

A. Introduction

On 17 September 2009, CEBS has opened a consultation on the Extension of the CEBS' Supervisory Disclosure Framework and invited comments until 16 October 2009. Deutsche Börse Group welcomes the opportunity to contribute to this discussion.

Deutsche Börse Group is an operator in the area of financial markets and provides a full service offering along the complete chain of trading, clearing, settlement and custody for securities, derivatives and other financial instruments. Within Deutsche Börse Group, two companies, Clearstream Banking Frankfurt AG and Clearstream Banking Luxembourg AG acting as (International) Central Securities Depositories (CSD resp ICSD) are classified as credit institutions based on national laws in Germany and Luxembourg as they settle in commercial bank money. Eurex Clearing AG acting as Central Counterparty (CCP) is classified as credit institution under German law. Nevertheless, the business of these institutions is quite different from those of most of the other banks in the EU. They are special purpose banks acting only in a specific area of the banking business. Their customer base is focused on other financial institutions.

In general, only some aspects of the consultation paper are of concern to Deutsche Börse Group and its legal entities. We therefore would like to take the opportunity to point out one important aspect which we feel needs to be added to the list of options and national discretions.

B. Options and National Discretions

Eurex, part of Deutsche Börse Group, is one of the world's largest derivatives exchanges. Eurex Clearing is a subsidiary of Eurex and the largest European CCP. Eurex Clearing provides central clearing services for cash and derivatives markets both for listed as well as certain Over-the-Counter (OTC) financial instruments.

Eurex and Eurex Clearing actively contribute to market safety and integrity with state-of-the-art market infrastructure both in trading and clearing services as well as with leading risk management processes for the derivatives industry. Especially central counterparty clearing has proven its value proposition as a stabilizing element for financial markets during recent market turmoil. Based on comprehensive risk management processes it effectively reduces systemic risk, and improves both transparency and operational efficiency for centrally cleared products and markets.

Currently the role and the regulatory framework for CCPs and business with CCPs are discussed in various areas. The discussion focuses inter alia on two points:

1. regulatory framework and supervision of CCPs

2. risk weighting for CCP business.

In the context of the second item, the Capital Requirements Directive (CRD) is already offering a solution which takes advantage of the risk reducing effects of a CCP. Annex III part 2 paragraph 6 of Directive 2006/48/EC offers the option to zero weight positions towards a CCP as long as the CCP secures in its arrangements a full collateralisation on a daily basis.

The regulation contains implicitly two options which we feel should be included in the list of national discretions and options as published by the CEBS in its supervisory disclosure framework:

- a) The general possibility to attribute a zero weighting towards certain positions (i.e. derivative contracts, repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions) outstanding with CCPs and towards credit risk exposures to CCPs that result from derivative contracts, repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions or other exposures, as determined by the competent authorities and
- b) the exact scope of the exposures taken into account by the competent authority.

With respect to item b) the text of the regulation does not only provide for the possibility to select certain exposures out of the list given but also opens the possibility to add further exposures. For example it is from our point of view necessary to cover any cash collateral given to the CCP as a consequence of the required collateralisation.

Based on our information, the option granted at this place is neither for point a) nor for point b) exercised in a uniform way throughout the EEA. Having a proper supervisory disclosure on this aspect would therefore (a) help the banks to get a clear understanding of the national implementation, (b) give the various CCPs in the EEA an overview of the regulations their Clearing Members are faced with and (c) would be a solid ground for upcoming analysis requirements towards CEBS in that area.

We therefore kindly suggest including the two options as described above (either separately or in a combined manner) in the list of national discretions and options as published and maintained by the CEBS and the national supervisors respectively in the context of the supervisory disclosure framework as shown in the annex.

Frankfurt / Main, 15 October 2009

Annex

Area	Dir. 2006/48 (unless indicated Dir. 2006/49/EC)	Denomination	Description	Country	PA or CBC or: aggregate calc. or: method (b) or: betw. 90/180 days	NA or: choice of methods or: 180 days
COUNTERPARTY RISK IN DERIVATIVES AND OTHER EXPOSURES	Annex III part 2 Point 6	Zero weighting for exposures toward a CCP	Member States may attribute an exposure value of zero for CCR to derivative contracts, or repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions outstanding with a central counterparty and that have not been rejected by the central counterparty. Furthermore, Member States may attribute an exposure value of zero to credit risk exposures to central counterparties that result from the derivative contracts, repurchase transactions, securities or commodities lending or borrowing transactions, long settlement transactions and margin lending transactions or other exposures, as determined by the competent authorities, that the credit institution has outstanding with the central counterparty.	A (scope of application of a zero weighting to be listed)	0	0