



June 1, 2016

By Electronic Submission

Board of Governors of the Federal
Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Federal Reserve Notice of Proposed Rulemaking regarding Single-Counterparty Credit Limits for Large Banking Organizations: Docket No. R-1534, RIN 7100-AE-48

Ladies and Gentlemen:

Mitsubishi UFJ Financial Group, Inc. (“MUFJ”) appreciates the opportunity to comment on the above-referenced proposed rules (the “Proposed Rules”) implementing Section 165(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd Frank Act”) issued by the Board of Governors of the Federal Reserve System (the “Board”).¹ MUFJ is a non-U.S. banking organization chartered under the laws of, and with its principal place of business in, Japan. The application of the single-counterparty credit limits (“SCCL”) set forth in the Proposed Rules directly affects MUFJ because it has a Japanese joint venture (the “Japan JV”) with Morgan Stanley, a U.S. bank holding company, which consists of two Japanese securities subsidiaries, Mitsubishi UFJ Morgan Stanley Securities Co., Ltd. (“MUMSS”)² and Morgan Stanley MUFJ Securities Co., Ltd. (“MSMS”).³

¹ *Single-Counterparty Credit Limits for Large Banking Organizations*, 81 Fed. Reg. 14,328 (Mar. 16, 2016).

² Mitsubishi UFJ Morgan Stanley PB Securities Co., Ltd. (“MUMSPB”), a consolidated subsidiary of MUMSS located in Japan would also face the same set of issues as MUMSS under the Proposed Rules because, under the Bank Holding Company Act of 1956, as amended (the “BHC Act”), Morgan Stanley is deemed to own the entire 30% interest in MUMSPB held by MUMSS through Morgan Stanley’s 40% interest in MUMSS, as described below and in [Annex A](#). MUMSPB provides “private banking services” in Japan primarily for high net worth individuals and middle market customers.

³ MUFJ previously submitted a comment letter to the Board that discussed certain issues raised by the SCCL proposal issued by the Board in January 2012. See Letter from Nobuyuki Hirano of MUFJ to the Board, dated April 27, 2012 (the “MUFJ SCCL Comment Letter”). We note that in addition to this

I. Background of the Japan JV

In October 2008, as part of the establishment of a global strategic alliance between Morgan Stanley and MUFG, MUFG invested \$9 billion in Morgan Stanley to acquire a noncontrolling stake in Morgan Stanley. One of the most important components of the strategic alliance was the development of the Japan JV, integrating the two banking organizations' Japanese institutional and retail securities businesses. The plans for the Japan JV were discussed with the Board in October 2008, prior to the Board's approval of MUFG's investment in Morgan Stanley. In connection with the investment, MUFG made certain passivity commitments to the Board, *i.e.*, that it would not exercise a controlling influence over Morgan Stanley for purposes of the BHC Act. The structure of the Japan JV involving two separate Japanese legal entities, MUMSS and MSMS, was discussed with the Board's staff in conjunction with the passivity commitments. The Japan JV was ultimately implemented as of May 1, 2010. A diagram summarizing the structure of the Japan JV is attached as Annex A.

The first legal entity of the Japan JV, MUMSS, was historically a wholly owned subsidiary of MUFG. MUFG has a 60% voting and economic interest in MUMSS, exercises operational control over MUMSS, and fully consolidates MUMSS as a subsidiary for accounting and regulatory capital purposes. The relevant Japan JV documentation specifically provides that MUFG shall control MUMSS and that, if MUMSS needs additional capital, MUFG shall be solely responsible for providing such capital to MUMSS. Morgan Stanley has a 40% voting and economic interest in MUMSS and, pursuant to the agreements governing the Japan JV, has certain governance and consent rights with respect to MUMSS. Although Morgan Stanley is deemed to control MUMSS for purposes of the BHC Act, it does not have any practical ability to control MUMSS' day-to-day operations and it does not consolidate MUMSS as a subsidiary for accounting or regulatory capital purposes.⁴

The second legal entity, MSMS, was historically a wholly owned subsidiary of Morgan Stanley. Morgan Stanley has a 51% voting interest and a 40% economic interest in MSMS, exercises operational control over MSMS, and consolidates MSMS as a subsidiary for accounting and regulatory capital purposes. The relevant Japan JV documentation specifically provides that Morgan Stanley shall control MSMS and that, if MSMS needs additional capital, Morgan Stanley shall be solely responsible for providing such capital to MSMS. MUFG has a 49% voting interest and a 60% economic interest in MSMS and, pursuant to the agreements governing the Japan JV, has certain governance and consent rights with respect to MSMS. Although MUFG is deemed to control MSMS for purposes of the BHC Act, it does not have any practical ability to control MSMS' day-to-day operations and it does not consolidate MSMS as a subsidiary for accounting or regulatory capital purposes.⁵

comment letter, MUFG Americas has submitted a separate comment letter that relates to the sections of the Proposed Rule applicable to the U.S. operations of non-U.S. banking organizations.

⁴ Morgan Stanley instead applies the equity method of accounting to its investment in MUMSS.

⁵ MUFG instead applies the equity method of accounting to its investment in Morgan Stanley, which in turn consolidates MSMS.

II. Definitions of “subsidiary”, “control”, and “counterparty” under the Proposed Rules

The Proposed Rules apply the SCCL to the exposures of a covered company and its subsidiaries to a single counterparty on an aggregate basis.

The Proposed Rules define “subsidiary” of a specified company as “a company that is directly or indirectly controlled by the specified company” and the preamble to the Proposed Rules clarifies that the definition of “control” pursuant to the BHC Act applies in this context.⁶ The Proposed Rules define “counterparty” to include, with respect to a company, “the company and all persons that that counterparty (i) owns, controls, or holds with power to vote 25 percent or more of a class of voting securities of the person; (ii) owns or controls 25 percent or more of the total equity of the person; or (iii) consolidates for financial reporting purposes, . . . collectively.”

III. Application of the Proposed Rules to the Japan JV

The Proposed Rules would pose significant issues for MUFG with respect to certain intra-group credit exposures, with respect to MUMSS’ credit exposures to third parties and with respect to unaffiliated covered companies’ credit exposures to MUMSS or MSMS.

As a covered company, Morgan Stanley would be required to treat MUMSS as its “subsidiary” and thus would need to aggregate the credit exposures of MUMSS with the credit exposures of Morgan Stanley and other Morgan Stanley subsidiaries to a “counterparty” for purposes of the Proposed Rules. At the same time, the Proposed Rules would require both MUMSS and MSMS to be treated as a part of each of MUFG and Morgan Stanley as a counterparty from the perspective of a covered company. This would result in a number of illogical (and, we believe, unintentional) consequences when calculating the credit exposures of Morgan Stanley and other covered companies under the SCCL.

1. Inclusion of Certain Intra-Group Exposures within Each of Morgan Stanley and MUFG into Morgan Stanley’s Exposures to MUFG

Morgan Stanley would be required to aggregate MUMSS’ exposures to MUFG and to other entities that are treated as part of MUFG as a counterparty (together, the “*MUFG Counterparty*”)⁷, with Morgan Stanley’s actual exposures to the MUFG Counterparty. It does not seem necessary or appropriate to aggregate MUMSS’ exposures to the MUFG Counterparty with the exposures of Morgan Stanley and Morgan Stanley’s subsidiaries to the MUFG Counterparty, given that MUFG holds a majority interest in, operationally controls and consolidates MUMSS. (It seems particularly illogical to include

⁶ Question 2 in the preamble to the Proposed Rules asks for public comment regarding whether the definition of subsidiary of a covered company for purposes of the SCCL should be based on the definition of “control” in the BHC Act or if it instead should be defined as any entity that a covered company (1) owns, controls, or holds with power to vote 25 percent or more of a class of voting securities; (2) owns or controls 25 percent or more of the total equity; or (3) consolidates for financial reporting purposes. See 81 Fed. Reg. at 14,331. This alternative definition of “control” would not have any impact on the comments MUFG is making in this letter.

⁷ Based on a literal reading of the definition of counterparty, MSMS would be deemed to be such an entity because MUFG owns more than 25% of MSMS.

MUMSS' exposures to MSMS as part of Morgan Stanley's exposures to MUFG because Morgan Stanley holds a majority interest in, operationally controls and consolidates MSMS.) Further, as noted above, Morgan Stanley is not responsible for providing any additional capital to MUMSS. Under accounting principles, MUMSS' exposures create risk for Morgan Stanley only to the extent of Morgan Stanley's existing investment in MUMSS. Moreover, MUMSS' exposures to the MUFG Counterparty are intra-group exposures and thus should not be treated as a "credit exposure to any unaffiliated counterparty" pursuant to § 252.72 of the Proposed Rules. Intra-group exposures tend to be large because they are between affiliates. Including MUMSS as part of Morgan Stanley when measuring Morgan Stanley's exposures to the MUFG Counterparty would effectively limit MUFG's ability to have its consolidated subsidiary, MUMSS, enter into financial transactions with the MUFG Counterparty given that MUFG has no control over Morgan Stanley's Tier 1 capital.

In addition, Morgan Stanley would be required to treat its exposures to MSMS as exposures to the MUFG Counterparty because MUFG owns more than 25% of the voting securities and total equity of MSMS. While we believe that MSMS' exposures to the MUFG Counterparty, including MUMSS, should be treated as part of Morgan Stanley's exposures to the MUFG Counterparty, it does not seem necessary or appropriate to treat Morgan Stanley's exposures to MSMS as exposures to the MUFG Counterparty. As outlined above, Morgan Stanley holds a majority interest in, operationally controls and consolidates MSMS. Morgan Stanley's exposures to MSMS are intra-group exposures and thus should not be treated as "credit exposure to any unaffiliated counterparties." Intra-group exposures tend to be large because they are between affiliates. Including MSMS as part of the MUFG Counterparty when Morgan Stanley calculates its credit exposures to the MUFG Counterparty as a counterparty would effectively reduce Morgan Stanley's ability to provide credit and funding to its own consolidated subsidiary.

A diagram illustrating the intra-group exposures described above is attached as Annex B.

2. MUMSS' Credit Exposures to Third Parties

MUMSS' exposures to non-MUFG counterparties would also be treated as part of Morgan Stanley's exposures to such counterparties, notwithstanding that Morgan Stanley has no control over these exposures in light of MUFG's majority ownership, operational control and financial consolidation of MUMSS. The result would be that MUFG would have to restrict MUMSS from entering into financial transactions with a counterparty based not on MUFG's own capital and financial resources but on Morgan Stanley's exposures to such counterparty and Morgan Stanley's Tier 1 capital, over which MUFG has no control. This does not seem necessary or appropriate when, as discussed above, MUFG has no control over Morgan Stanley's Tier 1 capital, MUMSS' exposures create risk for Morgan Stanley only to the extent of Morgan Stanley's existing investment in MUMSS and Morgan Stanley has no operational control over MUMSS.

3. Unaffiliated Covered Companies' Credit Exposures to MUMSS or MSMS

Any covered company subject to the Proposed Rules would be required to treat its exposures to MUMSS not only as part of its exposure to the MUFG Counterparty, but also as part of its exposures to Morgan Stanley as a counterparty. This is also unnecessary and inappropriate for the reasons stated above, Moreover, because MUMSS is operationally controlled by MUFG and not by Morgan Stanley, many covered companies are

unlikely to have a system to keep track of their exposures to MUMSS to ensure that their exposures to Morgan Stanley, including their exposures to MUMSS, are maintained under the limit provided by the SCCL. MUFG is concerned that such operational risk will deter covered companies from entering into transactions with MUMSS, constraining MUMSS' ability to execute transactions in its normal course of business. The more logical approach would be to require covered companies to treat their exposures to MUMSS only as part of their exposures to the MUFG Counterparty and not as part of their exposures to Morgan Stanley as a counterparty.

Similarly, any covered company subject to the Proposed Rules would be required to treat its exposures to MSMS not only as part of its exposure to Morgan Stanley as a counterparty, but also as part of its exposures to the MUFG Counterparty. The more logical approach would be to require covered companies to treat their exposures to MSMS only as part of their exposures to Morgan Stanley as a counterparty and not as part of their exposures to the MUFG Counterparty.

IV. Textual comments

In order to avoid the presumably unintended consequences described above, MUFG respectfully requests that the Board exclude certain entities from the definitions of "counterparty" and "covered company" in § 252.71(e) and (f) of the Proposed Rules, subject to a strict set of conditions that are enumerated below. We believe that, in light of the very narrow conditions provided by this proposed solution, the exclusion would be available only where appropriate and could not be used to evade the limits provided by the SCCL. In addition, our proposal assumes no change to the definition of "control" that is provided in the Proposed Rules.

"Counterparty means . . . (2) [w]ith respect to a company, the company and all persons that that counterparty (i) owns, controls or holds with power to vote 25 percent or more of a class of voting securities of the person; (ii) owns or controls 25 percent or more of the total equity of the person; or (iii) consolidates for financial reporting purposes, as described in § 252.72(d), collectively, provided that, neither paragraph (e)(2)(i) nor (e)(2)(ii) shall include a person if (A) such person is a broker-dealer or bank that is directly regulated by a home country supervisor represented on the Basel Committee on Banking Supervision and is not a securitization vehicle, investment fund or other special purpose vehicle, as those terms are used in 12 C.F.R. § 252.75, (B) a bank holding company or foreign banking organization subject to the Bank Holding Company Act of 1956, in either case that is unaffiliated with the counterparty, owns, controls, and holds with power to vote more than 50 percent of a class of voting securities of the broker-dealer or bank, (C) such bank holding company or foreign bank consolidates the broker-dealer or bank for financial reporting purposes, and (D) the covered company includes its credit exposures to such broker-dealer or bank in its credit exposures to such bank holding company or foreign bank."

"Covered company means any bank holding company . . . and all of its subsidiaries other than any company that is otherwise a subsidiary of the covered company if (i) such company is a broker-dealer or bank that is directly regulated by a home country supervisor represented on the Basel Committee on Banking Supervision and is not a securitization vehicle, investment fund or other special purpose vehicle, as those terms are used in 12 C.F.R. § 252.75, (ii) a bank holding company or foreign banking

organization subject to the Bank Holding Company Act of 1956, as amended, in either case that is unaffiliated with the covered company, owns, controls, or holds with power to vote more than 50 percent of a class of voting securities of the broker-dealer or bank, (iii) such bank holding company or foreign bank consolidates the broker-dealer or bank for financial reporting purposes, and (iv) the covered company includes its credit exposures to such broker-dealer or bank in its credit exposures to such bank holding company or foreign bank.”

In the event that the Board does not feel it is appropriate to adopt the foregoing proposal in any final rules implementing the SCCL (the “*Final SCCL Rules*”), as an alternative proposal, in order to avoid the presumably unintended consequences relating to intra-group exposures described under Section III.1. above, MUFG respectfully requests that the Board provide the following exclusions with respect to the term “unaffiliated counterparty”, which may be codified in a new subsection (e) of § 252.72 of the Proposed Rules.

(e)(1) The term “unaffiliated counterparty” excludes any company that is a subsidiary of the covered company, if that subsidiary is financially consolidated by that covered company; and

(2) For purposes of a covered company’s subsidiary’s credit exposure as a subsidiary of the covered company, the term “unaffiliated counterparty” excludes any company that (i) financially consolidates such subsidiary, (ii) is treated by the covered company as part of the same counterparty as such company that financially consolidates such subsidiary, or (iii) is an affiliate of such subsidiary that is financially consolidated by the covered company, as long as the covered company includes its credit exposures to that subsidiary in the covered company’s credit exposures to the unaffiliated counterparty that financially consolidates such subsidiary.

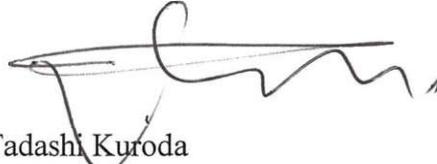
We note that, if the issues described under Sections III.2. and 3. above remain because this alternative proposal is adopted or otherwise any of the issues described in Section III. remain in the Final SCCL Rules, MUFG intends to seek exemptive relief with respect to such issues. MUFG believes that, even if the Board determines that general resolution of the issues discussed above is not appropriate in the Final SCCL Rules, specific resolution is warranted with respect to the Japan JV because of the unique structure of the Japan JV, including that MUMSS’ exposures create risk for Morgan Stanley only to the extent of its existing investment in MUMSS.

Lastly, as part of these proposals, we also respectfully request that there be clarification that companies that are excluded from a covered company under these provisions need not be aggregated with the covered company pursuant to § 252.76(b) of the Proposed Rules.

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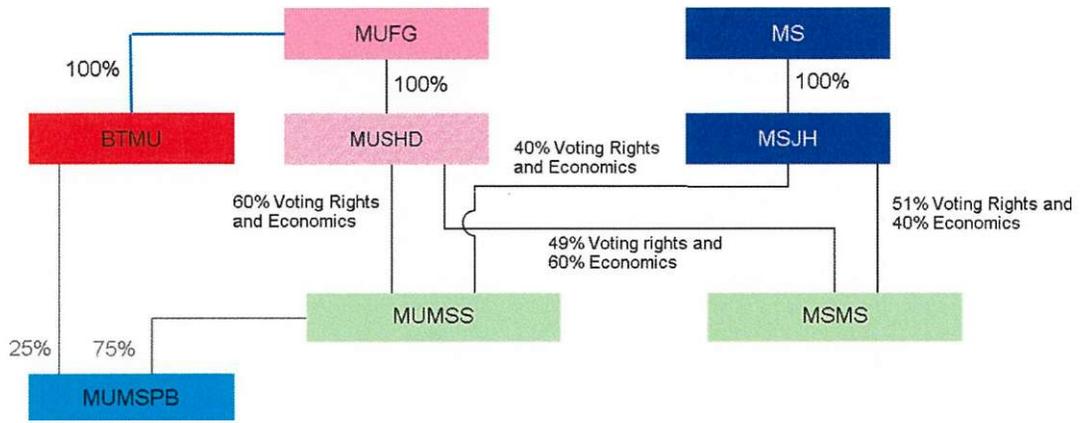
We appreciate your consideration of our comments on the Proposed Rules. Please contact Robert E. Hand, Managing Director, Head of Regulatory Affairs Office of Mitsubishi UFJ Financial Group, Inc., at (212) 782-4630 (e-mail: rhand@us.mufg.jp) or Donald J. Toumey of Sullivan & Cromwell LLP at (212) 558-4077 (e-mail: toumeyd@sullcrom.com) or Keiji Hatano of Sullivan & Cromwell LLP at +81-3-3213-6171 (e-mail: hatanok@sullcrom.com) with any questions about our comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tadashi Kuroda', with a large, stylized flourish at the end.

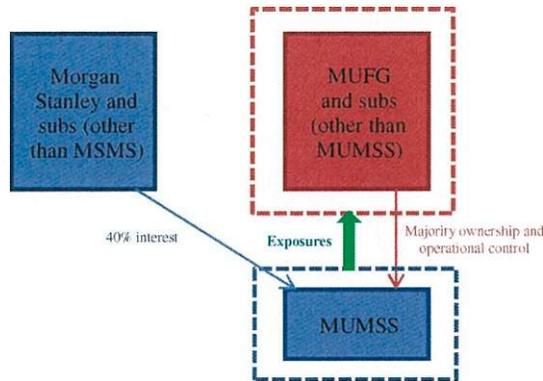
Tadashi Kuroda
Senior Managing Executive Officer
Group CSO
Mitsubishi UFJ Financial Group, Inc.

Japan JV Structure

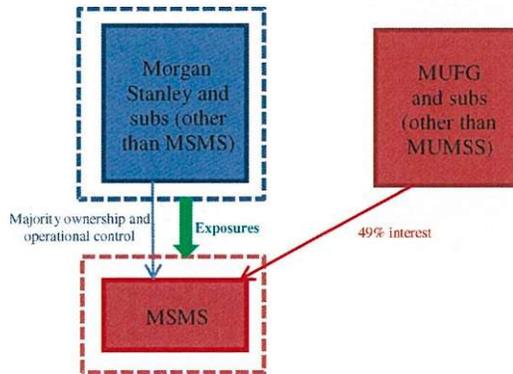


Illustrative Diagrams

1. Because Morgan Stanley owns 40% of the voting shares of MUMSS, under the Proposed Rules, MUMSS would be treated as a subsidiary of Morgan Stanley as a covered company, and it thus seems that Morgan Stanley would be required to include MUMSS' exposures to MUFG and other MUFG subsidiaries (see, however, the discussion of MSMS in 3 below) as Morgan Stanley's exposures to MUFG as a counterparty.



2. Because MUFG owns 49% of the voting shares of MSMS, under the Proposed Rules, MSMS would be treated as part of MUFG as a counterparty, and it thus seems that Morgan Stanley would be required to include its and its subsidiaries' (see, however, the discussion of MSMS in 3 below) exposures to MSMS as Morgan Stanley's exposures to MUFG as a counterparty.



3. Because MUFG owns 49% of voting shares of MSMS and Morgan Stanley owns 40% of voting shares of MUMSS, the Proposed Rules seem to require that Morgan Stanley include MUMSS' exposures to MSMS in its exposures to MUFG as a counterparty.

