

BCBS – BASEL COMMITTEE FOR BANKING SUPERVISION
Position paper on second consultative document concerning
revisions to the standardised approach for credit risk (d347 dated
10 December 2015)

The FFB – Fédération Française du Bâtiment (French Building Federation) represents 50,000 member companies, of which 35,000 are in the crafts trade (artisans). The FFB groups together building construction companies of all sizes in order efficiently to promote the collective interest of the Building profession. FFB members are responsible for two-thirds of the annual output of the building sector in France (€ 124 billion), and two-thirds of its total employment (1.1 million).

The BCBS has requested submissions from relevant professional bodies concerning its proposal to revise the standardised approach for credit risk concerning real estate development finance (increasing risk-weighting from 100% to 150% in terms of capital requirements).

The FFB, on behalf of all our membership and in particular on behalf of our combined housing development and construction members, considers that this proposal is both dangerous for our activity and not adapted to our specific national practice.

The BCBS proposal is inappropriate in the French context for the following reasons:

- a) such a severe increase in risk-weighting would have the following impact:
 - it would increase credit cost, since bank capital is expensive;
 - it would risk inducing a credit crunch, if banks' lending capacity due to insufficient capital was too limited compared to credit demand.
- b) such an over-prudent approach to risk-weighting does not take into account the very secure legal mechanism of the French forward sale of property development (VEFA)¹:
 - Since 1967 French law provides a specific mechanism for forward sale-purchase agreements in the case of real estate development: "VEFA – Vente en État Futur d'Achèvement" (literal translation: sale in future state of completion, hereinafter "VEFA").
 - When the notarised VEFA deed is signed between the developer and the purchaser of the property concerned, the title of the property (including both land and existing and future construction) is immediately transferred by the developer to the purchaser. This

¹ Article 1601-3 of the French Civil Code (same text in article L.261-3 of the French Construction and Housing Code): "The sale in a future state of completion is the contract by which a seller immediately transfers to the purchaser its rights over the plot of land as well as the ownership of the existing construction. The structures to be erected then become the property of the purchaser as and when the works progress; the purchaser shall pay the price according to the state of progress of the works. The seller retains the powers of the owner until acceptance of the works".

immediate transfer of the legal ownership from the developer to the purchaser is firm and definitive.

- The purchaser has thus acquired ipso facto immediate title (at the instant of their execution) to all the remaining construction elements which are then progressively completed by the developer.
- The transfer (sale) of the property being developed is thus immediate and certain, and therefore not dependent on a “future uncertain sale”.
- The VEFA mechanism thus constitutes an immediate and certain sale of the property developed by the developer. The source of repayment of the loan to companies or SPVs financing the land acquisition, development and construction of residential or commercial properties is thus immediate and certain.
- The VEFA mechanism is highly regulated when applied to forward sales of housing development (“protected sector”, covering all residential property irrespective of number or size of units), whether to households, private individual investors, or to major institutions. French banks have experienced low default rates when lending to developers selling housing forward using the VEFA dispositions.
- Commercial real estate (by definition excluding all residential property) can also be forward sold under the VEFA mechanism, but without the specific regulations applying to the protected sector.