

## ✘ Single Rulebook Q&A

<b>Question ID</b>	2019_4501
<b>Status</b>	Final Q&A
<b>Legal act</b>	Regulation (EU) No 575/2013 (CRR) as amended
<b>Topic</b>	Large exposures
<b>Article</b>	395
<b>Paragraph</b>	2
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	EBA/GL/2015/20 - Guidelines on limits on exposures to shadow banking entities which carry out banking activities outside a regulated framework under Article 395(2) of CRR
<b>Article/Paragraph</b>	11, 13-15,17-21
<b>Date of submission</b>	01/02/2019
<b>Published as Final Q&amp;A</b>	15/01/2021
<b>Disclose name of institution / entity</b>	Yes
<b>Name of institution / submitter</b>	Banco Português de Gestão, SA
<b>Country of incorporation / residence</b>	Portugal
<b>Type of submitter</b>	Credit institution
<b>Subject matter</b>	Article 395 CRR – Shadow entities large exposure limits
<b>Question</b>	If a bank invests through a vehicle, incorporated under the applicable Securitisation Law, with separate compartments per investor and where the paid out of each Note is segregated per portfolio of loans, may each Note be deemed a separate shadow entity?
<b>Background on the question</b>	The underlying of each portfolio are loans granted on P2P online platforms, where the credit analysis is carried out by the original lender, according to a set of eligibility criteria and guidelines (limiting risk bands allocations, max. amount per loan) established by the investor in the Notes (the Bank).The institution is able to comply with requirements of Section 4 and Principal Approach methodology of Section 5, the large exposures limit of 25% set in Article 395 (1) of Regulation 575/2013 (CRR).It is unclear whether - if the institution invests in Notes issued by a special purpose vehicle (Issuer) and the Terms and Conditions of the issue (and the laws of the relevant jurisdiction) establish that the net proceeds of the loan receivables allocated to each Note is segregated from the Issuer

	<p>other assets and liabilities (insolvency remote) and the assets and liabilities allocated to any of the Issuer other Notes (each note is ring-fenced from the other) - the institution may consider the investment in each Note as a separate Shadow Entity, provided the loan receivables have been originated in a different online market place lending platform, with a different lender, in each of the Notes.</p>
<b>EBA answer</b>	<p>The large exposures regime set in Part IV of Regulation (EU) No 575/2013, also as amended by Regulation (EU) 2019/876 (CRR2), applies to any asset or off-balance sheet items as defined in Article 389 CRR. Therefore, the large exposures limits laid down in Article 395 apply also to investments in transactions with underlying assets, which is the case of the operation described in the question.</p> <p>The <a href="#">EBA Guidelines on limits on exposures to shadow banking entities which carry out banking activities outside a regulated framework under Article 395(2) of Regulation (EU) No 575/2013</a> (EBA GL/2015/20) apply independently from, but in addition to, the general large exposures regime in the CRR. Paragraph 11 of the Guidelines defines a shadow banking entity as an undertaking that carries out one or more credit intermediation activities and that is not one of the excluded undertakings, as also defined in the Guidelines.</p> <p>In principle, a vehicle that purchases loan portfolios to allocate the net proceeds of the loans to self-issued notes through fully-segregated compartment qualifies as a shadow banking entity. The notes issued by the vehicle do not constitute themselves separate shadow banking entities as long as they are not separate undertakings that carry out one or more credit intermediation activities. It follows that all exposures towards the same vehicle must be regarded as one single exposure, irrespective of the segregation of the pay-out under the loan portfolios and of the notes issued by the vehicle when applying the Guidelines.</p>
<b>Link</b>	<p><a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4501">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2019_4501</a></p>

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