



Deutsche Bank AG New York,
60 Wall Street,
New York, NY 10005

May 29, 2007

**Re: Comment on Proposed Supervisory Guidance for Internal Ratings Based Systems for Credit Risk, Advanced Measurement Approaches for Operational Risk, and Supervisory Review Process (Pillar 2) Related to Basel II Implementation
Board Docket Nos. OP-1277, OCC Docket Nos. OCC-2007-004, OTS Nos. 2007-06**

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Regulation Comments
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Ladies and Gentlemen:

Deutsche Bank appreciates the opportunity to comment on the Joint Supervisory Guidance ("Supervisory Guidance") relating to Basel II Implementation. In order to communicate effectively its major concerns to the agencies while providing supporting technical detail, Deutsche Bank has divided its comments between this letter and a more detailed Supplemental Memorandum attached as Appendix A hereto.

Deutsche Bank is responding to the Supervisory Guidance consultation document while maintaining its position in relation to the scope and content of the Basel II Joint Notice of Proposed Rulemaking ("NPR") as relayed in our letter to you dated February 1. Briefly, in that letter we outlined a number of reasons why Taunus Corporation (the Deutsche Bank Group most senior holding company in the United States) should be outside the scope for mandatory compliance with the proposed U.S. version of the Basel II requirements. We also encouraged the agencies to allow the U.S. insured depository institutions ("DI") and bank holding companies ("BHC") subsidiaries of foreign banking organisations ("FBO") to have the option to comply with U.S. minimum capital requirements based on Basel II's Standardized Approach for Credit Risk and Basic Indicator or Standardised Approaches for Operational Risk.

In addition, we recommended that the U.S. DI and BHC subsidiaries of an FBO have the option to use the FBO's Home Country Advanced Approaches to calculate their credit and operational risk exposures, subject to U.S. capital rules and floors contained in the NPR.

For operational risk, this would allow a FBO to carve out appropriate segment from its group-wide capital requirement and assign it to the U.S. BHC and DI subsidiaries, based upon a robust allocation mechanism which is subject to independent validation. The U.S. capital rules then would be applied to this carved out operational risk capital requirement ("OR"). An accommodating approach from the U.S. regulators would encourage other FBOs to voluntarily adopt similar standards. A result of this encouragement will be to raise the standards of operational risk management.

The NPR has not been finalized, and we do not know whether the points made in Deutsche Bank's February 1 comment letter have been adopted. We have made certain comments to address issues that will arise if those points are not addressed in the final rule. To the extent possible, we have tried to avoid repeating the points made in that comment letter. Accordingly, all of our comments in this letter and the Appendix are made without prejudice to Deutsche Bank's February 1 response to the NPR.

1 Authority for Discretionary Exemptions - Deutsche Bank recommends that the agencies have the authority to grant temporary or permanent exemptions from any aspect of the final rule based on the traditional standard of being in the public interest and consistent with the purposes of the rule. This authority will enable the U.S. regulators to apply the regulatory framework taking into account the evolution of risk management.

Regulatory frameworks can be in existence for 20 years between major amendments. Based upon the rapid evolution of OR frameworks implemented by banks since 1999, it is difficult, at this point in time, to anticipate the evolution of these frameworks to 2018 or beyond.

For Deutsche Bank, more specifically, this flexibility could enable consistent approaches to be implemented; e.g., in the case of the Use Test. It will be impossible for the U.S. DI and BHC subsidiaries of an FBO to satisfy at the same time the Use Tests of both the Basel II Approaches as defined by the NPR and the FBO's Home Country Advanced Approaches. The Use Test of both would require the subsidiaries to use credit and operational risk inputs, outputs and estimates in their day-to-day risk management operations. One problem is that the NPR defines a number of essential risk parameters in ways that are significantly different from their definition in the Basel II Capital Accord or the European CRD. Another problem is that the size and scope of the U.S. DI and BHC subsidiaries of an FBO may be too limited to produce sufficient internal credit and operational risk data for use in the parent's internal models. Under these circumstances, the U.S. subsidiaries:

- (i) can use the risk and parameter estimates required by the FBO's Home Country IRB and AMA; or
- (ii) can use the different risk parameters required by the NPR and Supervisory Guidance; but
- (iii) cannot use both at the same time in their day-to-day risk management.

A requirement to use both sets of parameters and data in decision making will lead to confusion and inappropriate decisions being made.

Other practical examples of where the flexibility to forego the U.S. Basel II requirements would be advantageous include the treatment of Expected Losses (EL) for operational risk. It is anticipated that at the time of implementation of the AMA in the USA the Deutsche Bank Group will have been operating a regulatory approved approach for Expected Losses for some time. The Group-wide approach to Expected Losses encompasses their inclusion in the Group-wide P&L planning processes. Unfortunately, it appears that any significant difference in standards for EL between Home Country and Host state regulators means that it would be impossible to comply with both standards simultaneously.

Similarly, the Basel II NPR requires Core Banks to calibrate the ELGD – a parameter which exists in neither the Basel II Capital Accord nor the European CRD. Its estimation process would constitute an additional burden which benefits neither the Group-wide IRB calculation nor day-to-day risk management operations.

As a result, EL for OR and ELGD calibrations would be areas where it is hoped that the agencies could exercise their authority to grant temporary or permanent exemptions from any aspect of the final rules in favour of a regime which is in line with that of a FBO's Home Country regulator.

2 Delegation – It is recommended that the agencies consider the scope of delegation. Although delegation is mentioned in the Supervisory Guidance, it appears to be largely intra-company, for example between Boards and Senior Management and from Senior Management to Committees.

The current U.S. regulatory framework allows inter-company delegation within a Group. There is little or no mention of such delegation within the Supervisory Guidance. It is hoped that the Supervisory Guidance does not override existing practice.

For the Deutsche Bank Group, it would be efficient if Taunus Corporation had the capability not only to delegate to entities incorporated in the U.S., but also to Deutsche Bank Group entities outside U.S., including its parent, Deutsche Bank AG. Such delegations could relate to the building and validation of risk calculation models. For the Deutsche Bank Group, these and other skills and knowledge reside in specialist functions within Deutsche Bank AG. By the time that validation of our internal ratings, IRB parameters and AMA model is required by the U.S. regulators, the credibility of these functions' responsibilities will already have been scrutinised by our Home Country regulator. To replicate these skills and information in the U.S., merely for U.S. regulatory capital requirements, would be expensive and difficult to justify on a cost basis. For example, the Group has operated a Group Regulatory Capital Steering Committee whose responsibility includes the review of all regulatory capital methodology, and Taunus would want to continue its current practice of delegating such responsibility to this Group committee.

As the driving force for the IRB and AMA within the Deutsche Bank Group is its consolidated application, many of the tools and processes that are integral to the credit and operational risk framework have been designed in and are operated from Frankfurt. As a consequence, it will be necessary for Taunus Corporation to delegate responsibility to Deutsche Bank AG for the development of these and other tools that support credit and operational risk management in Taunus Corporation and its various subsidiaries. We are confident that other FBOs operate their U.S. subsidiaries similarly.

A related issue is the regulatory recognition of insurance as a risk mitigant in reducing the regulatory capital requirement for OR. For efficiency and control purposes, the Deutsche Bank Group organises the vast majority of its insurance purchases through a central purchasing and administrative unit based in Frankfurt. The insurance policies purchased can provide protection for entities in the Deutsche Bank Group, or be customised to meet local needs. In comparison, it is expected that for the majority of Core Banks their insurance programmes will be managed from their head offices in the U.S. A consequence is that Taunus Corporation, as a beneficiary of these group-wide insurance policies, should also benefit from these policies, plus any local insurance policies, in determining its OR regulatory capital requirement under AMA. In effect Taunus Corporation delegates its insurance purchasing requirements to the central purchasing and administrative unit.

From the above examples it can be seen that Taunus Corporation will need to delegate responsibility for a number of activities to its subsidiaries and also to Deutsche Bank AG. Such delegations could take a number of forms, such as Service Level Agreements. We look for your input on formats that would be acceptable.

3 Allocation of Regulatory Capital for Operational Risk – The Supervisory Guidance provides the opportunity to use alternative calculation approaches for DIs.

As described in our response to the NPR (as relayed in our letter dated February 1) an approach being considered to meet Taunus Corporation’s possible regulatory requirement would be via allocation from the Group capital requirement. Such an alternative approach would be effective from a number of perspectives.

One of the difficulties is the amount of OR data available for Taunus Corporation and its subsidiaries. Preliminary estimates indicate that a robust stand-alone AMA calculation (e.g., a variant of the Loss Distribution Approach) would be difficult to achieve in the absence of sufficient local data.

However, the Supervisory Guidance states that such alternative approaches are not permitted at the Holding Company level. It was not possible to discern the rationale for this restriction. Nevertheless, it is hoped that this is a subject where the agencies can exercise flexibility to waive the requirements.

As mentioned in our response to the NPR, the major subsidiaries of Taunus Corporation are securities companies and not DIs. As a result, if these entities are required to determine a regulatory capital requirement for operational risk then the preference will be to use an allocation process.

Deutsche Bank appreciates the opportunity to comment on the Supervisory Guidance. Please do not hesitate to contact Michael Kadish of Deutsche Bank Americas Legal (tel: 212-250-5081) should you have any questions about this letter.

Very truly yours,



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US Guideline			Problem for?		Remedy	Main reason
Chapter	§	Requirement	all non-US banks	Deutsche Bank		
						Legend 1=Exempt non-US banks by introducing standardised approach option 2=Align NPR with Basel II 3=Align with CEBS guidance 4=Remove DB classification as core bank 5=Remove / ease requirement
1 I	S 1-1	An IRB system must have five interdependent components that enable an accurate measurement of credit risk and risk-based capital requirements.	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD
1 II	S 1-2	Senior management must ensure that all of the components of the bank's advanced systems for credit risk function effectively and comply with the qualification requirements in the NPR.	YES	YES	1,2,4	NPR default definition
1 II	S 1-3	The board of directors or its designated committee must at least annually evaluate the effectiveness of, and approve, the bank's advanced systems.	NO	NO		Basel II standard
1 II	S 1-4 §9	Each bank (including each depository institution) must ensure that the risk parameters and reference data used to determine its risk-based capital requirements are representative of its own credit risk.	NO	NO		
1 II	S 1-4 §10	... each bank subject to the capital requirements for advanced systems must determine its risk-based capital requirements for credit risk on a stand-alone basis	NO	YES	1,4,5	Standalone parameter calibrations neither meaningful nor reliable
1 II	S 1-5	Banks should establish specific accountability for the overall performance of their advanced systems for credit risk.	NO	NO		
1 II	S 1-6	A bank's advanced systems should be transparent.	NO	NO		
2 I	§1	The risk rating system must be designed to facilitate quantification of obligor ratings in terms of PD and loss severity in terms of ELGD and LGD.	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD
2 II	§3	Only risk rating systems that distinguish probability of default from loss given default meet the two-dimensional requirements for the IRB framework.	NO	NO		
2 II	§4	bank meets the qualification requirements in the NPR <for IRB systems>	YES	YES	1,2,4	NPR default definition
2 II	§14	Overrides should be specifically identified, monitored, and analyzed to evaluate their impact on the bank's IRB rating system.	NO	NO		
2 III	S 2-1	Banks must identify obligor defaults in accordance with the IRB definition of default.	YES	YES	1,2,4	NPR default definition

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
2 IV	S 2-2 §17	Banks should demonstrate that their wholesale risk rating processes are sufficiently independent to produce objective ratings. For example, a bank could structure its organizational reporting lines so that the credit approval and the rating assignment decisions are separate from each other.	NO	YES	1,2,4	Separation between rating and credit approval only planned for international corporates, not MidCap.
2 V	S 2-3	IRB risk rating systems must have two dimensions — obligor default and loss severity — corresponding to PD (obligor default), and ELGD and LGD (loss severity).	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD
2 V	S 2-4	Banks must assign discrete obligor rating grades.	NO	NO		
2 V	S 2-5	The obligor rating system must rank obligors by likelihood of default.	NO	NO		
2 V	S 2-6	Banks must assign an obligor to only one rating grade.	NO	NO		
2 V	S 2-7 S 2-8	A bank's rating policy must describe its ratings philosophy and how quickly obligors are expected to migrate from one rating grade to another in response to economic cycles. In assigning an obligor to a rating grade, a bank should assess the risk of obligor default over a period of at least one year taking into account the possibility of adverse economic conditions.	YES	YES	1,2,4,5	No calibration of rating transitions required under Basel II
2 V	S 2-9	Banks must have at least seven discrete obligor rating grades for non-defaulted obligors and at least one rating grade for defaulted obligors.	NO	NO		
2 V	S 2-10	Banks should justify the number of obligor rating grades used in its risk rating system and the distribution of obligors across those grades.	NO	NO		
2 V	S 2-11	Banks may recognize implied support as a rating criterion subject to specific supervisory considerations; however, banks should not rely upon the possibility of U.S. government financial assistance, except for the financial assistance that the U.S. government has legally committed to provide.	YES	YES	5	Implied support only defined with respect to US
2 V	S 2-12	Banks must have a loss severity rating system that is able to assign loss severity estimates (ELGD and LGD) to each wholesale exposure.	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD

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2 V	S 2-13	Banks should have empirical support for their loss severity rating system and the rating system should be capable of supporting the quantification of ELGD estimates (and LGD estimates if approved for internal estimates).	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD
2 V	S 2-14	Banks must have a sufficiently granular loss severity rating system to group exposures with similar estimated loss severities or a process that assigns estimated ELGDs and LGDs to individual exposures.	YES	YES	1,2,4	Requirement to calibrate both LGD and ELGD
2 V	S 2-15	Rating criteria should be written, clear, consistently applied, and include the specific qualitative and quantitative factors used in assigning ratings.	YES	YES	1,2,4,5	Inconsistent definition between NPR and Basel II disables consistent rating approach
2 V	S 2-16	Risk ratings must be updated whenever new material information is received, but in no instance less than annually.	NO	NO		Similar CRD requirement (Annex VII Part 4 1.4)
3 II	S 3-1	Banks must use the IRB definition of default when identifying defaulted retail exposures.	YES	YES	1,2,4	NPR default definition
3 II	S 3-2	Banks must first place exposures into one of the three retail exposure subcategories (residential mortgage, QRE, and other retail). Banks must then separate exposures into segments with homogeneous risk characteristics.	NO	NO		
3 II	S 3-3	A retail segmentation system must produce segments that accurately and reliably differentiate risk and produce accurate and reliable estimates of the risk parameters.	NO	NO		
3 II	S 3-4	Banks should clearly define and document the criteria for assigning an exposure to a particular retail segment.	NO	NO		
3 II	S 3-5	Banks should develop and document their policies to ensure that risk- driver information is sufficiently accurate and timely to track changes in underlying credit quality and that the updated information is used to assign exposures to appropriate segments.	NO	NO		
3 II	S 3-6	The bank's retail exposure segmentation system must provide for the review and update (as appropriate) of assignments of retail exposures to segments whenever the bank receives new material information, but no less frequently than quarterly.	YES	YES	1,2,4,5	Superequivalent to CRD requirement (annually)

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
4 I	§5	The bank should map each reference data set and each combination of risk characteristics used in any estimation model.	NO	YES	5	Burdensome yet unclear requirement
4 I	S 4-1	Banks should have a fully specified process covering all aspects of quantification (reference data, estimation, mapping, and application). The quantification process should be fully documented.	YES	YES	3	Documentation requirements on details going beyond CEBS CP10
4 I	S 4-2	Risk parameter estimates must be based on the IRB definition of default. At least annually, a bank must conduct a comprehensive review and analysis of reference data to determine the relevance of reference data to the bank's exposures, quality of reference data to support risk parameter estimates, and consistency of reference data to the IRB definition of default.	YES	YES	1,2,4	NPR default definition
4 I	S 4-3	Banks must separately quantify wholesale risk parameter estimates before adjusting the estimates for the impact of eligible guarantees and eligible credit derivatives.	NO	NO		Assuming "guarantee" refers to third party but not parental guarantee. Cf. S 2-11.
4 I	S 4-4 §20	Banks may take into account the risk-reducing effects of guarantees in support of retail exposures when quantifying the PD, ELGD, and LGD of the segment. Retail guarantees may affect PD...	YES	YES	5	Disallowed under Basel II (BCBS 2005 §438)
4 I	S 4-5	Banks may only reflect the risk-reducing benefits of tranching guarantees of multiple retail exposures by meeting the definition and operational criteria for synthetic securitizations.	NO	NO		
4 I	S 4-6	At a minimum, the quantification process and the resulting risk parameters must be reviewed annually and updated as appropriate.	NO	NO		
4 I	S 4-7	Quantification should be based upon the best available data for the accurate estimation of the risk parameters.	NO	NO		
4 I	S 4-8	The sample period for the reference data must meet the minimum length for each risk parameter by portfolio.	NO	NO		
4 I	S 4-9	The reference data must include periods of economic downturn conditions, or the parameter estimates must be adjusted to compensate for the lack of data from such periods.	NO	NO		

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
4 I	S 4-10	Banks should clearly document how they adjust for the absence of significant data elements in either the reference data set or the existing portfolio.	NO	NO		
4 I	S 4-11	Judgmental adjustments to risk parameter estimates, either upward or downward, may be an appropriate part of the quantification process, but must not result in an overall bias toward lower risk parameter estimates.	NO	NO		
4 I	S 4-12	Risk parameter estimates should incorporate a degree of conservatism that is appropriate for the overall rigor of the quantification process.	NO	NO		
4 I	S 4-13	Mapping should be based on a comparison of available data elements that are common to the existing portfolio and each reference data set.	NO	NO		
4 I	S 4-14	A mapping process should be established for each reference data set and for each estimation model.	NO	YES	5	Burdensome yet unclear requirement (related but not identical to Ch. 4 §5)
4 I	S 4-15	Banks that combine estimates from internal and external data or that use multiple estimation methods should have a clear policy governing the combination process and should examine the sensitivity of the results to alternative combinations.	NO	YES	5	A general "clear policy" does not make sense as any data combination process is specific to the underlying problem
4 I	S 4-16	The aggregation of risk parameter estimates from individual exposures within rating grades or segments should be governed by a clear and well-documented policy.	NO	YES	5	Unclear requirement - aggregation of risk parameter estimates with rating grades is questionable and not common practice in DB
4 II	S 4-17	PD estimates must be empirically based and must represent a long-run average.	NO	NO		
4 II	§66	If the bank made no adjustment for the missing defaults, its practice would not be acceptable.	NO	YES	1,2,4,5	DB's PD masterscale is build to match EU definition of default. Adjustments for US NPR definition are infeasible.
4 II	S 4-18	Effects of seasoning, when material, must be considered in the PD estimates for retail portfolios.	YES	YES	2,5	Proposing time-dependent PDs - not in line with CRD. Potential double-counting with maturity adjustment

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
4 II C	§§77 - 86	<i>Examples for mappings - mostly not relevant for DB</i>	NO	NO		
4 II D	§§87 - 89	<i>Examples for PD use - mostly not relevant for DB</i>	NO	NO		
4 III	§96	All cash flow data should include dollar amounts and dates.	YES	YES	5	(Burdensome) change of reference currency may yield other result contaminated by FX rates.
4 III	§98	Banks are not required to truncate the loss severity data used to derive ELGD and LGD parameter estimates.	YES	YES	5	Not allowed in CRD - competitive disadvantage to US banks
4 III	S 4-19	ELGD and LGD estimates must be empirically based and must reflect the concept of "economic loss."	NO	YES	1,2,4	Requirement to calibrate both LGD and ELGD
4 III	S 4-24	Collection and workout departments, however, may cover services not 100 percent attributable to defaulted exposures. <..> The expenses for these functions should be differentiated to allocate only collection expenses attributable to defaulted exposures.	YES	YES	3,5	Burdensome separation of costs within one unit
4 III	S 4-20	ELGD estimates must reflect the expected default-weighted average economic loss rate over a mix of economic conditions, including economic downturn conditions.	YES	YES	1,2,4	ELGD is not a Basel II parameter
4 III	S 4-21	LGD estimates must reflect expected loss severities for exposures that default during economic downturn conditions, and must be greater than or equal to ELGD estimates.	YES	YES	1,2,4	ELGD is not a Basel II parameter and thus not officially calibrated in DB
4 III	S 4-22	A bank may use internal estimates of LGD only if supervisors have previously determined that the bank has a rigorous and well-documented process for assessing the effects of economic downturn conditions on loss severities and for producing LGD estimates consistent with downturn conditions.	YES	YES	1,2,4,5	"Downturn process" not required by CRD
4 III	§§124 - 129	<i>Examples for mappings - mostly not relevant for DB</i>	NO	NO		
4 IV	§137	A number of methods can be used to estimate EAD. One common approach is based on loan equivalent exposure ("LEQ"), which is typically expressed as a percentage of the current total committed but undrawn amount.	YES	YES	5	Alternative methods not allowed in CEBS CP10 - competitive disadvantage to US banks
4 IV	S 4-23	Estimates of additional drawdowns must reflect net additional draws expected during economic downturn periods.	YES	YES	1,2,5	CRD does not require downturn-CCFs
4 IV	S 4-24	Estimates of additional drawdowns prior to default for individual wholesale exposures or retail segments must not be negative.	NO	NO		

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
4 V		<i>Maturity definitions</i>	NO	NO		
4 VI	S 4-25	Quantification of the risk parameters should appropriately recognize the risk characteristics of exposures that were removed from reference data sets through loan sales or securitizations.	NO	NO		
4 VI	B, Example 2	Example 2 allows PDs to be set to point in time EDF averages – in c	NO	NO		
5	S 5-1	Risk-based capital benefits are only recognized for credit protection that transfers credit risk to third parties.	NO	NO		
5	S 5-2	Banks must ensure that credit protection for which risk-based capital benefits are claimed represents unconditional and legally binding commitments to pay on the part of the guarantors or counterparties.	NO	NO		
6 II	S 6-1	Banks must collect and maintain sufficient data to support their IRB systems.	NO	NO		
6 II	S 6-2	For wholesale exposures, banks must collect, maintain, and analyze essential data for obligors and exposures. This should be done throughout the life and disposition of the credit exposure.	NO	NO		
6 II	S 6-3	Banks must capture and maintain all significant factors used to assign obligor and loss severity ratings.	NO	NO		
6 II	S 6-4	For retail exposures, banks must collect and maintain all essential data elements used in segmentation systems and the quantification process. The data must cover a period of at least five years and must include a period of economic downturn conditions, or the bank must adjust its estimates of risk parameters to compensate for the lack of data from periods of economic downturn conditions.	YES	YES	1,2,4,5	Extension of data sample for economic downturn periods not Basel II conform
6 II	S 6-5	Banks should ensure that outsourced activities performed by third parties are supported by sufficient data to meet IRB requirements.	NO	NO		
6 II	S 6-6	Banks should maintain data to allow for a thorough review of asset sale transactions.	NO	NO		
6 III	§ 21	Banks should be able to take improvements they make to their risk rating systems for wholesale exposures and segmentation systems for retail exposures and apply them historically.	YES	YES	5	Impossible data collection requirement based on future knowledge

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
6 IV	S 6-7	Banks should develop policies and controls around the integrity of the data maintained both internally and through third parties.	NO	NO		
6 IV	S 6-8	Banks should document the process for delivering, retaining, and updating inputs to the data warehouse and ensuring data integrity.	NO	NO		
6 IV	S 6-9	Banks must maintain detailed documentation of changes to the data elements supporting the IRB system.	NO	NO		
6 IV	S 6-10	Banks must retain data using an electronic format that allows timely	NO	NO		
7 I	S 7-1	Banks must have an effective system of controls that ensures ongoing compliance with the qualification requirements, maintains the integrity, reliability, and accuracy of the IRB system, and includes adequate governance and project management processes.	NO	NO		
7 I	S 7-2	Control processes should be independent and transparent to supervisors and auditors.	NO	NO		
7 II	S 7-3	The annual assessment of the IRB system presented to the board of directors should be supported by the bank's comprehensive and independent reviews of the IRB system.	NO	NO		
7 II	S 7-4	Validation activities must be conducted independently of the advanced systems' development, implementation, and operation, or subjected to an independent assessment of their adequacy and effectiveness.	NO	NO		
7 III	S 7-5	The systems and processes used by a bank for risk-based capital purposes must be consistent with the bank's internal risk management processes and management information reporting systems.	NO	NO		
7 IV	S 7-6	Internal audit must, at least annually, assess the effectiveness of the controls supporting the IRB system and report its findings to the board of directors (or a committee thereof).	NO	NO		
7 V	S 7-7	A bank's validation policy should cover the key aspects of risk rating and segmentation systems and the quantification process.	NO	NO		
7 V	S 7-8	Validation must assess the accuracy of the risk rating and segmentation systems and the quantification process.	NO	NO		

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						Legend 1=Exempt non-US banks by introducing standardised approach option 2=Align NPR with Basel II 3=Align with CEBS guidance 4=Remove DB classification as core bank 5=Remove / ease requirement
7 V	S 7-9	Validation processes for risk rating and segmentation systems, and the quantification process must include the evaluation of conceptual soundness, ongoing monitoring, and outcomes analysis.	NO	YES	5	Repeated requirement to document in detail why applied method was favoured over other approaches. Not comprehensively achievable.
7 V	S 7-10	Banks must evaluate the developmental evidence supporting the risk rating and segmentation systems and the quantification process.	NO	YES	5	DB has rating system as old as fifteen years, i.e. developed when no Basel II standards were known
7 V	S 7-11	Banks must conduct ongoing process verification of the risk rating and segmentation systems and the quantification process to ensure proper implementation and operation.	NO	NO		
7 V	S 7-12	Banks must benchmark their risk rating and segmentation systems, and their risk parameter estimates.	NO	NO		
7 V	S 7-13	Banks must analyze outcomes and must develop statistical methods to backtest their risk rating and segmentation systems and the quantification process.	NO	NO		
7 V	S 7-14	Banks should establish ranges around the estimated values of risk parameter estimates and model results in which actual outcomes are expected to fall and have a validation policy that requires them to assess the reasons for differences and that outlines the timing and type of remedial actions taken when results fall outside expected ranges.	NO	YES	5	Validation thresholds depend on the problem and quality of the underlying data - there is no straight forward way of defining them globally.
7 V	S 7-15	Each of the three activities in the validation process should be conducted often enough to ensure the ongoing integrity, reliability, and accuracy of the IRB risk rating and segmentation systems, and the quantification process.	NO	NO		
7 V	S 7-16	Developmental evidence must be updated whenever significant changes in methodology, data, or implementation occur. Other validation activities must be ongoing and must not be limited to a point in time.	NO	NO		
8 I	S 8-1	Banks must conduct and document stress testing of their advanced systems as part of managing risk-based capital.	NO	NO		
9 II	§ 4		YES	NO	2	Acceptable approaches out of sync with Basel II, e.g., no standardised method

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
9 IV	S 9-1	All transactions with a counterparty subject to a qualifying master netting agreement constitute a netting set and may be treated as a single exposure, otherwise each transaction shall have its risk-based capital requirement calculated on a standalone basis.	NO	NO		
9 IV	S 9-2	Banks should have an appropriately documented process for determining whether transactions are eligible for an EAD adjustment approach if they choose to use an EAD adjustment approach.	?	?		"EAD adjustment approach" undefined
9 IV	S 9-3	Banks must use the same method for determining risk-based capital requirements for all similar transactions.	NO	YES	2,5	Choice of only one method allowed in CRD - competitive disadvantage to US banks
9 IV	S 9-4	The method for calculating EAD for transactions subject to counterparty credit risk should be appropriate for the risk, extent, and complexity of the bank's activity.	NO	NO		
9 IV	S 9-5	Banks that use the VaR model approach for single product netting sets of repo-style transactions or eligible margin loans must conduct rigorous and regular backtesting to validate its model.	NO	NO		
9 IV	§ 34	For this reason, a netting set's "effective EPE" will be used as the basis for calculating EAD for counterparty credit risk.	NO	YES	5	Effective EPE to apply on counterparty level - drafting error in Basel II
9 IV	S 9-6	Banks must meet certain qualifying criteria that consist of operational requirements, modeling standards, and model validation requirements before receiving their primary Federal supervisor's approval to use the internal models method.	NO	NO		
9 IV	S 9-7	Banks that use the internal models methodology for counterparty credit risk transactions must establish initial model validation and ongoing model review procedures. The model review should consider whether the inputs and risk factors as well as the model outputs are appropriate. The review of outputs should include a backtesting regime that compares the model's output with realized exposures.	NO	NO		
9 IV	§§ 46 - 71	<i>Reasonable transcript of Basel II rule on EPE</i>	NO	NO		

US Guideline		Requirement	Problem for?		Remedy	Main reason
Chapter	§		all non-US banks	Deutsche Bank		
						Legend 1=Exempt non-US banks by introducing standardised approach option 2=Align NPR with Basel II 3=Align with CEBS guidance 4=Remove DB classification as core bank 5=Remove / ease requirement
9 IV	§ 72	If a bank uses a conservative internal model to determine EAD for some transactions, the primary Federal supervisor may require the bank to remove these transactions from both the numerator and denominator for the purposes of estimating alpha.	NO	YES	5	Impractical and subjective intervention which bases on the highly questionable assumption that some transaction may seriously impact portfolio results
10 III	§ 3	Under the SRWA, a bank would generally assign a 300 percent risk weight to publicly-traded equity exposures and a 400 percent risk weight to non-publicly-traded equity exposures.	YES	YES	2	Different risk weights to CRD (Annex VII Part 1 1.3.1)
10 III	S 10-1	Banks must apply the same methodology to like instruments.	NO	NO		
10 III	§ 8	There is a risk-weighted asset floor of 7 percent of the adjusted carrying value of a bank's exposure to an investment fund.	YES	YES	2	RWA floor for CIUs not required under Basel II
10 IV	S 10-2	If a bank chooses to use an internal model, it must produce reliable estimates of the potential loss in the bank's portfolio from equity holdings under stress market conditions.	NO	NO		
10 VI	S 10-3	Banks must validate internal models used for equity exposures.	NO	NO		
10 VII	S 10-4	Internal models used to calculate risk-based capital requirements for equity exposures must be consistent with models used in the bank's risk management processes and management information reporting systems.	NO	NO		
11 I	S 11-1	Banks must use the securitization framework for any exposures that involve the tranching of credit risk (with the exception of a tranching guarantee that applies only to an individual retail exposure).	NO	NO		
11 I	S 11-2	Banks should develop written implementation policies and procedures describing the allowed approaches, methods of application, and designated responsibilities for complying with the securitization framework.	NO	NO		
11 III	S 11-3	Securitization transactions must transfer credit risk to at least one third party to qualify for treatment under the securitization framework.	NO	NO		
11 III	S 11-4	Banks that provide implicit support to securitization transactions must hold risk-based capital as if the underlying assets had not been securitized, and must deduct from Tier 1 capital any after-tax gain-on-sale resulting from the securitization.	NO	NO		

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
11 III	S 11-5	A clean-up call constitutes implicit support if, in exercising the call, the bank provides support in excess of its contractual obligation to provide support to the securitization.	NO	NO		
11 III	S 11-6	The maximum risk-based capital requirement for all securitization exposures held by a bank associated with a single securitization transaction is the amount of risk-based capital plus expected losses that would have been required had the underlying exposures not been securitized.	NO	NO		
11 III	S 11-7	Banks must follow the specified hierarchy of approaches to determine risk-weighted asset amounts for all securitization exposures.	NO	NO		
11 III	S 11-8	In order to use the RBA, the securitization exposure must be externally rated by an NRSRO, or be eligible for an inferred rating.	NO	NO		
11 III	S 11-9	The securitization transaction must have an external rating assigned by an NRSRO that fully reflects the credit risk associated with timely repayment of principal and interest.	NO	NO		
11 III	S 11-10	Banks should document the factors that support their use of the RBA.	NO	NO		
11 III	S 11-11	Banks' internal credit assessment processes should be comprehensive, transparent, independent, well-defined, and fully documented.	NO	NO		
11 III	S 11-12	Banks should analyze the servicer's capabilities and document the analysis in the internal assessment.	NO	NO		
11 III	S 11-13	The bank must validate its ICA process on an ongoing basis and at least annually the ICA process and results must be subject to the full range of the bank's IRB validation activities.	NO	NO		
11 III	§§ 60 - 79	<i>Transcript of Basel II securitisation framework</i>	NO	NO		

US Guideline			Problem for?		Legend	
Chapter	§	Requirement	all non-US banks	Deutsche Bank	Remedy	Main reason
11 III	§ 80	Re-securitizations, such as CDO-squared, represent a new securitization in which the underlying exposures are themselves securitization interests and present a unique challenge in the calculation of UE, N, EWALGD and KIRB. As a general rule, banks holding securitization exposures in re-securitizations should not “look through” to the exposures underlying the securitized securitization tranches when calculating UE, N, EWALGD and KIRB and must set EWALGD equal to 100 percent for re-securitizations.	YES	YES	2,5	Not required by Basel II or CRD
12 III	S 11-14	Banks should document the securitization structure and loss prioritization.	NO	NO		
13 III	S 11-15	Banks should retain the specific data elements necessary to calculate the appropriate securitization risk-based capital requirement.	NO	NO		

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Page	§		all non-US banks	Deutsche Bank	Remedy	Main reason
p199	1	This document sets forth the supervisory guidance of the federal banking agencies ¹ ("Agencies") for U.S. banks, savings associations, and bank holding companies ("banks") that use Advanced Measurement Approaches (AMA) for calculating the risk-based capital requirement for operational risk under the Basel II capital regulation. The primary Federal supervisor will review a bank's AMA System relative to relevant regulatory requirements and this guidance to determine whether the bank may use Basel II-based rules to determine its risk-based capital requirements. Banks will have considerable flexibility in developing operational risk management, data and assessment, and quantification processes that are appropriate for the nature of their activities, business environment, and internal controls.		YES	Regulators to retain the authority to grant temporary or permanent exemptions from aspects of the final rules based upon being in the public interest and consistent with the objective of the rule.	Regulatory flexibility to grant exemptions for FOBH.
p199	3	Although operational risk is not a new risk, deregulation and globalization of financial services, together with the growing sophistication of financial technology, and new business activities and delivery channels are making banks' operational risk profiles (i.e., the level of operational risk across banks' activities and risk categories) more complex.		YES	The scope of this is wider than the regulatory framework for AMA.	Follow the lead of Basel and issue separate documents for Sound Practices for the Management of OR and AMA framework
p200	2	A sound AMA System will identify operational risk losses, calculate operational risk exposures and associated operational risk regulatory capital, promote risk management processes and procedures to mitigate or control operational risks, and help ensure that management is fully aware of emerging operational risk issues.		YES	Recognition that, as for Market and Credit Risks, firms have the ability to "Accept" risks.	The objective of risk management is not to drive the levels of risk to zero. To drive OR to zero would create an excessive cost burden. It is better that firms pro-actively accept risks rather than take risks through ignorance.
p200	2	This includes identifying the nature, type(s), and underlying cause(s) of the operational loss event(s).		YES	Firms should collect sufficient information to promote operational risk management.	The costs associated with defining, implementing and training on causal categories. If this becomes a leading industry practice then we will want to adopt it.
p200	2	Moreover, the framework must also include independent verification and validation to assess the effectiveness of the controls supporting the bank's AMA System, including compliance with policies, processes, and procedures.	Probably	YES	FOBH to be able to delegate setting OR policies & procedures to the group level operational risk management function, or its equivalent.	This implies that a FOBH will have to separately approve policies & procedures that are Group standards. This aspect and addressing deviations between US and global requirements create a bureaucratic burden for little perceivable value.

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p200	2	Given the importance of these functions, the Agencies believe that a bank's validation and verification functions should begin their work soon after the bank has started to implement its AMA System.		YES	The Agencies should require the management of the firm to be comfortable with the risk management framework through verification and validation efforts.	The Agencies appear to be expecting verification and validation functions. Verification could be performed by Group Audit, validation is more of a continual process that results in enhancements to procedures, for example Loss Data collection is now Event collection.
p200	2	Given the importance of these functions, the Agencies believe that a bank's validation and verification functions should begin their work soon after the bank has started to implement its AMA System.	Probably	YES	Place some reliance upon the reviews by Home State regulators where the AMA Systems have the same genealogy	Conceivably this means that verification and validation would have to have started in FOBH several years ago, before the regulatory treatment of FOBH had been clarified.
p201	2	The NPR provides that the primary Federal supervisor may require a bank to assign a different risk-weighted asset amount for operational risk, to change aspects of its operational risk analytical framework (for example, distributional or dependence assumptions), or to make other changes to the bank's operational risk management processes, data and assessment systems, or quantification systems if the supervisor determines that the risk-weighted asset amount for operational risk produced by the bank is not commensurate with the bank's operational risk profile.	Probably	YES	Any Agency required changes need to be clearly and comprehensively detailed for the firm.	It is not clear how the Agencies will decide that the RWA differs from their expectations! It may be arbitrary whether any capital increments are executed via Pillar 1 or 2.
p202	2	Definitions	Probably	YES	Minimise the number of definitions	Defintions can become overly prescriptive and quickly become incorrect or misleading as the discipline evolves.
p202	3	Backtesting means the comparison of a bank's internal estimates with actual outcomes during a sample period not used in model development. In this context, backtesting is one form of out-of-sample testing.	Probably	YES	Delete	Backtesting is not officially referred to in the rest of the Guidance, but its reference implies expectations of Agencies. To achieve the same standard of Backtesting for OR as seen for MR would need 60 years of quarterly data!

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p202	4	Benchmarking means the comparison of a bank's internal estimates with relevant internal and external data sources or estimation techniques.	Probably	YES	Firms should promote the evolution of their AMA systems and frameworks in line with the sophistication of their activities.	DB has performed some comparisons and been involved in surveys conducted by leading consultants. Due to the specificities of each firm it is not possible to draw robust conclusions from these exercises.
p202	7	Eligible operational risk offsets means amounts, not to exceed expected operational loss, that: (1) Are generated by internal business practices to absorb highly predictable and reasonably stable operational losses, including reserves calculated consistent with GAAP; and (2) Are available to cover expected operational losses with a high degree of certainty over a one-year horizon.	YES	YES		Highly predictable and reasonably stable will be influenced by the level of granularity.
p202	9	External operational loss event data , with respect to a bank, means gross operational loss amounts, dates, recoveries, and relevant causal information for operational loss events occurring at organizations other than the bank.	YES	YES	Delete requirement for causal information	Due to the increased US regulatory expectaiton, in comparison to Basel or EU, firms with foreign parents would have to roll-out the collection of causal information globally. This is especially the case if the FOBH used losses from non-US activities as external data.
p203	2	Operational risk means the risk of loss resulting from inadequate or failed internal processes, people, and systems or from external events (including legal risk, but excluding strategic and reputational risk).		YES	Add exclusion of Business Risk	Confused risk boundaries, firms will not want Business Risk to be included in OR due to a poor definition.
p203	8	Unit of measure means the level (for example, organizational unit or operational loss event type) at which the bank's operational risk quantification system generates a separate distribution of potential operational losses.	Probably	YES	Firms should justify the organisation level at which they aggregate data for AMA caclulations	Excessive prescription, is this applied to CR? Conflict with technical issues around data, having sufficient data, organisational structures, etc

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p204	1	S 1. The bank’s AMA System must include an operational risk management function and audit function that are independent of business line management. The operational risk management function should address operational risk on a firm-wide basis.	Probably	YES	Reference to effects due to consolidation as opposed to solo legal entities, including delegation within the DB Group	FOBH as individual legal entities have very limited dedicated resources. However, on a consolidated basis it has considerable resources. It is not clear what is meant by firm-wide OR mgt for a FOBH, is this the legal entity or the consolidated group?
p205	5	Define the roles and responsibilities of those involved in the development, implementation, and oversight of the bank’s AMA System; and		YES	Explicit recognition of the ability to delegate to other parts of the Group.	FOBH have very limited dedicated resources, however these activities could be delegated to functions elsewhere in the wider group.
p205	7	Reference additional detailed policies, processes, and procedures.		YES	Firms should ensure that the processes by which they manage operational risk are adequately documented and supported by policies and procedures.	Legal entities and groups have many many policies that could be related to some aspect of operational risk. The scope needs to be more clearly defined.
p205	8	S 3. The bank must maintain effective internal controls supporting its AMA System.		YES	Delete, or clarify the controls that support AMA, not the wider control framework eg Legal is unlikely to report to ORM.	Excessive detail and scope creep from AMA caclulations to all of the internal controls of the organisation!
p206	3	S 5. The board of directors and management should ensure that the bank’s operational risk management, data and assessment, and quantification processes are appropriately integrated into the bank’s existing risk management and decision-making processes and that there are adequate resources to support these processes throughout the bank.	YES	YES	Reference to effects due to consolidation as opposed to solo legal entities.	FOBH are unlikely to use RC calculated at the consolidated FOBH level for managing the US activities. It is more likely to use allocations from Group EC. As a result most FOBH will fail the US Use Test

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p206	4	Strong board of directors and management oversight forms the cornerstone of an effective operational risk management process. The board of directors is responsible for overseeing the establishment and ongoing effectiveness of the AMA System. The board of directors must approve the bank's written implementation plan. In addition, the board of directors must at least annually evaluate the effectiveness of, and approve, the bank's AMA System. Information provided to the board of directors for this review should be detailed enough for the bank's board members to understand and evaluate its AMA System. <i>(footnote 11)</i> The board of directors' evaluation should reflect the results of any independent reviews and the findings of the verification and validation functions. <i>(footnote 12)</i>		YES	Enable the board of FOBH to delegate this activity to other parts of the Group	FOBH, as an individual legal entity, has a board and limited dedicated resources
p206	5	Ensuring that management demonstrates that it is actively using its AMA System as a basis for assessing and managing operational risk, and that the framework's use is not limited to determining regulatory capital		YES	Reference to effects due to consolidation as opposed to solo legal entities, including the ability to delegate within DB Group.	Groups are unlikely to use RC calculated at the consolidated FOBH level for managing the US activities. It is more likely to use allocations from Group EC. As a result FOBH will fail the US Use Test
p206	5	Ensuring compliance with regulatory disclosure requirements.		YES	Permanent Exemption due to the lack of third party counterparts for FOBH	Pillar 3 disclosure requirements for FOBH
p207	3	Senior management is responsible for ensuring that operational risk is appropriately managed across the bank and that all components of the bank's AMA System function effectively and meet regulatory requirements. Specifically, management should ensure that the bank has qualified staff and sufficient resources to carry out the operational risk functions outlined in its AMA System. Appropriate staff and resources should be available within the lines of business, the firm-wide operational risk management function, and the verification and validation functions to monitor and enforce compliance with the bank's policies and procedures related to the AMA System.		YES	Ability to delegate to Global Head of Operational Risk Management	FOBH have limited dedicated resources
p210	4	The bank should demonstrate that the four elements jointly cover all significant operational risks to which it is exposed.		YES	Delete "all"	It is difficult to demonstrate that "all" significant risks are covered. On a consolidated basis FOBH cover some turbulent locations.
p213	2	The bank may refrain from collecting internal operational loss event data for individual operational losses below established thresholds, if the bank can demonstrate to its primary Federal supervisor that the thresholds are reasonable.		YES	Recognition that the same discussion has taken place with Home Supervisors.	Changing global data standards in response to local regulatory requirements is expensive and could set a precedent.

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p215	4	Business environment and internal control factors are indicators of the bank's operational risk profile that reflect the underlying business risk factors, an assessment of the current internal control environment, and a forward-looking assessment of the bank's control environment. The framework established to maintain the business environment and internal control factor assessments should be sufficiently flexible to encompass the range and complexity of actual and planned activities, changes in internal control systems, or an increased volume of information.		YES	There should be a reference to materiality and that some approaches reflect the current status, for example Key Risk Indicators, and others such as RCSAs can reflect future changes to some extent.	The ability of the Business Environment & Internal Control Factors to capture planned changes is difficult to achieve.
p216	2	A bank may also adjust its operational risk exposure to reflect reductions from operational risk mitigants (for example, insurance), subject to the qualification requirements and limits (described in Section E below).	YES	YES	Recognition that for entities within larger groups risk mitigation may be purchased by entities outside the USA.	The Agencies should recognise the benefits of Group purchased Insurance Policies.
p217	7	The Agencies expect that there will be some uncertainty in the analytical frameworks because of the evolving nature of operational risk data and assessment systems. Therefore, the analytical frameworks should be conservative and reflect the evolutionary status of operational risk management, measurement and quantification, and its impact on data capture and analytical modeling.		YES	Drafting	Is there an equivalent requirement for MR & CR which continue to evolve? There is no reference point in relation to "conservative" as a result this may become an issue of beliefs.
p219	3	S 27. The bank must employ a unit of measure that is appropriate for the bank's range of business activities and the variety of operational loss events to which it is exposed, and that does not combine business activities or operational loss events with different risk profiles within the same loss distribution.	Probably	YES	Firms should be required to justify the organisational level at which RC and EC is calculated.	The "Unit of Measure" is superequivalent to Basel 2 & CRD. It is not clear what it adds to the framework.
p222	7	The Agencies recognize that in certain limited circumstances, there may not be sufficient data available for a bank to generate an AMA estimate of its own operational risk exposure at the 99.9 percent confidence level. In these circumstances, a bank may propose use of an alternative operational risk quantification system, subject to approval by the bank's primary Federal supervisor. The Agencies are not prescribing any estimation methodologies for the alternative approach. However, the Agencies expect that use of an alternative approach will occur on a very limited basis. Furthermore, such approaches will not be available at the bank holding company level.	YES	YES	Enable allocation without restriction.	A preference of foreign owned banking groups is to allocate from the Group figure. The allocation mechanism will need to be approved by the US agencies. It is not clear why it is not possible to allocate to BHCs.

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p224	9	Compare the operational risk exposure estimate generated by the analytical framework with actual loss experience over time, to assess the framework's performance and the reasonableness of its outputs.		YES	Delete	Provided "comparison" does not mean backtesting (see earlier comments) then this will be expected. However the ability to provide insights will be limited due to RC at 99.9% interval and continuous evolution of the internal and external operational risk environments.
p224	12	Include information on the technical process underlying the analytical approach (for example, programming language(s) and software used, logical process flow diagrams, system or source of record for the data elements, how outputs are used in subsequent steps of the approach).	YES	YES	Bilateral clarification of regulatory expectations	If the US regulators are implying that the software be hosted / reside in the US then this creates additional costs for little benefit.
	Appendix D	Operational Risk Information Collection & Templates	Probably	YES	Exemption	There is little benefit in disclosing OR information about FOBH, when the majority of the assets and activities are undertaken by operating companies below the consolidated level.

US Guideline		Requirement	Problem for?		Remedy	Main reason
Chapter	§		all non-US banks	Deutsche Bank		
	§ 25	... For example, a bank calculating correlations within or among risk types should consider data quality and consistency, and the volatility of correlations over time and under stressed market conditions.	NO	YES	Defer to home regulator	Burdensome requirement far beyond European requirement outlined in CEBS CP03R