A. Introduction

Deutsche Börse Group welcomes the opportunity to comment on EBA's Consultation Paper "Draft Implementing Technical Standards on Disclosure for the Leverage Ratio under Article 451 (2) of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR) (EBA/CP/2013/41)" issued on 24 October 2013.

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 and Clearstream Banking AG, Frankfurt/Main, who act as (I)CSD[1] 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.

This paper consists of general comments (part B), technical issues (part C) and responses to the questions for consultation (part D).

B. General comments

In general we reject the concept of the leverage ratio but in particular the migration to a pillar I limit as we see a variety of negative and misleading implications caused by the leverage ratio framework (see our statement in the BCBS consultation on revised leverage ratio framework and disclosure requirements under http://www.bis.org/publ/bcbs251/deutschebrsegro.pdf). The leverage ratio will lead to higher risk appetite of institutions due to not considering different degree of risk on investments as it is the case in the solvency regime. It appears that the leverage ratio will not be a supplementing back stop risk measure but the primary capital constraint.

Further low margin and/or low risk business is dis-incentivised by the current leverage ratio framework which also leads to a higher risk appetite of institutions as institutions must achieve return on equity figures with reduced nominal.

---

[1] (International) Central Securities Depository

Irrespective of our rejection of the leverage ratio concept as such we in addition oppose to the structure of the Draft Implementing Technical Standard (ITS) as the document is hardly readable even for experts. The content is mainly described by an overwhelming number of cross references and very technical terms which is not supporting usability and acceptance. The ITS must be understandable in an appropriate "legal" language which properly describes the context in full description to grant reliance. Per-se we are convinced that the rules as such must appear in the text of the ITS itself and not via the description of dedicated cells in the annexes. We kindly ask EBA to adjust the document in that direction in order to have it readable independent of its annexes[2]. In addition we reject the requirement to disclose derivative positions in the intended level of granularity as there is no added value but additional costs. The amount of disclosed data is reaching a level which is inflating. The public and the financial markets do not gain any benefit on these additional disclosed information.

However, in order to comply with the regulation and despite of our general opposition to the framework the templates seem to be more or less appropriate for the disclosure of the leverage ratio (see our comments below for some necessary adjustments).

C. Technical issues

We already raised in various other consultations including our comments in the recent BCBS consultation our opposition towards a forced reconciliation with the published financial statements in any case. There are cases where in line with the EU law sub-consolidated accounts for regulated groups are neither set up nor published. It is our opinion there must be no leverage ratio reconciliation to statutory accounts in case such statutory accounts are not issued on the relevant sub-consolidated basis at all. We assume in such a case that the figures for statutory accounts shall be left empty. In order to prevent any misunderstandings we kindly ask the EBA to explicitly specify the treatment. DBG is expecting that only published financial statements must be reconciled with the leverage ratio in the leverage ratio disclosures.

Beside our general concern of the leverage ratio framework we see a variety of open issues on the Basel level which need to be solved in order to make the leverage ratio usable to the extent acceptable. We want to use the opportunity of this consultation to address our concerns on these technical

[2] However we do not oppose to have additional explanations and specific details brought to the annexes.

issues, although we are well aware of the fact that in most cases the EBA is not the right address. Nevertheless in case EBA shares some of our concerns it should raise the topics to the Commission in the expected process of adjusting the leverage ratio framework. This follows Article 511 CRR as well as the recently published revised leverage ratio framework by the Basel Committee (BCBS #270) which is to be mirrored in EU rules. Following (most relevant) issues exist:

- We see a discriminating effect of the leverage ratio framework for collateralised positions in comparison to fully un-collateralised ones, as it is described in paragraph 33 in the "Basel III leverage ratio framework and disclosure requirements". In such a case an un-collateralised loan of 100 mn € has a lower exposure measure (100 mn €) than an under-collateralised SFT in the same amount where only 90 mn € are collateralised (100 mn € plus 10 mn € = 110 mn €);

- The treatment of derivatives in the leverage ratio framework is not sufficient. The Basel Committee proposed in the revised framework the Current Exposure Method (CEM) for calculation of the exposure measure of derivative positions. We strongly support the Non Internal Model Method (NIMM) as collateralisation is considered more accurately and centrally cleared business does not lead to an extraordinary exposure measure for the clearing house (in case the clearing house is also in the scope of the leverage ratio due to additional banking services). We therefore support to use the general "opening" clauses of the BCBS to possibly change the method used when a more adequate method is available.

D. Responses to the questions for consultation

In general we want to mention that the ITS is hardly readable, even for experts, as the ITS is not specifying the intended conduct in writing in the respective articles but refers very often to annexed tables etc. Mentioning specific cells and the related regulatory specification does not seem to be an appropriate alternative and is not increasing the overall acceptance of the leverage ratio in the financial industry.

In the following we respond to question 1 to 4:

1. Are the provisions included in this draft ITS sufficiently clear? Are there aspects which need to be elaborated further?

In general the provisions set in the draft ITS seem to be sound. Nevertheless we want to bring a couple of topics to the EBA's attention. As already mentioned above the ITS is hardly readable. Although this is not a unique problem of this ITS compared to other recently published regulatory texts including CRR itself the currently proposed draft ITS is one of the worst examples (especially Article 2, 4 and 6). The questions to this consultation clearly underpin our criticism above. Two out of four questions relate to the disclosure content by reference to the annexed templates only.

In Article 7 of the ITS it is required to disclose various qualitative information on risk of excessive leverage and factors impacting the leverage ratio. Although the requirements are specified in the Annex we ask for further guidance what level of detail is required and what format shall be used.

We also want to stress once more the needed exemption for reconciliation with statutory accounts in case such (sub-consolidated ones) do not exist!

2. Are the instructions provided in Annex II on the balance sheet reconciliation of LRSum sufficiently clear? Should the instructions for some rows be clarified? Which ones in particular? Are some rows missing?

In Annex II Part II 1. Table LRSum Point 3 (a) on page 21 of the ITS it is stated that the institutions shall complete all values in column 010 based on the consolidated or sub-consolidated scope under the applicable accounting framework. We ask for further specification that this is only relevant in case statutory accounts are issued. In case no statutory accounts are issued it is

our understanding that no leverage ratio must be disclosed (see section C of this response).

In cell (1; 010) it is stated that cash received must also be included. Cash received is not an asset but a liability and therefore must not be included. These collaterals would be double counted as the correspondent amount of the received cash is shown on the asset side of the balance sheet and therefore included. We kindly ask the EBA for clarification.

3. Are the instructions provided in Annex II on the breakdown of leverage ratio exposure of LRCom and LRSpl sufficiently clear? Should the instructions for some rows be clarified? Which ones in particular? Are some rows missing?

In Annex II Part II 2. Table LRCom (1;*) on page 23 of the ITS on-balance sheet items (excluding derivatives and SFTs) are covered. In the first sentence in the respective description below we propose to cover “all on-balance sheet assets as defined in Article 429 CRR” (especially excluding fiduciary assets) instead of “all assets”. Again we state that received cash must not be included as it is not an asset but a liability (see argumentation in Question 2).

For the cells (EU-10a; *) and (EU-10b; *) we ask for further indications what kind of transactions are exactly included. The mentioned Articles 220 and 222 in the CRR are not particularly discussing certain kind of transactions but describe various methods to assess exposures. It could be derived that (EU-10a; *) is covering deals with a master netting agreements and (EU-10b; *) is covering deals assessed via the Standardised Approach, nevertheless as these kinds of transactions are not mutually exclusive this interpretation can not work. Therefore we kindly ask for further specification.

The information to be disclosed in Table LRSpl is not necessary from our perspective. All these information are already disclosed out of the pillar III requirements for solvency (article 437 CRR) and therefore a duplicated disclosure most likely in the same disclosure report. The burden for disclosure would be further enlarged without adding additional information. We kindly ask the EBA to reconsider the necessity to disclose the information in LRSpl. Especially the cells (EU-31; *) and (EU-32; *) have nothing to do with the leverage ratio. The disclosure of the leverage ratio should not be used to impose disclosure requirements which are not related to the leverage ratio as such. We therefore propose to drop table LRSpl completely in the leverage ratio disclosure context.

4. Our analysis show no significant impacts incremental to those caused by the provisions in the CRR and CRD IV are likely to materialise. Do you agree with our assessment? If not please explain why and provide estimates of such impacts whenever possible.

From our perspective it is not entirely clear what analysis is meant. Per-se as we already stated in the introduction we see several issues with the leverage ratio as it is defined by the Basel Committee (revised version), but also with the European transposition as it covers the Basel framework to a large extent. The whole framework leads to an enormously increased operational effort for institutions in a field where resources are already rare. The required granularity of data, especially the off-balance sheet positions would be challenging for a variety of institutions forcing them to adjust their data household.

Further in Article 7 of the ITS it is required to disclose various qualitative information on risk of excessive leverage and factors impacting the leverage ratio. Although the requirements are specified in the Annex we ask for further guidance what level of detail is required and what format shall be used. Otherwise comparability of disclosed information is not given and therefore pointless.

***

We hope our comments are seen as a useful contribution to the discussion and final issuance on the respective ITS is reflecting our comments made.

Eschborn

24 January 2014

Jürgen Hillen Matthias Oßmann