A. Introduction

Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA’s Discussion Paper “On Defining Liquid Assets in the LCR under the draft CRR” issued on 21 February 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 through regulated Financial Market Infrastructure providers.

Among others, Clearstream Banking AG, Frankfurt/Main and Clearstream Banking S.A., Luxembourg, who act as (I) CSD[1], are classified as credit institutions and are therefore within the scope of the European Capital Requirements Directive (CRD). Clearstream Holding AG acts as a financial holding company under German banking law being recognized by BaFin as the superordinate company. Furthermore, Eurex Clearing AG as the leading European Central Counterparty (CCP) is also implicitly affected by the CRD as it is currently treated as a credit institution under German law and, as the future need for a banking license is currently also seen as being necessary in the context of EMIR, it will be within the full scope of CRD most likely also in the future.

We therefore have prepared our comments with particular focus on the effects on our companies in scope of the regulations which are not comparable to the majority of other banks.

This paper consists of a management summary / general comments (part B) and a part which contains our responses to the questions raised in this Discussion Paper (part C)

B. Management summary / general comments

In the course of the financial crises many regulatory initiatives have been started. Currently a couple of legislative procedures on different levels are still on the way and in discussion with relative synchronous time schedules. These are for example (1) on EU level: CRD IV, CSD-Regulation and MiFID-review; (2) on international level: CPSS-IOSCO principles for Financial Market Infrastructures and additional BCBS consultations; (3) technical standards (ITS and RTS) from EBA; (4) on

[1] (International) Central Securities Depository.

national level: adjustments to the regulatory and statistical reporting and implementation of the above mentioned changes.

As part of the CRD IV framework the liquidity risk measures LCR and NSFR are an important part of the regulators' intention to strengthen the banking sector being capable to withstand eruptions even in stressed market conditions as we experienced in the financial crisis. Considering LCR, a major tool for this is the requirement to have a portfolio of high quality liquid assets (HQLA) with a minimum of market risk. Following topics are considered relevant and therefore up for discussion:

- Criteria for classification as high liquid asset
- Time horizon for analysis
- Further liquidity metrics

Given the fact that the approach and methodology of how high and extremely high liquidity and credit quality of transferable assets should be defined will - in the end - have an impact not only on the capital needs for the banking industry as such, but also on the interbank funding markets and the overall market liquidity.
It is our aim to participate in this discussion to mention the drawbacks of the current high quality asset definition and to provide an argumentation in favour of a more flexible and diversified, less concentrated and less pro-cyclical approach. Especially the primary focus on transactional data is not appropriate in our view. On the one hand, the trading activities of a financial instrument in normal (dis-stressed) market conditions does not provide solid and sound inference to trading activities of this financial instrument in stressed market conditions, on the other hand the trading activities in a financial product is not ultimately depending on the marketability of this financial instrument. It is observed that especially financial instruments qualifying as collateral with the highest possible credit quality (e.g. German government bonds) are not actively traded due to the rare supply, not demand. Under a strict definition of trading activities, instruments like that might not qualify as high quality liquid asset for the purpose of LCR. In our view this cannot be the regulators' intention.

C. Responses to the questions for consultation

Subject matter, Scope and Definitions

1. Given the difficulties with obtaining transactional data outlined here, do you think a data sample cover 2008-2012 is sufficient for this analysis? Would you see merit in extending the sample in those countries where more data is available?

The period of time proposed in the Discussion Paper as data basis for analysis (2008-2012) seems too short: Even more, if considering that it is congruent with the period of the current financial crisis. We would therefore highly recommend the usage of time series with a longer history. An analysis, based on data of minimum the last ten years or even more shall be deemed as appropriate, also using in addition sources from countries where more data is available.

Furthermore, in general it should be avoided to focus primarily or exclusively on transactional data as a basis for the liquidity definition of an asset. That would not appropriately reflect the possibility to liquidate high credit quality assets like, e.g., ESM papers, which are not traded actively in the market simply because of the fact that they are kept by their current holders as a high credit quality asset stock as long as possible.

2. Do you have additional data sources to suggest? Specifically, can you suggest a source of repo data and gold that would fit our needs?

For fixed income products, the trading statistics of recognised clearinghouses and for repo, statistics of an accepted repo market like GC Pooling (e.g. outstanding volume, list of eligible papers etc.) could serve as an appropriate data source.

Moreover, for gold, the Xetra-Gold certificate (ISIN DE000A0S9GB0) could be considered as an additional reliable data source. This Exchange Traded Commodity (ETC) is admitted for trading at the regulated market of Frankfurt Stock Exchange (Frankfurter Wertpapier Börse – FWB) with Deutsche Bank AG as designated sponsor permanently quoting bid and ask prices in Xetra-Gold. Beyond that this certificate is deposit with 100% physical gold.

3. Do you agree with the list of liquidity metrics under consideration to be used in the EBA assessment, as mentioned in this section and Annex 5? Can you suggest further metrics the EBA should make use of, where information would be available?

As mentioned above, focussing too much on the transactional data for the liquidity definition of an asset could give a wrong picture of the possibility to liquidate / to monetize it in times of stress. We would therefore suggest including further criteria in the list of liquidity metrics, such like:

- the listing of an asset (ISIN) in an accepted repo market like GC Pooling;
- the acceptance of an asset as collateral at a recognized exchange, central counterparty (CCP) or Systemically Important Financial Market Utility (SIFMU);
- the eligibility of an asset by a relevant central bank;
- etc. (list is not exhaustive).

Those additional criteria could be adapted with certain restrictions such like:

- limitations;
- diversification requirements (concentration limits) and / or
- additional haircuts.

The above mentioned liquidity metrics have been analysed by several market participants. Further information can be submitted if desired.

4. Do you agree with the list of explanatory characteristics whose linkage to liquidity is proposed to be tested in the EBA assessment? Can you suggest further characteristics the EBA should assess?

In addition to the characteristics already listed in the Discussion Paper, the CCP eligibility of an asset should principally be seen as an important liquidity indicator.

For an impact analysis in regards to the liquidity of equities and Exchange Traded Funds (ETFs), the Xetra liquidity measure could be used as additional characteristic information. Detailed information could be found under the following link on the Xetra Website:

http://xetra.com/xetra/dispatch/en/kir/navigation/xetra/100_market_structure_instruments/100_instruments/150_shares

5. Do you agree with the methodology proposed? Do you have alternative approaches that might be used?

No comment.

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In summary, it needs to be noted that the proposed definition for high quality liquid assets must be amended to reflect mentioned drawbacks and define several exceptions for huge issuer of financial instruments with the highest credit quality whose instruments are not actively traded due to current market anomalies, e.g. low trading volume in German government bonds due to low supply.

Eschborn

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