

A. Introduction

Deutsche Börse Group (DBG) welcomes the opportunity to comment on BCBS consultative document “Standardised Measurement Approach for operational risk” issued in March 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)CSD¹, as well as Eurex Clearing AG as the leading European Central Counterparty (CCPs), are classified as credit institutions and are therefore within the scope of the European Capital Requirements Directive (CRD) and Capital Requirements Regulation (CRR) which transposed i.a. the Basel III rules into European law. Clearstream subgroup is supervised on a consolidated level as a financial holding group.

Moreover, Eurex Clearing AG and European Commodities Clearing AG, who both act as CCPs with an authorisation under the Regulation (EU) No. 648/2012 (EMIR), which transposed the CPMI-IOSCO principles for financial market infrastructures related to CCPs into EU-law, have to respect the capital requirements for operational risk based on CRD IV and therefore indirectly the Basel III rules. Similarly based on Regulation (EU) No. 909/2014 (CSD-R) and its level 2 texts Clearstream Banking AG, Clearstream Banking S.A. and Lux CSD S.A., which are CSDs, will also (irrespective of any ancillary banking services offered) have to apply the capital rules for banks in their function as a CSD once CSD-R is applicable.

All our group entities in scope of CRD/CRR or EMIR or CSD-R, and therefore the Basel III rules, offer limited – if at all - banking activities ancillary to their function as Financial Market Infrastructure (FMI). In order to operate as a Financial Market Infrastructure and in line with the dedicated regulatory framework (e.g. CPMI-IOSCO principles for financial market infrastructures as of April 2012) as well as generally recognised business practices, the business model of our group entities is risk averse. Furthermore the balance sheet volume of our companies depends on the

¹ (International) Central Securities Depository

cash behaviour of our clients which varies sharply within short timeframes depending on their settlement activities or cash collateral supply. Consequently our balance sheet volume is highly volatile.

While the financial risks resulting from credit, counterparty or market risks are in general low at our group companies, operational risks are the driving risk factor and receive appropriate attention.

The document at hand contains a management summary in part B and responses to the questions raised in part C, editorial adjustments in part D and proposal for amendments in part E.

B. Management Summary

We support the BCBS' intention as stated in paragraph 10 not to significantly increase overall capital requirements. Moreover, we do not see the need to increase the overall levels of capital at all taking the various initiatives under Basel III into account. However the BCBS is currently proposing or about to propose a variety of topics to adjust and amend the current capital framework. The proposal on hand is only one element in this regard. Once more we urge the Committee to consult on a comprehensive revised Framework (“Basel IV”), including sufficient quantitative impact analysis on the combined effects in all dimensions (capital, liquidity, concentration risk, etc.).

We consider the AMA as being overly complex. The derived calculation of capital requirements has led to a variety of model-specific questions in the industry. Also we recognise some shortcomings of the Basic Indicator and the Standardised Approach. The review of the current models of the calculation of the capital charge for operational risk is therefore appropriate. Consolidating the three models to a single standard is considered useful. In addition the inclusion of internal loss events in the BI model only if those loss events have a certain severity seems to be reasonable.

We fully support the approach of the BCBS to simplify and harmonise the approaches of capturing the capital requirements for operational risk. Nevertheless the proposed new formula still looks quite complex and adds complexity in comparison to the current Basic Indicator but also Standardised Approach. While we agree in this

particular case with the proposed approach we would remind the BCBS on its chosen guidelines to balance simplicity and risk sensitivity².

Despite our support in this case, based on the variety of recent changes, currently discussed adjustments and expected future initiatives to amend the Basel framework, there is a continuous trend to increase the complexity of the framework. This makes it increasingly difficult to comply and raises concerns on the capabilities of its fulfilment and supervision. This also needs to be aligned with the extensive requirements on supervision by the management body in the corporate governance standards.

In more detail, we agree to the content of the “Interest, Leasing and Dividend Component” and the “Service Component”. Nevertheless we raise technical comments and the need for specifications in part C. In contrast, we consider the need for improvement on the “Financial Component” set up and make amending proposals.

C. Responses to the questions raised

Before responding to the stated questions we have some generic comments:

- § The BCBS is structuring the BI with the intention to avoid penalising certain business models, which is clearly supported. In this regard we propose to allow for some level of discretion to the competent authority to achieve this goal as certain business models may vary significantly compared to “regular” banks (e.g. CSDs, CCPs). Some or even several of these specialities can either not be captured with a standard model or make the model overly complex;
- § On page 12 we detected in the “BI Component” column the wording “Interest, operating lease and dividend”. As we see no reason for the term “operating”, we suggest deleting that word and using “Interest, lease and dividend” instead;

1. What are respondents’ views on the revised structure and definition of the BI?

We in general support the structure and definition of the BI. We summarise some technical comments below:

- § With regard to the “Interest, Lease and Dividend Component” we suggest that the BCBS includes zero bonds as part of the interest bearing securities in the category of “Interest Earning Assets” to avoid misunderstanding (e.g. by adding them to the term “including government and zero bonds”).

² See <http://www.bis.org/publ/bcbs258.pdf>

- § We do not agree with the proposal to use year-end figures for interest earning assets. With regard to the banks balance sheet management on any reference date but in particular at year-end using this information would not match annualised hypothetical interest income assumptions. With the introduction of banking levys, deposit insurance scheme contribution and other measures (e.g. solvency reporting, disclosure requirements, ETC) calculated based on year-end figures, banks steer those, also quarter or month-end figures, in order to manage such external influences. We suggest to use the average of the month end values in order to have smoother figures to avoid exceptionally high or exceptionally low values on any given single date;
- § It has to be secured that differences in the treatment of the various accounting frameworks do not lead to material differences to the calculation of the BI. This is particularly true for the definition of interest income, interest expenses and interest earning assets;
- § We are sceptical about the usage of the proposed financial component. Efficient trading strategies with efficient controls would lead to high charge for operational risk. Poor strategies which lead to a close to zero net P&L on the trading book or the banking book do not receive any relevant capital charge at all (though missing controls could be the reason) and very poor results are again charged;
- § Regarding paragraph 46 (Annex I), bullet 7, provisions / reversal of provisions we kindly ask the BCBS to specify the wording. Instead of the term “provisions” (which is a static balance sheet position) we propose to use the term “provisioning”;
- § It should be clarified that interest income and expenses should only be captured once. We propose to include all interest income and accrual interest in the “Interest, Leasing and Dividend Component” and clarify that such figures not belong to the “Financial Component”. In this regard we want to highlight that it is crucial to avoid double-counting in all of the respective calculations;
- § Regarding paragraph 46 (Annex I), bullet 8, we see the necessity of a further description what is meant with the item “Expenses due to share capital repayable on demand”.

2. What are respondents' views on the inclusion of loss data into the SMA? Are there any modifications that the Committee should consider that would improve the methodology?

In general we have no objections. We see the approach as being reasonable. We acknowledge the intention of the Committee to demand higher capital requirements for banks that have a history of high losses.

§ According to paragraph 27 the BI component is calculated depending on the BI magnitude. For the first bucket (€0 to €1 bn) the respective factor is determined as 0.11; Although we have no particular opposition to that factor, we kindly ask the Committee to explain why these values were chosen;

§ We also cannot judge the calibration of the proposed buckets for the same reason;

§ We cannot evaluate the appropriateness of the substantial jumps of 4 bps, but we kindly ask the Committee to consider smoother jumps between the BI buckets.

3. What are respondents' views on this example of an alternative method to enhance the stability of the SMA methodology? Are there other alternatives that the Committee should consider?

The SMA simplifies the capturing of risks and therefore is not really risk sensitive. Taking the weaknesses of the current models into account and acknowledging the general difficulty of capturing operational risk capital requirements, this seems to be acceptable. After more than 20 years of discussions and taking into account our comments and proposals for adjustments we feel that the proposed SMA is a reasonable method to be used for the next 10 years and hopefully even beyond. As mentioned before, in any case the complexity will increase with the implementation of the SMA in contrast to the calculation of the Basic Indicator Approach. Consequently, other alternatives may raise complexity even further without better risk sensitivity being proven.

We hope that our comments are useful. We are happy to discuss any question related to the comments made.

Eschborn, 02.06.2016

Marcus Thompson

Jürgen Hillen