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Dear Sir/Madam,

***Deutsche Bank's (DB) response to the European Banking Authority's (EBA) consultations on draft Regulatory and Implementing Technical Standards (RTS and ITS) on passport notifications***

DB welcomes the opportunity to provide feedback on the draft RTS and ITS proposed by the EBA to support implementation of Articles 35, 36 and 39 of the Capital Requirements Directive<sup>1</sup> (CRD), concerning credit institutions' freedom of establishment and freedom to provide services within the EU.

We fully recognise the importance of both home and host competent authorities having sufficient information to make decisions on an initial and continuing basis regarding the operations of branches of EU credit institutions. This is likely to be achieved using the standard forms, templates and procedures for the notifications which are outlined in the RTS and ITS and as such we support the majority of the EBA's proposals. Our feedback focuses on two areas: pre-notification of changes to the information provided in the initial branch notification and the application of grandfathering arrangements.

We agree that harmonisation of passport notifications and consistency in the forms will facilitate compliance with the notification requirements. This is particularly important at the point at which the branch is being established and the information required is appropriately comprehensive. However, we suggest the final technical standards reflect a more narrow application of procedures covering the notification of changes to the information provided in the initial branch notification - Article 36(3) of CRD.

Specifically, we suggest that within the RTS and ITS it be made clear that the requirement for notification one month in advance only applies to significant changes. Although it may not be the intention of the EBA, the wording of the proposal could be interpreted as applying this requirement to all information submitted under Annex 1. This approach would be likely to be difficult to comply with in practice and of limited benefit to supervisors. We therefore suggest the wording is changed so that it refers to the items listed in Art. 35 para 2 (b), (c) and (d) of the CRD - i.e. changes of branch address, managers and programme of operations – especially activities listed in Annex I to the Directive - as well as significant changes in the structure of the branch.

This differentiation can be justified as any significant changes to the information submitted under Part 2 a) (reflecting the points noted above) would affect the types of customers and activities, as well as potentially contributing to the systemic importance of the branch in the host state. As such, it is clearly important that competent authorities are aware in advance. As mentioned above, providing notifications in advance of changes to all aspects of the information is unlikely to be

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<sup>1</sup> Directive 2013/36/EU



meaningful in all cases for supervisors, in particular where activities are not material within a member state. This would require disproportionate supervisory resources to deal with the amount and frequency of such notifications. It is also likely to be difficult for firms to manage and monitor this on a continuing basis and put in place processes to support compliance with such a broad requirement. For example, advance notifications of certain (but not all) aspects of Part 2 b) may be challenging for firms when they depend, appropriately, on group functions and host supervisors may rely also on home supervisors. Specific examples would include Part 2 b) 2) c) (details of internal audit) and e) (controls over outsourcing), as well as Part 2 c) 3 (IT arrangements). Other information considered important from a supervisory perspective is likely to be communicated already in compliance with local requirements - such as notifications relating to compliance or anti-money laundering personnel under approved person regimes. As such, the additional requirement would result in duplicate reporting

We also suggest the EBA consider clarifying in the technical standards how the requirements will be appropriately applied to established branches. Although the CRD specifies the treatment of branches established before 1 January 1993, not allowing grandfathering for branches established in the following 20 years would be significantly burdensome and would create uncertainty. As explained above, for significant branches the majority of the information will continue to be routinely provided as part of normal supervision. This means that while changes should be notified in line with the proposals above and there will be further information requests, it is not necessary to effectively implement the process retrospectively.

We would be pleased to discuss further any of the points raised in our response.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'A. Procter'.

Andrew Procter  
Global Head of Compliance, Government and Regulatory Affairs