

Deutsche Börse Group's initial position on the Roadmap on the "Supervisory Data Collection Strategy"

I. Introduction

To best support the recovery from the COVID-19 pandemic as well as the "European Green Deal" and the Digitalisation of the EU, a well-functioning financial market is key. In this context, Deutsche Börse Group (DBG) has read with interest the European Commission's (EC) assessment within the Roadmap, that the current system of regulatory reporting requirements and collecting data in the financial sector is complex and may have led to inefficiencies in the reporting processes. We acknowledge that there may be room for improvement.

DBG in its capacity as a financial market infrastructure (FMI) uses modern IT and technological solutions to operate and serve the financial sector worldwide encompassing the entire value chain from pre- to post trading, data and index business as well as covering ESG business. DBG is also adopting new technologies, such as DLT/Blockchain, AI as well as Cloud.

We ensure trust in markets and the efficient functioning of these markets; including but not limited to trading and market data, clearing, securities custody, and the provision of benchmarks; embedded in the EU legal framework for financial services (e.g. MiFID II/MiFIR, MAR, CSDR, EMIR, SFTR or SFD). Therefore, we are subject to many sectoral regulatory frameworks that include reporting requirements and are familiar with the complexity of reporting systems and their implementation.

We are of the opinion, that a well-functioning supervisory set-up, based on high-quality data, is necessary to ensure stability, as well as to have the ability to monitor, to analyse market developments/trends and to mitigate risks and ultimately protecting market participants.

We fully embrace the EC's efforts to improve the availability, quality and scope of data by expanding reporting requirements at a broad scale (e.g. the initiatives within Data Act/DGA/CSRD/NFRD or ESAP). DBG contributes to all these initiatives and supports any increase in transparency irrespective if towards authorities or the wider public.

Having said this, we consider it to be of utmost importance to carefully reflect on how to integrate new and existing reporting requirements and schemes and would therefore question the timing of the "supervisory data collection strategy", as we believe that addressing the economic fallout of the COVID-19 pandemic should be a priority for the upcoming years.

Hence, we would propose not to overhaul the complete reporting framework at once, but rather urge for a gradual approach, starting with the improvement of data quality of existing data bases.

DBG would refrain to follow a "one-size fits all" approach, co-mingling different data-sets without clearly defined scope and aligned reasoning. In this context we see different layers, which have to be considered, rather "technical" discussions (e.g. which data formats should be used?), "reporting chains" (e.g. who reports what to whom in which fashion?) and ultimately the question of supervisory responsibility, in order to avoid unclear responsibilities.

From our recent experience, we want to highlight the complexity and the amount of time needed to properly implement and maintain reporting systems. Consequently, we would like to emphasize that there is a certain risk that changes to systems already in place, over and beyond current reporting requirements, would redirect essential resources that are urgently needed for recovery and innovation.

From a practical perspective, this initiative would require significant IT-related staff capacities and time/budget resources from all stakeholders (e.g. national competent authorities, market participants and third-party service providers), which are already tight. Sufficient time for planning and budgeting for the industry is of essence, well ahead of the planned implementation. Therefore, the associated benefits, costs and current capacities of the relevant stakeholders must be carefully balanced, as the task seems very ambitious.

Further, there are other initiatives with regard to reporting, such as DORA, ESAP, CSRD/NFRD, EMIR REFIT or SFTR, which need to be finalized and implemented first and are likely to add additional reporting and disclosure requirements.

In sum, we call for a pragmatic approach, starting with improving the quality of existing reporting data and data basis and not creating additional obligations and implementing costs for competent authorities and industry.

We appreciate the opportunity to share our first views on the EC's roadmap according to the "have your say"-procedure and will be open for dialogue on this initiative.

II. Initial comments in detail

1. Priority and timing to be reconsidered

We would question the timing of this initiative, as we believe that the management of the consequences COVID-19 pandemic must take precedence over this workstream in order to use valuable resources to progress on other key issues that are needed for a good EU recovery.

The EU's implementation of the G20 reforms has created a framework of financial market regulation that established regulatory regimes, supervisory measures and the assessment of the markets' functioning on the basis of data reporting. These mentioned initiatives already require significant IT-related staff capacities and time/budget resources of all stakeholders (NCAs and industry), which are currently already scarce. Hence, we would reiterate that this initiative would generate significant costs/burdens, as anticipated by the EC in its estimates.

In addition, there are other regulatory initiatives related to reporting, such as DORA (incident reporting), ESAP, CSRD/NFRD (ESG taxonomy), EMIR REFIT or SFTR (position calculations), which are either currently in consultation phase, in the legislative process, being discussed within Level 2 or are in the process of implementation. All these dossiers and the respective requirements would have to be considered first or in parallel to the Supervisory Data Collection Strategy, which would add additional complexity.

2. Increasing regulations/receiving supervisors mean growing complexity and costs

As stated, DBG's entities encompass the entire value chain from pre- to post trading, data, index and cover also ESG business. We are subject to many sectoral regulations that provide reporting requirements and are therefore familiar with the complexity of the details of reporting and resulting inconsistencies.

Therefore, we see some value in exploring potential means to simplifying and streamlining regulatory reporting, but this needs a sequenced, proportionate and well-legitimised approach. The existing reporting should ideally be tackled first and foremost.

We share the EC's view that different legislation established different formats and required different interfaces with different IT environments can create complexity:

First, each receiver has often different technical requirements and validation processes. As a consequence, every change of the system on the receiver's end puts a burden on the reporting entity.

Second, an additional burden stems from varying data formats for identical data that has to be reported to different receivers.

Third, additional national reporting requirements and ad hoc data requests by different competent authorities add to the complexities.

As a consequence, we would like to highlight that a significant part of the compliance costs is directly related to the number of competent authorities (also from different sectors, e.g. energy market, IT-security, finance) that are receiving the reports, data and information in different formats. To comply with legislations, financial market infrastructures have to set up IT connections with numerous supervisory authorities such as ESMA and national competent authorities (NCAs) on state and sub-state level.

As a practical example: certain field names are identical in REMIT and EMIR but the format and details to be reported are not identical. This leads to the situation that the "delivery start time" and the "delivery end time" are to be reported in local time under REMIT and in UTC under EMIR.

We therefore do not think that a "one-size fits all strategy" would be possible or suitable. Given the differences across industries, sectors and consumers, targeted measures within some areas are more likely to be successful at the beginning.

In order to tackle some of the issues mentioned above, it could be considered that intermediaries such as Trade Repositories could be a solution, i.e. in order to minimise the burden associated to the use of different technologies and different formats for the market participants, as it was mentioned in the Fitness Check of EU Supervisory Reporting Requirements (p. 168): *“In the area of transaction reporting, where data is reported to a designated third party (e.g. trade repositories in EMIR and SFTR), some NCAs noted advantages of this approach, in particular the fact that any follow-up action with the reporting entities to validate the data or to correct potential errors can be transferred to the specialised third party, thus removing workload from NCAs and ESMA and improving data quality.”*

Trade repositories could be the receiving entities of data (REMIT, MIFIR, MAR, EMIR, SFTR) and supervisors could collect the data needed from the trade repositories.

Further, in order to increase the proper implementation of the strategy, the constant dialogue between companies/business associations and regulators/competent authorities is beneficial. Companies should explain their concrete use-cases to authorities, in order not only to make them aware about new trends, jointly define standards for harmonisation, but also to support the evolvement of the regulatory framework.

This is especially important when it comes to the increased standardisation. We think that any potential standardisation of formats should be done in consultation of the industry, including the different type of actors facilitating a broad representation in the governance.

3. Improving quality/transparency of currently reported/existing databases

The information from the Roadmap seems to be rather vague as of now with regard to scope and details. From our understanding, this initiative would only refer to data reported to competent authorities. However, the goals seem to be very broad and ambitious as they would affect all financial regulatory frameworks (e.g. MiFID II/MiFIR, EMIR, SFTR, ESG, DORA etc.).

Before discussing a potential overhaul of all reporting structures to reduce complexities, we believe that the quality, reliability, transparency and integrity of existing public databases should be considered.

The quality of currently reported data and existing databases - also with a view to allow the EU to benefit from a well-functioning financial market to best support the recovery from the COVID-19 pandemic - could be improved in a careful step by step approach.

Currently, the lack of a distinct terminology raises ambiguities in the implementation of the reporting processes. We therefore support the alignment of the terminology in a common dictionary (i.e. a repository of information about the data, including its meaning, relationships to other data, origin, usage, and format). However, we would recommend proceeding with targeted changes to sectoral legislation to address potential inefficiencies or duplications, but only where necessary. The dictionary could not only support the quality of existing databases, but also help differentiate the terminologies used across multiple financial regulations and other regulatory frameworks, which are relevant for other industries / topics (e.g. energy, IT-security, AI).

It would also help to avoid situations (as mentioned above), where e.g. different time formats (local vs. UTC) must be reported.

4. The current approach of sectoral legislation for different reporting obligations should be kept and conditions for supervisory data sharing must be complying legal requirements

Given that supervisory data sets entail sensitive data which are compiled and reported for clearly determined and legally mandated supervisory purposes only, a potentially undefined re-use of supervisory data by other stakeholders would be questionable. Any data sharing that would facilitate the re-use of data for other purposes than those originally mandated shall be weighed against the principles of data protection and confidentiality.

We think that any reform of the data collection system should follow the existing statutory principles of confidentiality and “need-to-know”. Therefore we question the notion in the Roadmap of the necessity for greater “data sharing” in general and would ask for a cautious approach in close alignment with the NCAs and industry and would ask for a clear legal basis for greater “data sharing” between supervisory authorities.

Furthermore, while streamlining reporting requirements across sectoral legislation to avoid duplications and inconsistencies is welcome as mentioned above, we think that there are good reasons why sectoral legislation provides for different reporting obligations for different services covered. A sectoral approach should be the way forward to address the reporting requirements. For example, MiFID II provides different requirements than EMIR or CSDR; further details on reporting obligations within SFTR are different than REMIT. The different regulatory files have been developed with a logic along the “value chain” within financial markets. For example, starting with listing of a share, the trading of shares (regulated within MiFID II/MiFIR) require different reporting than clearing (regulated within EMIR) or settlement (regulated within CSDR). Maintaining this logic makes sense from our point of view, as it is based on the economic reality of the underlying transaction.

5. Level playing field of reporting of different market participants

Transparency is key for market stability and many entities are already delivering data to supervisory authorities under the existing frameworks to this end. These frameworks include already strict reporting requirements.

However, a significant portion of the market activity is not transparent enough (e.g. SIs activities, bonds markets, clearing member and client data on their bilateral portfolios). Therefore, the scope of this initiative would affect only parts of the market which are already subject to high transparency and reporting requirements towards competent authorities, such as on exchange trading and central clearing.

Therefore, a future proof reporting environment that facilitates EU global competitiveness should also consider if sufficient high-quality supervisory data is available or if important aspects of the market activity is not captured by reporting requirements at all.

6. New technologies offer new possibilities but would require adequate transition periods

We agree with the EC that new digital technologies should be included into supervisory reporting, and that automated collection and validation of regulatory data could be an avenue for future streamlining and efficiency purposes.

EU supervisory reporting requirements might indeed not adequately reflect recent technological developments and might not well-suited to the use of modern IT tools. However, even as new technologies are promising, we think that “near to real time” / “timely” data delivery might still not always be technologically feasible and commercially reasonable in T+0. Changes to the status-quo should only be integrated very cautiously and only if there is an undoubted added value that justifies the implementation costs.

However, we would recommend allowing flexibility for the industry to use those technology, including “legacy systems” where possible and appropriate, also have the flexibility of defining the state-of-the-art technology. Here, industry should be consulted, and regulators should not be too prescriptive which kind of new technology to be used also if existing technologies could achieve the same goals.

In addition to the state-of-the-art technology an adoption of “RegOps” principles (i.e. a regulatory reporting framework that combines an integrated data flow, a common processing of standardized, granular datasets based on a big data-enabled platform for computation and analysis) would be welcomed, which could eliminate maintenance burden and operation costs of a new reporting system later.