Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA’s consultation
paper “On the draft regulatory technical standards on disclosure of information in relation to the compliance of institutions with the requirement for a countercyclical capital buffer under Article 440 of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)
- EBA/CP/2014/11 - issued on 27 June 2014.

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[[1]](#footnote-1) as well as Eurex Clearing AG, Frankfurt/Main (ECAG) 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). The Clearstream subgroup is supervised on a consolidated level as a financial holding group. We are obliged to report on German-GAAP as well as on IFRS for different entities within our group.

As financial market infrastructure provider our clients are mainly institutions. Moreover, due to our business model as well as our limited and own investments we nearly exclusively have
exposures against institutions and governments.

***Q01: Are the provisions included in these draft RTS sufficiently clear? Are there aspects which need to be expanded in more detail?***

In general, the provisions presented in the draft RTS are clear. We highly welcome the
introduced threshold for institutions with limited cross-border as well as limited trading book
activities which will ease the operational burden for those institutions. Nevertheless, this
consultation is also based or has to be read in connection with the final EBA/RTS/2013/15 and the therewith related EBA/CP/2013/35. We also delivered input to this consultation paper. Still for the calculation of weighted average countercyclical buffer and application to all credit
exposures in this jurisdiction we have remarks.

The institution-specific countercyclical buffer could be easily calculated as multiplication of the country specific buffer rates and risk weighted assets in that country. The institution-specific

buffer rate could than be derived by division of this buffer requirement by total risk weighted
assets of the institution.

However, according to CRD/CRR, it is foreseen, that institutions have to calculate an institution-specific countercyclical capital buffer rate as described in article 140 paragraph 1 second
sub-paragraph CRD (by dividing the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the “relevant credit exposures” are located by its total own funds
requirements for credit risk that relates to all of its “relevant credit exposures”) and then multiply it with “total risk exposure” according to article 130 paragraph 1 CRD to determine the buffer amount required.

This approach, which in first step excludes multiple exposure classes from the calculation of a countercyclical buffer requirement rate and then requires the multiplication with “total risk
exposure” which reflects all exposure classes as defined in Article 112 CRR, is in our view not adequate. It leads to the result that dependant on the structure of credit exposures classes and buffer rates in concerned geographical locations, the resulting capital buffer requirements could be higher or even lower than the requirements calculated without considering “relevant exposure classes”. In particular, this approach does not suit business models like ours, where nearly all exposures are located in exposure classes, which are not classified as “relevant credit
exposures”. As a consequence, only very limited exposures most likely concentrated in few countries will determine the buffer rate for substantial exposure amounts spread all over the world.

We are totally aware that our raised concerns are only indirectly related to the disclosure of the countercyclical capital buffer data as such, which is the purpose of the current consultation. However, the inconsistencies of the CRD rules in connection with the calculation of the countercyclical capital buffer are material for specialised business models like ours and overestimate the risk we are in reality facing. Consequently, the disclosure of such distorted data is from our point of view problematic and would also contradict the general aim of disclosure to show a clear, correct and consistent picture of the respective risk an institution is faced with.

Therefore, we would like to encourage EBA to consider our concerns raised above during future development of supervisory regulations and address the topic both on European and
International level.

**Q*02: Are the instructions provided in Annex 2 of the draft RTS sufficiently clear?***

Within Annex II, Part II. column number 080 in the last sentence a reference is made to Article 440 (4) of the Directive 2013/26/EU (CRD) which does not exist. Article 140 (4) CRD should be the correct reference. Beside this we have no further comments.

 ***Q03: Our analysis shows that the costs of implementation are negligible. Do you agree with our assessment? If not please explain why.***

No comments.

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We hope that our comments submitted are useful in the further process and are taken into account while going forward. We are happy to discuss any question related to the comments made.

Eschborn

26 September 2014

Jürgen Hillen Matthias Oßmann

1. (International) Central Securities Depository. [↑](#footnote-ref-1)