A. Introduction

Deutsche Börse Group welcomes the opportunity to comment on EBA’s Consultation Paper “Draft Guidelines On the applicable notional discount rate for variable remuneration under Article 94(1)(g)(iii) of Directive 2013/36/EU (EBA/CP/2013/40)” issued on 23 October 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 AG, Frankfurt/Main (CBF) and Clearstream Banking S.A., Luxembourg (CBL), who act as (I)CSD[1], are classified as credit institutions and are therefore within the scope of the European Capital Requirements Directive (CRD IV) and Capital Requirements Regulation (CRR). Clearstream subgroup is supervised on a consolidated level as a financial holding group. Furthermore, Eurex Clearing AG as the leading European Central Counterparty (CCP) is also implicitly affected by CRD IV package as it is treated as a credit institution under current German law.

This paper consists of responses to the questions for consultation (part B).

[1] (International) Central Securities Depository

B. Responses to the questions for consultation

1. Is the scope of variable remuneration which can be discounted sufficiently clear?

Yes.

2. Is the suggested factor to consider inflation appropriate?

No position.

3. Is it appropriate to consider the rate for EU government bonds within the discount rate as a proxy for the opportunity costs of deferred remuneration and for the inflation risk?

General question, whether EU government bonds represent an adequate alternative investment opportunity for deferred remuneration in terms of expected risk reward profile.

In a rather abnormal situation of monetary policy, low reference rates might be in line with short- to mid-term inflation expectations, but might not adequately account for inflation risk.

Suggestion: The risk reward profile of equity and debt instruments (including credit rating) used for remuneration within the institute in scope should be used as proxy for the opportunity costs of deferred remuneration and for the inflation risk.

4. Is the incentive factor for the use of long-term deferred variable remuneration appropriate?

No position.

5. Is an additional incentive factor for the use of retention periods for long-term deferred instruments appropriate?

No position.

6. Is the calculation of the discount rate sufficiently clear?

Yes.

7. Is the application of the discount rate sufficiently clear?

Yes.

8. What additional costs would be triggered by the documentation and transparency requirements?

From our perspective, the documentation and transparency requirements trigger disproportional high additional administrative costs.

9. Is the example 1 sufficiently clear and helpful to understand the application of the guidelines?

Yes.

10. Is the example 2 sufficiently clear and helpful to understand the application of the guidelines?

Yes, example 2 is sufficiently clear and helpful to understand the application of the guidelines.

Remark on page 20 (present value formula in the box):

Shouldn't the formula be:

$$dvr = vrpr * \frac{1-\frac{1}{r^n}}{\mathrm{r}-1} \quad \text{instead of} \quad dvr = vrpr * \frac{(\mathrm{r}^{\mathrm{n}}-1)}{\mathrm{n}*(\mathrm{r}-1)}\ ?$$

We ask for a review of the formula used.

11. Is the example 3 sufficiently clear and helpful to understand the application of the guidelines?

Yes.

12. Do you agree with our analysis of the impact of the proposals in this CP? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

No position.

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We hope our comments are seen as a useful contribution to the discussion and final issuance on the respective RTS is reflecting our comments made.

Eschborn

14 January 2014

Henrik Holzweiß

Matthias Oßmann