Deutsche Börse Group
Response

to EBA/CP/2016/07

'Guidelines on disclosure requirements under Part Eight of Regulation (EU) No 575/2013'

issued on 26 June 2016

Eschborn, 28 September 2016

Contact: Jürgen Hillen
Telephone: +49 69 211 - 15561
Telefax: +49 69 211 - 13315
E-Mail: juergen.hillen@deutsche-boerse.com

A. Introduction

Deutsche Börse Group (DBG) welcomes the opportunity to comment on EBA consultative document 'Guidelines on disclosure requirements under Part Eight of Regulation (EU) No 575/2013' issued in June 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[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) and Capital Requirements Regulation (CRR). Clearstream subgroup is supervised on a consolidated level as a financial holding group. In addition, Eurex Repo GmbH and Eurex Bonds GmbH which are operators of multilateral trading facilities (MTFs) and according to the wording of Article 4 paragraph 2 point c CRR are classified as CRR-investment firms.

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[2] 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.

In addition, Eurex Repo and Eurex Bonds as operators of MTFs are exempted from various requirements of the CRR even though they should not be classified as investment firms under the CRR.

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.

[1] (International) Central Securities Depository;

[2] http://www.bis.org/cpmi/publ/d101a.pdf.

B. General comments

We welcome in general the approach to establish a more harmonised disclosure framework in order to provide essential information on various risks and its management by 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[3]. Like financial statements only a limited number of experts currently 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 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 (e.g. regarding the additional information on governance arrangements and on forborne and non-performing exposures). 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 1.135) 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 at least doubtful if not nil.

[3] As accurate example of confusing information we refer to the disclosure on asset encumbrance which is not readable and completely useless when disclosed without further explanation (see EBA/GL/2014/03: www.eba.europa.eu/documents/10180/741903/EBA-GL-2014-03+Guidelines+on+the+disclosure+of+asset+encumbrance.pdf/c65a7f66-9fa5-435b-b843-3476a8b58d66).

The current proposal of EBA shows several complex tables and templates which are to a certain extent and depending on the business model to a substantial 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 and disinformation than the opposite. In general the EBA should clarify that empty rows or columns – as the context may allow – may not be disclosed by the institutions.

In this context, as the qualitative description of a variety of items to be disclosed according to Part 8 of Regulation (EU) 575/2013 is not predefined and therefore free format text is the usual form of disclosure we disagree to the potential requirement of fixing the format for that information in a form of a table. From our point of view, the approach to disclose descriptive information in tables seems simply not appropriate. We therefore recommend to EBA to withdraw any descriptive tables.

Regarding the frequency of the disclosures which have to be made the CRR explicitly requires the institutions to disclose the related information "at least on an annual basis" (Article 433 CRR). The possible necessity to disclose any of the information more frequently than annually is left to the discretion of the institutions after an own initiated assessment. Therefore, EBA was mandated to issue guidelines on institutions assessing more frequently disclosures (according to Article 433 CRR) which was fulfilled with EBA guideline 2014/14[4] by defining criteria for more frequently disclosures. Thus, the mandate does not authorise EBA to set the frequency over and above the general guidelines by the above mentioned guidelines. With the proposal in the consultative document EBA therefore goes well beyond its actual mandate. There is no legal background to implement more frequently disclosures mandatory (regardless if with the current draft guidelines under consultation or by any other means not authorised by the EU). We strongly urge to retain the standard frequency of any disclosure requirements on an annual basis and leave the room for discretion based on EBA defined criteria to the institution.

In summary, 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.

---

[4] EBA/GL/2014/14: www.eba.europa.eu/documents/10180/937948/EBA+GL+2014+14+%28Guidelines+on+disclosure%29.pdf

C. Response to selected questions raised in the consultative document

Q1. Do users prefer a comprehensive template providing a breakdown of capital requirements and RWA by exposure classes for credit risk in Template EU OV1-B, or would they prefer to have the detailed breakdown by exposure classes provided in Template EU CR5-B for the Standardised approach and Template EU CR6 for the IRB approach?

In general we recommend to reduce the disclosure requirements and only show aggregated key figures as already stated in Part B. Nevertheless, when comparing both solutions we prefer Template EU OV1-B instead of CR5-B or EU CR6.

Q2. Do members prefer a breakdown by exposure classes for Article 442 CRR using the granularity from COREP, the CRR or the Transparency exercise? In case users prefer a combination of the different exposure classes available in these breakdowns, please indicate the combination you would favour.

Beside our general concern about the granularity the disclosures shall have, we prefer a matching to the COREP data however only on an aggregated level.

Q3. Do you believe information on the exposure-weighted average maturity by PD grade is useful for understanding of an institution's IRB RWA?

We do not comment on this question as we do not use IRB approach. However, please consider our general concerns regarding the granularity of future disclosures.

Q4. Would it be feasible to breakdown the value adjustments and provisions by PD grade for the fixed PD grade bands that are provided in the masterscale? Would this information be useful to users?

We do not comment on this question as we do not use IRB approach. However, please consider our general concerns regarding the granularity of future disclosures.

Q5. Is information on the sources of counterparty credit risk (breakdown by type of transactions) for exposures measured under the Internal Model Method useful for users? Should this breakdown be expanded to the other methods of computation of the exposure value?

As already stated above we strongly recommend reducing the disclosure requirements in general as well as their granularity. Any further extension in our view does not add actual value; therefore no further breakdown should be required regardless of the risk type.

Q6. Is the split of credit derivatives between used for the institution's own credit portfolio and one for credit derivatives used in the institutions' intermediation activities useful or relevant to users? What definitions or policies do you currently use to identify credit derivatives used for your own portfolio, and credit derivatives used for your intermediation activities?

As already stated above we strongly recommend reducing the disclosure requirements in general as well as their granularity. Any further extension in our view does not add actual value; therefore no further breakdown should be required.

Q7. Which impediments, if any, including issues of availability of information, currently prevent you from disclosing the information on total (Standardised plus Internal model approaches) capital requirements by types of market risk as required under Article 445 CRR or are likely to render the disclosure of Template EU MR1-A unduly burdensome?

Due to the absence of market risk in our business we have no problem with the current disclosure requirements regarding market risk. However, also here further reduction of information details should be considered.

Q8. Is the separate disclosure of end of period and average values for VaR, stressed VaR, IRC and CRM useful for users?

We see no further benefit of the additional disclosures as proposed. Thus, please do not implement any intended separate disclosures. Once again, we strongly recommend reducing the disclosures instead of blowing them up.

Q9. Do you agree with the proposed scope of application of the Guidelines?

Please clearly limit the scope of application to G-SII, O-SII and any other institution on basis of supervisory decision and do not use expressions like "all institutions" which could be misinterpreted. We strongly recommend not expanding the scope of application - neither now nor in the future - to other institutions which are obliged to disclose certain information according to Part 8 of CRR.

Q10. In case you support the development of key risk metric template(s) that would apply to all institutions, which area of risks and metrics would you like to be covered in such template(s)?

We see no further benefit of the additional disclosures as proposed. Thus, please do not implement any intended separate disclosures. Once again, we strongly recommend reducing the disclosures instead of blowing them up.

Q11. Do you regard making available quantitative disclosures in an editable format as feasible and useful?

As already stated above, we strongly urge to reduce the disclosure requirements as we do not see any additional value in an extended disclosure framework. This particular adjustment of editable formats of disclosures bears the risk that disclosures are modified by third parties without any authorisation and knowledge of the related institution.

Q12. In case you do not support making available all quantitative information specified in these Guidelines under an editable format, which subset of quantitative information should in your views be made available?

As we disagree to the approach of Q11, we strongly reject any quantitative information disclosed under an editable format.

Q13. Does an early implementation of a selected set of information specified in these Guidelines appear feasible?

We disagree to the enhancements in total as such we also disagree to an early implementation of any selected set of information. It adds more complexity and increases the implementation efforts substantially. Any adjustment on the disclosure framework has to be implemented with a reasonable implementation phase-in.

Q14. Which amendments, if any, would you bring to the selected set intended to be included in the recommendation for early application?

We disagree to any earlier application due to increasing requirements, irrespectively of the necessity of additional information at all.

Q15. Do you agree with the content of these Guidelines? In case of disagreement with specific parts of these Guidelines, please outline alternatives regarding these specific part(s) to achieve the implementation of the revised Pillar 3 framework in a fully compliant way with the current CRR requirements.

We do not have comments on specific parts. In general, we once again want to point out that in our view the massive enhancement of the disclosure requirements proposed overshoot the mark of comprehensive information for the public. In addition, the legal basis for certain adjustments is at least unclear.

Q16. Do you agree with the impact assessment? In case of disagreement, please identify areas where costs and benefits are misstated or suggest alternative options.

As already stated in Part B the implementation of any additional disclosures will add additional burden to implement, prepare and to disclose while the added value for the public is at least doubtful. Thus, we recommend to reassess and review the draft guidelines and in this line we strongly urge to reduce the disclosure requirements instead of increasing them as the EBA intents to do.

We are happy to respond on the implementation effort on a revised and streamlined EBA proposal going forward which we urge the EBA to do in due course.

***

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

Yours faithfully,

Jürgen Hillen Ralph Kowitz