appraised value*" We also note that some regulators, such as the Hong Kong Monetary Authority, made it very clear that the ADC asset class is like the high-volatility commercial real estate sub-class of specialised lending in the IRB approach. Since the publication of the first draft of the regulations, the UK PRA started their consultation process for the implementation of the final Basel III framework. In their consultation		

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		paper (16/22)[4] they address the treatment of "speculative immoveable property financing" as follows: • The current PRA rulebook defines such exposures as *'loans for the purposes of the acquisition of or development or construction on land in relation to immovable property, or of and in relation to such property, with the intention of reselling for profit'*. They are seen as particularly high-risk exposures and risk weighted at 150%. The application of this treatment is dependent on the borrower's **intention:** regardless of whether the purpose of the funding is for construction, development or acquisition of property, if the borrower **intends** to resell for a profit then the exposure will fall in this definition. This will include a range of loans and borrowers including individuals intending to "flip" the property and developers/construction companies building large scale new developments. It seems as if the UK PRA is proposing to broadly retain that treatment with the exception that loans to individuals will be excluded from the ADC definition. The CP addresses properties under construction/incomplete properties also under the treatment of "other real estate". In that context, it is referring to borrowing where the minimum		

[4] https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2022/november/cp1622-full.pdf

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		requirements are not met because the property is incomplete/under construction. Our reading is thus that the requirement for the borrower to have the intention to sell for profit remain and therefore only ADC lending in that circumstance would be classified as ADC and attract the higher risk weights. Where there is no intent to sell at profit (upon completion?) but the property is under construction, then counterparty risk weight would apply (in the case of CRE and RRE) (see paragraphs 3.177 to 3.187, and 3.207 to 3.211),		
35.	Sub-regulation 6(c)(i) to (vii)	Where real estate exposures are materially dependent on the cash flows generated by the property and the requirements in sub-regulation 6(c)(i) to (vii) are not met, the regulations do not specify what the risk weighting should be.	**Recommendation:** The regulations should specify what risk weight should apply to these exposures	Please refer to regulation 6(c)(xiv) of the Regulations. In this regard the appropriate risk weight will be 150%.
36.	Sub-regulation 6(d)(ii)	Risk weighting of ADC loans – the draft regulations specify that a risk weight of 150% will apply. This is not aligned to the Basel framework which specifies that a lower risk weight of 100% can be applied if certain criteria are met.	**Recommendation:** Propose that the regulations are amended to allow for a lower risk weight, in line with the text of the Basel framework.	The PA doesn't agree, please refer to sub-regulation (6)(c)(xii) as amended in Draft 2. The proposed amendments to the Regulations are aligned to the Basel framework. The 100% risk weight applies to ADC[5] exposure to residential real estate that comply with specified requirements, as set out in subregulation (6)(c)(xii). See CRE20.91. Other ADC (including all ADC related commercial real estate) exposures must be risk-weighted at 150%.

[5] Acquisition, development and construction.

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37.	Various	Treatment of unfunded risk mitigation – the use of unfunded mitigation is more complex under the final framework. The PA will be approached on a bilateral basis to discuss these issues.		Noted.
38.	Bank of Communications	For the footnote amendment on table 6, regarding the added disclosure for "without credit assessment by an eligible external credit assessment institution". Does this relate to "Unrated" exposures in Section 23(8)(a) Table 8?		The footnote "without credit assessment by an eligible external credit assessment institution" would relate to Table 1 of Regulation 23(8)(a) of the proposed amendments to the Regulations.
39.	Bank of Communications	One last point which I think should be considered in the reforms is a consideration of the Zero risk weighting for exposures to counterparties in regulation 23(6)(j) – Table 7 as exposures to the central government of RSA are zero risk weighted only if repayable and funded in ZAR. The reason being is this is a bit Harsh for smaller banks and impact on their capital requirements as if an entity were to purchase bonds from, for example the World Bank Group, IBRD or IFC and it were dominated in USD, these would be zero risk weighted per this table but USD RSA Gov bonds are not.		The zero percent risk weight contemplated in Table 7 of regulation 23(6)(j) of the Regulations is applied restrictively only to claims on sovereigns and central banks funded and payable in local currency (ZAR). Foreign denominated claims on central banks will be based on the external rating of the counterparty.
40.		**Impact of the draft regulations on Trade Finance** In our feedback to the first version of the draft regulations we highlighted the adverse impact of the final Basel framework on Trade Finance. We note the response from the PA that they will conduct a further assessment on the treatment of trade finance in the Regulations and that any final		The PA will issue a Tier 3 instrument in due course.

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		decision in this regard will be communicated to banks in due course. We remain concerned about the overall impact of the draft regulations on trade finance. The unintended consequences of the final Basel framework on trade finance is well documented. Trade finance is a core banking product which serves the real economy and by its nature it is different to other banking products in that it is mostly short dated, diverse, and self-liquidating. Global trade relies on accessible, affordable financing and appropriate regulatory capital treatment of trade finance spurs job creation and economic growth. The problems with cost and access to trade finance is particularly acute in Africa. Proparco, the French development finance institution said in June this year[6] that: • they estimate trade finance costs in Africa to be as high as 300% of the value of the merchandise being traded; • the cost of trade finance is 6 to 7 times more expensive in Africa than in OECD countries; • and that there is a great need to increase African trade integration		

[6] https://www.proparco.fr/en/actualites/proparco-and-ifc-join-forces-support-trade-finance-and-food-security-africa

NR	REFERENCE IN DOCUMENT	COMMENT	PROPOSED WORDING/COMMENT	PA response
		In a September 2022 report by ITFA (The International Trade and Forfeiting Association) and Kleos Advisory[7] the following was noted: • Africa's trade finance gap is between US$80bln and US$130bln[8]. This gap widened during Covid and its aftermath and specifically impacts SMEs. • The World Bank estimates that trade makes up 50% of Africa's real GDP and employs 80% of the population. • Trade finance is remarkably low risk with very low default rates, low conversion rates and low losses whilst simultaneously having high levels of embedded governance. • The primary factor driving the African trade finance gap is Basel capital regulations which greatly reduces profitability of trade finance for international and African banks. • The ICC Trade Register empirical data shows that African trade finance has ***"incredibly low"*** product default rates (at a regional level often lower than developed markets) • For international banks, deals worth less than US$5mln are often not worth their		

[7] Sustainable trade finance and African trade: Giving an African voice to the evolving standards on sustainable finance and trade (https://itfa.org/wp-content/uploads/2022/10/ITFA_Sustainable-Trade-Finance-and-African-Trade_final_04102022.pdf)

[8] This is supported by a report from the African Development Bank and the African Export-Import Bank: https://www.afdb.org/en/documents/trade-finance-africa-trends-over-past-decade-and-opportunities-ahead

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		time and resources which leaves many African traders without access to liquidity. A policy brief by economists of the African Development Bank, published in 2021 by the African Policy Research Institute[9], noted that the uptick in the African trade finance gap from 2016 could reflect the impact of changing global banking regulatory environment. As African countries move to adopt new Basel III banking regulations that have come into force, especially with the treatment of trade finance as a riskier form of asset class under Basel III, small banks are shunning the trade finance sector and global correspondent banks that play a crucial role in African trade are retreating from the continent. The authors note that *if further progress is to be made in lowering the trade finance gap, regulatory challenges would have to be addressed, including potential reclassification of trade finance as a less risky asset class. This could reduce the capital burden on correspondent and small banks, encourage more banks to participate in the trade finance sector, and reduce the rejection of small transaction.* Trade finance is hugely impactful in terms of boosting economic growth and can be directly linked to nearly all the Sustainable Development Goals (notably poverty alleviation, economic growth, and gender inclusion). African, and South-African banks play a critical role in trade		

[9] https://afripoli.org/the-dynamics-of-the-trade-finance-gap-in-africa

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		finance by providing a bridge between African traders and international liquidity providers. ITFA also pointed out that measures put in place (such as PAPSS) by African DFIs to support African SME traders has no value if traders cannot access finance in the first place. European developments around ESG criteria and reporting will further dampen availability of trade finance to African traders given that they often do not have the means to supply the data required under those reporting frameworks. We believe that the South-African regulations need to better reflect the unique realities of African trade which is not the case with the current draft. Although we welcome future assessments by the PA we are concerned about the timing of that and how it can be reflected in the final regulations. Below we set out a number of points that can be considered when considering the holistic impact of the regulations on trade finance.		
41.		**Credit insurance** Credit insurance is an important risk mitigant and widely used by banks to support lending to the real economy. In 2020 an IACPM/ITFA survey showed that credit insurance is the second most important credit risk mitigant for banks and that for every $1 of credit insurance, $2.55 of lending flows to the real economy. The regulations to the Banks' Act do not define "guarantees' or "unfunded credit risk mitigation" but where insurance meets the criteria for	In the feedback to version 1 of the draft regulations a question was asked around the use of credit insurance as an unfunded risk mitigant. The response from the PA was "No" but then further referred banks to the eligibility criteria. In order to remove any ambiguity, we interpret the response to mean that if credit insurance meets all the eligibility criteria for unfunded risk	The PA will address the comment through a Tier 3 instrument.

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		unfunded mitigants set out in sub-regulations 7,9,12 or 14 (whichever is applicable) they are used widely by banks to act as a credit risk mitigant for capital purposes in a number of areas: trade finance, project finance and other lending. In the FAQ to QIS 3 (2002), the BCBS' response to the question *If a bank is using a credit risk mitigant, like insurance, that effectively functions like a guarantee is it allowed to treat such risk mitigants as an ordinary guarantee?* Their response was: *Yes, provided that such a product meets the operational requirements for guarantees laid down in paragraph 154 to 165 of the Technical Guidance any product may be treated as a guarantee.* In 2014, the **EU** provided clarification around the eligibility of credit insurance in a QA: *In general, it is not possible to say whether credit insurance can be used as CRM technique; this depends on the circumstances of the individual case. A credit insurance might qualify as guarantee. The eligibility criteria for the recognition as guarantee can be found in Articles 399 and 403 of Regulation (EU) No. 575/2013 (CRR) in connection with the referenced requirements laid down in Part Three, Title II, Chapter 4 of CRR. The requirements set out in Article 201 CRR (eligibility of protection provider), Article 213 CRR (general requirements for unfunded credit protection) and Article 215 CRR (additional requirements for guarantees) are of*	mitigation it can be recognised. Please confirm.	

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		particular importance. Under the assumption that all eligibility criteria are fulfilled the amount covered by the protection provider shall be included either in column 280, or in column 290 of template C 28.00 (LE 2) of Regulation (EU) No 680/2014 13 ITS on Supervisory Reporting of institutions (ITS) depending on concrete properties of the guarantee. In the **UK,** in PS 8/19 insurance, as a method of distributing risk and obtaining credit protection and the eligibility of credit insurance as an unfunded CRM was clearly acknowledged by the PRA. Further, it provided guidance for the industry generally on how to negotiate and use unfunded CRM more effectively to permit regulatory capital benefits. In the **US**, regulation Q explicitly permits US banks and bank holding companies to utilize insurance policies for credit risk mitigation purposes. Specifically, a US financial institution may recognize an "eligible guarantee" as a risk weight substitute for a given exposure. In turn, a "guarantee" includes "a financial guarantee, letter of credit, insurance, or other similar financial instrument" (Title 12, Part 17 Regulation Q, C.F.R. Part 217.2)		
42.		**LGD for Financial Institution credit mitigant (insurance) providers** Sub-regulation 12(d)(i)(c) requires that banks *shall not in the calculation of the bank's risk-*		The PA will address the comment through a Tier 3 instrument.

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		weighted exposure reflect the effect of double default, that is, the adjusted risk weight relating to a particular exposure shall not be less than a comparable direct exposure to the relevant guarantor. Given the super-senior position of credit mitigants provided by financial institutions subject to Solvency2 or similar requirements in the case of mitigant provider default, we are proposing that an LGD of 45% is overly punitive where the effects of credit insurance used as credit risk mitigation is recognized through substitution of risk parameters, and that an LGD lower than 45% should be applied. To support this, we note the following: 1. In a February 2022 position paper[9] ITFA points out that- Banks only use the strongest insurers with sound capital bases, whose own risk management practices are in turn supported by the well-established distribution mechanism of reinsurance. They quote studies done by —Oliver Wyman which estimates that Loss Given Default (LGD) for credit risk insurance used as a credit risk mitigation should not be higher than 10-30%. 2. Studies done by ICISA (The International Credit Insurance & Surety Association) consistently shows that data supports LGDs much lower than 45%. See here for the 2015		

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		to 2016 report (published October 2021) and here for the 2017 to 2019 report (published October 2023): the first showed a weighted mean LGD of 7.9% over the observation period and the most recent study showed a weighted mean LGD for the combined observation period 2017 to 2019 of 6.8%, with a 95% confidence interval of 5.8% to 7.8% which they note reflects the strong underwriting and risk mitigation practices employed by the industry. In their 2019 response to the EBA Consultation on Draft Guidelines on Credit Risk Mitigation for institutions applying the IRB Approach with own estimates of LGDs (we can forward this document), ITFA highlighted the following to support their view that a 45% LGD is inappropriate: 1. Since the inception of Basel II, the product has evolved to align with the operational requirements of CRM whilst remaining a policy of indemnity offered (i) under tested insurance law, (ii) by highly regulated insurers with diverse portfolios, strong credit ratings, and based in legal jurisdictions where effective enforcement against the insurer is practicable and (iii) by credit risk experts at these insurance companies providing for a genuine four-eye principle on any covered transaction.		

NR	REFERENCE IN DOCUMENT	COMMENT	PROPOSED WORDING/COMMENT	PA response
		2. Non-payment insurance is not correlated with the insurer's other exposures or liabilities, nor with the bank's exposure to the obligor and as such, systemic risk is significantly reduced. 3. The insurance industry has proved to have large loss absorbing capacity. 4. In case of credit Insurance, the exposure of the bank to the insurer is as a policyholder of an insurance policy, which means the exposure is not comparable. 5. Insurers are not involved in maturity transformation (unlike banks) and not exposed to sudden losses of confidence or 'runs'. 6. Insurer's exposure to bank lending is insignificant compared to the insurer's overall risk portfolio and is generally favorably treated under Solvency requirements, given it is uncorrelated to their other exposures. A 45% LGD could potentially make credit insurance an unattractive risk mitigant which will further impact lending to the real economy.		
43.		**Treatment of mitigation provided by non-zero rated multilateral development banks** In our feedback to version 1 of the draft regulations we proposed that the PA adopt a modification to the approach applied to certain non-zero rated African MDBs by continuing to treat them under the A-IRB approach. African Export Import Bank ('Afrexim'), and the African Trade and Development Bank ('ATDB') for example both carry investment grade ratings. We note the feedback from the PA that only those		The decision whether to include or exclude multilateral development banks (MDB) from the list resides entirely with the BCBS and not with the national supervisors. To make the decision on inclusions or exclusions, the BCBS considers the evaluation of the MDB against the criteria contemplated in paragraph 59 of the Basel II text (CRE 20.14 in Basel III). In the event that an MDB gets added to

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		MDBs designated by the BCBS as zero-rated can be treated under the A-IRB approach. We believe that a precedent exists for the PA to diverge from the framework in this regard. 1. In the EU, under article 17 of the Capital Requirement Regulations, the European Commission is empowered to amend the list of zero rated MDBs. 2. The EU discretion above was transposed into UK legislation post-Brexit. 3. In the US, regulators can designate any other multi-lateral lending institution or regional development bank in which the US government is a shareholder or contributing member or which the primary federal supervisor determines poses comparable credit risk. In 2017 South Africa became the [4]7th African country to join Afrexim bank as a participating state and/or shareholder. We believe that given the issues around trade finance highlighted in point 1 above, that designating certain MDBs for treatment under the A-IRB approach is one of the levers that can be used by the PA to address the impact of the final framework on trade finance in the continent and region.		the list by the BCBS the PA will issue Tier 3 legislation to inform and direct the banks on the appropriate risk weighing.
44.	Draft regulations: Subregulation (23)(6)(g) Table 1 (Annex 1 page 20) – Credit risk CCFs,	1. We note that the CCF requirement of long-term selfliquidating letters of credit (maturity greater than 1 year) under the proposed regulations for credit risk is 50% whilst the draft leverage regulations do not mention a specific CCF for these LCs.	1. We recommend that the regulations be amended to align the leverage ratio CCFs to the credit risk CCFs for long-term LCs. 2. We recommend that regulation	The Draft regulations will be amended to align the leverage ratio CCFs to the credit risk CCFs and the Basel framework.

NR	REFERENCE IN DOCUMENT	COMMENT	PROPOSED WORDING/COMMENT	PA response
	Draft regulations: Subregulation (38)(15)(e)(D) Table 1 (Annex 1 page 159) – Leverage ratio CCFs, Current SARB regulations: Sub-regulation (23)(6) Table 2 – Credit risk CCFs, Current SARB regulations: Sub-regulation (38)(15)(e)(D)(ii) - Leverage ratio CCFs, Basel framework: CRE 20.96 to 20.101	The current SARB regulations require a 20% CCF for short term LCs (<= 1 year) and 50% CCF for long term LCs (> 1 year) for both credit risk and the leverage ratio (i.e., a consistent treatment). 2. The final framework in CRE 20.101 states that where there is an undertaking to provide a commitment on an off-balance sheet item, banks are to apply the lower of the two applicable CCFs. The framework then provides the following example in footnote 46: *For example, if a bank has a commitment to open short-term self-liquidating trade letters of credit arising from the movement of goods, a 20% CCF will be applied (instead of a 40% CCF); and if a bank has an unconditionally cancellable commitment described in CRE20.100 to issue direct credit substitutes, a 10% CCF will be applied (instead of a 100% CCF).*	23(6)(g)(Table 1) be amended to align the credit risk CCFs to the leverage ratio CCFs and the Basel framework	