

10 July 2026

Ms. Roberta De Filippis / Mr. Christian Moor

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European Banking Authority

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(Submitted via: direct email)

Dear Sir/Madam:

Re: State Street comments on EBA Draft Revised Guidelines on limits on exposures to shadow banking entities carrying out banking activities outside a regulated framework

State Street welcomes the opportunity to comment on the consultation on Draft Revised Guidelines on limits on exposures to shadow banking entities (SBEs) under Article 395(2) and (2a) of Regulation (EU) No 575/2013 (CRR) issued by the European Banking Authority (EBA).¹

State Street is one of the world's leading providers of financial services to institutional investors including investment servicing, investment management and investment research and trading. With \$54.5 trillion in assets under custody and/or administration and \$5.6 trillion in assets under management,² State Street operates globally in more than 100 geographic markets and employs approximately 51,000 worldwide. As such, we have a deep interest in ensuring that the regulatory architecture governing non-bank financial intermediation remains risk-sensitive, operationally viable, and aligned with market liquidity objectives.

State Street is supportive of the EBA's work to streamline these Guidelines; however, we have two overarching concerns with the proposed changes:

1. **Deletion of the 0.25% Materiality Threshold:** Eliminating the historical *de minimis* threshold for internal limit setting runs directly counter to the European Commission's broader agenda to reduce administrative and reporting burdens. It shifts the framework from a risk-based supervisory tool to a blunt administrative exercise; and
2. **Failure to Carve Out Intraday and Operational Custody Overdrafts:** Temporary credit extensions designed to remediate settlement delays or fails are structural components of the functioning of the global financial system. Capturing these short-term, un-leveraged operational balances within an SBE

¹ [The EBA consults on revised Guidelines on limits on exposures to shadow banking entities under the Capital Requirements Regulation | European Banking Authority](#)

² as of 31 March 2026

framework severely complicates settlement flows, increasing risk instead of mitigating it, exacerbated by the removal of the materiality threshold.

On the removal of the materiality threshold, we fundamentally disagree with no longer permitting institutions to disregard exposures falling below 0.25% of eligible capital. Historical data collection shows that 97% of all individual SBE exposures fall below this threshold, proving that it effectively screens out systemic irrelevance.³ The removal of this threshold implies that an institution must perform exhaustive, look-through compliance and qualitative assessments for minor operational extensions of credit overdrafts granted to any counterparty qualifying under the broad SBE definition. We estimate that absent any applied materiality threshold, the sheer volume of counterparties requiring assessment would significantly increase. This proposed change was not legally mandated by the revised CRR, nor by Delegated Regulation (EU) 2023/2779. Moreover, the EBA explicitly affirmed in *“the threshold set out by the EBA guidelines (EBA/GL/2015/20) will continue to apply for the purpose of setting internal limits according to Article 395(2) of the CRR”*.⁴ Reversing this stance creates significant administrative burden without a demonstrable risk-mitigation benefit.

On the failure to carve out certain custody-related activities, we reiterate our position stated in response⁵ to the EBA's consultation on the original Draft Guidelines that the provision of transactional overdraft protection in custody accounts should be explicitly excluded from the scope of these Guidelines, particularly if the EBA were to evolve these Guidelines to the extent that it prescribed specific limits on banks' exposures to SBEs.

Custody banks facilitate global market functioning and efficiency by extending provisional, short-term credit to institutional investors to bridge temporary timing mismatches during the settlement of securities, foreign exchange, and derivatives transactions. These lines of credit are:

- Strictly operational and typically intraday or outstanding for fewer than multiple days.
- Completely distinct from leverage-providing facilities, credit-cycle amplification, or speculative maturity transformations.
- Structurally secured via explicit corporate liens over the assets held within the investor's institutional account.

In the feedback analysis of the 2015 final guidelines, the EBA acknowledged State Street's request for custody-related exemption but declined to include an explicit carve out, noting that it had refrained from implementing a hard quantitative statutory limit under the Guidelines and so the responsibility resided with institutions to set their internal risk appetites accordingly. While that reasoning was functional when protected by the 0.25% de minimis capital threshold, the simultaneous removal of the materiality threshold changes the framework completely. If all non-leveraged, operational settlement overdrafts must be tracked, custody banks will be forced to restrict their ability to provide certain activities, which, in turn, would negatively impact the ability of institutional investors to finance the real economy. Indeed, we believe that this lies in stark contrast to the European Commission's goal of unlocking non-bank sources of finance for the real economy and significantly

³ See response submitted by The German Banking Industry Committee

⁴ 2022 [Final report on draft RTS on group of connected clients.pdf](#)

⁵ [061915 - EBA - Shadow Banking Limits CP - State Street Corporation](#)

undermines the Savings and Investment Union (SIU) initiative. It would also likely place EU headquartered banks at a competitive disadvantage given the nascency of regulatory approaches taken with respect to banks' exposures to SBEs outside of the European Union.

Additional detailed comments on the consultation questions can be found below.

We thank you again for the opportunity to comment on this important topic and should you wish to discuss our submission in further detail, please do not hesitate to contact us.

Yours sincerely,

**J. K.
Fagan**

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James K Fagan

Member of the Executive Management Board
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Detailed Responses to Consultation Questions

Q1: Difficulties in the Identification Process of SBEs

Most counterparties in scope are fund counterparties supported through custody activities. Any very short-term overdraft usage typically arises from treasury settlement mismatches rather than from banking-like activities. The rating and credit review process follows a standardised approach based on the fund prospectus and/or applicable general and special terms and conditions. Removing the 0.25% de minimis threshold of eligible capital would unnecessarily increase the operational burden of obtaining additional documentation on leverage, maturity mismatch and underlying asset portfolios, from credit counterparties, which may not be readily available, and would add complexity to client onboarding and servicing.

In addition, removing the definition of excluded undertakings from the Guidelines may create further operational burden in determining which credit counterparties fall outside the Shadow Banking Entity definition and could lead to inconsistent approaches across the industry.

Q2: Flexibility of the Limit Framework (Principal and Fallback Approaches)

The dual structure of the principal and fallback approach represents a verified, operationally pragmatic methodology for controlling concentration risks. It allows firms to utilise internal credit frameworks when high-quality data is available, while retaining a broad macroprudential backstop for non-transparent portfolios. We support maintaining the layout of both approaches in their current format.

Q3: Data Gaps

Obtaining consistent, highly granular data on leverage, maturity mismatches, and underlying asset portfolios remains challenging. The application of the principal approach is increasingly challenged by limited availability of granular and transparent data, particularly for exposures involving underlying assets, fund structures, special purpose vehicles, and collateral substitution arrangements. Differences in disclosure standards across jurisdictions and limited access to detailed counterparty information often restrict the ability to identify and assess ultimate risk exposures reliably. As a result, institutions must rely on additional manual analysis, data sourcing, and expert judgement to address information gaps.

These data limitations increase operational complexity and reporting burden, requiring enhanced data collection, validation, governance, and documentation efforts to support regulatory compliance. They also make it more challenging to assess key risk characteristics such as leverage, liquidity, interconnectedness, concentration risk, and asset quality, leading to higher compliance costs and efforts. This is exacerbated by fragmented international disclosure standards outside the EU single rulebook.

Q4: Trigger Conditions for the Fallback Approach

The fallback approach functions effectively as a structural cap (25% of Tier 1 capital) for portfolios lacking definitive data transparency. We rely on this methodology to systematically restrict risks where the overhead of deploying look-through evaluation processes outweighs any underlying business value. The existing trigger conditions require no additional modifications or supervisory definitions.

Q5: Operational Integration of the Binding SBE Definition

The integration of Delegated Regulation (EU) 2023/2779 has been highly resource-intensive and structurally complex. However, it has been successfully incorporated into internal credit review engines. The primary operational problems stem from evaluating the look-through parameters of fund counterparties due to the lack of relevant information found in fund documentation, rather than the architecture of the definition itself.

Q6: Removal of the 0.25% Materiality Threshold

Removing the 0.25% exemption threshold introduces a significant operational burden with limited added value or risk-sensitivity. It would bring non-material exposure into an advanced regulatory framework designed to address systemic shadow-banking vulnerabilities. We strongly recommend that the 0.25% threshold be preserved within the Guidelines text or anchored within the text of the CRR itself to bring proportionality to reporting and disclosure frameworks.

Q7: Risk Tolerance, Governance, and Quantitative Limits

At State Street, we establish internal risk boundaries through risk appetite assertions governed and overseen at the Board level, closely monitored by credit risk management committees. Under the principal approach, limits are maintained as an integrated sub-component of standard credit assessment processes rather than segmented into standalone categories. For the fallback approach, internal boundaries are calibrated tightly below the 25% statutory cap using early warning signals to prevent breach conditions under unexpected market changes.

Q8: SREP Process and Pillar 2 Interaction

The evaluation of SBE concentration risk should remain an element within standard SREP assessments under Pillar 2, which are designed to capture institution-specific business variations. Managing these boundaries through flexible supervisory dialogues is more appropriate than deploying hard statutory position limits, as it allows for a more risk-sensitive approach to be adopted in accordance with specificities of banking business models.

Q9: Impact of Introducing Specific Quantitative Supervisory/Statutory Limits

We strongly advise against the EBA recommending rigid quantitative statutory limits on individual or aggregate SBE portfolios in its upcoming December 2027 Report to the European Commission. In addition to our comments above on detrimental impacts for certain custody-related activities, statutory limits would create serious market distortions. For example:

- **Market Liquidity Reductions:** Rigid constraints would impair an institution's capacity to execute short-term market operations, particularly within securities financing transactions (SFTs) for instance, thereby reducing market liquidity; and
- **Blunt Classification Failures:** Fixed limits would fail to distinguish between highly regulated, asset-backed, or low-volatility entities (such as standard Money Market Funds) and opaque, highly leveraged vehicles (such as unregulated hedge funds).