

**Deutsche Börse Group's Response**

**to European Commission's**

**Public Consultation:**

**"Building a Capital Markets Union"**

## Executive Summary

Deutsche Börse Group (DBG) very much welcomes the opportunity to respond to the public consultation on the Green Paper “Building a Capital Markets Union”. The Capital Markets Union is an important initiative to widen and deepen European capital markets across all 28 EU Member States and crucial to strengthen Europe’s competitiveness.

As a regulated provider of market infrastructure to global capital markets and marketplace organiser, Deutsche Börse Group is a key player within the establishment of the Capital Markets Union. Market infrastructure providers are predestined and well positioned to contribute to the public consultation process on what features the Capital Markets Union should encompass.

Deutsche Börse Group published a Policy Paper “Principles for a European Capital Markets Union – Strengthening capital markets to foster growth”<sup>1</sup> in which following principles to achieve a functioning Capital Markets Union are proposed:

### Core principles of the Capital Markets Union

	1. Revive investor trust	2. Improve non-bank funding	3. Promote financial stability	4. Increase transparency	5. Foster harmonisation/ remove barriers	6. Shape supporting regulatory and supervisory environment
Definition	Regaining confidence and trust in capital markets	Increased access to alternative non-bank funding sources	Reducing risk in the system and increasing shock absorption capacity	Ensure adequate transparency for financial markets and supervisors	Harmonisation of rules/standards to reduce fragmentation and to remove barriers	Shaping the supporting regulatory environment and efficient supervision within EU and globally
Key elements	<ul style="list-style-type: none"> <li>Balanced investor protection</li> <li>Financial education</li> <li>Capital culture</li> <li>Corporate governance</li> <li>Shareholder rights</li> </ul>	<ul style="list-style-type: none"> <li>“Ecosystem” for SMEs and securitisation</li> <li>Pre-IPO</li> <li>Debt financing</li> <li>Treatment of debt vs equity</li> <li>Public funding</li> </ul>	<ul style="list-style-type: none"> <li>G20: reduce systemic risk</li> <li>Risk management</li> <li>Shock absorption capacity &amp; capital requirements</li> <li>Safety/safeguards/safe IT systems</li> </ul>	<ul style="list-style-type: none"> <li>Price discovery</li> <li>Reduce OTC trading and dark pools</li> <li>Market abuse/ fraud</li> <li>Trade repositories</li> <li>Shadow banking rules</li> <li>Account segregation</li> </ul>	<ul style="list-style-type: none"> <li>T2S</li> <li>Securities law</li> <li>Insolvency law</li> <li>Single Rulebook</li> <li>Industry standards</li> </ul>	<ul style="list-style-type: none"> <li>Regulatory fixing/reconciliation</li> <li>Efficient supervision</li> <li>Third-country regimes (reciprocity)</li> <li>Regulatory arbitrage</li> </ul>
Path to growth	Restore confidence to revive investor demand and stimulate growth	Given reduction in bank funding, new sources needed to fill gap and lead to growth	Prerequisite for increasing investment activity and growth	Transparent price discovery and transparency towards supervisors to increase financial stability	Reduce costs and complexity, promote cross-border activities, and stimulate growth	Proportionate and efficient regulation a prerequisite for increasing investment activity and growth

<sup>1</sup> [http://deutsche-boerse.com/dbg/dispatch/en/binary/gdb\\_content\\_pool/imported\\_files/public\\_files/10\\_downloads/11\\_about\\_us/Public\\_Affairs/White\\_Papers/Principles\\_for\\_a\\_European\\_Capital\\_Markets\\_Union.pdf](http://deutsche-boerse.com/dbg/dispatch/en/binary/gdb_content_pool/imported_files/public_files/10_downloads/11_about_us/Public_Affairs/White_Papers/Principles_for_a_European_Capital_Markets_Union.pdf)

### **#Principle 1: Revive investor trust** (please refer to Q5, Q9, Q17, Q18, Q19)

Since the global financial crisis in 2008, confidence in financial markets has fallen dramatically. The lack of trust in the banking system, coupled with a lack of financial understanding, has spilled over into a lack of trust in capital markets. Developing initiatives to revive investor trust in order to restore demand for new sources of funding. Well-informed and well-educated investors are more willing to invest in EU companies. Well-informed companies will search for the best funding possibility.

Key elements are i.e. financial education, financial literacy, capital culture and balanced investor protection.

### **#Principle 2: Improve non-bank funding** (please refer to Q4, Q5, Q10)

Improving availability of non-bank funding is essential for driving economic growth in Europe. In order to reduce the reliance on bank funding, multiple funding alternatives exist. A functioning Capital Markets Union should ensure a choice for investors and companies. Improved access to equity and debt financing could be another cornerstone of the Capital Markets Union.

SMEs play a central role in terms of economic activity and employment in Europe. Market infrastructures could be used to fill the existing transparency and efficiency gap between all relevant constituencies in the IPO set-up phase. There is not just one method through which to increase access to funding for SMEs in Europe. Fostering a stable, positive environment and incentivising companies through attractive and diverse funding options is essential.

Key elements are i.e. the creation of an “ecosystem” for SMEs, pre-IPO, and securitisation.

### **#Principle 3: Promote financial stability** (please refer to Q3, Q4, Q18, Q23, Q26, Q27, Q29)

Promoting financial stability is a necessary prerequisite for growth and job creation; a lack of financial stability leads to economic instability, as seen in the recent crisis. In order to minimise systemic risk and create well-functioning markets, both safety and integrity need to be ensured. It is important that the G20 goals and the European regulation (e. g. EMIR, CRD IV, CSDR) with a focus on increasing financial stability continue to be implemented and are truly applied and the services of market infrastructures promoted, as they deliver financial stability. Maintaining and further promoting financial stability is essential in order to provide certainty to investors both in Europe and internationally.

Recognize and promote the role of capital markets/the services of market infrastructures: Regulated Markets provide both institutional and retail investors with transparent and neutral price-formation. They provide a secondary market, where securities are sold by and transferred from one investor to another. Securities admitted to trading on our markets have

to comply with stringent initial and ongoing disclosure requirements and accounting and auditing standards imposed by EU laws.

The mitigation of systemic risk and the shock absorption capacity have already been significantly improved through the tougher capital requirements introduced since the crisis. Additionally, promoting use of market infrastructure plays a significant role in direct management of systemic risks, as they are highly regulated entities and have crisis-proven effective risk management tools in place. In recent years, regulators and policymakers have clearly understood and implemented the vital role of central counterparties (CCPs), central securities depositories (CSDs) and, in particular, exchanges in strengthening the safety and integrity of financial markets, specifically through systemic risk mitigation, permanent market supervision and efficient post-trade processes and collateral management.

Promote services of market infrastructures: e.g. pre-IPO platform, CSD book-entry, safekeeping functions, push securities on structures/systems provided by market infrastructures, as they deliver financial stability of systems.

Key elements are i.e. risk management, role of Regulated Markets, CCPs and CSDs.

#### **#Principle 4: Increase transparency** **(please refer to Q2, Q9, Q32)**

Increasing transparency for investors as well as supervisors is an essential prerequisite for financial stability, as transparency improves the quality of price discovery and reduces risk. It is those markets and asset classes where the financial crisis started which were not transparent at all. While price transparency for all asset classes is crucial for investors in a stable financial market, supervisors need additional data (including private data) in order to be able to spot potential market abuse. A lack of transparency can cause a serious threat to market stability during stressed periods, as seen in the recent crisis.

While strongly promoting transparency DBG questions the sense of including the topic of a Consolidated Tape in the CMU debate, as the Consolidated Tape is already regulated under MiFID II which will be introduced in 2017 (Article 90 2.). MiFID II even includes a review clause on the effectiveness of the foreseen CTP regime until middle of 2019. In order to avoid double regulation we strongly recommend dismissing this element within the Green Paper. The Capital Markets Union should look to improve upon existing initiatives, ensuring transparency for functioning price discovery mechanisms, keeping in mind that different data users (retail investors, institutional investors or regulators) clearly have differing transparency needs.

While consolidated data to the public is already being part of MiFID II as pointed out above consolidated transparency targeted at the regulator is a different issue and an initiative in this space seems necessary and reasonable.

Key elements are i.e. more trading on exchanges and use of trade repositories.

**#Principle 5: Foster harmonisation/remove barriers**

(please refer Q6, Q7, Q8, Q11, Q24, Q25, Q26, Q27, Q28, Q29, Q30)

Fostering the harmonisation of rules and standards is essential to eliminate costly barriers (especially the Giovannini barriers) and reduce complexity for investors and companies. Initiatives in this area, building on the Single Rule-book as a harmonised regulatory framework, should increase the attractiveness and returns on investment, thereby stimulating economic growth.

The Capital Markets Union is likely to be a good vehicle through which to dismantle some of the cross-border barriers preventing the development of integrated European markets. Significant fragmentation still exists in the public domain, e.g. in securities law, insolvency law, accounting standards for SMEs, and tax procedures (e.g. withholding tax procedures) and investment fund services.

Investors tend to invest in their home market. Therefore, issuers tend to issue where investors are. TARGET2-Securities (T2S) will address this home market bias and facilitate issuance in other markets.

Create favourable tax environment: From a company/issuer perspective, equity is more heavily taxed than debt in most countries, which disincentives equity investment. Rebalancing the current bias towards debt financing could be an important initiative for the Capital Markets Union.

From an investor perspective, paying lower taxes on equity investments would incentivise the provision of equity capital as an alternative funding source.

A potential financial transaction tax contradicts the goals of a Capital Markets Union. It would increase transaction costs in European financial centres and could therefore impede the goals of the Capital Markets Union. SMEs in particular would face higher capital-raising costs as a result of rising transaction costs. Retail investors would also suffer greater financial losses as the tax directly hits retirement provision products. Moreover, if only some of the European markets would choose to introduce such a tax, this would lead to further differences in the tax system of EU Member States and contradict harmonisation.

Key elements are i.e. TARGET2-Securities, insolvency law, securities law and tax regimes.

**#Principle 6: Shape the supporting regulatory and supervisory environment**

(please refer to Q21, Q22, Q23, Q25)

The continued shaping of the supporting regulatory and supervisory environment, both within the EU and globally, is essential to create conditions which support initiatives to fuel growth.

Regulatory Reconciliation/Consistency check of regulatory initiatives: The Capital Markets Union should not be seen as “de-regulation”, but rather “re-regulation”. Loose ends need to

be reconciled with regard to finalisation, implementation and application of existing regulatory initiatives, making sure that these avoid any unintended consequences. Surplus and misdirected regulation raises costs for businesses, utilising valuable funds that could instead be turned towards innovation and growth creation. The overall aim should be to establish a more attractive environment for companies and investors.

In the last years the European Commission launched important regulatory initiatives (CRD IV/CRR, MiFID II/MiFIR, EMIR, CSDR, AIFMD, UCITS V etc.) that should be integrated under the umbrella of the Capital Markets Union. The Commission should avoid making significant further changes to market structure. The Capital Markets Union should reduce the regulatory burden to what is essential, build up an efficient supervisory structure and ensure a global level playing field. Existing regulatory initiatives should be aligned with and not contradict the goals of the Capital Markets Union project (e.g. T2S, FTT)

Given the global nature of capital markets, coordination of supervision both within and outside Europe is important in order to ensure a global level playing field and maintain European competitiveness. The overall aim should be to establish an attractive environment for companies and investors.

Key elements are i.e. regulatory reconciliation/consistency check of regulatory initiatives, avoid regulatory arbitrage, efficient supervision and third country regimes.

With our principals we aim to provide further details regarding the concept of a functioning Capital Markets Union, in terms of the policy initiatives that should be considered. Transferring these principles into elements and further initiatives, it will be crucial to move the pendulum towards more market orientation, bringing existing regulatory aspects and identified gaps together, as a chance to, for example, establish a real capital culture, increase financial literacy, harmonise fragmented capital markets, develop alternative financing options, and reconcile existing capital market regulation.

Different stakeholder groups would benefit from these principles. For example, if trust in capital markets is reinforced, both the general public and professional investors will have improved confidence and be more willing to invest in companies; if non-bank funding channels are strengthened, companies will have a wider choice of financing options.

The establishing of a Capital Markets Union is the consequent next step in the integration of European capital markets and a refreshing development of the policymaking challenge from ensuring financial stability to delivering growth and jobs. The concept offers unique opportunities for all market participants to shape the overall political agenda in its shift from crisis solving towards fostering meaningful growth. This current shift in political priorities mirrors the fact that the EU is at a crossroads with decisive years ahead.

The main objective of a Capital Markets Union is to enhance the efficient allocation of capital throughout the EU by developing non-bank sources of funding and bringing

diversification to sources of finance to foster sustainable economic growth and innovation and drive employment in Europe.

The Capital Markets Union will not only dominate the political agenda of the current European legislative period but also significantly alter the regulatory environment in which market participants and market infrastructure providers act.

DBG supports the view of the European Commission, that “there is no single measure that will deliver a Capital Markets Union”. Instead there will “be a range of steps falling” under the umbrella of a Capital Markets Union, “some individually modest, but whose impact will cumulatively be significant”.

Legislation might not always be the appropriate policy response, in many cases the focus will be on the market to deliver the most appropriate solutions - we support this non-legislative approach for supporting “market-driven solutions”. However, a pragmatic approach should be followed that on specific topics a regulatory approach is needed (e.g. harmonising securities law legislation, reconciliation/consistency check of regulatory initiatives). It will be crucial that the Capital Markets Union helps to move the pendulum towards more market orientation and to strengthen alignment with the Single Rulebook.

Realising a Capital Markets Union across all 28 EU Member States would be a major achievement for European integration. While this will no doubt be a complex task, now is the time to focus on initiatives to develop non-bank sources of funding to foster sustainable economic growth and innovation and drive employment across Europe.

#### Summary of core principles of the Capital Markets Union

1. Revive investor trust	Development of initiatives to <b>revive investor trust in order to restore demand for new sources of funding</b> . Well-informed and well-educated investors are more willing to invest in EU companies. Well-informed companies will search for the best funding possibility.
2. Improve non-bank funding	Improving availability of non-bank funding is essential for driving economic growth in Europe. <b>A functioning Capital Markets Union should ensure a choice for investors and companies.</b>
3. Promote financial stability	Promotion of financial stability is a necessary prerequisite for growth and job creation; a lack of financial stability leads to economic instability. In order to minimise systemic risk and create well-functioning markets, both safety and integrity need to be ensured. <b>It is important that the G20 goals and the European regulation with a focus on increasing financial stability continue to be implemented and are truly applied.</b>
4. Increase transparency	Increasing transparency for investors as well as supervisors is an essential prerequisite for financial stability, as increased transparency improves the quality of price discovery and reduces investment risk. <b>Data provision to cater for transparency needs should only be required where it is necessary to avoid additional costs for investors and supervisors.</b>
5. Foster harmonisation/ remove barriers	Fostering the <b>harmonisation</b> of rules and standards is <b>essential to eliminate costly barriers and reduce complexity for investors and companies</b> . Initiatives in this area, building on the Single Rulebook as a harmonised regulatory framework, should increase the attractiveness and returns on investment, thereby stimulating economic growth.
6. Shape the supporting regulatory and supervisory environment	Continued <b>shaping of the supporting regulatory and supervisory environment</b> , both within the EU and globally, is essential to create conditions which support initiatives to fuel growth. The Capital Markets Union should <b>reduce the regulatory burden to what is essential, build up an efficient supervisory structure and ensure a global level playing field.</b>

## Deutsche Börse Group's Responses to the Questions Q1-Q32

### **Q1: Beyond the five priority areas identified for short term action, what other areas should be prioritised?**

With regard to priorities, we see two types of priorities: short-term achievable goals/short term actions (e.g. introduction of a pre-IPO environment) and topics which have a priority, but are not reachable in the short-run, but at least next steps or the sequence of next steps need to be defined in getting to that goals (e.g. harmonisation of securities law, of insolvency law and of tax regimes).

The general focus is exactly right because the purpose of finance is to deliver capital efficiently to where it can drive economic growth and jobs. A strong economy needs strong capital markets to finance its growth. Additionally, the aim of deepening existing capital markets should also and importantly include derivatives markets. Derivatives play a crucial role throughout the capital markets value chain, ensuring that risks can be hedged. Acknowledge the benefits that derivatives markets deliver for capital markets; missing in the Green Paper.

The initiative to build a Capital Markets Union, is a good opportunity to draw a broad picture. Therefore, Deutsche Börse Group developed following principles in its Policy Paper "Principles for a European Capital Markets Union" which we deem necessary for a functioning Capital Markets Union, namely:

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#### How CCPs reduce systemic risk in the financial system

##### Mitigation of systemic risk by central counterparty clearing

###### CCPs as independent risk managers

- Neutral valuation of risk exposure at current market prices
- Enforcement of independently determined collateralisation levels

... prevents ...

###### Addressing interconnectedness with central clearing

- Novation of contracts to reduce interconnectedness
- Reducing risk exposure by multilateral netting

... lowers ...

###### Protecting market participants from clearing member defaults

- Insuring against tail risks by robust lines of defence
- Reducing the impact of default by a transparent default management process

... mitigates ...

##### Root causes of systemic risk

Excessive risk taking

Interconnectedness of market participants

Insufficient collateralisation of market and credit risk

Promote services of market infrastructures: e.g. pre-IPO platform, CSD book-entry, safekeeping functions, push securities on structures/systems provided by market infrastructures, as they deliver financial stability of systems.

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#### **#Principle 5: Foster harmonisation**

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Given the global nature of capital markets, coordination of supervision both within and outside Europe is important in order to ensure a global level playing field and maintain European competitiveness. The overall aim should be to establish an attractive environment for companies and investors.

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#### **DBG Proposal for Initiative:**

In the response to the detailed questions we will elaborate our key elements, the priorities and concrete Deutsche Börse Group proposals for initiatives.

***Q2: What further steps around the availability and standardisation of SME credit information could support a deeper market in SME and start-up finance and a wider investor base?***

#### **#Principle 4: Increase transparency**

In general, there is a lack of information/economic data on SMEs, resulting in information asymmetries between issuers and investors.

SME assets are heterogeneous (unlike mortgages), tied to the originating bank, and difficult to price or credit score on an aggregate basis. The sector’s composition and its performance vary considerably. Therefore, not only information on credit information is necessary, but there is also a need to improve the availability of all relevant information on SMEs.

Such aspects need to be addressed for sufficient investor appetite and liquidity.

**DBG Proposal for Initiative:**

Any initiative to widen, standardise and make available the relevant information and allow ratings from independent analysts would help investors.

**Q3: What support can be given to ELTIFs to encourage their take up?**

**#Principle 3: Promote Financial Stability**

In the context of funds, the use of market infrastructures should be promoted as they increase stability. CSDs provide with their available, reliable electronic systems safety and security at any time, allow for a notary function and ensure the integrity of the issue.

ELTIFs should make full use of the upcoming T2S infrastructure, single issuance rule set allowing dematerialised issuance through CSDs and distribution.

ELTIFs should be structured similar to ETFs providing for an efficient “trading” mechanism allowing investors to easily enter and leave, while supporting the long term investment pattern.

ELTIFs must avoid complex and costly to manage measures to “keep the investors” in, instead a market/price mechanism needs to be considered.

**DBG Proposal for Initiative:**

Ensure that ELTIFs make full use of the upcoming T2S infrastructure.

**Q4: Is any action by the EU needed to support the development of private placement markets other than supporting market-led efforts to agree common standards?**

**#Principle 2: Improve non-bank funding**

The development of non-bank funding is at the core of initiatives to drive economic growth and employment in Europe, given that traditional sources have been decreasing. Investors searching for returns in a long-term low interest rate environment would welcome new investment opportunities.

Improved access to equity financing could be another cornerstone of the Capital Markets Union, given the characteristics of equity. Many different types of equity financing exist, for example:

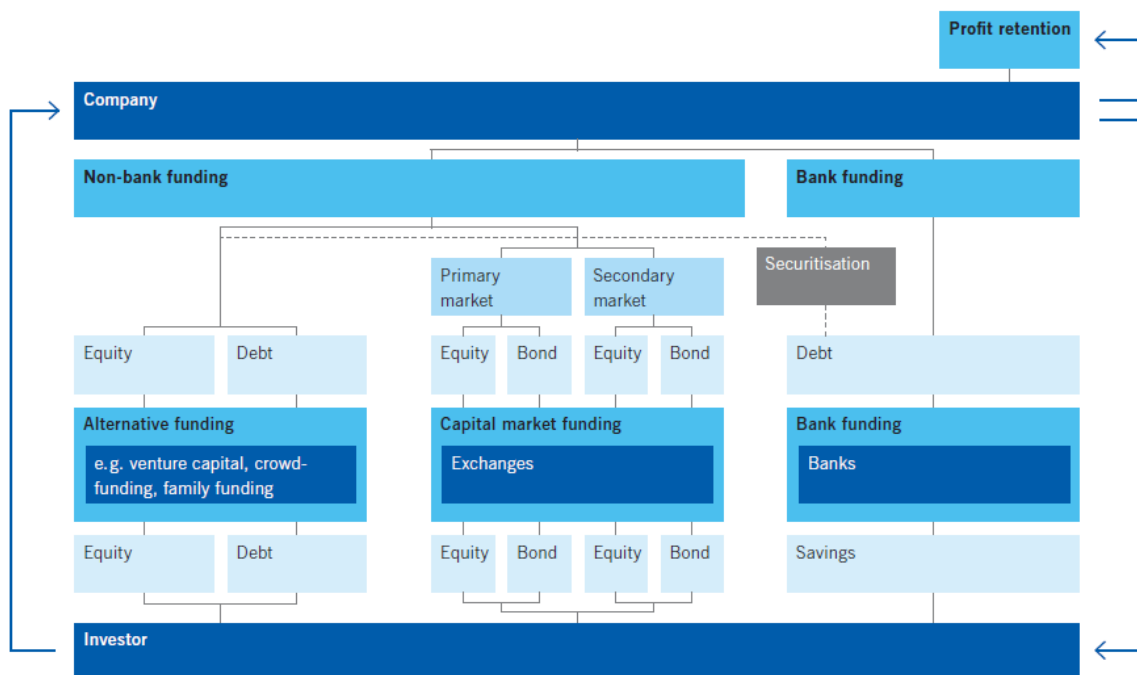
Business angels – wealthy individuals (often entrepreneurs) financing start-ups

Venture capital – specialist funds providing capital to early-stage, high-potential, growth start-up companies

Crowdfunding – funding by collecting (small) monetary contributions from a large number of investors, typically via internet platforms

Initial public offerings (IPOs) – the first issuance of equity by a company to the public

## Sources of bank funding and non-bank funding



In comparison with the US, Europe is weak at raising capital through these channels and at helping small entrepreneurial SMEs to grow. For example, the amount raised through venture capital in Q2/2014 was five times higher in the US than in Europe. It is estimated that some 36,000 additional companies could have been backed by venture capital firms in Europe between 2008 and 2013 if the venture capital market was as deep as it is in the US.

At a more mature stage equity financing through an IPO becomes an option. The primary advantages of an IPO are that it enables companies to raise additional equity capital while giving the original venture capitalists the opportunity to exit through the secondary market. Moreover, it is a form of publicity for the company and serves to distribute the equity capital among a broader shareholder base.

In order to promote IPOs as an alternative funding source, and open it up to SMEs in particular, it will be necessary to better coordinate the pre-IPO phase. To help vitalise the IPO market for SMEs, particularly in countries such as Germany, the creation of a new exchange market segment is not the right answer. Instead, with exchanges increasingly broadening their roles as part of the capital market “ecosystem”, market infrastructure could be used to fill the existing transparency and efficiency gap between all relevant constituencies in the IPO set-up phase.

#### DBG Proposal for Initiative:

A Capital Markets Union initiative may introduce a pre-IPO information and “brokerage” platform connecting SMEs and investors (envisaged as some-thing similar to a shop window display) on EU level. This would be used to facilitate the process and promote

IPOs as a viable and accessible funding option. Deutsche Börse Group announced its “Deutsche Börse Venture Network” programme for this reason:

The aim of the “Deutsche Börse Venture Network” program is to bring together businesses and investors to make an effective improvement in the funding of new high-growth companies. The launch of this new initiative is scheduled for June 2015. Deutsche Börse Venture Network is not a new market segment but a program which comprises a non-public online platform, where funding rounds will be initiated, and training and networking events.

Growth companies have to meet certain selection criteria to qualify for the program, such as being in the growth, late or pre-IPO phase and already exhibiting initial business success. Other criteria include growth in sales, company value and profitability. Growth companies will have the opportunity to present themselves directly on the online platform, without the support of investment banks or other intermediaries. Some first growth companies will be on the platform at the launch. Further companies are currently in the process of applying.

The platform offers a range of European growth companies to German and international investors from private equity, venture capital, public funds and family office areas, as well as high-net-worth individuals.

We form the link that enables an early dialogue between businesses and investors, and offer our complete knowledge of capital markets to help solve structural access and information deficit issues.

Issuance of corporate bonds directly to investors is a good method of debt funding which could be better utilised in Europe, given that bond markets can often provide financing when banks are unwilling to lend and companies do not have to give up shareholder rights. This can be done either through a public listing, or via a private placement, where companies issue bonds directly to a small number of specialist investors.

**DBG Proposal for Initiative:**

In addition, private investments shall be encouraged especially by means of tax advantages for investors.

In recent years, bond markets in Europe have naturally grown to counter the reduction in traditional funding, especially in Germany where bonds with a value of more than €7 billion have been issued by some 130 SMEs since 2010. Initiatives to incentivise the continuation of this trend would be welcome, particularly for smaller companies for which lower amounts are raised.

**DBG Proposal for Initiative:**

Debt financing will always represent an attractive option in many cases both for investors and corporates, and should therefore also be promoted under the Capital Markets Union.

### **#Principle 3: Promote Financial Stability:**

Also in the context of private placements, the use of market infrastructures should be promoted as they increase stability.

CSDs provide with their available, reliable electronic systems safety and security at any time, allow for a notary function and ensure the integrity of the issue.

#### **DBG Proposal for Initiative:**

The CSDs with its central custody mechanisms should be used to support the secure holding and easy transferability of securities privately placed. A cost effective and independent holding mechanism for private investors needs to be put in place to avoid that banks hinder the investor's access to private placements. This could be an institution similar to the German "Finanzagentur" providing easy access to retail non bank platforms to access the CSD infrastructure.

DBG/Clearstream services facilitate for an extensive international investors' reach: not only domestic investors are reached, but also investors on a European and global level are reached. This reduces the "home-bias" phenomenon. (DBG/Clearstream Service: Issuance Hub)

***Q5: What further measures could help to increase access to funding and channelling of funds to those who need them?***

We need more diversified and sustainable business funding, to finance investments through non-bank funding, creating new jobs and stimulating economic growth. Capital to be allocated where it is most efficient while reducing reliance on the banking system. To provide longer-term stable funding through increased cross-border investment, encouraging long-term investment and innovation.

In general, transparency of both investors and SME, i.e. facilitating direct contact, should ease funding and its channeling.

### **#Principle 2: Improve non-bank funding**

A strong economy needs strong capital markets. Recent studies provide evidence that capital market size is positively correlated with economic development.

The European Parliamentary Research Service estimates that the potential efficiency gain from having a fully integrated and effectively regulated EU-wide set of financial markets could be around €63 billion per year. Market integration implies lower costs and therefore lower prices. Estimates of the savings for SMEs are in the order of €53 billion, following the successful implementation of initiatives.

### **#Principle 1: Revive investor trust**

Investor confidence in the markets remains low and there is still public mistrust in the financial sector. Lack of trust is especially problematic in Europe, where there is a preference for saving via deposits. This is likely to act as a serious barrier to the goals of the Capital Markets Union, given that it will be impossible to open up non-bank funding sources without increasing the number of investors willing to provide capital.



To achieve this, investors must be appropriately attracted and incentivised to invest, and companies will need to be aware of and willing to tap into capital markets funding possibilities to create value. Initiatives to tackle this problem are therefore an essential prerequisite to a functioning Capital Markets Union as envisaged by the European Commission.

Improvements in the quality and quantity of financial education are to be welcomed to counter this mistrust and change the attitudes of market participants. The Capital Markets Union should advocate initiatives aimed at giving the wider public a greater understanding of the function of capital markets within the financial system, as well as of the benefits and attractive economics which can be achieved through non-bank financing. Education regarding the different financial products that are available is essential in order to bring investors back into these markets. An emphasis on the fair, efficient, transparent and non-discriminatory nature of markets that operate under the highest possible standards will help to revive confidence in capital market financing.

Some recent regulatory initiatives (such as MiFID II, MAD II, the Shareholder Rights Directive and the Directive on disclosure of non-financial and diversity information by large companies and groups) are aimed at rebuilding investor confidence in financial markets; many of these go through the route of enhanced investor protection.

Moreover, on a global level, IOSCO members agreed on a strategic framework for investor education and financial literacy to be implemented. This lack of confidence and knowledge also manifests itself on the demand side; many European SMEs are not confident in their ability to discuss growth-financing. Additionally, they are often not aware of the vast range of financing strategies available to them, and they may not have the aspiration to explore them, due to a lack of understanding.

#### DBG Proposal for Initiative:

Deutsche Börse Group offers with regard to building up financial literacy/financial education, several services for retail customers, teachers, students and pupils on the website ([boerse-frankfurt.de](http://boerse-frankfurt.de)). Basic education tools are e.g. a stock exchange glossary, brochures for teachers/students explaining financial markets, online quiz and advanced education services are e.g. webinars, investor hotline services, information desks/lectures at investors' fairs, investor know-how and printed handbooks explaining the stock exchange basics for investors. Such education tools for retail investors might be promoted in Europe under an action plan for the Capital Markets Union.

Investors looking for opportunities should also find a variety of appropriate investment channels, according to their risk profile. It is important to increase the attractiveness of capital markets both for EU investors and for investors from outside the Union.

The untapped retail investor potential should be considered. In this context it is important to help to overcome the so called "home bias" in equity markets both for issuers and investors.

As alternative funding sources are opened up and use of capital instruments is promoted, well-defined investor protection rules suited to the new land-scape are crucial. Investor

protection is a key driver of EU financial legislation; if investor and consumer interests are appropriately protected, this will serve to inspire confidence in financial markets again.

Only when investors feel sufficiently protected they will be willing to enter capital markets and participate. For example, distributors of capital market instruments should ensure that any investment products they recommend are suitable for investors; in order to do this, they should obtain whatever information is necessary to adequately assess the suitability of an investment. This involves assuming the responsibility to ask clients the right questions, collect the right information, correctly interpret this information and ultimately recommend a suitable investment product, providing valuable options to diversify their portfolio. Regulators are already aware that this type of investor protection is essential.

Further, from an issuers' perspective, investor protection with regard to (i.e. reporting) requirements when they decide on a public listing are also important.

As part of MiFID II, ESMA published guidelines to further enhance investor protection, especially in the area of suitability of investment advice. The publication was aimed at contributing further to fully integrated safeguards that would allow investors to benefit from the same levels of protection, regardless of which European country they are investing in.

#### DBG Proposal for Initiative:

However, it is equally important that investor protection is well balanced. Regulators should be careful not to make investor protection requirements overburdening. Assessing the suitability of an investment should not be such a complex and resource-intensive process that it outweighs the benefits of providing that advice. Introduction of new or additional burdens for advisors could lead to financial institutions cutting their advisory desks or declining to offer investment advice, which ultimately leads to less investment. This has the added impact of disproportionately giving large advisory businesses the edge over smaller competitors.

**Q6: Should measures be taken to promote greater liquidity in corporate bond markets, such as standardisation? If so, which measures are needed and can these be achieved by the market, or is regulatory action required?**

#### **#Principle 5: Foster Harmonisation**

For example, uniform bond issuance prospectuses could be developed, as seen in the US. Access to standardised information like this is likely to increase investor appetite and bring about greater liquidity in the bond market, ultimately growing it as a funding source.

#### DBG Proposal for Initiative:

The development of uniform bond issuance prospectuses in the context of promoting products additionally to today's rather "legal" documentation.

*Q7: Is any action by the EU needed to facilitate the development of standardised, transparent and accountable ESG (Environment, Social and Governance) investment, including green bonds, other than supporting the development of guidelines by the market?*

#### **#Principle 5: Foster Harmonisation**

The development of standardised, transparent and accountable ESG investment would incentivise the demand.

#### **DBG Proposal for Initiative:**

Activities to incentivise the demand e.g.

- by incorporating ESG aspects in investment guidelines of public authorities
- by regulating retirement provisions
- by fiscal subsidy on SRI pension savings (e.g. Netherlands)
- by approving ethical guidelines for public/governmental pension funds (e.g. Norway)
- by offering SRI products customized to national demands
- by educating financial consultants

*Q8: Is there value in developing a common EU level accounting standard for small and medium-sized companies listed on MTFs? Should such a standard become a feature of SME Growth Markets? If so, under which conditions?*

#### **#Principle 5: Foster Harmonisation**

There is a functioning market infrastructure in place already today. Furthermore, a new market segment will be introduced via MiFID II (SME Growth Markets).

However, only if accounting standards would fully replace national accounting requirements a common EU accounting standard might be valuable. If not, it would be an additional burden only.

In addition, for SMEs weaker requirements of segment reporting could lower the hurdle to go public. For instance, regional operating companies currently have to declare the EBIT on a product basis. With respect to competition and clients this transparency might hinder companies from going public.

#### **DBG Proposal for Initiative:**

DBG does see no need for further measures.

**Q9: Are there barriers to the development of appropriately regulated crowdfunding or peer to peer platforms including on a cross border basis? If so, how should they be addressed?**

DBG highly appreciates any issuance of new securities and new ways of accessing markets – such as crowdfunding.

**#Principle 4: Increase transparency**

However, crowdfunding should be tackled carefully and be properly regulated; transparency for investors is necessary in order to avoid negative experiences (fraud, market abuse etc.) with crowdfunding to capital markets which may erode public confidence. It should be considered to provide a regulatory framework for crowdfunding platforms in order ensure avoiding negative impacts to investors. Investor protection rules need to be applied. A way forward: established principles pursuant to MiFID/ MiFIR and other relevant legislation might be applied.

**#Principle 1: Revive investor trust**

Educated, well-informed investors will make responsible investment decisions from the range of available capital markets products that are adequately suited for their needs. However, investor protection is not developed in crowd funding yet. Finally, the existing models of crowd funding are by far not able to raise an amount of money which is needed to finance economic important businesses.

**DBG Proposal for Initiative:**

A balanced way forward needs to be developed to encourage new ways of investing by ensuring transparency.

As DBG's main objective is to support markets and innovative forms of financing, DBG would appreciate a regulatory framework which supports investor trust and sets high standards to enable crowdfunding as finance means for economic significant businesses.

**Q10: What policy measures could incentivise institutional investors to raise and invest larger amounts and in a broader range of assets, in particular long-term projects, SMEs and innovative and high growth start-ups?**

**Principle 2: Improve non-bank funding:**

Recent initiative in context of Solvency II has the potential to increase the investments into equities. Currently pension funds in Germany only invest 5% of their portfolio in equity capital (compared to NL, POL and BEL with 40%).

**DBG Proposal for Initiative:**

Deutsche Börse Group announced its “Deutsche Börse Venture Network” programme to bring together businesses and investors to make an effective improvement in the funding of new high-growth companies (please refer to response Q4).

*Q11: What steps could be taken to reduce the costs to fund managers of setting up and marketing funds across the EU? What barriers are there to funds benefiting from economies of scale?*

#### **#Principle 5: Foster Harmonisation**

Today different rules in regards to taxation, investor identification, etc. lead to funds being targeted at individual markets only. While the distribution in principle is possible across Europe this is hindered by diverging national rule.

#### **DBG Proposal for Initiative:**

An uniform EU fund, that is taxed and handled under an “EU-rule” rather than under several national rules would allow for economies of scale and create greater competition.

DBG/Clearstream Service: Central Facility for Funds (CFF) Services

*Q12: Should work on the tailored treatment of infrastructure investments target certain clearly identifiable sub-classes of assets? If so, which of these should the Commission prioritise in future reviews of the prudential rules such as CRDIV/CRR and Solvency II?*

No comment

*Q13: Would the introduction of a standardised product, or removing the existing obstacles to cross-border access, strengthen the single market in pension provision?*

No comment

*Q14: Would changes to the EuVECA and EuSEF Regulations make it easier for larger EU fund managers to run these types of funds? What other changes if any should be made to increase the number of these types of fund?*

No comment

*Q15: How can the EU further develop private equity and venture capital as an alternative source of finance for the economy? In particular, what measures could boost the scale of venture capital funds and enhance the exit opportunities for venture capital investors?*

A liquid secondary market is important for exit opportunities.

#### **DBG Proposal for Initiative:**

Deutsche Börse Group announced its “Deutsche Börse Venture Network” programme to bring together businesses and investors to make an effective improvement in the funding of new high-growth companies (please refer to response Q4).

*Q16: Are there impediments to increasing both bank and non-bank direct lending safely to companies that need finance?*

No comment

**Q17: How can cross border retail participation in UCITS be increased?****#Principle 1: Revive investor trust**

Investor confidence in the markets remains low and there is still public mistrust in the financial sector. Lack of trust is especially problematic in Europe, where there is a preference for saving via deposits. This is likely to act as a serious barrier to the goals of the Capital Markets Union, given that it will be impossible to open up non-bank funding sources without increasing the number of investors willing to provide capital. To achieve this, investors must be appropriately attracted and incentivised to invest, and companies will need to be aware of and willing to tap into capital markets funding possibilities to create value. Initiatives to tackle this problem are therefore an essential prerequisite to a functioning Capital Markets Union as envisaged by the European Commission.

Improvements in the quality and quantity of financial education are to be welcomed to counter this mistrust and change the attitudes of market participants. The Capital Markets Union should advocate initiatives aimed at giving the wider public a greater understanding of the function of capital markets within the financial system, as well as of the benefits and attractive economics which can be achieved through non-bank financing. Education regarding the different financial products that are available is essential in order to bring investors back into these markets. An emphasis on the fair, efficient, transparent and non-discriminatory nature of markets that operate under the highest possible standards will help to revive confidence in capital market financing.

While the financial sector is partly responsible for restoring investors' trust by providing education, regulation should strongly support these efforts.

Some recent regulatory initiatives (such as MiFID II, MAD II, the Shareholder Rights Directive and the Directive on disclosure of non-financial and diversity information by large companies and groups) are aimed at rebuilding investor confidence in financial markets; many of these go through the route of enhanced investor protection.

Moreover, on a global level, IOSCO members agreed on a strategic framework for investor education and financial literacy to be implemented. This lack of confidence and knowledge also manifests itself on the demand side; many European SMEs are not confident in their ability to discuss growth-financing. Additionally, they are often not aware of the vast range of financing strategies available to them, and they may not have the aspiration to explore them, due to a lack of understanding. This can be changed only through

**DBG Proposal for Initiative:**

Promote initiatives for investor education and financial literacy. Deutsche Börse Group offers with regard to building up financial literacy/financial education, several services for retail customers, teachers, students and pupils on the website ([boerse-frankfurt.de](http://boerse-frankfurt.de)). Basic education tools are e.g. a stock exchange glossary, brochures for teachers/students explaining financial markets, online quiz and advanced education services are e.g. webinars, investor hotline services, investors' fairs, investor know-how and printed handbooks explaining the stock exchange basics for investors. Such education tools for

retail investors might be promoted in Europe under an action plan for the Capital Markets Union.

**Q18: How can the ESAs further contribute to ensuring consumer and investor protection?**

The European Securities and Markets Authority (ESMA) contributes to ensuring i.e. consumer and investor protection for capital market participants.

**#Principle 4: Increase transparency**

Investor protection however cannot be achieved with “one size fits all” solutions, we take here as an example the measures aimed under several recent pieces of legislation to radically segregate account structures used by the market intermediaries (like under the recent UCITS Directive review, among others) are likely to provide transparency, but transparency does not increase as such the asset protection.

The segregation between client assets and company assets is crucial to allow for a proper protection, in case of the intermediary’s eventual bankruptcy. Current levels of segregation readily ensure this protection via the Omnibus account structure widely used by the financial markets at global level. Customers’ assets on omnibus accounts are duly protected in case of insolvency of the SSS/CSD and are not subject to upper tier attachment.

This protection is achieved without the need for further segregation and is in no way enhanced from a legal perspective by further segregation in (possibly) millions of sub-accounts at the level of the depositary or the delegated third party. Omnibus accounts create tremendous economies of scale, with consequent reductions in processing costs, which makes markets more open to a wider range of investors, which is precisely the ultimate aim of the CMU initiative and this while keeping the costs low for all parties involved, and clearly for the investor itself.

What can we do to preserve the benefits of the omnibus account model while better regulating the potential for misuse? In the current context, regulators are inclined to believe that the obvious solution would be for the securities industry to abandon omnibus accounts and switch to overall usage of beneficial owner accounts. However we believe this solution is also inadequate since it would still not identify any beneficiaries beyond the immediate principals to a trade.

Typically a named account structure (or segregated to the final beneficiary) does not allow capital markets to operate in the smooth way in which they do today. This is precisely why large innovative projects, such as TARGET2-Securities (T2S), endorse omnibus accounts. It is therefore better to regulate the flaws in omnibus accounts than to get rid of them altogether.

One way to do this is to copy what the payments industry has done. The SWIFT MT 202/5 message series has since 2009 ensured that correspondent banks always know the identity of both the payor and the payee of any payment. It is a measure of the rising regulatory focus on this issue that the Basel Committee on Banking Supervision nevertheless argued the same year that existing payments message standards did not go far enough in delivering

full transparency, because they do not carry information about originators and end-beneficiaries.

### Principle 3: Promote Financial Stability

In order to minimise systemic risk and create well-functioning markets, both safety and integrity need to be ensured.

Increasing transparency for investors as well as supervisors is an essential prerequisite for financial stability, as increased transparency improves the quality of price discovery and reduces investment risk. Data provision to cater for transparency needs should only be required where it is necessary to avoid additional costs for investors and supervisors.

#### DBG Proposal for Initiative:

We invite the legislator to reconsider in the context of the CMU, the current incorrect perception that imposing segregation will strengthen investor's asset protection levels. Segregation should in no way become an aim in itself, but should remain a mean to enhance the robustness of the accounts and custody framework.

It is important that the G20 goals and the European regulation with a focus on increasing financial stability continue to be implemented and are truly applied.

*Q19: What policy measures could increase retail investment? What else could be done to empower and protect EU citizens accessing capital markets?*

### #Principle 1: Revive investor trust

Since the global financial crisis in 2008, confidence in financial markets and financial institutions has fallen dramatically. This is partly due to the perception that profits are privatised, whereas losses are socialised, as governments and ultimately taxpayers have repeatedly shouldered the burden of failing banks. This lack of trust in the banking system, coupled with a lack of understanding around the cause of the crisis, has spilled over into a lack of trust in capital markets and more complex financial instruments.

Direct retail investment in EU capital markets is low by comparison to the US; giving room for improvements:

- Increase the level of financial education for retail investors
- Market infrastructures may support retail access by offering the use of technologies (e.g. offering electronic platforms, possibility to invest small amounts of money into companies)
- Recalibrate incentive structure for equity vs. debt investments
- Increasing information requirements on investment services (MiFID II) which makes the offering of equity products at the point of sale less attractive, given the information requirements (e.g. product information) for banks and the duties to write a protocol and liabilities thereof).
- Reduce "home-bias" of investments by using services of market infrastructures



- As alternative funding sources are opened up and use of capital instruments is promoted, well-defined investor protection rules suited to the new land-scape are crucial. Only when investors feel sufficiently protected will they be willing to enter capital markets and participate.
- Allow investors to benefit from the same levels of protection, regardless of which European country they are investing in.
- However, it is equally important that investor protection is well balanced. Regulators should be careful not to make investor protection requirements overburdening. Assessing the suitability of an investment should not be such a complex and resource-intensive process that it outweighs the benefits of providing that advice.
- Furthermore, private investments shall be encouraged especially by means of tax advantages for investors.

In addition, equity based retirement and pension plans shall be stimulated in order to increase retail investment.

#### DBG Proposal for Initiative:

The key elements to focus on to revive investor trust include improved investor protection, financial education and capital culture in addition to adequate corporate governance and shareholder rights as prerequisites.

Retail investors will only be attracted to invest in capital markets if they know them and trust them. DBG is already well positioned and pro-active in the area of capital markets education through its Capital Markets Academy ([https://deutsche-boerse.com/cma/dispatch/de/kir/gdb\\_navigation/cma](https://deutsche-boerse.com/cma/dispatch/de/kir/gdb_navigation/cma)).

*Q20: Are there national best practices in the development of simple and transparent investment products for consumers which can be shared?*

No comment

*Q21: Are there additional actions in the field of financial services regulation that could be taken ensure that the EU is internationally competitive and an attractive place in which to invest?*

#### **#Principle 6: Shape supporting regulatory and supervisory environment**

Following the implementation of the Financial Services Action Plan (MiFID, EMIR, CSD-R, CRDIV, SSR, AIFMD etc.), further significant market structure changes are unnecessary.

However, reviews of existing legislation and proportionate application of incoming rules have a key role to play. Continued harmonisation of rules and standards is essential to eliminate costly barriers (especially the Giovannini barriers) and reduce complexity for investors and companies. Initiatives in this area, building on the Single Rulebook as a harmonised

regulatory framework, should increase the attractiveness and returns on investment, thereby stimulating economic growth.

A functioning Capital Markets Union should reconcile loose ends with regard to finalisation, implementation and application of existing regulatory initiatives. Additionally, it has to reduce the regulatory burden to what is essential in order to create conditions that guarantee an attractive environment for companies and investors, facilitate an efficient supervisory structure and a global level playing field ultimately ensuring European competitiveness in fully globalised capital markets.

The EU is at a crossroads, consistency and coherence in EU financial services legislation needs to be improved. From a macro-economic perspective, monetary policy instruments have been exhausted and the EU is lacking behind when it comes to global competitiveness.

Given the global nature of capital markets, coordination of supervision both within and outside Europe is important in order to ensure a global level playing field and maintain European competitiveness. Developers of the Capital Markets Union should be aware that capital markets business is more easily moveable overseas than traditional banking services.

Therefore, it is important to ensure that global standards and rules put in place by institutions such as the International Organization of Securities Commissions, the Bank for International Settlements and the Financial Stability Board are carefully considered when drafting regulation in order to avoid regulatory arbitrage that could have negative consequences for growth.

Safety standards, risk mitigation measures and data protection rules, for example, should be put in place at the highest level possible. A “race to the bottom” should be avoided, so that individual players cannot exploit weak regulatory regimes.

Isolated national regulation should be avoided as well. A financial transaction tax would increase transaction costs in European financial centres and could therefore impede the goals of the Capital Markets Union, e.g. attracting international investment. SMEs in particular would face higher capital-raising costs as a result of rising transaction costs. Retail investors would also suffer greater financial losses as the tax directly hits retirement provision products. Moreover, if only some of the European markets would choose to introduce such a tax, this would lead to further differences in the tax system of EU Member States and contradicts harmonisation.

Constant improvement of the regulatory and supervisory environment (e.g. to keep up with our global competitors we have to increase our “innovation speed”, which is currently hampered by a lengthy application process) both within the EU and globally, is essential to create conditions under which initiatives to fuel growth can prosper.

Last but not least, the creation of an EU-wide (i.e. not only harmonization) company law, securities law, and tax law should be focussed in order to achieve a healthy Capital Markets Union.

### DBG Proposal for Initiative:

Regulatory reconciliation is the key topic for the years to come: regulators and supervisors should see how existing and recently implemented regulation works in practice, understand the impacts and ensure any overlaps or misinterpretations are addressed, clearly defining the gaps and any market failures, before looking into creation of new regulation. Legal certainty is an important prerequisite for companies.

The various rules for financial market infrastructures (FMIs) sometimes lack harmonisation which starts with cross-referencing, duplicating and conflicting definitions across the various legislative texts on financial market regulations. Here, an omnibus regulation – as an overarching regulation – to define core terminology should be helpful.

The creation of an EU-wide (i.e. not only harmonization) company law, securities law, and tax and insolvency law should be focussed in order to achieve a healthy Capital Markets Union.

Deutsche Börse Group/Clearstream operates a large number of links to cash, securities and commodity markets across the globe, providing direct and secure access to the largest domestic liquidity pools. Currently, our network of links covers countries representing around 86% of global GDP. It is important to increase distribution options for any issued security.

***Q22: What measures can be taken to facilitate the access of EU firms to investors and capital markets in third countries?***

### **#Principle 6: Shape supporting regulatory and supervisory environment**

Ensuring a level playing field in the context of third countries is important.

Given that many regulatory initiatives are newly implemented in Europe, and taking into account that markets have become global, the topic of third-country recognition is important. In general, the same level of requirements for third-country enterprises providing their services in a European Member State should be maintained in order to preserve the desired standards of services in the EU. This is particularly sensitive with regard to foreign competition, affecting the growth potential for EU companies.

Therefore, a fair balance needs to be found to allow non-EU companies to provide their services in Europe.

Safety standards, risk mitigation measures and data protection rules, for example, should be put in place at the highest level possible. A “race to the bottom” should be avoided, so that individual players cannot exploit weak regulatory regimes. Isolated national regulation should be avoided as well.

On the other hand, it is important that European companies are allowed to enter third country markets to provide services abroad. It should be noted that other countries may have high barriers of access to their markets, which is another reason to consider initiatives to

ensure that EU market participants are able to offer their services outside the EU on a level playing field with non-EU providers.

**DBG Proposal for Initiative:**

In this regard, reciprocity should be requested and maintained with regard to third-country regimes.

It is important to ensure that global standards and rules put in place by institutions such as the International Organization of Securities Commissions, the Bank for International Settlements and the Financial Stability Board are carefully considered when drafting regulation in order to avoid regulatory arbitrage that could have negative consequences for growth.

***Q23: Are there mechanisms to improve the functioning and efficiency of markets not covered in this paper, particularly in the areas of equity and bond market functioning and liquidity?***

**#Principle 6: Shape supporting regulatory and supervisory environment**

In addition to funding, companies require capital markets for hedging and minimising the risks that arise from price fluctuations. Therefore, the related derivatives markets are essential for the Capital Markets Union, as derivatives allocate various risks to where they can be managed most efficiently and thus provide benefits. Derivatives provide risk protection with a minimum upfront investment and capital consumption. They allow investors to trade on future price expectations thus improving the efficiency of price discovery. As a consequence, derivatives markets reduce uncertainty and costs in economic activity. Derivatives markets promote financial stability and facilitate risk management.

Structural change is not the issue. Infrastructure should suit the diversity of markets on the ground, not the other way around – trying to force markets to fit into a “one size fits all model”. However, the creation of an EU-wide (i.e. not only harmonization) company law, securities law, insolvency law and tax law should be focussed in order to achieve a healthy Capital Markets Union.

The establishment of a Capital Markets Union (CMU) bears the great opportunity to create a stable, fair and competitive Single Market. When developing the premises for an integrated, efficient and smoothly functioning Capital Markets Union in the European Union, Deutsche Börse Group considers it essential to acknowledge the close linkage with the revised Markets in Financial Instruments Directive (MiFID II) as well as the new Regulation (MiFIR). MiFID II/MiFIR will re-shape the market environment fundamentally and have a profound impact on trading on secondary markets which enables the funding of growth and jobs in the real economy, the efficient valuation of firms and the hedging of risks.

The maintenance and development of liquid markets is key in this context. Liquidity providers support the matching of trading interests of buyers and sellers and enable the access of issuers to capital markets. This holds true in particular for markets in financial instruments where liquidity needs to be developed over time and/or trading activity is rather infrequent. Thus, market makers are indispensable for price guidance and the provision of liquidity, thereby ensuring market quality and integrity.

Deutsche Börse Group is concerned that the way MiFID II regulatory technical standards for market making are currently drafted will increase costs and risks for market makers and consequently adversely affect liquidity formation in the order book.

**DBG Proposal for Initiative:**

**Acknowledge the benefits that derivatives markets deliver for capital markets, currently missing in the Green Paper.**

**Please adjust MiFIDII regulatory technical standards and CRDIV rules for market makers to allow them further doing their business and spending necessary liquidity for markets; given that they do not provide credits, do not take savings from retail clients and do their business on their own risks, they should not have the same capital requirements as banks. In the US the topic is resolved more favourable.**

**Q24: *In your view, are there areas where the single rulebook remains insufficiently developed?***

**#Principle 5: Foster Harmonisation**

Continued harmonisation of rules and standards is essential to eliminate costly barriers (especially the Giovannini barriers) and reduce complexity for investors and companies. Initiatives in this area, building on the Single Rulebook as a harmonised regulatory framework, should increase the attractiveness and returns on investment, thereby stimulating economic growth.

**#Principle 6: Shape supporting regulatory and supervisory environment**

The Capital Markets Union should ensure that loose ends need to be reconciled with regard to finalisation, implementation and application of existing regulatory initiatives, making sure that these avoid any unintended consequences.

Surplus or misdirected regulation raises costs for businesses, utilising valuable funds that could instead be turned towards innovation and growth creation. The previous European Commission launched important regulatory initiatives (e. g. CRD IV/CRR, MiFID II/MiFIR, EMIR, CSDR, AIFMD, UCITS V etc.) that should be integrated under the umbrella of the Capital Markets Union.

In light of this, the Capital Markets Union should build on existing regulatory elements and ensure that these are fully implemented.

The increased usage of regulation has decreased the possibility of gold-plating and therefore paved the way for a single rulebook for many areas. However and as stated above the complexity and the broad scope of recent regulation has also increased massively creating the possibility of adverse effects and legal uncertainty.

Regulators and supervisors should see how existing and recently implemented regulation works in practice, understand the impacts and ensure any overlaps or misinterpretations are addressed, clearly defining the gaps and any market failures, before looking into creation of new regulation. Legal certainty is an important prerequisite for companies.

The various rules for financial market infrastructures (FMIs) sometimes lack harmonisation which starts with cross-referencing, duplicating and conflicting definitions across the various legislative texts on financial market regulations. Here, an omnibus regulation – as an overarching regulation – to define core terminology should be helpful. Furthermore, differences in corporate governance rules should be aligned and may be part of the same omnibus regulation.

The Capital Markets Union should ensure that the long-term goal is to reduce the regulatory burden to what is essential. The overall aim should be to establish a more attractive environment for companies and investors.

#### **DBG Proposal for Initiative:**

Regulatory reconciliation is a key in the next years. Many important topics are addressed but need to be implemented and brought to life.

Regulators and supervisors should see how existing and recently implemented regulation works in practice, understand the impacts and ensure any overlaps or misinterpretations are addressed, clearly defining the gaps and any market failures, before looking into creation of new regulation.

***Q25: Do you think that the powers of the ESAs to ensure consistent supervision are sufficient? What additional measures relating to EU level supervision would materially contribute to developing a Capital Markets Union?***

#### **#Principle 6: Shape supporting regulatory and supervisory environment**

The Capital Markets Union has to build on the basis of an efficient supervisory structure; as such, the subsidiarity principle with national competent authorities having primary responsibility should be kept and redundancies avoided. If European supervisory structures are introduced, clear responsibilities, rules for decision making and procedures are needed in order to allow for efficient processes with regard to market participants, as time matters. Shaping the supporting regulatory environment around which the Capital Markets Union is built both within the EU and globally, is essential to create sustainable conditions in which growth initiatives can prosper.

With regard to the reality of European financial supervision, the picture is divers. European financial market infrastructures are currently supervised differently: exchanges and CSDs by national supervisory authorities; CCPs by national supervision in combination with supervisory colleges; trade repositories directly by ESMA.

Effective supervision: A measure which would improve EU level supervision is a re-definition of the decision processes within ESMA. Today every supervisory authority of a Member State has one vote irrespectively whether it has a CCP within its jurisdiction; however this may result in difficult situations: e.g. those Member States which have an operating CCP in their jurisdiction might be overruled by those Member States which do not operate a CCP in their jurisdiction, but may decide on CCP topics. This may lead to conflicts and unintended

consequences with regard to safety and soundness for the directly affected Member States that would then bear the implications.

Considering the broad array of reporting obligations by financial market participants in several of the recent financial market legislation the ESAs need to ensure the consistency in reporting standards and quality of data. In this regard the ESAs need to be in a position to have the capacity to extract the relevant information from the data received.

#### DBG Proposal for Initiative:

The introduction of alternative decision making processes within the ESA Boards (e.g. weighted votes as in the European Council) needs to be discussed, aiming to improve the situation that those jurisdictions which have relevant market entities are able to get through with their long-year expertise and are not overruled by others which do not have such entities in their jurisdiction at all.

A very good basis for an efficient supervisory structure as such, is the subsidiarity principle with national competent authorities having primary responsibility and redundancies avoided.

***Q26: Taking into account past experience, are there targeted changes to securities ownership rules that could contribute to more integrated capital markets within the EU?***

#### **#Principle 5: Foster Harmonisation/Remove barriers**

Continued harmonisation of rules and standards is essential to eliminate costly barriers (especially the Giovannini barriers) and reduce complexity for investors and companies. Initiatives in this area, building on the Single Rulebook as a harmonised regulatory framework, should increase the attractiveness and returns on investment, thereby stimulating economic growth.

The overall legal framework for securities varies widely by country. For example, legal barriers make it much more complex to hold securities cross-border, and lead to higher costs for transactions. In addition, they cause difficulties and uncertainty among investors when they exercise their rights abroad.

Given that legal uncertainty of this nature acts as a barrier to financial stability and growth, the European Commission has been examining barriers within securities markets for several years, with the aim of creating a stable and efficiently functioning single market.

#### **#Principle 3: Promote financial stability**

We consider harmonization of investors' rights in securities across Europe to be beneficial for the stability and transparency of financial markets as well as for building a Capital Markets Union.

Harmonization of securities law would reduce legal complexity and risks and thereby would complement the reduction of operational risks by the launch of Target 2 Securities. However, we cannot share the view that Target 2 Securities as such is removing legal risks that rather have to be addressed by a harmonized securities law. To the contrary, a harmonization of investor's rights in securities is more than ever necessary in the context of

Target 2 Securities to enhance legal certainty for cross-border securities transactions which are due to increase in number thanks to Target 2 Securities.

Referring to the latest status of harmonization efforts by the Commission, in particular to the unofficial draft of a securities law directive of September 2010, and the UNIDROIT Convention, we strongly support a functional approach aiming at the harmonization of ultimate account holders' rights and of the framework for disposal of securities. To achieve harmonization, in our view a directive compared to a regulation is preferable in order to leave room for the different legal regimes in the member states to implement the investors' rights and the mechanism for securities transactions specified on EU-level without having to touch upon substantive national law.

**DBG Proposal for Initiative:**

This type of initiative “targeted changes to securities ownership rules” is expected to be accelerated through the development of the Capital Markets Union.

***Q27: What measures could be taken to improve the cross-border flow of collateral? Should work be undertaken to improve the legal enforceability of collateral and close-out netting arrangements cross-border?***

**#Principle 3: Promote financial stability**

Central securities depositories (CSDs), offering a wide range of post-trade services relating to issued securities, are well positioned to provide support in the field of collateral management as they already act as a central service point for both asset holdings and market connectivity, whilst being a well-regulated and neutral trustee that is not engaged in proprietary trading. To improve cross-border settlement and the efficient use of collateral, well-functioning and appropriately regulated and supervised CSDs are the relevant entities to look at.

In addition TARGET2-Securities (T2S) is a core European initiative towards more efficient cross-border settlement in between CSDs. The universe of European CSDs linked to T2S provides a merely risk-free infrastructure with its own strong regulation (e.g. CSD-R) which should be seen as the stable backbone of a highly interlinked European settlement landscape. This, arguably, provides the basis for efficient flow of collateral. Pan-European collateral pool fosters capital market integration.

**DBG Proposal for Initiative:**

Promote the use of TARGET2-Securities (T2S) as a core European initiative towards more efficient cross-border settlement in between CSDs.

Clearstream's Global Liquidity Hub enables securities lending, borrowing and collateral management in cash, fixed income and equities. We are constantly striving to extend the Global Liquidity Hub's reach through partnerships with electronic trading platforms, CCPs, CSDs and agent banks. Outsourcing collateral management to Clearstream enables customers to focus on their core business, while benefiting from asset optimisation and full regulatory compliance.



***Q28: What are the main obstacles to integrated capital markets arising from company law, including corporate governance? Are there targeted measures which could contribute to overcoming them?***

#### **#Principle 5: Foster Harmonisation/Remove barriers**

Despite significant progress towards the European single market, capital markets are still fragmented with regard to company law, corporate governance rules, creating barriers that hamper the free flow of capital. Those barriers across regions make cross-border investments complex and expensive, and therefore less attractive. The Single Rulebook has not yet been fully achieved.

As is true for other topics related to building of a Capital Markets Union, requirements for corporate governance have to take into account the interests of investors on the one hand and of the companies seeking capital markets financing on the other hand. Therefore, corporate governance aiming at investor protection must not at the same time disincentive the financing through capital markets, in particular going public. Such disincentive would be created in case companies may fear that the ability to effectively run the company would be significantly impeded by corporate governance requirements.

It has to be noted that discussion of corporate governance in the context of the financial crisis had a different focus. According to the Commission, the failure of boards (and shareholders) to identify, understand and ultimately control the risks to which their financial institutions were exposed was at the heart of financial crisis. Whereas in the context of the financial crisis therefore corporate governance mainly was looked at in order to control the risk appetite of financial institutions the bankruptcy of which can cause severe impact for the financial markets, in the context of building a Capital Markets Union corporate governance requirements have to be assessed also from the perspective of companies considering capital markets financing.

For that purpose, a special corporate governance regime tailored to SMEs may be beneficial that is reflecting the size and structure of such companies. Thereby, without undermining basic principles of investor protection, SMEs may be exempted from certain corporate governance requirements (especially from reporting duties) that in general are applicable to all listed companies but for SMEs could mean a relevant obstacle for going public.

In our view, harmonization of corporate governance requirements (as well as of taxation and accounting rules) across Europe is a crucial point when building a Capital Markets Union. The lack of harmonization also matters for unlisted companies. It complicates the assessment of companies that could be considered as investment asset or even prevents companies from accessing capital markets if investors are not willing to research these companies at all.

#### **DBG Proposal for Initiative:**

In our view, harmonization of corporate governance requirements (as well as of taxation and accounting rules) across Europe is a crucial point when building a Capital Markets Union. A special corporate governance regime tailored to SMEs may be beneficial that is reflecting the size and structure of such companies.

***Q29: What specific aspects of insolvency laws would need to be harmonised in order to support the emergence of a pan-European capital market?***

#### **#Principle 5: Foster Harmonisation/Remove barriers**

Reducing the existing inefficiencies will play an important role in unleashing the wider macroeconomic benefits from integrating European securities markets. Different national insolvency laws make cross-border services expensive (e.g. increased number of legal opinions necessary).

From the investors' perspective, insolvency law is of relevance to assess the risks in case of a bankruptcy of a company they are or intend to be invested in. Non-harmonized insolvency law will complicate such assessment or will reduce the willingness of investors to research the applicable insolvency law and thereby exclude certain companies as investment target. It has to be expected that this has adverse effects in particular on the access of SMEs to capital markets financing.

Harmonization of insolvency law would simplify the assessment of investment risks by investors and therefore contribute to the improvement of investment conditions on the EU capital markets and to a Capital Markets Union. A harmonized insolvency law should not only take into account the specification of investors' rights in case of bankruptcy of companies but, due to their practical relevance, also procedural aspects such as the tasks and rights of the insolvency administrator and the timeline for the undertaking of insolvency proceedings.

#### **#Principle 3: Promote financial stability**

All capital investments rely on a robust financial infrastructure. This is a result of the crisis both from an investor protection and from an overarching financial stability aspect.

Therefore, European legislation has strengthened the roles of the different financial markets infrastructures (FMIs), e. g. through EMIR, CSDR and MiFID II/MiFIR. From the perspective of FMIs, such as Central Counterparties (CCPs) and Central Securities Deposits (CSDs), harmonization of insolvency law is crucial under different aspects. In particular, CCPs and CSDs are subject to specific regulatory requirements the fulfilment of which is depending on the insolvency regime applicable in the home jurisdiction of the FMI. Insofar as insolvency law is diverging in basic features between Member States, there is no level playing field for implementation of such requirements by FMIs. This is contrary to the idea of pan-European flexibility which needs equal conditions as prerequisite.

The requirement for CCPs to implement default management procedures comprising the porting of assets and positions of a defaulting clearing member serves as an example for regulation the implementation of which is depending on insolvency law. Also in the context of the Target2Securities-Project, a need for harmonisation of insolvency law has been detected as the applicable legal regimes in case of a participant's insolvency will continue to differ from CSD to CSD. CCPs and CSDs have to assess the risks of a default of their customers today taking into account the applicable insolvency law in the respective Member States rather than to be able to rely on an insolvency regime harmonized throughout the EU.

The same applies for clarification of the enforceability of collateral and of the rules of the CCP or CSD providing for the measures to be taken in case of bankruptcy of a customer.

**DBG Proposal for Initiative:**

DBG supports the removing of (non-technical) obstacles for cross-border settlement. In a nutshell, a common EU insolvency law could help. As a first step, we propose to develop an analysis of the status quo and goals to be reached in the next years and define what elements need to be adjusted in order to reach there.

***Q30: What barriers are there around taxation that should be looked at as a matter of priority to contribute to more integrated capital markets within the EU and a more robust funding structure at company level and through which instruments?***

**#Principle 5: Foster Harmonisation/Remove barriers**

From a company/issuer perspective, equity is more heavily taxed than debt in most countries, which disincentivises equity investment. Interest payments on debt may be deducted from profits before they are taxed, whereas equity financing does not receive any form of tax relief (and indeed is subject to significant taxation both in terms of capital gains and dividend payments). This structural bias towards debt financing encourages companies to take on debt rather than equity. Rebalancing the current bias towards debt financing could be an important initiative for the Capital Markets Union.

With regard to the fiscal bias: The Commission should conduct an assessment of the impact on the cost of capital of the tax bias against equity.

From an investor perspective, paying lower taxes on equity investments would incentivise the provision of equity capital as an alternative funding source.

With regard to further harmonisation, as a priority withholding tax procedures might be looked at.

Further, a financial transaction tax would increase transaction costs in European financial centres and could therefore impede the goals of the Capital Markets Union, e.g. attracting international investment. SMEs in particular would face higher capital-raising costs as a result of rising transaction costs. Retail investors would also suffer greater financial losses as the tax directly hits retirement provision products. Moreover, if only some of the European markets would choose to introduce such a tax, this would lead to further differences in the tax system of EU Member States and contradicts harmonisation.

**DBG Proposal for Initiative:**

**Create favourable tax environment:**

From a company/issuer perspective, equity is more heavily taxed than debt in most countries, which disincentivises equity investment. Rebalancing the current bias towards debt financing could be an important initiative for the Capital Markets Union.

From an investor perspective, paying lower taxes on equity investments would incentivise the provision of equity capital as an alternative funding source.

From an issuer and investor perspective: a potential financial transaction tax contradicts the goals of a Capital Markets Union.

***Q31: How can the EU best support the development by the market of new technologies and business models, to the benefit of integrated and efficient capital markets?***

Technology is a true game changer for the entire financial industry (e.g. digitalisation, use of electronic systems, etc.) – anywhere in the world.

The securities and derivatives markets have experienced the disruptive and innovative force of technology already twenty years ago. More and more other financial segments get first-hand experience of how technology is able to completely overhaul existing business models.

But technology is not only a driver of change, technology is also an essential means to guarantee an orderly functioning of financial markets. A reliable and trustworthy financial environment is required for raising capital, for the transfer of risk and to foster international trade.

Technology is able to support this in various ways, most prominently through creating transparency and through providing "level playing fields" for market participants. Further technology reduces market entry barriers and costs.

Technology is factor of success in times of global competition: global markets are integrated markets based on technological developments.

Further, in the past years, the investment into new technologies and business models by many market participants was limited due to rather high implementation effort resulting from regulation.

High frequency trading is an example for innovation and an important driver for the integration of capital markets according to the Green Paper.

High frequency trading (HFT) adds value for capital markets: HFT is not a strategy, but a technology and does not impair market quality. On the contrary, HFT helps to enhance market efficiency. HFT firms have played a role in supplying markets with liquidity and thereby adding value to the price discovery process. This had helped to reduced bid-offer spreads and had reduced demand and supply imbalances, thereby helping to limit volatility.

Additionally, HFTs have reduced both explicit and implicit trading costs and improved market quality.

High frequency trading can make a contribution to improving market quality in general and price discovery in particular.

DBG appreciates recent regulation on HFT in the context of MiFID that ensures stability of markets, and acknowledges the positive effects of HFT. European regulation has taken the leading role in this context.

**DBG Proposal for Initiative:**

The EU should allow the market to develop new technologies and should not intervene by hindering the use technological developments/progress.

In order to support the evolution of integrated and efficient capital markets, these qualities - transparency and fairness - should be encouraged and promoted also from the regulatory and political view.

The Capital Markets Union should achieve the right balance between an appropriate level of additional regulation and the trust in the market to find its own solutions towards more safety and efficiency.

**Q32: Are there other issues, not identified in this Green Paper, which in your view require action to achieve a Capital Markets Union? If so, what are they and what form could such action take?**

DBG questions the sense of including the topic of a Consolidated Tape (CTP) in the CMU debate, as the Consolidated Tape regulation will already be introduced with MiFID II in 2017 (Article 90 2). MiFID II even includes a review clause on the effectiveness of the foreseen CTP regime until middle of 2019. In order to avoid double regulation we recommend dismissing this element within the Green Paper.

We understand that there seems to be some confusion amongst market participants, mixing both consolidation of real-time data for the public on the one side and consolidation of reporting data for the regulator on the other side, something which seems to have happened throughout the debate of MiFID II already. While we question the inclusion of the topic Consolidated Tape for publication of real-time data into the Green Paper, we agree that a different focus of data consolidation for regulators on a t+1 basis might be a sensible issue as it currently seems very difficult for ESMA to consolidate t+1 transaction reporting data (EMIR as well as MiFID II) for the purpose of market surveillance and/or information extraction.

In any case it is important to clearly differentiate between consolidation of real-time data and consolidation of t+1 data within the consolidation debate as the data sets for real-time publication and those for t+1 reporting to the NCAs differ significantly, especially as regards applicable data protection law. For further detail please see argumentation below.

***Regulation of Consolidated Tape already covered by MiFID II***

MiFID II, including the regulation of Consolidated Tapes, will be transposed at the beginning of 2017 with a review of the resulting effects already in 2019. In case no consolidated data / Consolidated Tape – in the form as required by legislation now – is being made available, MiFID II already foresees a public procurement process for the appointment of a commercial

operating entity. Additionally, as of today, MIFID II foresees as well that pre- and post-trade data is being made available at reasonable commercial terms.

In this context it is worthwhile to point out the following open issues which should be considered by EU COM in the overall context of a Consolidated Tape, regardless if regulated in MIFID II or any other follow-up regulation:

- **A Consolidated Tape will not be able to support the creation of a harmonized market as long as national law and taxation is not being further harmonized across the EU.** Fragmentation in the EU is different from the fragmentation in the US, and in fact more intense due to national differences and market structures. While the US markets have multiple competing trading venues as well, like in the EU, they do not have to cope with different legal and tax rules across fragmented markets at the same time. Neither is language a barrier to such an extent as experienced in the EU. It is those differences across national markets which need to be harmonized first, before a simple Consolidated Tape consolidating data of instruments with different cost and risk would be effective and sensible.
- **Cross-border transactions within the EU are more expensive than national transactions, costs which can be significant and which are not being reflected within a Consolidated Tape.** Therefore, at Consolidated Tape would not even be supportive of best execution requirements like those applied in the EU which include as well all transaction costs. It is worthwhile to note that while IFs offer retail customers trade execution cross-border, those executions are being charged at significantly higher fees compared to national executions. Furthermore, cost factors – which form a significant part of the best execution requirement in the EU – are not displayed on a Consolidated Tape which then is of little value for the best execution in the EU. At the same time especially retail investors experience a significant uncertainty as regards different applicable law within different local markets within the EU (see our point in the previous bullet above).
- **A one to one comparison with the US is neither sensible nor constructive.** This is due to many reasons in fact. First, the Consolidated Tapes A and B in the US per definitionem are not providing a full display of all trades executed in the US. Smaller trades e.g. (trades for less than 100 shares of stock) are not included in the Tapes. Research shows that median number of missing trades can be 20-60% of total transactions depending on share. Second, the tapes are an important part of RegNMS (operating in a fully harmonized market without any language, law and/or taxation barriers) at different best execution requirements, including trade through requirements in a technically connected market place across venues, with a secure funding of the Tapes through mandatory data subscription by any trading party. Especially the latter allow for a quasi -subsidized funding of the Tapes, compared to the EU where there is no mandatory use required by law. On top the eligible customer base in the US is four times larger than in the EU. An under theorized comparison between both markets, as well as regards pricing of data, therefore, is more than questionable and should be avoided by all means.

- **Consolidated Tapes in the EU are already available as of today.** As of today, Market Data Vendors already offer consolidated data across EU equity markets. Besides some larger well-known market data vendors, offering both feed and display consolidated data, smaller niche players too offer their services to the market. While the offerings might not be fully harmonized, both industry initiatives like the MMT Group as well as regulation via MiFID II should provide for the desired effect. However, the CTP requirements within MiFID II seem rather strict for the provision of a service which de facto is already provided as of today by many service providers.
- **There are no clear use cases provided by the EU COM for which purpose the real-time Consolidated Tape should be created.** Form follows function. The respective use cases for a tape finally define what needs to be included and at which point in time. The Tapes in the US are an integral part with a clear function within RegNMS and a different best execution regime, which is not targeted at a fragmented market with the fragmentation reaching as far as legal and taxation differences (see our arguments above). At the same time even the US does cope with problems of its own in the context of CT, both based on advancements in technology and old systems being used, as well as a US market structure which might be prone to recently experienced “Flash Crashes” through the inherent network effect of RegNMS.

#### ***Consolidated Audit Trail for t+1 reported data as a sensible tool for regulators***

While the issue of “real-time Consolidated Tapes for public information” are being taken care of already by MIFID II (as described above) ESMA and the NCAs seem to be in a position where they receive and will continue to receive vast amounts of t+1 data (e.g. position reporting data, transaction reporting data, including vast amounts of non-publicly available personal data) which currently it seems regulators cannot use in an efficient and sensible way. Please note in this context that we talk about different as well as broader sets of data with a significant time difference as regards the provision of the data compared to the Consolidated Tapes as referred to above. Data made available to the regulator contains many sensible data like personal data which cannot and should not be shared with the public.

EMIR and going forward as well MIFID II will result in many data which need to be consolidated for the regulators in order for them to extract required information efficiently, be it for market abuse detection or be it for detection of potentially pending systemic risks. In this context it is worthwhile pointing out that in the US regulators are currently working on a Consolidated Audit Trail. The system shall be available for regulators and contain personalized (non-public) data delivered t+1 into a Central Data base covering all market participants as well as asset classes. Please note that this Consolidated Audit Trail (CAT) in the US will be co-existing besides the Consolidated real-time Tapes in the US as well due to the different nature of the data and the different underlying transparency requirements. While the CAT is aiming high on the consolidation of significant amounts of data a price tag

of USD 500 mn for the set-up and maintenance over the first 5 years has been given as an initial indication.

It is worthwhile mentioning as well that ESMA has just launched “centralized data projects” for MIFID II and EMIR. To our knowledge those projects shall result in a central database for regulators, for the first time allowing common access and information sharing as well as information extraction. In this context it will be necessary, however, to consider both data protection rights of reporting parties as well as potential IP rights as regards the collected reference data which finally will be published as well on the ESMA website.

#### DBG Proposal for Initiative:

The EU should avoid double regulation on a Consolidated Tape (for real-time data to the public) and rely on MiFID II including its incorporated review mechanisms. Therefore, the CTP should be excluded from the Green Paper.

In case the EU considers a Consolidated Audit Trail (for t+1 data including all sensitive data required by regulators) as a potential and reasonable option for the EU build up an efficient supervisory structure, any potential inclusion into future regulation should at least ensure the following:

- that ESMA – who is already working on t+1 consolidation – would still consider a Consolidated Audit Trail (CAT) a necessary tool, and if that is the case
- that a detailed and fact-based study will be conducted upfront including all relevant data sources from the beginning in order to avoid any misinterpretations
- that a global level playing field is being assured.

Any one-to-one comparison with the US, which is not fully based on fact-based research should be avoided by all means.