



SOUTH AFRICAN RESERVE BANK
Prudential Authority

DRAFT PRUDENTIAL STANDARD CODI 1: FUND LIQUIDITY

Consultation Report

August 2023

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1. Purpose

- 1.1 Section 166BA of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (FSR Act) specifies that the financial sector regulators must comply with any reasonable request from the Corporation for Deposit Insurance (CODI), including requests to determine standards (regulatory instrument).
- 1.2 Prudential Standard CODI 1: Fund liquidity is made by the Prudential Authority (PA) under sections 105 and 108 of the FSR Act as requested by CODI in terms of subsection 166BA.
- 1.3 Section 104 of the FSR Act states that with each regulatory instrument, the maker must publish a consultation report which must include:
 - (a) a general account of the issues raised in the submissions made during the consultation; and
 - (b) a response to the issues raised in the submissions.
- 1.4 This document aims to set out, as required in terms of section 104 of the FSR Act, a report on the consultation process undertaken regarding the **Draft Prudential Standard CODI 1: Fund liquidity**.

2. Summary of the consultation process

- 2.1 On 9 June 2023, the PA published the following documents for the consultation in terms of section 98 of the FSR Act, with comments due on 25 July 2023:
 - (a) draft Prudential Standard CODI 1: Fund liquidity (Standard);
 - (b) the statement of need for, intended operation, and expected impact of the draft Standard (Statement); and
 - (c) comments submission template providing the manner in which comments must be submitted to the PA.
- 2.2 The PA received 68 comments from 8 respondents during the public consultation process. Where appropriate, certain comments resulted in minor amendments to the draft Standard.
- 2.3 Details of the commentators from the public comments and the full set of comments received during the consultation process, including CODI's responses are attached as Tables 1 and 2 below.
- 2.4 Comments received on the draft Standard resulted in minor amendments to the Standard to:
 - (a) correct and align the definition 'Sharī'ah' with the Islamic Financial Services Board's definitions;
 - (b) specify the timeframe for a bank to review and report to the board on its compliance with the Standard;

- (c) amend the date on which CODI will determine the size of the fund liquidity from 28 February of each year to the month of December of the year preceding the year in which it will take effect; and
- (d) effect amendments for clarity.

Table 1 – Details of commentators – public consultation	
Name of the commentator (organisation or individual):	Absa Group Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Rudi Sturm Head: Group Financial Resource Management and Regulatory Strategy Rudi.sturm@absa.africa
Name of the commentator (organisation or individual):	AlBaraka Bank Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Abdullah Ameen Financial Director aameed@albaraka.co.za
Name of the commentator (organisation or individual):	Discovery Bank Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Mabuti Rampitsang Risk Manager mabutirampitsang@discovery.bank
Name of the commentator (organisation or individual):	FirstRand Group Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Komilla Rahman Manager: Prudential Regulatory Compliance komilla.rahman@firstrand.co.za

Name of the commentator (organisation or individual):	Investec Bank Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Derek Steven-Jennings CoDIWorkingGroup@investec.co.za
Name of the commentator (organisation or individual):	Nedbank Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Azhar Moosa Executive: Group Funding & Value Based Management Balance Sheet Management azharm@nedbank.co.za
Name of the commentator (organisation or individual):	The Standard Bank of South Africa Limited
If the commentator is an organisation, provide the name and designation of the contact person:	Michael Roux Head: SBG Regulatory Reporting michael.roux@standradbank.co.za
Name of the commentator (organisation or individual):	KSK Kooperatiewe Bank Beperk
If the commentator is an organisation, provide the name and designation of the contact person:	S M Myburgh Managing Director tinus@kskfin.co.za

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
1.	Investec Bank Limited	1. Commencement	At the current development rate, Investec Bank has no concerns with the commencement date.	Noted.
2.	KSK Kooperatiewe Bank Beperk	2.1 This Standard is made under sections 105 and 108 of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017) (the Act) as requested by the Corporation for Deposit Insurance (the Corporation) in terms of subsection 166BA	<p>We have no comment on sections 105 and 108.</p> <p>We cannot comment on subsection 166BA.</p> <p>There is no information or detail of what subsection 166BA requires in the Amended FSRA Financial Sector Regulation Act No 9 of 2017 document.</p> <p>We reserve the right to comment after the detail of subsection 166BA has been provided.</p>	<p>Section 166BA of the FSR Act, as amended by the Financial Sector Laws Amendment Act 23 of 2021, reads as follows:</p> <p>“166BA. Co-operation and collaboration with financial sector regulators and Reserve Bank</p> <p><i>(1) The Corporation, the financial sector regulators and the Reserve Bank must co-operate and collaborate with one another to assist the Corporation to exercise its powers and perform its functions in terms of this Act, including by providing assistance and information promptly regarding any matter of which the regulators and the Reserve Bank become aware of that affects or may affect the performance of any of those powers or functions of the Corporation. (2) Without limiting subsection (1), the financial sector regulators must comply with any reasonable request from the Corporation, including requests to</i></p>

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No.	Commentator	Paragraph	Comment	Response
				<p>(i) determine standards; (ii) issue directives; and (iii) promote awareness among financial customers of the protections afforded by this Chapter."</p> <p>CODI requested the PA to make the Standard in terms of section 166BA(2) of the FSR Act.</p> <p>A copy of the Financial Sector Laws Amendment Act 23 of 2021 can be found here:</p> <p>https://www.gov.za/documents/financial-sector-laws-amendment-act-23-2021-english-setswana-28-jan-2022-0000</p>
3.	Absa Group Limited	3. Definitions	"Bank" should be defined in the Standard.	<p>The introduction to the definitions section states the following: "<i>The terms used in this Standard, unless indicated otherwise, are defined in the Act, and have the same meaning in this Standard</i>". The term "<i>bank</i>" is defined in the FSR Act and does not need to be repeated in the Standard.</p>
4.	Absa Group Limited	3. Definitions	Kindly amend the spelling and definition of 'Sharia' to conform with SA (South Africa) industry norms and align with The Islamic Financial Services Board (IFSB). The IFSB	Noted. The Standard has been updated accordingly.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
			<p>serves as an international standard-setting body of regulatory and supervisory agencies that have a vested interest in ensuring the soundness and stability of the Islamic financial services industry.</p> <p>Suggested spelling – Shari’ah.</p> <p>Definition - <i>The practical divine law deduced from its legitimate sources: the Qur’ān, Sunnah, consensus (ijmā’), analogy (qiyās), and other approved sources of the Sharī’ah.</i> [source: ifsb.org/terminologies.php (date accessed – 24.7.2023)]</p>	
5.	AlBaraka Bank Limited	3. Definitions	<p>The Definition of Shariah needs to be relooked at. The Spelling of Koran is incorrect.</p> <p>Suggested Shariah definition, <i>Shariah means the divine body of Islamic Law derived from its legitimate sources: the Quran, prophetic traditions (Sunnah), consensus (ijma), analogy (qiyas) and other approved sources of Shariah. Islamic Law embodies the governing rules and principles for all aspects of human interaction including commercial contracts.</i></p>	Noted. The Standard has been updated accordingly.
6.	Nedbank Limited	4.1 Application	Potential amendment, i.e., to refer to the fact that the standard applies to a bank’s South African operations.	Paragraph 4.1 of the Standard has been updated to read: " <i>This Standard applies to a bank’s operations conducted in the Republic.</i> ".

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
7.	Absa Group Limited	5.2 Roles and responsibilities	<p>“The control functions of a bank must regularly review and report to the board on the bank’s compliance with this Standard.”</p> <p>Removal of control functions as banks established governance processes should be utilised and may not necessarily be classified as a control function.</p>	Noted. The Standard has been updated accordingly.
8.	Investec Bank Limited	5.2 Roles and responsibilities	For practical reasons, we recommend that a person duly authorised can sign off on CODI attestations.	Noted. The Standard has been updated accordingly.
9.	Nedbank Limited	5.2 Roles and responsibilities	It should be stipulated how often a bank should review and report to the board on the bank’s compliance with the standard, for e.g., annually or semi-annually.	Noted. The Standard has been updated to provide for annual reviews.
10.	KSK Kooperatiewe Bank Beperk	5.2 The control functions of a bank must regularly review and report to the board on the bank’s compliance with this Standard.	This “control function” would be the Audit Committee?	<p>The FSR Act defines Control function as:</p> <p><i>““control function” means each of the following:-</i></p> <p><i>(a) The risk management function;</i></p> <p><i>(b) the compliance function;</i></p> <p><i>(c) the internal audit function; and</i></p> <p><i>(d) the actuarial function;”</i></p> <p>Based on banks’ recommendations, CODI has</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
				removed the reference to the control function from the draft Standard. Banks can use their established governance processes to report to the board on the bank's compliance with the Standard.
11.	The Standard Bank of South Africa Limited	5.3 Roles and responsibilities	The draft Deposit Insurance Regulations (regulation 22) imposes certain requirements on the Internal audit function of the bank on an annual basis. What is the purpose of a separate provision in this standard to involve external auditors rather than the internal audit function as per the proposed regulations?	Paragraph 5.3 gives the PA the power to request an external auditor to provide assurance that a bank complies with the Standard in addition to the requirements imposed on the internal audit function of a bank. The PA or CODI will only make such a request on a case-by-case basis if the PA or CODI has concerns with a bank's compliance with the Standard.
12.	KSK Kooperatiewe Bank Beperk	5.3 The Prudential Authority may request the auditor of a bank to provide assurance to the Prudential Authority, the bank, and the Corporation that the bank complies with the	Comments from the External Auditors should be requested. This would cause an increase in Audit Fees.	Paragraph 5.3 gives the PA the power to request an external auditor to provide assurance that a bank complies with the Standard. The PA or CODI will only make such a request on a case-by-case basis if the PA or CODI has concerns with a bank's compliance with the Standard. Because this will be done on a

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
		requirements of this Standard		case-by-case basis, only an affected bank's audit fees may increase.
13.	KSK Kooperatiewe Bank Beperk	6.1 In terms of subsection 166BD(1) of the Act, a bank that holds covered deposits must maintain a fund liquidity contribution as prescribed in this Standard.	<p>We cannot comment on this fund liquidity contribution at this stage because we do not know what the percentage will be.</p> <p>We reserve the right to comment after the percentage has been determined.</p>	<p>The size of the liquidity tier may range between 0 and 3.5 percent of banks' covered deposits. CODI will specify the size annually based on its funding requirements. CODI consulted on the initial size of the liquidity tier, and the methodology for calculating the range with banks and discussed it in the following papers:</p> <ul style="list-style-type: none"> • The deposit insurance funding model and the implications for banks. • Follow-up document <i>The Deposit Insurance Fund's fund liquidity tier and funding paper feedback</i> distributed to the Banking Association of South Africa (BASA) on 26 June 2022 for purposes of consultation with banks. <p>The afore-mentioned documents stated an initial fund liquidity contribution of 3 percent of covered deposits. CODI regards a</p>

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
				fund liquidity tier of 3 percent of covered deposits as adequate for the first year of its operations and will maintain the 3 percent for the period from April 2024 to March 2025. CODI will publish this percentage on the South African Reserve Bank's (SARB) website.
14.	Nedbank Limited	6.2 Granting a loan to the Corporation for the fund liquidity contribution	Will banks' legal, accounting, tax, and audit teams have an opportunity to comment on the standardised loan contracts before finalised?	Banks will be given an opportunity to comment on the draft loan agreement during the contracting period.
15.	The Standard Bank of South Africa Limited	6.2 Granting a loan to the Corporation for the fund liquidity contribution	Standardised contract. The terms of the standardised contract seem to be a critical aspect of the standard – in particular matters such as market-related operating procedures and interest rates.	Noted. Also see response to comment 14 above.
16.	KSK Kooperatiewe Bank Beperk	6.2 A bank must grant a loan to the Corporation under a standardised contract, developed and managed by the Corporation, for its fund liquidity contribution for as long as it is required by the Corporation	We cannot comment on this standardised contract before we have had insight to the contract. We reserve the right to comment after we had insight to the contract.	Noted. CODI will consult with the banks and give them an opportunity to comment on the draft loan agreement during the contracting period.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
17.	Absa Group Limited	6.3 Granting a loan to the Corporation for the fund liquidity contribution	<p>The liquidity contribution for Shari’ah covered deposits cannot be funded through a standard loan structure due to the inherent interest elements embedded within a loan contract. A loan with interest/profit is non-compliant with Shari’ah funding as any excess on a loan which the bank benefits from, is regarded as interest.</p> <p>There are alternative Shari’ah-compliant structures available to facilitate the funding, but this will require consultation with the Shari’ah scholars of the banks.</p>	Noted. See response to comment 16 above.
18.	AlBaraka Bank Limited	6.3 Granting a loan to the Corporation for the fund liquidity contribution	Future engagement will be required to understand the financial instruments that can be used to facilitate these loans.	See response to comment 16 above.
19.	Nedbank Limited	6.3 Granting a loan to the Corporation for the fund liquidity contribution	Where banks have conventional banking and shariah banking, will two loan contracts be required, and will two separate CODI submissions be required?	<p>CODI will not offer a Shari'ah-compliant deposit insurance to Muslim depositors. The provision in the Standard is a way to accommodate Shari'ah-based banks to meet the legal requirement of extending a loan to CODI without compromising religious requirements that may be applicable to them.</p> <p>CODI completed an Islamic deposit survey in 2019, which found that five banks offered</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
				<p>Islamic products, but only two banks conducted their business in line with Sharī'ah requirements. CODI drafted the Standard to provide for separate contractual agreements with banks whose banking activity must comply with Sharī'ah and its practical application. This option will only be available to banks who conduct their business in line with Sharī'ah requirements. It would be at the discretion of the 'conventional' banks offering Islamic products to determine the manner in which the costs applicable to conventional versus Islamic products are dealt with.</p>
20.	KSK Kooperatiewe Bank Beperk	<p>7.1 A bank's fund liquidity contribution must be calculated, as follows: $P \times A$</p> <p>where: P is the percentage referred to in subparagraph 7.2 below and; A is a bank's total covered deposits, calculated and</p>	<p>We cannot comment on this fund liquidity contribution at this stage because we do not know what the percentage will be.</p> <p>We reserve the right to comment after the percentage has been determined.</p>	<p>See response to comment 13 above.</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
		reported according to the rules specified in the Deposit Insurance Regulations 2, as reported at the last reporting date		
21.	AlBaraka Bank Limited	7.2 Minimum amount to be maintained by members of the Corporation in the account of the Fund	Further engagement is required to understand how the top-ups/reimbursements will be effected on a Shariah-compliant financial instrument.	Noted. CODI will consult with banks on Islamic investment instruments once its Board has approved its investment policy and guidelines.
22.	Nedbank Limited	7.2 Minimum amount to be maintained by members of the Corporation in the account of the Fund	<p>The regulation states that the Corporation will determine the size of the fund liquidity annually by no later than 28 February of each year as a percentage of total covered deposits held by banks, how will this be determined, and will banks be consulted on the % determined?</p> <p>As stipulated in Annexure B, the range of 0% to 3,5% should be stipulated in the standard.</p>	<p>The size of the liquidity tier may range between 0 and 3.5 percent of banks' covered deposits. CODI may adjust the liquidity tier annually depending on the adequacy of the deposit insurance fund (DIF) at the time and CODI's funding needs. If the percentage determined falls within the range, CODI would not consult on the percentage before it is published.</p> <p>CODI will consider the following when determining the size of the liquidity tier:</p> <ul style="list-style-type: none"> • whether the DIF was used to support a resolution;

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
				<ul style="list-style-type: none"> • the impact of the resolution support on the DIF; • interest earned on the DIF's investments; • market conditions at the time; and • recoveries from any resolution support CODI provided (if applicable). <p>CODI will include the range for the liquidity tier in the loan agreements with the banks and not in the Standard.</p>
23.	KSK Kooperatiewe Bank Beperk	7.2 The Corporation will determine the size of the fund liquidity on an annual basis by no later than 28 February of each year as a percentage of total covered deposits held by banks	<p>We cannot comment on the size of the fund liquidity before we know how it will be determined.</p> <p>We reserve the right to comment after the size has been determined.</p>	See response to comments 13 and 22 above.
24.	The Standard Bank of South Africa Limited	7.2 and 7.3 Minimum amount to be maintained by members of the	Annexure B Par 4 states that the size of the Loan can range from 0% to 3.5% and will initially be set at 3%. What legislative mechanism will be in place to enact the proposed range? We	CODI will include the range for the liquidity tier in the loan agreements with the banks and not in the Standard.

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
		Corporation in the account of the Fund	are assuming that Annexure B carries no legal weight.	
25.	The Standard Bank of South Africa Limited	7.2 and 7.3 Minimum amount to be maintained by members of the Corporation in the account of the Fund	To allow banks to plan appropriately, would it be possible to publish the proposed size of the liquidity loan in the month of December of the year preceding the year in which it will take effect.	The Standard has been updated accordingly.
26.	KSK Kooperatiewe Bank Beperk	7.3 The Corporation will publish the percentage referred to in subparagraph 7.2 on the Reserve Bank's website to take effect on a date determined by the Corporation	We cannot comment before the percentage is published. We reserve the right to comment after the percentage has been determined.	See response to comment 13 above.
27.	KSK Kooperatiewe Bank Beperk	8. Transfer and maintenance	We cannot comment on these items before comments in 6 and 7 above have been addressed. We reserve the right to comment after the comments have been addressed.	See response to comment 13 above.
28.	Absa Group Limited	8.3 Transfer and maintenance	Please clarify as " <i>Following the statement's date</i> " could be interpreted as the same month or the next month. The statement's date could be	The Standard has been updated to read: <i>by no later than the end of the next month following the statement's date</i> . CODI will make

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No.	Commentator	Paragraph	Comment	Response
			quite different to when the statement is sent to the recipient. <i>Recommendation: by no later than the end of the next month following the date the statement has been sent.</i>	the statements available to banks on the same date on which the invoice is issued.
29.	Absa Group Limited	8.4 Transfer and maintenance	What recourse is there should the Corporation not repay the fund liquidity contribution adjustment?	CODI, with the SARB's Financial Services Department, as the service provider, will build contingency processes to prevent the late or non-payment of fund liquidity contribution adjustments to banks. Recourse provisions will also be included in the loan agreements with the banks.
30.	Investec Bank Limited	9. Interest payable on the fund liquidity contribution	As discussed, and agreed at BASA.	Noted.
31.	KSK Kooperatiewe Bank Beperk	9. Interest payable on the fund liquidity contribution	We cannot comment on this item before comments in 6, 7 and 8 above have been addressed. We reserve the right to comment after the comments have been addressed.	See response to comment 13 above.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
32.	Absa Group Limited	9.1 Interest payable on the fund liquidity contribution	<p>The statement of need 4.6 states: “In terms of the FSRA, the Corporation must pay interest to banks on the loan “and “Banks confirmed that if the Corporation pays the same interest rate to all banks, the rate will be considered market-related.”</p> <p>External audit has in the past questioned whether a rate could be considered market-related if paid to all banks. Therefore, this statement from the ‘banks’ is still under accounting debate. If the rate remains as is, an accounting day 1 loss may ensue for the transaction. CODI may engage the BASA Accounting Group on the way forward.</p>	<p>Noted. CODI will engage with banks and the BASA Accounting Group on the proposed rate during the contracting period once CODI’s Board determines the rate.</p>
33.	Absa Group Limited	9.1 Interest payable on the fund liquidity contribution	<p>As detailed in the “<i>Granting a loan to the Corporation for the fund liquidity contribution</i>” section above, the loan structure with interest/profit payable is non-compliant for Shari’ah deposits. A suitable compliant structure needs to be developed that complies with Shari’ah principles. The return on the Shar’ah funding can be benchmarked to the interest rate on non-Islamic deposits, but the structure cannot be that of an interest-bearing loan.</p>	<p>Noted. CODI included Paragraph 6.3 in the Standard to make provision for different contracts for banks whose banking activity must comply with Shari’ah and its practical application.</p>
34.	AlBaraka Bank Limited	9.1 Interest payable on the fund liquidity contribution	<p>Include a reference point to 6.3 to include Sharia Agreements.</p>	<p>Noted. The Standard has been updated accordingly.</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
35.	AlBaraka Bank Limited	9.1 Interest payable on the fund liquidity contribution	<p>We recommend that the term profit-share in 9.1 below be changed to “profit” as follows:</p> <p><i>9.1 The Corporation will determine the interest or profit payable to a bank based on the methodology approved by the Corporation’s Investment Committee and specify the interest rate or profit rate in the standardised contract referred to in subparagraph 6.2 and 6.3 above.</i></p>	Noted. The Standard has been updated accordingly.
36.	Nedbank Limited	9.1 Interest payable on the fund liquidity contribution	<p>Will banks have an opportunity to comment on the methodology to determine the interest rate payable to a bank on the liquidity tier?</p> <p>How often will the methodology be reviewed?</p>	CODI’s Investment Committee and Board will determine the methodology to establish the interest rate as part of CODI’s internal processes. CODI will engage with the BASA Accounting group to ensure a suitable accounting classification for the loan.
37.	Nedbank Limited	9.1 Interest payable on the fund liquidity contribution	Will banks have the opportunity to comment on the type of instruments that CODI will invest the liquidity tier and CODI’s own funds (premiums paid by banks) into?	In accordance with the provisions of section 166(A)(2) of the FSR Act, CODI’s Investment Committee and Board are responsible for setting the investment mandate and determining the type of instruments in which CODI invests. CODI will not engage with the banks on the investment portfolio.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
38.	The Standard Bank of South Africa Limited	9.2 Interest payable on the fund liquidity contribution	There is no reference to the interest amount or range payable – (e.g Jibar plus/minus+- a spread). SBSA is expected to have a loan in the region of ZAR 4bn, and an indicative range, such as the size of the Loan is critical for planning purposes. The market-related nature of such a loan is critical to understand as a very low rate could result in an effective increase in premiums.	Once CODI’s Investment Committee has been established and set the investment mandate, the investment-related conditions will be finalised, and CODI will confirm the interest rate payable to banks. The interest rate will be specified in the loan agreements with banks.
39.	Absa Group Limited	10.1 Application of the Fund when reimbursing covered deposits in accordance with section 166AA(1)(b) of the Act	<i>“the Corporation will set-off the bank in resolution’s fund liquidity contribution against the funds used to reimburse the bank’s depositors in respect of their covered deposits”</i> – what is the expected time period?	This will occur when CODI must support a resolution strategy when a bank is in resolution. CODI will use the loan funds from the failing bank first to support the resolution. CODI will set the loan of the failing bank off against the funds CODI uses to support the chosen resolution strategy, resulting in the failing bank bearing the first loss. The remainder of the funds for the resolution support will come from the DIF, comprising the liquidity tier (i.e. loans from the other banks) and the DIF’s own funds. Should CODI need more funds after depleting the DIF, it will obtain additional (emergency) funds from the SARB. When CODI supports a resolution strategy for a failed bank using the DIF, CODI

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
				takes the covered depositors' place in the creditor hierarchy when the bank is subsequently liquidated. CODI's claim on the failed bank's estate will be the amount it used to support the chosen resolution strategy, net of its liquidity tier loan.
40.	Absa Group Limited	10.1 Application of the Fund when reimbursing covered deposits in accordance with section 166AA(1)(b) of the Act	What is the process should there be a dispute regarding set-off?	The failed bank's liquidator will handle the bank's estate, including claims and disputes.
41.	KSK Kooperatiewe Bank Beperk	10.1 Application of the Fund when reimbursing covered deposits in accordance with section 166AA(1)(b) of the Act	We reserve the right to comment after the comments above have been addressed.	Noted.
42.	KSK Kooperatiewe Bank Beperk	10.2 The Corporation will subsequently claim the amount paid out of the Fund to the depositors of the bank in resolution, less the	We reserve the right to comment after the comments above have been addressed.	Noted.

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
		bank in resolution's fund liquidity contribution, from the estate of the bank in accordance with section 166AD of the Act.		
43.	KSK Kooperatiewe Bank Beperk	11. Application of the Fund for non-payout resolution support in accordance with section 166AA(1)(c) of the Act	We reserve the right to comment after the comments above have been addressed.	Noted.
44.	KSK Kooperatiewe Bank Beperk	12. Repayment of the fund liquidity contribution	We reserve the right to comment after the comments above have been addressed.	Noted.
45.	The Standard Bank of South Africa Limited	12.1 Repayment of the fund liquidity contribution	The term "gradual" (repayment of the funds) should be defined based on pre-determined rules. The criteria for the repayment stage should be captured within the legislation.	<p>Only the general principle for repayment is captured in the Standard, i.e., loans will be repaid in line with the build-up of the DIF. The contractual loan agreements with the banks will include predetermined conditions for the repayment of the loan amount to the banks.</p> <p>CODI removed reference to 'gradual' from the Standard.</p>

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No.	Commentator	Paragraph	Comment	Response
46.	KSK Kooperatiewe Bank Beperk	13. Extension of compliance and exemptions	We reserve the right to comment after the comments above have been addressed.	Noted.
General comments				
47.	Absa Group Limited		The Shari'ah comments must be read in conjunction with the comments submitted by the BASA (Banking Association of South Africa) Islamic Banking Committee on the overall requirements from the Islamic Banking industry.	Noted.
48.	Absa Group Limited		Clarity is required on the process to be followed to agree on the final rates and contributions?	Once CODI's Board approves its investment mandate, the SARB's Financial Markets Department will develop CODI's investment guidelines, including assets for investment. The instruments CODI invests in will determine the interest rate CODI receives and the rate it can pay banks on their liquidity tier loans. CODI will include the interest rate in the loan agreements with banks and consider banks' comments. Since CODI has consulted in its discussion papers on a fund liquidity tier percentage of 3 percent of covered deposits, the fund liquidity tier percentage for

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
				the period from April 2024 to March 2025 will be 3 percent of a bank's covered deposits. CODI will publish this percentage on the SARB's website.
49.	Absa Group Limited		Korea has a multifunded model for its Deposit Insurance (DI), which includes the issuance of bonds. CODI could consider alternate funding of the DI liquidity tier through bond issuances.	The law specifies the current funding arrangements. It does not allow CODI to issue bonds for the purposes of the liquidity tier. CODI may refine its funding model and sources over time and amend the legislation as needed.
50.	Absa Group Limited		For consideration, this is an example of a DIS investment mandate: "Investment mandates of DIs (Designated Institutions) are usually limited to government bonds/treasury bills which are held to maturity. Alternate instruments may be invested in provided that the principal is guaranteed."	Noted. CODI must ensure compliance with The Core Principles for Effective Deposit Insurance Systems (Core Principles), issued by the International Association for Deposit Insurers (IADI), and international best practice with its investment mandate.
51.	FirstRand Group Limited		We would like to understand and have sight of the investment mandate.	CODI's Board may decide to share high-level detail of its investment mandate on CODI's webpage once finalised.
52.	Investec Bank Limited		At the point that CODI becomes fully funded, regarding its actuarial liability based on	Once the target size is reached, CODI intends changing the

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
			<p>expected probability of a member bank failure and covered deposit exposure at default, how will the annual insurance premiums be adapted to account for this (excluding inflationary national deposit growth)? I.e., would there be a point in the future where the annual premium drops to close to zero?</p>	<p>composition of the DIF over time by gradually reducing the size of the liquidity tier as the DIF's own funds grow. CODI anticipates that the size of the liquidity tier may eventually be reduced to zero.</p> <p>CODI may increase or decrease the premiums annually depending on the adequacy of the DIF for CODI's funding needs. CODI will consult with banks on proposed amendments to the premiums. CODI can adjust the premiums and size of the fund liquidity tier based on:</p> <ul style="list-style-type: none"> • CODI's funding needs; • whether CODI had to support a resolution; • the effect of the resolution support on the DIF; • investment income earned on the liquidity tier and premiums; • market conditions at the time; and

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
				<ul style="list-style-type: none"> recovers from any resolution support CODI provided (if applicable).
53.	Investec Bank Limited		If there were a bank failure which dropped the CODI liquidity pool below its actuarial requirement (post recovery from the liquidated bank) would CODI reinstate the liquidity tier programme with each member bank until the liquidity pool has recovered via annual premiums?	Yes. After reducing it to zero, CODI could consider reinstating the liquidity tier contributions or increasing premiums if recoveries are insufficient to replenish the DIF and depending on the impact of the failed bank's resolution on the DIF.
54.	The Standard Bank of South Africa Limited		The PA to consider NSFR/LCR treatment, for the liquidity tier, that is not punitive to banks as its creating counterbalancing capacity for stress events in the banking sector.	The PA will issue guidance to the banks. Banks can liaise directly with the PA in this regard.
55.	The Standard Bank of South Africa Limited		The existing reserving requirement allows a degree of drawdown and maintenance of average balances in line with calculations. Will a similar feature be available for the liquidity loan?	Banks will not be able to draw down on their loans to CODI.
56.	The Standard Bank of South Africa Limited		Standardised contract. The terms of the standardised contract seems a critical aspect of the standard – in particular matters such as market-related operating procedures and interest rates. This must form part of the commentary process around the liquidity standard.	See response to comment 16 above.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
Comments on the Statement				
57.	Discovery Bank Limited	Annexure B - Section 4.4 Initially, banks must maintain a loan of 3% of their covered deposits with the Corporation. The size of the liquidity tier may, however, range between 0% and 3.5% and the Corporation will specify the size annually, based on its funding requirements. The percentage determined by the Corporation will be published on the Reserve Bank's website to take effect on a date determined by the Corporation	How would banks or financial institutions know that the 3% or whatever the rate would be is fair when they determine their funding requirements?	<p>The size of the liquidity tier may range between 0 and 3.5 percent of banks' covered deposits. CODI will specify the size annually based on its funding requirements. CODI consulted on the initial size of the liquidity tier and the methodology for calculating the range in the following papers:</p> <ul style="list-style-type: none"> • The deposit insurance funding model and the implications for banks. • Follow-up document <i>The Deposit Insurance Fund's fund liquidity tier and funding paper feedback</i> distributed to the Banking Association of South Africa (BASA) on 26 June 2022 for purposes of consultation with banks. <p>CODI's board determine the liquidity tier percentages annually and CODI will publish the percentage on the SARB's website.</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
58.		Annexure B - 4.6 states: “Banks confirmed that if the Corporation pays the same interest rate to all banks, the rate will be considered market-related.”	The interest rate needs to be compared to a benchmark to determine if market-related.	Noted.
59.	Absa Group Limited	Statement of need, par 5.3	Clarity is required: When will the guarantee be claimable from the SARB (South African Reserve Bank).	The guarantee agreement will address the conditions for claiming from the SARB under the guarantee.
60.	Absa Group Limited	Statement of need, par 5.3	Clarity is required on the treatment of the LCR (Liquidity Coverage Ratio) and NSFR (Net Stable Funding Ratio)? Care should be applied so that the treatment is not prejudicial to the banks. Suggestion is that the contractual loan term of the liquid facility loan is < 1year from a NSFR perspective, or shorter. If it is longer than a year, a beneficial factor for the loan should be applied in the NSFR. In principle, a bank’s NSFR should not be worse off due to the loan facility provided compared to investing in HQLA.	The PA will issue guidance to the banks. Banks can liaise directly with the PA in this regard.

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
61.	Absa Group Limited	Statement of need, par 7.2	CODI (Corporation for Deposit Insurance) should have a repo facility with the SARB to meet this requirement.	As paragraph 3.7.2 of the Statement mentions, the SARB would provide emergency funding as part of the funding model.
62.	Discovery Bank Limited	Annexure B - Section 8.3.1 When the Corporation becomes operational, expected by 1 April 2024, approximately R18.6 billion will flow from banks to the Corporation's DIF which may only have a temporary impact on the liquidity in the money market as the DIF may be invested back in the market in suitable investment products. The Corporation will consider mitigants to this impact and the impact on money market liquidity during a bank failure and depositor payout nearer to the effective	<p>This comment states that the Corporation may invest the money back in suitable investment products, should there be a liquidity impact.</p> <p>With whom will this money be deposited with?</p> <ul style="list-style-type: none"> • SARB • National Treasury or, • Banks <p>Discovery Bank is curious to see how this will play out and what rate the Corporation would want to receive.</p> <p>Also, who will be governing the Corporation?</p>	<p>Once CODI's Board has approved its investment mandate, the SARB's Financial Markets Department will develop CODI's investment guidelines, including assets for investment. The instruments CODI invests in will determine the interest rate CODI receives and the rate it can pay to banks on their liquidity tier loans. In line with the IADI core principles, CODI will not do significant investments in banks (as its members) because the failure of any bank where funds have been invested will result in the funds remaining in the failed bank's estate and be unavailable for use by CODI.</p> <p>As prescribed in the FSR Act, CODI is a separate legal entity from the SARB, with its own Chief Executive Officer, Board of Directors, and management team responsible for its governance.</p>

Table 2 – Full set of comments received during the public consultation conducted				
No.	Commentator	Paragraph	Comment	Response
		date of the draft standard		Furthermore, the FSR Act requires that CODI submit its annual financial statements and annual report to the SARB and Minister of Finance for tabling in Parliament.
63.	Absa Group Limited	Statement of need, Table 2 (Point 4)	There should be adequate time between the date of publication and the date the percentage will take effect.	Noted.
64.	Absa Group Limited	Statement of need, Table 2 (Points 8(b) and 9)	The inclusion of examples may provide clarity.	Noted. CODI will include detailed provisions in the loan agreements with the banks.
Comments not relevant to the Standard				
65.	KSK Kooperatiewe Bank Beperk		<p>The financial institution will be forced to pay a monthly fee to maintain such insurance. Although the fees have not been finalized, provisional fee estimates have been considered and will be substantial. Cooperative banks function differently from other financial institutions and do not strive to make the highest profits possible.</p> <p>KSK for example is a financial institution which serves a small community of people. We try to provide the highest possible return to our depositor members, many of whom are reliant on the interest they earn for their monthly bread and butter. We also aim to charge the lowest possible interest rate from our lender members,</p>	<p>Noted.</p> <p>CODI has engaged with KSK Kooperatiewe Bank Beperk on several occasions on the challenges it is experiencing in meeting CODI's requirements to ensure that the issues are resolved appropriately.</p> <p>CODI wants to reiterate its views as discussed during these engagements.</p> <p>Financial safety nets are essential for preserving soundness and confidence in the financial sector.</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
			<p>because many of them cannot afford lavish interest rates on the money they borrow from us. Our margins are therefore extremely tight.</p> <p>Since being registered as a cooperative bank, KSK had to increase our overall margins so as to maintain compliance with the requirements regarding our capital adequacy ratio and others. The current margins are sufficient for our purposes but are essential for our future. KSK therefore manages a very tight budget and cashflow in the current challenging economic circumstances.</p> <p>We have been able to achieve satisfactory results by cutting down on costs and managing our business on calm and conservative business principles.</p> <p>KSK cannot now allow frivolous expenses, such as the costs associated with the CODI Scheme, to erode our essential margins.</p> <p>It follows from the aforesaid that any costs and fees associated with the CODI Scheme will have to be pushed onto either our lenders or our depositors.</p> <p>Our depositor members have been hit very hard by the fluctuations between low interest rates over recent years and can ill afford further reductions in their interest income.</p>	<p>A financial safety net framework includes the functions of prudential regulation and supervision, effective resolution, lender of last resort, and deposit insurance. It is designed to protect the most exposed or most vulnerable customers of financial institutions and ensure financial stability if a financial institution should fail. The lessons learned from the 2008/09 global financial crisis and domestic experiences led to South Africa introducing the “Twin Peaks” model to reform the regulatory and supervisory system for financial institutions and market infrastructures and enhance South Africa’s financial safety net. The model contained in the FSR Act gave the SARB an explicit mandate to maintain and enhance financial stability. It established the PA, which regulates financial institutions and market infrastructure to promote and improve their safety and soundness, and the Financial Sector Conduct Authority (FSCA), which ensures that financial</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
			<p>Borrowers are also struggling at the moment and can ill afford unjustified increases in the cost of their credit. Again, it seems uncanny that such real people with real life struggles to survive in precarious economic times, would not be given a choice whether to participate in CODI or not.</p> <p>The financial institutions will have to submit regular reports to CODI. Such reports will contain extensive detailed and very personal information about the depositors, their accounts and the balances held in such accounts.</p> <p>It has been stated that our reservations are unfounded, because such information is currently being requested by the Reserve Bank and the Prudential Authority from time to time.</p> <p>This may be so, but the information currently being requested from time to time is limited in scope and therefore has limited potential negative impact. The purpose of the information requested has also been clear and acceptable in most instances.</p> <p>Never before has any Scheme set its sights on unifying all the information of all the depositors in South Africa with all their personal information and all their deposits held at all the financial institutions into one single entity and probably into one single data bank.</p>	<p>institutions inform and treat customers fairly.</p> <p>To further enhance South Africa's financial safety net, the FSR Act was later amended to provide for the orderly resolution of designated institutions by the SARB and the introduction of deposit insurance as part of the financial safety net. Deposit insurance, therefore, forms part of the National Treasury's model to reform the regulatory and supervisory system for financial institutions and market infrastructures and enhance South Africa's financial safety net.</p> <p>CODI aims to strengthen the financial safety net and protect banks' depositors when a bank fails. The failure of a bank is not tied to its size. With the protection provided to depositors by deposit insurance, additional legislative requirements will apply to financial institutions.</p> <p>CODI is a creature of statute governed by the FSR Act. According to the FSR Act, all licensed or registered banks, in</p>

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No.	Commentator	Paragraph	Comment	Response
			<p>The risk which is posed by such a unification of information within a Scheme such is beyond anything we have seen to date hereof.</p> <p>Unfortunately, there is no assurance that can be given that the CODI system will be safe and will not be hacked. Evidence from POPI and many other institutions has unfortunately proven the untrustworthiness of assurances to the safety of such systems and information.</p> <p>Please refer to the attached documents:</p> <ul style="list-style-type: none"> • Notice of intention to introduce a private member’s Bill, and • Constitution Twentieth Amendment Bill <p>We informed Adv. Breytenbach that we fully support this action.</p> <p>We strongly suggest that CODI takes note of this proposed action and only implement the proses of collecting data after approval and implementation.</p> <p>It also follows from the POPI Act and similar legislation that personal information may not readily be shared or published against the express will and instructions of the person whose information is requested.</p> <p>It does not make sense that, for example, the full balances of a depositor’s accounts need to be disclosed if only R100 000 is being covered by</p>	<p>terms of the relevant financial sector law, will be members of CODI and need to comply with its requirements. The law was drafted to comply with the Core Principles, issued by IADI, which prescribe the following:</p> <ul style="list-style-type: none"> • membership in a deposit insurance system should be compulsory for all banks; • a deposit insurer should clearly and publicly define the level and scope of deposit coverage in law and regulation; • funding arrangements must be clearly defined and established in law or regulation; and • a deposit insurer should equally apply the level and scope of coverage to all its member banks. <p>CODI does not have the mandate to exempt any bank from CODI membership.</p> <p>CODI’s funding model which includes a liquidity tier in the form of an interest-bearing loan by member banks to CODI, reduces</p>

Table 2 – Full set of comments received during the public consultation conducted

No.	Commentator	Paragraph	Comment	Response
			<p>the insurance. Surely, if the objective reason for disclosure is to establish whether and to what extent a depositor will be covered by the insurance and the combined deposits of a depositor at a single financial institution reach the maximum threshold of cover, then it would make sense that it be reported that the maximum has been reached. Further information is of no value to the insurer and the risk of exposing the full value would be senseless.</p> <p>It has been stated that the purpose for disclosure of the full balance is that assessments need to be made from time to time whether or not the coverage should be increased or decreased. This again does not require account level information of every balance of every depositor on every account, because a high level survey as was conducted recently, would provide adequate insights into the percentages covered and the number of accounts and balance thresholds for assessors to make well informed decisions on such matters.</p> <p>For cooperative banks the impact will be significant.</p>	<p>the direct financial impact on banks' profitability. The funding model has furthermore been extensively consulted with banks, mostly through BASA. Based on the results of CODI's 2021 Deposit Insurance survey of banks' covered deposits, the total deposit insurance cost per qualifying depositor¹ is R26.00 per year, consisting of R25.00 for premiums and R1 for the annual levy.</p> <p>From CODI's consultation with banks, many smaller banks agreed with the need for an explicit deposit insurance scheme for South Africa. They mentioned that, apart from protecting depositors against the failure of their bank, deposit insurance would improve their ability to attract depositors and create a more level playing field between small and large banks. CODI understands that, depending on their strategies and growth prospects, the value of a deposit insurance scheme will differ from bank to bank. For this reason, the</p>

¹ There will be no direct costs to the depositors for deposit insurance. Each bank can decide how to recuperate the costs from its depositors.

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			<p>Cooperative banks are small in comparison with retail banks and other financial institutions.</p> <p>They run very tight operations with small staff components and narrow profit margins.</p> <p>Existing software systems are limited in comparison with those of retail banks and do not allow for the level of MI and reports that are required by CODI to be extracted with any ease.</p> <p>To extract the information and to prepare the expected reports in the required formats will entail time consuming and manual extraction and manipulation of data. Human error will also remain a high risk, due to the number of manual interventions that will be required.</p> <p>If KSK were to comply with the requirements of CODI on top of existing requirements, we will probably have to increase our existing staff component.</p> <p>The impact on our current structure and operations and margins will be significant, and the negatives far outweigh the positives.</p> <p>We were requested on 23 September 2022 to participate in conducting research to be done by Pregasen Moodley.</p> <p>The focus of the research will be to understand how the introduction of a deposit insurance scheme in South Africa will impact the operations and financial position of cooperative</p>	<p>CODI team has made itself available to engage with banks, especially the smaller banks and cooperative banks experiencing challenges in meeting CODI's requirements, to ensure that the issues are resolved in the most appropriate manner.</p> <p>In terms of section 166BF of the FSR Act, member banks must provide CODI with the information it requires to fulfil its mandated functions. CODI's information requirements is based on international best practice, guidance provided by IADI and the World Bank and what is necessary for CODI to achieve its mandated functions, namely, to protect covered depositors, to build the DIF and to promote awareness of the protection it offers. CODI will ONLY use information banks provided to the benefit of depositors.</p> <p>Full balances of depositor's accounts are used for the following purposes:</p> <ul style="list-style-type: none"> • CODI must have access to depositor records at all times

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No.	Commentator	Paragraph	Comment	Response
			<p>banks and the future of the cooperative banking segment.</p> <p>We confirmed on 21 October 2022 that KSK will participate in a research study.</p> <p>Since then, no progress has been made.</p> <p>On a balance of benefits versus negative impact and risks, the negatives brought about by the CODI Scheme far outweigh the positives. It follows therefore that we cannot support the CODI Scheme and must follow the wishes of our members to object to our forced participation in such a Scheme.</p> <p>KSK as a cooperative bank is on record as being strongly opposed to our forced participation in the CODI Scheme.</p> <p>For the various reasons we have briefly discussed in this document, we propose that cooperative banks should be excluded from the CODI Scheme for the time being and until such time as the risks have been assessed and managed properly and until such time as the various constraints which we experience have been ameliorated.</p> <p>We also insist that participation in the CODI Scheme should be voluntary and based on the free and informed choice which a depositor exercises when depositing his or her funds with a financial institution.</p>	<p>and banks must maintain depositor information in a format specified by CODI;</p> <ul style="list-style-type: none"> • CODI must be able to reconcile depositor balances to the bank's balance sheet for verification purposes; • CODI must be able to identify the qualifying depositors and their associated qualifying/covered balances to support non-payout resolution transactions; • the information is used in least-cost assessments in collaboration with the Resolution Authority; • CODI must be able to assess, in advance, the potential losses of all qualifying depositors, i.e., when balances exceed the coverage limit; • CODI needs to be able to test the information submitted by the bank to ensure the bank has applied CODI's rules and the coverage limit correctly. Without the details of all accounts with full balances per qualifying depositor, it will not

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			<p>The freedom to participate in or to develop own deposit insurance schemes with rules of choice and with any insurance house of choice must also be an inherently protected right which must be available to any financial institution.</p> <p>We also believe that the level of detail of the information which will be required in the reporting on the CODI Scheme is superfluous and should be revised. The real risks far outweigh potential rewards.</p>	<p>be possible for CODI to do such testing;</p> <ul style="list-style-type: none"> • in a resolution, CODI must be able to see depositors' names and ID numbers to facilitate its support of a resolution; • CODI needs the full balances vs covered balances per depositor, per type of deposit, etc. for statistical purposes; and • CODI must ensure its cover remains relevant and sufficient to the qualifying depositors. This information is critical for trend analysis as it will inform design features going forward. <p>Since CODI is a subsidiary of the SARB, it will be complying with the Protection of Personal Information Act 4 of 2013 (POPI Act) and will adhere to strict policies implemented by the SARB to ensure the safety and integrity of personal information. In addition, CODI will have its own internal process to segregate and secure data received from the banks. Furthermore, no individual or personal data will be shared with</p>

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				<p>other stakeholders as the data will be treated as strictly confidential. CODI will also have independent security testing and oversight to assure banks that the data received is safe, secure, and used in line with CODI's mandate.</p> <p>CODI has engaged extensively with the banking community to understand the current system capabilities of banks. CODI is aware of banks who may have system constraints. CODI is committed to assisting banks to get access to appropriate technology for reporting to CODI, reduce the operational impact and minimise expenditure on CODI-related changes.</p> <p>An IT project has been established to develop and implement the systems required to collect, store, and process the required data and facilitate depositors' payout. To reduce the burden on co-operative banks, CODI has included a reporting software solution that will provide co-operative banks with a dedicated and robust platform for submitting data to CODI. This will</p>

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No.	Commentator	Paragraph	Comment	Response
				significantly reduce the preparatory efforts of co-operative banks.