A. Introduction

Deutsche Börse Group welcomes the opportunity to comment on EBA’s Consultation Paper “Draft guidelines on disclosure of encumbered and unencumbered assets (EBA/CP/2013/48)” issued on 20 December 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) and responses to the questions for consultation (part C).

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[1] (International) Central Securities Depository

B. General comments

We support the regulators intention to take asset encumbrance into account as it is affecting institutions ability to incur liquidity. The implementation of the CRD IV / CRR package is challenging the financial industry in the recent three years and will bind a substantial amount of resources (human and financial) for the foreseeable future. Therefore we encourage the EBA and national competent authorities to ease implementation burden whenever possible.

Regulators should not impose nice-to-have reporting- or disclosure requirements from institutions. For every cell that has to be reported or disclosed implementation efforts are required and their necessity for a well functioning financial market should be challenged and in case not absolutely necessary skipped to the time being. Taking into account all currently intended reporting and disclosure requirements the financial industry is facing a situation where information are overflown the financial market participants. In the recent months a variety of disclosure standards were up for consultation (e.g. disclosure requirements on leverage ratio). We refer to our comments there which clearly stated that the intended framework is not appropriate and too burdensome associated with only minor benefit for regulators or the public.

In general we agree with the proposed template for asset encumbrance disclosure. Nevertheless we miss a specification of every single disclosure cell as it is provided for reporting templates.

In addition we detected a high level of uncertainty and different opinions across market participants and software providers what is the actual base of the asset encumbrance reporting and disclosure. Therefore we ask for a specification whether statutory (e.g. local GAAP, IFRS) or regulatory figures shall be used.

Further the source on encumbrance is also requested in Template C. In this context we ask for specification about the definition of source of encumbrance and how the source of encumbrance can be determined.

C. Responses to the questions for consultation

In the following we respond to question 1 to 9:

1. Should the disclosure information on encumbered and unencumbered assets, in particular on debt securities, be more granular and include information on, for example, sovereigns and covered bonds? Please explain how sensitive the disclosure of this information is.

From our perspective we do not see the necessity to increase the granularity on disclosed information on encumbered and unencumbered assets. Actually we consider the proposed granularity as too high. We understand the necessity to report these figures to competent authorities to have them informed about the level of encumbered assets and the distribution per asset class, but disclosing all these figures to the public has no positive effects.
Therefore we strictly refuse the proposal to split asset classes into sub classes as the burden to implement the CRD IV / CRR requirements would even be increased in an environment where resources are rare already and reporting deadlines tight.

2. Should the disclosure information on encumbered and unencumbered assets also include information on the quality of these assets? What would be a suitable indicator of asset quality? Please explain how sensitive the disclosure of this information is.

No. The quality of assets and with that respect the liquidity and marketability are already covered via the LCR regime. In the LCR regime assets must meet a variety of very strict conditions to be considered "high liquid" or "extremely high liquid". Institutions are required to cover their outflows reduced by their capped inflows (net cash outflows) by a sufficient stock of those high liquid assets. Therefore regulators and the market participants are well informed whether an institution holds asset in a quality that is marketable. In case regulators are of the opinion that the level of asset quality etc. shall be disclosed on a granular level this should be performed via the disclosure of the LCR but not on asset encumbrance.

3. Do you think that the disclosure required in Template A could lead to detection of the level and evolution of assets of an institution encumbered with a central bank, given that the information should be disclosed based on median values (see paragraph 7 below) and the lag for disclosure is no more than 6 months (see paragraph 10 below)?

No, we do not think that the disclosure required in template A leads to detection of the level and evolution of assets of an institution encumbered with a central bank.

4. Should the disclosure of information relating to the 'nominal amount of collateral received or own debt issued not available for encumbrance' on unencumbered collateral be requested? Please explain the relevance of this information for market participants and the sensitivity of the disclosure of this information.

The nominal amount should not be requested as it is a misleading number. The information of asset encumbrance is gathered in order to receive information about the amount that can be liquidated within a certain period of time. In this context the nominal of a financial instrument is regardless as the market value is the only valid number which should be taken into account.

5. Do you agree with the proposed granularity of Template B given that collateral swaps with central banks will not be disclosed? Please explain how sensitive the disclosure of this information is.

No comment.

6. Do you think that the information on the sources of encumbrance in Template C is too sensitive to be disclosed? Should this information be disclosed in Template D instead (as narrative information, as set out in paragraph 8 below)? Please explain the relevance of this information for market participants and the sensitivity of the disclosure of this information.

The granularity does not seem to be too high as it consists of 4 categories (rows) and 2 cluster (columns). Nevertheless it did not came across to us what is actually meant with these cells. We miss a specification what cells shall be filled with what items in detail. The description in the template on an isolated basis is not sufficient to give a valid statement.

7. Should the information be disclosed as a point in time (e.g. as of 31 December 2014) instead of median values? Please explain why.

For this question it must be considered that on the one hand median values are more reliable as institutions may not boost their figures on a certain point in time and on the other hand that ratios calculated for a certain point in time are demanding lower efforts for institutions. As already mentioned above the implementation effort needed for the CRD IV / CRR rules are high enough and

every decision to provide relief is highly appreciated by market participants. In addition the level on encumbered and unencumbered assets is not volatile in a way that a snap shot couldn't be used to inform financial market participants. At least for a transitional period it makes sense to rely on data calculated on a certain point in time. If required or desired this can be switched to median values later on.

8. Do you agree with the proposed list of disclosures under narrative information in Template D? Should the guidelines explicitly state that emergency liquidity assistance by central banks (ELA) should not be disclosed?

What list is meant here? With the information provided we cannot give a statement on this question.
Nevertheless we agree that the ELA should not be disclosed as it is a facility/line and not an asset.

9. Do you agree that the disclosures should be published no later than six months after the publication of the financial statements? Do you consider a time lag of no more than six months sufficient to ensure that the information disclosed will not adversely impact the financial stability of markets and institutions?

We agree with 6 months in case a certain point in time must be disclosed. In case median values must be disclosed the implementation and operational efforts are higher and therefore a longer period is needed.

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

Eschborn

19 March 2014

Jürgen Hillen Marc Barte