

**Deutsche Börse Group  
Response**

to EBA/CP/2016/06

**‘Draft Guidelines on LCR disclosure  
to complement the disclosure of liquidity risk management  
under Article 435 of Regulation (EU) No 575/2013’**

issued on 11 May 2016

Eschborn, 5 August 2016

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## **A. Introduction**

Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA consultative document 'Draft Guidelines on LCR disclosure to complement the disclosure of liquidity risk management under Article 435 of Regulation (EU) No 575/2013' issued in May 2016.

DBG operates 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 is mainly active with regulated Financial Market Infrastructure providers.

Among others, Clearstream Banking S.A., Luxembourg and Clearstream Banking AG, Frankfurt/Main, who act as (I)CSD<sup>1</sup> 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) and Capital Requirements Regulation (CRR). Clearstream subgroup is supervised on a consolidated level as a financial holding group.

However, the business model of both CSDs and CCPs as financial market infrastructures (FMIs) is completely different from the business of ordinary banks. There is no proprietary trading, only minor maturity transformation, tight limitations of investment possibilities due to additional rules based on the CPSS-IOSCO principles on financial market infrastructures<sup>2</sup> as implemented in EU regulations (EMIR and CSD-regulation) and also in general funding is only resulting from overnight cash deposits or cash collaterals received in the course of the FMI's businesses.

The document at hand contains our general comments to the disclosure requirements and the related guidelines in Part B and dedicated response to selected questions raised in the consultative document in Part C.

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<sup>1</sup> (International) Central Securities Depository;

<sup>2</sup> <http://www.bis.org/cpmi/publ/d101a.pdf>.

## **B. General comments**

We welcome in general the approach to establish a more harmonised disclosure framework for liquidity risk in order to provide essential information on the liquidity risk and its management of the institutions. Nevertheless, as stated in Article 435 paragraph 1 point (f) CRR institutions shall only disclose “key ratios and figures providing external stakeholders with a comprehensive view of the institution’s management of risk”. In general, we value the increase of overall disclosure requirements which occurred since 2004 very critical. The disclosure requirements are amended in a way that they are becoming more and more voluminous and even taking all attempts to standardise the context into account the reports are rather creating disinformation than transparency to the public. Like financial statements only a limited number of experts understand the disclosures and as such, the intended target is not reached. Supervisors get the contained information by different means in the course of Pillar I reporting and additional Pillar II measures and reports as well as in the course of ongoing supervision. With the Pillar III report the public receives data on dynamic circumstances (especially on liquidity) with an inherent substantial delay and in a granularity which is not really useful. We cannot see the real benefit from the increase of information and the ongoing race to disclose more and more information. It is neither useful nor advisable to further increase the information in the disclosure requirements. We therefore urge the EBA to substantially reduce the disclosure requirements, make the disclosure of some key figures within the financial statements mandatory (i.e. above the minimum as set out e.g. in IAS 1; e.g. by publishing the year and month-end average LCR) and limit the disclosure report to a descriptive report on risk management details and key regulatory figures on an aggregate level without detailed disclosures of numbers which are only number graveyards.

Already the current requirements create an excessive workload with an imbalanced relation to possible benefits. In this regard, the tables and templates proposed in the draft guidelines would add additional burden to prepare and to disclose while the added value for the public is doubtful. Especially the disclosure of the calculated average of daily figures for the first template in Annex II (paragraph 17) is totally overburdening and not in line with the principle of proportionality. In general, credit institutions are obliged to report the LCR only on a monthly basis even though they are monitoring their liquidity situation daily. Thereby the fulfilment of minimum LCR requirements is warranted by control mechanisms which do not always require daily LCR calculation. Although capabilities exist to do so, there is so far no need to exe-

cute the calculation on a daily basis. Especially on a consolidated level this would add unnecessary and massive burden. In addition, there is also no additional value as the information is outdated at the time of calculation and disclosure. We see no need to derive the LCR disclosures from figures with a higher frequency than the minimum reporting requirements. In this line, we at least strongly request that the LCR figures which have to be disclosed should be based on month-end figures as reported.

Taking into account that banking business goes around the globe and is therefore a 24 hour business and despite modern IT technology lots of banking instructions result in vulnerabilities and a lot of practical questions for a daily LCR calculation exist like follows:

1. Are the value dates corrected or the uncorrected figures to be used for the LCR calculation for disclosure purposes?
2. How many days of value date corrections are to be captured?
3. At which point in time of the day/related to which time zone the daily data calculation should be based on?
4. ...

The above mentioned topics show examples of the practical difficulties of daily calculation which demonstrate that this should **not** be used at least for disclosure purposes. Especially a sufficient degree of proportionality has to be taken into account.

The proposed disclosure of the average of high quality liquid assets, weighted cash inflows and outflows and additionally the calculated LCR is another good example for resulting disinformation to the public. Due to the inherent logic of the LCR calculation a LCR calculated based on average high quality liquid assets, weighted cash inflows and outflows will deviate from the average calculated LCR. As such the reader can not reconcile the figures, as already mentioned in the explanatory text on page 19 of the draft guidelines.

The current proposal of Annex II is adding a complex table which is to certain extent and depending on the business model to a potential degree empty. Inter alia our group entities being obliged to publish a disclosure report show already in the current disclosure report plenty of empty cells, rows and columns.

As stated above the increased formal disclosure requirements do rather **increase non-transparency** than the opposite. Not just for the LCR but in general the EBA should clarify that empty rows or columns – as the context may allow – may not be disclosed by the institutions.

### C. Response to selected questions raised in the consultative document

**Question 2:** As currently foreseen, the application date will be in June 2017. Do respondents find the date of application of the guidelines appropriate?

From our point of view, the application date June 2017 requires precision as to which period the disclosure requirements would apply. The current formulation creates legal uncertainty and possible uneven level playing fields between institutions publishing their Pillar III report for the same period at a different point in time. Hence, we clearly see the need to specify the application date of the guidelines more precisely.

**Example:**

Institution A will disclose its Pillar III report for 2016 in May 2017 while institution B will disclose its Pillar III report for 2016 in July 2017.

It is unclear if institution B has to apply the new guidelines while institution A is not obliged to do so. It seems quite likely that the disclosures would deviate from each other and would not be comparable in an appropriate manner.

In addition, in case the publication of the Pillar III report may be slightly delayed to original plans of the institutions and publication would suddenly fall after the date of applicability of these guidelines a late change of the report would be required. As such, a clear rule not just on the date of applicability but also to the related reference period needs to be implemented. We therefore propose to change the text of paragraph 10 as follows:

*“10. These guidelines apply from [2 months from the date of publication of the guidelines in all EU official languages. The final factual date (‘dd month year’) will be inserted on the day of the publication on the EBA website] on all disclosures for periods which end after that date.”*

**Question 3: Do respondents consider that the transitional period is sufficiently clear?**

To our understanding the first "LCR reporting reference date" is 30 September 2016 (according to Regulation (EU) No 680/2014 (as amended by Implementing Regulation (EU) 2016/322)). Therefore, the figures for Q3/2016 will be calculated and reported as of 30 September 2016.

In case our proposal for paragraph 10 of the guidelines (see our response to Question 2) is followed any disclosure under the guidelines in principle will only cover 2017<sup>3</sup>.

Consequently, transitional provisions may not be needed with the expectation of rules for institutions with accounting year deviating from fiscal year. In this case the transitional provisions are one-off provisions and should be precise with regards to quoting the exact date instead of referencing to the "first LCR reporting reference date". However, the transitional provisions may also be considered for institutions which fall at the later point in time under the LCR rules (e.g. newly licenced credit institutions).

In this regards, the intention of the transitional provisions also when taking the explanatory text into account is unclear. We therefore ask to adjust, amend or delete the provisions in combination of the final text of paragraph 10 and depending of the intention of the transitional rule.

**Question 5: Do respondents have any comment relative to the content of the table in Annex I of the draft guidelines and the way to display it?**

The format of Annex I indicates that the requirements already due since 2014 may have to be published dedicatedly in a form of a table as presented in Annex I. However, the table also could be understood as an additional summary of the items to be disclosed. All in all, the purpose of Annex I is still unclear to us.

As the qualitative description of a variety of items to be disclosed of Part 8 of Regulation (EU) 575/2013 is not predefined and therefore free format text as the usual form of disclosure we disagree to the potential requirement of fixing the format for liquidity information in a form of a table. We therefore recom-

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<sup>3</sup> This is not true in case if the accounting year of an institution differs from the calendar year.

mend to EBA to clarify the purpose of Annex I or even better to withdraw Annex I as it is not adding new elements.

In this context we do not understand the purpose of Question 7.

**Question 6 and Question 8:** Do respondents have any comment on the content of the LCR disclosure template in Annex II? What information from Annex II, if any, would respondents consider irrelevant for LCR disclosure purposes?

With regards to Question 6 and 8 we refer to our generic comments in Part B of this response.

**Question 9:** What information would respondents like to see added to the LCR disclosure requirements?

As stated in Part B of this response we rather recommend to streamline and reduce the disclosure requirements than further enhance and increase the information to be disclosed. As such, we strongly oppose any further amendments.

**Question 10:** Do respondents find the general instructions in Annex III sufficiently clear for the development of the disclosure templates?

As described in Part B we strongly recommend instructions that non-relevant cells especially non-needed rows and columns do not need to be disclosed.

**Question 11:** In accordance with Article 4 of Commission Delegated Regulation (EU) 2015/61, the LCR needs to be met at any time whereas Article 15(1) of Commission Implementing Regulation (EU) No 680/2014 requires a monthly frequency of LCR reporting. The suggested approach for the LCR disclosure template is based on averaged values over daily observations based on the reporting templates. Particularly considering that the most recent data needed would be from the quarter prior to the disclosure date, do respondents consider that this approach is, from a practical point of view, operationally feasible meaning that the accuracy of the daily reporting observations for the calculation of the averages can be ensured? Do respondents consider

that this operational feasibility could depend on the size of the credit institution or could be different in the case of solo or consolidated data?

In general, credit institutions are obliged to report the LCR **only** on a monthly basis even though they are monitoring their liquidity situation daily. Thereby the fulfilment of minimum LCR requirements is warranted by control mechanisms which do not always require daily LCR calculation. Although capabilities exist to do so, there is so far no need to execute the calculation on a daily basis. The validation of the LCR requirements on a daily basis may be done using raw data from treasury and accounting systems which are not 100% accurate on a daily basis<sup>4</sup> and would not suit for reporting purposes. This in our view is nevertheless sufficient to monitor that minimum requirements are kept while being not sufficient for disclosure purposes.

As such, we strongly believe that the accuracy of the daily observed figures is not sufficient to fulfil disclosure obligations. This is in particular true on a consolidated level. Based on this **we can not see any benefit** from disclosing average figures based on daily observations **but expect a massive cost increase.**

As such, **we strongly oppose the proposed approach.** While the additional burden for small credit institutions seems not to be reasonable and proportionate to their risk profile the practical impact on larger banks/bank groups is also considered neither feasible nor reasonable.

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We are at your disposal to discuss the issues raised and proposals made if deemed useful.

Yours faithfully,

Jürgen Hillen

Ralph Kowitz

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<sup>4</sup> Clean-up and value date corrections are done subsequently.