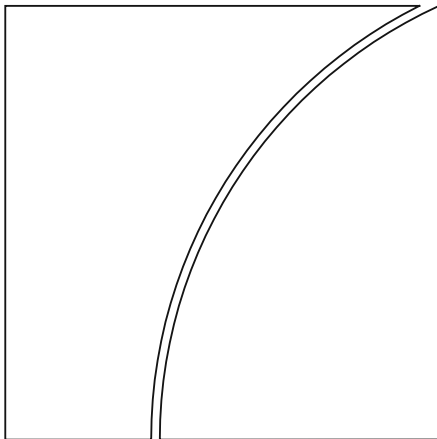


Basel Committee on Banking Supervision



Regulatory Consistency Assessment Programme (RCAP)

Assessment of Basel large exposures regulations – United States

July 2023



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ISBN 978-92-9259-672-9 (online)

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Glossary

BCBS	Basel Committee on Banking Supervision
BHC	Bank holding company
BIS	Bank for International Settlements
C	Compliant (grade)
CFR	Code of Federal Regulations
CRM	Credit risk mitigation
FDIC	Federal Deposit Insurance Corporation
FBO	Foreign banking organisation
FINMA	Swiss Financial Market Supervisory Authority
FRB	Board of Governors of the Federal Reserve System
FRBNY	Federal Reserve Bank of New York
GSE	Government-sponsored enterprise
G-SIB	Global systemically important bank
IHC	Intermediate holding company
IMM	Internal model method
LC	Largely compliant (grade)
LEX	Large exposures
LTA	Look-through approach
MNC	Materially non-compliant (grade)
NC	Non-compliant (grade)
OCC	Office of the Comptroller of the Currency
PSE	Public sector entity
RCAP	Regulatory Consistency Assessment Programme
SA-CCR	Standardised approach for counterparty credit risk
SCCL	Single-counterparty credit limits
SPV	Special purpose vehicle
US	United States
USD	US dollar

Preface

The Basel Committee on Banking Supervision (Basel Committee) places a high priority on the implementation of regulatory standards underpinning the Basel III framework. The prudential benefits from adopting Basel standards can only fully accrue if these are implemented in a full, timely and consistent manner by all member jurisdictions. The Committee established the Regulatory Consistency Assessment Programme (RCAP) to monitor, assess and evaluate its members' implementation of the Basel III framework.¹

This report presents the findings of an RCAP Assessment Team (Assessment Team) on the adoption status of the Basel large exposures (LEX) framework in the United States (US) on 15 March 2023. The assessment focused on the completeness and consistency of the US LEX regulations with the Basel LEX framework and relied on the information provided by the US agencies named below.

The Assessment Team was led by Mr Thomas Hirschi, Head of the Banks division and Member of the Executive Board of the Swiss Financial Market Supervisory Authority (FINMA), and comprised four technical experts, from the French Prudential Supervision and Resolution Authority (ACPR), the Reserve Bank of India (RBI), the German Federal Financial Supervisory Authority (BaFin) and the Bank of England (BOE) (see Annex 1). The main counterparts for the assessment were the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Bank of New York (FRBNY). The work was coordinated by the Basel Committee Secretariat with the support of staff from FINMA.

The assessment began in June 2022 and comprised: (i) a self-assessment by the US agencies (June to September 2022); (ii) an assessment phase (September 2022 to March 2023); and (iii) a review phase (March to June 2023) including a technical review of the Assessment Team's findings by a separate RCAP Review Team and the Basel Committee. The assessment report ultimately reflects the view of the Basel Committee.

The Assessment Team acknowledges the cooperation received from the US agencies throughout the assessment process.

¹ See www.bis.org/bcbs/implementation.htm.

Executive summary

In the US, the LEX requirements were adopted by the FRB through the final single-counterparty credit limits (SCCL) rule, which became effective on 5 October 2018. Transition periods were provided to allow banks to align their systems and exposures with the final rule.

Overall, as of 15 March 2023, the LEX regulations in the US are assessed as largely compliant with the Basel LEX framework. This is one notch below the highest overall grade.

The three components of the Basel LEX framework (scope and definitions; minimum requirements and transitional arrangements; and value of exposures) are assessed as compliant, compliant and materially non-compliant, respectively.

The overall grade is driven by one material finding related to the definition of exposure values and eight findings that were deemed not material. For the definition of exposure values, the US regulations allow that derivatives may be valued using any of the methods that the bank is authorised to use, including the internal model method (IMM), while the Basel LEX framework requires such transactions to be valued using the standardised approach for counterparty credit risk (SA-CCR) only.

The Assessment Team noted that the LEX regulations in the US are super-equivalent to the Basel LEX framework in four areas (see Annex 4). In accordance with the methodology and guidance provided in the RCAP Handbook for jurisdictional assessments, the stricter rules have not been taken into account as mitigants for the overall or component-level assessment of compliance.

Response from the US authorities

The US federal banking agencies would like to thank the Basel Committee's RCAP Assessment Team and Secretariat for facilitating an informative and productive review of the implementation of the Basel large exposures (LEX) framework in the US through the Federal Reserve Board's (FRB's) single-counterparty credit limits (SCCL) rule. We support the Basel Committee's efforts to establish international standards that promote global financial stability and support the RCAP process as a means of assessing how effectively jurisdictions have implemented such standards.

The report states that the Basel LEX framework requires banks to calculate counterparty credit risk for derivative exposures using the standardised approach for counterparty credit risk, while the FRB's SCCL rule allows banks to calculate such exposures using an internal model method (IMM) approach if a bank has been authorised for such use. We note that, even in cases where an IMM is used, the heightened reporting requirements associated with the SCCL rule allow the FRB to supervise significant exposures appropriately and help ensure alignment with the purpose of the Basel LEX framework.

Assessment of the implementation of global standards across jurisdictions is a valuable exercise of accountability and transparency, and we reiterate our support for the RCAP process.

1 Assessment context

1.1 Regulatory system

The US has a dual banking system in which a bank may choose to be chartered by the federal government or by a state. Banks chartered at the state level are supervised by both federal and state supervisors. Every US bank is regulated, supervised and examined by a primary federal banking supervisor: the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), or the Board of Governors of the Federal Reserve System (FRB), collectively the US federal banking agencies (the US agencies). The US agencies have the authority to regulate and supervise banks and bank holding companies subject to their jurisdiction. Annex 2 describes the structure and hierarchy of prudential regulation in the US and relevant regulations to implement the LEX regulation.

In applying capital and liquidity requirements to large domestic and foreign banks, the US agencies have established a framework that classifies banks with USD 100 billion or more in total assets into four different categories based on several factors, including asset size and cross-jurisdictional activity.² Under this tiered approach, Category I consists of the US global systemically important banks (G-SIBs), which are the largest, most complex, internationally active banks in the US market. Category II includes all other internationally active US banks (ie banks with USD 700 billion or more in total consolidated assets or banks with USD 75 billion or more in cross-jurisdictional activity). Category III includes banks with total consolidated assets of USD 250 billion or more or USD 75 billion or more in weighted short-term wholesale funding, non-bank assets or off-balance sheet exposure. Banks with total consolidated assets of USD 100 billion or more that do not meet the thresholds for one of the other three categories fall into Category IV. Category I and II banks are generally subject to the full US capital and liquidity requirements, while Category III and IV banks meeting certain criteria are subject to reduced or simpler capital and liquidity requirements.

1.2 Status of implementation of the large exposures framework

Taking effect on 5 October 2018, the FRB adopted the final rule of the SCCL to implement the US large exposures framework.³ The SCCL rule applies to US G-SIBs, Category II and Category III bank holding companies (BHCs), Category II and III foreign banking organisations (FBOs) with USD 250 billion or more in total global consolidated assets and their subsidiary US intermediate holding companies (IHCs) with total assets of USD 50 billion or more.

US G-SIBs were required to comply with the SCCL rule by 1 January 2020, while other US banks subject to the rule were required to comply by 1 July 2020. Foreign G-SIBs and other foreign banks subject to the rule were required to comply by 1 July 2021 and 1 January 2022, respectively. Furthermore, a bank that becomes subject to the SCCL rule after 5 October 2018 must comply with the requirements beginning on the first day of the ninth calendar quarter after it becomes subject to the SCCL rule. These transition periods were provided to allow banks to align their systems and exposures with the final rule. In addition, the initial transition period for foreign banks was extended to allow those banks' home-country jurisdictions to implement the Basel LEX framework, thereby allowing the foreign banks to comply with the SCCL rule by certifying compliance with their home-country standard.

² See Board of Governors of the Federal Reserve System, *Changes to applicability thresholds for regulatory capital and liquidity requirements*, November 2019, www.federalregister.gov/documents/2019/11/01/2019-23800/changes-to-applicability-thresholds-for-regulatory-capital-and-liquidity-requirements.

³ See Board of Governors of the Federal Reserve System, *Single-counterparty credit limits for bank holding companies and foreign banking organizations*, August 2018, www.federalregister.gov/documents/2018/08/06/2018-16133/single-counterparty-credit-limits-for-bank-holding-companies-and-foreign-banking-organizations.

1.3 Scope of the assessment

The Assessment Team considered the large exposure limits applicable to a sample of internationally active banks in the US as of 15 March 2023. The assessment had two dimensions:

- a comparison of US regulations with the Basel LEX framework to ascertain that all the required provisions have been adopted (*completeness* of the regulations); and
- whether there are any differences in substance between the US regulations and the Basel LEX framework and, if so, their significance (*consistency* of the regulations).

In its assessment, the Assessment Team considered all binding documents that effectively implement the Basel LEX framework in the US. Annex 2 lists the Basel standards used as the basis for the assessment. The assessment did not evaluate the resilience of the banking system in the US or the supervisory effectiveness of the US agencies.

The Assessment Team evaluated the materiality and potential materiality of identified deviations between the Basel LEX framework and the US regulations. The evaluation was made using a sample of eight internationally active US banks. Together, these banks comprise about 99% of the assets of internationally active banks in the US. In addition, the Assessment Team reviewed the non-quantifiable impact of identified deviations and applied expert judgment as to whether the US regulations meet the Basel LEX framework in letter and in spirit. The materiality assessment is summarised in Annex 3, which also lists the sample of banks.

The Assessment Team noted that, in some areas, the US regulations go beyond the minimum Basel standards. Although these elements (listed in Annex 4) provide for a more rigorous implementation of certain aspects of the Basel Framework, they have not been taken into account for the assessment of compliance.

The outcome of the assessment is summarised using a four-grade scale, both for each of the three key components of the Basel LEX framework and for the overall assessment of compliance. The four grades are compliant (C), largely compliant (LC), materially non-compliant (MNC) and non-compliant (NC).

2 Assessment findings

2.1 Assessment grades and summary of findings

Overall, the Assessment Team finds the implementation of the LEX framework in the US to be largely compliant with the Basel LEX framework. This grade is based on the materiality assessment (summarised in Annex 3) and is driven by one material finding and eight findings that were deemed not material.

Component of the Basel large exposures framework	Grade
Overall grade	LC
Scope and definitions	C
Minimum requirements and transitional arrangements	C
Value of exposures	MNC

Assessment scale: C (compliant), LC (largely compliant), MNC (materially non-compliant) and NC (non-compliant).

2.1.1 Scope and definitions

The US regulations on the scope and definitions are assessed as compliant with the Basel LEX framework. One finding was identified. The Basel LEX framework sets out additional criteria for the assessment between counterparties based on control and although the US regulations do not include the additional criteria, the sample of US banks attested that their risk management and control procedures include wider criteria to assess connectedness among clients which align with the Basel requirements. This finding is assessed as not material.

The Assessment Team observes that banks' exposures to some government-sponsored enterprises (GSEs) are exempted from the US LEX limit. In addition, the FRB may grant additional exemptions that are "in the public interest" and consistent with the purposes of the statutory single-counterparty credit limit, and may grant a special temporary credit exposure limit exemption under certain circumstances upon a bank's request.

2.1.2 Minimum requirements and transitional arrangements

The US regulations on the minimum requirements and transitional arrangements are assessed as compliant with the Basel LEX framework. One finding was identified. The US regulations require that a bank that becomes subject to the SCCL rule after 5 October 2018 must comply with the requirements beginning on the first day of the ninth calendar quarter after it becomes subject to the SCCL rule. This additional time to comply with the requirements is longer than the transitional period specified in the Basel LEX framework for G-SIBs. As no bank is currently subject to this transitional arrangement, this deviation is assessed as not material.

The Assessment Team observes that US G-SIBs were required to comply with the SCCL rule by 1 January 2020 while other US banks subject to the rule were required to comply by 1 July 2020, ie after the Basel Committee's agreed implementation date of 1 January 2019.

2.1.3 Value of exposures

The US regulations on the value of exposures requirements are assessed to be materially non-compliant with the Basel LEX framework. The component grade was mainly driven by one finding that was assessed as a material deviation. The US regulations allow banks to value their derivative exposures using any of the methods that the banks are authorised to use, including the IMM. In addition, six findings were identified and assessed as not material:

- The US regulations expand the scope of eligible credit risk mitigation (CRM) techniques to equity derivatives;
- The US regulations do not require banks to consider the exposure to the issuer of the referenced asset but only the exposure to the counterparty of those derivatives, except for credit derivatives where the bank is the protection provider;
- The US regulations do not specify any requirement for determining the values for long call options and short put options;
- The US regulations exempt intraday credit exposures to counterparties other than banks;
- The US regulations allow banks to exceed the limits if they obtain a prior approval from the FRB in cases where the FRB determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered company or US financial stability;
- The US regulations do not require banks to be able to demonstrate that regulatory arbitrage considerations have not influenced the decision whether or not to follow the look-through approach.

2.2 Detailed assessment findings

2.2.1 Scope and definitions

Section grade	Compliant
Basel paragraph number	23–25: Definition of connected counterparties
Reference in the domestic regulation	12 CFR 252.76(c)
Finding	<p>The Basel LEX framework sets out additional criteria for the assessment of connectedness between counterparties based on control. This includes criteria such as: (i) significant influence on the appointment or dismissal of an entity's administrative, management or supervisory body, eg the right to appoint or remove a majority of members in those bodies, or the fact that a majority of members have been appointed solely as a result of the exercise of an individual entity's voting rights; and (ii) significant influence on senior management, eg an entity has the power, pursuant to a contract or otherwise, to exercise a controlling influence over the management or policies of another entity (eg through consent rights over key decisions).</p> <p>The US regulation refers to voting rates of 25%, which is more rigorous than the Basel requirement, but does not include the significant influence over senior management as a control criterion.</p> <p>It is possible that a bank could have an exposure to two or more clients where, on an individual basis, the exposure if defaulting would not lead to a significant loss. However, if one client holds significant influence over another, it is likely that financial difficulties in one client could create financial difficulties in another and the loss on aggregate could be significant. In practice, the sample of US banks attested that their risk management procedures when assessing groups of connected counterparties include considering wider criteria such as significant influence on senior management and the power to exercise a controlling influence over management. As such, the deviation is assessed as not material.</p>
Materiality	Not material

2.2.2 Minimum requirements and transitional arrangements

Section grade	Compliant
Basel paragraph number	90 and 93: Implementation date and transitional arrangements
Reference in the domestic regulation	12 CFR 252.70(c)(2)
Observation	<p>Under the Basel LEX framework, a bank must apply the requirements within 12 months after it becomes a G-SIB, while no transitional arrangements are specified for non-G-SIBs.</p> <p>The US regulations require a bank that becomes subject to the SCCL rule after 5 October 2018 to comply with the requirements beginning on the first day of the ninth calendar quarter after it becomes subject to the SCCL rule, unless that time is accelerated or extended by the FRB in writing. This additional time to comply is longer than the transitional arrangement specified in the Basel LEX framework. As no bank is currently subject to this transitional arrangement, this deviation is assessed as not material.</p>
Materiality	Not material

2.2.3 Value of exposures

Section grade	Materially non-compliant
Basel paragraph number	33: Definition of exposure values
Reference in the domestic regulation	CFR 252.73(a)(7)
Finding	<p>The Basel LEX framework requires that derivatives must be valued according to the SA-CCR even for the banks that have approval to use the IMM for calculating risk weighted assets (RWA).</p> <p>The US regulation specifies that derivatives must be valued using any of the methods that the bank is authorised to use.</p> <p>Four sample banks currently have approval to use the IMM to measure exposure values for regulatory capital purposes and also use this approach to calculate derivative exposure values for large exposure purposes. The derivative exposures reported by sample banks that were calculated using the IMM were scaled up by 88.5% in order to estimate the (higher) value of these exposures using the SA-CCR and determine the materiality of this deviation. This percentage increase is consistent with the median increase observed through the analysis of the Committee's data when comparing derivatives exposures calculated under the IMM to the same exposures calculated using the SA-CCR. For a single bank, the maximum percentage of its Tier 1 capital by which an exposure was underreported was 6.74 percentage points, with an overall weighted deviation of all sample banks' underreported exposures of 0.16 percentage points of Tier 1 capital.</p> <p>Given the size of the underreported exposure from a single bank, this deviation is assessed as material.</p> <p>This assessment also considers the increase in materiality if there is a significant stress event either locally or globally, which could cause derivative exposures to individual counterparties to increase significantly and rapidly, and in turn could potentially have an even greater material impact on the international level playing field.</p>
Materiality	Material
Basel paragraph number	36: Eligible credit risk mitigation techniques
Reference in the domestic regulation	12 CFR 252.74(c)(1); 12 CFR 252.74(b)(1); 12 CFR 252.74(d)(1)
Finding	<p>The Basel LEX framework defines eligible CRM techniques as those that meet the conditions for the recognition of unfunded credit protection (which includes guarantees and credit derivatives).</p> <p>The US regulation expands the scope of eligible CRM techniques to equity derivatives. Data provided by the US agencies confirmed that exposures that were reported by banks where CRM techniques that include derivatives (credit or equity) are applied are all well below the large exposure limit even before applying the CRM techniques. The largest use of credit and equity derivatives for CRM purposes for a single bank comprises 7.5% of Tier 1 capital, and in no instance is CRM used to bring the exposure within large exposure limits. Banks report the combined use of credit and equity derivatives for CRM purposes, which means that the data cannot separately isolate the use of equity derivatives. However, the US agencies confirmed that the vast majority of these exposures are also to debt rather than equity, implying that the CRM is likely to be largely via credit derivatives and suggesting that the quantitative impact of equity derivatives is significantly less than the combined credit/equity figures provided. The equity exposures reported by banks that apply credit/equity derivatives for CRM purposes are on average 0.17% of Tier 1 capital. As such, the deviation is assessed as not material.</p>
Materiality	Not material

Basel paragraph number	47: Calculation of exposure value for trading book positions
Reference in the domestic regulation	12 CFR 252.73(a)(7)
Finding	<p>The Basel LEX framework requires banks to include exposures to both the issuer of the referenced asset and the counterparty for a swap, future, forward, or credit derivative when evaluating a derivative transaction.</p> <p>The US regulation does not require banks to consider the exposure to the issuer of the referenced asset but only the exposure to the counterparty of those derivatives, except for credit derivatives where the bank is the protection provider.</p> <p>The US agencies confirmed that although they do not collect data on these indirect exposures through their large exposure reporting requirements, they have insight into this data through their quarterly stress testing data collections. They received reports where a bank has a net long exposure to the issuer of derivative referenced assets that exceeds 0.5% of Tier 1 capital. They reported 10 such instances across five sample banks, with the largest accounting for 2.1% of Tier 1 capital. They also note which of these counterparties are also reported as top 50 exposures in the SCCL collection. The US agencies confirmed that this impact represents the maximum exposure size, and that the data was assessed over the past five years (including the Covid-19 period) with no change in impact over this time. As such the deviation is assessed as not material.</p>
Materiality	Not material
Basel paragraph number	49: Calculation of exposure value for trading book positions
Reference in the domestic regulation	n/a
Finding	<p>The Basel LEX framework requires banks to use a specific treatment for determining the value for long call options and short put options. The exposure value must be based on the change(s) in the option price that would result from a default of the underlying instrument. The exposure value for a simple long call option would therefore be its market value and for a short put option would be equal to the strike price of the option minus its market value.</p> <p>The US regulations do not specify any requirement for determining the values for long call options and short put options.</p> <p>The US agencies confirmed that their calculation for long call options aligns with the Basel LEX framework but that the calculation for short put options is different. They confirmed that, for a short put option, the off-balance sheet component of an equity exposure is the effective notional principal amount of the exposure, the size of which is equivalent to a hypothetical on-balance sheet position in the underlying equity instrument that would evidence the same change in fair value (measured in USD) for a given change in the price of the underlying equity instrument, minus the adjusted carrying value of the on-balance sheet component of the exposure, which is equivalent to market value.</p> <p>The materiality assessment for this deviation was performed as part of the assessment for Basel LEX framework paragraph 47, as short put options are included in the indirect exposure measures assessed as part of the US quarterly stress testing data. Given that the size and number of indirect exposures reported are considered immaterial and the short put options would be a subset of these exposures, the assessment team considered this deviation as not material.</p>
Materiality	Not material
Basel paragraph number	65: Intraday interbank exposures
Reference in the domestic regulation	12 CFR 252.77(a)(2)
Finding	<p>The Basel LEX framework states that, to avoid disturbing the payment and settlement processes, intraday interbank exposures are not subject to the LEX framework, either for reporting purposes or for application of the LEX limit.</p> <p>The US regulation exempts intraday credit exposures to counterparties other than banks.</p>

	<p>The Assessment Team considers this as a deviation from the Basel LEX framework since the US regulation does not limit the exemption of intraday exposures to banks. Consistent with the assessment of similar exemptions in LEX regulations of other jurisdictions, this deviation is assessed as not material. Further, the Assessment Team notes that the exemption is strictly limited to intraday exposures and does not extend to other short-dated exposures, eg those arising from the provision of traditional custody services. The US agencies also indicated their belief that the impact of this exemption is not material given that no breach in the LEX limit has been reported by banks subject to the SCCL at the end of the exempted intraday period.</p>
Materiality	Not material
Basel paragraph number	66: Interbank exposures
Reference in the domestic regulation	12 CFR 252.77(a)(6); 78(c)(2) (ii) and (iii)
Finding	<p>The Basel LEX framework states that, in stressed circumstances, supervisors may have to accept a breach of an interbank limit ex post, in order to help ensure stability in the interbank market.</p> <p>The US regulation allows banks to exceed the LEX limit if they obtain prior approval from the FRB and allows the FRB to exempt certain transactions in cases where it determines that such credit transactions are necessary or appropriate to preserve the safety and soundness of the covered company or US financial stability.</p> <p>The Assessment Team considers this as a deviation from the Basel LEX framework since the US regulation does not limit the exemption to a breach of an interbank limit under stressed circumstances, and would allow an exemption to address situations beyond cases related to interbank stability.</p> <p>Given that an exemption would only occur where the FRB determined that the credit transactions are necessary or appropriate to preserve the safety and soundness of the firm or US financial stability and no exemption has been granted to date, this deviation is assessed as not material.</p>
Materiality	Not material
Basel paragraph number	76: Look-through approach
Reference in the domestic regulation	n/a
Finding	<p>According to the Basel LEX framework, when the look-through approach (LTA) is not required (paragraph 73, 0.25% threshold), a bank must nevertheless be able to demonstrate that regulatory arbitrage considerations have not influenced the decision whether or not to look through – eg that the bank has not circumvented the large exposure limit by investing in several individually immaterial transactions with identical underlying assets.</p> <p>The FRB stated that although there is no specific provision in the SCCL rule codifying this point, it retains supervisory authority to seek information on potential regulatory arbitrage. In addition, the SCCL rule includes an attribution rule that requires a bank to treat any transaction with any natural person or entity as a credit transaction with another party to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, the other party.</p> <p>As the supervisory practice of the FRB has a similar effect to Basel LEX framework paragraph 76, the Assessment Team assessed this deviation as not material.</p>
Materiality	Not material

2.3 Observations

The following observations highlight certain special features of the regulatory implementation of the Basel LEX framework in the US. These are presented to provide additional context and information. Observations are considered compliant with the Basel LEX framework and do not have a bearing on the assessment outcome.

2.3.1 Scope and definitions

Basel paragraph number	13 and 61: Exempted counterparties
Reference in the domestic regulation	12 CFR 252.77(a)(1), (b) and (c)
Observation	<p>The Basel LEX framework provides that banks' exposures to sovereigns and their central banks are exempted. This exemption also applies to public sector entities (PSEs) treated as sovereigns according to the Basel risk-based capital requirements.</p> <p>The US regulation allows the exemption of banks' exposures to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, which are government-sponsored enterprises (GSEs) and considered as PSEs in the US.⁴ This exemption reflects a policy decision that credit exposures to these GSEs should not be subject to a regulatory limit for so long as the entities are in the conservatorship or receivership of the US government. In addition, the FRB may grant additional exemptions that are "in the public interest" and consistent with the purposes of the statutory single-counterparty credit limit and may grant a special temporary credit exposure limit exemption under certain circumstances upon a bank's request.</p>

2.3.2 Minimum requirements and transitional arrangements

Basel paragraph number	93: Implementation date and transitional arrangements
Reference in the domestic regulation	12 CFR 252.70(c)(1)(i) and (ii)
Observation	<p>The Basel LEX framework provides that all aspects of the LEX framework must be implemented in full by 1 January 2019.</p> <p>The US regulation states that the SCCL applies to a US G-SIB ("major covered companies") by 1 Jan 2020 only if (a) it was already a US G-SIB as of 5 Oct 2018, and (b) the implementation date was not extended by the FRB in writing. It also applies to banks that are not considered as G-SIBs ("other covered companies") under similar conditions by 1 July 2020.</p>

⁴ For further details on the definition of PSEs and the treatment of banks' exposures to US GSEs, see Basel Committee on Banking Supervision, *Regulatory Consistency Assessment Programme (RCAP) Assessment of Basel III LCR regulations – United States of America*, July 2017, www.bis.org/bcbs/publ/d409.htm and *Regulatory Consistency Assessment Programme (RCAP) Assessment of Basel III regulations – United States of America*, December 2014, www.bis.org/bcbs/publ/d301.htm.

Annexes

Annex 1: RCAP Assessment Team and Review Team

Assessment Team Leader

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Assessment Team members

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Review Team members

Mr João Luis Resende Central Bank of Brazil

Mr Daryl Ho Hong Kong Monetary Authority

Mr Luca Serafini Bank of Italy

Mr Toshio Tsuiki Basel Committee Secretariat

Annex 2: List of Basel standards and implementing regulations issued by the US agencies

The following Basel standards were used as the basis of this RCAP assessment:

- *Supervisory framework for measuring and controlling large exposures*, April 2014
- *Frequently asked questions on the supervisory framework for measuring and controlling large exposures*, September 2016

The structure and hierarchy of prudential regulation in the US is set out in Tables A.1 and A.2. Table A.3 lists the regulations issued by the US agencies to implement the Basel LEX framework in the US. Previous RCAP assessments of US implementation of the Basel standards considered the binding nature of regulatory documents in the US.⁵ This RCAP Assessment Team did not repeat that assessment, but instead relied on the previous assessments' findings, which concluded that the types of instruments described in Table A.1 could be considered as binding on banks and supervisors for the purposes of an RCAP assessment.

Structure of US laws and regulatory instruments Table A.1

Laws that empower the US agencies as banking supervisors	Federal statutes and legislative mandates authorise the US agencies to establish minimum prudential requirements.
Supervisory regulatory instruments issued by the US agencies derived from the above laws	Regulations and reporting requirements set out the LEX requirements. Policy statements, interpretations, supervisory guidance and manuals address significant prudential policy and procedural matters.

Source: US agencies.

Hierarchy of US laws and regulatory instruments Table A.2

Level of rules (in legal terms)	Type
Federal statutes and legislative mandates	Enacted by US Congress
Regulations	Issued by US agencies
Reporting requirements	Issued by US agencies
Policy statements	Issued by US agencies
Interpretations	Issued by US agencies
Supervisory guidance	Issued by US agencies
Supervisory manuals	Issued by US agencies

Source: US agencies.

⁵ See Section 1.2 and Annex 2 of Basel Committee on Banking Supervision, *Regulatory Consistency Assessment Programme (RCAP) Assessment of Basel III LCR regulations – United States of America*, July 2017, www.bis.org/bcbs/publ/d409.pdf and Annex 7 of Basel Committee on Banking Supervision, *Regulatory Consistency Assessment Programme (RCAP) Assessment of Basel III regulations – United States of America*, December 2014, www.bis.org/bcbs/publ/d301.pdf.

Overview of relevant large exposures regulations in the US

Table A.3

Domestic regulations	Type, version and date
12 CFR §252.70(a) – §252.78(d)	Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations, issued 6 August 2018, effective 5 October 2018 (see 83 FR 38460).

Source: US agencies.

Annex 3: Materiality assessment

The outcome of the RCAP assessment is based on the materiality of the findings described in Section 2.2 and summarised in Table A.4. Assessment teams evaluate the materiality of findings quantitatively where possible, or using expert judgment when the impact cannot be quantified.

The materiality assessment for quantifiable gaps is based on the cumulative impact of the identified deviations on the reported LEX of banks in the RCAP sample. These banks are listed in Table A.5.

Number of deviations by component		Table A.4		
Component	Not material	Potentially material	Material	
Scope and definitions	1	0	0	
Minimum requirements and transitional arrangements	1	0	0	
Value of exposures	6	0	1	

RCAP sample banks		Table A.5	
Banking group	Share of banks' assets in the total banking assets of the internationally active banks in the US (in per cent)		
Bank of America	21		
Bank of New York Mellon	3		
Citigroup	16		
Goldman Sachs	10		
JPMorgan Chase	25		
Morgan Stanley	8		
State Street	2		
Wells Fargo	13		

For this purpose, banking assets are based on the measure of total exposures used in the leverage ratio, which includes both on- and off-balance sheet exposures.

Source: US agencies.

Annex 4: Areas where US rules are stricter than the Basel standards

In the following areas, the US agencies have adopted a stricter approach than the minimum standards prescribed by the Basel Committee. These are listed below for information. The stricter rules have not been taken into account as mitigants for the overall or component-level assessment of compliance.

- The US regulations do not allow covered companies to exclude exposures that have been deducted from capital, as outlined in paragraph 31 of the Basel LEX framework.
- The US regulations do not apply credit conversion factors as outlined in paragraph 35 of the Basel LEX framework; instead, the exposure is the face amount for a committed credit line or the maximum potential loss for a guarantee or letter of credit.
- According to paragraph 41 of the Basel LEX framework, where a bank has in place legally enforceable netting arrangements for loans and deposits, it may calculate the exposure values for large exposures purposes according to the calculation it uses for capital requirements purposes – ie on the basis of net credit exposures subject to the conditions set out in the approach to on-balance sheet netting in the risk-based capital requirement. The US regulations do not allow the netting of loans and deposits.
- According to paragraph 61, the Basel LEX framework exempts banks' exposures to sovereigns and their central banks. The US regulations exempt exposures to sovereigns that obtain a 0% risk weight, and the US agencies retain the right to determine whether entities that are controlled by a sovereign entity within the scope of this exemption should constitute a group of connected clients. The Basel LEX framework as outlined in paragraph 62 allows banks to make a decision on grouping or not.