

From: [Lee Hitge](#)
To: regs.comments@federalreserve.gov
Cc: [Comments](#)
Subject: [EXTERNAL MESSAGE] FW: Overview of the regulatory framework of US vs. EU
Date: Thursday, December 14, 2023 7:13 06 AM
Attachments: [image006.png](#)

Dear Ms. Misback and Mr. Sheesley,

I hope you are both well.

The below is a conversation between myself and a colleague who read the ITFA whitepaper on Regulation Q and he had some questions.

Hopefully, something easier than what you're used to to digest.

Kind regards,

Lee Hitge
Senior Legal & Regulatory Counsel, Credit Risk Solutions
Howden Capital, Advisory & Placement

T: +44 (0)203 808 2585 | M: +44 (0)7944 839 174



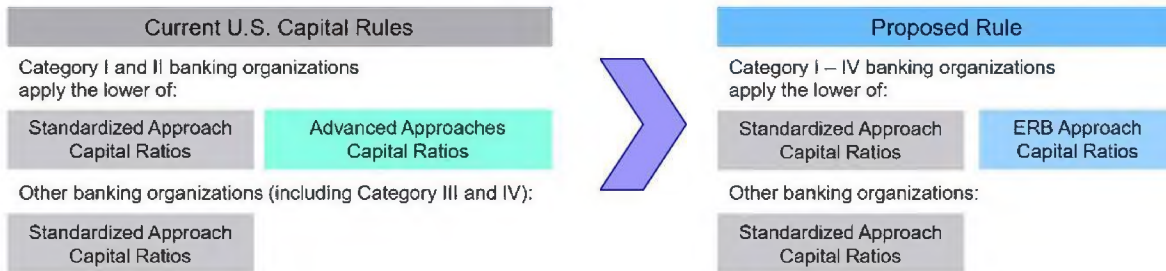
One Creechurch Place, London EC3A 5AF
howdengroup.com

From: Lee Hitge
Sent: 08 December 2023 12:16
To: Jay Hopkins <jay.hopkins@howdengroup.com>; Colin Reddy <Colin.Reddy@howdengroup.com>
Cc: Gurdas Singh <Gurdas.Singh@howdengroup.com>; Guido Cafaggi <Guido.Cafaggi@howdengroup.com>
Subject: RE: Overview of the regulatory framework of US vs. EU

Hi Jay,

And Happy Friday! Sorry for my delay in getting back to you.

See below a table reflecting the current U.S Capital Rules and the Proposed Rule under Basel III Endgame.



So Endgame is proposing to replace the advanced approaches for calculating risk-weighted assets with the expanded risk-based approach.

The expanded risk-based approach includes (1) a new standardized approach for credit risk and operational risk based on the new Standardized Approach under the revised Basel Framework (https://www.bis.org/basel_framework/chapter/CRE/20.htm); (2) a revised internal models-based approach and a new standardized measure for market risk; and (3) a new revised approach for CVA.

The expanded risk-based approach would apply to Category I, II, III, and IV banking organizations (i.e. all banks with over \$100bn in assets).

The proposal includes a three-year transition period beginning July 1, 2025. Comments on the proposal are due by January 16, 2024.

See also my responses to your questions below in green.

Hope this is helpful.

Kind regards,

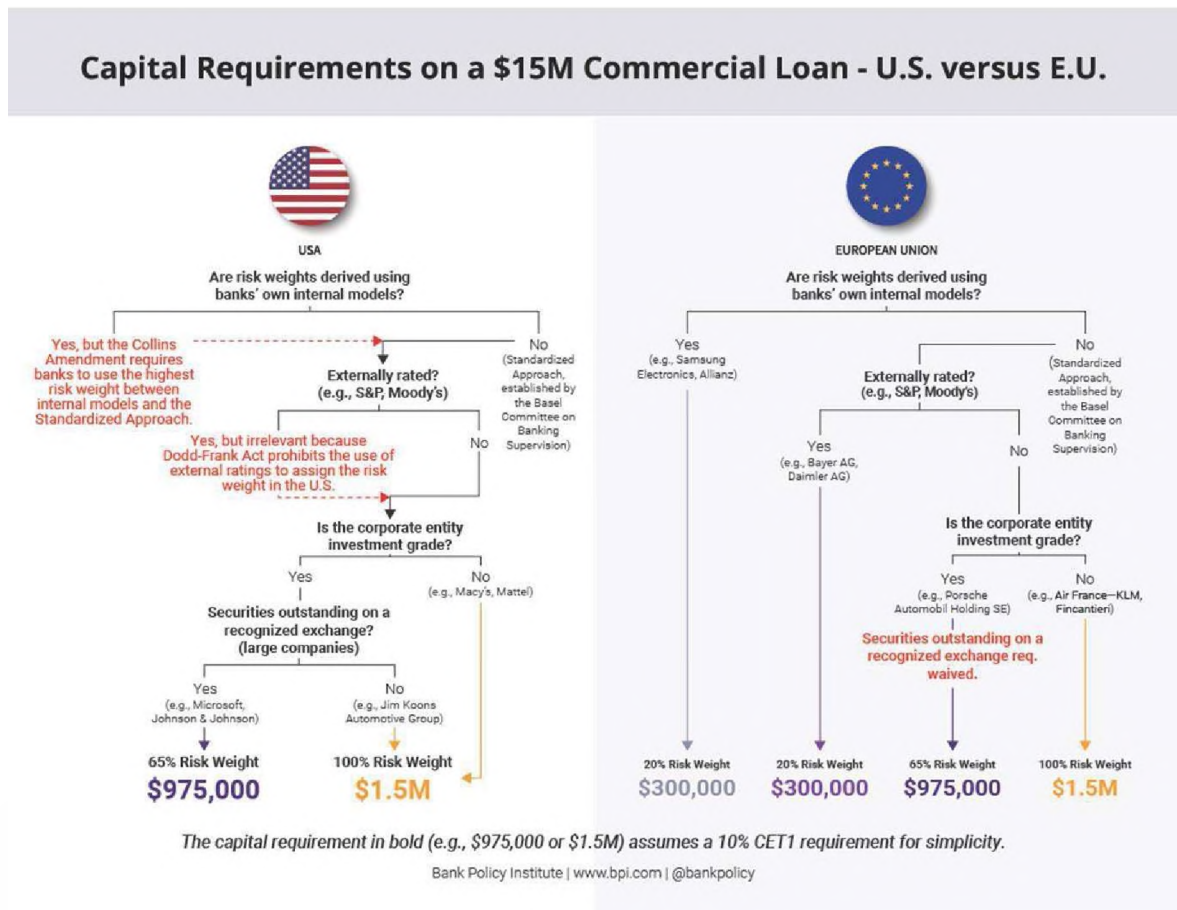
Lee

From: Jay Hopkins <jay.hopkins@howdengroup.com>
Sent: 04 December 2023 18:15
To: Lee Hitge <Lee.Hitge@howdengroup.com>; Colin Reddy <Colin.Reddy@howdengroup.com>
Cc: Gurdas Singh <Gurdas.Singh@howdengroup.com>
Subject: RE: Overview of the regulatory framework of US vs. EU

Hi Lee

I have read through the attached ITFA whitepaper and had a couple of notes that I wanted to confirm:

- <!--[if !supportLists]--> • <!--[endif]-->The US banks can employ a standardised risk weighted asset treatment (assuming that US banking alternative is the advanced approach similar to in the EU?) and as such, insurance exposures are treated in the same way as a corporate exposure – At the moment, banks in the US have to use the highest risk weighting generated from the AA and SA. But as per above, Endgame is proposing to change this to ERBA, which is essentially SA for credit risk and operational risk.
- <!--[if !supportLists]--> • <!--[endif]-->Insurers have not explicitly been referenced as eligible guarantors – No, they are not explicitly referenced in Reg Q and they're treated as unrated corporates under the SA and assigned a RW of 100% unless the insurer has itself issued debt
- <!--[if !supportLists]--> • <!--[endif]-->US RWA does not account for the insurers external credit rating, while EU banks RWA framework does allow for this – Correct, the US is not a jurisdiction that permits the use of external credit ratings;
- <!--[if !supportLists]--> • <!--[endif]-->If the US regulator was to employ similar RWA framework to the EU, then there would be significant benefits to banks – Absolutely! Think a lot of the lobbying efforts in the US are to bring things in line with the EU's implementation of Basel. US Banks are currently at a significant disadvantage to EU banks and the Endgame Proposal hasn't changed this. See decision tree below, which is quite helpful to see the differences.



So the alignment sought (and being lobbied for by everybody that's anybody) is essentially as follows:

- <!--[if !supportLists]--> • <!--[endif]-->When implementing the Endgame, US federal banking agencies should include among the "per se eligible guarantors" those insurance companies that are subject to prudential regulation and supervision (including applicable capital and liquidity requirements).
- <!--[if !supportLists]--> • <!--[endif]-->Provide clarifying guidance or an interpretation under the current US Basel III Rules, that the fact that a holding company's debt securities are deemed "investment grade" would inevitably reflect in part the creditworthiness of the holding company's regulated insurance company subsidiaries.
- <!--[if !supportLists]--> • <!--[endif]-->Be consistent with the Basel Framework by allowing insurance companies, subject to prudential supervision equivalent to that relevant for banks, to be treated substantially similar to banks for the purposes of risk weighting of credit exposures, along with a determination by the regulators that insurance companies are subject to such prudential supervision.
- <!--[if !supportLists]--> • <!--[endif]-->Clarify the risk weight between short tenor versus longer tenor transactions. For short term transactions, the risk weight may be as low as 20% in the case of a short-term exposure to a low risk (i.e., Grade A) obligor.

To that end, are you able to provide:

- <!--[if !supportLists]-->• <!--[endif]-->Clarification of the US standardised approach to RWA treatment? i.e. is there a table available? – See at <https://www.ecfr.gov/current/title-12/chapter-III/subchapter-B/part-324/subpart-D>
- <!--[if !supportLists]-->• <!--[endif]-->Confirmation of whether banks using the advanced approach will encounter similar hurdles – what is the output floor conversation yielding and who is in control of this? What is the difference between US and EU output floors? In the EU, the 72.5% Output Floor will limit the benefits of applying the Internal Ratings-based Approach. In the US, the output floor will be applied to the calculation of Expanded Total RWAs
- <!--[if !supportLists]-->• <!--[endif]-->Clarify the legislation that states a US insurer cannot issue insurance as it is too akin to a financial guarantee – Article 69 of NY Insurance Law prohibits a NY licensed insurer from writing "Financial Guaranty". Financial Guaranty being defined as:

"Financial guaranty insurance" means a surety bond, an insurance policy or ... an indemnity contract, and any guaranty similar to the foregoing types, under which loss is payable, upon proof of occurrence of financial loss, to an insured claimant, obligee or indemnitee as a result of any of the following events:

- <!--[if !supportLists]-->A. <!--[endif]-->Failure of any obligor on or issuer of any debt instrument or other monetary obligation (including equity securities guaranteed under a surety bond, insurance policy or indemnity contract) to pay when due to be paid by the obligor or scheduled at the time insured to be received by the holder of the obligation, principal, interest, premium, dividend or purchase price of or on, or other amounts due or payable with respect to, such instrument or obligation, when such failure is the result of a financial default or insolvency or, provided that such payment source is investment grade, any other failure to make payment, regardless of whether such obligation is incurred directly or as guarantor by or on behalf of another obligor that has also defaulted;
- <!--[if !supportLists]-->B. <!--[endif]-->Changes in the levels of interest rates, whether short or long term or the differential in interest rates between various markets or products;
- <!--[if !supportLists]-->C. <!--[endif]-->Changes in the rate of exchange of currency;
- <!--[if !supportLists]-->D. <!--[endif]-->Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or
- <!--[if !supportLists]-->E. <!--[endif]-->Other events which the superintendent determines **are substantially similar** to any of the foregoing.

See NYIL §§ 1113(a)(25) and 6901(a)(1). **[11]**

Depending on the specific structure, coverage, and features, a non-trade credit insurance product could reasonably be classified under New York's statutory definitions as either financial guaranty insurance or credit insurance.

Lobbying efforts ongoing with DFS to conclude that certain non-trade credit insurance products (e.g. applying to term loans and RCFs) are substantially similar to trade credit insurance products that have long been written under New York's credit line of business, and not financial guaranty

<!--[if !supportLists]-->• <!--[endif]-->Timelines regarding when the new Basel III reforms will take effect

	BCBS	EU	UK	US	Canada
Revised standardised approach for credit risk	1 Jan 2023	1 Jan 2025	1 July 2025	1 Jul 2025 to 1 Jul 2028	Q1 2023
Revised internal ratings-based (IRB) approach for credit risk	1 Jan 2023	1 Jan 2025	1 July 2025	1 Jul 2025 to 1 Jul 2028	Q1 2023
Revised credit valuation adjustment (CVA) framework	1 Jan 2023	1 Jan 2025	1 July 2025	1 Jul 2025 to 1 Jul 2028	Q1 2024
Revised minimum capital requirements for market risk	1 Jan 2023	1 Jan 2025	1 July 2025	1 Jul 2025 to 1 Jul 2028	Q1 2024
Revised operational risk framework	1 Jan 2023	1 Jan 2025	1 July 2025	1 Jul 2025 to 1 Jul 2028	Q1 2024
Output floor	1 Jan 2023 to 1 Jan 2028	1 Jan 2025 to 1 Jan 2030	1 July 2025 to 1 Jan 2030	1 Jul 2025 to 1 Jul 2028	Q1 2023 to Q1 2028

<!--[if !supportLists]-->• <!--[endif]-->The timelines that ITFA are aiming to apply the addendums to the current / proposed legislation amended to cater for insurance

See below the latest text in re Article 506:

By **30 June 2024**, EBA shall, **in close cooperation with EIOPA**, report to the Commission on the eligibility and use of policy insurance as credit risk mitigation techniques, **including** on :

- (a) the appropriateness of the associated risk parameters referred to in Part Three, Title II, Chapter 3 and 4;
- (b) **an analysis of the effective and observed riskiness of credit risk exposures where a credit insurance was recognised as a credit risk mitigation technique;**
- (c) **the consistency of own funds requirements laid down in this Regulation with the outcomes of the analysis under points (a) and (b) of this paragraph**

On the basis of that report **[]**, the Commission shall **[]**, where appropriate, **submit to the European Parliament and to the Council a legislative proposal**, to amend the treatment applicable to credit insurance referred to in Part Three, Title II by **31 December 2024**

ITFA is putting together a number of supporting documents to give to the EBA to assist it with its report. Hoping to everything over to EBA during February.

Finally, I have attached the whitepaper with some notes. Perhaps we could run through these when you have 5 / 10 mins?

Thank you again for your help on this again, you've been super accommodating and helpful ☺

Best regards,

Jay

Jay Hopkins

Divisional Director, Technology & Partnerships
Howden Capital, Advisory & Placement
D +44 (0)203 808 5635 | S +44 (0)20 7456 9300 | M +44 (0)79 2324 4821



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From: Lee Hitge <Lee.Hitge@howdengroup.com>

Sent: 27 November 2023 10:21

To: Jay Hopkins <jay.hopkins@howdengroup.com>; Colin Reddy <Colin.Reddy@howdengroup.com>

Cc: Gurdas Singh <Gurdas.Singh@howdengroup.com>

Subject: RE: Overview of the regulatory framework of US vs. EU

Definitely one to talk through.

From: Jay Hopkins <jay.hopkins@howdengroup.com>

Sent: 27 November 2023 10:20

To: Colin Reddy <Colin.Reddy@howdengroup.com>; Lee Hitge <Lee.Hitge@howdengroup.com>

Cc: Gurdas Singh <Gurdas.Singh@howdengroup.com>

Subject: RE: Overview of the regulatory framework of US vs. EU

Hi Colin,

Ah, fair enough. I didn't realise it would be so big. Definitely keen to get on a call to discuss.

Best regards,

Jay

Jay Hopkins

Divisional Director, Technology & Partnerships
Howden Capital, Advisory & Placement
D +44 (0)203 808 5635 | S +44 (0)20 7456 9300 | M +44 (0)79 2324 4821



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From: Colin Reddy <Colin.Reddy@howdengroup.com>

Sent: 27 November 2023 10:02

To: Jay Hopkins <jay.hopkins@howdengroup.com>; Lee Hitge <Lee.Hitge@howdengroup.com>

Cc: Gurdas Singh <Gurdas.Singh@howdengroup.com>

Subject: Re: Overview of the regulatory framework of US vs. EU

Hi Jay,

This would be a massive piece of work and not readily available. I think it would be best to catch up and we can discuss the differences across the US and Europe.

Thanks,

Colin

Sent from [Outlook for iOS](#)

From: Jay Hopkins <jay.hopkins@howdengroup.com>

Sent: Monday, November 27, 2023 9:57:58 AM

To: Lee Hitge <Lee.Hitge@howdengroup.com>

Cc: Colin Reddy <Colin.Reddy@howdengroup.com>; Gurdas Singh <Gurdas.Singh@howdengroup.com>

Subject: RE: Overview of the regulatory framework of US vs. EU

Hi Lee,

Thanks very much for providing this content. I must confess that I am not particularly well versed in the language of RWA, so these docs go over my head.

My understanding is that there is currently a mismatch between the EU regulations and the US regulations and the ITFA efforts are an attempt to encourage the US regulator to tend toward the European treatment (please could you confirm if this is correct?)

I was hoping that you could put together a short summary note of:

- EU vs US approaches to RWA as of today
- EU vs US approached to RWA under new Basel reforms and any future US regulations
- Intention of the ITFA working group
- Any other notable points

This would be really useful for my understanding and aid the general conversations I am having internally.

Thanks so much and please do let me know if you have any questions.

Best regards,

Jay

Jay Hopkins

Divisional Director, Technology & Partnerships

Howden Capital, Advisory & Placement

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From: Lee Hitge <Lee.Hitge@howdengroup.com>

Sent: 27 November 2023 09:47

To: Jay Hopkins <jay.hopkins@howdengroup.com>

Cc: Colin Reddy <Colin.Reddy@howdengroup.com>; Gurdas Singh <Gurdas.Singh@howdengroup.com>

Subject: Overview of the regulatory framework of US vs. EU

Hey Jay,

Hope you had a good weekend.

Find attached overview you requested and the ITFA IACPM lobbying paper, which is also really helpful.

Kind regards,

Lee

From: Lee Hitge

Sent: 17 November 2023 14:57

To: James Pryar <James.Pryar@howdengroup.com>; Tom Stansfield <Tom.Stansfield@howdengroup.com>

Cc: Colin Reddy <Colin.Reddy@howdengroup.com>

Subject: REGULATION Q

See attached, as discussed, the text of Regulation Q (see pages 433 and 434 for the definitions of eligible guarantee and eligible guarantor) and the white paper.

Lee Hitge

Senior Legal & Regulatory Counsel, Credit Risk Solutions
Howden Capital, Advisory & Placement

T: +44 (0)203 808 2585 | M: +44 (0)7944 839 174



One Creechurch Place, London EC3A 5AF
howdengroup.com

^[1] In the event that a particular product is properly classified as financial guaranty insurance, NYIL section 6904 further constrains the type of financial guaranty products that can be offered by a New York-authorized insurer to those insuring defaults on certain debt obligations (*i.e.*, item "A" of the above definition of financial guaranty), and only with respect to certain categories of products, including: municipal obligation bonds; special revenue bonds; industrial development bonds; obligations of corporations, trusts or other similar entities established under applicable law; partnership obligations; certain asset-backed securities, trust certificates and trust obligations; installment purchase agreements executed as a condition of sale; consumer debt obligations; utility first mortgage obligations; and any other debt instrument or financial obligation that the superintendent determines to be substantially similar to any of the foregoing or shall otherwise be approved by the superintendent. See NYIL § 6904.