CREFC Europe

Targeted consultation assessing the adequacy of macroprudential policies for non-bank financial intermediation (NBFI) – response template

About you

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1. Key vulnerabilities and risks stemming from NBFI

Q1 Are there other sources of systemic risks or vulnerabilities stemming from NBFIs' activities and their interconnectedness, including activity through capital markets, that have not been identified in this paper? (5,000 characters max)

Our response to this consultation focuses on the commercial real estate (CRE) debt market, which is our area of expertise and the market in which our members participate. Any consideration of this market needs to start by recognising a number of features of CRE and CRE debt markets.

- CRE is structurally capital intensive and a large-scale user of debt.
- As a result, CRE connects financial markets (the providers of equity and debt) to the real economy (the businesses that use that capital to develop, maintain and manage buildings, and those – both businesses and citizens – that occupy or use those buildings).
- CRE is structurally cyclical, because it takes time for the supply of space to respond to changing demand, and while lease contracts provide cost certainty to occupiers, they prevent rents from changing rapidly to reflect changing market conditions.
- CRE lenders (meaning, in practice, banks) have a long tradition of lending into overheating markets and having to deal with a problematic loan book, rather than being in a position to lend to a recovering market, after a major correction.
- In the EU, banks have remained the dominant source of debt for CRE notwithstanding the bruising experience of the GFC. Despite the launch of CMU in 2015, the EU has generally failed to exploit the potential of securitisation and private capital markets to add resilience to the market, reduce the concentration of risk in the banking system, and allow non-bank capital to be matched to the demand for productive finance in the real estate economy.

Such as it has been, the growth in the role played by NBFIs in the CRE finance sector is primarily a consequence of four factors: (1) the fundamental and inevitable requirement of the underlying CRE market for debt, (2) the regulatory response to the GFC that has made CRE lending less attractive for banks, (3) the regulatory response to the GFC that has made a meaningful recovery in European CRE debt securitisation impossible, and (4) the search for yield and returns among those (particularly in institutional markets) with capital, especially during an extended period of very low interest rates.

The emergence of NBFIs as providers of debt to CRE has made it easier for banks wishing to reduce their exposure to the CRE sector to do so and allowed the CRE sector continued access to debt, while also providing a reasonable source of risk-adjusted returns for institutional capital. This is a good thing, and considerable expansion of NBFI participation could occur providing a net positive (rather than risks) for the real economy, investors and financial stability.

The harm that might result from the failure of an NBFI active in the CRE debt market needs to be considered in this context, and against the comparator of a CRE debt market in which activity is concentrated in the banking sector. Whether problems arise because of a single lender's bad decisions, bad practices or bad luck, or because of cyclical or structural shifts in the underlying CRE market, the damage would undoubtedly be much less in a more diversified market in which NBFIs might fail, than in a market in which banks fail.

The term "NBFI" covers a very broad but poorly defined universe of very different types of organisation, performing quite different functions, and subject to differing regulatory frameworks. That is an unhelpful starting point for a consideration of potential risks to financial stability.

Q2 What are the most significant risks for credit institutions stemming from their exposures to NBFIs that you are currently observing? Please provide concrete examples. (5,000 characters max)

We do not observe significant risks for credit institutions stemming from their exposures to NBFIs in the CRE finance market. As noted in our response to Q1 above, we believe that financial stability would be improved by a greater shift in CRE financing from banks to NBFIs, including through securitisation.

Q3 To what extent could the failure of an NBFI affect the provision of critical functions to the real economy or the financial system that cannot easily be replaced?

1 – To a very low extent

2 – To a low extent

3 – To a significant extent

4 – To a high extent

5 – To a very high extent

Don't know / no opinion / not applicable

Please explain your answer to Q3, in particular to which NBFI sector, part of the financial system and critical function you refer to, and if and how you believe such knock-on effect could be mitigated. (5,000 characters max)

Our response to this consultation focuses on the commercial real estate (CRE) debt market, which is our area of expertise and the market in which our members participate. As explained in our response to Q1 above, we believe that the emergence of NBFIs as providers of debt to CRE has made it easier for banks wishing to reduce their exposure to the CRE sector to do so and allowed the CRE sector continued access to debt, while also providing a reasonable source of risk-adjusted returns for institutional capital.

The harm that might result from the failure of an NBFI active in the CRE debt market needs to be considered in that light, and against the comparator of a CRE debt market in which activity is (even more) concentrated in the banking sector. Whether problems arise because of a single lender's bad decisions, bad practices or bad luck, or because of cyclical or structural shifts in the underlying CRE market that affect many lenders at the same time, the damage would undoubtedly be much less in a more diversified market in which NBFIs might fail, than in a market in which banks fail.

An important factor that adds resilience to the CRE debt market ecosystem is the fact that the regulation of different types of lender active in the market is different. Regulatory difference complements and supports different duration, risk/return and other strategy preferences, and makes it more likely that when one type of lender reduces market exposure, another type may be willing to increase market exposure. This reduces the amplitude of capital flow volatility and improves both real estate market stability and financial stability.

Greater regulatory consistency across the CRE lending market should therefore be approached with caution, as it could worsen (rather than strengthen) financial system stability.

Q4 Where in the NBFI sectors could systemic liquidity risk most likely materialise and how? Which specific transmission channels of liquidity risk would be most relevant for NBFI? Please provide concrete examples. (5,000 characters max)

The kind of liquidity mismatches that the consultation paper focuses on, and which can affect MMFs and OEFs, are not generally a feature of CRE debt markets. As regards the liquidity mismatches that can arise in the context of open-ended real estate funds, we refer you to the submissions of the Association for Investors in Non-listed Real Estate Vehicles (INREV) and those of the Association of Real Estate Funds (AREF), which we have seen and with which we agree.

We also note the points made in their response by the European Public Real Estate Association (EPRA), regarding the role that real estate investment trusts (REITs) and other listed real estate companies can play in dispersing liquidity stress: the fact that their shares are readily tradeable in secondary markets means that investment market appetite translates into transparent pricing signals rather than pressure on the entity to buy or sell illiquid real estate in order to satisfy demand.

We believe that European real estate finance markets would benefit both in terms of systemic risks and in terms of market transparency if there were a larger pool of listed (and thus secondary market tradeable) real estate debt investments in the form of securitisation bonds and/or mortgage REIT shares. However, rather than a question of "liquidity mismatches", this relates to two slightly different, but related, aspects of liquidity risk:

- High amplitude volatility in the availability of capital (excess liquidity at certain points in the cycle, and a lack of liquidity at other points in the cycle), and
- Very limited secondary market liquidity (principally because the EU has very limited CRE debt securitisation markets, so with the exception of bonds issued by REITs, CRE debt is mostly held in the form of private instruments that are not generally traded).

The first of those forms of liquidity risk can be addressed through more NBFI participation in CRE debt markets; as explained in our response to Q3 above, a market in which different lender types, with different investment preferences and subject to different regulatory incentives, are active is less likely to see capital pour in or out in unison.

The second can be addressed by reforming the EU's regulatory framework for securitisation, so that insurers and others can hold a portion of their CRE debt exposures in a form that offers a reasonable degree of secondary market liquidity and market pricing information (as well as more comparable, standardised reporting). Similar benefits could be achieved through the introduction of appropriately designed mortgage REIT regimes to create a category of tradeable equities representing CRE debt risk and returns.

Q5 Where in the NBFI sectors do you see build-up of excessive leverage, and why? Which NBFIs could be most vulnerable? Please provide concrete examples. (5,000 characters max)

While there are no doubt pockets of excessive leverage in CRE markets, we are not aware of any structurally significant build-up of excessive leverage other than perhaps in certain specific national banking markets.

It is worth pausing to acknowledge the lack of market transparency, however. Specifically in CRE debt, the absence of material European CRE debt securitisation markets (largely resulting

from a hostile regulatory framework) or mortgage REITs means that CRE debt markets lack the data that a flourishing REIT market can provide for CRE markets, for example.

We would also note that the characterisation of leverage as “excessive” is not as straightforward as this question (and the consultation paper) might suggest, particularly given the diverse range of contexts and firms to which it is being applied. We would argue that the right question for this consultation (which is about macroprudential risk) would be whether there are forces in play that mean leverage is likely to be systematically mispriced in a way that means correlated positions are likely to give rise to systemic risk. High leverage may be entirely appropriate in certain contexts; provided that it is not systematically and significantly mispriced, it is not clear why it should be classified as “excessive”.

That is not to say that there is no systematic misplacing of risk in CRE finance markets (or elsewhere, whether banking or NBFI). We would encourage policymakers to focus on assessing the prevalence of that, rather than on "build-up of excessive leverage".

Q6 Do you observe any systemic risks and vulnerabilities emerging from crypto assets trading and intermediaries in the EU? (5,000 characters max)

No comment.

Q7 Considering the role NBFIs have in providing greater access to finance for companies and in the context of the capital markets union project, how can macroprudential policies support NBFIs’ ability to provide such funding opportunities to companies, in particular through capital markets? Please provide concrete examples. (5,000 characters max)

A growing role for NBFIs in the commercial real estate (CRE) finance sector is primarily a consequence of four factors: (1) the fundamental and inevitable requirement of the underlying CRE market for debt, (2) the regulatory response to the GFC that has made CRE lending less attractive for banks, (3) the regulatory response to the GFC that has made a meaningful recovery in European CRE debt securitisation impossible, and (4) the search for yield and returns among those (in particular in institutional markets) with capital, especially during an extended period of very low interest rates.

The emergence of NBFIs as providers of debt to CRE has made it easier for banks wishing to reduce their exposure to the CRE sector to do so and allowed the CRE sector continued access to debt, while also providing a reasonable source of risk-adjusted returns for institutional capital.

From a macroprudential perspective, the diversification of CRE debt sources from banks is an overwhelmingly positive phenomenon. Banks are the most critical component of the financial system, so concentrating CRE lending in the banking system might reasonably be seen as potentially problematic, given the propensity of CRE to present material risks to lenders from time to time (owing to the underlying real estate cycle which lenders have historically struggled to understand and manage effectively). A market in which debt is provided by different types of lender, subject to different regulatory incentives and with different risk, maturity and liquidity preferences, is bound to be more stable and resilient than a market in which the providers of debt are all likely to respond to market and regulatory signals in the same way. This is not to say that macroprudential risks cannot arise from NBFI CRE debt activities, simply that there are much more important risks to focus on first, while those risks remain modest.

However, there are two major weaknesses in the way the EU CRE debt market has evolved since the GFC.

First, the EU did not take the opportunity to drive reduced appetite for CRE, especially at higher risk levels, among banks, By contrast, the UK did that by imposing the use of "Slotting" on all its major banks for the calculation of risk weighted assets for their CRE lending activities. As a result, EU banks remain both the dominant lenders to EU CRE, and continue (at least in some member states) to lend at high risk levels.

Secondly, by imposing penal capital charges on CRE debt securitisation (most importantly under Solvency II), the EU prevented the recovery of CMBS or the emergence of CRE-CLOs. For all EU policymakers' antipathy towards these capital markets instruments, they offer important benefits (a degree of secondary market liquidity and transparency) both for investors and from a market perspective, as compared to the private channels that insurer and other institutional capital has instead taken (syndication markets and either the launch of debt strategies of their own or allocation of capital to debt funds operated by others).

The ongoing implementation of Basel III finalisation may partially address the first of those problems, if (as expected) it reduces banks' appetite for CRE risk. However, the benefits of this change will only emerge if alternative sources of capital are readily able to provide debt to the underlying CRE market. Unfortunately, the EU has so far failed to deliver CMU, and many member states' regulatory, tax and broader legal regimes present barriers that may discourage the substitution of bank debt with debt from other sources.

The second weakness can only be addressed with a serious rethink of how CRE debt securitisation (if not securitisation generally) is viewed and regulated in the EU. A vibrant, scaled-up CMBS market could provide not only a mechanism for banks to distribute CRE risk into other hands, but also market pricing information for real estate debt (such as REITs provide for real estate).

Perhaps even more important is the opportunity that a European CRE-CLO market might provide for the recycling of capital used for construction finance and transitional real estate assets. There is a permanent need for more homes (often delivered through large-scale institutionally procured and managed rental apartment buildings), and an enormous need for the retrofitting, renovation and upgrading of existing buildings to meet energy efficiency targets, as well as the changing requirements of society and the economy. A CRE-CLO market could allow the capital markets to support this economically productive work, rather than leaving it to be funded by the owners of buildings and dwindling bank debt alone.

Note that the disclosure requirements applicable to CRE debt securitisation that are operated by ESMA are widely reported to produce no useful disclosures from the perspective of investors. The ESMA templates are routinely ignored, and investors rely instead on loan servicer investor reporting and data and analysis provided by third party specialists.

2. Overview of existing macroprudential tools and supervisory architecture in EU legislation

2.1 Asset management and open-ended funds (OEFs)

2.2 Insurance

2.3 Other NBFIs and markets

3. Unmitigated liquidity mismatches

3.1 Money Market Funds (MMFs)

Q8-Q15 relate to MMFs

No comment.

3.2 Other open-ended funds (OEFs)

3.2.1 Enhancing the supervisory framework on liquidity risks

Link between liquidity mismatch and liquidity risks

Q16 How can NCAs better monitor the liquidity profile of OEFs, including redemption frequency and LMTs, in order to detect unmitigated liquidity mismatches during the lifetime of OEFs? (5,000 characters max)

We have no comment on this question from the point of view of the commercial real estate (CRE) debt market, but as regards liquidity mismatches that may be relevant in the context of open-ended real estate funds, we would refer you to the submissions made by the Association for Investors in Non-listed Real Estate Funds (INREV) and the Association of Real Estate Funds (AREF), with which we agree.

Q17 and Q18 are only for NCAs and EU bodies

Q19 On the basis of the reporting and stress testing information being collected by competent authorities throughout the life of a fund, how can supervisory powers of competent authorities be enhanced to deal with potential inconsistencies or insufficient calibration between the LMTs selected by the manager for a fund or a cohort of funds and their assets and liabilities liquidity profile? How can NCAs ensure that fund managers make adjustments to LMTs if they are unwilling to act? How could coordination be enhanced at the EU level? (5,000 characters max)

No comment.

Q20 only for asset managers: What measures do you find particularly effective to measure and monitor liquidity risk in stressed market conditions? (5,000 characters max)

No comment.

Q21 only for asset managers: What difficulties have you encountered in measuring and monitoring liquidity risks and their evolution? Are there enough tools available under the EU regulations to address liquidity mismatches? (5,000 characters max)

No comment.

Q22 only for asset managers: What are the challenges in calibrating worst-case and stress-case scenarios related to redemptions and margin calls? (5,000 characters max)

No comment.

Stress testing

Q23, Q24 and Q25 are only for NCAs and EU bodies

3.3 Other NBFIs and markets

Other NBFIs

Q26 What are your views on the preparedness of NBFIs operating in the EU in meeting margin calls, and on the ways to improve preparedness, taking into account existing or recently agreed EU measures aimed at addressing this issue? Please specify the NBFI sector(s) you refer to in your answer. (5,000 characters max)

No comment.

Q27 What are relevant risk metrics or tools that can be used to effectively monitor liquidity and margin preparedness across all NBFI entity types? Please provide examples specifying the sector you refer to. (5,000 characters max)

No comment.

Pension funds

Q28 How can current reporting by pension funds be improved to improve the supervision of liquidity risks (e.g. stemming from exposure to LDI funds, other funds or derivatives), while minimising the reporting burden? What can be done to ensure effective look-through capability and the ability to measure the impact of unexpected margin calls? Please provide examples also for other NBFI sectors. (5,000 characters max)

No comment.

Q29 What would be the benefits and costs of a regular EU-wide liquidity stress test for pension funds and with what frequency? What should be the role of EU authorities in the preparation and execution of such liquidity stress tests? (5,000 characters max)

No comment.

Short-term funding markets

Q30 to Q38 relate to CP and related markets

No comment.

Commodities markets

Q39 to Q41 relate to commodities markets

No comment.

Other markets

Q42 To what extent do you see emerging liquidity risks or market functioning issues that can affect liquidity in other markets?

1 – To a very low extent

2 – To a low extent

3 – To a significant extent

4 – To a high extent

5 – To a very high extent

Don’t know / no opinion / not applicable

Please explain your answer to Q42, providing concrete examples (5,000 characters max)

Please see our response to Q4 for our comments on liquidity risks from the perspective of CRE debt markets. Liquidity (i.e. capital flows, rather than liquidity mismatches) in CRE debt markets is to a considerable degree a function of regulatory choices (as well as, of course, the state of the underlying CRE market, which is cyclical and goes through periods of high liquidity and periods of low liquidity).

4. Excessive leverage

4.1 Open-ended funds (OEFs)

Q43 What are other tools than those currently available under EU legislation which could be used to contain systemic risks generated by potential pockets of excessive leverage in OEFs? (5,000 characters max)

While we are prepared to believe that “pockets of excessive leverage in OEFs” may give rise to “systemic risks”, it should not be assumed that they would do so. It is important that policymakers recognise that high leverage (or high risk) financings may serve the needs of borrowers and allow capital providers to pursue higher risk/return investment strategies through lending activities (and not only through equity investing, which will always be higher risk/return) without having systemic implications.

Policymakers need to be capable not merely of spotting high leverage, but also of determining whether, when and why high leverage has systemic risk implications (as could be the case if, for example, regulatory incentives give rise to systematic mispricing of risks associated with high leverage, either among users or, more likely, among providers, of leverage).

Q44 What are, in your view, the benefits and costs of using yield buffers for Liability-Driven funds, such as it was done in Ireland and Luxembourg, to address leverage? (5,000 characters max)

No comment.

Q45 While on average EU OEFs are not highly leveraged, are there, to your knowledge, pockets of excessive leverage in the OEF sector that are not sufficiently addressed? Please elaborate with concrete examples. (5,000 characters max)

No. However, it is perhaps worth referring here to the Central Bank of Ireland and its CP145, which proposed a leverage cap for Irish real estate AIFs (the cap was subsequently implemented with only modest changes despite broad, reasoned objections from CREFC Europe and many others in the industry).

This was a case where a national authority concluded that there was “particularly high leverage” in particular by (a) treating shareholder debt as leverage, when economically it is equity, and (b) comparing Irish real estate AIFs (which are typically the asset-holding vehicle in real estate fund

structures, and thus where the true leverage is) with AIFs used in German Spezialfonds (where the AIF is typically the fund vehicle, and not the asset-holding vehicle where the debt sits).

That analysis was flawed, as was most of the reasoning in support of the Article 25 leverage cap that ESMA went on to approve. We have attached our response to CP145 with this response, because we believe it shows how "leverage" can be misunderstood, and how measures proposed in the name of macroprudential policy and financial stability can miss their target by such a wide margin as to risk provoking the outcomes they sought to avoid.

Q46 How can leverage through investment strategies (e.g. when funds invest in other funds based in third countries) be better detected? (5,000 characters max)

No comment.

Other NBFIs and markets

Q47 Are you aware of any NBFI sector entities with particularly high leverage in the EU that could raise systemic risk concerns? (5,000 characters max)

No. It strikes us as strange, and inappropriate, for the Commission to use a policy consultation to invite respondents to identify particular market participants as potentially posing systemic risk.

More importantly, we would note that from a financial stability perspective, it is likely to be better for "particularly high leverage" exposures to be financed by NBFIs rather than by banks. It may also be the case that "high leverage" simply reflects a need in the underlying borrowing market, and a willingness from certain lenders or capital providers to take more risk, for higher returns. It is not necessarily the case that higher risk, or higher leverage, has systemic implications – particularly where the capital is priced to reflect the risk.

Q48 Do stakeholders have views on macroprudential tools to deal with leverage of NBFIs that are not currently included in EU legislation? (5,000 characters max)

Please do not assume that it is necessary "to deal with leverage of NBFIs". Leverage certainly can have systemic risk implications – but specifically in commercial real estate (CRE) finance markets, those implications are primarily a function of (often cyclically excessive) leverage provided by banks. It is far from clear that leverage in the real estate sector is inherently problematic, nor that leverage provided by NBFIs is problematic.

Many (though by no means all) non-bank lenders in the CRE market do use some leverage themselves. Pairing debt with the equity raised from their equity investors allows them to deploy more capital, while offering better pricing to the market and/or better returns to their equity investors. There may be instances where the leverage used by such lenders is excessive, but that would be unusual, and we have seen nothing to suggest that leverage used by NBFIs in the CRE market presents systemic risks to financial stability. For non-bank lenders that are structured as alternative investment funds, the AIFMD includes provisions relating to leverage (expanded under AIFMD 2 in relation to loan originating funds).

It is also worth repeating here that the vague but expansive definition of "NBFI" is problematic and confusing. As a membership body for the real estate finance market, we would instinctively think of "non-bank" as referring to non-bank lenders; but the term is clearly intended also to encompass real estate (and other) funds. As every respondent to this consultation will have their own conception of what "NBFI" mainly refers to, and will respond accordingly, the

Commission is likely to collect feedback that is muddled and difficult to sort through and interpret in a consistent way, despite the painfully restrictive and structured response format imposed on respondents.

Q49 is only for NCAs and EU bodies

Q50 How can it be ensured that competent authorities can effectively reconcile positions in leveraged products (such as derivatives) taken via various legal entities (e.g. other funds or funds of funds) to the ultimate beneficiary? (5,000 characters max)

No comment.

Commodities markets

Q51 relates to commodities markets.

No comment.

5. Monitoring interconnectedness

Q52 Do you have concrete examples of links between banks and NBFIs, or between different NBFI sectors that could pose a risk to the financial system? (5,000 characters max)

As explained elsewhere in our responses to this consultation, as far as the commercial real estate (CRE) debt market is concerned, the participation of NBFIs as lenders or debt investors generally serves to reduce risk which is otherwise traditionally concentrated in the European banking sector.

We note that the term "NBFI" is, unhelpfully, defined in a broad but vague way, so can include a broad range of other kinds of entity, even within the CRE market. In that connection, we note the response of the European Public Real Estate Association (EPRA) and the Bayes Business School research paper they reference.

Better policy understanding of the wider financial system beyond banks would undoubtedly be a good thing, and interconnectedness is a natural focus for macroprudential policymakers. However, we are troubled by broad, vague questions covering fundamentally different markets, populated by very different types of market participant, mostly already subject to regulation, using poorly defined terminology and tending to assume that "risk" (or leverage, or interconnectedness) is inherently problematic.

Q53 What are the benefits and costs of a regular EU system-wide stress test across NBFI and banking sectors? Are current reporting and data sharing arrangements sufficient to perform this task? Would it be possible to combine available NBFI data with banking data? If so, how? (5,000 characters max)

No comment.

Q54 Is there a need for arrangements between NBFI supervisors and bank supervisors to ensure timely and comprehensive sharing of data for the conduct of an EU-wide financial system stress tests? (5,000 characters max)

In the context of commercial real estate (CRE), we perceive a prior problem, in regulators' and policymakers' very limited sector expertise and willingness to work effectively with industry

groups in our sector, which is complex and cuts across multiple, differently regulated parts of financial markets.

We were pleased when the ESRB invited us in 2015 to support its work on real estate data gaps. However, officials effectively rejected our offer around that time to assist with how Anacredit covered real estate. And we have been disappointed that the ESRB has never again sought our input either on data gaps, or on systemic risks from a market that we know well, that is complex and changing and spans different sector and policy silos, and which is generally poorly understood by policymakers despite the financial stability risks to which it can sometimes give rise.

It is hardly surprising that policymakers continue to complain about data gaps and opacity in CRE and CRE debt markets – they have consistently rejected every opportunity to build dialogue and trust, gain insights and work together to address those issues. Regulatory hostility to CRE has kept CRE debt securitisation markets very small, missing an excellent opportunity to improve both CRE debt market data/performance transparency and secondary market liquidity.

When ESMA was prepared to engage with us in 2018 regarding its securitisation disclosure templates, we realised that we had to pick our battles, so we prioritised eliminating data requests that made no sense or would be highly problematic. Disappointingly, ESMA officials were not able and willing to work with us to deliver a disclosure template that might actually serve the informational needs and interests of CRE debt securitisation investors (it is hard to tell whether the regulatory disclosure template serves the needs of policymakers, or whether policymakers have even identified their own needs).

In terms of arrangements between supervisors, there is also a more general need for better communication and coordination between financial regulators operating in different silos (for example, those focused on securitisation, or insurers, or banks, or funds), and between financial regulators and other policymakers. A critical area where mismatches exist and improvement is needed is around decarbonisation objectives at government/Commission level, which banking regulators appear either not to understand, or not to agree with.

Q55 What governance principles already laid out in existing system-wide exercises in the EU, such as the one-off Fit-for-55 climate risk scenario analysis or the CCP stress tests conducted by ESMA, could be adopted in such system-wide stress test scenario? Please elaborate. (5,000 characters max)

No comment.

Q56 Only for NBFIs and banks: In your risk management practices, do you run stress tests at group level, and do you monitor the level of interconnectedness with (other) NBFIs (within and beyond your own sector; e.g. portfolio overlaps)? (5,000 characters max)

No comment.

6. Supervisory coordination and consistency at EU level

6.1 Open-ended funds (OEFs)

6.1.1 An enhanced coordination mechanism (ECM) for adoption of macroprudential measures and conflict resolution

6.1.2 Supervisory coordination powers for large asset management companies

Q57 How can we ensure a more coordinated and effective macroprudential supervision of NBFIs and markets? How could the role of EU bodies (including ESAs, ESRB, ESAs Joint Committee) be enhanced, if at all? Please explain. (5,000 characters max)

From the point of view of the commercial real estate (CRE) market, besides other suggestions that flow from our broader feedback in response to this consultation, we would recommend:

- Building and maintaining relevant sector expertise (including in specialist markets like CRE) and institutional memory within EU bodies. All too often, even in the middle of the process of developing new technical standards, we have seen staff changes at an ESA that result in the loss of much of the value of past work, and a lower quality end product.
- Developing stronger and more consistent links to industry groups that can provide input and insight. A possible model for engagement with industry (familiar from the UK) would be to hold regular (e.g. quarterly) meetings of industry-specific forums, coordinated with the support of a suitable industry representative, with varying membership, to allow policymakers to ask questions and listen to discussion.
- Considering a greater role for a more engaged, humble, curious and proactive ESRB for sectors like CRE, which cut across all the usual regulatory and policy silos, and are not normally viewed in a holistic way by policymakers. We have been surprised that, despite our own role as an industry body covering CRE finance (regardless of investment channel or lender type), the ESRB has shown no interest in contact with CREFC Europe (let alone the kind of regular informal dialogue that would surely make sense).

Enhanced coordination mechanism (implementation and adoption of NMMs)

Q58 How could the currently available coordination mechanisms for the implementation of macroprudential measures for OEFs by NCAs or ESAs (such as leverage restrictions or powers to suspend redemption on financial stability grounds) be improved? (5,000 characters max)

No comment.

Q59 What are the benefits and costs of introducing an Enhanced Coordination Mechanism (ECM), as described above, for macroprudential measures adopted by NCAs? (5,000 characters max)

No comment.

Q60 How can ESMA and the ESRB ensure that appropriate National Macroprudential Measures (NMMs) are also adopted in other relevant EU countries for the same (or similar) fund, if needed? (5,000 characters max)

No comment.

Q61 Are there other ways of seeking coordination on macroprudential measures and possibly of reciprocation? What could this system look like? Please provide concrete examples/scenarios, and explain if it could apply to all NBFI sectors or only for a specific one. (5,000 characters max)

No comment.

Supervisory powers of EU bodies

Q62 What are the benefits and costs of improving supervisory coordination over large (to be defined) asset management companies to address systemic risk and coordination issues among national supervisors? What could be ESMA's role in ensuring coordination and guidance, including with daily supervision at fund level? (5,000 characters max)

This question is framed in terms of "improvement" of "coordination" but, like this consultation exercise more generally, it nevertheless carries a flavour of "more regulation" (in relation to a sector that has not even been defined, but is already supervised). The EU's institutional instincts seem to favour "more regulation" despite growing evidence from many sectors (including parts of the commercial real estate (CRE) finance market) that what European markets need is better (and perhaps less) regulation. Recent reports appear to acknowledge the need to deregulate if the EU is ever to achieve the potential benefits of CMU, but we have not yet seen any evidence that policymakers appreciate that this is also true for CRE debt markets.

As mentioned in our response to Q57 above, we would encourage a greater focus on sector expertise and relationships, building and maintaining institutional memory, and a clear holistic and strategic role for the ESRB, including in relation to awkward sectors like CRE that cut across traditional regulatory and supervisory boundaries.

The existence of leverage or other risks or mismatches in a market should not be assumed to have macroprudential implications. The mere possibility that a particular market or trend might be capable of presenting systemic risks should not be sufficient to trigger heavy-handed regulatory interventions. In order to "first, do no harm", policymakers need to understand the markets before them, and target their interventions carefully - all too often, less is more.

Q63 What powers would be necessary for EU bodies to properly supervise large asset management companies in terms of flexibility and ability to react fast? Please provide concrete examples and justifications. (5,000 characters max)

No comment.

Q64 What are the benefits and costs of having targeted coordinated direct intervention powers to manage a crisis of large asset management companies? What could such intervention powers look like (e.g. similar to those in Article 24 of EMIR)? (5,000 characters max)

No comment.

Other NBFIs and markets

Q65 What are the pros and cons of extending the use of the Enhanced Coordination Mechanism (ECM) described under section 6.1 to other NBFI sectors?

Q65.1 Please explain what are the pros? (5,000 characters max)

No comment.

Q65.2 Please explain what are the cons? (5,000 characters max)

No comment.

ESAs and ESRB's powers during emergency situations

Q66 What are the benefits and costs of gradually giving ESAs greater intervention powers to be triggered by systemic events, such as the possibility to introduce EU-wide trade halts or direct power to collect data from unregulated entities? Please justify your answer and provide examples of powers that could be given to the ESAs during a systemic crisis. (5,000 characters max)

No comment.

Q67 What are the benefits and costs of a more integrated system of supervision for commodities markets where the financial markets supervisor bears responsibility for both the financial and physical infrastructure of the commodity futures exchange, including the system of rules and contractual terms of the exchange that regulate both futures and (cash/physical) forward contracts? (5,000 characters max)

No comment.

Q68 Are there elements of the FSB programme on NBFI that should be prioritised in the EU? Please provide examples. (5,000 characters max)

No comment.

Additional information: ability to attach additional documents in odf, txt, doc, docx, odt or rtf format.

We included our submission to the Central Bank of Ireland on CP145 (leverage cap for Irish property AIFs), also available here.