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Safeguarding the financial system's spare tyre: regulating non-bank retail lenders in the digital era

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Safeguarding the financial system's spare tyre: regulating non-bank retail lenders in the digital era[1]

Executive summary

Non-bank financial intermediaries (NBFIs) comprise a range of entities with various business models that play a critical role in the financial system. The universe of NBFIs includes all financial intermediaries that are not banks. They encompass firms that are subject to traditional financial sector regulation, such as insurers and securities firms, as well as non-bank lenders that may be subject to a patchwork of regulatory rules. According to the Financial Stability Board (FSB), NBFIs held 47.2% of total global financial assets at year-end 2022 (FSB (2023)).

Those NBFIs that provide private credit to households and small and medium-sized enterprises (SMEs) merit special policy attention, as they complement and sometimes compete with banks in lending to the real economy. We refer to such entities as "NBFI retail lenders". This subsector includes traditional non-bank lenders, such as finance companies and mortgage lenders, as well as newer entrants, such as fintech and big tech lenders.

NBFI retail lenders pose both opportunities and risks. They can provide financial services to underserved and unserved market segments, helping to expand financial inclusion and improve consumer outcomes. They also provide a vital alternative to bank financing, thus diversifying the supply of retail credit. However, some NBFI retail lenders can accept public deposits and/or other forms of retail funding, blurring the bank/non-bank divide. NBFI retail lenders that rely on institutional funding are particularly exposed to maturity transformation risks and may have great interconnectedness with the banking sector. In addition, the scale of NBFI retail lenders' activities is significant in some jurisdictions, which may contribute to the buildup of macro-financial imbalances during cyclical upswings.

The entry of fintechs and big techs into the retail lending market poses additional challenges. NBFI retail "digital only" lenders introduce risks that may not be present in traditional retail lending or may pose elevated risks that are not fully captured through existing regulation. These risks stem from their: (i) use of digital delivery channels; (ii) reliance on alternative data in loan origination, in some cases mined from their affiliated financial or non-financial business; and (iii) novel credit offerings, such as buy now, pay later (BNPL) products. NBFI retail lenders may also be part of broader groups that conduct other financial activities that may fall outside the regulatory perimeter.

This paper takes stock of regulatory frameworks that are applicable to NBFI retail lenders and proposes a methodology to strengthen their prudential oversight. As such, it complements the considerable work conducted by the FSB on assessing and addressing the risks and vulnerabilities posed by NBFIs. Drawing on responses to a Financial Stability Institute (FSI) survey covering 20 jurisdictions, together with a review of relevant publications, we examine a range of regulatory regimes applicable to NBFI retail lenders and propose a holistic approach to enhance effectiveness.

NBFI retail lenders are subject to a patchwork of regulatory approaches. These range from extending all or some aspects of the prudential framework for banks to NBFI retail lenders, to focusing mainly on the conduct of business and consumer protection. The most common approach involves the use of bespoke regimes that vary across and within jurisdictions. In jurisdictions where deposit-taking NBFIs operate, such entities are typically restricted from offering current accounts/demand deposits,

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signalling how authorities differentiate deposit-taking NBFI retail lenders from banks. Deposit-taking NBFIs and NBFI mortgage lenders are generally subject to more stringent requirements than other NBFI retail lenders. In addition, only a few jurisdictions have extended their regulatory regimes to encompass group-wide supervision of new types of financial and mixed activity groups, while only one surveyed authority extends macroprudential measures to its universe of NBFI retail lenders.

Surveyed jurisdictions share common challenges in determining whether, and if so which, prudential regimes should apply to NBFI retail lenders. First, data gaps on the nature and significance of NBFI retail lending activities – including their interconnectedness with the banking sector – can impede efforts to determine an appropriate policy stance. Second, most jurisdictions take a piecemeal, rather than systematic approach to the prudential oversight of NBFI retail lenders. In addition to data gaps, this may be due to the dispersion of responsibilities among domestic authorities that oversee NBFI retail lenders; and the advent of novel credit products, business models and group structures.

A holistic approach, which involves three key components, can help to guide the prudential oversight of NBFI retail lenders and mitigate regulatory arbitrage risks. These components are: (i) a framework to inform the microprudential oversight of NBFI retail lenders; (ii) a reassessment of group-wide supervision frameworks; and (iii) the creation of enabling institutional arrangements to facilitate day-to-day supervision and to support the wider application of macroprudential measures to NBFI retail lenders.

The microprudential oversight of NBFI retail lenders can benefit from broad-based and targeted policy measures. Broad-based prudential measures, including various financial and operational resilience requirements, may be needed if the NBFI retail lender is either deemed "significant" or can accept retail deposits or their functional equivalent. In addition, certain NBFI retail lending activities may have a significant bearing on consumer welfare that warrant more targeted measures. These include: (i) mortgage lending, given it is the largest financial liability for most consumers; (ii) new products such as BNPL and wage advance credit that may pose specific risks for consumers; and (iii) technology-enabled business models that elevate or introduce new risks for consumers.

The rise of new types of financial and mixed activity groups may require authorities to reassess if existing frameworks remain fit for purpose. While financial groups led by banks, insurers and securities firms are typically subject to group-wide supervision, this is not the case for financial groups comprising other types of financial institutions, including those with two or more NBFI retail lenders. Similarly, international approaches for the supervision of conglomerates were devised prior to the advent of big techs' and fintechs' entry into the financial sector (BCBS (2012)) and apply only if a financial or non-financial group controls companies that conduct material financial activities in two or more sectors (eg banking, insurance or securities). Groups that (i) include NBFI retail lenders and payment providers; and (ii) are owned by big techs and fintechs typically do not fall within scope. These new structures that blend financial services, data and technology call for international bodies to modernise group-wide supervision frameworks that are relevant for the digital era.

Suitable institutional arrangements can facilitate the micro and macroprudential oversight of NBFI retail lenders and new forms of financial conglomeration. NBFI retail lenders that fall under the scope of broad-based prudential measures should, ideally, be subject to oversight by the national prudential regulator, while more targeted prudential requirements may need the involvement of either the prudential or conduct regulator (or both). In addition, new group structures may raise issues that encompass various policy domains – eg prudential, conduct of business, data privacy, operational resilience and competition – that require enhanced cooperation among relevant authorities. Lastly, appropriate institutional arrangements can help support the broader application of macroprudential measures to encompass NBFI retail lenders.

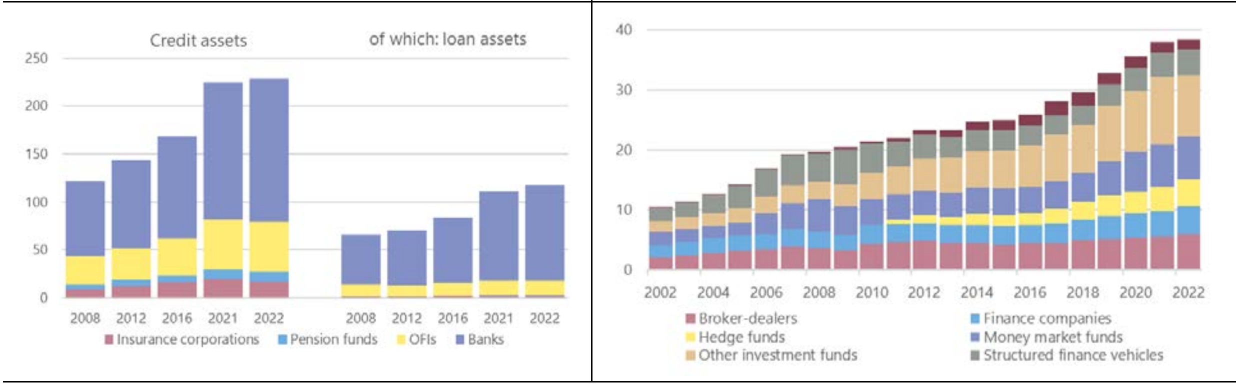
Section 1 – Introduction

1. **Households and small and medium-sized enterprises (SMEs) have a range of options at their disposal to access credit.** They may choose to apply for credit at a bank by visiting a branch or they may seek a loan online with little or no human involvement. Alternatively, they may choose a non-bank financial intermediary (NBFI), ie a firm that provides private credit to households and businesses without holding a banking licence. Like banks, NBFIs may operate through physical branches or digital channels.

2. **NBFIs are an important source of credit globally.** According to the annual global monitoring exercise conducted by the Financial Stability Board (FSB), the share of credit assets held by banks was 65.5% (USD 149.9 trillion) at end-2022. Other financial intermediaries (OFIs)[2] – ie NBFIs other than insurers and pension funds – occupied second place, with a share of 22.5% (USD 51.5 trillion). In terms of loan provision, which is one type of credit activity, banks held loan assets of USD 99.5 trillion and OFIs USD 15.4 trillion (FSB (2023)) (Graph 1).

OFIs' share of credit assets (in trillions of US dollars) Graph 1

Composition and evolution of credit assets since 2008 | Credit assets held by selected OFIs



Includes data for 21 countries and the euro area. Data for Russia are up until 2020. Banks include all deposit-taking corporations.

Source: FSB (2023).

3. **In this paper, we focus on a subset of NBFIs that extend loans directly to households and SMEs.** We refer to such entities as "NBFI retail lenders", which we define as firms that: (i) engage in lending by using their own balance sheet[3]; (ii) are not able to accept demand deposits (eg through current accounts);[4] and (iii) are not insurers, securities firms, or pension or other investment funds.[5] Under this definition, NBFI retail lenders include traditional non-bank lenders (ie finance companies, mortgage lenders and other consumer finance companies) as well as newer entrants, such as fintechs[6] and big techs,[7] that distribute credit exclusively through digital channels.

[2] OFIs are defined as a subset of the NBFI sector, including broker dealers, finance companies, hedge funds, money market funds, other investment funds, special purpose vehicles (SPVs) and trust companies (FSB (2023)).

[3] Our definition excludes crowdfunding/peer-to-peer lenders as they do not use their own balance sheet to extend retail credit.

[4] In several countries, in addition to banks, other depository institutions (ie credit unions, building societies, credit cooperatives and other mutuals) can accept deposits, including demand deposits, and are subject to bank-like regulation. For this reason, these firms are treated as if they were fully licensed banks for the purposes of this paper and are excluded from our universe of NBFI retail lenders.

[5] These entities are typically subject to sectoral financial regulation and are beyond the scope of this paper.

[6] Fintechs are firms whose core business focuses on using technology to deliver financial services either solely or primarily online, and whose primary business is of a financial nature.

[7] Big techs can be broadly described as large technology companies with established customer networks whose primary business is of a non-financial nature, and whose business models rest on enabling direct interactions between a large number of users.

4. **NBFI retail lenders can enhance the efficiency of the financial system.** They can diversify the supply of credit to the real economy and provide services to underserved and unserved segments of the market, facilitating financial inclusion and potentially enhancing consumer outcomes.[8] They can also help mitigate variations in the supply of credit during episodes of tightened monetary policy or banking sector distress, providing a valuable "spare tyre" for the financial system (Greenspan (1999)).

5. **NBFI retail lenders can pose a range of risks, some of which may be more pronounced in digital business models.** NBFI retail lenders' activities give rise to financial intermediation risks, including credit, liquidity, maturity transformation risks and leverage. They can also result in non-financial risks, including operational risks, risks to consumer protection and data privacy and money laundering/terrorist financing (ML/TF) risks. Digital channels may increase these risks. For example, the use of digital-only delivery channels can improve access to products and services but may exacerbate conduct of business and operational risks (eg via reliance on third parties). The use of alternative data and artificial intelligence (AI) in credit underwriting may improve lending decisions but may pose risks to data privacy and consumer protection.[9]

6. **The nature of NBFI retail lenders' funding structures could give rise to potential threats to financial stability.** Aside from some big techs, which may have ample own resources, most NBFI retail lenders rely on short-term funding to finance longer-term loans. The resulting vulnerabilities to sharp contractions or increased costs of funding may be heightened during periods of macro-financial volatility, such as a rapid rise in interest rates. Also, in some jurisdictions, their activities may pose financial stability concerns if their overall size or market share in a lending segment is significant, or if they are intricately interconnected with the traditional financial system.

7. **New group structures are emerging that may escape prudential oversight.** Simple group structures that consist solely of two or more NBFI retail lenders may operate domestically and cross-border without any form of consolidated supervision, regardless of their significance. For an NBFI retail lender that is part of a more complex group, interdependencies may arise between its activities and those of other (financial and non-financial) entities within that group. These interdependencies give rise to risks that may be missed due to the absence of group-wide supervision, including supplementary supervisory measures for financial conglomerates.[10] This may be particularly relevant for big techs as they often offer lending products among other financial and non-financial activities through different group entities.[11]

8. **This paper provides a cross-country overview of the regulatory requirements applicable to NBFI retail lenders.** It is intended to broaden and deepen understanding of the regulatory treatment of retail/SME non-bank lending, including emerging regulatory and supervisory challenges. It is based on responses to an FSI survey covering 20 jurisdictions (Annex 1), together with an extensive desktop review of regulations and related documents, and the authors' own analysis.

9. **The remainder of this paper is structured as follows.** Section 2 provides an overview of the non-bank lending landscape, including NBFI retail lenders, and outlines the scope of this paper. Section 3 describes the regulatory perimeter and licensing frameworks. Section 4 outlines the range of regulatory requirements and supervisory practices applicable to NBFI retail lenders. Section 5 offers policy considerations for financial authorities, and Section 6 concludes.

[8] For example, Cornelli et al (2022) find that fintech lenders have a potential to create a more inclusive financial system, allowing small businesses that were less likely to receive credit through traditional lenders to access credit and to do so at lower cost.

[9] See Prenio and Yong (2021).

[10] Conglomerates are defined as financial groups active in at least two specified financial sectors (banking, securities or insurance) (BCBS (2012)).

[11] Intra-group dependencies on funding, data and technology infrastructure create risks that may escape supervisory attention. See Crisanto et al (2022) and Ehrentraud et al (2022). Not all big tech groups carry out retail lending activities – for instance, in the European Union, retail lending has not been observed (EBA (2024)).

Section 2 – Overview: non-bank lending

Broad categorisation of NBFIs and scope of coverage

10. **The NBFI ecosystem comprises a broad universe of firms, offering various financial services to institutions, companies and households.** According to the FSB, NBFIs include investment funds, insurance companies, pension funds and other financial intermediaries (including firms that lend to households and SMEs) that have different business models and are subject to distinct regulatory frameworks within and across jurisdictions (FSB (2024)). Despite these differences, they generally share a common characteristic: NBFIs are able to provide a range of financial services without a full banking licence.

11. **The focus in this paper is a subset of NBFIs that provide loans to households and SMEs.** We refer to these entities as NBFI retail lenders. Similar to the broader NBFI ecosystem, NBFI retail lenders comprise a diverse range of entities that vary in size, business models, funding structure, delivery channels and organisational setup. They range from traditional credit providers such as finance companies, mortgage lenders and consumer credit firms to newer market entrants, including fintechs and big techs. Among surveyed jurisdictions, based on outstanding amount of credit, fintechs were most frequently reported as among the top three NBFI retail lenders (37% of jurisdictions), followed by finance companies (32% of jurisdictions) and mortgage lenders (21% of jurisdictions).

12. **NBFI retail lenders follow different business models across surveyed jurisdictions.** On the lending side, they may focus on a particular market segment (eg mortgage or consumer credit) or provide various retail credit products under one roof. Their funding structures can range from using their own equity or intra-group financing, to relying on wholesale or retail funding, with some NBFI retail lenders having access to public deposits. In terms of distribution channels, they may operate digitally or through physical premises. Lastly, their organisational structures also vary, with some operating as free-standing companies, while others are part of a broader financial or commercial group (eg a car manufacturer with a subsidiary engaged in car financing or the financial subsidiary of a big tech).

13. **Each jurisdiction's legal definition of a "bank" necessarily determines the scope of activities of NBFI retail lenders.** Globally, there is no harmonised definition of a "bank". In the absence of a harmonised definition, the *Core principles for effective banking supervision* (under Principle 4) require supervisory authorities to define the term and the permissible activities in laws or regulations (BCBS (2019)).

14. **Jurisdictions' approaches to defining the term "bank" typically fall into one of four categories.**[12] These categories are: (i) deposit-taking and lending; (ii) deposit-taking <u>or</u> soliciting other repayable funds from the public and lending;[13] (iii) deposit-taking; and (iv) lending <u>or</u> deposit-taking. This delineation impacts whether retail lending activities are subject to the bank regulatory perimeter or can be performed by NBFIs. Graph 2 provides a snapshot of how selected jurisdictions define the key features of a bank.[14]

- **Deposit-taking and lending,** in combination, is the most common definition of a bank among surveyed jurisdictions and forms the basis for applying prudential requirements to such entities.

[12] Brazil and New Zealand do not have an explicit definition of a bank. Regardless, Brazil extends the reach of banking regulation, on a proportionate basis, to almost all NBFI retail lenders regardless of their size, scope of activities or business model. New Zealand has announced plans to extend deposit insurance coverage to all of its non-bank deposit-takers, bringing such entities within the bank regulatory perimeter.

[13] In many jurisdictions, the term "deposit" is not exhaustively defined in regulatory regimes and may or may not encompass elements that, in other jurisdictions, might be considered "other repayable funds", such as bonds and other comparable securities, continually issued by the entity concerned (EBA (2014)).

[14] See Annex 2 for the corresponding legal definition of a bank in surveyed jurisdictions.

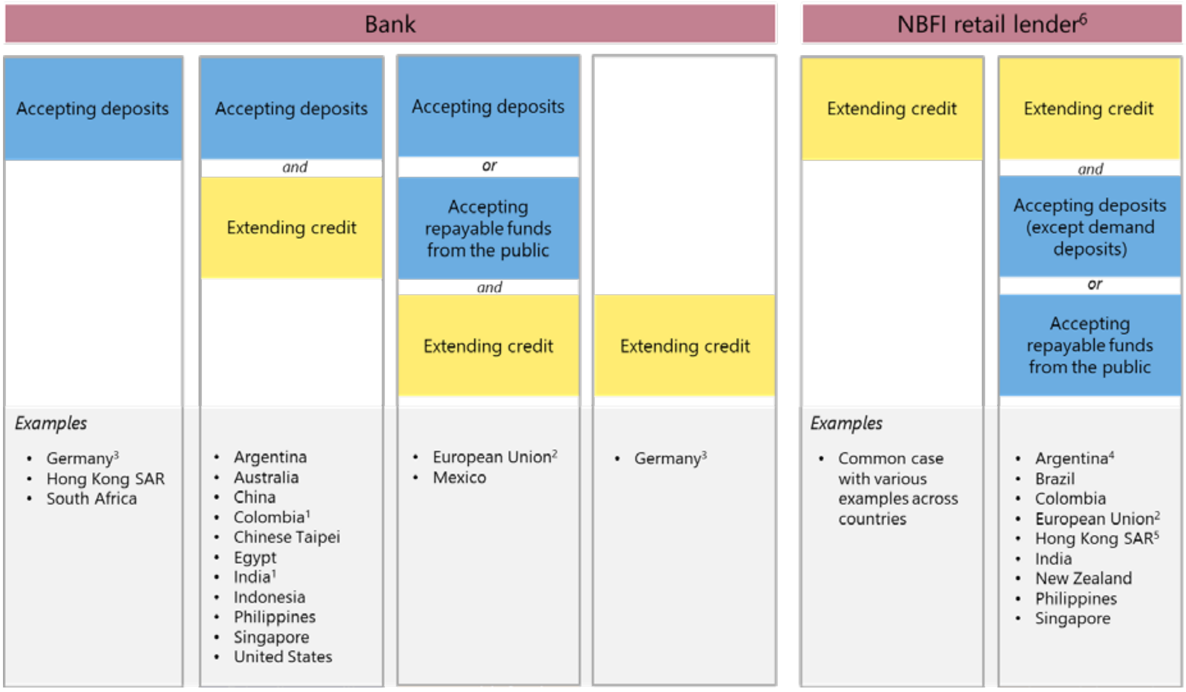
Within this overall category, two jurisdictions (Colombia and India) explicitly specify that deposit-taking includes the provision of current accounts, with the latter reserved for banks only.

- **Deposit-taking or soliciting other repayable funds from the public and lending** triggers a need for a banking licence in the European Union (EU) and Mexico. In both cases they go beyond the concept of a "deposit" to include other forms of non-deposit retail funding (in combination with lending) as the basis to trigger the requirement for a banking licence if applicable elements are met.[15]
- **Deposit-taking** is *the* defining activity of a bank in two surveyed jurisdictions (Hong Kong SAR and South Africa). An entity performing this activity is typically required to hold a banking licence and is subject to prudential requirements irrespective of whether it also carries out lending activities or offers other financial services. Both jurisdictions specify that deposit-taking explicitly includes the ability to solicit current accounts as well as other types of deposit accounts from the public.
- **Deposit-taking or lending** or certain other financial activities are designated by Germany as "banking business" pursuant to the Banking Act.[16] Entities that conduct any one of these activities, among others, are required to hold a licence as a bank.

[15] In Mexico, all institutions that "raise funds from the public", including through securities offerings, are subject to the regulatory perimeter, regardless of whether they also accept deposits. In the European Union where a bank (in EU terms, a "credit institution") is defined as an undertaking whose business, in addition to lending on its own account, is to take deposits or "other repayable funds from the public". While the term "other repayable funds from the public" is not defined in applicable regulation, entities that originate loans for their own account and continuously borrow from the public in the form of bonds or promissory notes – even if they do not accept deposits – are subject to bank regulatory requirements (see EBA (2014, 2020)). In practice, whether regulatory requirements are extended to all such entities hinges on how EU member states interpret terms relating to the "continuing" issuance of bonds and other comparable securities, and the term "public".

[16] The German Banking Act (KWG) defines lending as a banking business that requires authorisation if it is carried out on a commercial basis. According to guidance from the Federal Financial Supervisory Authority in Germany (BaFin), "commercial basis" means lending carried out long term and with the aim of generating profit or to an extent required by a commercial enterprise. The latter is usually the case when there are 100 loans or more, or when there are 21 loans or more with a total volume of more than EUR 500,000. See BaFin (2023).

Bank regulatory perimeter in selected jurisdictions Graph 2



[1] Accepting deposits specifically includes demand deposits (which is reserved for banks). [2] The European Union (EU) definition of a bank (in EU terminology, a "credit institution") also applies in Germany for all applicable banks seeking a full banking licence to carry out such activities. In addition, persons other than banks are prohibited from taking deposits or other repayable funds from the public. In limited cases expressly covered by EU or national law, exemptions to this general prohibition may apply. However, the relevant activities must be appropriately regulated or controlled to protect depositors and investors. See Article 9(2) capital requirements directive (CRD) and EBA (2014) for further details. [3] Proportionate requirements apply to carrying out individual banking activities, including only accepting deposits or extending credit or any other individual banking business specified in the German Banking Act. [4] According to Article 24 of Law No 21.526, finance companies are permitted to accept time deposits, while demand deposits are not mentioned as a permissible activity. However, Article 20 allows the Central Bank of Argentina to broaden the scope of the activities that finance companies may carry out. Making use of this power, the central bank currently allows finance companies to accept time and demand deposits. See InfoLEG (1977). [5] In Hong Kong SAR, deposit-taking companies are not permitted to take demand deposits or solicit savings deposits. [6] Not all NBFI retail lenders in a given jurisdiction may be able to accept deposits.

Sources: national regulations; FSI analysis.

15. **In some jurisdictions, the demarcation between banks and NBFI retail lenders is not clear-cut.** This is particularly the case for deposit-taking NBFI retail lenders, where their activities appear to overlap with the legal definition of a bank. In nearly all such jurisdictions, authorities prohibit such entities from offering demand deposits (eg current accounts), highlighting how authorities differentiate deposit-taking NBFI retail lenders from banks.[17] Beyond this, at issue is the extent to which the bank regulatory framework is applied to all deposit-taking NBFI retail lenders. In addition, when NBFI retail lenders offer products to retail investors that are the functional equivalent to deposits (eg promissory notes), the situation is more complex. In some cases, bank regulation may be triggered if NBFI retail lenders offer deposit-like instruments.

16. **Given the complex landscape, we limit our scope to assessing the regulatory regimes applied to NBFI retail lenders that meet specific criteria.** To be included within our coverage, NBFI retail lenders must: (i) extend credit to households and SMEs using their own balance sheets;[18] (ii) not

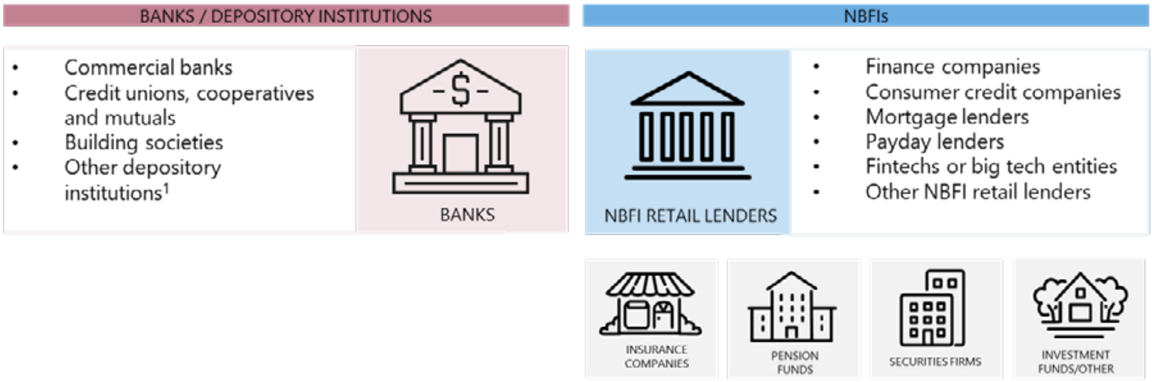
[17] Some jurisdictions also impose other restrictions on deposit-taking NBFI retail lenders, such as excluding them from deposit insurance coverage and/or placing caps on the interest rates offered on deposits.

[18] Under our definition, peer-to-peer lenders and crowdfunding platforms are excluded from our scope since they do not use their own balance sheet to extend credit.

accept demand deposits (eg through current accounts);[19] and (iii) not be insurers, securities firms, or pension or other investment funds.[20] Graph 3 provides an illustration of the types of NBFI retail lenders (marked in blue) that are covered within this paper.

Banks and non-bank lenders

Graph 3



[1] Other depository institutions refer to other types of firms that are allowed to accept demand deposits.

Source: FSI staff.

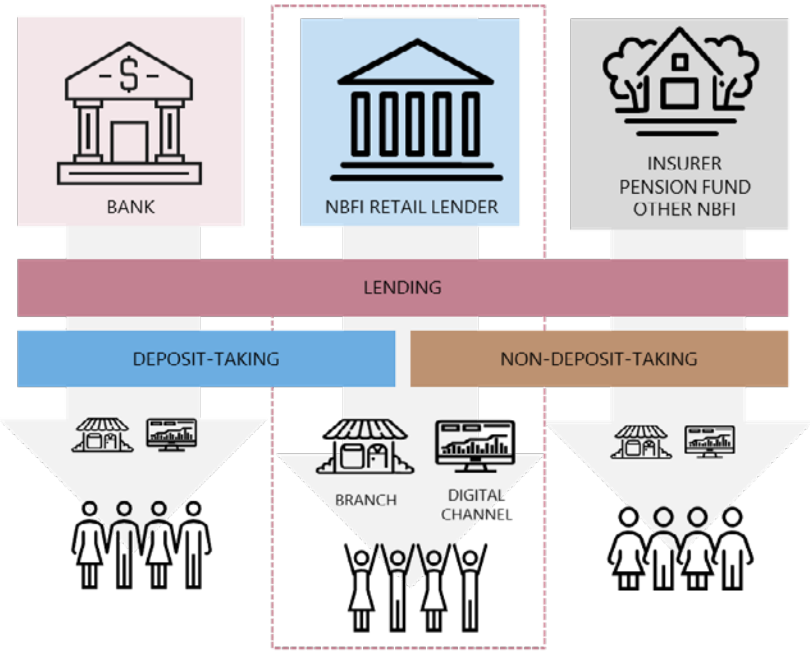
17. **NBFI retail lenders can be classified based on their funding source and distribution model.** We can distinguish between those that are allowed to take deposits (or deposit-like instruments) without a requirement to hold a banking licence and those that are not. Those that are not permitted to take deposits must rely on other sources – for example, funds borrowed from group companies or raised in wholesale markets via bond issuances and securitisations – to fund their credit activities (Graph 4). We can also distinguish between NBFI retail lenders that have a bricks-and-mortar distribution model, others that are fintech lenders, and those that are part of a big tech group and rely on digital channels for the distribution of their credit products.

[19] In several countries – in addition to banks – credit unions, building societies, credit cooperatives and mutuals can accept current accounts/demand deposits and all other types of deposits. For this reason, these entities are treated as if they were fully licensed banks for the purposes of this paper and are therefore excluded from our classification criteria.

[20] These entities are typically subject to sectoral financial regulation and are beyond the scope of our paper.

Lending by banks and non-banks

Graph 4



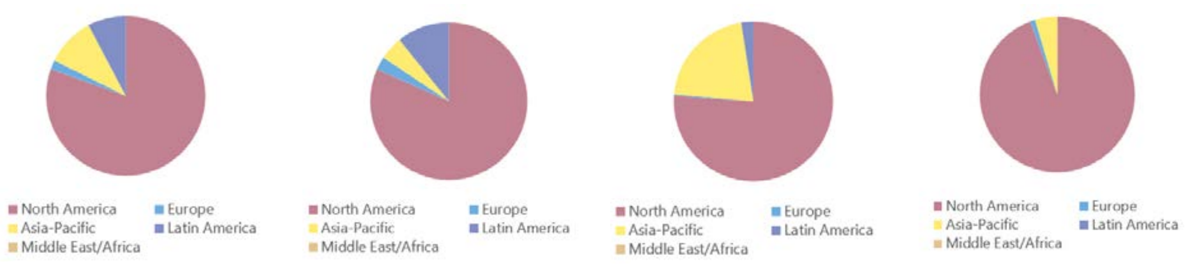
Source: FSI staff.

18. **NBFI retail lenders increasingly rely on digital distribution channels**. Indeed, 74% of survey respondents have seen NBFI retail lenders increasingly engage with digital channels to distribute loans (eg apps and online platforms), and 84% expect non-bank lending via digital means to grow. Fintechs were identified as the most prevalent NBFI retail lender distributing credit exclusively via digital channels. According to Cambridge Centre for Alternative Finance (CCAF) data, fintech balance sheet lending stood at around USD 44.6 billion in 2020 (Graph 5). With a share of 80%, the United States was by far the biggest market, followed by Asia-Pacific (10%) and Latin America (8%).

Fintech balance sheet lending in 2020

Graph 5

Balance sheet lending	Balance sheet business lending	Balance sheet consumer lending	Balance sheet property lending



USD 44.6 billion (100%)	USD 28.7 billion (64.4%)	USD 14 billion (31.4%)	USD 1.9 billion (4.2%)

Balance sheet lending (where the platform entity provides an unsecured or secured loan directly to the borrower, is the sum of balance sheet business lending, balance sheet consumer lending and balance sheet property lending.

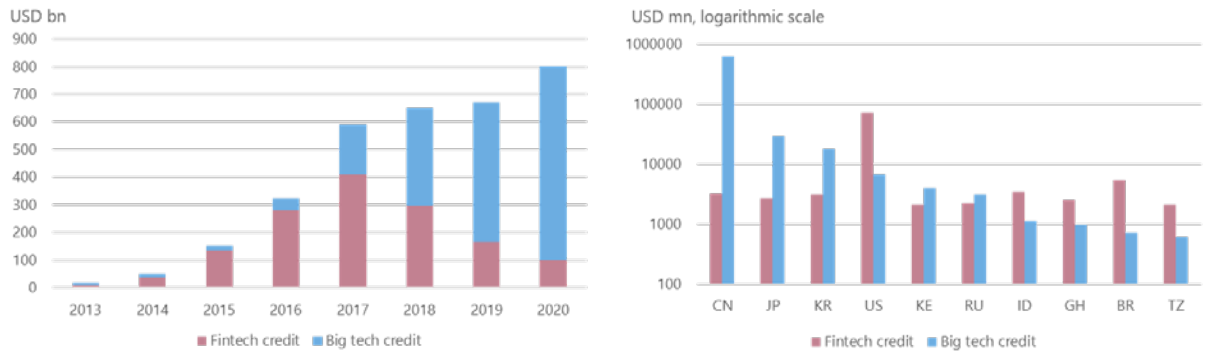
Regional aggregates include: Argentina, Australia, Brazil, Canada, Chile, China, Chinese Taipei, Colombia, Egypt, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Malaysia, Mexico, the Netherlands, New Zealand, the Philippines, Poland, Korea, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Türkiye, the United Arab Emirates, the United Kingdom and the United States.

Sources: FSI staff calculations; CCAF data available at Cambridge Alternative Finance Benchmarks (ccaf.io).

19. **The involvement of big tech firms in credit markets is growing.** Some big tech groups include subsidiaries that are NBFI retail lenders and that participate directly in lending activities. For instance, some offer credit to retail or SME clients on their e-commerce platforms, and buy now, pay later (BNPL) credit options. Big techs may also play an indirect role in lending markets, for instance, by developing machine learning applications for credit scoring. Cornelli et al (2023a) show that big tech platforms have expanded their lending around the world. While there are country-level differences, in aggregate, big tech credit has overtaken fintech credit (Graph 6).

Big tech and fintech credit

Graph 6



BR = Brazil; CN = China; GH = Ghana; ID = Indonesia; JP = Japan; KE = Kenya; KR = Korea; RU = Russia; TZ = Tanzania; US = United States. The right panel shows data for 2020. Includes estimates.

Source: Cornelli et al (2023a).

Opportunities and risks posed by NBFI retail lenders

20. **NBFI retail lenders provide the financial system with a valuable backstop in times of market stress.** They often compete directly with banks or serve niche markets where banks are not active participants (IMF (2023)). As such, they can diversify the supply of credit to the real economy and distribute risk more efficiently across the financial system (Grjebine et al (2018)). In addition, there is evidence that they can act as shock absorbers to mitigate reductions in the supply of bank credit during periods of tightened monetary policy (Elliott et al (2023)). This can provide a useful buffer to mitigate reductions in the supply of bank loans, particularly for riskier borrowers.

21. **Some NBFI retail lenders may help foster financial inclusion due to their digital distribution channels and use of alternative data to screen prospective borrowers.** By using digital channels, NBFI retail lenders may be able to reach customers in remote areas (where no physical branches exist) and distribute loans beyond traditional geographic boundaries.[21] They may also be able to overcome a lack of traditional credit data.[22] By leveraging alternative data (eg mobile and utilities contract and social media data) and using new technologies to enhance credit risk assessments (eg using credit scoring techniques

[21] For India's experience, see Khera (2023). For further examples of the way fintech is facilitating changes in market structures, including for credit, see Mitha et al (2022).

[22] Digital distribution channels may also serve as means to facilitate real-time interaction between NBFI retail lenders and borrowers that can facilitate access and the tailoring of credit products (eg duration and instalment intervals) to borrowers. It can also have a positive impact on the business model by facilitating the monitoring of repayments (Berg et al (2022)), thereby facilitating the management of credit and liquidity risks.

based on machine learning and big data), they may be able to lend to market segments that would otherwise remain unbanked.[23]

22. **Notwithstanding these opportunities, NBFI retail lenders, like all financial services providers, are subject to a common set of risks.** NBFI retail lenders are exposed to ML/TF risks. They are also exposed to operational and cyber risks, particularly where digital distribution channels are leveraged. Moreover, NBFI retail lenders can give rise to conduct of business risks.[24] These may be associated with unethical behaviour (eg predatory lending practices), a lack of transparency in lending terms, inappropriate or expensive product bundling[25] and other practices that compromise customer interests, and which, collectively, could lead to reputational damage and legal repercussions for affected firms.

23. **NBFI retail lenders' increasing use of digital channels may accentuate these risks.** Incumbent NBFI retail lenders and newer entrants may increasingly leverage digital means to market and/or distribute credit products to customers. While these may enable NBFI retail lenders to benefit from network effects to boost credit growth, they could also increase conduct of business risks and may pose elevated operational and cyber risks. Increasing dependence on digital channels may also elevate ML/TF risks that can arise from remote customer onboarding without effective controls to mitigate risks of forged or stolen documents being used for identity verification.

24. **NBFI retail lending involves intermediation risks.** First, in terms of credit risk, households and SMEs may default or otherwise fail to meet their obligations in accordance with agreed terms, and, because of their specialisation, NBFI retail lenders may also be exposed to credit concentration risks. Second, NBFI retail lenders may build significant leverage, making them vulnerable to market fluctuations, particularly in economic downturns (Aramonte et al (2021)). Lastly, NBFI retail lenders are subject to liquidity and maturity transformation risks.

25. **Similar to banks, NBFI retail lenders' funding sources may exacerbate intermediation risks.** NBFI retail lenders often utilise short-term funding sources to finance longer-term loans. Importantly, if NBFI retail lenders rely on deposits to finance their activities, they are exposed to "run risk", which is heightened in cases where those deposits are not within the scope of deposit guarantee schemes. If NBFI retail lenders rely on wholesale funds providers, they are exposed to heightened liquidity risks in the event of market downturns or during periods of rapidly rising interest rates,[26] and potentially elevated interlinkages with the banking sector (ECB (2023)).

26. **The emergence of new corporate structures that involve NBFI retail lenders, introduces risks that may not be addressed by existing group-wide supervision frameworks.** New forms of financial groups may arise when big techs or fintechs own one or more NBFI retail lenders and other types of firms not currently within the scope of consolidated supervision. In addition, novel financial conglomerate structures (for example when NBFI retail lenders also own, or are owned by, payment providers) may also be outside the regulatory perimeter. These new group structures may operate both

[23] For example, NBFI retail lenders that are part of big tech groups are found to use credit scoring techniques based on machine learning and big data, which outperform traditional models (Gambacorta et al (2019)). Also, they are able to solve asymmetric information problems by the use of data, without requiring collateral (Gambacorta et al (2022)).

[24] For example, research by the Consultative Group to Assist the Poor (CGAP) on digital consumer credit in East Africa highlights risks relating to deficient creditworthiness/suitability assessments, high and unexpected fees and interest rates, poor quality disclosure of pre-contractual information, confusing terms and conditions, as well as inadequate or no customer support or complaints mechanisms (Izaguirre et al (2018)). Other research shows that some forms of NBFI retail lending/fintech credit may exacerbate financial exclusion, for instance by algorithm bias and predatory marketing of credit products that have a negative impact on vulnerable groups (Tok and Heng (2022)). Data protection and privacy issues may also arise (Doerr et al (2023)).

[25] For example, this may include linking the provision of lending products with so-called payment protection insurance at higher rates than if the products were purchased separately.

[26] Wholesale funds providers are particularly sensitive to NBFI retail lenders' financial health and could flee at the first sign of trouble. During periods of tightened monetary policy, they may seek higher yields in other institutions.

domestically and cross-border, without any form of group-wide supervision, highlighting gaps in existing frameworks.

27. **Finally, NBFI retail lenders' potentially significant interconnectedness with, and/or footprint in, the financial sector may raise financial stability concerns in some jurisdictions.** Macroprudential risks may arise if NBFI retail lenders are intricately interconnected with other parts of the financial system. Such interlinkages may arise via funding channels, with some NBFI retail lenders raising funds from, or providing funds to, banks and other financial intermediaries.[27] Indeed, the interconnectedness between the bank and non-bank sectors more generally is subject to monitoring by the FSB and other international bodies, central banks and financial authorities in light of its systemic relevance[28] and rapid growth in some jurisdictions.[29] Macroprudential risks may also arise if NBFI retail lenders reach a certain size.[30] Moreover, NBFI retail lenders' credit concentrations in specific sectors may contribute to procyclicality if they reduce lending in a recession (ESRB (2023)). Taken together, NBFI retail lending activities can contribute collectively to macro-financial imbalances and impact their severity and duration.

Section 3 – Regulatory perimeter and licensing

28. **Surveyed jurisdictions have taken a wide range of approaches to defining the regulatory perimeter for NBFI retail lenders.** In many jurisdictions, they are subject to licensing or registration requirements that may target a specific lending activity, a funding source or both. In other cases, they are outside the regulatory perimeter and may be subject only to general consumer protection requirements such as usury caps. Overall, jurisdictions have typically adopted a piecemeal approach rather than a systematic one – with ad hoc perimeter expansions to capture emerging lending activities.

29. **Licensing requirements for NBFI retail lenders vary widely across jurisdictions and may be focused on one market segment (eg credit card or mortgage lending) or straddle several segments.** In some jurisdictions, an individual (monoline) licence is necessary to carry out specific types of lending, such as consumer or mortgage credit, credit card lending or novel types of credit (eg BNPL credit). In other words, multiple licences may be required to engage in the full set of retail lending activities. In other jurisdictions, NBFI retail lenders may be able to obtain a single (omnibus) licence that allows them to carry out a full spectrum of retail lending. Some jurisdictions allow NBFI retail lenders the possibility to seek either a monoline or omnibus licence. Where no licence is required, in some cases, registration with a relevant authority (eg for anti-money laundering and combatting the financing of terrorism (AML/CFT) purposes) is mandated. Examples of these approaches are provided below.

- **Omnibus licence.** Finance companies (eg in Argentina, Brazil, Mexico and Indonesia), holders of a credit licence in Australia, licensed "money lenders" in Hong Kong SAR and Singapore, and "money lending business operators" in Japan are allowed to offer all credit types.[31]

[27] Data from the FSB highlight dependencies of "other financial intermediaries", including NBFI retail lenders, on wholesale funding, with the use of such funding (in particular long-term funding) increasing slightly in 2022 (FSB (2023)).

[28] As well as the FSB-led annual global monitoring exercise (eg FSB (2023)), regional and domestic monitoring efforts are now in place to assess risks and vulnerabilities arising from such interconnectedness, including via liquidity and maturity transformation (see ESRB (2023)).

[29] For instance, US Federal Reserve Board data (February 2024) showed a 12% increase in bank lending to non-bank financial groups between Q1 2023 and Q1 2024, compared with a 2% increase in all bank loans (frb.org).

[30] In the United States, non-bank lenders are important providers or mortgages, originating 50.9% of all mortgages in 2022. See S&P Global Market Intelligence (2023).

[31] In Australia, an Australian credit licence is required to offer consumer credit.

- **Monoline licence.** In Egypt, a mortgage finance licence is required for mortgage lending and a separate licence is required for engaging in consumer finance. In Singapore, an authorisation regime exists for non-bank credit card issuers. In Sweden, authorisation as a "mortgage institution" is needed to grant mortgages. In the United States, NBFI retail lenders are required to comply with state laws regulating lending in each state in which they offer their service.[32]
- **Registration.** In Argentina, non-bank credit card companies and non-financial credit providers do not require a licence but need to register. Similarly, in Colombia, credit factoring companies are only required to be registered with the Superintendence of Companies,[33] while in South Africa, non-bank lenders are subject to registration with the National Credit Regulator. In Spain, some mortgage lenders are required to be registered in the special administrative register of the Bank of Spain or the competent authority of autonomous regions.
- **No licence or registration.** Several countries do not require licensing or registration for non-bank providers offering specific types of credit. For instance, in Australia, the provision of credit to most corporates including SME credit and commercial mortgages (absent any other financial service)[34] requires neither a licence nor registration. In Brazil, the provision of retail/SME credit can be undertaken in a limited capacity without a licence or if it is provided in association with a financial institution. In Chinese Taipei, non-bank lending (except credit card lending) does not require a licence. In EU member states, until recently BNPL credit fell outside the scope of the Consumer Credit Directive and were typically not subject to any licensing requirements. However, revisions have now brought this form of credit within its scope (Box 1). A limited range of other types of credit provision remain subject to national registration schemes only.[35]

30. **The regulatory treatment of mortgage lending illustrates the extent of differences across jurisdictions.** In the majority of jurisdictions, mortgage lending is not reserved to banks and can be provided by NBFI retail lenders holding either an omnibus licence (eg investment and credit companies in India and licensed moneylenders in Singapore) or a monoline licence (eg housing finance companies in India and mortgage lenders in the United Kingdom). In limited cases, mortgages may be provided by entities not subject to prudential regulation (eg mortgage finance companies in Canada).[36]

31. **The regulatory perimeter for NBFI retail lenders may be framed not only by reference to lending but also by reference to the funding source, notably deposit-taking.** In a number of surveyed jurisdictions, the licence to carry out retail lending allows its holders to accept deposits from the public, with certain restrictions, without a need to obtain a banking licence (Table 1). The most common restriction is the inability of deposit-taking NBFI retail lenders to solicit demand deposits/current accounts. Other constraints include minimum size thresholds ("deposit-taking companies" in Hong Kong SAR may accept deposits of HKD 100,000 or above) and caps on the interest rates that NBFI retail lenders can offer on term deposits (India). In addition, some jurisdictions require deposit-taking NBFI retail lenders to obtain external

[32] For example, in Wyoming, a mortgage lender/broker licence is needed to provide residential mortgage loans to Wyoming residents; and a consumer lender license for extending consumer credit. See NMLS (2024) for details.

[33] In Colombia, a firm may grant loans without a licence if the funds used for lending are not obtained through illegal fundraising and come from its own resources. Such firms are under the supervision of the Superintendence of Companies and subject to registration requirements linked to the type of credit provided (eg payroll credit and credit factoring companies).

[34] If another financial service is carried out by an entity (in addition to credit to corporate entities) then an Australian financial services licence would be needed.

[35] This includes factoring companies, pawnshops and microcredit operators outside the scope of this report (EBA (2022b)).

[36] Mortgage finance companies are indirectly subject to Office of the Superintendent of Financial Institutions (OSFI) regulation because they underwrite insured mortgages that end up either being sold to OSFI-regulated lenders or securitised through National Housing Act mortgage-backed securities. For further details, see Emenogu and Peterson (2022).

credit ratings. For instance, both New Zealand and India require all such entities to obtain external credit ratings to help retail depositors assess the financial health of deposit-taking NBFI retail lenders.[37]

32. **Of the survey respondents that allow NBFI retail lenders to accept deposits, the majority cover such deposits under deposit guarantee schemes.** This is the case for some types of NBFI retail lenders in Argentina, Brazil, Colombia and Singapore (Table 1). In other jurisdictions, however, only deposits held by banks are covered, while those held by non-banks are not. For example, in India, non-banking financial companies' deposits are not covered by the Deposit Insurance and Credit Guarantee Corporation.[38] Similarly, in Hong Kong SAR, deposit-taking companies are not covered by the Hong Kong Deposit Protection Board.[39] In New Zealand, non-bank deposit-takers are required to participate in the applicable deposit guarantee scheme starting in 2024.

Deposit-taking NBFI retail lenders

Table 1

	Name of licence	Restrictions placed on deposits: Minimum deposit amount	Restrictions placed on deposits: No demand deposits	Restrictions placed on deposits: Caps on interest rates	Deposit guarantee scheme (DGS)
Argentina	Finance companies	-	-[1]	✓[2]	✓
Brazil	Finance companies		✓	-	✓
Colombia	Financing companies	-	✓	-	✓[3]
Hong Kong SAR	Deposit-taking companies	✓	✓	-	-
India	Non-bank financial companies	-	✓	✓	-
New Zealand	Deposit-taking finance companies	-	✓	-	✓[4]
Singapore	Finance companies[5]	-	✓	-	✓

✓ Applicable; – Not applicable.

[1] Article 24 of Law No 21.526 stipulates the activities that finance companies can carry out, a list that includes the acceptance of time deposits but does not mention demand deposits. However, the Central Bank of Argentina, under powers granted to it in Article 20 of the same law, currently allows finance companies to accept demand deposits in addition to time deposits. See InfoLEG (1977). [2] Term deposits exceeding 1.3 times the benchmark rate, or the benchmark rate plus 5 percentage points (whichever is greater) are excluded from DGS coverage. See Central Bank of Argentina (2024b). [3] Financing companies in Colombia are allowed to issue certificates of deposit, which are in scope of the deposit guarantee scheme arrangements. See Fogafín (2024). [4] The Deposit Takers Act 2023 implements reforms to establish a single regulatory regime for banks and non-bank deposit-takers, and it extends the scope of the depositor compensation scheme from 2024. See New Zealand Government (2024). [5] Finance companies are regulated pursuant to the Finance Companies Act 1967.

Sources: National legislation and regulations.

33. **The regulatory perimeter for NBFI retail lenders may also be framed by reference to funding sources other than deposits.** In some countries, the issuance of debt securities to the public determines whether an NBFI retail lender is within the regulatory perimeter. In the Philippines, a special regulatory category has been established for non-bank lenders that raise non-deposit funds from the public from at least 20 or more lenders at any one time for the purposes of re-lending. The methods of borrowing include the issuance, endorsement or acceptance of debt instruments of any kind aside from deposits. Such entities are subject to licensing requirements and certain prudential requirements, including

[37] India requires all deposit-taking NBFIs to obtain at least an investment grade rating or higher on an annual basis. An applicable deposit-taking NBFI that loses its investment grade rating cannot renew existing, or solicit new, term deposits.

[38] See RBI (2017), question 50 (vi).

[39] See Hong Kong Deposit Protection Board (2024), question 30.

risk-based capital, minimum expectations on sound risk management and supervisory review.[40] In Mexico, multi-finance companies that issue debt securities to the public are labelled as regulated multi-finance companies ("regulated SOFOMES") and subject to a range of "bank-like" prudential requirements.[41] In contrast, multi-finance companies that do not issue debt securities to the public ("unregulated SOFOMES")[42] are only subject to consumer protection and conduct rules (ML/FT). In other cases, NBFI retail lenders could be drawn into the regulatory perimeter if they receive substantial funding from banks. For example, in Switzerland, NBFI retail lenders that provide credit to companies are not subject to licensing requirements,[43] but those that obtain funding from several banks, exceeding CHF 500 million, may require a banking licence from the Swiss Financial Authority (FINMA).[44]

34. **The scope of licensing regimes is being updated in some jurisdictions to take account of novel credit products.** A number of jurisdictions are taking actions to bring new activities in scope, notably the provision of BNPL credit (Box 1), pursuant to consumer protection objectives. Similarly, wage advance credit often falls outside credit regulation (eg due to the amount involved, or because of the short period in which repayment is expected via direct recourse to the borrower's bank account or through deduction from the relevant salary payment).[45] In such cases, the credit provider does not need (among other things) to conduct affordability assessments and the consumer may not have access to complaints handling or redress procedures. In the United States, some states regulate the provision of wage advances within the scope of consumer lending regulation, but requirements vary across States.

40 See BSP (2020).

41 There are other jurisdictions, such as Australia and China, where lenders can accept repayable funds other than deposits from the public, without triggering a similar set of proportional, "bank-like" regulatory requirements, although bespoke regulatory frameworks may apply to such activities.

42 In order to qualify as unregulated SOFOMES, such entities must also not have economic relationships with a bank or a deposit-taking micro-finance company.

43 Similarly, many US states do not require a licence for commercial lending, including Louisiana, Maine, Maryland, Mississippi, Missouri, North Dakota, Oregon and Washington.

44 See ICLG (2023).

45 Salary advance schemes may be provided by employers (enabling the advance payment of a portion of an employee's salary before their regular payday) or may be provided by third parties. As identified in a UK-based review, employees may view this form of credit as a substitute for a loan. The review concluded that although there is increasing demand for such credit, the activities are too limited to justify an immediate perimeter extension but should be kept under review (FCA (2021)).

Box 1

Buy now, pay later credit: regulatory developments

Buy now, pay later (BNPL) credit has grown substantially since 2019, reflecting shifts in consumer spending towards e-commerce and consumer preferences for "split" payments.① The growth of BNPL is expected to continue.②

This form of credit has typically fallen outside the perimeter of financial services regulation. Indeed, BNPL products have often been structured (eg in terms of value, credit duration and number of payment instalments) to circumvent consumer protection and conduct of business requirements. For instance, in the United States, the Truth in Lending Act (TILA) requires extensive disclosure of information to consumers about their loans, such as the total lifetime cost of a loan and the total sum of payments. TILA also protects consumers if a lender does not disclose or misrepresents this information. However, TILA applies only to consumer loans that are split into five or more payments, leaving BNPL products as currently structured outside the scope of TILA.

In the absence of applicable regulation, and reports of consumer harm, some jurisdictions, such as Australia, Egypt and the United Kingdom, have announced proposals to bring BNPL within the scope of financial services legislation. In 2023, Australia announced plans to introduce limited BNPL regulation under the Credit Act with new enforcement powers for the Australian Securities & Investments Commission.③ In summary, BNPL credit providers will need to hold credit licences, comply with responsible lending, disclosure, marketing and other conduct of business requirements.

Similarly, in February 2023, HM Treasury (in the United Kingdom) issued its second consultation on BNPL,④ accompanied by a draft legislative proposal that envisages a tailored approach whereby the provision of BNPL credit would be brought within the scope of the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. As a result of this, BNPL credit providers would need to seek authorisation from the Financial Conduct Authority and conform to a bespoke set of conduct of business rules.⑤

In the European Union, the second Consumer Credit Directive (which will apply from 2026) removes the exemption in the first Consumer Credit Directive (Directive 2008/48/EC) such that providers of BNPL credit products below EUR 200 will need to conform to conduct of business requirements relating to matters such as pre-contractual disclosures and marketing materials.⑥ Ireland has regulated this type of credit from 2022 pursuant to domestic reforms.⑦

In some other jurisdictions, authorities have updated guidance. For example, in the United States in December 2023, the Office of the Comptroller of the Currency (OCC) issued guidance for federal savings associations (and banks) on BNPL.⑧ The Monetary Authority of Singapore, on the other hand, assessed in 2022 that effective industry self-regulation, through an industry code ("BNPL Code"), would adequately mitigate risks in the BNPL sector.⑨

① BNPL refers to interest-free instalment credit, which allows borrowers to split the cost of purchases into regular repayments typically not exceeding a 12-month period. BNPL has surged in popularity. See Graph 5 in Cornelli et al (2023b). ② Statista estimates that the annual global transaction value of BNPL will rise from USD 214 billion in 2022 to USD 565.8 billion in 2026. See Statista (2023b) for details. ③ Jones (2023). ④ HM Treasury (2023). ⑤ At the time of writing this paper, HMT is continuing to review the feedback to the February 2023 consultation paper. ⑥ Directive (EU) 2023/2225 of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC. ⑦ In Ireland, the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022, adjusted the regulatory perimeter to bring providers of indirect credit, such as providers of BNPL, within the remit of the Central Bank of Ireland for authorisation and regulation. This has been the case since May 2022. ⑧ See OCC (2023). ⑨ The *BNPL Code* was developed by the Singapore FinTech Association and various industry players under the guidance of the Monetary Authority of Singapore. It was published on 1 November 2022.

Section 4 – Regulation and supervision of non-bank lending

35. **Surveyed jurisdictions have taken a wide range of approaches to regulating NBFI retail lenders.** In many jurisdictions, they are subject to a bespoke regulatory framework with prudential and conduct of business requirements, which may target a specific lending activity (eg mortgage credit), a funding source (eg deposit-taking) or both. In a few cases, NBFI retail lenders are subject to bank-like requirements, based on a proportionate application. Yet in some others, they are subject only to conduct of business and consumer protection requirements, or simply to an obligation to register with no associated conduct (or prudential) requirements.

36. **Overall, a mixed picture emerges as to the applicable requirements.** Some requirements, while imposed across different types of credit, may be applied differently. This is the case for prudential requirements, albeit these can vary significantly between jurisdictions and between different types of licences (with or without deposit-taking).[46] Specific requirements for digital operational resilience are not commonly applied. Other requirements (notably AML/CFT, conduct and governance) are, in general, uniformly applied across different types of credit.

Regulatory requirements with differentiated application

Prudential requirements

37. **NBFI retail lenders are subject to a patchwork of prudential requirements.** Unlike banks, which are usually subject to prudential rules derived from – or inspired by – global standards, there are no similar standards for NBFI retail lenders that can help jurisdictions assess whether, and if so which, prudential regimes should apply. Hence, the application of prudential requirements varies within and across surveyed jurisdictions. For example, in the United States, non-bank lenders are generally not subject to federal prudential regulation.[47] They are, however, subject to individual state regulatory regimes, which impose different prudential obligations due to differences in state law.

38. **Only two jurisdictions in our sample apply a systematic approach to determining the need for, and differentiating nature of, prudential requirements applicable to NBFI retail lenders.** Brazil is the only jurisdiction in our sample that extends the application of its bank regulatory framework, based on proportionality, to its universe of NBFI retail lenders. Under this approach, prudential requirements are linked to the segment to which a supervised entity belongs, ranging from Segment 1 for large or internationally active banks to Segment 5 for non-banks with a simplified risk profile whose size is less than 0.1% of gross domestic product. India has developed a scale-based approach to its prudential oversight of NBFIs (Box 2).

[46] It is not possible to carry out a comprehensive comparison of all monoline licences reported in the survey due to wide variations in licence scope and limited data.

[47] Federal consumer protection laws apply. Examples include the Equal Credit Opportunity Act, the Truth in Lending Act, Fair Credit Reporting Act and the Fair Housing Act. See US Treasury (2022).

Box 2

India's scale-based approach

The Reserve Bank of India (RBI) introduced its scale-based regulatory (SBR) framework for non-banking financial companies (NBFCs) in 2021.① ② The SBR framework categorises NBFCs into four layers – base, middle, upper and top. Allocation to a layer depends on the NBFC's: (i) activity, (ii) asset size and (iii) perceived riskiness.

Activity-based classification of NBFCs	Base layer	Middle layer	Upper layer	Top layer
Peer-to-peer lending platforms, account aggregators, non-operative financial holding companies, NBFCs without public funds and without a customer interface	✓			
Government-owned NBFCs	✓	✓		
Standalone primary dealers, infrastructure debt-funds		✓		
Deposit-taking NBFCs, housing finance companies, core investment companies, infrastructure finance companies		✓	✓	(✓)
Investment and credit companies, factoring and mortgage guarantee companies, microfinance institutions	✓	✓	✓	(✓)

The base layer comprises smaller non-deposit-taking NBFCs (with asset sizes below INR 1,000 crore) and other NBFCs without public funds and without a customer interface. They are subject to less stringent requirements than those in other layers.③

In the middle layer, all deposit-taking NBFCs (irrespective of asset size), larger non-deposit-taking NBFCs (with asset sizes of INR 1,000 crore and above) and NBFCs carrying out specific activities (eg housing finance companies) are subject to additional capital, prudential and governance rules.

For upper layer NBFCs, bank-like regulatory requirements apply with suitable modifications (eg a requirement to complete an internal capital adequacy assessment process (ICAAP) assessment, credit concentration and large exposure limits, and Common Equity Tier 1 (CET1) minimum ratio). Relevant NBFCs are those that are deemed systemically significant, ie the top 10 NBFCs in terms of asset size (irrespective of any other factor) and those from the middle layer fulfilling the specified criteria.

The top layer is ideally expected to be empty and can be populated if the RBI deems there to be an unsustainable increase in systemic risk spillovers from specific NBFCs in the upper layer. The most conservative requirements (higher capital charge) apply to top layer NBFCs, along with enhanced supervisory engagement.④

Examples of regulatory requirements	Base layer	Middle layer	Upper layer
Capital, liquidity and other prudential requirements			
Own funds, asset classification, liquidity risk management	✓	✓	✓
Internal capital adequacy assessment process (ICAAP)	-	✓	✓
Liquidity Coverage Ratio (LCR)	-	✓	✓
Standard asset provisioning	✓	✓	☑
Minimum capital ratio (Tier 1 and Tier 2 capital)	-[1]	✓[2]	✓[2]
Common Equity Tier 1 ratio	-	-	✓[3]
Credit concentration, exposure limits	-	✓	☑[4]
Exposure limits to capital markets, commercial real estate	-	✓	✓
Governance and related requirements (some examples)			
Board members' qualification	✓	✓	☑
"Fit and proper", chief risk officer, compensation policy	-	✓	✓
Fair practices code, risk management and outsourcing	✓	✓	✓

– Non applicable ✓ Applicable ☑ Applicable and more stringent

[1] In lieu of risk-based capital requirements, all entities in the base layer are subject to simple leverage ratio requirements. [2] T1 and T2 capital shall not be less than 15%. [3] CET1 ratio of at least 9% of risk-weighted assets. [4] Large exposure framework applies.

① RBI (2021). ② The SBR framework came into effect in October 2022 and was further revised in 2023 – see RBI (2023). ③ All NBFCs shall disclose in their financial statements: exposures (to real estate, capital markets, sectoral and intra-group), related parties and complaints from customers; additional disclosures apply to higher layers. ④ See RBI (2021) p 35.

39. **Some surveyed jurisdictions impose more stringent prudential requirements on NBFI retail lenders that engage in mortgage lending.** In India, as noted above, mortgage lenders ("housing finance companies") must be classified in the middle layer or above, ensuring that certain prudential requirements – such as capital, liquidity, and asset classification and provisioning standards – in addition to governance requirements, are imposed on all such entities.[48] In the United Kingdom, mortgage and home finance firms are subject to capital and liquidity requirements which are more stringent than those that apply to NBFI non-mortgage retail lenders.[49] In addition, rules in the United Kingdom prohibit "self-certification" mortgages[50] and require in-depth affordability assessments that can be thought of as akin to qualitative mortgage underwriting standards.[51]

40. **In the United States, some NBFI retail mortgage lenders play a critical role in the mortgage loan securitisation process, prompting relevant authorities to impose specific prudential requirements on them.** Certain non-bank mortgage lenders that originate, securitise, sell and service residential mortgage loans to US government-sponsored enterprises (GSEs) – such as the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association – are subject to capital requirements that are conceptually similar to the leverage ratio requirements imposed on banks under the Basel Framework.[52] They are also subject to various liquidity and liquidity buffer requirements.[53] Such requirements are not imposed on other NBFI retail lenders operating in the United States.

41. **All surveyed jurisdictions also impose more stringent prudential requirements on NBFI retail lenders that accept deposits.** For instance, India assigns deposit-taking NBFIs to higher segments than those that fund themselves via other means, making them subject to more stringent prudential requirements. The Reserve Bank of New Zealand distinguishes between two types of non-bank lending institutions: non-bank deposit-taking institutions and non-deposit-taking finance companies. While the former are regulated and subject to a broad range of prudential requirements, the latter are neither regulated nor supervised.[54] Table 2 provides a summary of the prudential requirements applied to deposit-taking NBFI retail lenders in selected jurisdictions.

42. **Nevertheless, prudential requirements applicable to deposit-taking NBFI retail lenders may be less stringent or simplified compared with those for banks.** In India, deposit-taking non-bank financial companies (NBFCs) classified in the middle layer, are exempt from Common Equity Tier 1 (CET1) risk-based capital (RBC) requirements that are applicable to banks,[55] while being subject to less stringent

48 In India, housing finance companies are required to maintain a minimum capital ratio on an ongoing basis consisting of Tier 1 and Tier 2 capital which shall not be less than 15% of aggregate risk-weighted assets and risk-adjusted value of off-balance sheet items. The Tier 1 capital, at any point of time, shall not be less than 10% and the total Tier 2 capital shall not exceed 100% of Tier 1 capital.

49 See FCA (2024a) and (2024b).

50 Self-certification or non-income verified mortgages enabled borrowers to report, but not prove, income. The United Kingdom's Financial Services Authority (FSA) found that self-certified borrowers take out larger loan amounts than borrowers with standard products and fall into arrears much more frequently. For these reasons, income verification should be performed prior to lending decisions. See FSA (2009) for further details.

51 In the United States, non-bank mortgage lenders must make a "reasonable and good faith determination" of a borrower's ability to repay before originating a mortgage which is the equivalent of a qualitative mortgage underwriting standard. These rules are enforced by the Consumer Financial Protection Bureau (CFPB), the federal regulator responsible for enforcing consumer protection laws.

52 The minimum capital requirement is calculated as follows: tangible net worth/total assets ≥ 6%. The requirements are imposed by the Federal Housing Finance Agency (FHFA), the federal regulator of the US GSEs. US GSEs impose such requirements, based on the directive of the FHFA, to applicable non-bank mortgage lenders as a precondition of these entities doing business with the GSEs.

53 See FHFA (2022) for details on the calculation of liquidity requirements including eligible forms of liquidity.

54 See RBNZ (2022b).

55 Deposit-taking NBFCs in the middle layer are only subject to Tier 1 and total risk-based capital requirements; however, those classified in the upper layer are subject to a minimum CET1 ratio of 9%.

large exposure standards.[56] In addition, the methodology used to calculate the RBC requirements for deposit-taking NBFCs are less onerous than for banks.[57] In Singapore, while banks are subject to three minimum capital adequacy ratios (CAR) - ie CET1 ratio of 6.5%, Tier 1 ratio of 8% and total CAR of 10% - finance companies are subject only to a total CAR of 10%.[58] In Hong Kong SAR, while deposit-taking companies (DTCs) generally face the same requirements as licensed banks, DTCs benefit from lighter requirements in certain instances in "the light of their relatively small, simple and localised operations."[59]

Prudential requirements for deposit-taking NBFI retail lenders — Table 2

	Argentina	Brazil	Colombia	Hong Kong SAR	India	New Zealand	Singapore
Regulatory requirements/type of NBFI retail lender	Finance companies[1]	Finance companies	Financing companies[3]	Deposit-taking companies[4]	Non-bank financial companies[6]	Deposit-taking finance companies[7]	Finance companies[8]
Risk-based capital requirements	✓	✓[2]	✓	-	✓	✓	✓
Liquidity	✓	✓[2]	✓	✓	✓	✓	✓
Leverage	✓	-[2]	✓	✓	-[6]	-	-
Large exposures limits	✓	✓		✓	✓	✓	✓
Credit worthiness assessment	✓	✓		✓	✓	✓	✓
Risk management framework	✓	✓	✓	✓	✓	✓	✓
Fit & proper	✓	-	✓	✓	✓	✓	✓
Conflict of interest policy	✓	-	✓	✓	✓	-	-
Supervisory reporting	✓	✓	✓	✓	✓	✓	✓

✓ Applicable; – Not applicable.

[1] Finance companies are subject to prudential requirements prescribed by the central bank (Central Bank of Argentina (2023)). [2] All credit providers are subject to prudential requirements according to the Segment (1 to 5) they are allocated to, based on systemic importance and on the international activity of the institution. [3] Financing companies ("compañías de financiamiento") are broadly classified along with other credit institutions; all credit institutions are regulated and supervised consistently by the Financial Superintendence of Colombia (IMF (2022)). [4] Deposit-taking companies (DTCs) are the third tier of Hong Kong SAR's three-tier system of deposit-taking institutions (comprising otherwise licensed banks and restricted licence banks). The HKMA aims to merge DTCs into the second-tier institutions (restricted licence banks). See HKMA (2023). [5] In 2023, the DTC Association issued a Code of Banking Practice on consumer protection, endorsed by the HKMA, to which DTCs shall adhere. See DTC Association (2023). [6] Under the Indian scale-based regulatory framework, NBFCs taking deposits cannot be classified in the base layer. Irrespective of their asset size, they must be classified in either the middle or upper layer (the latter, if the NBFC is deemed systemically relevant). The related regulatory requirements apply accordingly (see Box 2). Leverage ratio requirements only apply to NBFCs in the base layer and housing finance companies in lieu of risk-based capital requirements. [7] The Deposit Takers Act 2023 harmonises the regulatory framework for all bank and non-bank deposit-takers (RBNZ (2023)). [8] Finance companies in Singapore are regulated by the Finance Company Act 1967. See Singapore Government (2020).

Sources: FSI survey; national regulations.

[56] Deposit-taking NBFCs in the middle layer can lend or invest up to 40% of their Tier 1 capital in a group of connected counterparties. The large exposures standard for banks, which limits all such exposures to 25% of a bank's Tier 1 capital, is applied to deposit-taking NBFCs classified in the upper layer.

[57] Deposit-taking NBFCs' exposure to equities in other companies are subject to a 100% risk weight, while the Basel Framework imposes a risk weight ranging from 250–400% for similar investments by banks.

[58] See MAS (2021) and (2022).

[59] For example, the minimum capital requirement for deposit-taking companies is HKD 25 million, instead of HKD 300 million for licensed banks. See also paragraph 4.2.10 in HKMA (2020) in the context of liquidity risk supervision; or HKMA (2017) paragraph 4.2.6 in the context of corporate governance.

43. **Most surveyed jurisdictions have capital requirements for NBFI retail lenders with omnibus and monoline licences.** In some jurisdictions, capital requirements are set as a fixed amount (the Philippines and Singapore) or as a percentage of the outstanding loan amount (eg New Zealand).[60] In others, however, there are no capital requirements for NBFI retail lenders (eg Australia).[61]

44. **NBFI retail lenders typically face much lower capital requirements than banks and may use a simplified methodology to calculate capital requirements.** For example, in Argentina, the minimum capital for banks is ARS 500 million (USD 620,000); and for other financial institutions – including finance companies – ARS 230 million (USD 290,000).[62] In Brazil, for commercial banks it is set at BRL 17.5 million (USD 3.5 million); for mortgage companies at BRL 3 million (USD 600,000); and for direct credit companies at BRL 1 million (USD 200,000).[63] Further, financial institutions in Segment 5 (in Brazil) are subject to a simplified solvency requirement of 17% of simplified risk-weighted assets. Poland requires all non-bank lenders that provide consumer credit to have share capital of PLN 1 million (USD 251,000).

Operational resilience and cyber security requirements

45. **In general, operational risk requirements in relation to information and communication technology (ICT) are not common.** Notwithstanding the substantial shift toward digital distribution models for credit provision, very few respondent jurisdictions have in place specific regulatory requirements to mitigate NBFI retail lenders' ICT-related operational risks. Instead, reliance is placed on the general requirement for entities to establish and maintain risk management policies and procedures that encompass all material risks, including operational risk.

46. **Cyber security requirements for NBFI retail lenders are applied in some jurisdictions.** NBFI retail lenders may need to have in place an up-to-date cyber security policy (eg, Brazil and Indonesia); they may be subject to requirements to carry out cyber-security audits/testing (eg, Indonesia); and have in place back-up systems. In the United States, all financial institutions are subject to federal cyber resilience requirements, though individual states are allowed to implement more rigorous rules.[64]

Requirements for digital lending

47. **Several jurisdictions have taken specific measures to regulate digital lending.** For example, some jurisdictions have created a new type of financial institution for digital lending (Brazil); or established "digital loans" as a new category in regulation (Thailand). Others have focused on addressing prudential concerns around interconnectedness with the banking sector through its role as a source of funding for

[60] Pursuant to the Non-Bank Deposit Takers Act, capital is calculated as a relative amount (in percentage of outstanding loan value), with the minimum capital ratio specified in the trust deed at 8% if the deposit-taker has a credit rating from an approved credit rating agency, or otherwise at least 10%. See RBNZ (2022a).

[61] APRA has had reserve powers to make rules since 2018 if lenders are considered to materially contribute to risks of instability in the Australian financial system. See APRA (2021) for further details.

[62] Central Bank of Argentina (2023).

[63] Central Bank of Brazil (2021).

[64] This has been done in seven US states, with more legislation pending. New York's Cybersecurity Regulation, enacted in 2017, most notably requires financial services institutions in the state to submit detailed cyber security plans, designate Chief Information Security Officers, and maintain rigorous reporting standards (NYDFS (2024)). The Federal Trade Commission (FTC) amended twice its Gramm-Leach-Bliley Act Safeguards Rule (Standards for Safeguarding Customer Information): in October 2021, to add more robust cybersecurity requirements (including in relation to risk assessments, access restrictions, service provider assessment requirements and incident response plans); and further in October 2023, to impose security event notification obligations on NBFIs (FTC (2023)).

digital lenders and insufficient underwriting standards (China) or consumer protection concerns (eg India[65] and the Philippines).

- **Brazil**. In 2018, the Brazilian National Monetary Council introduced a resolution establishing Sociedades de Crédito Direto (SCDs) as a distinct type of financial institution specifically designed for digital lending activities. While other NBFIs can operate digitally, SCD operations are exclusively conducted through electronic platforms, requiring a licence from the Central Bank of Brazil. These institutions are subject to prudential supervision and must adhere to a range of requirements, including on minimum capital and funding.[66]
- **Thailand.** In 2020, the Bank of Thailand (BoT) introduced digital personal loans as a new type of loan.[67] These loans, with a maximum amount of THB 20,000 and a repayment period of up to six months, can be offered exclusively via digital channels. The offering of such loans requires (i) an entity to hold a "personal loan licence" and (ii) approval by the BoT, unless only traditional methods of assessing customers' creditworthiness (eg the National Credit Bureau) are used.
- **China.** In 2020, the People's Bank of China (PBoC) introduced the Interim *m*easures for the *a*dministration of *online small loan lending* which set caps on online lending to individuals. They require an individual's outstanding debt from digital lending not to exceed CNY 300,000 (USD 42,000) or one third of the individual's average annual income in the last three years.[68] For joint-lending ventures of digital lenders – often big techs – with commercial banks, the interim measures require substantial risk-sharing, with the former having to fund no less than 30% of loan amounts.[69] Moreover, in February 2021, digital lenders were affected by limits placed on their commercial bank partners.[70] The volume of online loans issued jointly with one digital lender was capped at 25% of a bank's Tier 1 capital; and the overall volume jointly issued with certain partners (ie cooperative institutions) was capped at 50% of the bank's total loan balance.[71]
- **India.** In 2022, the RBI issued guidelines on digital lending applicable to both banks and non-banking financial companies (including housing finance companies).[72] The guidelines require lenders that extend credit through "digital lending apps" to meet a range of consumer protection and conduct requirements, including providing a key fact statement to the borrower and establishing an effective grievance redress mechanism to promptly address borrower complaints and concerns. Also, an assessment of a borrower's creditworthiness needs to be conducted in an auditable way.
- **Philippines.** In 2019, the Philippines Securities and Exchange Commission (SEC) required all lending companies to submit an affidavit of compliance[73] containing a report of all their existing online lending platforms (OLPs) and register OLPs as business names in accordance with the SEC's

[65] In India, the RBI held that "certain concerns have […] emerged which, if not mitigated, may erode the confidence of members of public in the digital lending ecosystem. The concerns primarily relate to unbridled engagement of third parties, mis-selling, breach of data privacy, unfair business conduct, charging of exorbitant interest rates, and unethical recovery practices." See RBI (2022a).

[66] See Box 3 in Ehrentraud et al (2020).

[67] Tilleke & Gibbins (2020).

[68] State Council of the People's Republic of China (2020).

[69] Before, big techs often teamed up with banks in joint lending ventures, with banks providing most of the funding, sometimes even 98–99%, and big techs providing risk assessment. See CBIRC (2020) for further details (in Chinese).

[70] CBIRC (2021) (in Chinese).

[71] Asian Banking & Finance (2022).

[72] RBI (2022b).

[73] This contains the names of OLPs, proof of registration of the business name, images of the OLP as they appear to the public and illustrations of the OLP showing how the required disclosure and advisory are displayed.

amended guidelines and procedures on the use of corporate and partnership names.[74] In 2021, the SEC issued guidelines for the registration of OLPs to counteract abusive and predatory practices. Under the guidelines, no financing or lending company will be allowed to own, operate or use OLPs without registration and prior approval by the SEC.[75] A public list of registered OLPs is maintained by the SEC.[76]

Regulatory requirements with uniform application

Governance and data protection

48. **Typically, fitness and propriety requirements apply to members of the management body of licensed NBFI retail lenders along with baseline governance obligations.** These are considered "standard" obligations in relation to the provision of any type of financial services pursuant to a licence granted by a central bank or other financial sector supervisory authority. For example, the UK Financial Conduct Authority has issued a "sourcebook" on the "fit and proper test" for employees and senior personnel.[77] It sets out expectations that fitness and propriety should be assessed using substantially the same factors across different types of financial services, specifically: honesty, integrity and reputation, competence and capability, and financial soundness. Additionally, members of the management body are typically expected to demonstrate experience, knowledge and expertise encompassing, collectively, all material risks to which the NBFI retail lender may be exposed.[78]

49. **Data protection laws usually cover a broad range of institutions, including NBFI retail lenders, and set out rules on how personal data relating to customers can be processed**. As "data controllers", NBFI retail lenders may be required to adhere to data storage rules, for instance regarding data security standards and data retention policies (eg Colombia[79] and the European Union[80]). Additionally, in many jurisdictions, NBFI retail lenders are subject to restrictions on the collection and use of customer data and, in some cases, on the sharing of those data with group companies and with third parties. For example, in the European Union, data controllers are required to process personal data (eg name, income and credit records for the purposes of performing credit worthiness assessments), in accordance with strict rules, encompassing data subject to consent to the purposes for which the data may be processed.[81] In some jurisdictions more novel rules are under consideration to better empower data subjects as to whom may hold their data and for what purposes ("consent-based data portability" (OECD (2023)), which may apply in future to non-bank lenders (eg the European Commission's proposed framework for financial data access).[82]

[74] Philippines SEC (2019a).

[75] Philippines SEC (2021).

[76] Philippines SEC (2019b).

[77] FCA (2024c).

[78] FCA (2023c).

[79] Decree 1377 of 2013 (General Data Protection Law). For details, see Pinilla (2023).

[80] In the European Union, "personal data" is defined as any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. See European Union Law (2016) for further details.

[81] See, in particular, European Union Law (2016) Article 6 (lawfulness of processing).

[82] See European Commission (2023a,b).

Conduct of business

50. **In most jurisdictions, NBFI retail lenders (whether omnibus or monoline licence holders) are subject to conduct of business and consumer protection requirements.** In particular, NBFI retail lenders are typically required to clearly disclose terms and conditions relating to credit eligibility, affordability and credit agreements. NBFI retail lenders are expected to ensure any advertisements or "financial promotions" are clear, fair and not misleading (eg in terms of displaying interest rates). Complaints handling procedures are also required. Respondent jurisdictions highlighted that these elements are "standard" requirements for firms holding licences to carry out regulated financial services.

51. **In some jurisdictions, there are limitations on the interest rates imposed on borrowers.** These caps may be legally mandated as seen in Argentina where interest rate limits on credit cards are established by law.[83] Similarly, in Colombia, the law specifies the maximum interest rate a lender can charge, capped at one and a half times the current bank interest rate certified by the Financial Superintendence of Colombia. In some jurisdictions, such as the United Kingdom, the authority to set and adjust interest rate caps rests with the financial sector supervisor. Mortgages, for example, are subject to restrictions on charges and fees, including for arrears.[84] Moreover, certain jurisdictions, such as New Zealand and India, enforce restrictions on fees and charges, emphasising that they should not be deemed "excessive" or "oppressive".

52. **In some jurisdictions bespoke requirements apply to entities carrying out credit card lending, following reports of high borrowing costs and risks of customer indebtedness**. Typically, these requirements relate to conduct of business-related issues, including disclosure of terms and conditions, interest rates and caps on usury (Box 3).

AML/CFT

53. **AML/CFT requirements are a common type of requirement across jurisdictions.** Some jurisdictions have carried out specific risk analyses of NBFIs for AML/CFT purposes and concluded that non-bank lenders face medium (Australia)[85] or moderate to elevated ML/TF risks (European Union), especially for cross-border or digital lending. NBFI retail lenders are typically required to carry out know-your-customer (KYC) and customer due diligence (CDD) reviews, which often apply across a broad range of financial institutions. For example, in the United States, the Financial Crimes Enforcement Network (FinCEN) applies AML/CFT requirements not only to banks but also to non-bank lenders.[86]

54. **Some jurisdictions have identified gaps in their framework.** According to the Financial Action Task Force Recommendation 26, "other financial institutions should be licensed or registered and adequately regulated, and subject to supervision or monitoring for AML/CFT purposes" (FATF (2023)). In line with this recommendation, in the European Union, the European Banking Authority recommended that the European Commission consider subjecting all categories of non-bank lending to the EU-wide AML/CFT rules "to guard against uneven approaches, regulatory arbitrage and associated gaps in the EU's AML/CFT defences".[87]

[83] For example, in the case of non-bank issuers, the limit of compensatory or financial interest applied to the holder may not exceed by more than 25% the average system rates for personal loan operations published from day one to five of each month by the Central Bank of Argentina.

[84] See FCA (2014 and 2019) and Edmonds (2014).

[85] AUSTRAC (2021).

[86] The USA PATRIOT Act (2001) defines a variety of retail NBFIs as "financial institutions", in particular money service businesses and loan or finance companies, subjecting them to the Bank Secrecy Act (BSA). 77 *Fed. Reg.* 8148 (February 14, 2012) defined non-bank residential mortgage lenders and originators as "loan or finance companies" for the purpose of requiring them to establish AML programmes and report suspicious activity (FFIEC (2024)).

[87] EBA (2022b), Sections 7.3 (AML/CFT Risks) and 8.3 (Proposal 3.a).

Box 3

Credit card lending

Credit card lending can be a major source of short-term unsecured credit for consumers.① In most surveyed jurisdictions, this activity is not reserved to banks② and can be carried out by NBFI retail lenders and, in some jurisdictions, by other types of financial institutions such as payment services providers (eg Argentina)③ and payment institutions, SCDs and other NBFIs (eg, Brazil).

Where credit card lending is permitted to be carried out by NBFI retail lenders, typically lenders are required to be authorised as any other type of non-bank, non-mortgage retail credit providers (eg in Australia lenders are required to hold an Australian credit licence to issue credit cards ④ However, in a small number of jurisdictions, different approaches were reported. For example:

- In one jurisdiction (Singapore), non-bank credit card issuers are subject to similar credit card and charge card rules as those applied to banks and are regulated by the Monetary Authority of Singapore. ⑤
- In several jurisdictions, bespoke regimes have been developed to regulate non-bank credit card lending to integrate bespoke conduct of business requirements, in particular regarding disclosures, complaints handling and usury caps. For example, in the Philippines, non-bank credit card lenders must register with the Securities and Exchange Commission and receive prior regulatory approval from the central bank, with the granting of such authority subject to meeting various requirements.⑥ In Argentina, non-financial companies issuing credit and/or purchasing cards (and other non-financial credit providers performing such activity) are required to register with the central bank⑦ and are also subject to specific regulations relating to consumer protection. In Chinese Taipei, non-banks engaged in credit card lending are required to hold a licence. These credit card companies are subject to a range of consumer protection measures, including limits on interest rates and fees, creditworthiness assessments and marketing. ⑧

To address conduct-related issues associated with credit card lending (notably risks of consumer over-indebtedness), some authorities have prepared specific guidance. For example, in the United Kingdom, the Financial Conduct Authority has provided specific guidance to authorised consumer credit lenders issuing credit cards, eg regarding repayments and the implementation of the "customer duty".⑨

① See, for example, Statista (2023a). ② Only China and Egypt reported that a banking licence is needed to carry out credit card lending. ③ Such entities are subject to registration in Argentina. ④ ASIC (2024). ⑤ MAS (2017). ⑥ BSP (2018). ⑦ Central Bank of Argentina (2024a). ⑧ FSC (2021). ⑨ FCA (2020, 2023a).

Oversight and institutional arrangements

55. **Institutional arrangements for oversight of NBFI retail lenders vary considerably across countries.** NBFI retail lenders holding an omnibus or monoline licence are often subject to supervision by the banking authority.[88] In some cases, they are supervised by the securities authority or a dedicated authority for credit, such as the National Credit Regulator (NCR) in South Africa.[89] In the Philippines, the oversight of non-bank lenders is under the purview of the central bank or the securities regulator

[88] Where allowed, in all surveyed jurisdictions, deposit-taking NBFI retail lenders are licensed and supervised by the financial authority that also supervises banks.

[89] The mission of the NCR is to support the social and economic advancement of South Africa by regulating for a fair and non-discriminatory marketplace for access to consumer credit, and promoting responsible credit granting and credit use, and effective redress.

depending on their underlying activities.[90] There are also cases where a company's registrar or similar public body is responsible, but these bodies focus on registration of relevant entities as opposed to supervision. In Singapore, responsibilities are allocated across the Monetary Authority of Singapore (for the licensing of finance companies and non-bank credit card issuers) and the Registry of Moneylenders (under the Ministry of Law – for the licensing of moneylenders), and the Registry of Co-operative Societies (under the Ministry of Culture, Community and Youth – for the registration and supervision of credit co-operatives). In Hong Kong SAR, applications for money lender licences are processed by the Registrar of Money Lenders and subject to approval by the Licensing Court. The Hong Kong Police Force is responsible for carrying out examinations of applications, investigations of complaints and enforcement actions.[91]

56. **In some jurisdictions, different authorities are responsible for prudential oversight and consumer protection.** For instance, in the United States, consumer lending is typically subject to prudential regulation imposed at the state level, whereas the Consumer Financial Protection Bureau, which is a federal regulator, is primarily focused on consumer protection issues. In the European Union, variations can also be observed between member states in the absence of full harmonisation of requirements across all forms of NBFI retail credit (EBA (2022b)).

57. **Typically, supervisors lack an ability to apply group-wide supervision, including the application of prudential requirements on a consolidated basis, when financial groups are comprised solely of two or more NBFI retail lenders.** Group-wide supervision is conventionally triggered only when there is a relevant qualifying entity within the group (a bank, insurance company or securities firm). Only three respondent jurisdictions (Brazil, Hong Kong SAR and Spain) reported group-wide supervision frameworks that apply more broadly. Specifically, in Brazil, group-wide supervision applies in relation to groups including NBFI retail lenders and payment institutions and/or stock brokerage firms.[92] The Central Bank of Brazil is currently aligning the prudential framework applicable to groups led by a payment institution with the one applicable to groups led by a financial institution.[93] In Spain, the central bank (Bank of Spain) has powers to supervise, on a group-wide basis, certain groups of specialised lending institutions.[94] In Hong Kong SAR, group-wide supervision applies to NBFI retail lenders that are subsidiaries of deposit-taking companies.[95]

58. **When NBFI retail lenders are part of more complex groups, supplementary prudential measures that apply to financial conglomerates may not apply.** Frameworks for supervising conglomerates typically impose supplementary prudential measures – at the group level – when two or

90 Non-bank lenders within the purview of the central bank are those that have quasi-banking functions (eg non-bank lenders that raise non-deposit funding from the public), are subsidiaries of banks/quasi-banks or those mandated under the law to be supervised by the central bank. Other types of non-bank lenders are regulated by the securities regulator.

91 In contrast, non-bank deposit-taking companies are subject to oversight by the Hong Kong Monetary Authority.

92 Prudential requirements include capital requirements, large exposures limits, leverage ratios, risk-management rules and operational limits. The requirements began to come into effect from July 2023 according to a schedule of implementation.

93 In 2022, reforms were enacted to extend regulatory requirements for financial institution groups (called "financial institution conglomerates") to groups integrated by payment institutions. The timeline for implementation starts in July 2023 and finishes in 2025. Pursuant to the reforms, a new typology of prudential conglomerate, to which consolidated supervision applies, is established as follows: (i) Type 1: prudential conglomerates whose lead institution is a financial institution or other institution authorised to operate by the central bank (requirements unchanged); (ii) Type 2: prudential conglomerates whose lead institution is a payment institution and which is not integrated within a financial institution or other institution; (iii) Type 3: prudential conglomerates whose lead institution is a payment institution and which is integrated within a financial institution or another institution authorised to operate by the central bank. For details, see Central Bank of Brazil (2022) for further details (in Portuguese). Similar reforms have been proposed in the European Union (EBA (2022c)).

94 This includes groups of specialised lending institutions whose parent is (a) a specialised lending institution authorised in Spain, or (b) a financial holding company and at least one subsidiary is a specialised lending institution authorised in Spain.

95 However, NBFI retail lenders that do not accept public deposits may not necessarily be subject to consolidated supervision unless they are subsidiaries of licensed and restricted licence banks or deposit-taking companies. See HKMA (2021).

more entities from different financial sectors (typically banking and insurance) are within the same group.[96] However, the activities of NBFI retail lenders are typically not considered to fall within the definition.[97] With the exception of China,[98] none of the respondent jurisdictions have frameworks in place that enable supervisors to carry out structured supervision of core financial and operational interdependencies[99] across non-bank multi-financial entity groups. China has introduced the concept of a financial holding company (FHC), which is defined by reference to groups containing two or more financial companies of different types.[100] Yet NBFI retail lenders are only partially included in the definition of financial companies.[101]

59. **Few jurisdictions have extended the macroprudential toolkit to NBFI retail lenders.** For instance, borrower-based macroprudential measures rarely apply to both banks and the whole universe of NBFI lenders (Table 3). In Brazil, the countercyclical capital buffer applies to NBFI retail lenders in Segments 1 to 4. In India, any NBFC categorised in the upper layer (and therefore having systemic impact with implications on financial stability) would be subject to some macroprudential tools.[102] Moreover, in the United States, the Financial Stability Oversight Council recently approved a new analytical framework to identify, assess and respond to potential risks to financial stability, including those emanating from non-bank financial companies, which encompass NBFI retail lenders.[103]

96 See European Union Law (2002), for example, on the supplementary supervision of credit institutions, insurance undertakings and investment firms.

97 In practice, this means that if a financial or mixed activity group contains: (i) a bank and one or more NBFI retail lenders; or (ii) an insurer and one or more NBFI retail lenders, the group entity would not be subject to supplementary prudential measures that apply to financial conglomerates.

98 See Crisanto et al (2022) and Ehrentraud et al (2022).

99 Supervision of conglomerates is intended to facilitate the mitigation, by supervisors, of group-wide risks relating to capital adequacy, size and complexity, risk concentration, contagion (financial or reputational) and conflicts of interest (BCBS (2012)).

100 These include commercial banks and financial leasing companies, trust companies, financial asset management companies, securities companies, public fund management companies and futures companies, life insurance companies, property insurance companies, reinsurance companies and insurance asset management companies, and other institutions recognised by financial regulators under the State Council. See Annex 2 in Ehrentraud et al (2022).

101 However, other institutions recognised by financial regulators under the State Council may be included. In addition, the People's Bank of China may exercise its supervisory discretion to require a company to establish an FHC for "macroprudential regulatory requirements".

102 For example, higher CET1 ratio of at least 9% of risk-weighted assets and subject to a higher (unspecified) capital charge, and leverage limits (unspecified).

103 See FSOC (2023).

Applicability of borrower-based macroprudential measures					Table 3
	Applicability to banks		**Applicability to NBFI retail lenders**		
Country[1]	**LTV**	**DSTI/DTI**	**Universal**	**Subset**	**Comments (if subset)**
Argentina	✓	✓		✓	Finance companies
Brazil	✓	-	-	✓	Mortgage companies (all segments)
China	✓	✓	-	-	
Chinese Taipei	✓	-	-	-	
Colombia	✓	✓	-	-	
France	✓	✓	-	✓	French prudential authority supervised financing companies, including mortgage lenders[2]
Germany	✓	✓	-	✓	Mortgage lenders[2]
Hong Kong SAR	✓	✓	-	✓	Deposit-taking companies
India	✓	✓	-	✓	All regulated entities involved in providing housing loans and NBFCs providing microfinance loans[3]
Indonesia	✓	-	-	✓	Finance companies (applicable for motor vehicle loans)
Ireland	✓	✓	✓	-	All regulated financial services providers are in scope[2]
New Zealand	✓	✓[4]	-	-	
Philippines	✓	-	-	✓	Non-banks with quasi-banking functions
Poland	✓	✓	-	✓	Mortgage lenders[2]
Singapore	✓	✓	-	✓	Finance companies, licensed moneylenders[5]
Spain[6]	✓	✓	-	✓	Specialised lending institutions

✓ Applicable; – Not applicable.

DSTI = debt service-to-income ratio (ie mortgage debt service costs to gross income); DTI = debt-to-income ratio (ie mortgage debt to gross income); LTV = loan-to-value ratio (ie mortgage loan to value of property).

[1] Other surveyed jurisdictions (ie Australia, Mexico and South Africa) currently do not apply LTV or DSTI/DTI measures. [2] Creditworthiness assessments are carried out, and LTV/DTI ratios can be applied applied, in EU member states pursuant to the EU's Mortgage Credit Directive, and any applicable national guidance. This is also the case with regard to the provision of consumer credit pursuant to recast Consumer Credit Directive. See European Union Law (2014, 2023). [3] LTV requirements apply to NBFCs that provide housing loans, while DTI requirements apply to all NBFCs that extend microfinance loans. [4] The Reserve Bank of New Zealand has developed a regulatory framework for DTI restrictions on residential mortgage lending, and banks were preparing their systems to be ready to implement DTI restrictions from early 2024, if required. See RBNZ (2024). [5] Only LTV requirements apply to licensed moneylenders. [6] Borrower-based measures can be applied in accordance with Bank of Spain Circular 5/2021 of 22 December 2021. DTI requirements do not currently apply but are foreseen in pending regulation.

Sources: BIS (2023); the IMF's integrated macroprudential policy (iMaPP) database, originally constructed by Alam et al (2019); survey responses; public sources.

Section 5 – Policy implications

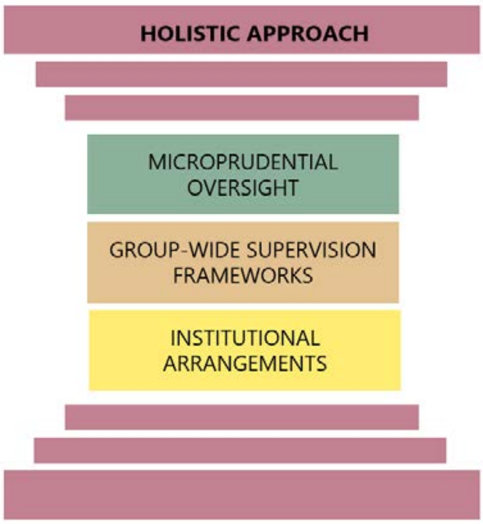
Overview

60. **Authorities can benefit by formulating a holistic approach to assess whether, and if so, which prudential requirements should apply to NBFI retail lenders.** While AML/CFT, conduct (including consumer protection) rules and baseline operational (and cyber) resilience requirements should extend to all NBFI retail lenders, the matter is less clear with respect to prudential regulation and supervision. This is, in part, because there is no international standard to ascertain if and when prudential requirements should apply. As a starting point, authorities may consider developing a methodology to help guide the conditions in which prudential requirements should apply, and how these requirements should be calibrated, as some jurisdictions have done (eg Brazil and India).

61. **As a foundation, sufficient data are needed on NBFI retail lenders operating in each jurisdiction.** This includes data on the nature and scale of their activities, their organisational tie-ups with broader financial and non-financial groups, and their interconnectedness with the banking system. In addition, an inventory of existing regulatory requirements imposed on the universe of NBFI retail lenders operating in each jurisdiction, including applicable institutional arrangements, may be helpful.

62. **The holistic approach to the prudential oversight of NBFI retail lenders should encompass three fundamental elements.** These elements are: (i) formulating a methodology to guide the microprudential oversight of NBFI retail lenders; (ii) assessing whether applicable group-wide supervision frameworks are fit for purpose in the digital era; and (iii) developing institutional arrangements and coordination mechanisms to support the micro and macroprudential oversight of NBFI retail lenders (Graph 7). These elements are discussed below.

Prudential oversight of NBFI retail lenders: the holistic approach — Graph 7

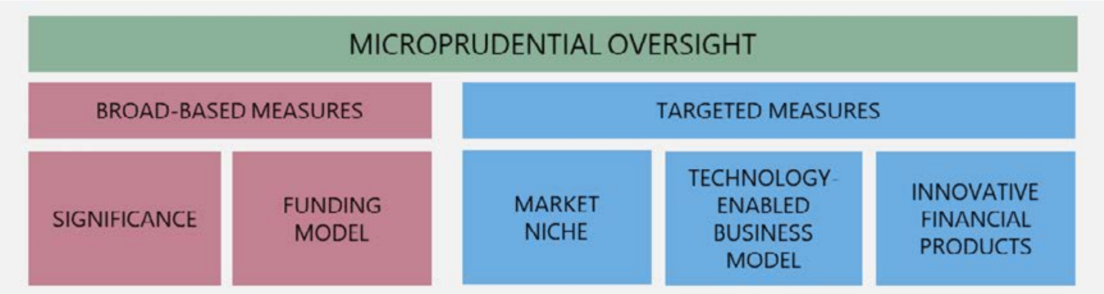


Sources: FSI staff.

Microprudential oversight of NBFI retail lenders

63. **A combination of broad-based and targeted policy measures can guide the microprudential oversight of NBFI retail lenders.** Two key factors should drive the need to impose broad-based prudential requirements: (i) an NBFI lender's significance in the domestic financial system and (ii) its funding model. In addition, authorities can consider if targeted policy measures (instead of, or in addition to, broad-based measures) are needed to address risks arising from specific features of NBFI retail lending activities (Graph 8). These elements are discussed below.

Microprudential oversight of NBFI retail lenders — Graph 8



Sources: FSI staff.

Broad-based policy measures

64. **Authorities may consider imposing broad-based prudential requirements if an NBFI retail lender is deemed significant (eg because of interconnectedness or size) or can accept retail deposits, including their functional equivalent.** These prudential requirements may include standards on financial resilience,[104] governance and operational resilience, as well as supervisory oversight, all of which should be subject to a proportionate application.

Significant NBFI retail lenders

- **Develop a framework to assess significance.** All NBFI retail lenders deemed significant should be subject to broad-based prudential requirements. As a starting point, authorities may consider reviewing the BCBS criteria used to identify global and domestic systemically important banks (G-SIBs and D-SIBs).[105] These factors can be repurposed to help identify significant NBFI retail lenders. For example, "interconnectedness" is one of several indicators to help identify G-SIBs and D-SIBs, and this indicator can be modified to reflect the degree of an NBFI retail lender's funding interdependency with the banking sector.[106]

[104] This may include requirements on capital, leverage, liquidity, large exposures and asset classification and provisioning.

[105] See BCBS (2023).

[106] In this context, NBFI retail lenders that rely on short-term wholesale funding are exposed to heightened liquidity risk; and their fund providers – which include banks – may withdraw funding or demand more collateral to support their credit lines in response to a material deterioration in an NBFI retail lender's own risk profile or general market stress conditions. At the same time, NBFI retail lenders may hold liquid assets in other banks in the form of bank deposits and short-term bank borrowings; and the same forces that may compel banks to withdraw funding to NBFI retail lenders also apply when they provide funds to banks, creating a two-way interdependency.

NBFI retail lenders funded with deposits or functional equivalents

- **Develop prudential rules or extend the scope of banking regulation to all deposit-taking NBFI retail lenders.** Some authorities that allow NBFI retail lenders to accept deposits make a distinction from banks' deposit-taking activities by: (i) restricting their ability to solicit demand deposits, among other requirements,[107] and/or (ii) excluding NBFI retail lenders from deposit insurance coverage. Regardless of these restrictions, all retail depositors are exposed to loss in the event of an institution's failure, particularly if they are not covered by deposit guarantees. This risk elevates consumer protection issues for depositors; heightens reputational and political risks for oversight bodies; and underscores the need for a baseline level of proportionate, broad-based prudential requirements for all deposit-taking NBFI retail lenders.[108] In this context, some jurisdictions have introduced plans to streamline their approaches, with New Zealand opting to extend deposit insurance coverage to all NBFI deposit-takers, bringing them into the fold of banking regulation. Hong Kong SAR has plans to merge their non-bank deposit-takers licence with their restricted bank licence, with the latter permitting NBFI retail lenders to accept only large deposits (HKD 500,000 or above) that are excluded from deposit protection.[109] Mexico extends the reach of banking regulation to NBFI retail lenders that have an "economic relationship" with a bank, even if the former is unable to accept public deposits.[110]
- **Evaluate the need to impose prudential requirements on NBFI retail lenders that regularly obtain non-deposit funding from retail investors.** NBFI retail lenders that cannot solicit deposits may still obtain retail funding via a securities offering or a promissory note tendered by them, and retail investors are exposed to the risk of loss on their investment. To mitigate the underlying risks, authorities may consider various options implemented by some jurisdictions. These include triggering some form of entity-specific, bank-like regulation and supervision if NBFI retail lenders issue debt securities to the public (Mexico and the European Union).[111] This may be combined with robust disclosure regimes that specify the potential for losses on investments, in order to facilitate informed decision-making by retail investors.[112]

Targeted policy measures

65. **To complement broad-based measures, authorities can consider if targeted policy measures are needed to address the risks posed by specific NBFI retail lending activities.** Some activities may warrant specific prudential and/or consumer protection requirements that are *independent* of whether the institution carrying out such activities is subject to more broad-based prudential

[107] In addition, some jurisdictions require such firms to obtain external credit ratings (New Zealand and India) and mandate consumer disclosures regarding the lack of deposit insurance coverage.

[108] Basel Core Principle (BCP) 4 includes several essential criteria (EC) covering the permissible activities of banks. EC 4 of BCP 4 states that "the taking of deposits from the public is reserved for institutions that are licensed and subject to supervision as banks". It further clarifies that in some countries non-banking financial institutions that take deposits may be regulated differently from banks; and that these institutions should be subject to a form of regulation commensurate to the type and size of their business (BCBS (2019)).

[109] See HKMA (2023).

[110] In Mexico, if a multi-purpose finance company has an "economic relationship" with a bank (eg if a bank holds at least a 20% equity stake in the company or otherwise has "control"), the finance company becomes subject to entity-based, "bank-like" regulation, even though the finance company cannot accept retail deposits. The rationale is that the controlling bank can access cheap deposits in part due to deposit guarantees, which it can "on-lend" to the multi-purpose finance company.

[111] Pursuant to the European Union's banking regulation (the Capital Requirements Directive and Regulation), entities that lend and receive deposits or "other repayable funds from the public" are required to be authorised as credit institutions and thus subject to bank regulation, unless relevant exemptions apply.

[112] Other policy actions that may be considered without necessarily triggering a broader range of prudential requirements include: imposing minimum investment thresholds, thus precluding the participation of small investors; or requiring external credit ratings to help retail investors assess the underlying risks. While these actions have been taken in some jurisdictions in the context of NBFI retail deposit-takers that are not covered under deposit guarantees, these requirements can also be extended to NBFI retail lenders that solicit non-deposit funding from retail investors.

requirements. These activities include but are not limited to: (i) a focus on a specific market niche that has significant societal implications, such as mortgage lending; (ii) technology-enabled business models that elevate or introduce new risks to consumers; or (iii) novel products, such as BNPL or wage advance products, that may pose specific risks and operate outside the traditional regulatory perimeter.

Mortgage lending

- **Assess whether specific requirements need to be imposed on NBFI retail mortgage lenders.** Mortgage credit is often the largest and most consequential financial liability most consumers undertake. It may also represent a significant asset class for many NBFI retail lenders. If problems subsequently arise, it can cause harm to households, damage NBFI retail lenders' balance sheets and pose threats to financial stability. In some jurisdictions, NBFI retail mortgage lending activities are significant and play a critical role in the mortgage securitisation process (eg Mexico and the United States). In these jurisdictions, more comprehensive prudential requirements for mortgage lending may be warranted compared with other jurisdictions where NBFI retail lenders have a less prominent and more simple mortgage lending model.
- **Consider imposing minimum underwriting standards on all NBFI retail lenders that extend mortgage credit.** Given the fundamental role that mortgage lending plays in society in general and in the financial system in particular, authorities should consider imposing minimum mortgage underwriting standards on all financial intermediaries that extend mortgage credit, including NBFI retail lenders. The FSB's mortgage lending principles (FSB (2012)) can be used as the basis to introduce such requirements, providing a balance between setting a floor on prudential safeguards versus allowing for sufficient flexibility for non-traditional borrowers to access mortgage credit.

Technology-enabled business models

- **Assess whether risks posed by technology-enabled business models are adequately addressed.** In most jurisdictions, fintech and big tech digital lenders are treated similarly to bricks-and-mortar non-bank lenders because regulatory frameworks centre on the extension of credit as a regulated activity without making a distinction in terms of the distribution channel. However, loans and credit products (such as BNPL credit and credit cards) granted through digital channels (eg apps and online platforms) may come with additional risks in the areas of conduct, consumer protection and data protection. These may include enhanced risks stemming from cross-selling, the presentation via digital interfaces of terms and conditions, including repayment terms and interest rates, and the sufficiency of access to loan officers and complaints handling schemes (EBA (2022a)). There may also be heightened operational risks due to the greater propensity for cyber attacks and potentially greater reliance on third-party service providers. Increasing use of AI and machine learning in creditworthiness assessments may also pose specific risks that require a targeted policy response.[113]

Innovative financial products

- **Assess whether innovative products offered by NBFI retail lenders are adequately covered by the regulatory perimeter.** NBFI retail lenders may engage in novel ways of lending outside the scope of the traditional regulatory perimeter. For example, BNPL products are typically structured in such a way that they benefit from exemptions defined in wider legislation. Responding to reports of consumer harm, some jurisdictions have already brought such credit products within the scope of financial services legislation (Ireland and, more generally, the European Union) or announced an

[113] For example, in the European Union a new AI Act has been adopted that classifies AI systems intended to evaluate the creditworthiness of natural persons or establish their credit score as "high risk". It imposes specific requirements on providers and deployers of such AI systems.

intention to do so (Australia and the United Kingdom).[114] Wage advance and similar products are another example of a lending product that falls outside the regulatory perimeter in some countries.[115]

Group-wide supervision frameworks

66. **Financial or non-financial groups that own NBFI retail lenders may operate outside the regulatory perimeter.** NBFI retail lenders that operate other non-bank lending subsidiaries and affiliates – whether directly or through a common non-bank parent – may not be subject to consolidated and group-wide supervision, regardless of the group's size.[116] In addition, international *Principles for the supervision of financial conglomerates* were devised prior to the entry of big techs and fintechs into financial services (BCBS (2012)). The existing framework imposes supplementary prudential measures (eg capital, liquidity, risk management and governance) at the financial holding company level only if a financial or non-financial group controls two or more financial companies that are subject to traditional financial sector regulation, such as banks, insurers or securities firms.[117] All other forms of financial conglomeration, including when an NBFI retail lender or a payments provider are part of financial or non-financial groups, fall outside the scope of existing financial conglomerate supervision principles.

67. **Technology-led financial groups or conglomerates that include NBFI retail lenders introduce new risks to consumers and the financial system.**[118] When financial (fintech) or non-financial (big tech) groups are headed by a tech firm, risks may emerge at the group level from the combination of an NBFI retail lender's credit underwriting with other – regulated and unregulated – financial and commercial activities.[119] Interdependencies with other subsidiaries of the same group, such as data-sharing or systems-sharing arrangements, may also give rise to risks (Crisanto et al (2022)). These new conglomerate structures raise data protection issues for consumers and heighten non-financial intragroup interdependencies, both of which may not have existed to the same degree under traditional financial conglomerate structures. These risks cannot be addressed by solo entity regulation alone and require some form of conglomerate oversight for groups that meet prescribed thresholds.[120]

68. **These developments call for international bodies to assess whether existing group-wide supervision frameworks remain fit for purpose in the digital era.** As a starting point, international bodies may consider expanding the types of financial intermediaries that are owned by financial or non-financial groups, such as NBFI retail lenders and payment providers, that should be subject to group-wide

[114] See Box 1.

[115] For the United States, see the CFPB letter on earned wage access products (CFPB (2022)), the CFPB report on deposit advance products (CFPB (2013)) and the Government Accountability Office report recommending CFPB to clarify when earned wage access products are "credit" under the Truth in Lending Act (US GAO (2023)).

[116] Consolidated supervision is a fundamental element of banking supervision and is typically extended to financial groups that are headed by banks (and parallel arrangements are also imposed by relevant financial authorities on financial groups led by insurers or securities firms). Importantly, financial groups that are comprised solely of various NBFI retail lenders are typically not subject to consolidated supervision regardless of the combined entity's size or risk profile.

[117] For example, in the European Union, the identification of a financial conglomerate is predominantly focused on traditional bancassurance groups that meet certain thresholds in terms of size and significance of cross-sectoral activities, but does not capture emerging forms of diversified groups such as big techs (Noble (2020) and EBA (2022a)).

[118] See Zamil and Lawson (2022) for a comprehensive discussion of the risks that may arise when tech firms own banks, including policy options.

[119] The main risks that big techs generate involve the mix of their many activities, and their DNA-based business model that relies on the efficient cross-sectoral use of data collected from different non-financial and financial activities (Carstens (2023)). See also Carstens et al (2021), Ehrentraud et al (2022) and Restoy (2022a,b).

[120] For examples of applicable thresholds used in China and the European Union, see PBoC (2020) and European Union Law (2002), respectively.

supervision.[121] In parallel, authorities may also need to consider whether the existing set of supplementary measures that are imposed on traditional (bank-insurance type) financial conglomerates could also be applied to new forms of conglomeration (such as big techs) that combine financial and non-financial services, data and technology. The new supplementary measures may include specific conduct of business rules, including data protection safeguards, as well as measures to control the risks posed by excessive non-financial (operational and technological) intragroup interdependencies (Ehrentraud et al (2022)).

Institutional arrangements

69. **Appropriate institutional arrangements can support the microprudential oversight of NBFI retail lenders.** At present, the prudential oversight of NBFI retail lenders may not always involve the prudential authority, and related responsibilities may not be under the roof of one authority. However, for NBFI retail lenders subject to broad-based prudential measures, it may be beneficial to designate the national prudential authority as the main prudential regulator, while targeted policy measures imposed on NBFI retail lenders may warrant the involvement of either the prudential authority or the conduct regulator (or both) depending on whether the underlying measures are prudential or consumer protection in nature or straddle both domains.

70. **The supervision of emerging financial group and conglomerate structures warrants coordination with various oversight bodies.** New financial groups and conglomerate structures may raise issues that encompass various policy domains, including prudential, conduct of business, data privacy, operational resilience and competition. Therefore, enhanced cooperation among relevant financial services and other authorities is essential to ensure that various risk dimensions of emerging conglomerate structures are addressed. Moreover, given the cross-cutting nature of NBFI retail lenders' activities – particularly when they operate as part of broader financial or non-financial groups – there may also be merit in fostering effective coordination protocols between policy development and supervision functions among consumer protection, data protection and prudential authorities.

71. **Mechanisms should be in place to monitor NBFI retail lenders' collective threats to financial stability and inform the application of macroprudential measures.** Other coordination mechanisms, involving all relevant financial authorities, may be needed to monitor the financial stability risks of NBFI retail lenders.[122] When macroprudential measures are activated for the banking sector, authorities may consider extending their reach to cover NBFI retail lenders, when relevant.

Section 6 – Concluding remarks

72. **NBFI retail lenders vary across multiple dimensions and provide an important source of credit for households and SMEs, thereby diversifying credit supply.** NBFI retail lenders span entities that focus on a specific market niche (eg mortgage lending or BNPL credit) to those that offer a range of consumer and SME loans under one roof. Some operate only digitally, while others offer services through physical premises. The size and complexity of organisational structures also vary, ranging from small consumer finance companies to large mortgage lenders, with some NBFI retail lenders operating as subsidiaries of broader financial or non-financial groups, such as big techs. While most NBFI retail lenders

[121] Brazil and China are the only jurisdictions in our sample that have updated their financial conglomerate frameworks to account for new forms of conglomeration that may involve NBFI retail lenders and payment companies.

[122] In the United States, the Financial Stability Oversight Council recently approved a new analytical framework to identify, assess and respond to potential risks to financial stability, including those emanating from non-bank financial companies, which encompass NBFI retail lenders. See FSOC (2023).

rely on wholesale funds to finance their activities, some can accept public deposits or access other forms of retail funding, blurring the boundaries between a bank and non-bank.

73. **The nature and scale of NBFI retail lender activities pose heightened risks in some jurisdictions that warrant official sector oversight.** While all NBFI retail lenders are subject to a broadly similar set of financial intermediation risks as retail banks, this fact alone does not justify the need to impose some form of prudential oversight. Instead, the need to oversee NBFI retail lenders may arise when: (i) the scale of their retail lending activities is significant from a domestic standpoint; (ii) they are allowed to accept deposits or other types of retail funding to finance their lending activities; or (iii) when they underwrite mortgage loans given their consequential impact on households or offer retail credit products digitally, using alternative data in credit underwriting that may be obtained from other parts of their businesses (eg big techs). In addition, emerging forms of mixed activity groups – such as when a financial or non-financial group owns an NBFI retail lender and a payments provider – may fall outside consolidated or conglomerates supervision, resulting in regulatory blind spots.

74. **Financial authorities face difficult trade-offs in assessing whether and, if so, how they should regulate and supervise the universe of NBFI retail lenders operating in their respective jurisdictions.** Surveyed jurisdictions have taken a wide range of regulatory approaches to the oversight of NBFI retail lenders. These approaches can be classified into three broad buckets: (i) jurisdictions that impose bank-like requirements to all or a subset of NBFI retail lenders; (ii) jurisdictions that prescribe various bespoke requirements for NBFI retail lenders, for instance by targeting specific lending activities (eg mortgage lending), funding sources (eg deposit-taking) or a combination of lending and deposit-taking in a few cases; and (iii) jurisdictions that focus on conduct and consumer protection with little or no prudential constraints imposed on NBFI retail lenders. Lastly, only one surveyed jurisdiction extends macroprudential measures to its universe of NBFI retail lenders, although slightly more than half of respondents impose some macroprudential policies on a subset of NBFI retail lenders.

75. **Despite variations in approaches, three common challenges are identified.** First, gaps in data – in terms of the types of NBFI retail lenders operating in each jurisdiction and the nature and significance of their activities – may hamper efforts to determine an appropriate policy response. Second, most jurisdictions appear to take an ad hoc, as opposed to a holistic, approach to the oversight of NBFI retail lenders. This may be due to the diffusion of responsibilities among the various authorities responsible for the oversight of NBFI retail lenders and data gaps impairing visibility over market developments, combined with rapid growth and proliferation of novel business models. Third, certain NBFI lending activities (eg BNPL) may be structured to evade existing rules, while the ways in which NBFI retail lenders affiliate with broader financial or non-financial groups may allow the group entity to operate outside the regulatory perimeter.

76. **All jurisdictions can benefit from developing a holistic, multi-faceted approach to the micro and macroprudential oversight of NBFI retail lenders.** This holistic approach involves three fundamental components: (i) formulating a mix of broad-based and targeted policy approaches – including triggers for applying both methods – to guide the microprudential oversight of NBFI retail lenders; (ii) assessing and, if needed, amending group-wide supervision frameworks, particularly when NBFI retail lenders are part of broader financial or non-financial groups, to ensure that emerging financial group and conglomerate structures are within scope of the regulatory perimeter; and (iii) developing appropriate institutional arrangements and coordination mechanisms to support the micro and macroprudential oversight of NBFI retail lenders. Such an approach may help authorities to safeguard the financial system's "spare tyre", while preserving sufficient flexibility for the NBFI retail lending sector to continue supporting underserved and unserved consumers and SMEs.

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Annex 1: Jurisdictions that responded to the FSI survey

- Argentina
- Australia
- Brazil
- China
- Chinese Taipei
- Colombia
- Egypt
- France
- Germany
- Hong Kong SAR
- India
- Indonesia
- Ireland
- Mexico
- New Zealand
- Philippines
- Poland
- Singapore
- South Africa
- Spain

Annex 2: Legal definition of a "bank" in surveyed jurisdictions

Argentina	The **Financial Entities Law No 21526** covers financial entities, characterised as persons or (private or public) entities that carry out regular financial intermediation. It expressly defines commercial, investment and mortgage banks, as well as finance companies, savings and loans companies for housing or other real estate, and credit unions (Arts 1–2 and 21–26).
Australia	The **Banking Act 1959** defines "banking business" as consisting of both taking deposits (other than as part-payment for identified goods or services) and making advances of money, or other financial activities prescribed by regulations made under the Banking Act. Only authorised deposit-taking institutions (ADIs) are allowed to conduct banking business, ie banks, credit unions and building societies (see Australian Prudential Regulation Authority (APRA) website).
Brazil	Unlike some other jurisdictions, the broad term "bank" is not specifically defined in laws or regulations. Instead, specific bank types (commercial, investment, development, universal ("multiple") and exchange banks) are recognised as a subset of the financial institutions that are authorised and licensed by the Central Bank of Brazil. The **Banking Law** (Law No 4595 of 1964) defines financial institutions as "public or private legal entities, whose main or secondary activity is the collection, intermediation or investment of their own or third-party funds, in national or foreign currency, as well as the custody of third-party assets" (Art 17).
China	The **Commercial Bank Law** defines "commercial banks" as legal entities established in accordance with the Commercial Bank Law and the Company Law of the People's Republic of China, and that take public deposits, grant loans, conduct settlement of accounts and engage in other authorised activities (Art 2). The **Banking Supervision Law**, for the purpose of determining the scope of application of banking supervision, defines banking institutions as financial institutions established in China that take public deposits, including commercial banks, urban credit cooperatives and rural credit cooperatives, in addition to policy banks (which are non-deposit-takers) (Art 2).
Chinese Taipei	The term "bank", as used in the **Banking Act**, shall mean an organisation formed and registered for the purpose of transacting as a banking business. Types of business which may be conducted by a bank include, amongst others, accepting deposits and extending credit (Arts 2–5).
Colombia	Banks ("*establecimientos bancarios*") are defined by the **Organic Statute of the Financial System** as financial institutions whose main function is to take deposits from the public, in the form of current accounts, as well as other types of deposits, and place them through loans, discounts, advances or any other form of credit (Art 2). Banks are one of several financial institutions categorised as "credit institutions"; the other ones are financial corporations ("*corporaciones financieras*"), financing companies ("*compañías de financiamiento comercial*"), financial cooperatives ("*cooperativas financieras*"), and savings and housing corporations ("*corporaciones de ahorro y vivienda*"). All credit institutions are regulated and supervised consistently by the Financial Superintendence of Colombia. They are authorised to collect public deposits (see IMF (2022): "*Colombia Financial Sector Assessment Program*").
Egypt	In accordance with the **Central Bank of Egypt Law No 19 of 2020**, "banking business" means any activity dealing primarily and regularly with accepting deposits, obtaining financing and investing those funds in providing financing and credit facilities, contributing to corporate capital and any other acts customarily known as banking business (see Central Bank of Egypt website).
EU member states	In the European Union, "*credit institution* means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account" as defined in the **Capital Requirements Regulation** (Art 4(1)(1)).
Germany	A banking licence is required in order for a company to conduct one or more relevant activities defined as "banking business" in Germany, on a commercial basis or on a scale that requires commercially organised business operations; the **German Banking Act** (Kreditwesengesetz – KWG) also specifies "banking business", which includes "deposit business" (acceptance of funds from others as deposits or of other unconditionally repayable funds from the public, unless the repayment claim is securitised) and "lending business" (granting of money loans and acceptance credits) (section 1(1) KWG). The authorisation procedures (and the competent authority granting the authorisation) differ depending on whether the business model includes both deposit and lending business or only one of these activities. In the former case, the Federal Financial Supervisory Authority (BaFin) is the responsible authority, in the latter case, the European Central Bank is the responsible authority. More generally, the applicable regulation may vary, depending on to the activities covered within the licence (see the BaFin website).
Hong Kong SAR	Hong Kong SAR maintains a three-tier system of deposit-taking institutions (collectively known as "authorised institutions"), comprising licensed banks, restricted licence banks and deposit-taking companies. Under the **Banking Ordinance**, "banking business" means the business of: (a) receiving from the general public money on current, deposit, savings or other similar account repayable on demand or within less than the period specified in item 1 of the First Schedule or with a period of call or notice of less than that period, other than any float or SVF deposit; and/or (b) paying or collecting cheques drawn by or paid in by customers.
India	In the **Banking Regulation Act 1949**, "banking" means accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise (Art 5(b)).

Indonesia	Under **Law No 7 of 1992 on Banking** as amended by Law No 10 of 1998, "a bank is characterised as a corporate entity collecting funds from the public in the form of deposits and channelling these funds to the public as credit or other forms, in order to improve the standard of living of the community" (ojk.go.id).
Mexico	Banking and credit service are defined in the **Credit Institutions Law** as "the raising of funds from the public within the domestic market for their placement among the public, through acts resulting in direct or contingent liabilities, being the intermediary bound to cover the principal and, as the case may be, the financial ancillaries of the funds raised".
New Zealand	The term "bank" is legally reserved to those financial entities licensed and registered as "banks" by the Reserve Bank of New Zealand. The business carried on by a registered bank consists (or consists to a substantial extent) of the borrowing and lending of money, or the provision of other financial services, or both (Art 73(1) of the **Banking (Prudential Supervision) Act 1989**). Besides, the **Non-bank Deposit Takers (NBDT) Act 2013** defines an NBDT as a person, other than a registered bank, that makes an NBDT-regulated offer of debt securities, and carries on the business of borrowing and lending money or providing financial services (or both). NBDTs include finance companies that raise funds from the public, as well as most building societies and credit unions (see RBNZ website). Registration is therefore what constitutes a bank, and not the business that an entity carries on, as the taking of deposits can be performed by both registered banks and licensed non-bank deposit-takers (NBDTs). The proposed new omnibus **Deposit Takers Bill (2022)** will create a single coherent regulatory regime for all bank and non-bank deposit-takers (see NZ Treasury website).
Philippines	The **Republic Act No 8791** provides that "banks" shall refer to entities engaged in the lending of funds obtained in the form of deposits (Art 3(1)).
Singapore	Deposit-taking institutions in Singapore operate as banks (full banks, wholesale banks or merchant banks) or finance companies. "Banking business" means the business of receiving money on current or deposit account, paying and collecting cheques drawn by or paid in by customers, the making of advances to customers, and includes such other business as the Authority may prescribe for the purposes of the **Banking Act 1970** (Art 2).
South Africa	The "business of a bank", as defined in the **Banks Act 94 of 1990**, includes the soliciting or advertising for, or the acceptance of, deposits from the general public as a regular feature of an institution's business. Besides commercial banks, alternative banking businesses include mutual banks, cooperative banks or cooperative financial institutions (usually identified as financial cooperatives, financial services cooperatives, credit unions or savings and credit cooperatives). There are varying degrees of legal restrictions placed on the scope and/or size of some of these alternative options, which are matched by differing levels of regulation (see South African Reserve Bank Prudential Authority guidance).
United States	The term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by state or federal authority having supervision over banking institutions.