Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA's discussion paper "On the impact on the volatility of own funds of the revised IAS 19 and the deduction of defined pension assets from own funds under Article 519 of the Capital Requirement Regulation (CRR)" - EBA/DP/2014/01- issued on 17 February 2014.

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, Frankfurt/Main (ECAG) 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. We are obliged to report on German-GAAP as well as on IFRS for different entities within our group.

In general, we agree to the EBA approach and observations made in the report.

As such, we have little to add or mention and therefore do not comment on the questions raised. Overall, we do not see material adverse effects of resulting volatilities in the own funds. However, we want to address some specific points in detail (for the sake of simplicity without considering "asset ceiling" effects as described in revised IAS 19 and prudential filters) as following:

Net defined benefit pension fund assets

- In the results of the EBA analysis we miss the treatment of defined benefit pension fund assets as dealt with up until end of 2013 e.g. in Germany – though not explicitly regulated in the legal texts. This is: looking to the individual gross position of the pension fund assets (in case still in the own books of the credit institution and not outplaced to a special purpose entity or in case outplace to a special purpose entity which is included in the scope of consolidation) and tackles those as exposure independent form the accounting treatment. While the accounting treatment even under German-GAAP is requesting a net position after netting with pension (and similar) liabilities, this was not the case for regulatory purposes. In consequence, the relevant individual risk weight for the underlying position (look through) of the investments had to be used and the respective currency position had to be taken into account

[1] (International) Central Securities Depository

(including in case of investments in an investment fund the look through approach also by currency for each fund share);

- As such, the former German treatment led to volatility of the exposures but did not hit the equity. Under German GAAP any gain or loss was (and still is) to be recognised in the profit & loss statement and not in other comprehensive income (OCI). As such, with the approval of the accounts, the net result of the previous year changed than the own funds;
- Having said this, we are clearly in favour of the revised treatment under CRR which takes into account the **net position** of the defined benefit pension funds **only**. As such, any net obligation with its value under the relevant accounting standard is not taken into account for capital purposes (neither exposure [including currency mismatches] nor equity). Consequently, changes in the value which does not result in shifting to a net asset, are irrelevant. Only if the net value results in a net asset, that is deducted form own funds. However, the treatment of open currency positions (i.e. the underlying liability is not matched currency wise with the investments) is not explicitly mentioned. But, as the netting of pension fund assets and liabilities results in a "technical" net position, we assume that indirectly no currency exposure is to be assumed;
- We urge the EBA to give a clear statement, how currency positions coming from assets and liabilities have to be dealt with. We assume that only reporting currency counter value matters (in line with accounting treatment). However, in case a dedicated treatment is foreseen, we encourage EBA to analyse the impact of this;
- Having said this and expressed our preference for the capital treatment of the net asset only, we however **disagree to the treatment of a full capital deduction** as this is overstating the risk in our mind. The treatment of assets in funded/overfunded defined benefit plans in relation to direct investments seems not to be appropriate and should be analysed in comparison. In case an unrated corporate bond is purchased which e.g. receives a 100% risk weight according to Article 122 CRR in case of an direct investment it receives a capital charge of 8 % of the underlying investment (ignoring market price movements and capital buffer requirements). However, the same investment within a defined benefit pension fund (being just funded or overfunded) would lead to a capital reduction of full investment amount or 100 % capital charge. As such, we would prefer the treatment of net defined benefit pension fund assets as exposures with a general 100 % risk weight instead of a capital reduction. This would reduce capital volatility and reflect the inherent risk more appropriate. The 100 % risk weight is proposed as it applies only to the portion of overfunded plans, ignores currency mismatches and due to the netting avoids theoretical allocation to asset classes. Further-

more, this reflects nevertheless the appropriate mix of investment in low risk / low return instruments (e.g. high rated government bonds) with higher – but reasonable - risk / higher return ones (e.g. high quality equities) which is by nature the investment mix for pension funds assets.

Volatility resulting from revised IAS 19

- While we clearly see only limited impacts from the slightly increase volatilities resulting from the revised IAS 19 and changed rules to reflect actuarial changes in other comprehensive income (OCI), we want to raise awareness of possible side effects. Taking the case that the reduction of own funds arises from OCI volatility, appropriate supervisory reaction is needed with regards to:
    - Possible breaches of buffer requirements out of this (as due to the expected limited extent of the impact we assume that there would be borderline cases anyway which require adequate supervisory treatment);
    - Linkages to variable remuneration;
    - Linkages to recovery thresholds especially under the future recovery and resolution regimes.

As such, the supervisory reaction in such cases needs to be well balanced.

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We hope that our comments submitted are useful in the further process and are taken into account while going forward. We are happy to discuss any question related to the comments made.

Eschborn

14 April 2014

Jürgen Hillen Matthias Oßmann