March 15, 2021

European Banking Authority
Tour Europlaza, 20 avenue André Prothin,
CS 30154, 92927 Paris La Défense CEDEX, France

Japanese Bankers Association

JBA comments on the EBA Consultation Paper: *"Guidelines on the monitoring of the threshold and other procedural aspects on the establishment of intermediate EU parent undertakings"*

Dear Sirs/Madams:

The Japanese Bankers Association[1] (JBA) appreciates the opportunity to provide our comments on the European Banking Authority's (EBA) Consultation Paper: "*Guidelines on the monitoring of the threshold and other procedural aspects on the establishment of intermediate EU parent undertakings*" (hereafter "Consultation Paper") on January 15, 2021.

From the clarification purpose, it is useful to have the guidelines on the monitoring of the threshold and other procedural aspects of the establishment of the IPUs. For Japanese banking industry, the EU remains the indispensable and important business opportunity and we are committed to contribute to the discussion on this topic. We hope our comments be useful and beneficial to the future enhancement of the IPU framework.

We generally acknowledge the guidelines as reasonable, however, we have several issues to be clarified as follows;

Scope of the consolidation

On page 14 of the Consultation Paper in the explanatory box, it says "*Clarification is proposed that for the purpose of calculating the total value of assets in the Union the consolidated balance sheet should be used reflecting the highest level of consolidation in the Union*". We would like to clarify to what extent this "highest level" includes. We would like to suggest the scope should be limited to the consolidation of the parent company group, such as majority-owned companies. To include EU subsidiaries not within the scope of the parent's consolidation is not reasonable and is highly impracticable. Furthermore, including such subsidiaries under IPU would be inconsistent with the third-country group's business strategy standpoint, or even with the governance structure.

Transition period application and threshold monitoring

On page 15 article 12 and 13, the descriptions about threshold are stated and we understand the general approach is consistent with current industrial consensus as well as requirements defined in the CRD5 on June 27, 2019. However, due to the timing of Brexit, our understanding is that if banks exceeded the asset threshold of EUR40Bn as of June 27, 2019, but their average based on the previous four quarters ending on 30 December, 2023 falls below EUR40Bn, they are not required to set up an IPU. We appreciate the EBA has clarified this point in the public hearing on February 26, but we would appreciate if the EBA could clarify whether UK assets can be included this transition relief in the final guidelines. Furthermore, we also ask the EBA to confirm whether banks that may benefit from this transitional relief should be still required to perform quarterly monitoring until the end of 2022, as this seems disproportionate if they are highly unlikely to breach the

[1] The Japanese Bankers Association is the leading trade association for banks, bank holding companies and bankers associations in Japan. As of March 15, 2021, The JBA has 115 Full Members (banks), 3 Bank Holding Company Members (bank holding companies), 73 Associate Members (banks & bank holding companies), 58 Special Members (regionally-based bankers associations) and one Sub-Associate Member for a total of 250 members. Several of its largest member banks are active participants in the EU financial markets.

threshold in 2023. We would like to suggest the consistency be secured between the framework of the transitional relief and threshold monitoring and would appreciate if this could be clarified in the final EBA guidelines. Lastly, it would be helpful if the guidelines could clarify from which date onwards EU entities are expected to start reporting the total EU assets as part of their ongoing supervisory reporting.

Forward-looking monitoring and scope of assessment requirement

We would like to confirm not all entities within the EU need to perform annual forward-looking monitoring on their own. For instance, some Japanese banks currently perform annual monitoring solely through the headquarter function within the EU. We would like to make sure we can continue the current practice, since some subsidiaries in the EU do not have enough staff and financial resources to perform annual monitoring as BAU. In addition, this would be duplicative work and creates additional burden.

Our understanding is that competent authorities in the EU will play a coordinating role with respect to some of the practical aspects of setting up an IPU and we would strongly encourage the guidelines to specify the importance of coordinating with the third country home supervisor on issues with respect to the overall resolvability of the group under assessment.

Finally, in the case banks meet the threshold and need to establish an IPU, we would like to suggest removing third country groups that have already established (or are in the process of establishing) IPUs from the scope of the assessment requirement, or at least the frequency of assessment should be prolonged from on a quarterly basis. Even if a group with an IPU subsequently fell below the threshold, it would be helpful if there was no duty to declare this to their competent authorities unless the group intended to unwind the IPU.

(End)