

“Draft Regulatory Technical Standards On Classes of instruments that are appropriate to be used for the purposes of variable remuneration under Article 94 (2) of the Capital Requirements Directive (CRD) (EBA/CP/2013/32)”

## General comments

Deutsche Börse Group (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 with regulated Financial Market Infrastructure providers.

Among others, Clearstream Banking S.A., Luxembourg (CBL) and Clearstream Banking AG, Frankfurt/Main (CBF), who act as (I)CSD as well as Eurex Clearing AG as the leading European Central Counterparty (CCP), are classified as credit institutions and are therefore within the scope of the European Capital Requirements Directive (CRD) and Capital Requirements Regulation (CRR) which transpose i.a. the Basel III rules into European law. Clearstream subgroup is supervised on a consolidated level as a financial holding group.

In general we do not have detailed comments to the consultation paper or the raised questions due to the fact that within our affected companies “other instruments” according to Article 94 (1)(I)(ii) CRD are currently not used for variable remuneration purposes and it is up-to-date not contemplate to use such instruments.

However, in the context of the general requirements and guidelines on variable remuneration the regulatory preferred instrument should be shares listed on a recognised market or share linked instruments issued by the institution or an entity included within the consolidated group regardless of their quality (common shares, preferred shares, etc.).

These shares or share linked instruments transparently and adequately reflect the individual risk profile of the relevant institution or group of institutions and ensure that the affected persons (management body, risk takers etc.) act in the daily business in line with the “owner-like position”.

In practice an institution could be part of a regulated or non-regulated group of companies. In group structures, especially when full ownership along the holding chain is in existence, the shares of single entities other than the mother company are not publicly listed. The value and risk of any subsidiary and therefore implicitly also its credit quality are nevertheless reflected within the price of the shares of the mother company. Therefore, in general the shares of the mother company listed on a recognised market or share linked instruments related to these shares are used for variable remuneration

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purposes also of the persons (management body, risk takers etc.) of the concerned institution.

As the mother company might be outside the scope of supervisory consolidation the linkage of the remuneration to the shares of the mother company nevertheless should be feasible.

We would appreciate that within this RTS or outstanding further standards in connection with variable remuneration a clarification would clearly state that shares listed on a recognised market or share-linked instruments (independent of the equity category) of a mother company whether regulated or not could be used as variable remuneration, provided that there is a link between the credit quality of the institution using these instruments for the purpose of variable remuneration and the credit quality of the issuer of the instrument. As still stated in that “Draft Regulatory Technical Standard” this is assumed to be usually the case between a parent undertaking and a subsidiary.

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We hope our comments are seen as a useful contribution to the general discussion on variable remuneration and final issuance of this RTS is reflecting our comments made.

Eschborn

29 October 2013

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