

March 30, 2011

**Comments on the Board of Governors of the Federal Reserve System's Proposal,
Definitions of "Predominantly Engaged in Financial Activities" and "Significant"
*Nonbank Financial Company and Bank Holding Company***

Japanese Bankers Association

The Japanese Bankers Association (JBA) is an industry association of 139 Japanese banks and 46 non-Japanese banks with operations in Japan.

The Japanese Bankers Association appreciates this opportunity to comment on the proposal, *Definitions of "Predominantly Engaged in Financial Activities" and "Significant" Nonbank Financial Company and Bank Holding Company*, released February 8, 2011, by the Federal Reserve Board (FRB).

The Board of Governors of the Federal Reserve System's (FRB) proposal refers to the definition of *significant bank holding companies* among foreign banks. The JBA believes the definition should: 1) when used for foreign banks, apply based upon a certain level of total consolidated assets held by the US base, rather than the foreign bank's total consolidated assets; 2) when applied to foreign banks, apply only to top-tier bank holding companies in terms of group capital structure; and 3) be used fairly, regardless of the foreign bank's status as a bank holding company, or lack thereof.

We hope that our comments below will assist the FRB in finalizing rules going forward.

1. Foreign banks' total consolidated assets criteria should be based on total assets held by US base

In the proposal, *significant bank holding companies* mean foreign banks that had \$50 billion or more in total consolidated assets as of the end of the latest fiscal year.

However, the primary objective of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) is to promote financial stability in the US, and we feel that there is little need to regulate foreign banks without wide operations in the US as *significant bank holding companies*. From a regulatory cost-benefit perspective, we call for a system that covers foreign banks based upon total consolidated assets of a certain level or above held by the US base, rather than based upon total consolidated assets.

2. The rules should apply only to top-tier bank holding companies among foreign bank holding company groups

In the proposal, foreign banks that submit the Form FR Y-7Q report *Capital and Asset Report for Foreign Banking Organizations* and bank holding companies with total consolidated assets of \$50 billion or more in the report are defined as foreign bank *significant bank holding companies*. The definition designates bank holding companies other than top-tier bank holding companies in terms of group capital structure. On the other hand, lower-tier bank holding companies which are not regarded as top-tier bank holding companies that need not submit the FR Y-7Q report may be considered not *significant bank holding companies*.

However, Section 113 of the Dodd-Frank Act requires taking into account transactions with *significant bank holding companies* when determining whether a nonbank financial company has prudential standards subject to FRB supervision. Further, Section 165(d) (2) of the Act stipulates that bank holding companies with total consolidated assets of \$50 billion or more must report the nature and extent to which the company has credit exposure to other *significant bank holding companies* as well as the nature and extent to which other *significant bank holding companies* have credit exposure to that company.

We believe that Sections 113 and Section 165(d)(2) clearly require transactions with *significant bank holding companies* to be treated on a consolidated basis, as well as exposure to be reported on a consolidated basis.

Therefore, the proposal should clarify that bank holding companies that are not top-tier bank holding companies in terms of group capital structure are not uniformly *significant bank holding companies*. Accordingly, by defining only entities that are top-tier bank holding companies as *significant bank holding companies*, we can easily identify the entities to be reported when reporting the exposures to *significant bank holding companies*

3. Fairness among bank holding companies and nonbank holding companies should be ensured

Under the proposal, foreign banks that have bank holding company status under regulation Y are appraised based upon top-tier bank holding company total consolidated assets in terms of group capital structure (that submit Form FR Y7Q). Those with total consolidated assets of \$50 billion or more are considered *significant bank holding companies*.

When a foreign bank does not have bank holding company status, whether or not it is a *significant nonbank* is determined. We are concerned that such an assessment may

not be based on the company assets in terms of top-tier position. In other words, we are concerned that, under the proposal, the determinant criteria of a foreign bank's significance would differ based upon whether the foreign bank is a bank holding company or not.

We therefore call for foreign banks that have bank holding companies and foreign banks that do not have holding companies to be ensured fair treatment when they are the same size and engage in the same operations in the US.