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June 30, 2017

Re: **File No. S7-02-17; Release Nos. 33-10321; 34-80131**
Request for Comment on Possible Changes to Industry Guide 3 (Statistical Disclosure by Bank Holding Companies)

VIA E-MAIL: rule-comments@sec.gov

Mr. Brent Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Dear Mr. Fields:

We are pleased to submit this letter on behalf of Sumitomo Mitsui Financial Group, Inc. ("**SMFG**") in response to the request by the Securities and Exchange Commission's (the "**SEC**") for comment on possible changes to Industry Guide 3, *Statistical Disclosures by Bank Holding Companies* ("**Guide 3**").

SMFG supports the SEC's efforts to modernize the nature, timing, scope and applicability of Guide 3 and also appreciates the SEC staff's ongoing recognition, as evidenced by the discussion of foreign registrants in Section III.B of the request for comment, that the application of Guide 3 disclosure requirements to foreign banking organizations ("**FBOs**"), such as SMFG, is an important topic meriting particular attention.

As an FBO registrant with years of experience complying with ongoing SEC reporting obligations, SMFG acknowledges that investors have become accustomed to a robust level of Guide 3 statistical data disclosure by bank holding companies ("**BHCs**"), whether U.S. or foreign. Nevertheless, as the SEC has recognized since the initial adoption of Guide 3, the statistical categories and classifications specified by Guide 3 are heavily influenced by U.S. banking regulations, and, as a result, FBOs often have difficulty obtaining the information needed for technical compliance with all of the Guide 3 statistical disclosure requirements. In this context, the SEC staff has traditionally taken a flexible, principles-based approach to Guide 3 disclosure for FBOs, granting targeted waivers on a case-by-case basis where it has determined that alternative classifications or presentation formats provide investors with information substantially similar to that specified by Guide 3.

In connection with the SEC staff's continuing investigation of the need for and proper scope of revisions and updates to the existing Guide 3 requirements, SMFG encourages the SEC staff to remain sensitive to the varied circumstances faced by FBOs that have traditionally justified the SEC's practice of granting targeted Guide 3 waivers. In this comment letter, SMFG would like to offer several recommendations addressing individual requests for comment contained in the SEC staff's release. Without aiming to be comprehensive, these recommendations are meant to inform the SEC staff of ways in which disclosure requirements can exact uneven costs on FBOs versus U.S. BHCs without providing meaningful benefits toward investor protection.

Request for Comment 91: Proposed New Disclosure of Resolution Plan Information

In Section II.H of the request for comment, the SEC staff considers whether the shifting landscape of the financial industry calls for the implementation of additional disclosure requirements for BHCs under Guide 3. One potential new disclosure requirement contemplated by the SEC staff in Section II.H relates to information concerning a BHC's U.S. resolution plan prepared and submitted on an annual basis pursuant to the Dodd–Frank Wall Street Reform and Consumer Protection Act. For a variety of reasons, all of which are tied to the SEC's touchstone standard of materiality, SMFG is opposed to the adoption of a rule requiring specific disclosure of information contained in a BHC's U.S. resolution plan. These reasons are enumerated below:

1. Disclosure about U.S. resolution plans should be required only to the extent that triggering the U.S. resolution plan would have material consequences to investors.

SMFG believes that the type of detailed information contained in a BHC's U.S. resolution plan (the public portion of which is already available on the websites of the Board of Governors of the Federal Reserve System (the "FRB") and the Federal Deposit Insurance Corporation (the "FDIC")) is not necessarily material to investors and, as a general matter, should not be required in SEC filings. To illustrate, in cases where an FBO's U.S. operations, and, as a consequence, its U.S. resolution plan, do not cover a material portion of its total global operations, disclosure of the U.S. resolution plan in SEC filings may not be useful to investors because the consequences of implementing the FBO's U.S. resolution plan may not be material to its overall operations and financial condition. U.S. BHCs and certain FBOs may have more significant or interconnected U.S. operations, and for investors in those institutions, implementation of a U.S. resolution plan may have material consequences. Therefore, any new disclosure required by Guide 3 should be limited to a summary description of the consequences, if material, to investors of the triggering of the BHC's U.S. resolution plan – e.g., the potential decline in the value of an FBO's equity securities and negative impact on its financial condition and results of operations if an FBO's U.S. operations were resolved pursuant to its U.S. resolution plan.

2. Disclosure of confidential information regarding U.S. resolution plans should not be required.

Separately, SMFG believes that the SEC should not require the public disclosure of information that a registrant provides to another U.S. federal agency in response to a regulatory requirement administered by that agency, if that agency treats the submitted information as confidential. The FRB and FDIC affirmatively provide for confidential treatment of large portions of information contained in a resolution plan submission and only require public disclosure of certain specified information. Consequently, any disclosure of U.S. resolution plan information in SEC filings should be no more extensive than the information already found in the public portions of a U.S. resolution plan.

3. Disclosure of U.S. resolution plan information may invite a misleading focus on a registrant's U.S. operations, which may be immaterial to investors.

Resolution plans filed with the FRB and FDIC are focused on resolution of a banking group's U.S. operations and do not necessarily cover the entire group nor do they address the resolution plan in the group's home jurisdiction or in other jurisdictions. Therefore, mandatory inclusion of U.S. resolution plan information in SEC filings, regardless of the materiality of the information, may lead to imbalanced and potentially misleading disclosure for investors. In particular, the U.S. resolution plan requirement applies to any foreign institution with worldwide assets of more than \$50 billion and essentially any U.S. banking presence. Requiring inclusion of details from the U.S. resolution plan would, for many foreign institutions, result in disclosure of information that is immaterial to its investors, which could be perceived as misleading without appropriate cautionary explanations. Furthermore, given that in many circumstances the U.S. operations of an FBO registrant subject to the U.S. resolution plan requirements likely do not have any outside investors and may not form their own distinct segment for SEC reporting purposes, it seems misguided to mandate disclosure of the U.S. resolution plan in SEC documents absent an individualized determination by the FBO registrant that the consequences of the U.S. resolution are material to investors. This could also have the unintended effect of causing FBO registrants to feel compelled to include similar discussion of resolution plans for other countries or regions because of the much lower standard for disclosure of U.S. resolution plans (*i.e.*, at a level below a normal materiality threshold) that would be imposed by the SEC.

4. Disclosure of U.S. resolution plan information may encourage disclosure of financial information relating to immaterial group entities.

U.S. resolution plans may contain financial information for entities within a banking group other than the registrant itself, and for which financial disclosure would not necessarily otherwise be required by the SEC. If the SEC were to require this information in an FBO's annual report on Form 20-F, it could result in unbalanced disclosure that is potentially misleading for investors. U.S. resolution plans include information, such as U.S. branch and subsidiary financial data, that is not necessarily material for investors of the group itself. Requiring such disclosure could also have negative secondary effects. For example, a registrant may feel compelled to disclose other information that it views as immaterial to investors simply because such information is included in a resolution plan filed in another jurisdiction, such as financial data of European subsidiaries that are included in a European resolution plan. SMFG also notes that disclosure of resolution plan information may also lead to financial data based on multiple accounting standards, including U.S. GAAP, home country GAAP or IFRS and IFRS (as issued by IASB) being included in documents filed or submitted to the SEC.

Request for Comment 103: Availability of Guide 3 Information to FBOs

In Section III.B of the request for comment, the SEC staff asks wide-ranging questions regarding the general applicability of the Guide 3 disclosure requirements to FBOs as well as the continued justification for accommodations provided to FBOs if Guide 3 information is not available or cannot be compiled without unwarranted or undue burden or expense.

SMFG believes that the original justifications underlying the SEC's practice of granting targeted waivers remain valid. Certain statistical data for disclosures required by Guide 3 are not always available to FBO registrants without unwarranted or undue burden or expense. For example, drawing on the case of Japanese banking organizations generally, SMFG notes that the daily

averages of U.S. GAAP or IFRS figures called for by Guide 3 are often not available from existing information systems of some subsidiaries of Japanese FBO registrants because these information systems were designed for compliance with the regulations of the home country, pursuant to which month-end or quarter-end reporting is sufficient. Therefore, for such subsidiaries, it would not be possible to calculate daily averages without unwarranted or undue burden or expense. Similarly, because Japanese FBO registrants may rely on risk management systems implemented with home country regulations or regulators in mind, it is often not possible to produce equivalent information under U.S. GAAP or IFRS without unwarranted or undue burden or expense. In cases such as these, Guide 3 can impose burdens on FBO registrants that differ from home country disclosure and reporting standards, which themselves require FBOs to commit substantial resources toward compliance. Therefore, SMFG urges the SEC not to abandon its traditional practice of granting targeted waivers from certain Guide 3 requirements to FBOs, provided that corresponding home country standards provide adequate protection to investors and converting existing reporting systems into strict compliance with Guide 3 would result in significant costs to the FBO.

Justifications for providing case-by-case accommodations remain valid, and the accommodation waiver process encourages the SEC to maintain a principles-based approach to evaluating the sufficiency of an FBO's Guide 3 disclosure going forward.

* * *

SMFG appreciates the opportunity to respond to the SEC's request for comments, and is hopeful that the foregoing observations can aid the SEC staff's ongoing consideration of potential revisions or updates to Guide 3. If you have any questions with respect to the matters raised in this letter, please contact Jon Gray at [REDACTED].

Very truly yours,

Davis Polk & Wardwell LLP

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