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Mr. Adam Farkas
Director General
European Banking Authority
Tower 42
25 Old Broad Street
London EC2N 1HQ

Dear Mr. Farkas,

Deutsche Bank's response to the European Banking Authority's Consultation Paper on draft Guidelines on disclosure of encumbered and unencumbered assets (EBA/CP/2013/48)

We welcome the opportunity to comment on the European Banking Authority's (EBA) consultation. We strongly support work at the EU and global levels to find greater harmonisation in disclosure of asset encumbrance. In the Annex to this letter, you will find our responses to the specific questions in the consultation document, and a brief point about potentially duplicative requirements across the new IFRS 12 requirements and what is being proposed by the EBA. We would additionally like to emphasise that:

- Disclosure requirements should be a balance between providing investors with manageable, useful information and avoiding disclosures that provide additional complexity for little benefit.

- Disclosure of position sensitive information that could distort markets must be avoided.

- Definitions and the group level at which disclosure should be carried out should be aligned with requirements for the Liquidity Coverage Ratio. This can only be legislated for once discussions about the waivers provided for in the Capital Requirements Regulation are complete.

- Whilst we appreciate the EBA has attempted to minimize duplication and align these requirements as much as possible with existing requirements, it seems that updates to IFRS12 have not been taken into account. We believe that taking the updated rules unto account would help to alleviate further overlaps and duplication.

We would be very happy to discuss any of the points in our response in greater detail,

Yours sincerely,

Andrew Procter
Global Head of Compliance, Government and
Regulatory Affairs

Annex

Responses to specific questions

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.

We believe that the current level of disclosure is sufficiently detailed. Disclosure at a more granular level is unlikely to provide information that is useful to many investors and would require a significant amount of bank resources to complete. Generally, more sophisticated investors will speak directly with bank investor relations departments should they wish to understand about specific products in more detail.

The only area where we believe there could be some benefit would be in the area of debt securities as this is such a broad category. As we suggest in our response to Question 2, we believe that the best way to capture this category in greater detail would be to align with the Liquidity Coverage Ratio (LCR) disclosures and the definitions of High Quality Liquid Assets (HQLA) used therein.

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.

Quality is a subjective term. Although credit ratings could be used as an indicator of quality, they might not be a reliable indicator. For example a BB rated senior unsecured US corporate bond is more liquid than a BBB rated Emerging Market government bond. In a solvency scenario, the liquidity of the bond that's important.

An option which would provide a better view of the practical benefits of different assets would be aligning with HQLA definitions under the LCR. This would help ensure consistency as well as a basis in observable liquidity traits.

We would also urge the EBA to consider that under some circumstances overly granular disclosure could not only mean disclosing position sensitive information, but for weaker banks could in fact trigger a liquidity crisis. To avoid this, we believe that the disclosure should be restricted to high level asset classes.

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 of Title II) and the lag for disclosure is 6 months (see paragraph 10 of Title II)?

Although Annex I does not differentiate between secured funding from central banks and from the private sector, we believe that if it was generally known that a bank was dependent on central bank funding, the level of assets encumbered with the central bank could be calculated.

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.

We do not see the relevance of nominal values for securities in this context. If a bank needed to raise liquidity by increasing secured funding of its previously unencumbered assets, funding could only be raised up to the market value amount (subject to a haircut).

Furthermore, having a 'nominal amount of collateral received or own debt securities issued not available for encumbrance' as one category does not make sense – they are two different things.

Finally, it is not clear to us what the value in disclosing 'own debt securities issued not available for encumbrance' is? We would appreciate clarity from the EBA on what the aim of capturing this information is.

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.

Overall the granularity is fine, however we believe that cell 070 should be removed – the unencumbered nominal values are not relevant and we do not see any value reporting in reporting them. As per Question 4, we urge the EBA to strike the right balance between addition compilation and reporting burden, and the actual benefit investors would get from such disclosure.

As mentioned in our response to Question 1, there is a case for more granularity in disclosures around debt securities. Should the EBA decide to pursue this, the disclosure should be aligned to template A to make the form consistent.

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)? Please explain the relevance of this information for market participants and the sensitivity of the disclosure of this information.

We do not believe that this information is highly sensitive when information on how much encumbrance an institution has already been disclosed.

We would appreciate a better understanding of why repo, secured loans and short positions have been excluded? These will likely make up the largest number of encumbered assets for most banks. Not including them in the disclosure makes the usefulness of the information questionable.

In our view it would be less onerous to disclose based on a text format (Template D). We would like to point out that we find this template to be simpler to work with, and a considerable improvement over the templates banks were asked to complete in December 2012 and June 2013.

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.

We believe that there are significant advantages to using point in time disclosures rather than median values.

If relying on median disclosures, investors will not be able to meaningfully tie these back to the balance sheet. Quarterly reporting based on quarter end balance sheets would provide a more meaningful view and keep the disclosure consistent with other year end disclosures.

Using median values would create significant work to calculate and disclose and would not provide any extra clarity.

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?

No, it is our view that the recommendations are overly subjective, open to interpretation, and hence not comparable between institutions.

As with reporting in other areas of liquidity reporting and disclosure, we strongly believe that this should be done at group level. Encumbrance between entities within a group is not of relevance for readers of the disclosure who would be more interested in the group position.

Once the LCR waivers have been legislated for as per the Capital Requirements Regulation, it would make sense to align the level of asset encumbrance disclosure with the level of LCR reporting.

As we have mentioned in previous responses, we have concerns about encumbrance resulting from the use of state emergency liquidity assistance not being disclosed. Our concern is this leads to firms using emergency assistance appearing better-placed than potentially stronger banks operating through normal market funding.

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 believe that the indicated publications timings are sensible.

Potential Duplication

We appreciate the effort the EBA have made to align these requirements with existing definitions and requirements under IFRS and the EDTF. However, we do not share the view expressed in the consultation document that the IFRS disclosure requirements fail to provide a comprehensive picture of encumbered/unencumbered assets.

This statement appears not to consider the new disclosure requirements in IFRS 12. IFRS 12 requires an entity to disclose significant restrictions (statutory, contractual and regulatory) on its ability to access or use assets and settle liabilities of the group.

IFRS 12 also requires an entity to quantify and disclose the carrying amounts of assets/liabilities to which the restrictions apply. Most Banks complied with this new disclosure for the first time for the year end 31 December 2013. The banking industry has interpreted IFRS 12 restricted assets to be equivalent to encumbered assets introduced by EDTF.

We therefore suggest that the EBA considers the new information disclosed under IFRS 12 and whether the information needs of the user are already met. This would further avoid having duplicative information provided to different bodies.

Proceeding with the indicated disclosure, firms will be required to provide duplicative or inconsistent information to comply with the IFRS 12 'restricted assets', EDTF asset encumbrance and EBA asset encumbered information. Although the format of the information may be slightly different under each disclosure, we believe that the key concept behind each disclosure is the quantification of the assets that cannot be used freely across the group. We therefore encourage the standard setters and the different regulatory bodies to work together to come up with one disclosure requirement that will provide the necessary information to the reader of the accounts.