A. Introduction

Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA's Consultation Paper "Draft Implementing Technical Standards on Supervisory reporting requirements for leverage ratio" issued on 07 June 2012.

DBG is operating in the area of financial markets along the complete chain of trading, clearing, settlement and custody for securities, derivatives and other financial instruments and as such mainly active through regulated Financial Market Infrastructure providers.

Among others, Clearstream Banking AG, Frankfurt/Main and Clearstream Banking S.A., Luxembourg, who act as (I)CSDs[1], are classified as credit institutions according to the respective national banking regulations and are therefore within the scope of the European Capital Requirements Directive (CRD).

Furthermore, Eurex Clearing AG as the leading European Central Counterparty (CCP) is also implicitly affected by the CRD as it is currently treated as a credit institution under German law and, as the future need for a banking license is currently also deemed necessary in the context of EMIR, it will most likely also be fully within scope of CRD in the future.

We have therefore prepared our comments with particular focus on the effects on our companies in scope of the regulations which are not comparable to the majority of other banks.

This paper consists of general comments (part B) and a part which contains our responses to the questions for consultation (part C).

[1] (International) Central Securities Depository.

B. General comments

We welcome and support EBA's general approach to include all ITS related to reporting requirements (Articles 95, 96, 383, 404 and 417 of CRR) in one integrated document. We also agree with EBA's statement that the grouping in one legal text facilitates a comprehensive view and completes the EU single rulebook (CRD IV) in the area of supervisory reporting.

In order to receive a comprehensive view of the combined and integrated ITS on regulatory reporting as envisaged by EBA, it is necessary that EBA publishes the current status of its (integrated) proposal for the comprehensive ITS for an additional consultation in due course. Only when the complete text is available the proper integration of the aspects can be evaluated. In this regard we also refer to our reply to EBA consultative paper EBA/CP/2012/05 on liquidity reporting.

In order to avoid a duplication of arguments we refer to the above mentioned reply also in more general terms as quite some of the arguments stated there also apply to the ITS proposal on leverage. Therefore the two replies should be read in combination. This applies inter alia for the need to clarify the "integration into COREP".

The CRD IV package will not be finalised before the end of October 2012 (most likely even later). As further changes to the CRD IV package are still possible we want to mention that a final assessment with regard to the leverage reporting is currently not possible. Also, the EBA itself declared that the finalisation of the ITS on supervisory reporting requirements has been postponed pending the adoption of the CRR by European legislators and that practical provisions for phase-in arrangements or elements of flexibility should be considered.

Moreover, an appropriate time frame for implementation should be provided after the publication of the final ITS. Since software providers are already not able to keep up with the current flood of regulations (drafts for reporting solutions are still missing) and due to the associated implementation efforts we estimate a a necessary and reasonable time frame of at least 12 - 18.

C. Responses to the questions for consultation

Q1: Do institutions agree with the use of existing and prudential measures? Is there additional ways to alleviate the implementation burden?

The main features part of the ITS states that the reporting of the leverage ratio is - to the extent possible - based on existing accounting and prudential measures already used for determining own funds and minimum own funds requirements. We understand, that this is the intention of the ITS. However, the legal text of CRR and the proposed ITS is not clear on this.

In our opinion, such clarity is however necessary in order to avoid uncertainty and on-going discussions in the future as well as differing implementations and uneven level playing fields. Besides, we disagree to the approach as indicated by the formulation of the question which deviates from the approach outlined in the main text of the CP, which we generally support. Current regulatory standards for own funds / solvency reporting rely in principle on the accounting value. In case certain items require a prudential treatment different form the accounting treatment, this is explicitly regulated. For solvency / own funds reporting the general usage of accounting data is clearly regulated in CRR. Article 94 CRR states that the valuation of assets and off-balance-sheet items shall be effected in accordance with the relevant accounting framework. This is defined in Article 4 (53) CRR as the accounting framework to which the institution is subject under regulation (EC) No 1606/2002 or Directive 86/635/EEC. Beside this general rule specific rules apply e.g. for the handling of collateral, for off balance sheet items, for trading book positions etc. However Article 94 CRR is systematically not valid for the leverage ratio. In line with the EBA intention (at least as we understand the question above beyond its literal phrasing) we feel that an equal treatment as for solvency / own funds reporting should also apply for leverage ratio (and liquidity reporting). This would follow the principle to generally use accounting figures but deviate in case CRD / CRR (level 1 text only) explicitly require a different treatment.

We therefore propose to include a clarification in the ITS (in our opinion best placed in the definitions of Article 2) that the reporting is in general based on the relevant accounting framework – if not explicitly stated otherwise in CRR and to refer in that regard to Article 94 CRR as being applicable in general and is not limited to solvency / own funds reporting (alternatively EBA should reach out to the political process to get this integrated into CRR as part of the technical trialog).

While a clarification related to the basis for the numbers to be used for reporting purposes is very useful, it does not reduce implementation burden in general but it does eliminate uncertainty. However, as this is current market interpretation anyway, this will not change implementation burden compared to expectations. Contrary, in case a different route would be implemented, this would create a

mess with regard to implementation possibilities and increase implementation time, effort as well as operating cost and complexity.

Taking our general concerns regarding the timing for finalisation of the legal framework and the necessary implementation time into account, anything else then a deferral of the introduction of the reporting obligation will not solve the real problem.

However, we would like to outline possible ideas to ease the implementation efforts:

- One option to alleviate the implementation burden could be a stepwise introduction of the collection of data. In a first step at least for the first 12 month only the absolute minimum of data should be requested. Any extended reporting should be postponed to a later point in time.
  In order to allow a phase in for the banking industry, there could be options to allow full reporting at an earlier point in time (even from the beginning) for those banks, which are ready (therefore can avoid to implement stepwise). In order to do so, two sets of reports need to be set up, which should in the introduction phase be used alternatively. Once the interim phase is completed, the simple one needs to be decommissioned. Taking our proposal into account, it needs however to be recognised that this is increasing the workload for software providers and competent authorities and is increasing the overall implementation effort for the banking industry. Therefore this proposal cannot be anything else than a second best solution.

- A second option would be to start with the introduction of a "quarter end"-solution only and to shift to a monthly-average reporting at a later point in time.

- As a third option, we propose to generally reduce the amount of information requested. Quite some information is available via the COREP reporting and even if this is (a) for quarter end only and (b) not linked to the line items of the leverage reporting to the full extend, we clearly favour a more streamlined approach for leverage ratio reporting.

- As a fourth option we ask to clarify the way on how to derive the monthly average. The average can be derived by monthly calculating the ratio and then calculate the average of the ratio or by calculating the average of the basic data and to calculate the ratio based on that data. The second approach has the advantage that only the basic data need to be extracted and stored and calculation needs to be performed only on quarter end. This would reduce implementation and operating efforts.

- As a final option we suggest to calculate the leverage ratio and its main components on the requested monthly average while reporting any additional data on quarter end basis only. (see our reply to question 2 below)

According to CRR, the leverage ratio has to be calculated as the arithmetic mean of the monthly leverage ratios over a quarter. This leads to a significant increase in operational efforts, as the monthly data is exclusively collected for the calculation the leverage ratio and does not serve any other regulatory purpose. Moreover, many of the requested data in the EBA proposal are for information purposes only and have – at this stage – no direct impact on the level of the leverage ratio. Therefore, we strongly recommend avoiding the reporting of data that is not absolutely necessary at a first stage.

In addition, the proposed templates do in many places contain data which can be derived from COREP templates for solvency / own funds reporting (of course for quarter end only). For example, the general remarks in the CP to LR 3 "Risk weighted exposures" explicitly state that the information to be reported in this table can be obtained directly from the corresponding COREP tables. The same applies for LR 5 "Capital and calculation of the leverage ratio" as the capital disclosure templates in the COREP framework already consider the transitional and fully phased-in definition of capital. For the sake of reducing implementation and reporting burden, we propose to take out such data in the leverage reporting templates.

Q2: Do institutions already have the data required under this proposal on a monthly basis? If so, is this data of the required standard similar as other data reported to supervisory authorities?

Of course quite some of the information is available for monthly accounting / controlling purposes and – at least on the single entity level – also for regulatory reporting purposes.

However, the availability of some data for specific purposes does not mean that (a) it is available in the respective format to be reported / calculated for solvency / leverage purposes, (b) the quality is assured for other purposes and (c) the respective data is available on a consolidated level. Taking into account the proposed time frame of around 45 calendar days to prepare CORPEP, one can imagine how difficult it would be to do this work on a monthly basis in parallel. The proposed timeline for COREP seems to be reasonable which indicates that a monthly calculation for deriving a quarterly average is seriously problematic. Taking into account the additional burden of (especially consolidated) monthly liquidity reporting this demonstrates that the data in the required form can most

likely not be produced on a monthly basis with reasonable (additional) resources and cost and in the desired quality.[2] This is in particular true due to the requested linkage with solvency / own funds reporting data. This once more underlines our position stated above with regard to the level of data granularity. The usage of the basis data to calculate the leverage ratio preparation of balance sheet data only on the monthly basis reduced the requirements for the monthly data / calculation massively. These data (at least on a stand alone level) should be available to a large extend. With regard to consolidated figures it at least reduces the existing gap.

Q3: The same timelines are proposed for reporting on a consolidated level as well as on an individual level, is this seen as problematic? If so, would you propose a different timeline for reporting on a consolidated level?

We do not see having the same timelines for single entity and consolidated level as problematic. However, we cannot see that both will be prepared with the same processes and timing. In our processes we would first produce the stand alone figures and then the consolidated ones. However, as already stated in our comments on CP 50, others do it the other way around. In any case, both time spans need to be sufficiently long. For plain leverage ratio figures we assume that 45 calendar days are sufficient for both levels. In case the level of detail is maintained as proposed in the CP and taking the other reporting obligations like COREP, FINREP and Liquidity reporting into account, 45 days might be challenging.

In general we also refer to our comments made in our reply to CP 50.

Q4: What additional costs do you envisage from the proposed approach to reporting the leverage ratio in order to fulfil the requirements of the CRR outlined in this ITS?

It is not possible to estimate an explicit amount of additional costs due to the proposed reporting on the leverage ratio. Reporting under CRD IV rules need to be implemented within one comprehensive implementation project. The overall costs are depending on business model and to a large extent on final rules and given implementation time. It also depends on the need to implement interim solutions and the national implementation for data transmission. As inter alia the data model is not available, any cost estimate would not be reliable.
However, we want to mention that the increasing costs for regulatory reporting and publication as well as the uncertainty of the underlying rules and the too short periods for implementation are adding operational risk to the banks. Even

[2] Increase of resources will also not solve the problem as this will lead to a decoupling of processes for leverage ratio and COREP and will create quality and consistency issues.

today, the preparation of such figures has to be made under time pressure using capacities of staff which is increasingly difficult to hire due to market conditions.

Finally, the new reporting requirements put an additional burden exactly on those resources within the regulatory departments, that have already exceeded their maximum capacity as a result of the on-going discussions in the legislative process for Basel III, CRD IV and its additional implementing rules (like EBA technical standards) as well as national laws and regulations. Furthermore, it needs to be recognised that the labour markets for regulatory specialists is dried up which is tightening resource shortages in line with increased requirements.

Questions from Annex II:

Due to our portfolio structure the matters in question 5 to 13 do not apply to DBG. Therefore, we will not comment on these questions.

Alternative decomposition of leverage ratio exposure measure components in template LR6

Q14: Is the classification used in template LR6 sufficiently clear?

We wonder why the column "RWA" is proposed by the draft ITS. According to the instructions provided in Annex II, the RWA amount applies to all fields and shall take into account value adjustments, provisions, conversion factors and the effect of credit risk mitigation. In respect to the calculation of the leverage ratio – as an arithmetic mean of the monthly leverage ratios over a quarter – we do not see any sense of reporting RWA amounts in LR 6. In addition, the data required are already available in the COREP templates for credit and counterparty risk (SA and IRB). Therefore, we kindly ask for a deletion of template LR6.

Q15: Do you believe the current split, which is predominantly based on the exposure classes for institutions using the standard method are appropriate or would you suggest an alternative split?

We refer to our general remarks in section B and our reply to question 1 and 14 and propose to delete this link to COREP.

General information in template LR7

Q16: Is the classification used in template LR7 sufficiently clear?

Although the provided classification is principally clear, we ask for a more detailed classification in field {040, 1} – "Institution type", as none of the categories provided seems appropriate for classifying our business. From our

point of view, additional classifications such as "special bank" or simply "other" is necessary.

As template "LR8: Asset encumbrance" is not considered by any question, we want to comment at this point. The link to Article 52(4) of Directive 2009/65/EC is suboptimal for defining "Assets pledged for covered bond purposes" (Annex II). As only sentence 2 of Article 52(4) is relevant for the definition of assets pledged for covered bonds, we propose to specify the reference in the final ITS and to establish a link to CRR which in turn establish the link to Article 52(4) of Directive 2009/65/EC.
Furthermore, also the title in row 30 "Assets pledged for repo and other securities lending activities" is unclear (legally not precise) and needs to be sharpened. Collateralisation of repo style transaction is in principle done by transfer of title (and not via pledge). This is also frequently the case in securities lending transactions . Furthermore, repo style transactions are legally not securities lending transactions. We therefore propose to take out the "other" in the title. The column should therefore be labelled more neutral like "Assets given as collateral for repo and securities lending activities".

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We hope that our comments are useful in the further process and considered in the further process. We are happy to discuss any question related to the comments made.

Eschborn,

27 August 2012

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