Deutsche Börse Group Response to the European Commission's Call for Evidence on the rationalisation of reporting requirements

Frankfurt, 28 November 2023

Executive Summary

As a market infrastructure provider, Deutsche Börse Group (DBG) is subject to several EU reporting frameworks and non-EU regimes. Against this background, DBG welcomes the European Commission's commitment to streamline the reporting landscape to reduce the reporting burden and make reporting more efficient. DBG appreciates the opportunity to provide feedback to the Call for Evidence on the rationalization of reporting requirements.

While DBG has compiled detailed feedback to the questionnaire in the annex, we would like to highlight the following general points: Over the years, reporting requirements have constantly increased and we welcome the assessment of potential efficiency gains. We consider this an important condition to explore potential options before changing requirements. In case the current system may be adapted to a "report & share once" system, a data hub may need to be developed. We assume this to be potentially complex and that it may take time to be developed. While DBG assumes that the long-term cost and burden of reporting will be reduced, any significant changes may result in short-term and potential fix costs. Any changes to reporting system, even in case of smaller changes, usually require at least one year, incl. high costs. Therefore, we welcome that the Commission will be conducting a cost-benefit-analysis before adapting the reporting structure. Also, the streamlining of terminology of different regulations as well as a comprehensive overview of reporting requirements could already support cost cutting in the short-to-medium-term.

While we have experienced inefficiencies with specific EU reporting rules, we have also found some more general issues: For instance, updates in various reporting requirements take place on a frequent basis, resulting in infeasible implementation timelines and efforts for reporting entities. At least one year to adapt to any changes should be granted. Another example is inefficiencies in the validation or cross check of reported data by authorities, or synchronization issues of central databases for MiFIR transaction and reference data, resulting in unjustified warnings and rejections. Further, we have experienced that Level 2 or 3 definitions and guidelines are not always aligned with the technical validations, for instance when it comes to MiFIR reporting in line with RTS 2 or the EMIR Refit regime.

For the Commission's questionnaire and any reporting requirements that are obsolete or of limited use, we refer to MiFIR transaction reporting under Article 26(5) and weekly commodity reporting under MiFID II Article 58 as examples. Trading venues are required to provide accurate and timely data on behalf of their participants even though this data may be sensitive or not deliverable in time – it should hence rather be reported by the participants themselves. Another example where reporting rules could be streamlined due to limited use is the EMIR Refit regime, where redundant valuations of positions are required even when those are flat. For the weekly commodity reporting we would also recommend a reduction of the reporting frequency, i.e., to only report when there has been a change in position. When it comes to duplicative reporting requirements, DBG's reporting entities experience a lot of "double reporting" of the same/similar data under different sectoral legislation (see annex for examples across EMIR, MIFIR, REMIT, etc.). Hence, where similar/identical data is being reported to different authorities, we would indeed support a streamlining of the reporting obligations following the "report once" principle and relevant authorities to share the data. Finally, reporting entities may not only be subject to EU but also to overlapping non-EU regimes. Hence we would also appreciate a streamlining on global level, to the extent possible.

DBG trusts that our comments are useful for the Commission's stocktaking exercise and remain at their disposal for further discussion.

Detailed comments to the Call for Evidence

1. **How much time and resources are devoted generally to fulfilling the reporting requirements? Please detail to the extent possible the hours per month/year or the full-time equivalent staff needed to fulfil them.**

Please note that the cases to reply to this and the following questions have been assigned references from a) to j) for easier reference to each case throughout the document.

Regarding question1, across DBG's value chain, our entities are subject to various EU and non-EU reporting frameworks. Against this background, DBG entities allocate significant resources to the maintenance of those various reporting systems (please refer to question 2 for a number of examples). Across the group, this translates into more than 37 FTEs internally, however, reporting entities of DBG also bring in external support which results in additional external FTEs. Generally, the maintenance of reporting systems and the adherence to reporting requirements is a substantial and recurring annual cost component across DBG entities. In order to illustrate this point, we would like to highlight that one of DBG's companies has spent and will spend around EUR 3 mn over two years just in order to implement changes in transaction reporting related obligations.

2. **Are these requirements only originating from EU law?**

a) The requirements originate from MiFIR Article 26 (5) only.
b) The requirements originate from MiFIR RTS 2 and guidelines but is also related with the general issue of how to accommodate technical specifications of reporting requirements to the different types and specificities of different instruments.
c) Synchronization issues of FIRDS and FITRS reporting systems is another example where DBG's trading venues have experienced inefficiencies: Those are related to reporting of reference data and transparency data respectively in relation to MiFIR RTS 23, 1 and 2.
d) The requirement originates from MiFID II Article 58 regarding weekly commodity reporting.
e) The overlapping requirements originate from EMIR Article 9 and REMIT Article 8 reporting. Further, more generally speaking, for each reporting obligation IT connections with numerous supervisory authorities such as ACER, ESMA, ElCom, Trade Repositories (TRs) and national competent authorities (NCAs) are necessary, one central data receiver or aligned technical interfaces would assumingly lower the burden.
f) Implementation timelines: We would like to flag this point as a general reporting problem, rather than specific issue that originated from a specific EU law. Different types and numbers of updates in various reporting requirements take place on a frequent basis via i.e., launches of new manuals and guidelines. Though these updates might be small or big in principle, the required technical work at the background of the trading infrastructure might need significant implementation phases which is relatively time-consuming and sometimes also requires market participants to adapt and invest accordingly. Furthermore, especially with small updates, it is not feasible for trading venues to launch a new

version of the trading system with each update incoming from the regulators. This is burdensome and technically not easy for trading venues as well as very confusing and difficult to keep up with for market participants. We would rather find it more applicable to integrate some changes all together at once in regular trading system releases i.e., yearly. For that reason, the realistic implementation timeline of the updates in reporting requirements should be at least one year.

g) Improvement in validation systems would be useful: We would like to flag this point as a general technical issue related to MiFIR reference data reporting, rather than specific issue that originated from a specific EU law, that we face while fulfilling the requirements of various reports. When DBG's trading venues submit a report, ESMA needs to validate the respective information in that report. However, the validation system tries to validate all submitted information with an identical logic even though very different natures or setups of financial products. For example, some instruments can be terminated before the expiry date and reactivated again. However, they keep their ISIN same. During the time between termination and reactivation, we do not report these instruments since their status is deactivated but it is expected that these instruments are available in the report. In addition, there is no history kept and only new records are being saved. The system rewrites the records which can lead to new warnings and rejections. It would be useful if the history of ISIN related data would be kept in the ESMA database.

h) ISIN related data comparison: As for the previous point, the following comment is more of general nature but again related to MiFIR reference data reporting requirements, i.e., issues with various reports derives from inaccurate cross checks of ISIN via various channels. When ESMA needs to compare the ISIN of products reported to it, with various reasons, it can do it either by cross checking with national numbering agencies (NNA) or with other data providers of the same product. In an ideal world, we would expect that ISIN are the same in all channels since they correspond to the same instruments. However, sometimes we face the issue that NNAs do not update the ISIN in their internal systems or reuse the old ISIN of obsolete products for new products. If NNA data is different than the data provided in the report, the trading venue is warned as if the reported data is wrong even if it is correct. Another similar issue is that the first submitted data from any data provider is considered as the "home market data", even if the provider is not the home market provider and evaluate that data as the correct one. For example, the home market of a DAX instruments is Germany but, if another EU trading venue that offers trading of that instrument, who trades the same DAX instruments, submits the ISIN to ESMA first, it is accepted as correct and the data deriving from German market operator is accepted as incorrect in case of an incompatibility of the ISINs.

i) and j) From a CCP perspective, EMIR (EMIR Article 9 EU Regulation No. 648/2012), SFTR (SFTR Article 4 EU Regulation No. 2015/2365) and MiFID II (Article 26 MiFIR in connection with § 22 (3) securities trading act) reporting requirements are based on EU as well as respective national law. However, there are also reporting obligations stemming from non-EU legislation, such as for the US: CFR Title 17, Chapter I, Part 45 (short: Dodd Frank Part 45) and CFR Title 17, Chapter I, Part 39 (short: Dodd Frank Part 39) – and for Japan: FIEA Art- 156-163, Cabinet Ordinance Art. 3+4; as well as for Canada (Ontario) OSC Rule 91-507, Canada (Quebec), which ECAG, being one of DBG's CCPs, need to adhere to.

3. Are there specific areas (type of reporting requirements or policy areas) that are particularly problematic?

a) According to MiFIR Article 26 (5), trading venues must report all transactions from their trading participants which are not subject to the Regulation. The scope of the transaction reporting data does include data which is available to the trading venue but also information that the trading venue must request from the trading participant which can be rather difficult to obtain and following cumbersome processes. Even more, the requested data is primarily personal data, which must be provided by the trading participant within a very short timeframe as the deadline for the trading venue to provide the transaction reports to the regulators is only by T+1 end of business. The trading venue must also ensure that the information provided by the trading participant is accurate, complete and submitted in time in order to allow the trading venue to fulfill the reporting obligation towards the regulator. In those circumstances, the major problem for the trading venue is incomplete, incorrect and missing data by the relevant trading participants as the trading venue is both responsible for the reporting and unable to ensure the quality, accuracy and simply the provision of some of the information. The transaction reporting should therefore rather be reported by the participants themselves.

b) Accommodating different types of products/instruments: As highlighted in our response to question 2, MiFIR RTS 2 on transparency requirements mandates trading venues to report respective information about bonds, structured finance products, emission allowances and derivatives. Although ESMA differentiates between different types of instruments, technical structure of the instruments is not always accommodated in ESMA's reporting system in practice. In other words, the definition in RTS 2 and guidelines are not always aligned with technical validations. For example, in fixed income space, ESMA differentiates between bond and interest rate derivatives. However, it does not accommodate for options on futures on basket of bonds. This leads to a confusion on reporting party side which information needs to be reported i.e., as an underlying. While we welcome ESMA's ongoing efforts around clarifications to the recently reviewed MiFIR RTS 1 and 2, DBG would appreciate an assessment of the above issue as well.

c) Synchronization issue of FIRDS and FITRS reporting systems: MiFIR RTS 23 as well as 1 and 2 require trading venues to report reference data and transparency data respectively. ESMA runs the reporting tools for both sets of data via FIRDS and FITRS. Occasionally, we have experienced that the synchronization between these two systems does not work properly. Even though (partially) the data is the same, the data sent for transparency reference data reporting sometimes receives a warning or is rejected, although the same data was submitted for the reference data reporting. To increase efficiency of reporting, we would recommend a synchronization of the two databases. Normally, the reference data (RTS 23 data) is submitted in day t, the transparency reference data (ETR/NTR data) is submitted in day t+1, and the transparency quantitative data (EQU/NQU) is submitted in t+7. So, the latter ones are dependent on the former ones. If the reference data submission cannot be properly saved in the database overnight and leans on t+1, the transparency data cannot also automatically be saved, and quantitative data is rejected afterwards. That is why we suggest transparency reference data reporting (NTR/ETR) to take place on t+2 to align with the quantitative reports.

d) Redundant requirement of weekly "commodity reporting" as per MiFID II Article 58: As flagged in our response to question 2, MiFID II Article 58 mandates trading

venues to weekly report the aggregated positions in commodity derivative products traded on their venues. To us, weekly reporting of this information is burdensome, and therefore our suggestion to regulators, it would be sufficient to report the information whenever there is a change in position, in other words a delta to the previously provided information. Another aspect about this reporting is that trading venues must receive the sensitive data regarding the commodity trading from investing firms, must consolidate it and send to ESMA like an "outsourcing duty". It is more appropriate that investment firms themselves provide this information. Additionally, trading venues also must report the same information daily to national competent authorities according to MiFID. To us, this is a double reporting issue, therefore we suggest that sharing the information between authorities might be less burdensome and appropriate.

e) Please refer to questions 4, 8 and 9 where we suggest a streamlining of duplicative reporting requirements from different sectoral legislation and an alignment between authorities receiving the same/similar data from reporting entities.

f) Please refer to questions 2 and 7, where we suggest a streamlining of implementation timelines where updates to reporting requirements occur to reduce the burden for the implementing entities.

g) Please refer to question 2, where we suggest improvements to ESMA validation systems.

h) Please refer to question 2, where we refer to the issues with incorrect ISIN data validation.

i) Particularly problematic is MiFIR reporting requested by CCPs. Article 26 MiFIR is originally designed for trading participants, i.e., investment firms which conduct trades on a trading venue. MiFIR Article 26 is looking primarily at the trade parameters Trade Price, Trade Quantity and Trading Time Stamp. Goal is to identify market manipulation, insider trading etc. According to MiFIR Article 26 CCPs such as ECAG would not have been required to report. However, the national regulator extended the German law, i.e., §22 ("Meldepflichten") (3)[1]Securities Trading Act so that CCPs such as ECAG are obliged to report selected fields of Article 26. All fields of the transactions which are originated by the trading venue and not transferred to the clearing house as the information is not required for clearing purposes are problematic, i.e., TVTIC or trade prices which differ from clearing prices (e.g., all strategy prices are not maintained in the Clearing house as all strategies are decomposed in individual product/series components). With the outcome of the latest review of MiFIR this particular point should be carefully reviewed. Further, we have experienced some specific issues regarding MiFIR reporting from a CCP-perspective:
Firstly, reporting of the same strategy price for all single transaction reports of a complex trade is producing unnecessary effort and is making the prices not comparable with other single leg transactions which is actually contrary to the objective of supervising market conformity of prices.
Secondly, as alluded to under question 3, the reporting of instrument data to FIRDS currently does not allow a reference data history and correction of historical reference data. This in turn leads to rejections of historical transaction corrections if an instrument was valid at trade date but is no longer valid at the time of reporting the correction of a transaction on a historic trade date.

[1] (3) The obligation under Article 26(1) to (3) and (6) and (7) of Regulation (EU) No. 600/2014 in conjunction with Commission Delegated Regulation (EU) 2017/590 of 28 July 2016 supplementing Regulation (EU) No. 600/2014 of the European Parliament and of the

Council with regard to regulatory technical standards for the reporting of transactions to competent authorities (OJ L 87 of 31 March 2017, page 449), as amended, applies, with the necessary modifications, to central counterparties in Germany as defined in section 1 (31) of the Banking Act in respect of information they have because of the transactions they have entered into. 2This information comprises details to be reported in accordance with Annex I Table 2 Fields 1 to 4, 6, 7, 16, 28 to 31, 33 to 36 and 38 to 56 of Commission Delegated Regulation (EU) 2017/590. 3The other fields must be populated in such a way that they comply with the technical validation rules defined by the European Securities and Markets Authority..

j) Please refer to questions 2 and 9 where we highlight that EU reporting requirements under EMIR for interest rate swaps also overlap with non-EU reporting requirements.

4. Among those, which specific reporting requirements are considered difficult to fulfil? Which take the most time? Please detail to the extent possible the hours per month/year or the full-time equivalent staff needed to fulfil these requirements in specific areas.

Please refer to questions 1 and 2.

5. What are the reporting requirements that you consider obsolete or of limited usability or not proportionate? Is the purpose of collecting some information unclear?

a) The trading venue obligation to provide trading participant transaction reports to the regulator is not proportionate as the necessary data is not easily available to the trading venue and the trading venue cannot enforce the regulation. Trading participants are obliged to provide trading venues with personal data they otherwise are not meant to provide for the sole purpose of trading. Personal data is however extremely sensitive information and trading venues shall not be the recipient of such data as the data is not related to trading and serves another purpose which is to be reported to the regulator. DBG considers that trading participants shall fulfil the transaction reporting themselves and provide sensitive personal data directly and solely to the regulator.

b) n/a

c) Please refer to question 3 where we elaborate on synchronization issues of central databases.

d) Please refer to question 3 where we highlight the redundancy of weekly commodity reporting as per MiFID II Article 58. We would suggest reporting the information only whenever there is a change in position, in other words a delta to the previously provided information. Another aspect about this reporting is, trading venues must receive the sensitive data regarding the commodity trading from investing firms and have to consolidate it and send to ESMA like an "outsourcing duty". It is more appropriate that investment firms themselves provide this information. Additionally, trading venues also must report the same information daily to national competent authorities according to MiFID. To us, this is a double reporting issue, therefore we suggest that sharing the information between authorities might be less burdensome and appropriate.

e) n/a

f) n/a

g) n/a

h) n/a

i) Apart from MiFIR reporting which is in some parts difficult to fulfill from a CCP-perspective (please refer to question 3 for details), the challenging part of all the regulations is more that we have a lot of "double reporting" to various regulators

or trade repositories with basically the same content (i.e. same asset class and market) but nevertheless slight differences in fields/counterparty levels.
Further, in the new EMIR Refit regime there are a couple of redundant reporting parts (i.e. overreporting). The most prominent one is that ESMA requires to send valuations for all active positions, also when positions are flat (i.e. have a quantity of zero). For those, ESMA offers two possibilities:
1. Termination of the position and reporting of a new one using a different UTI at a later stage. No valuations are reported in between the termination of the first position and the creation of the latter.
2. Maintaining the position open and reporting a zero-contract value daily.
ECAG decided to send zero valuations for all active ETD positions that have no quantity. This will be done daily until maturity or delisting/deactivation. Although this approach will increase the number of reported positions about 30% and the internal efforts in housekeeping of inactive zero positions at our backend system, ECAG prefers this option because otherwise same positions per clearing member and product could have various position UTIs during the lifetime of the futures or options contract which makes reconciliation and accurate management of errors (including potential backloading) extremely difficult or even impossible.
In addition, there are some market participants voting for option 1, i.e. termination and resubmission of a different UTI. In case the industry is not able to find a common approach, the possibilities of unpaired records will increase significantly. Thus, we would appreciate a review and clarification by ESMA.
Further, reporting of ETD transactions according to EMIR is unnecessary as on the one hand, the transactions are already submitted according to MiFID II, and on the other hand all ETD transactions are also part of reported ETD positions, that are much better suited to evaluate the systemic risk.

j) As highlighted in questions 3 and 9, EU reporting requirements may overlap with non-EU requirements as well. Ultimately, there is unfortunately no EU-wide nor a global harmonization of the reporting requirements.

6. Which reporting requirements could be (further) digitalised and how? Please consider both the data collection and the submission of the report itself.

a) n/a
b) n/a
c) n/a
d) n/a
e) n/a
f) n/a
g) n/a
h) n/a
i) Please refer to question 9 where we would suggest a streamlining and consolidation of reporting destinations following the “report once” principle.
j) n/a

7. For which requirements could the reporting frequency be decreased?

a) n/a
b) n/a
c) Please refer to question 3 where we recommend an adaption of the frequency of MiFIR transaction and reference data submission to FIRDS and FITRS to t+2

reporting with a view to solve synchronization as well as connectivity issues experienced with those central databases.

d) Please refer to question 3 where we highlight the redundancy of weekly commodity reporting as per MiFID II Article 58. We would suggest reporting the information only whenever there is a change in position, in other words a delta to the previously provided information.
e) n/a
f) As flagged in our response to question 2, different types and numbers of updates in various reporting requirements take place on a frequent basis via i.e., launches of new manuals and guidelines. Though these updates might be small or big in principle, the required technical work at the background of the trading infrastructure might need significant implementation phases which is relatively time-consuming. Furthermore, especially with small updates, it is not feasible for trading venues to launch a new version of the trading system with each update incoming from the regulators. This is burdensome and technically not easy for trading venues as well as very confusing and difficult to keep up with for trading members. We would rather find it more applicable to integrate some changes all together at once in regular trading system releases i.e., yearly. For that reason, the realistic implementation timeline of the updates in reporting requirements should be at least one year.
g) n/a
h) n/a
i) n/a
j) n/a

8. Which reporting requirements overlap with other requirements and could be consolidated?

a) n/a
b) n/a
c) n/a
d) Please refer to question 3 where we highlight the redundancy of weekly commodity reporting as per MiFID II Article 58. Trading venues must receive the sensitive data regarding the commodity trading from investing firms and have to consolidate it and send to ESMA like an “outsourcing duty”. It is more appropriate that investment firms themselves provide this information. Additionally, trading venues also must report the same information daily to NCAs according to MiFID. To us, this is a double reporting issue, therefore we suggest that sharing the information between authorities might be less burdensome and appropriate.
e) There are different data formats for identical data in EMIR Article 9 Reporting and REMIT Article 8 reporting. Generally, a cooperation between ESMA and ACER should be strengthened to ensure aligned requirements.
f) n/a
g) n/a
h) n/a
i) As mentioned in question 3 and 5, EMIR reporting provisions overlap in the ETD segment with MiFIR reporting of ETD Transactions: ECAG has to report all ETD transactions according to Article 9 EMIR to a Trade Repository as well as according to MiFIR Article 26 to the NCA although EMIR data is already made available to all national authorities via various reports.
j) EMIR also overlaps in the OTC Interest Rate Swap segment with DF part 45:

ECAG has to report all Interest Rate Swap Data to a European Trade Repository according to Article 9 EMIR but also to a US Trade Repository according to DF Part 45, whereas US clearing houses do not need to report to European TRs or regulators. We would appreciate an alignment of the regimes to reduce the duplicative reporting to the extent possible.

9. Are some reporting requirements unnecessary in the sense that the information provided is already accessible to public authorities / EU via other communication channels or information systems / databases?

a) n/a
b) n/a
c) n/a
d) Please refer to question 3 where we highlight the redundancy of weekly commodity reporting as per MiFID II Article 58. Trading venues must receive the sensitive data regarding the commodity trading from investing firms and have to consolidate it and send to ESMA like an "outsourcing duty". It is more appropriate that investment firms themselves provide this information. Additionally, trading venues also must report the same information daily to NCAs according to MiFID. To us, this is a double reporting issue, therefore we suggest that sharing the information between authorities might be less burdensome and appropriate.
e) As highlighted in our responses to questions 2, 4 and 8, there are different data formats for identical data in EMIR Article 9 Reporting and REMIT Article 8 reporting. Generally, a cooperation between ESMA and ACER should be strengthened to ensure aligned requirements.
f) n/a
g) n/a
h) Please refer to question 2, where we flag issues with validation of ISIN data across different authorities and databases.
i) We would appreciate if there would be only one reporting destination. For example, only one Trade Repository, MRER, DRR or any other destination receiving trade confirmation data in the industry standard trade confirmation format. If this destination is in connection to other regulators and able to distribute the relevant data, the effort would be diminished significantly. As the content for all reporting is very similar, there would be no content gaps. However, with that approach it has to be carefully watched not to try forcing ETD Reporting into OTC concepts. For example, the current ISDA CDM DRR is not suited for ETD and would create huge overhead to change ETD data structures into OTC formats. Further, reporting of ETD transactions according to EMIR is unnecessary as on the one hand, the transactions are already submitted according to MiFIR, and on the other hand all ETD transactions are also part of reported ETD positions, that are much better suited to evaluate the systemic risk.
j) n/a