A. Introduction

Deutsche Börse Group welcomes the opportunity to comment on EBA’s consultation paper “Draft Regulatory Technical Standards on the determination of the overall exposure to a client or a group of connected clients in respect of transactions with the underlying assets under Article 379 (Article 390 in the final version of CRR (EU Regulation No 575/2013)) of the proposed Capital Requirements Regulation” issued on 17 May 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 (CBL) and Clearstream Banking AG, Frankfurt/Main (CBF), 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).Clearstream subgroup is supervised on a consolidated level as a financial holding group.

This paper consists of general comments (part B) and a part which contains our responses to the questions for consultation (part C).

B. General comments

By screening the respective articles we came across an issue concerning the wording of “transaction” and “tranches”. In case investment vehicles with different “tranches” are discussed the wording “tranches” instead of “transactions” should be used.In addition to that the word “transaction” is linked to a “movement” of the topic in question (e.g. buying or selling an asset), but not to a position/portfolio. Therefore the **holding** of positions with underlying assets must be discussed, not the movement of those. Therefore the wording should be reassessed / reconsidered.

[1] (International) Central Securities Depository

C. Responses to the questions for consultation

1. Is the treatment provided in Article 5 sufficiently clear and do the examples provided appropriately reflect this treatment?

The examples reflect appropriately the intended treatment of underlying exposures. With regard to the wording “transaction” we refer to our comment in part B.

2. Is there an appropriate alternative way of calculating the exposure values in the case of securitisations, which would be compatible with the large exposures risk mitigation framework as set out by the draft CRR?

No comment.

3. Would the application of requirements provided by Article 6 (3) and (4) imply unjustified costs to the institutions? Would the introduction of a materiality threshold be justified on a basis of a cost-benefit analysis? Please provide any evidence to support your response.

A full transparency with look-through-approach results in costs which are unavoidable. However the situation is similar to the current set-up. We therefore expect no material cost-effect compared to status quo. For investments with a very high granularity these cost may not seem appropriate from a cost/benefit-perspective. For further details we refer to our answer in question 4.

4. Keeping in mind that such materiality threshold would need to be sufficiently low in order to justify that all unknown underlying assets of a single transaction would be assigned to this transaction as a separate client, what would be the right calibration? Would the reference value (the institution’s eligible capital) be appropriate for this purpose? Please provide any evidence to support your response.

We clearly favour the general approach for materiality thresholds as set by the CEBS guidelines (Guidelines on the implementation of the revised large exposure regime, 11 December 2009) which are the following (on thresholds):

- Sufficiently granular schemes can be treated as a single counterparty. To be considered sufficiently granular the scheme’s largest exposure must be smaller than 5% of the total scheme;
- If an institution can ensure that the underlying assets of the scheme are not connected with any other direct or indirect exposure in the institution’s portfolio that is higher than 2% of the institutions own funds, it may treat these schemes as separate unconnected clients (Structure-based approach).

We consider the institute’s eligible capital as appropriate for this purpose as it is absorbing any losses.
Based on our business we do not have any evidence to support our response. We did not came across any publication on problems resulting from application of the current CEBS guidelines.

5. Would the requirement to monitor the composition of a transaction at least monthly, as provided by Article 6 (5), imply unjustified costs to the institutions? Please provide any evidence to support your response.

The monthly frequency is already in place. Taking a cost/benefit perspective, this seems to be a reasonable approach.

6. Are there other conditions that could be met by the structure of a transaction in order to not constitute an additional exposure according to Article 7?

We do not see further conditions that could be met by the structure of such a transaction.

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

Eschborn

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