

The knock-down effect of EWC ...

'The property market and economic growth generally will be severely affected by the expropriation of land, whether without compensation, below market value, or outside the law, the Constitution and the courts.' The Banking Association's Cas Coovadia adds **property owners with mortgages and other bonds on property that may be expropriated without compensation face 'especially severe' liabilities**. 'Initial legal opinion,' he says, 'indicates that borrowers would still be liable for the full debt on a property, even if the underlying asset has been expropriated without compensation'. In his analysis in [Business Day](#), Coovadia notes the association has made a detailed submission to Parliament on the Constitution Eighteenth Amendment Bill, which aims to provide that 'where land and any improvements thereon are expropriated for the purposes of land reform, the amount of compensation payable may be nil'. Its submission highlights:

- * A sound banking and financial system is essential for inclusive economic growth.
- * The decision to expropriate land without compensation should not be left to the executive without oversight and decision-making by the judiciary.
- * 'Just and equitable' compensation for expropriated land may be below market value. This will inhibit a bank's ability to provide credit where property serves as security for a loan. To mitigate this, the government should automatically guarantee the difference between just and equitable compensation and market value.
- * A lack of clear and decisive political leadership is undermining assurances by President Cyril Ramaphosa that EWC will be done in such a way as not to harm economic growth and food security.

EWC cannot be done without a knock-down effect on other laws. The SA Banks Act and the global Basel regulatory framework for the financial sector require that banks have sufficient capital and liquidity to return depositors' and investors' funds – with interest – on demand. Coovadia says **if the value of land is reduced by EWC or at below market value, banks will have fewer assets on their balance sheet with which to extend credit**, and they will have to adopt more conservative loan policies. The Banking Association, he adds, is convinced that land reform – critical for SA to succeed – can be undertaken in a legal, constitutional, inclusive and sustainable manner that does not dilute property rights. While it must be implemented faster and more effectively – especially in urban areas where about 1.2m families live in informal settlements – it must be managed in an orderly manner, in order to avoid systemic risks to the financial sector, the economy, food security and the future of the country.