DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 23, 2015

Mr. David Huntington
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064

Re: United States of America v. DB Group Services (UK) Ltd.
Deutsche Bank AG – Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act

Dear Mr. Huntington:

This is in response to your letter dated 23, 2015, written on behalf of Deutsche Bank AG (Company) and DB Group Services (UK) Ltd. (Settling Firm) and constituting an application for relief from the Company being considered an "ineligible issuer" under Rule 405(1)(v) of the Securities Act of 1933 (Securities Act). The Company requests the relief because of the entry on April 23, 2015 of a guilty plea by the Settling Firm, a subsidiary of the Company, in the United States District Court for the District of Connecticut in connection with a plea agreement (the "Plea Agreement") between the Settling Firm and the U.S. Department of Justice ("DOJ"). The Settling firm pled guilty to one count of wire fraud, in violation of Title 18, United States Code, and Section 1343.

The Division of Corporation Finance (the Division) has considered your application. Due to the timing of the criminal proceeding causing the disqualification, however, which was not within the Commission's control, we have not been able to complete our normal procedure. Accordingly, to allow for additional time to provide the Commission with sufficient notice and information about the waiver application, and based on the facts and representations in your letter and assuming the Settling Firm complies with the Plea Agreement, the Division, acting for the Commission pursuant to delegated authority, has determined that the Company has made a showing of good cause that it is not necessary under the circumstances that the Company be considered an ineligible issuer by reason of the entry of the Plea Agreement, and is granting the requested relief for a period not to exceed fourteen days from the date of this letter.

Any different facts from those represented or failure to comply with the terms of the Plea Agreement would require us to revisit our determination that good cause has been shown and could constitute grounds to revoke or further condition the waiver. The Commission reserves the right, in its sole discretion, to revoke or further condition the waiver under those circumstances.

Sincerely,

/s/

Mary Kosterlitz
Chief, Office of Enforcement Liaison
Division of Corporation Finance

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K GARRISON (1946-1991)
RANDOLPH E PAUL (1946-1956)
SIMON H RIFKIND (1950-1995)
LOUIS S WEISS (1927-1950)
JOHN F WHARTON (1927-1977)

WRITER'S DIRECT DIAL NUMBER

212-373-3124

WRITER S DIRECT FACSIMILE

212-492-0124

WRITER'S DIRECT E-MAIL ADDRESS

dhuntington@paulweiss.com

UNIT 3601, OFFICE TOWER A, BEIJING FORTUNE PLAZA
NO 7 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U K
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
PO BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W ABBOTT
EDWARD T ACKERMAN
ALLAN J ARFFA
ROBERT A ATKINS
DAVID J BALL
JOHN F BAUGHMAN
LYNN B BAYARD
DANIEL J BELLER
CRAIG A BENSON
MITCHELL L BERG
MARK S BERGMAN
BRUCE BIRENBOIM
H CHRISTOPHER BOEHNING
ANGELO BONVINO
JAMES L BROCHIN
RICHARD J BRONSTEIN
DAVID W BROWN
SUSANNA M BUERGEL
PATRICK S CAMPBELL*
JESSICA S CAREY
JEANETTE K CHAN
YVONNE Y F CHAN
LEWIS R CLAYTON
JAY COHEN
KELLEY A CORNISH
CHRISTOPHER J CUMMINGS
CHARLES E DAVIDOW
DOUGLAS R DAVIS
THOMAS V DE LA BASTIDE III
ARIEL J DECKELBAUM
ALICE BELISLE EATON
ANDREW J EHRLICH
GREGORY A EZRING
LESLIE GORDON FAGEN
MARC FALCONE
ROSS A FIELDSTON
ANDREW C FINCH
BRAD J FINKELSTEIN
BRIAN P FINNEGAN
ROBERTO FINZI
PETER E FISCH
ROBERT C FLEDER
MARTIN FLUMENBAUM
ANDREW J FOLEY
HARRIS B FREIDUS
MANUEL S FREY
ANDREW L GAINES
KENNETH A GALLO
MICHAEL E GERTZMAN
ADAM M GIVERTZ
SALVATORE GOGLIORMELLA
ROBERT D GOLDBAUM
NEIL GOLDMAN
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ERIC GOODISON
CHARLES H GOOGE, JR
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UDI GROFMAN
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BRUCE A GUTENPLAN
GAINES GWATHMEY, III
ALAN S HALPERIN
JUSTIN G HAMILL
CLAUDIA HAMMERMAN
GERARD E HARPER
BRIAN S HERMANN
MICHELE HIRSHMAN
MICHAEL S HONG
DAVID S HUNTINGTON
AMRAN HUSSEIN
LORETTA A IPPOLITO
BRIAN M JANSON
JAREN JANGHORBANI
MEREDITH J KANE
ROBERTA A KAPLAN
BRAD S KARP
PATRICK N KARSNITZ
JOHN C KENNEDY
BRIAN KIM
ALAN W KORNBERG
DANIEL J KRAMER
DAVID K LAKHDHIR
STEPHEN P LAMB*
JOHN E LANGE
DANIEL J LEFFELL
XIAOYU GREG LIU
JEFFREY D MARELL
MARCO V MASOTTI
EDWIN S MAYNARD
DAVID W MAYO
ELIZABETH R McCOLM
MARK F MENDELSOHN
WILLIAM B MICHAEL
TOBY S MYERSON
CATHERINE NYARADY
JANE B O'BRIEN
ALEX YOUNG K OH
BRAD R OKUN
KELLEY D PARKER
MARC E PERLMUTTER
VALERIE E RADWANER
CARL L REISNER
LORIN L REISNER
WALTER G RICCIARDI
WALTER RIEMAN
RICHARD A ROSEN
ANDREW N ROSENBERG
JACQUELINE P RUBIN
RAPHAEL M RUSSO
ELIZABETH M SACKSTEDER
JEFFREY D SAFERSTEIN
JEFFREY B SAMUELS
DALE M SARRO
TERRY E SCHIMEK
KENNETH M SCHNEIDER
ROBERT B SCHUMER
JOHN M SCOTT
STEPHEN J SHIMSHAK
DAVID R SICULAR
MOSES SILVERMAN
STEVEN SIMKIN
JOSEPH J SIMONS
AUDRA J SOLOWAY
SCOTT M SONTAG
TARUN M STEWART
ERIC ALAN STONE
AIDAN SYNNOTT
ROBYN F TARNOFSKY
MONICA K THURMOND
DANIEL J TOAL
LIZA M VELAZQUEZ
MARIA T VULLO
ALEXANDRA M WALSH*
LAWRENCE G WEE
THEODORE V WELLS, JR
BETH A WILKINSON
STEVEN J WILLIAMS
LAWRENCE I WITDORCHIC
MARK B WLAZLO
JULIA MASON WOOD
JENNIFER H WU
JORDAN E YARETT
KAYE N YOSHINO
TONG YU
TRACEY A ZACCONE
T ROBERT ZOCHOWSKI, JR

*NOT ADMITTED TO THE NEW YORK BAR

April 23, 2015

<u>FIRST CLASS MAIL AND EMAIL</u>

Mary J. Kosterlitz, Esq.
Chief, Office of Enforcement Liaison
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Deutsche Bank LIBOR Settlement – Waiver Request under Rule 405

Dear Ms. Kosterlitz:

We submit this letter on behalf of our client, Deutsche Bank Aktiengesellschaft ("Deutsche Bank AG"), in connection with a plea agreement (the "Plea Agreement") to be entered into by DB Group Services (UK) Ltd. (the "Settling Firm"), a subsidiary of Deutsche Bank AG, as described below. The Settling Firm is expected to enter a plea of guilty (the "Guilty Plea") on or about April 23, 2015 in the U.S. District Court for the District of Connecticut (the "District Court"). At a later time, the District Court is expected to enter a final judgment in relation to the conviction of the Settling Firm pursuant to the Plea Agreement (the "Judgment"). The terms of the Judgment will require remedies that are materially the same as those set forth in the Plea Agreement.

Pursuant to Rule 405 promulgated under the Securities Act of 1933, as amended (the "Securities Act"), Deutsche Bank AG hereby respectfully requests that the Director of the Division of Corporation Finance, pursuant to the delegation of authority of the Securities and Exchange Commission (the "Commission"),[1] determine that for good cause shown it is not necessary under the circumstances that Deutsche Bank AG be considered an "ineligible issuer" under Rule 405. Deutsche Bank AG requests that this determination be effective as of the effective date of the Guilty Plea.

BACKGROUND

The Fraud Section of the Criminal Division and the Antitrust Division of the United States Department of Justice (together, the "Department of Justice") are expected to file, on April 23, 2015, a one-count criminal information (the "Information") in the U.S. District Court for the District of Connecticut (the "District Court") charging the Settling Firm with one count of wire fraud, in violation of Title 18, United States Code, Section 1343.[2] The Information is expected to charge that between approximately 2003 and at least 2010 the Settling Firm engaged in a scheme to defraud counterparties to interest rate derivatives trades executed on its behalf by manipulating certain benchmark interest rates to which the profitability of those trades was tied. The Information is expected to charge that, in furtherance of this scheme, on or about July 20, 2006, the Settling Firm transmitted, or caused the transmission of (i) an electronic chat between a submitter for the London Interbank Offered Rate for U.S. Dollar ("USD LIBOR") employed by the Settling Firm and a derivatives trader employed by Deutsche Bank AG, (ii) a subsequent USD LIBOR submission from the Settling Firm to Thomson Reuters and (iii) a subsequent publication of a USD LIBOR rate through international and interstate wires.

Pursuant to the Plea Agreement, attached hereto as Annex B, the Settling Firm is expected to enter the Guilty Plea in the District Court relating to the conduct described therein (including the conduct described in any of the Exhibits thereto) (the "Conduct"). In the Plea Agreement, the Settling Firm, among other things, will agree to a fine of $150 million.

In addition, the Department of Justice is expected to file a two-count criminal information (the "Deutsche Bank AG Information") in the District Court charging Deutsche Bank AG with one count of wire fraud, in violation of Title 18, United States Code, Section 1343, and one count of price-fixing, in violation of the Sherman Act, Title 15, United States Code, Section 1. The Deutsche Bank AG Information is expected to charge that between approximately 2003 and at least 2010, Deutsche Bank AG engaged in a scheme to defraud counterparties to interest rate derivatives trades executed on its behalf by manipulating certain benchmark interest rates to which the profitability of those trades was tied. The Deutsche Bank AG Information is expected to charge that in furtherance of this scheme, on or about July 20, 2006, Deutsche Bank AG transmitted, or caused the transmission of (i) an electronic chat between a U.S. Dollar derivatives trader who was located in the United States at the time of the chat and a submitter for USD

[1] 17 C.F.R. § 200.30-1(a)(10).

[2] Information, *United States* v. *DB Group Services (UK) Ltd.* (D. Conn. Apr. 23, 2015).

LIBOR, (ii) a subsequent USD LIBOR submission from Deutsche Bank AG to Thomson Reuters, and (iii) a subsequent publication of a USD LIBOR rate through international and interstate wires. The Deutsche Bank AG Information also is expected to charge that from at least as early as 2008 through at least 2010, Deutsche Bank AG engaged in a combination and conspiracy that consisted of an agreement, understanding, and concert of action among Deutsche Bank AG and its co-conspirators, the substantial terms of which were to fix the price of derivatives products based on the London Interbank Offered Rate for Yen ("Yen LIBOR") by fixing Yen LIBOR, a key component of the price thereof, on certain occasions.

Deutsche Bank AG is expected to enter into a deferred prosecution agreement with the Department of Justice on April 23, 2015 (the "Deferred Prosecution Agreement") relating to submissions of USD LIBOR and certain other benchmark interest rates. In the Deferred Prosecution Agreement, Deutsche Bank AG is expected to agree, among other things, (i) to continue to cooperate fully with the Department of Justice and any other law enforcement or government agency designated by the Department of Justice until the conclusion of all investigations and prosecutions arising out of the conduct described in the Deferred Prosecution Agreement; (ii) to strengthen its internal controls as required by certain other U.S. and non-U.S. regulatory agencies that have addressed the misconduct described in the Deferred Prosecution Agreement; (iii) to the installation of a corporate monitor; and (iv) to the payment of $625 million.

The U.S. Commodity Futures Trading Commission ("CFTC") is expected to enter an order on April 23, 2015 (the "CFTC Order") on consent relating to the Conduct. The CFTC Order is expected to require Deutsche Bank AG to cease and desist from certain violations of the Commodity Exchange Act, to pay a fine of $800 million, and to agree to certain undertakings.

The U.K. Financial Conduct Authority ("FCA") is expected to enter a final notice on April 23, 2015 (the "FCA Final Notice") relating to the Conduct and imposing a fine of £226.8 million.

The New York State Department of Financial Services is expected to enter a consent order on April 23, 2015 (the "DFS Order") relating to the Conduct. The DFS Order is expected to require Deutsche Bank AG, among other things, (i) to pay a civil monetary penalty of $600 million; (ii) to terminate certain employees; and (iii) to engage an independent monitor for a period of two years.

DISCUSSION

A well-known seasoned issuer ("WKSI") is a category of issuer created under Rule 405 that is eligible for significant securities offering reforms adopted by the Commission in 2005 that have changed the way corporate finance transactions for larger issuers are planned, brought to

market and executed.[3] At the same time, the Commission created another category of issuer under Rule 405, the "ineligible issuer." Rule 405 deems an issuer ineligible when, among other things, "[w]ithin the past three years, the issuer or any entity that at the time was a subsidiary of the issuer was convicted of any felony or misdemeanor described in paragraphs (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934." An ineligible issuer is excluded from the category of "well-known seasoned issuer" and is thus prohibited from taking advantage of the significant securities offering reforms referred to above.

The Guilty Plea would make Deutsche Bank AG, absent a determination by the Commission to the contrary, an ineligible issuer under Rule 405 for a period of three years. This result would preclude Deutsche Bank AG from qualifying as a WKSI and having the benefits of automatic shelf registration and other provisions of the securities offering reforms referred to above for three years.

Securities Act Rule 405 authorizes the Commission to determine, "upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer." As noted above, the Commission has delegated the function of granting or denying such applications to the Director of the Division of Corporation Finance.

REASONS FOR GRANTING A WAIVER

Under the facts and circumstances of this action and considering the alleged conduct involved as described in the Plea Agreement, Deutsche Bank AG respectfully submits that granting Deutsche Bank AG a waiver from ineligible issuer status is in the public interest and that according ineligible issuer status on Deutsche Bank AG is not necessary for the protection of investors. In making this request, Deutsche Bank AG has carefully considered the policy statement on the framework for well-known seasoned issuer waivers[4] and, as discussed in more detail below, believes that the granting of the waiver request would be consistent with the policy statement.

Responsibility for and Duration of the Alleged Violations

The violations related primarily to the manipulation or attempted manipulation of LIBOR submissions by certain derivatives traders and rate submitters as described in the Plea Agreement. None of the LIBOR-related conduct underlying the Plea Agreement (the "Conduct") pertains to activities undertaken by Deutsche Bank AG in connection with Deutsche Bank AG's role as an issuer of securities (or any disclosure related thereto). No conduct in respect of Deutsche Bank AG's disclosures is implicated.

[3] *See* Securities Offering Reform, Securities Act Release No. 8591, Exchange Act Release No. 52,056, Investment Company Act Release No. 26,993, 70 Fed. Reg. 44,722, 44,790 (Aug. 3, 2005).

[4] Division of Corporate Finance "Revised Statement on Well-Known Seasoned Issuer Waivers," April 24, 2014.

The Department of Justice did not conclude that the directors or senior officers of Deutsche Bank AG engaged in any deliberate misconduct or were aware of violative conduct or ignored any warning signs or "red flags" regarding the Conduct.[5] Rather, the Conduct was carried out by employees of business units lower down in the corporate structure.

There are no findings that anyone beyond individual traders and, in some instances, their supervisors, was aware of, or instructed, any deliberate manipulation or attempted manipulation of submissions, nor is there any finding that LIBOR submissions were manipulated at the direction of senior officers of Deutsche Bank AG. None of the persons responsible for the violations were officers or directors of Deutsche Bank AG and none of them were responsible for, or had any influence over, Deutsche Bank AG's disclosure or the disclosures of Deutsche Bank AG's subsidiaries. The Department of Justice has not found that Deutsche Bank AG's disclosure controls and procedures or filings with the Commission during this time period were deficient.

As the wrongdoing identified in relation to Deutsche Bank AG's LIBOR submissions was the product of misconduct committed by employees of business units lower down in the corporate structure, none of whom was responsible for the disclosure of Deutsche Bank AG or any of its subsidiaries, Deutsche Bank AG believes that such misconduct does not call into question the reliability of Deutsche Bank AG's current and future disclosure and that designation as an ineligible issuer is not required for the protection of existing and potential investors in Deutsche Bank AG's securities.

Remedial Steps

Deutsche Bank AG and its affiliates have implemented policies and procedures designed to prevent recurrence of the Conduct, which have been recognized by the Department of Justice. Since becoming aware of improper conduct in connection with LIBOR setting, Deutsche Bank AG has taken extensive steps to remediate the misconduct and strengthen its compliance and internal control standards and procedures governing its LIBOR submissions. Such actions included instituting the following enhanced systems and controls for LIBOR submissions to ensure submissions are based on appropriate criteria:

(i) ensuring that compensation of submitters and their supervisors are not directly based upon derivatives trading, other than that associated with the entity's liquidity and liability management;

[5] In the Spring of 2009, the Deutsche Bank AG's Business Integrity Review Group ("BIRG"), an independent function reporting to the Global Head of Group Audit, reviewed the Money Market Derivatives desk because of the profits the desk made in 2008 to confirm that its reported P&L was reasonable and justifiable. The resulting report (the "BIRG Report") did not identify the Conduct or make any findings suggesting that the Conduct was taking place. The BIRG Report was sent to the Global Head of Group Audit with copies to members of Deutsche Bank AG's Management Board. The employees responsible for drafting the BIRG Report do not have any role drafting disclosures on behalf of Deutsche Bank AG.

(ii) completely segregating the duties of traders and submitters and physically separating one from the other;

(iii) a mandatory comprehensive training program being arranged for all relevant staff;

(iv) putting in place new preventive and detective controls that include monitoring and statistical checking of submissions by dedicated independent personnel from a newly created Benchmark and Index Control Group with real expertise concerning benchmarks and indices, and with additional oversight by Compliance;

(v) providing for further semi-annual review of the submissions process by an internal audit team;

(vi) establishing a governance body, the Benchmark and Index Committee, that is chaired by the independent control functions referenced in (iv) above and includes representatives of the business unit where the submissions are made and the internal audit team referenced in (v) above; and

(vii) establishing additional policies to ensure that its officers, directors, employees and agents do not exercise inappropriate influence over LIBOR submissions.

Deutsche Bank AG will also comply with all undertakings that are required of it pursuant to the Deferred Prosecution Agreement, the Plea Agreement, and LIBOR-related settlements with the CFTC and the FCA.

Additionally, Deutsche Bank AG has taken all possible steps, consistent with German and other relevant foreign employment law, to terminate the employment of all individuals responsible for the Conduct. With two exceptions described below, none of the employees determined to be responsible for the Conduct remains employed at Deutsche Bank.

During the initial phase of its internal investigation, Deutsche Bank AG swiftly terminated the two employees most extensively involved in and responsible for the Conduct, including the Global Head of Money Market and Derivatives Trading. Deutsche Bank AG then terminated five benchmark submitters in its Frankfurt office, including the Head of Global Finance and Foreign Exchange in Frankfurt. Four of these employees successfully challenged their termination in German court, as described below, and one employee entered into a separation agreement with Deutsche Bank AG after initially indicating that he would challenge the termination decision. Deutsche Bank AG has terminated four additional responsible individuals, including the London Head of Global Finance, and a further eight responsible individuals left Deutsche Bank AG before any disciplinary action was taken.

Four employees who were terminated for cause brought suit under employee-friendly German labor and employment laws. Although Deutsche Bank AG vigorously defended the

terminations, a German labor court ordered Deutsche Bank AG to reinstate the employees. The ruling was not stayed pending appeal, and so Deutsche Bank AG placed the employees in new, non-risk-taking positions, even though the German court twice fined Deutsche Bank AG for failing to place them in roles equivalent to those they had held before their termination. Under the court's direction, Deutsche Bank AG agreed to mediate the employee labor disputes and reached settlements with the four employees. Pursuant to the court-mediated settlements, the two more senior employees will remain on paid leave through the end of 2015 and then will have no association with Deutsche Bank AG. The two more junior employees have returned to Deutsche Bank AG in non-risk-taking roles and have no involvement in the setting of interest rate benchmarks. Deutsche Bank AG will take action to terminate any additional employee who is determined to have been responsible for the Conduct.

As the staff is aware, Deutsche Bank AG has previously requested waivers regarding its WKSI status from the Division of Corporation Finance in connection with settlements involving other of its subsidiaries. Waivers have previously been granted concerning (a) Deutsche Bank Trust Company Americas' settlement in connection with certain practices relating to auction-rate securities on January 9, 2007; and (b) Deutsche Bank Securities Inc.'s settlement in connection with it allegedly misleading its customers about the fundamental nature and increasing risks associated with auction-rate securities that it underwrote, marketed and sold on June 16, 2009. The conduct that was the subject of the previous waiver requests, and for which certain remediation steps were implemented, is unrelated to the conduct which is the subject of this waiver request. Because these matters did not involve the Settling Firm and are unrelated to the conduct which is the subject of this waiver request, the remedial steps taken in response to the alleged conduct at issue in these prior matters are not implicated by the alleged conduct at issue here. The alleged conduct at issue here in no way suggests that Deutsche Bank AG affiliates did not adequately implement remedial steps in other, earlier settlements involving other businesses and other products. All of these facts concerning Deutsche Bank AG's remedial efforts support the grant of the requested waiver.

Impact on Issuer

The Plea Agreement is the result of substantial negotiations among the Settling Firm, Deutsche Bank AG and the Department of Justice. Its terms have been carefully crafted to meet and balance the competing concerns of all involved. Determining to maintain ineligible issuer status for Deutsche Bank AG would, in effect, impose a sanction that would go beyond the agreed-upon settlement terms negotiated by the Settling Firm and Deutsche Bank AG in good faith, and that would be disproportionately severe given the Conduct that is the subject of the action, the lack of any nexus to Deutsche Bank AG's public disclosures, and the duration of time that has passed since the relevant events.

As the Staff is aware, Deutsche Bank AG is a frequent issuer of securities that are registered with the Commission and offered and sold under its current Form F-3 registration statement (the "WKSI shelf"). Deutsche Bank AG has issued a variety of securities that are registered under the WKSI shelf, including, over the past year alone, ordinary shares and

subscription rights therefor, unsecured senior and subordinated debt securities, capital securities and warrants. Since January 1, 2014, Deutsche Bank AG has issued off the WKSI shelf approximately $9.5 billion of securities qualifying as regulatory capital (ordinary shares, capital securities and subordinated debt securities) and more than $15.0 billion in other securities (mainly senior debt securities). In that period, Deutsche Bank AG conducted over 500 offerings from its WKSI shelf, and utilized approximately 800 free writing prospectuses ("FWPs"). Approximately 10% of these FWPs consisted of marketing materials that could not have been used by an ineligible issuer. The remainder consisted of term sheets and similar documents that would likely have been able to be used by an ineligible issuer, but in some cases only after modifications. Moreover, most of this remainder pertained to notes distributed through third-party distributors, who may wish to have latitude to use FWPs that only eligible issuers may use, and therefore may choose to restrict their distributions to securities of eligible issuers issued off of WKSI shelves.

As an ineligible issuer, Deutsche Bank AG would lose significant flexibility, most importantly the ability to register additional types of securities not covered by the WKSI shelf, by filing a new registration statement, filing a new registration statement to replace the WKSI shelf upon its expiration (the WKSI shelf expires in September 2015) or filing a post-effective amendment, in each case on an automatically effective basis. The adverse market and issuer impact of the potential loss of flexibility with respect to new types of securities is particularly important to Deutsche Bank AG in light of regulatory and market conditions and uncertainties that are significantly transforming the landscape for financial institutions like Deutsche Bank AG.

In response to the global financial crisis and the European sovereign debt crisis, governments, regulatory authorities and others have made and continue to make proposals to reform the regulatory framework for the financial services industry to enhance its resilience against future crises. Legislation has already been enacted and regulations issued in response to many of these proposals. The wide range of new laws and regulations or current proposals includes, among other things, provisions for more stringent regulatory capital and liquidity standards, stress testing and capital planning regimes and heightened reporting requirements. In addition, over the next few years, certain international bodies, such as the Financial Stability Board, are expected to recommend or impose further capital, liquidity or similar requirements on institutions such as Deutsche Bank AG (*e.g.*, such as "total loss absorbing capacity," or TLAC), the outlines and impacts of which are not fully known.

Finally, European Union law, set forth in a legislative package referred to as "CRR/CRD 4," contains, among other things, detailed rules on bank regulatory capital, increased capital requirements and additional capital buffers (which will increase from year to year), as well as tightened liquidity standards and a leverage ratio not based upon risk-weightings. CRR/CRD 4 became effective on January 1, 2014, with some provisions being gradually phased in through 2019. The results of the law and similar regulations can further dictate additional capital needs. Although qualifying regulatory capital currently generally consists of common equity, preferred equity and certain subordinated debt, given all of the recent and potential future

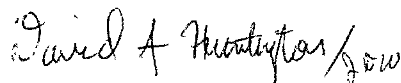
changes to Deutsche Bank AG's capital, liquidity and similar requirements, it is likely that capital raising efforts going forward will involve the issuance of new types of securities. As an example, in November 2014, Deutsche Bank AG filed a post-effective amendment to its WKSI shelf to issue $1.5 billion of capital securities which qualified as Additional Tier 1 capital and contained provisions to comply with then-new requirements under German and European Union law. Implementation of a buffer requirement and uncertainty as to its design, as well as the other potential capital needs described above, could impose additional needs on Deutsche Bank AG to access the capital markets, including through the use of securities with characteristics that are not yet known and therefore are difficult to anticipate in a shelf registration statement. "File and launch" for the public offering of new securities has developed as the market standard for large issuers since the advent of the Commission's securities offering reform in 2005. By the time Deutsche Bank AG may be able to enter the market if it were an ineligible issuer (*i.e.*, after it files an amendment to its non-WKSI shelf registration statement subject to staff review and approval), the market could be saturated, there may not be the same level of demand or pricing terms may have become disadvantageous.

* * *

In sum, Deutsche Bank AG respectfully submits that, based on the factors set forth in the framework, the loss to Deutsche Bank AG of certainty and flexibility if it were to become an ineligible issuer would be a disproportionate hardship in light of the nature of the Conduct which is the subject of the Judgment. More importantly, because the Conduct at issue in this matter in no way relates to Deutsche Bank AG's ability to produce reliable disclosures, including in its role as an issuer of securities, granting a waiver in this instance is consistent with the public interest and the protection of investors. We respectfully request that the Director of the Division of Corporation Finance to make that determination.

Please do not hesitate to contact me at (212) 373-3124 if you should have any questions regarding this request.

Sincerely yours,



David S. Huntington

cc: Maureen Lewis, Deutsche Bank Aktiengesellschaft