

Comparative Legal And Economic Analysis Of Non-Bank Financial Institutions: Conceptual Approaches And Country Practices

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Abstract: This article presents a comparative legal and economic analysis of non-bank financial institutions (NBFIs), examining the conceptual basis for their definition and the diversity of national regulatory practices. Although financial systems traditionally distinguish between banking and non-banking institutions, there is no universally accepted definition of NBFIs due to historical, institutional, and economic differences across jurisdictions. The study analyzes leading theoretical approaches—including subject-based, activity-based, and combined definitions—developed by international bodies and scholars. Using comparative examples from Malaysia, Ukraine, India, and Bangladesh, the article highlights how NBFIs vary in their legal status, permissible activities, and their role in financial intermediation and economic development. The results demonstrate that NBFIs often emerge to meet specific financial needs unmet by traditional banks, including Islamic finance requirements, sector-specific financing, micro-lending, and venture capital. The article proposes a synthesized definition of NBFIs that reflects their functional diversity and regulatory uniqueness, providing a basis for improving national frameworks governing non-bank financial organizations.

Keywords: Non-bank financial institutions, regulatory approaches, financial intermediation, shadow banking, Islamic finance.

Introduction: Modern financial systems consist of a wide range of institutions that support capital formation, risk distribution, and financial intermediation. Generally, these institutions are divided into banking and non-banking sectors. While banks play a central role in deposit-taking and credit creation, non-bank financial institutions (NBFIs) contribute to the financial system through specialized services, diversified financial products, and alternative funding channels.

Despite their importance, the conceptualization of NBFIs remains inconsistent at both academic and regulatory levels. International literature demonstrates the absence of a unified definition, with countries applying divergent approaches based on economic conditions, legal systems, and financial market structures. The global financial crisis of 2008 intensified scholarly attention to the activities of non-bank intermediaries, often referred to as “shadow banking.” However, international organizations, such as the

Financial Stability Board (FSB), have since shifted to using the more neutral term “non-bank financial intermediation,” acknowledging the sector’s complexity and heterogeneity.

This article aims to examine the conceptual foundations of NBFIs and compare country practices in defining and regulating these institutions. A particular focus is placed on the unique characteristics of NBFIs operating in Islamic finance jurisdictions, such as Malaysia, where deposit-taking non-bank institutions exist. By consolidating theoretical and empirical findings, the study proposes a refined definition that accounts for the functional diversity and regulatory autonomy of NBFIs.

METHODS

The study employs a qualitative comparative legal and economic analysis, combining doctrinal review of national regulations on NBFIs, comparative assessment of country practices (Malaysia, Ukraine, India, Bangladesh), and content analysis of scholarly

literature on subject-based, activity-based, and combined definitions. Functional analysis is used to identify the economic roles of NBFIs, and a synthesis approach integrates theoretical and empirical findings to formulate a comprehensive definition of non-bank financial institutions.

RESULTS

The analysis reveals several key findings:

1. There is no universal definition of NBFIs; while international institutions provide broad classifications, national legal frameworks vary according to economic priorities and institutional development.
2. The literature identifies three main definitional approaches: the subject-based approach focused on institutional balance sheets, the activity-based approach emphasizing non-bank credit intermediation, and the combined approach adopted by bodies such as the FSB and ESRB.
3. Country practices differ significantly. Malaysia allows certain non-bank institutions, such as Tabung Haji, to accept deposits; Ukraine emphasizes registration and licensing requirements; India views NBFIs primarily as deposit-taking or lending entities serving specific economic sectors; and Bangladesh recognizes deposit-accepting NBFIs driven by unmet financial demand and regulatory limits on banks.
4. NBFIs exhibit substantial functional diversity, operating in microfinance, venture capital, Islamic finance, and sector-specific development financing. Finally, the study finds that NBFIs play an important economic role by expanding financial inclusion, supplying flexible and specialized financial products, supporting innovation, and contributing to capital market development.

DISCUSSION

In general, financial institutions in the economy of a particular state can be divided into two groups: banking and non-banking financial organizations [1]. The second group includes non-bank financial institutions that typically do not accept deposits and are considered a sub-sector for banks [2]. Banks, financial intermediaries, and market-based finance differ in each country depending on time, the history of that country, its institutions, and the level of economic development [3]. Due to the complexity of the banking system and the diversity of the geo-economy in each jurisdiction, there is no single standard definition for non-banking financial organizations. This terminology is interpreted differently depending on the legal system of each state. Some countries understand NBFIs as "shadow banking." During the 2008 global economic crisis, the term "shadow banking" was widely used. However, in the

2020 report of the International Financial Stability Council, the term "shadow banking" was changed to "non-bank financial intermediary" [4]. In many sources, NBFIs are described as organizations that do not have a bank license and do not accept deposits from the population [5]. However, this term does not fully apply to non-bank organizations in all countries. For example, Tabung Haji, one of the NBFIs in Malaysia, has been accepting deposits from the population for several years. Therefore, the term "shadow banking" or "non-bank institutions" can be defined differently in each country [6].

A more practical definition covering NBFIs activities can be derived from the 2020 report of the International Financial Stability Council: "a credit intermediary covering organizations outside of permanent banking activities and various activities through these organizations" [7]. In our opinion, the credit intermediary given in this definition cannot fully express the essence of non-bank organizations, since not all non-bank organizations are engaged in lending or lending activities.

Buttigieg C. P., Gkoutse M., and Fenech T. believe that while the above definition of the Financial Stability Council is broad in all respects, a narrower approach is more useful for political analysis. According to these authors, due to the growing importance of non-bank financial institutions (NBFIs) and their potential risks to financial stability, since the beginning of the global financial crisis, a direction of scientific literature has been formed aimed at identifying, measuring, and understanding the processes in this area. Analysis of these studies reveals that there is no consensus on the definition and subjects that should be included in the measurement of the NBFIs framework [8].

Barbou et al. note that the various definitions formed in relation to non-bank financial organizations can be divided into three main categories:

1. Subject-based definition - this approach analyzes the consolidated balance sheet data of the financial sector. The goal is to cover all areas of NBFIs activity that pose a threat to financial stability. This approach is applied in cases of insufficient data. Pozar (USA), Bakk-Simon (Eurasian region) and Acharya (India) used this method in their studies. Interestingly, among the authors who chose the subject-based approach, there is still no consensus on which subjects should be included in the NBFIs measurement. For example, Ricks focused only on entities offering "money-like" instruments, while McCulley (the first scientist to introduce the term "shadow banking" - shadow banking) studied non-bank financial entities engaged only in the transformation of term resources. Thus, while the subject-based

approach has the advantages of simplicity and wide applicability, critics consider it incomplete because it does not provide sufficient information about the activities of individual entities within the NBFi framework.

2. Activity-based definition - this approach defines NBFi through credit intermediation activities outside the banking system. Claessens et al. emphasize the need to identify mechanisms similar to "final support insurance" to reduce risk in this approach. Since this type of definition is difficult to apply in practice, the US Office of Financial Research uses a broader definition. According to it, any credit intermediation activity not provided by an insured deposit system falls within the scope of the NBFi. The IMF (International Monetary Fund) takes financing based on "non-core obligations" as a criterion. However, this approach also does not ensure uniformity among scientists.

3. Combined definition - taking into account the advantages and limitations of both approaches, the Financial Stability Board (FSB) and the European Systemic Risk Board (ESRB) use a combined approach. In this method, the activity-based definition complements the subject-based definition. Because the activity-based approach is not limited to a specific entity or encompasses activities that contribute to the interconnection between NBFi and the traditional banking system [9].

Above, we mentioned that NBFis have their own appearance and practice in each country. In particular, in Malaysia, a non-bank organization cannot be understood as an organization that "does not accept deposits from the population." The reason is that in the practice of this country, the Tabung Haji organization is considered a non-bank institution and accepts deposits from the population. For a broader understanding of the essence of NBFis, it is important to study the experience of other countries to correctly formulate their definition from a scientific and practical point of view.

According to Teslenko, the share of non-banking organizations (NBOs) in the financial services market is large, and these organizations are non-banking legal entities. provide one or more types of financial services, and the types of activities they carry out are diverse. The importance of the provision of financial services lies in the fact that these services ensure the turnover of financial assets. Therefore, the activities of NBFis are considered non-production, non-trade, or non-banking activities. If we discuss this scholar's opinion regarding NBFi, NBO is considered an entrepreneurial activity not related to production, trade, or banking [10]. However, this definition does

not fully illuminate the essence of all types of NBFi. The reason is that trading practices exist in the activities of NBFi operating on the principles of Islamic finance. In Islamic finance based on real assets, it is not allowed to sell goods that do not exist in one's ownership [11]. Therefore, NBFi or Islamic banks must first acquire ownership rights to the property or goods they intend to sell to the client. These issues indicate that there may be differences between traditional and Islamic finance-based NBFis.

To analyze the concept of NBFi using the example of countries, let's consider the approaches to the concept of NBFis in Ukraine. In this country, a non-bank financial institution is understood as a financial or credit institution that provides loans and other financial services and is not obligated by law to create an insurance reserve [12]. Also, according to the Regulation of the Central Bank of Ukraine "On Approving the Procedure for Issuing Licenses to Non-Banking Organizations," a non-bank financial organization is a legal entity that, in accordance with the legislation of Ukraine, is not a bank and provides one or more financial services, registered in the relevant state register [13].

Buha also lists the specific features of non-bank organizations and cites the following:

To be a specific type of activity, NBFis are created for the purpose of providing financial services.

From an organizational and legal point of view, NBFis are created in the form of business partnerships (entrepreneurial and non-entrepreneurial) and cooperatives based on any form of ownership.

After registration with the State Register of Financial Institutions, NBFis acquire the status of a legal entity.

Financial services provided by NBFis are subject to mandatory licensing by the Ukrainian State Financial Services Organization.

NBFis are legal entities with a special legal status, created for the purpose of carrying out certain banking operations.

The purpose of NBFi activities is to make a profit, since NBFis are usually commercial organizations [14].

According to Signorini, the importance of non-bank finance varies in each jurisdiction and depends, among other factors, on the level of financial development of the state. The non-bank financial sector includes various intermediaries. Some non-bank organizations perform the function of credit intermediation, while others provide loans directly or facilitate lending through financial market instruments. Other non-bank organizations support capital financing in various ways. Another aspect of non-bank organizations in other

cases is that NBFIs can use the ability to adapt their services to specific needs. An example can be given from developing countries, for example, financial companies can be important for households, micro and small businesses. This is because non-bank organizations are considered favorable for financial security. Since small loans are issued depending on the level of client liquidity, the interest rate on these loans is considered low for banks. Another example is that bank loans for scientific research and development may be unsuitable or unavailable. Because banks need collateral to reduce risk. Venture funds or direct investment funds are effective in financing these sectors [15].

Ofoeda I., Abor J., Adjasi C. K. D. believe that NBFIs are created to provide various financial services that are not suitable for the bank in terms of risk. NBFIs represent a small market specializing in certain services and financing those services or goods [16].

Through the above considerations, it is emphasized that the ability of non-bank organizations to provide certain services based on the needs of the population is one of the peculiarities of non-bank institutions. In addition to financial needs, the existence of non-bank organizations operating in accordance with the values and religious beliefs of the population can serve as another example of this.

In particular, in India, non-banking institutions were created mainly to serve specific purposes. For example, it was created for the development of agriculture and investments, exports, etc. According to the RBI Act, amended in 1997, i.e., the Law on Non-Banking Organizations, non-bank corporations or companies are considered financial institutions registered in the prescribed manner. Also, the main activity of these institutions is the acceptance of deposits and the issuance of loans under any scheme or agreement and by any means [17].

In the example of India, non-banking organizations are mainly understood as organizations that accept deposits and provide loans. This once again shows that each country has its own concept of non-bank institutions.

Unlike deposit-receiving banks, financial institutions mainly carry out financing business and are called non-bank financial organizations. Organizational limitations, strict financial rules, and a limited range of financial services in the banking sector have led to the emergence of non-bank financial institutions in Bangladesh. NBFIs provides a variety of financial services that banking institutions usually do not provide. Some NBFIs accept deposits and are called Nonbank Deposit Corporations. According to the 1993

Financial Institutions Act (Bangladesh), NBFIs are organizations licensed, regulated, and managed by the Bank of Bangladesh [18].

If we define non-banking organizations based on the above grounds, ideas, and concepts, first of all, it should be taken into account that there is no single general definition of NBFIs. Depending on the economic situation in each country, NBFIs can operate in various organizational and legal forms and procedures. Therefore, above we tried to consider the concept of NBFIs using the example of countries. Combining all the ideas, NBFIs can be defined as follows:

Non-bank financial organizations are understood as organizations that can provide certain services depending on the needs of the population; do not have a bank license; specialize in a certain type of financial services; express in their activities some of the operations carried out by ordinary banks. These organizations will have a regulatory mechanism separate from banks, that is, in most cases, there will be a separate regulatory legal system for the specialization of non-bank financial organizations.

CONCLUSION

This study demonstrates that non-bank financial institutions play a crucial and diverse role in national economies, yet the absence of a single universal definition complicates regulatory coordination and academic analysis. Country practices show that NBFIs may accept deposits, operate under unique legal regimes, or provide highly specialized financial services. Their development is shaped by economic needs, institutional history, and religious or cultural frameworks.

Based on the comparative analysis, non-bank financial institutions can be defined as:

Organizations that do not hold a banking license yet provide specialized financial services tailored to population needs, performing selected functions similar to banks, and operating under an independent regulatory framework distinct from the banking sector.

This integrative definition captures the essential features of NBFIs while allowing flexibility for country-specific variations.

The study contributes to the scholarly discourse by clarifying the conceptual landscape of NBFIs and providing a foundation for future legal and economic research, particularly in jurisdictions where alternative finance models such as Islamic finance play a major role.

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