Japanese Bankers Association

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Board of Governors of the Federal Reserve System (FRB)
20th Street and Constitution Avenue, NW.,
Washington, DC 20551
12 CFR Part 252
[Docket No. R–1414]
RIN 7100–AD73

Federal Deposit Insurance Corporation (FDIC)
550 17th Street, NW., Washington, DC 20429
12 CFR Part 381
RIN 3064–AD77

Re: Proposed Rulemaking on *Resolution Plans and Credit Exposure Reports Required*

Ladies and Gentlemen:

The Japanese Bankers Association (JBA) is an industry association of 140 Japanese banks and 46 non-Japanese banks with operations in Japan.

JBA appreciates the opportunity to comment on the Proposal *Resolution Plans and Credit Exposure Reports Required* released April 22, 2011, by the Federal Reserve Board (FRB) and the Federal Deposit Insurance Corporation (FDIC).

The JBA believes that the difficulty and complexity of preparing resolution plans in terms of globally-active non-U.S. banks should be allocated between U.S. supervisory authorities, non-U.S. bank home country authorities and the relevant financial companies. Therefore, we believe that it would be desirable to be able to prepare such plans in accordance with a feasible, internationally-coordinated framework. We offer our fullest cooperation in that effort.

We hope that our comments below will assist the U.S. Agencies in finalizing the rule going forward.

[General Points]

○ Required resolution plans should be designed in accordance with a feasible, internationally-coordinated framework

The proposed rule would require non-U.S. financial companies that are bank holding companies under the International Banking Act (IBA) and that have at least $50 billion in total assets to submit resolution plans and credit exposure reports with respect to their U.S.-domiciled subsidiaries and operations.

The Dodd-Frank Act is a U.S. law, and as such it is the understanding of the JBA that the proposed rule should primarily apply to U.S. companies. However, we advise caution when applying the law to globally-active non-U.S. financial companies, for the three reasons described below.

First, in the proposed rule, non-U.S. financial companies are nominally required to develop resolution plans that cover only their U.S. domestic operations, but resolution plans for those U.S. domestic operations would not be complete without considering the whole resolution plans of those companies. The international businesses of globally-active financial companies are not based on the operations of only one country; such financial companies have complex business models that combine the commercial practices and legal structures of all of the jurisdictions in which they operate.

Second, the JBA feels that the Financial Stability Board (FSB) has not completed its discussions regarding the overall concept and the application of individual countries' legal and other systems so that the resolution systems of globally-active financial companies can function with certainty. How resolution plans in the U.S. are defined within feasible liquidation and resolution plans (living wills) as required for non-U.S. financial companies by their home countries and the Basel Committee on Banking Supervision, and further how they are integrated, remain unclear.

The third reason is the significant burdens imposed on globally-active financial companies that are covered by the proposed rule. When preparing

resolution plans under different legal structures in jurisdiction with potentially widely disparate standards, producing multiple plans in line with those disparate standards is a considerable burden for financial companies. Furthermore, as we believe that the appropriate scenarios and business conditions that result in bankruptcies are not always the same, financial companies must prepare resolution plans with even greater complexities, including frequent revisions of those plans. As a result, the workload would increase even more.

Bearing in mind the aforementioned issues, globally-active financial companies should be given the alternative of producing resolution plans that conform to a feasible, internationally-coordinated framework. This would avoid the need to submit different resolution plans to multiple agencies and potentially receiving conflicting guidance regarding the plans.

Specifically, we propose a framework in which individual financial companies submit resolution plans covering the entire financial company group to authorities in their home country, and in which, upon approval by the home country authorities, further approval by authorities in other countries of operation (including the U.S.) would be unnecessary. In the alternative, we propose a U.S. framework of greatly simplified procedures.

We recognize that detailed coordination by authorities in different countries would be needed to implement such a framework, but as a result, higher-quality resolution plans would be prepared for the U.S. and other countries, and the framework would work more effectively on an international basis. We believe that a resilient and stable financial system is possible through multilateral collaboration, primarily among the G20 countries, since virtually any future financial crisis will have global links.

The JBA would like to make the fullest contribution so that resolution plans can be prepared in line with a feasible, internationally-coordinated framework, as described above.

[Specific Points]

1. Scope of Regulated financial companies should be further clarified (§ __.1 Authority and scope)

It is unclear whether only one resolution plan is required for *multiple covered companies* within one banking organization, or whether each *covered company* within such banking organization must file a separate resolution plan.

The JBA understands that the Agencies intend the former, but the proposed rules need further clarification on this point.

2. Relation with FDIC resolution plan requirements should be consistent (§ __.1 Authority and scope)

There are many cases where the Covered Company owns a depository institution insured by the FDIC.

Consistency is called for in regard to how the resolution plan requirements under the Dodd-Frank Act will relate or interact with the FDIC's NPR published in May 2010 regarding resolution plans for significant insured depository institutions.

3. The deadline to submit report materials should be extended for non-U.S. financial companies (§ __.3 Resolution plan required)

JBA would like to seek extension of submission deadlines for non-U.S. financial companies which will typically require more time than U.S. domestic covered companies to complete resolution plans.

Non-U.S. financial companies may require pre-consultations with their headquarters and authorities in their home countries prior to submitting reporting materials to the U.S. authorities. For example, if home country authorities do not approve a resolution plan that has already been approved by U.S. authorities, that plan must be revised and reviewed once again by U.S. authorities.

Sufficient duration is therefore needed in order to consult with home country authorities prior to submission of materials to U.S. authorities.

4. Confidentiality of report materials should be assured (§ __.9 Confidentiality of Resolution Plans)

The JBA believes that resolution plans and credit risk reports should not be disclosed other than to Financial Stability Oversight Council (FSOC) and other regulatory agencies as described in § __.8 consultation.

Resolution plans and credit risk reports should automatically be treated as confidential information (that is, officially-held information for the purposes of financial company regulations that is treated as exempt from information disclosure) without a petition by the financial company for such treatment under Freedom of Information Act purposes by the authorities.

Also, the proposed rule does not address how such information will be shared with foreign regulators. This point should be clarified.

5. Criteria for updating resolution plans should be eased (§ __.3 Resolution Plan required)

The proposed rule would require the resolution plans to be updated when the market capitalization or book value of the financial company's consolidated capital declines by 5% or more. The 5% degrees of change offered as a standard should not be strict hard limits, but is rather offered as a reference indicator, and in fact we seek a method by which the authorities can request an update of individual financial companies as reasonably necessary. That is, we wish to avoid a method in which slight declines in book value due to market movements would uniformly mandate an update of the resolution plan.

Furthermore, the proposal does not address standards of measurement for such declines (for example, international criteria or measurements based on U.S. domestic asset valuation criteria). The proposal also does not address cases in which market prices and assets recover from temporary declines. We therefore seek guidance for such cases.

Respectfully submitted,

Japanese Bankers Association