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Compiling Data on Special Purpose Entities

COMPILING DATA ON SPECIAL PURPOSE ENTITIES¹

This paper discusses the coverage and identification of Special Purpose Entities (SPEs) in external sector statistics (ESS) with a view to developing an appropriate strategy for addressing existing data gaps. The statistical treatment of SPE activities has been widely discussed on the global front for more than a decade with limited success. The latest edition of international statistical manuals and guidelines tried to address the phenomenon and the collection of data on SPEs has been promoted by the IMF. In addition, the OECD and Eurostat disseminate separate Direct Investment (DI) time series on SPEs. Ultimately though, only a few (mostly European) economies release cross-border statistics where SPEs are separately identified; and for many jurisdictions where SPE activity is important—data are unavailable. Challenges also remain regarding the suitability of existing data formats for analytical purposes. The views of the Committee are being sought on the creation of a BOPCOM task force to examine the need for developing broader initiatives to collect and disseminate internationally-comparable statistics on SPEs. The Task Force would bring together a few country representatives as well as international institutions with experience in the field, and present proposals for a way forward to the Committee at its 2017 meeting.

I. INTRODUCTION

1. The existence of special purpose entities (SPEs)² is not a new phenomenon. The volume and complexity of SPE structures have increased significantly over the years and much has been discussed in the international statistical arena. The latest update of manuals and guidelines—the United Nations’ *System of National Accounts 2008 (SNA2008)*, the sixth edition of the IMF’s *Balance of Payments and International Investment Position Manual (BPM6)* and the OECD’s *Benchmark Definition of Foreign Direct Investment (BD4)*—have all paid attention to SPEs.
2. While these statistical manuals refer to and are largely consistent in their understanding of SPE activities, there is no internationally agreed standard definition of SPEs, as acknowledged in paragraph 4.50 of the *BPM6*. However, consistent with *SNA2008* and *BD4*, the *BPM6* sets out typical features of these entities which help identify these company structures, namely (i) their owners are not resident of the territory of incorporation; (ii) other parts of their balance sheets are claims on or liabilities to nonresidents; (iii) they have few or no employees; and (iv) they have little or no physical presence.
3. Over time, the features for these entities have become more diverse—the behavior of SPEs has changed—not only investment and debt undertakings but equally trading activities are related to tax avoidance strategies. SPEs or near SPEs are now involved in production of

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² Definitions of SPEs as referenced in the different manuals/guides are presented in Appendix I.

goods and services, including merchanting, migration of intellectual property rights, or operational leasing. Some entities, which may not be SPEs, may have a moderate or large amount of employees and display near SPEs performance, as evidenced by their increasingly disproportionate revenue per employee.

4. The lack of a precise economic definition for SPEs has led in practice for these entities to be typically defined according to national legislation and other national considerations, which differ from economy to economy. As a consequence, the statistical treatment of SPEs in cross-border statistics differ across economies and may generate bilateral asymmetries between debtor and creditor economies.

5. The residence of an SPE is of critical importance to its statistical treatment. Paragraph 4.115(d) of *BPM6* states that “*for entities, such as many SPEs, that have few if any attributes of location, the residence is determined by their place of incorporation.*” Although by nature of their activities, SPEs have little significance for the domestic economy of the host economies, they are deemed residents of the host economies on account of their legal incorporation. SPEs are generally incorporated in host economies that provide tax benefits—low or concessional tax rates—to minimize the overall tax payment by the corporation consolidated group, to isolate high-risk projects/assets from the mother company, and to maintain the secrecy of intellectual and other property. While the economic relevance of the SPEs in terms of contribution to GDP in the host economies may generally be limited, their operations typically generate substantial cross-border income and other flows, and become associated with sizeable asset/liability positions.³

II. CROSS-BORDER STATISTICS COLLECTED ON SPEs

6. *BPM6* and *BD4* have both laid emphasis on separately identifying flows and positions of resident SPEs. Paragraph 4.87 of *BPM6* states, “Although there is no internationally standard definition of SPEs, in economies in which they are important they may be identified separately, according to either a national company law definition, or in terms of a functional definition, possibly referring to their limited physical presence and ownership by non-residents.” The same paragraph equally states, “in economies with large direct investment flows through resident SPEs, it is recommended that these flows be shown as a supplementary item, so that they can be identified separately.”

7. In recent years, despite the challenges posed to national compilers, the IMF has noted progress made by some SPE-hosting member in collecting cross-border statistics of these entities.

³ The recent significant revision of Ireland’s GDP—driven in part by multinationals’ tax optimization strategies that includes the shifting of intangible assets—underscores the need for international investment statistics to stay relevant.

8. The progress took place mainly in the European countries, where a specific regulation of the European Parliament requires all members to report cross-border transactions and positions for SPEs to their regional organization. Some cases of success in implementing the *BPM6* provisions related to SPEs also exists outside the EU (e.g., Chile is reporting FDI data with and without SPEs to the OECD, while Mauritius is disseminating the “of which” SPEs in its own publications).

9. The OECD publishes annual direct investment (DI) statistics for OECD countries, on assets/liabilities with and without SPEs, (i.e., one related to *all resident units* and the other related to *Resident Operating Units, i.e., excluding SPEs*). Two separate datasets covering DI data by partner are also disseminated: one by immediate counterpart (immediate investor or host), and another one by ultimate counterpart (ultimate investor or host), all with the breakdown “*All Resident Units*”, “*SPEs*”, and “*Resident Operating Units (Non-SPEs)*.”

10. Likewise, Eurostat is collecting two sets of DI annual data from its member countries, for transactions, positions, and income: one inclusive of SPEs and the other one without SPEs. Unlike the OECD, the data released by Eurostat are only by immediate counterpart.

11. While recognizing the pragmatic approach of disseminating data on SPEs related mostly to DI by both the OECD and Eurostat, it is important to note that while the majority of SPEs may be DI conduits, they do not necessarily impact only direct investment. On account of the large spectrum of their activities, SPEs can also be vehicles for portfolio investment, other investment; and their operations may also substantially impact the current account.

12. Notwithstanding the importance of separately identifying the transactions and positions of SPEs for analytical purposes, the IMF currently disseminates data in its ESS databases without a separate distinction of SPEs (i.e., their activities are embedded within the respective components of the balance of payments, international investment position (IIP), CDIS or CPIS).⁴

13. The IMF’s methodological advice and operational guidance has focused on the inclusion of SPE flows and positions in the ESS, with less emphasis so far on the need to separately identify them, except in economies for which they are important. Given this operational stance, the IMF has achieved limited success in producing and disseminating internationally comparable data sets on cross-border financial flows and positions of SPEs.

⁴ The present standard report forms used by the IMF for countries to submit balance of payments, IIP, CPIS or CDIS do not separately allow for distinguishing data related to SPEs.

14. In view of the diverse activities undertaken by SPEs and the rapid change in their business models (and even in their location), there may be an added advantage in disseminating comparable datasets across SPEs hosting economies, so as to improve the understanding of the size and impact of their activities. SPEs may not only distort the statistics of the economies where they are located, but also those of their counterpart (investing and/or investee) economies. Providing statistics that includes and excludes SPEs provides comparable and useful data for a wide range of analysis, including on balance sheet risks and spillovers.

15. Future initiatives may build on the work already undertaken by countries collecting cross-border data on SPEs. To cite a few examples, Hungary⁵ publishes on its website two datasets of balance of payments, IIP and FDI data, one including and one excluding SPEs. Netherlands⁶ publishes one dataset on balance of payments, IIP and FDI data, but clearly distinguishes data for “Special Financial Institutions” within each component. Austria⁷ is releasing balance of payments and IIP data providing separate data for FDI with and without SPEs; Austria also publishes annual FDI data by ultimate beneficial owner excluding SPEs.⁸ Among the well-known offshore jurisdictions, Luxembourg, Mauritius, and Seychelles are disseminating separately identified data on SPEs on their national websites.

III. CHALLENGES IN COLLECTING CROSS-BORDER DATA ON SPEs

16. While there has been a marked improvement in the reporting of ESS over the years by IMF member countries that host large numbers of SPEs, data gaps remain particularly but not only for offshore financial centers.

17. Several offshore financial centers do not report any ESS to the IMF (e.g., British Virgin Islands and United Arab Emirates); others participate in the CPIS but are not reporting balance of payments and IIP statistics (Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey).⁹ Some economies report ESS devoid of SPE coverage (e.g., Bahrain, Belize, Panama, amongst others), while others include SPEs only in selected datasets (e.g., Seychelles, which include SPEs in balance of payments and IIP but not in the CDIS).

⁵ <https://www.mnb.hu/en/statistics/statistical-data-and-information/statistical-time-series/viii-balance-of-payments-foreign-direct-investment-international-investment-position/balance-of-payments-international-investment-position/data-according-to-bpm6-methodology>

⁶ <https://www.dnb.nl/en/statistics/statistics-dnb/balance-of-payments-and-international-investment-position/index.jsp#>

⁷ <https://www.oenb.at/isaweb/report.do?lang=EN&report=9.1.01>

⁸ <https://www.oenb.at/isaweb/report.do?lang=EN&report=9.3.31>

⁹ To the extent that these countries report portfolio asset positions, it does suggest that there may be a mismatch in terms of investment of SPEs in the sense that while their liabilities can be sourced from direct investment flows, the assets may be of portfolio investment nature.

Canada, Ireland, Mexico, and United States might include SPEs in their ESS but do not report the separate figures on SPEs to OECD (or Eurostat).

18. The reasons for excluding these entities within the scope of ESS are diverse—lack of statistical capacity, unavailability of information due to the confidential nature of these entities, or unwillingness of the authorities to invest in data collection and compilation on SPEs due to the limited economic impact of SPEs on the domestic economies.

19. Collecting data on SPEs is a challenge for any economy. As indicated in the metadata produced by countries, in general, cross-border data on SPE activities are collected as part of the general balance of payments data collection framework—the case for Mauritius and Seychelles. Data on SPEs can be collected through surveys or from the administrative records of regulatory bodies.

20. On account of SPEs having little physical presence and few employees, the survey forms to collect the data are usually customized in consultation with the respondents and may draw largely from information available within the financial statements. In some cases, while incorporating the data in the balance of payments statistics, due to the limitations in the source information certain bold assumptions may be made: for instance, because of the large number of SPEs, countries opt for a sample survey that should supposedly provide sufficiently robust estimates; in other instances, countries adopt annual rather than quarterly reporting for (at least small) SPEs.

IV. FINAL REMARKS

21. For some countries, ESS are disseminated on the IMF's website inclusive of SPEs and without the possibility to distinguish separately their activity. In addition, for other countries SPEs data are not even covered in the statistics reported to the IMF, nor presumably in those published on national websites. Such data gaps hinder international comparability and give rise to bilateral discrepancies in the statistics published by different countries. Furthermore, analyzing global direct and portfolio investment data has become a challenge for users of cross-border statistics due to the significance of SPE activities and the inability to analyze them separately.

22. For economies that are not ready to collect and compile data on SPEs at this stage, the Committee may consider it important to devise a forward-looking strategy for collecting data on SPEs. For the key offshore jurisdictions that are not IMF members, the Committee may consider alternative arguments to persuade the authorities of the importance of compiling ESS that separately identify SPE activities.

23. As a step forward, exchanging country experiences may be essential. In particular, taking an inventory of the current data collection systems in place in all countries reporting

cross-border data on SPEs may bring in information and technical knowledge on how to approach SPEs as well as provide useful encouragement and guidance to other countries. Fostering co-operation and collaboration across national compilers is critical.

24. Central to compiling and incorporating the cross-border flows and positions of SPEs in ESS is the way the data are presented to users. Currently, the IMF disseminates external sector statistics, inclusive of SPEs. The separate identification of SPEs within ESS might however enhance the analytical value of these statistics.

Questions to the Committee:

1. *Do committee members see a need for stronger IMF involvement in assisting to further improve data in this area?*
2. *If so, would Committee members agree on the proposal to set up a BOPCOM task force to examine the need for developing broader initiatives to collect and disseminate internationally-comparable statistics on SPEs?*
3. *Provided agreement on the previous proposal, Committee members are encouraged to provide initial comments to the draft terms of reference included in Appendix II. Further comments can be provided through a written procedure following the Committee's meeting.*

Definitions and characteristics of SPEs as stated in *BPM6*, *SNA08*, and *BD4*

1. *BPM6* Paragraph 4.50: “Special purpose entities (SPEs) or vehicles, international business companies, shell companies, shelf companies, and brass plate companies are labels that are applied to flexible legal structures in particular jurisdictions, which offer various benefits that may include any or all of low or concessional tax rates, speedy and low-cost incorporation, limited regulatory burdens, and confidentiality. Although there is no internationally standard definition of such companies, **typical features of these entities are that their owners are not residents of the territory of incorporation, other parts of their balance sheets are claims on or liabilities to nonresidents, they have few or no employees and they have little or no physical presence.**”
2. *SNA 2008* Paragraph 4.56: “Such units **often have no employees** and no non-financial assets. **They may have little physical presence** beyond a “brass plate” confirming their place of registration. They are always related to another corporation, often as a subsidiary, and SPEs in particular are **often resident in a territory other than the territory of residence of the related corporations**. In the absence of any physical dimension to an enterprise, its residence is determined according to the economic territory under whose laws the enterprise is incorporated or registered.”
3. *BD4* Box 6.2: “An enterprise is usually considered as an SPE if it meets the following criteria:
 - i) **The enterprise is a legal entity,**
 - a) formally registered with a national authority; and
 - b) subject to fiscal and other legal obligations of the economy in which it is resident.
 - ii) **The enterprise is ultimately controlled by a non-resident parent, directly or indirectly.**
 - iii) **The enterprise has no or few employees, little or no production in the host economy and little or no physical presence.**
 - iv) **Almost all the assets and liabilities of the enterprise represent investments in or from other countries.**
 - v) **The core business of the enterprise** consists of group financing or holding activities, that is—viewed from the perspective of the compiler in a given country—the **channeling of funds from non-residents to other non-residents**. However, in its daily activities, managing and directing plays only a minor role.”

Terms of Reference of the BOPCOM Task Force on Compiling Data on Special Purpose Entities

BOPCOM TASK FORCE ON COMPILING DATA ON SPECIAL PURPOSE ENTITIES

Terms of Reference

I. BACKGROUND

The discussion during the recent Balance of Payments Committee (BOPCOM) meeting of October 2016 focused on the need to bring to the forefront international comparable cross-border statistics for Special Purpose Entities (SPEs). Important improvements have occurred during the recent years—the IMF has been promoting the collection of data on SPEs; several countries are separately identifying SPEs in their external sector statistics; and the OECD and Eurostat are releasing data with and without SPEs. Notwithstanding these positive developments, challenges still remain regarding (i) the collection of cross-border data on SPEs for several IMF members; and (ii) the suitability of existing IMF data reporting formats for analytical purposes. Given the larger outreach of the IMF, the BOPCOM members agreed that a task force (the task force hereafter) be constituted to examine the need for developing broader initiatives to collect and disseminate internationally-comparable statistics on SPEs, and so augment the work of other international institutions.

II. OBJECTIVES

The task force will have the primary objective of developing an appropriate IMF statistical strategy for addressing existing data gaps on SPEs, assessing the data collection approach and the need to disseminate internationally-comparable statistics.

Central to achieving this objective, the task force will examine the practices currently in place to collect cross-border data on SPEs. This will require an interaction with countries already compiling data with and without SPEs. The information obtained may allow in specifying statistical development targets for IMF members that are currently not collecting data on SPEs.

For those key offshore jurisdictions that are not IMF members but are currently participating in the IMF's Coordinated Portfolio Investment Survey, the task force may consider alternative arguments to persuade the authorities about the importance to produce ESS and separately identify SPE activities.

The task force shall equally propose a convenient way for disseminating comparable cross-border statistics, taking into consideration that data with SPEs when not separately identified may be misleading for analysis.

III. RULES OF PROCEDURE

The task force will meet and discuss by electronic means (i.e., mostly via email, while occasionally it can also hold video-conferences).

IV. PROPOSED COMPOSITION

The task force would comprise a few BOPCOM Members representing economies and international organizations ideally with an interest and relevant experience in the field, with the IMF chairing and providing secretarial support. Representatives from other non-BOPCOM member economies (e.g., offshore centers) may also be invited to participate in the task force.

V. TIMEFRAME AND DELIVERABLES

The work will take place during November 2016–August, 2017. The following deliverables and timetable are currently envisaged:

1. Progress report in mid-January 2017, outlining the work plan including timetable, actions and expected deliverables.
2. Final report submitted at the next BOPCOM meeting (draft report to be sent to the IMF by mid-September 2017).