

“Draft Guidelines - On Capital measures for foreign currency lending to unhedged borrowers under the Supervisory Review and Evaluation Process (SREP) (EBA/CP/2013/20)”

Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA’s consultation paper “Draft Guidelines - On Capital measures for foreign currency lending to unhedged borrowers under the Supervisory Review and Evaluation Process (SREP)” - EBA/CP/2013/20 - issued on 23 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)CSD¹ 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. However, all group entities in scope of CRD/CRR are offering limited banking activities ancillary to their function as Financial Market Infrastructure (FMI).

While we agree to the cornerstones of the draft guideline, we nevertheless see the need for some clarification with regards to concrete reach of the guideline resulting from open / vague terminology and definitions.

In particular, we miss clear definitions of the terms “lending” and “natural hedge”.

1. “Lending”

Unfortunately, “lending” is not a clearly defined term in banking regulations. It is neither defined in Directive 2013/36/EU (CRD IV) nor in Regulation (EU) No. 575/2013 (CRR). Contrary, in the definition of article 4 paragraph 1 section 1 CRR “credit institutions” are defined with reference on “granting **credits** for its own account” while Annex I of CRD IV is only listing “lending” with some examples as one activity for mutual recognition without defining the term itself. However, throughout the banking regulation framework, the risk related terminology is using commonly the term “exposure”.

Taking into account the second paragraph of section 5 of the draft EBA guideline which is referring to “**loans**” and putting these in relation to the total assets, it is clear that the guideline does not target for a very broad definition of lending in the sense of any kind of exposure but in the sense of “granting credits / loans for its own accounts” (CRR article 4) or as listed in Annex I of

¹ (International) Central Securities Depository

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CRD IV. This in our understanding does e.g. not include deposits held at other credit institutions or other assets outside “classical” loan business.

We would prefer if EBA could clarify its understanding of “**lending**” in the definition section (section 2) of the guideline.

2. “natural hedge”

The term “natural hedge” in our mind is not defined as well. The term is used within the definition section of the draft guideline (section 2) and some examples what might constitute a natural hedge are given. However, in our mind this is not sufficient. Credit institutions (and possibly other groups of “financial” institutions like insurances, asset managers, investment firms, etc.) can be assumed to be active in the currencies they borrow from credit institutions. Especially for short term interbank loans including money market transactions – which might partially fall within the scope of “lending” – no dedicated information on the underlying business is requested. We assume, the focus of the intended guideline is put on households and non-financial corporates whereas financial corporates and possibly public sector counterparties are out of scope.

In total, we kindly ask to clarify the content of “natural hedge” as well as the reach of the guideline resulting from that (see below).

3. Unclear reach

Taking the consequences as outlined in the draft EBA guideline into account, the clarification of the above stated topics is crucial. Institutions like our group companies which (a) are mainly active in the interbank market and / or (b) have only limited open currency positions should not be forced to add additional capital requirements within their ICAAP to an unreasonable extent. The necessary capital charge for FX risk is already covered by the currency risk as such as part of the market risk capital charge.

Additional capital charges for “FX lending” in the interbank market (lending to financial counterparties) should not be requested and therefore such lending should not be considered as “FX lending” for the purpose of the EBA guideline.

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We hope our comments are seen as a useful contribution to the discussion and final issuance on the respective guidelines will reflect our comments made.

Eschborn

23 August 2013

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