

Leverage in Non-Bank Financial Intermediation: Consultation report

Response to Consultation

French Association of Institutional Investors (Af2i)

Recommendation 1

1. Is the description of the financial stability risks from leverage in NBFIs accurate and comprehensive? Are there additional vulnerabilities or risk dimensions related to NBFIs leverage that authorities should consider for monitoring purposes?

The Af2i considers that this description is incomplete. Indeed, the efforts made since the 2008 crisis have always been structured by the idea that the security of a financial system is achieved when all the players are safe, constrained by individual rules and also mastered by the transmission of reliable and exhaustive statistical data.

However, this idea does not take into account that all financial actors constitute a "complex system" structured by common principles that govern their exchange and valuation practices. If regulators do not take into account the existence of this "complex system" then the possibility of emergent properties, both positive and negative, is either denied or ignored.

Thus, the Af2i would have liked the FSB to examine the procyclical risks of the current financial system, which concern leveraged transactions, in particular through the consideration of various risks:

The risk of mimicry can occur when participants are encouraged to act in the same way, i.e. to buy or sell the same assets at the same time, or to take positions on the derivatives markets in the same direction. This incentive can be a market effect, a fad, but also the results of a professional practice that is recognized, or even recommended, or even imposed by rules from soft law or regulations.

Even if this subject is touched on very briefly, with the report referring to "market players copying fund trading strategies" (page 14), the consequences of the development of passive management, in all its forms, are not mentioned, as was the case during the recent global consultation on NBFIs. Scientific studies on this subject have examined the consequences of passive management on the flow of purchases and sales of securities as well as on leveraged transactions. These studies point to the disruptions in the functioning of markets, and in particular in their efficiency, which are central characteristics for the proper functioning of the overall system, due to the now decisive role of flows before that of valuation by the actors. (See for example page 3 in Philippe van der Beck, JP Bouchaud, Dario Villamania, May 2024, Ponzi funds; Xavier Gabaix, Ralph S. J. Koijen, SEARCHING

FOR THE ORIGINS OF FINANCIAL FLUCTUATIONS: THE INELASTIC MARKET HYPOTHESIS, Working Paper 28967, 2021, <http://www.nber.org/papers/w28967>).

In the interests of financial stability, this reflection should be extended to leveraged transactions.

More generally, the Af2i also draws attention to the consequences, in terms of rigidity, of the multiplication of rules intended to know in advance the manager's decisions in the face of a particular event.

Mimetic behaviours and the procyclicality they provoke reduce the diversity of decisions and the possible shock absorption. Paradoxically, in the event of the generalization of mimetic behaviours, we will then observe that all the actors no longer constitute a complex system (see preliminary remarks), comprising internal mechanisms of damping and stabilization, but then constitute de facto a single agent, the sum of all the actors with predictable and almost identical behaviours, and therefore more fragile in the event of dysfunctions.

Rather than other tools, other avenues could therefore be considered, in particular those that could help limit herd management which in itself involves systemic risk.

The Af2i recalls that the diversity of expectations, positions, and therefore the fragmentation of interventions is fundamental to preserve the efficiency of the capital and value markets to prevent any financial bubble, and its logical consequence any crash.

- The risk of procyclicality of margin calls and security deposits. The practice of reducing risk on leveraged transactions, whether by collateralization or by cash margin calls, is adapted to the evolution of individual risks in normal times, but it has major procyclical effects in the event of shocks because it synchronizes agents in a brutal and rapid way in the same direction of buying or selling. The initial liquidity crisis is then amplified.

The ARCHEGOS default, cited as an example in the report, was linked to the operation of the same mechanism that caused the crisis of LDIs and British pension funds, amplifying a Gilt

crisis in 2022. This mechanism is that of the margin call and not a lack of information.

A more relevant measure would be to work ex ante or ex post on reducing the sensitivity of this type of guarantee of credit relationships through the various contracts to market developments.

- 2. What are the most effective risk metrics that should be considered by authorities to identify and monitor financial stability risks arising from NBFi leverage?**
- 3. What are the most effective metrics for the monitoring of financial stability risks resulting from:**
 - (i) specific market activities, such as trading and investing in repos and derivatives**
 - (ii) specific types of entities, such as hedge funds, other leveraged investment funds, insurance companies and pension funds**
 - (iii) concentration and crowded trading strategies**

Recommendation 3

- 4. What types of publicly disclosed information (e.g. transaction volumes, outstanding amounts, aggregated regulatory data) are useful for market participants to enhance their liquidity or counterparty credit risk management? Are there trade-offs in publicly disclosing such information and, if so, what would be the most important elements to consider? What is the appropriate publication frequency and level of aggregation of publicly disclosed information?**

Recommendation 5

- 5. Do Recommendations 4 and 5 sufficiently capture measures that would be used to address the scope of non-bank financial entities under consideration in this report? In what ways may the policy measures proposed in the consultation report need to be adjusted to account for different types of non-bank financial entities?**

The committee notes on page 6 that the use of leverage is unevenly distributed across the NBFi sector.

The concept of NBFIs is very general, covering a wide variety of actors that a single preventive regulation in macroeconomic or even targeted matters seems difficult to put in place as the actors are so diversified, the risk being that these measures will be inappropriate given specific business models. For example, NBFIs with long-term capital are not to be treated in the same way as those that are required to provide day-to-day liquidity.

Measures adjusted to take account of the different types of non-bank financial entities could not be conceived on a declarative basis or on individual thresholds.

In addition to this unequal distribution, it should not be forgotten that these proposed recommendations concern the regulated sector of non-bank financial institutions, "under the street lamp", with the unregulated sector likely to fall "through the cracks".

- 6. In what circumstances can activity-based measures, such as (i) minimum haircuts in securities financing transactions, including government bond repos, (ii) enhanced margin requirements between non-bank financial entities and their derivatives counterparties, or (iii) central clearing, be effective in addressing financial stability risks related to NBFi leverage in core financial markets, including government bond markets? To what extent can these three types of policy measures complement each other?**

See question 7.

- 7. Are there benefits to dynamic approaches to minimum margin and haircut requirements, e.g. where the requirements change based on changes in concentration or system-wide leverage? If so, what types of indicators capturing concentration or system-wide leverage should the requirements be linked to?**

The massive use of margin calling, because of its procyclicality, gives the financial system a particularly dangerous emerging property. While it reduces risks at the individual level (in normal times and in the event of a single default), on the other hand, at the global level it can cause global destabilization in some cases.

The Af2i is therefore not in favour of this type of measure and instead calls on the authorities to consider reducing the role of margin calls in counterparty risk reduction schemes, for the good of the financial system as a whole.

8. Are there any potential unintended consequences from activity-based measures beyond those identified in the consultation report?

Yes, in terms of making the arrangements more cumbersome and diluting the responsibility of the actors.

Firstly, the Af2i can only note that the massive rationalisation of relations between financial players operated by regulation and certain professional practices to prevent risks are regularly deficient.

These shortcomings lead to consultations, then regulations and finally to an increase in the burden of everyone's systems, as well as costly and disruptive complexity because the attention of the actors is then increasingly focused on the compliance of their organization with this control system and reduces their attention to their own practices and to the evolution of the context.

The Af2i believes that it is time to stop this movement, which feeds many stakeholders but does not substantially improve the overall system. And to think about another approach than constantly strengthening reporting.

9. For non-centrally cleared securities financing transactions, including government bond repos, what are the merits of margin requirements compared to minimum haircuts?

10. In what circumstances can entity-based measures, such as (i) direct and (ii) indirect leverage limits be effective in addressing financial stability risks related to NBFi leverage in core financial markets?

11. Are there ways to design and calibrate entity-based measures to increase their risk sensitivity and/or their effectiveness in addressing financial stability risks from NBFi leverage?

The Af2i reiterates its position: while these individual measures can secure the operations of the intervener, they are questionable at the global level with regard to financial stability.

12. Are there any potential unintended consequences from entity-based measures beyond those identified in the consultation report?

See answer question 8.

13. To what extent can activity-based and entity-based measures complement each other? What are the main considerations around using these two types of measures in combination?

Recommendation 6

14. How could counterparty credit risk management requirements for leverage providers be enhanced to be more effective in addressing financial stability risks from NBFi leverage in core financial markets, such as government bond repo markets? In what circumstances can they be most effective?

See our note on the role of margin calls and security deposits.

Recommendation 7

- 15. Would a minimum set of disclosures to be provided by leverage users to leverage providers be beneficial in improving counterparty credit risk management and reducing financial stability risks from NBFIs leverage, including concentration risks? If so, which types of information and what level of granularity should (and should not) be included in this minimum set and why?**

This presentation therefore suggests that crisis prevention is hampered by the lack of precise and exhaustive statistical data. The FSB is therefore looking for "missing information that makes it possible to prevent crises."

This approach is questionable: would the production of statistics and their interpretation make it possible to anticipate the suddenness of a crisis, as the FSB seems to assert in the case of Archegos, cited in the report?

Moreover, the analysis of past crises has never demonstrated, until proven otherwise, that better statistical knowledge would have made it possible to avoid them.

The report also notes on page 24 that the authorities must take into account the burden that the additional reporting requirements represent for market participants and ensure that this remains proportionate and also to minimise unnecessary reporting burdens (page 23).

- 16. What are the main impediments that leverage users face in sharing additional or more granular data with their leverage providers? Is there a risk that a minimum recommended set of disclosures may lead leverage users to limit the information they share with their leverage providers to that minimum set?**
- 17. Should such a minimum set of disclosures rely on harmonised data and metrics to ensure transparency and efficiency in the use of such information for risk management purposes? Do respondents agree that such a minimum set of disclosures should be based on the list of principles outlined in the consultation report? If not, which principles should be added, deleted or amended?**

The homogenisation of data at an international level is indeed very important, as it is for accounting data, as well as the definition of a minimum base. They must be the result of genuine consultation.

However, as the report notes on page 8, data may be linked to entities outside of a jurisdiction or not subject to entity-level regulatory reporting requirements, or even to regulation at all.

The regulation of non-bank financial institutions is indeed hampered by the anonymity allowed

for certain players, as well as by their cross-border activity, without it being sometimes possible to locate the competent regulator to supervise these activities.

Measures related to the limitation of concentration, for example, can only be applied with difficulty for supranational or even unregulated entities.

The report suggests on page 31 that reporting obligations should be imposed on all relevant market participants, regardless of their domicile, in order to ensure sufficiently complete coverage and thus to identify and calculate the accuracy of concentrated and congested positions.

Such a wish requires full international cooperation.

This international coordination must also be a general principle on all aspects relating to finance, in order to avoid any situation rent for the "lowest regulatory bidders", including in terms of taxation, which generates macroeconomic imbalances, as has just been stressed again in the recent report of the European Fiscal Observatory. Such cooperation would also have the advantage of being able to deal with transnational and currently unregulated NBFIs.

Above all, the Af2i recommends providing for a global repressive framework that is the only way to target actors likely to cause a systemic risk without restricting initiatives through preventive measures that can always be circumvented, and which above all risks removing the responsibility of the actor who has formally fulfilled all the boxes.

However, as the report notes, this international cooperation is far from being a reality. The report mentions regulatory or tax arbitrage on page 11, the only argument of "competence" put forward by some countries. Unfortunately, the report recommends, on page 33, that authorities should consider measures taken in other jurisdictions to prevent or mitigate potential cross-border spillovers and cross-border regulatory arbitrage. A downward alignment rather than cooperation on a common base applicable to all.

- 18. Should leverage users be required or expected to provide enhanced disclosures (beyond that provided in normal market conditions) to their leverage providers during times of stress?**
- 19. Should authorities design a minimum set of harmonised disclosures and guidelines on its application, or should they convene a cross-industry working group to do so? How do respondents believe such a standard should be incorporated into market practice? Through regulation, supervisory guidance, and/or via a Code of Conduct or similar approach?**

Recommendation 8

- 20. Are there areas where the principle of "same risk, same regulatory treatment" should be more consistently applied? Are there circumstances in which the principle should not apply or should not apply comprehensively?**

The risk must be understood by the principals, especially when they manage on behalf of third parties, as expertise must not take precedence over compliance with regulations and follow-the-line (e.g. investment in securities on American real estate loans in 2007, 2008).

FSB Consultation on Leverage in NBFIs :

DRAFT RESPONSE Af2i

Paris 24 February 2025

The French Association of Institutional Investors (Af2i) brings together asset owners from all sectors of the French economy concerned by capital management procedures, standards and techniques, regardless of the family to which they belong (retirement, provident fund, mutual health insurance, insurance, association, foundation, public or special establishment, company, etc.).

Af2i has 180 members/partners and more than €2.8 trillion in owned and managed assets.

Introductory remarks:

- A. Many questions concern the direct participants in leveraged transactions. The Af2i, which represents French long-term asset owners, will respond in particular to those of a macro-economic nature.

- B. **The concept of NBFIs used in the report and consultation is too vague.** It brings together entities with very different activities and risks. In addition, NBFIs, see § 2.2 of the report, are described as a jungle of unknown risks where " *interconnectedness, concentration and liquidity imbalances are particularly pronounced* ". This is very surprising and would need to be justified. Indeed, in Europe, for categories that are important in terms of the number and amounts of assets or risk, some of them are already subject to holistic regulatory and supervisory frameworks at the international (FSB for money market funds, IAIS for insurance companies), European (EIOPA for insurance companies, ESMA for UCITS and alternative funds) and national levels. It is therefore imperative to clearly define which sectors of the NBFIs universe may require further examination and why.

- C. **Consultation approach and proposals :**
This consultation mainly mentions preventive measures to avoid the occurrence of a financial crisis caused by the failure of an entity by seeking:
 - 1) strengthening the solvency of each stakeholder and
 - 2) better information on entities and the sector.

This approach from the point of view of the Af2i is partly inadequate, because it can be argued that these principles are not only insufficient, but that this inadequacy

generates a normative inflation because the successive texts resulting from this approach do not provide a relevant definitive solution. This normative inflation rigidifies the system and, de facto, makes it less competitive and more fragile. In particular, to assume that ever better statistical information from entities improves the financial security of the global financial sector through its better knowledge is an illusion that risk is only the result of ignorance that can be filled by increased information.

This approach can and should be improved.

Seeking the security of a set of entities based on the analysis and reinforcement of the individual security of entities is a reductionist approach.

This approach has its limits in the fact that it does not take into account *a priori* the real phenomena observed during incidents or tensions that then trigger *a posteriori* this incessant periodic review of supervisory or prudential rules.

In the context of this consultation, the FSB refers, for example, to the Gilt crisis (2022) or the one caused by the failure of Archegos (2021), cited in the consultation report and for which the report describes phenomena such as amplifications, mimetic behaviour or coordination deemed abnormal by actors, regulatory arbitrations, etc. and which are felt as unexpected.

The surprise is therefore explained, generally and in the report of this consultation, by a lack of information either from the players or from the supervisory authorities.

This periodic review therefore tends to increase the rules and the need for reporting, making the work of professionals heavier, as well as the costs, without really demonstrating the link between lack of information and crisis, i.e. without questioning the effectiveness of the recommended measures.

This increase in regulations reinforces the concerns of professionals about their overall loss of competitiveness.

The Af2i believes that the FSB's approach could be radically improved by proposing that the FSB analyse the financial system as a whole as a "complex system" (*See for example: Ladyman, James; Lambert, James; Wiesner, Karoline (2013). "What is a complex system?" (PDF). European Journal for Philosophy of Science. 3: 33–67.*

This new analysis would make it possible to conceive that the financial system has different properties from those of the banking and non-bank entities that make it up.

These properties could be studied via agent models, as they allow us to understand how collective behaviors emerge from simple individual interactions.

Indeed, if the interactions between agents are not taken into account, the analysis and measurements focus on the (micro level) entities, and the possibility of the "emergent properties" of a "complex system" (macro level) that are not observable at the entity level is not considered.

Thus, margin calling, which is effective in reducing an entity's counterparty risk, can be dangerous at the macro level because the synchronization of margin calls can cause a liquidity crisis.

Anticipating these emergent properties is therefore essential to validate the effect of even correct practices at the entity level on the resilience of the overall system (macro level). Because what is really to be avoided is **the abrupt transition from an ordinary situation to a crisis situation of the global "complex system", and not the health of the entities alone.**

Therefore, another look at the practices of financial players, banks and non-banks, could be developed and based on concrete decisions.

Thus, the Af2i observes for FSB, leverage has become an object in itself, ordinary, " *a characteristic of modern economies and financial markets... It improves yields* " (consultation report §2.1). It is not specified that **the leverage effect is primarily a loan** taken out to finance an investment that is expected to be profitable, and which has symmetrical effects: it increases both losses and gains depending on the observed results of the investment. Even more curiously, the vocabulary used tends to distance the reader from concrete realities: lending entities are thus referred to as "*providers of leverage* " (id. summary and §2.3) instead of lenders.

The report indicates that the shocks absorbed follow two channels: " *liquidation of positions and counterparties* ". (id. §2.1). For the Af2i, the two channels described are not really distinct. What is at stake is the default of the entities by the classic cash flow crisis. The report then notices *a feedback effect*, or more precisely an amplification effect when several entities happen to be doing the same thing at the same time.

Af2i notes that before and after the 2008 crisis, these schemes were described as **pro-cyclical**, including by the FSB or by the GEM and the CGFS (*for example CGFS (2010b), "The Role of Margin Requirements and Haircuts in Procyclicality", CGFS Paper, No. 36, March*) or the BIS (*for example see Borio C., Furfine C. and Lowe P. (2001), "Procyclicality of the Financial System and Financial Stability: Issues and Policy Options," Bank for International Settlements, Working Paper, No. 1, March*), as they sometimes create unexpected and destructive correlations. Here the word does not appear, and this phenomenon does not seem to be really taken into account in its full dimension. **Procyclicality** is therefore a property that appears at the global level, and it is precisely this type of phenomenon that cannot be understood at the level of a single entity and justifies the previous proposal of an analysis at the macro level of the financial system and not only at the micro level of the banking and non-banking entities that make it up.

In conclusion of these introductory remarks, the Af2i recalls that the common nature of all crises does not allow us to predict either their magnitude, their dates of occurrence, or the circumstances of their outbreak. As a result, it seems illusory and too expensive to propose only mainly preventive measures by postulating without validation at the systemic level that they would constitute a kind of effective bulwark against future crises.

Therefore, the Af2i recommends first of all to strengthen 1) at the macro level the analysis of the overall behavior of the financial system and to identify practices and mechanisms facilitating emerging characteristics that are problematic for the resilience of the global financial system. 2) to propose frameworks for the use of these devices or practices 3) ex post measures to deal with possible crises by clarifying the available means and the interveners.

Recommendation 1

Authorities should have a domestic framework to identify and monitor vulnerabilities related to NBFi leverage and associated financial stability risks in an effective, frequent and timely manner. The domestic framework should be proportionate to the financial stability risks that such vulnerabilities may pose, particularly in core financial markets. Authorities should regularly review their domestic framework and enhance it as appropriate, including the risk metrics utilised, and take steps to improve international consistency in the definition and calculation of those metrics.

1. Is the description of the financial stability risks from leverage in NBFi accurate and comprehensive? Are there additional vulnerabilities or risk dimensions related to NBFi leverage that authorities should consider for monitoring purposes?

The Af2i considers that this description is incomplete. Indeed, the efforts made since the 2008 crisis have always been structured by the idea that the security of a financial system is achieved when all the players are safe, constrained by individual rules and also mastered by the transmission of reliable and exhaustive statistical data.

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Thus, the Af2i would have liked the FSB to examine the procyclical risks of the current financial system, which concern leveraged transactions, in particular through the consideration of various risks:

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A more relevant measure would be to work ex ante or ex post on reducing the sensitivity of this type of guarantee of credit relationships through the various contracts to market developments.

2. What are the most effective risk metrics that should be considered by authorities to identify and monitor financial stability risks arising from NBFi leverage?

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(i) specific market activities, such as trading and investing in repos and derivatives?

(ii) specific types of entities, such as hedge funds, other leveraged investment funds, insurance companies and pension funds?

(iii) concentration and crowded trading strategies?

Recommendation 2

Authorities should review their domestic framework to assess data challenges, including on (i) authorities’ usage of available data, (ii) the quality, frequency and timeliness of available data, (iii) authorities’ access to relevant data and (iv) potential data gaps within existing reporting requirements. Authorities should seek to address data challenges and, where appropriate, collaborate through the FSB and SSBs to reduce those challenges that may hinder the effective cross-border monitoring of vulnerabilities, as set out in Recommendation 9.

Recommendation 3

Authorities should review the level of granularity, frequency, and timeliness of existing public disclosures and determine the degree to which additional or enhanced disclosures should be provided to the public, either by (i) authorities, including disclosure based on regulatory reporting data, (ii) the relevant financial market infrastructure providers or (iii) directly by financial entities, balancing the costs and benefits of doing so. This includes dissemination by authorities of data and information on aggregate market positioning and transaction volumes based on existing regulatory reporting. Such additional or enhanced disclosures should be designed and calibrated to increase transparency especially about concentration risk and crowdedness, with the aim to support market participants’ ability to manage risks from NBFi leverage and estimate counterparty exposures and liquidation costs.

4. What types of publicly disclosed information (e.g. transaction volumes, outstanding amounts, aggregated regulatory data) are useful for market participants to enhance their liquidity or counterparty credit risk management? Are there trade-offs in publicly disclosing such information and, if so, what would be the most important elements to consider? What is the appropriate publication frequency and level of aggregation of publicly disclosed information?

Recommendation 4

Authorities should take steps to address the financial stability risks from NBF1 leverage that they identify in core financial markets. Activity-based and entity-based measures and measures aimed at addressing concentration that amplifies risks related to NBF1 leverage, should be reviewed periodically and enhanced where appropriate, including to address risks from a system wide perspective. The measures should be selected and calibrated to be effective and proportionate to the identified financial stability risks. Where existing legal and regulatory frameworks do not provide the necessary policy measures to address identified financial stability risks, authorities should consider adjusting or widening the scope of such frameworks, where appropriate.

Recommendation 5

When selecting policy measures to address financial stability risks from NBF1 leverage in core financial markets, authorities should evaluate a wide range of measures, including both activity and entity-based measures, as well as concentration related measures. Authorities' choice of measures should be based on the nature and drivers of identified risks, taking into account their expected effectiveness and any potential costs or unintended consequences, as well as measures taken in other jurisdictions to address similar risks. Activity-based measures include (i) minimum haircuts in SFTs, including government bond repos, (ii) enhanced margining requirements between non-bank financial entities and their derivatives counterparties, and (iii) central clearing mandates in SFT and derivatives markets. Entity-based measures include (i) direct limits on leverage, and (ii) indirect leverage constraints linked to risks that non-bank financial entities are exposed to. Concentration measures include (i) concentration add-ons for margins and haircuts in connection with exposures of non-bank financial entities in

derivatives and SFT markets, (ii) concentration and large exposure limits, and (iii) large position reporting requirements.

5. Do Recommendations 4 and 5 sufficiently capture measures that would be used to address the scope of non-bank financial entities under consideration in this report? In what ways may the policy measures proposed in the consultation report need to be adjusted to account for different types of non-bank financial entities?

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See question 7

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See answer question 8.

13. To what extent can activity-based and entity-based measures complement each other? What are the main considerations around using these two types of measures in combination?

Recommendation 6

Authorities should ensure the timely and thorough implementation of the BCBS's guidelines on counterparty credit risk which represents an important element of a comprehensive policy response to financial stability risks stemming from NBFIs leverage. Authorities, in cooperation with SSBs, should monitor, including from a systemic perspective, ongoing and future developments in the way NBFIs leverage is provided to ensure that the regulatory framework remains appropriate for the consistent treatment of risks.

14. How could counterparty credit risk management requirements for leverage providers be enhanced to be more effective in addressing financial stability risks from NBFIs leverage in core financial markets, such as government bond repo markets? In what circumstances can they be most effective?

See our note on the role of margin calls and security deposits.

Recommendation 7

Authorities, in cooperation with SSBs, should review the adequacy of existing private disclosure practices between leveraged non-bank financial entities and leverage providers, including the level of granularity, frequency, and timeliness of such practices. Where appropriate, they should consider developing mechanisms and/or minimum standards to enhance the effectiveness of these disclosure practices.

15. Would a minimum set of disclosures to be provided by leverage users to leverage providers be beneficial in improving counterparty credit risk management and reducing financial stability risks from NBFIs leverage, including concentration risks? If so, which types of information and what level of granularity should (and should not) be included in this minimum set and why?

This presentation therefore suggests that crisis prevention is hampered by the lack of precise and exhaustive statistical data. The FSB is therefore looking for "missing information that makes it possible to prevent crises."

This approach is questionable: would the production of statistics and their interpretation make it possible to anticipate the suddenness of a crisis, as the FSB seems to assert in the case of Archegos, cited in the report?

Moreover, the analysis of past crises has never demonstrated, until proven otherwise, that better statistical knowledge would have made it possible to avoid them.

The report also notes on page 24 that the authorities must take into account the burden that the additional reporting requirements represent for market participants and ensure that this remains proportionate and also to minimise unnecessary reporting burdens (page 23).

16. What are the main impediments that leverage users face in sharing additional or more granular data with their leverage providers? Is there a risk that a minimum recommended set of disclosures may lead leverage users to limit the information they share with their leverage providers to that minimum set?

17. Should such a minimum set of disclosures rely on harmonised data and metrics to ensure transparency and efficiency in the use of such information for risk management purposes? Do respondents agree that such a minimum set of disclosures should be based on the list of principles outlined in the consultation report? If not, which principles should be added, deleted or amended?

The homogenisation of data at an international level is indeed very important, as it is for accounting data, as well as the definition of a minimum base. They must be the result of genuine consultation.

However, as the report notes on page 8, data may be linked to entities outside of a jurisdiction or not subject to entity-level regulatory reporting requirements, or even to regulation at all.

The regulation of non-bank financial institutions is indeed hampered by the anonymity allowed for certain players, as well as by their cross-border activity, without it being sometimes possible to locate the competent regulator to supervise these activities.

Measures related to the limitation of concentration, for example, can only be applied with difficulty for supranational or even unregulated entities.

The report suggests on page 31 that reporting obligations should be imposed on all relevant market participants, regardless of their domicile, in order to ensure sufficiently complete coverage and thus to identify and calculate the accuracy of concentrated and congested positions.

Such a wish requires full international cooperation.

This international coordination must also be a general principle on all aspects relating to finance, in order to avoid any situation rent for the "lowest regulatory bidders", including in terms of taxation, which generates macroeconomic imbalances, as has just been stressed again in the recent report of the European Fiscal Observatory. Such cooperation would also have the advantage of being able to deal with transnational and currently unregulated NBFIs.

Above all, the Af2i recommends providing for a global repressive framework that is the only way to target actors likely to cause a systemic risk without restricting initiatives through preventive measures that can always be circumvented, and which above all risks removing the responsibility of the actor who has formally fulfilled all the boxes.

However, as the report notes, this international cooperation is far from being a reality. The report mentions regulatory or tax arbitrage on page 11, the only argument of "competence" put forward by some countries. Unfortunately, the report recommends, on page 33, that authorities should consider measures taken in other jurisdictions to prevent or mitigate potential cross-border spillovers and cross-border regulatory arbitrage. A downward alignment rather than cooperation on a common base applicable to all.

18. Should leverage users be required or expected to provide enhanced disclosures (beyond that provided in normal market conditions) to their leverage providers during times of stress?

19. Should authorities design a minimum set of harmonised disclosures and guidelines on its application, or should they convene a cross-industry working group to do so? How do respondents believe such a standard should be incorporated into market practice? Through regulation, supervisory guidance, and/or via a Code of Conduct or similar approach?

Recommendation 8

Authorities should adopt the principle of "same risk, same regulatory treatment" and identify incongruences in the regulatory treatment of NBFIs leverage resulting from similar exposures, financial instruments or structures that may distort incentives and result in regulatory arbitrage. Where incongruences are identified, authorities, in cooperation with SSBs, should analyse the underlying causes to determine whether and how to address the identified incongruences, having regard to the treatment of similar situations in other jurisdictions, so that domestic remediation efforts do not create new disparities that could transfer risk across borders.

20. Are there areas where the principle of “same risk, same regulatory treatment” should be more consistently applied? Are there circumstances in which the principle should not apply or should not apply comprehensively?

The risk must be understood by the principals, especially when they manage on behalf of third parties, as expertise must not take precedence over compliance with regulations and follow-the-line (e.g. investment in securities on American real estate loans in 2007, 2008).
