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Capacity Sharing  
Marketplace



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# BR3 Preferred Creditor Status

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# BR3 Preferred Creditor Status

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- **Focus of Discussion**

The discussion was focused around major legal and compliance challenges when structuring deals involving different sources of finance from multilateral agencies (MLAs), developmental finance institutions, export credit agencies (ECAs) and private sector investors, and how US EXIM worked together with the MDAs on a way forward. US EXIM has shared power point slides on the BU CSM website with more details to help guide the discussion.

- **What is Preferred Creditor Status?**

PCS is the granting to a lender's loans of preferential access to foreign currency in the event of a country foreign exchange crisis (also called an inconvertibility event). PCS therefore mitigates transfer and convertibility risk for lenders who are granted it. In the case of MLAs with A/B loan programs it benefits both the MLA and its "B Loan" participants.

# Group Composition

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- Entities involved in the discussion
  - ECAs – SACE (Italy), EGAP (Czech Rep.), ASHRA (Israel), SERV (Slovak Rep.), COSEC (Portugal), EXIM Hungary, EXIMBANKA SR (Slovak Rep.), TURK EXIM, US EXIM
  - Direct Lenders – Brazilian Development Bank BNDES, DFI Market Association (Devimae)
  - Private Insurers & Brokers – Chubb, Liberty, Sovereign, Willis
  - MLAs – ICIEC (IsDB Group), MIGA (World Bank Group)
  - Consultants & Academia – Paris School of International Affairs; Sustainable Finance & Insurance
- Regional representation diverse

# Summary of Topic

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- For ECAs and MLAs to be able to work together on transactions, they need to address how they would deal with the MLAs' PCS.
- US EXIM has policy and statutory requirements that drove its need to seek a deal with MLAs to establish *pari passu* treatment among lenders
- US EXIM's "PCS Deal" is structured around phases in the credit triggered by the inconvertibility event and reflected in the documentation that permits MLAs to benefit from PCS during an inconvertibility period but provides mechanisms designed to return US EXIM (and any other non-PCS lenders) to *pari passu* senior lender status including, if needed, a right to preferential catch-up payments after the inconvertibility period ends.

# Convergence / Divergence

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- Typical scenario, either:
  - ECA and other non-PCS lenders accept a subordinated role with regard to PCS (as with one of the participant ECAs); or
  - if an ECA cannot or will not accept a subordinated role, the borrower must choose between working with the MLA or working with the ECA
- Innovative approaches
  - US EXIM approach
  - BNDES scenario i.e., that BNDES would have status junior to the MLA but senior to MLA “B” Lenders in the event of any PCS payments during an inconvertibility period.
- Other considerations
  - Role for private insurance to cover foreign exchange risk could help mitigate risk
  - Sovereign deals and Paris Club treatment was raised

# Next Steps

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- Follow up on other considerations to be explored (e.g., other approaches that non-PCS lenders have taken);
- Technical panel discussion with MLAs, ECAs and private insurer experts would help;
- CSM could focus on applicability of the US EXIM (or other) approaches to support climate finance more specifically.