

June 19, 2015

European Banking Authority
Floor 46, One Canada Square
London E14 5AA
United Kingdom

European Banking Authority

**Draft Guidelines on limits on exposures to shadow banking
entities which carry out banking activities outside a regulated
framework (EBA/CP/2015/06)**

Dear Madam, Dear Sir,

Please find attached the French ASF position on the draft guidelines on limits on exposures to shadow banking entities,

Yours sincerely,

Yves-Marie LEGRAND
Deputy Manager

ASF RESPONSE TO EBA CONSULTATION ON

**DRAFT EBA GUIDELINES ON LIMITS ON EXPOSURES TO SHADOW BANKING
ENTITIES WHICH CARRY OUT BANKING ACTIVITIES OUTSIDE A REGULATED
FRAMEWORK (EBA/CP/2015/06)**

As a unique representative body of all the French specialised credit institutions and financial institutions which represents 290 entities, ASF contributes to an appropriate recognition of the specialised financial activities like equipment and real estate leasing, factoring, consumer credit and auto loans and leases, mutual guarantee societies which – with an outstanding of more than €215 billion in 2014 – accounts for about 20% of total amount of credits to the real economy in France.

As almost half of the 290 members of ASF are financing companies, not credit institutions in the full definition of CRR, yet comparatively regulated, we have been tightly following the EBA's work on shadow banking.

We took much attention to its 2014 report and opinion on the perimeter of credit institutions across EU, which focuses on the interpretation of the term “credit institution” and the prudential treatment of those entities which carry on credit intermediation but are not “credit institutions”. We then also take much attention to the current draft Guidelines, especially on the scope of the proposed definition of shadow banking entities.

We would like to thank you for giving us the opportunity to respond to the consultation on the draft Guidelines on limits on exposures to shadow banking entities. We would like to draw your attention to some facts and suggestions related to the specificities of the framework of our specialised credit activities.

Q1. Do you agree with the approach the EBA has proposed for the purposes of defining shadow banking entities?

The part of ASF members that are financing companies (“Sociétés de Financement”) are covered by an equivalent CRR/CRD IV prudential framework, similarly as credit institutions except adaptations on liquidity and leverage. They deliver credits but do not collect deposits or hold reimbursable funds from the public. They are authorized and regulated by the French national competent authority (Autorité de Contrôle Prudentiel et de Résolution – ACPR)

According to the present Draft guidelines, and in reference of article 119.5 of the EU Regulation 575/2013¹, we do consider that French financing companies are excluded from the scope of the draft Guidelines definition as they correspond to “the general approach proposed by the EBA to exclude from the scope entities that are subject to an appropriate prudential framework either as a result of prudential consolidation [most french financing companies are banks subsidiaries] or, where entities are not within the scope of consolidation, to certain sector specific prudential frameworks which are deemed to cover for the risks posed by the bank-like activities of the entity.” (page 20).

It seems clear that French Financing companies are within the category of “excluded undertakings” as defined page 18, 6.1.e): “financial institutions authorized and supervised by the competent authorities ... and subject to prudential and supervisory requirements comparable to those applied to institutions in terms of robustness”.

This assessment is in phase with the ECB opinion confirming that supervision of French financing companies is equivalent to Union requirements for credit institutions (Opinion of the European central Bank of 24 May 2013 on the status of credit institutions and the creation of financing companies - CON/2013/36)

It is also in phase with the French “Haut Conseil de Stabilité Financière” (HCSF) which stated in its annual report (http://www.economie.gouv.fr/files/hcsf_rapport_annuel_062015.pdf) published on June 10 that French financing companies, duly covered by banking regulation, are not included in the shadow banking field.

Yet, in addition to the prudential supervision criteria, we consider that the proposed definition of the scope of shadow banking entities could be completed by other criteria. There is room for a more detailed and explicit listing of shadow banking entities, taking more into account the diversity of the activity lines and actors, and the diversity of risk carried. Systemic risk and “run” effect risk should especially be taken into account. Those risks are not the same for activities such as finance companies, market intermediaries, money market funds etc...

It seems necessary to take into account that specialized financing activities such as leasing, consumer credit and factoring, are actively involved in financing the real economy in France and Europe, and to consider that, because of their nature, those activities are not volatile or cyclical, and cannot lead to a sudden and massive “run”.

We also call for consistency with the Financial Stability Board (FSB) works on shadow banking and, in addition with the main criteria of prudential framework, for more detailed sector-specific indicators. Otherwise, a too large definition would create an aggregate limit to a global shadow banking sector, without granularity in risk sensitiveness.

¹ “Exposures to financial institutions authorized and supervised by the competent authorities and subject to prudential requirements comparable to those applied to institutions in terms of robustness shall be treated as exposures to institutions.”

Q6. Taking into account, in particular, the fact that the 25% limit is consistent with the current limit in the large exposures framework, do you agree it is an adequate limit for the fallback approach? If not, why?

We consider the 25% limit, applied to a widely defined and very heterogeneous sector, is conservative.

Then, in addition to the main distinction based on the prudential framework, we consider that the following criteria could be used to introduce granularity in the treatment of shadow banking entities:

- the nature of the activities/business (consumer credit or financial leasing cannot reasonably be treated the same way as money market funds);
- the existence, nature and level of risks (systemic risk in particular) ;
- the possibility of “run” effects (sudden and massive withdrawals of funds by clients).