BDI

Research, Industrial and
Economic Policy

Comment

Consultation on Guidelines on limits on exposures to shadow banking (EBA/CP/2015/06)

We welcome the opportunity to comment on EBA's draft guidelines on limits on exposures to shadow banking entities published on 19 March 2015. We have always been supportive of a financial market regulation that aims to make banks and the financial sector more resilient to absorb shocks and at the same time secure their financing role for the real economy.

We strongly support to control effectively risks stemming from outside the regulated banking system as well to ensure the stability of the financial markets. Generally, actions to limit exposures from „shadow banks" could contribute to achieve this objective. However, the regulatory measures should not have detrimental effects on the real economy. In this context, we deem it necessary to align the new regulatory proposal by EBA with regard to its objectives and impact with other regulations and rules that are already in force.

EBA's proposal with regard to the definition of shadow banking entities comprises all companies with credit intermediation activities that are not prudently supervised yet. Our main concern is that the proposed definition of shadow banking entities is too extensive and overshoots the actual goal to limit increased systemic risks. EBA's guidelines could have a significantly adverse impact on the real economy.

Intragroup financial operations

Financial intermediaries outside the banking system carry out important functions for the finance and liquidity management of companies. The extremely broad definition of shadow banking entities would also capture enterprises that one would not usually associate with "shadow banks". The definition might include, for instance, subsidiaries of industrial enterprises whose main activity is to fund themselves via the capital and money market or via banks by means of loans to finance the group companies and to hedge business risks of such group and its entities. However, such intragroup operations are industry standard practices and neither create additional risks for the group as a whole nor do they increase the interconnectedness with banks and the financial system. Even worse, the definition of shadow

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banking may be applied directly to industrial companies which provide financial or intermediation activities only in order to support their operative business as an ancillary activity.

In order to avoid that such companies will be included in the scope of “shadow banking” we request you to exempt financial services companies of industrial groups the main purpose of which is to render financial services to the companies of the industrial group. This exemption is very important to ensure that such companies can further forward the money raised on the capital and money market e.g. by debentures, commercial papers etc. to group companies belonging to the controlling industrial enterprise and hedge risk such as interest rate and currency risks of the group and its entities. Due to the fact that such financial services companies belonging to industrial enterprises have often to fund joint venture companies proportionately to its share, the group exemption should also comprise the funding of such joint venture companies.

We propose to extend the scope of excluded enterprises to financial services companies of industrial groups the main purpose of which is to render financial services to the companies of this group (in-house financial services).

Real economy securitisation

Furthermore, the definition also captures special purpose vehicles of real economy securitisations. They work without any active management to fund securitised receivables of the originator that have been originated before to finance real goods. The purpose of such SPVs is totally different from that of non-regulated actively managed hedge funds. As securitisations are already subject to extensive regulatory requirements, it is questionable whether an additional limitation of this financing instrument is necessary.

Generally, all simple, transparent and standardized securitisations should be excluded from the definition of shadow banking entities to avoid detrimental impact on such securititisations and to avoid that the EU Commission’s initiative to create the capital markets union including an advanced broad and deep securitisation market for simple, transparent and standardised securitisations will be undermined.

We expect that major parts of real economy securitisations will not fulfil all qualifying criteria for simple, transparent and standardised securitisations due to the high number of criteria and different market practices. We therefore suggest to exempt also such special purpose vehicles from the definition of shadow banking activities and add them to the list of “excluded enterprises” that are not actively managed, that are not exposed to material funding risks by maturity mismatches and the main purpose of which is to fund the securitised underlying assets financing real goods. If such special purpose vehicles were not exempted from the definition of shadow banking entities, they should at least be exempted from any limitation for shadow banking entities.

We propose to extend the scope of excluded enterprises as follows:

- Special purpose vehicles from simple, transparent and standardised securitisations (asset backed securities and asset backed commercial papers)

- Special purpose vehicles from securitisations with asset backed securities that are not exposed to material funding risk by maturity mismatch between the securitised underlying assets financing real goods and the issued asset backed securities (real economy securitisation without material funding risks).