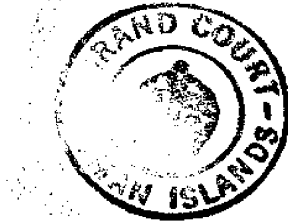
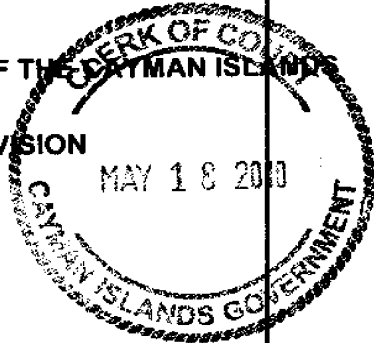


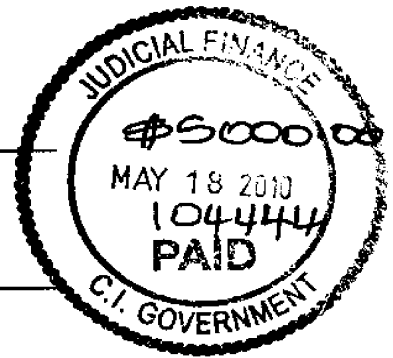
IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION



CAUSE NO FSD 0128 OF 2010

IN THE MATTER OF SECTION 14 TO SECTION 16 OF THE COMPANIES LAW (2009 REVISION)  
AND IN THE MATTER OF SMBC PREFERRED CAPITAL GBP 1 LIMITED  
AND IN THE MATTER OF SMFG PREFERRED CAPITAL GBP 1 LIMITED

PETITION



TO: The Grand Court of the Cayman Islands

**THE HUMBLE PETITION** of SMBC Preferred Capital GBP 1 Limited ("SMBC-GBP") and SMFG Preferred Capital GBP 1 Limited ("SMFG-GBP", together with SMBC-GBP, the "Petitioners") both of PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands, shows that:

**Introduction**

1 The objects of this Petition (the "**Petition**") are to seek confirmation of the Court pursuant to Section 16 of the Companies Law (2009 Revision) (together with its predecessors where the context so requires, the "**Companies Law**") of the following special resolutions:

1.1 A special resolution of the sole ordinary shareholder of SMBC-GBP to reduce:

- (a) SMBC-GBP's capital redemption reserve from £37,670,296.16 to nil (the "**SMBC-GBP CRR Reduction**"); and

(b) The issued and paid-up ordinary share capital of SMBC-GBP from £5,000,000 divided into 500,000,000 ordinary shares with a par value of £0.01 each to £4,545,773.16 divided into 454,577,316 ordinary shares with a par value of £0.01 each (the "**SMBC-GBP Capital Reduction**")

1.2 A special resolution of the sole ordinary shareholder of SMFG-GBP to reduce SMFG-GBP's capital redemption reserve from £37,670,296.16 to nil (the "**SMFG-GBP CRR Reduction**");

**Incorporation, share capital and objects of SMBC-GBP**

2 On 28 November 2006 SMBC-GBP was incorporated and registered under the Companies Law as an exempted company limited by shares.

3 The registered office of SMBC-GBP is and always has been situated at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.

4 The authorised share capital of SMBC-GBP is £1,010,000,000 comprising (i) £1,000,000,000 divided into 1,000,000 preference shares with a par value of £1,000 per share ("**SMBC-GBP Preference Shares**") and (ii) £10,000,000 divided into 1,000,000,000 ordinary shares with a par value of £0.01 per share ("**SMBC-GBP Ordinary Shares**").

5 As at the date hereof:

(a) 500,000,000 SMBC-GBP Ordinary Shares are in issue, are fully paid up and are held by Sumitomo Mitsui Banking Corporation ("**SMBC**"); and

(b) 73,576 SMBC-GBP Preference Shares are in issue, are fully paid up and are held by SMFG-GBP.

6 The objects for which SMBC-GBP was established are as set out in Clause 3 of its Second Amended and Restated Memorandum of Association:

(a) *to issue Junior Securities which shall in the case of the [SMBC-GBP Ordinary Shares] be to SMBC or a subsidiary of SMBC;*

(b) *to issue preference shares (including the [SMBC-GBP Preference Shares]);*

- (c) *to make the Subordinated Loan to SMBC (acting through its head office) through a Japanese offshore market account under the Subordinated Loan Agreement;*
- (d) *to make other Eligible Investments pursuant to the Investment Policies from time to time; and*
- (e) *to enter into all contracts and undertakings and engage in all activities and transactions as the Directors may consider necessary or desirable for the purpose of carrying out of the objects described in paragraphs (a) – (d) above inclusive, which shall include any and all activities contemplated by the Articles of Association of the Company.*

7 SMBC-GBP was incorporated as a special purpose company in the context of a wider structure. The purpose of that structure was to raise additional capital from external investors, outside of Japan, for Sumitomo Mitsui Financial Group Inc. ("**SMFG**"), the ultimate holding company of the SMFG group and the parent company of SMBC.

#### **Incorporation, share capital and objects of SMFG-GBP**

- 8 On 28 November 2006 SMFG-GBP was incorporated and registered under the Companies Law as an exempted company limited by shares.
- 9 The registered office of SMFG-GBP is and always has been situated at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.
- 10 The authorised share capital of SMFG-GBP is £1,000,250,000 comprising (i) £1,000,000,000 divided into 1,000,000 preference shares with a par value of £1,000 per share ("**SMFG-GBP Preference Shares**") and (ii) £250,000 divided into 25,000,000 ordinary shares with a par value of £0.01 per share ("**SMFG-GBP Ordinary Shares**").
- 11 As at the date hereof:
- (a) 10,000,000 SMFG-GBP Ordinary Shares are in issue, are fully paid up and are held by SMFG; and

- (b) 73,576 SMFG-GBP Preference Shares are in issue, are fully paid up and are held by external investors. The SMFG-GBP Preference Shares are listed on the Singapore Exchange.

12 The objects for which SMFG-GBP was established are as set out in Clause 3 of its Second Amended and Restated Memorandum of Association:

- (a) *to issue Junior Securities, which shall in the case of the [SMFG-GBP Ordinary Shares] be to SMFG or a subsidiary of SMFG;*
- (b) *to issue preference shares (including the [SMFG-GBP Preference Shares]);*
- (c) *to use the proceeds from the issue of the [SMFG-GBP Preference Shares] to fund the purchase of [the SMBC-GBP Preference Shares] with a corresponding par value and liquidation preference;*
- (d) *to use the proceeds from the issue of the [SMFG-GBP Ordinary Shares] to meet the Company's operating expenses and/or to make other Eligible Investments pursuant to the Investment Policies from time to time; and*
- (e) *to enter into all contracts and undertakings and engage in all activities and transactions as the Directors may consider necessary or desirable for the purpose of carrying out of the objects described in paragraphs 3(a) – (d) above inclusive, which shall include any and all activities contemplated by the Articles of Association of the Company.*

13 SMFG-GBP was incorporated as a special purpose company also in the context of the wider structure referred to at paragraph 7.

**Rights of holders of SMBC-GBP Preference Shares and of SMBC-GBP Ordinary Shares on a winding up**

14 Pursuant to Article 151(a) of the Second Amended and Restated Articles of Association of SMBC-GBP (the "SMBC-GBP Articles"), the holders of SMBC-GBP Preference Shares are preferred as to capital and income on a winding up of SMBC-GBP in the circumstances set out in Article 16 of the SMBC-GBP Articles.

15 Article 151(a) provides that:

*"If the Company shall be wound up or dissolved the assets available for distribution among the Members shall be applied first in payment of amounts due to [the holders of the SMBC-GBP Preference Shares] in accordance with Article 16 and subject to any special rights attaching to any class or series thereof and thereafter any surplus shall be paid to the [holders of the SMBC-GBP Ordinary Shares] or otherwise in accordance with the rights attaching to any other classes or series of shares in issue. Amounts payable to Members holding any class or series of shares shall be paid pro rata to the number of shares of such class or series respectively held by them."*

16 Article 16 of the SMBC-GBP Articles provides as follows:

- (a) *In the event of any voluntary or involuntary dissolution, liquidation, or winding up of the Company other than upon the occurrence of a Liquidation Event, after satisfaction of liabilities to creditors, if any, [the holders of the SMBC-GBP Preference Shares] at the time outstanding will be entitled to receive out of assets of the Company available for distribution to Members, before any distribution of assets is made to holders of any Junior Securities [i.e. all shares subordinated to the Preferred Shares as to dividend rights and rights on dissolution, including the SMBC-GBP Ordinary Shares], liquidation distributions in respect of each [SMBC-GBP Preference Share] in the amount of the Liquidation Preference, [i.e. £1,000 per SMBC-GBP Preference Share] plus, if applicable in accordance with Article 13(b), an amount equal to unpaid dividends, if any, thereon with respect to the then current Dividend Period accrued on a daily basis through (but not including) the date on which*

*payment is made to the [the holders of the SMBC-GBP Preference Shares], but without interest and without accumulation of dividends for any prior Dividend Period to the extent not due and payable in respect of such period.*

- (b) *In the event of any voluntary or involuntary dissolution, liquidation or winding up of the Company upon the occurrence of a Liquidation Event, the Company will pay a Special Dividend to [SMBC] as prescribed by Article 10, and the holders of the [SMBC-GBP Preference Shares] will be entitled to receive from the Company in respect of each [SMBC-GBP Preference Share] a pro rata amount of the Liquidation Distribution Amount to be received by the Company under the Subordinated Loan Agreement, but only to the extent funds are received by the Company from SMBC pursuant to the Subordinated Loan Agreement for this purpose.*
- (c) *After payment of the full amount of the liquidation distributions to which they are entitled and any other unpaid dividends on [SMBC-GBP Preference Shares, the holders of the SMBC-GBP Preference Shares] will have no right or claim to any of the remaining assets of the Company. In the event that, upon any such voluntary or involuntary dissolution, liquidation or winding up, the available assets of the Company are insufficient to pay the amount of the full Liquidation Preference [i.e. £1,000 per SMBC-GBP Preference Share] (and any unpaid dividends with respect to the then current Dividend Period) on all outstanding [SMBC-GBP Preference Shares], then [the holders of the SMBC-GBP Preference Shares] shall share rateably in any distribution of such assets in proportion to the full Liquidation Preference to which they would otherwise be respectively entitled.*

17 Article 10 of The SMBC-GBP Articles provides that:

*"If a Liquidation Event occurs, the Company shall distribute as a special dividend (which may be in kind or otherwise) on the [SMBC-GBP Ordinary Shares] (in priority over the [SMBC-GBP Preference Shares]) all of the financial assets and investments of the Company other than the Support Agreement and the Subordinated Loan and any amounts received or*

*receivable thereunder during the period while such Liquidation Event has occurred and is continuing (the "Special Dividend")."*

- 18 A "Liquidation Event" is deemed to occur if *"a liquidation proceeding (seisan) in respect of SMBC under the laws of Japan (including the special liquidation proceedings (tokubetsu seisan) under the Company Law) is commenced by or against SMBC or a competent court in Japan shall have (i) adjudicated the commencement of a bankruptcy proceeding (hasan tetsuzuki) of SMBC pursuant to the provisions of the Bankruptcy Law or (ii) approved a preparation of a reorganisation plan for abolishment of all business (jigyo no zenbu no haishi wo naiyotosuru kousei keikakuan) of SMBC pursuant to the provisions of the Corporate Reorganisation Law."*

**Rights of holders of SMFG-GBP Preference Shares and of SMFG-GBP Ordinary Shares on a winding up**

- 19 The Second Amended and Restated Articles of Association of SMFG-GBP ("**SMFG-GBP Articles**") contain almost identical provisions.
- 20 Pursuant to Article 151(a) of the SMFG-GBP Articles which is in identical terms to paragraph 15 above, the holders of SMFG-GBP Preference Shares are preferred as to capital and income on a winding up of SMFG-GBP in the circumstances set out in Article 16.
- 21 Article 16 of the SMFG-GBP Articles provides as follows:
- (a) *In the event of any voluntary or involuntary dissolution, liquidation, or winding up of the Company other than upon the occurrence of a Liquidation Event, after satisfaction of liabilities to creditors, if any, the [holders of the SMFG-GBP Preference Shares] at the time outstanding will be entitled to receive out of assets of the Company available for distribution to Members, before any distribution of assets is made to holders of any Junior Securities [i.e. all shares subordinated to the SMFG-GBP Preference Shares as to dividend rights and rights on dissolution, including the SMFG-GBP Ordinary Shares], liquidation distributions in respect of each [SMFG-GBP Preference Share] in the amount of the Liquidation Preference [i.e. £1,000 per SMFG-GBP Preference Share], plus, if applicable in accordance with Article 13(b), an amount equal to unpaid*

*dividends, if any, thereon with respect to the then current Dividend Period accrued on a daily basis through (but not including) the date on which payment is made to the [holders of the SMFG-GBP Preference Shares], but without interest and without accumulation of dividends for any prior Dividend Period to the extent not due and payable in respect of such period.*

- (b) In the event of any voluntary or involuntary dissolution, liquidation or winding up of the Company upon the occurrence of a Liquidation Event, the Company will pay a Special Dividend to [SMFG] as prescribed by Article 10, and the [holders of the SMFG-GBP Preference Shares] will be entitled to receive from the Company in respect of each [SMFG-GBP Preference Share] a pro rata amount of the Liquidation Distribution Amount to be received by the Company under the Support Agreement, but only to the extent funds are received by the Company from SMFG pursuant to the Support Agreement for this purpose.*
- (c) After payment of the full amount of the liquidation distributions to which they are entitled and any other unpaid dividends on the [SMFG-GBP Preference Shares], the [holders of the SMFG-GBP Preference Shares] will have no right or claim to any of the remaining assets of the Company. In the event that, upon any such voluntary or involuntary dissolution, liquidation or winding up, the available assets of the Company are insufficient to pay the amount of the full Liquidation Preference (and any unpaid dividends with respect to the then current Dividend Period) on all outstanding [SMFG-GBP Preference Shares], then the [holders of the SMFG-GBP Preference Shares] shall share rateably in any distribution of such assets in proportion to the full Liquidation Preference to which they would otherwise be respectively entitled. Assets available for distribution would include any amounts received by the Company from SMFG pursuant to the Support Agreement.*

22 Article 10 of the SMFG-GBP Articles provides that:

*If a Liquidation Event occurs, the Company shall distribute as a special dividend (which may be in kind or otherwise) on the [SMFG-GBP Ordinary Shares] (in priority over the [SMFG-GBP Preference Shares]) all of the [SMFG-GBP Preference Shares] held by it and any other*

*financial assets and investments of the Company other than the Support Agreement and any amounts received or receivable thereunder during the period while such Liquidation Event has occurred and is continuing (the "Special Dividend").*

- 23 A "Liquidation Event" is deemed to occur if "a liquidation proceeding (seisan) in respect of SMFG under the laws of Japan (including the special liquidation proceedings (tokubetsu seisan) under the Company Law) is commenced by or against SMFG or a competent court in Japan shall have (i) adjudicated the commencement of a bankruptcy proceeding (hasan tetsuzuki) of SMFG pursuant to the provisions of the Bankruptcy Law or (ii) approved a preparation of a reorganisation plan for abolishment of all business (jigyo no zenbu no haishi wo naiyotosuru kousei keikakuan) of SMFG pursuant to the provisions of the Corporate Reorganisation Law."

#### **SMBC-GBP CRR Reduction and SMBC-GBP Capital Reduction**

- 24 As at 30 April 2010, the accumulated losses recorded on the balance sheet of SMBC-GBP were £37,952,462.55. This loss is permanent.
- 25 The amount standing to the credit of SMBC-GBP's capital redemption reserve is £37,670,296.16.
- 26 It is proposed that the credit of £38,124,523.00 arising from the SMBC-GBP Capital Reduction and the SMBC-GBP CRR Reduction will be used to:
- 26.1 Eliminate the accumulated deficit on SMBC-GBP's balance sheet as at 30 April 2010; and
- 26.2 Create a fully distributable capital reserve in the amount of £172,060.45 that will then be available to be applied to the business of SMBC-GBP.
- 27 SMBC-GBP is authorised to reduce its share capital in this manner pursuant to Article 18 of the SMBC-GBP Articles which provides inter alia as follows:
- "Subject to the provisions of Sections 13 and 35 of the Statute, the Company may, save in respect of the [SMBC-GBP Preference Shares], by Special Resolution from time to time reduce its share capital in any way and in particular without prejudice to the generality of the*

*foregoing power may... (b) with or without extinguishing or reducing liability on any of its shares (i) cancel any paid-up share capital which is lost or which is not represented by available assets..."*

28 The holders of the SMBC-GBP Preference Shares have no voting rights other than in the limited circumstances set out in Article 14 of the SMBC-GBP Articles. These limited circumstances do not include an entitlement to vote on the SMBC-GBP Capital Reduction or the SMBC-GBP CRR Reduction.

29 SMBC-GBP's ordinary shareholders are entitled to pass unanimous written resolutions in lieu of holding a general meeting. Article 72(b) of the SMBC-GBP Articles provides *inter alia*:

*"A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by all Members (or their duly authorised representatives) for the time being entitled to receive notice of and attend and vote at general meetings (or a general meeting at which the relevant resolution might have been considered), shall be as valid and effective as if the same had been adopted at a general meeting of the Company duly convened and held...."*

30 On 20 May 2010, SMBC as the sole ordinary shareholder of SMBC-GBP, will resolve by way of written special resolution pursuant to Article 72(b):

*"THAT pursuant to Article 18 of the Second Amended and Restated Articles of Association of the Company and conditional upon the confirmation by the Grand Court of the Cayman Islands and with effect from the date upon which this resolution takes effect pursuant to the Companies Law (2009 Revision) of the Cayman Islands:*

- (a) *The issued and paid-up ordinary share capital of the Company be reduced from £5,000,000 divided into 500,000,000 ordinary shares with a par value of £0.01 each to £4,545,773.16 divided into 454,577,316 ordinary shares with a par value of £ 0.01 each (the "SMBC-GBP Capital Reduction").*
- (b) *The capital redemption reserve be reduced from £37,670,296.16 to nil.*
- (c) *The credit arising from the SMBC-GBP Capital Reduction and the reduction of the capital redemption reserve be:*

- (i) *Set off against the accumulated deficit on the balance sheet of the Company as at 30 April 2010 in the amount of £37,952,462.55; and*
- (ii) *Applied to the creation of a fully distributable capital reserve in the amount of £172,060.45."*

31 The proposed reduction does not involve:

- 31.1 An alteration or variation of the rights attached to the SMBC-GBP Preference Shares;
- 31.2 the diminution of any liability in respect of unpaid capital; or
- 31.3 the repayment to any shareholder of any paid-up capital;

32 The form of the Minute proposed to be registered is as follows:

*The issued and paid-up ordinary share capital of SMBC Preferred Capital GBP 1 Limited, was, by virtue of a written resolution of the sole ordinary shareholder of the Company and confirmed by an Order of the Grand Court dated [ ], reduced from £5,000,000 divided into 500,000,000 ordinary shares of £0.01 each to £4,545,773.16 divided into 454,577,316 ordinary shares of £0.01 each. At the date of the registration of this Minute, the issued and paid-up share capital of the Company is accordingly, £4,545,773.16 divided into 454,577,316 ordinary shares of £0.01 each and £73,576,000.00 divided into 73,576 preference shares of £1,000 each.*

### **SMFG-GBP CRR Reduction**

33 As at 30 April 2010, the accumulated losses recorded on the balance sheet of SMFG-GBP were £37,669,285.52. This loss is permanent.

34 The amount standing to the credit of SMFG-GBP's capital redemption reserve is £37,670,296.16.

35 It is proposed that the credit of £37,670,296.16 arising from the SMFG-GBP CRR Reduction will be used to:

- 35.1 Eliminate the accumulated deficit on SMFG-GBP's balance sheet as at 30 April 2010; and

35.2 Create a fully distributable capital reserve in the amount of £1,010.64 that will then be available to be applied to the business of SMFG-GBP.

36 SMFG-GBP is authorised to reduce its capital issued in this manner pursuant to Article 18 of the SMFG-GBP Articles which provides *inter alia* as follows:

*"Subject to the provisions of Sections 13 and 35 of the Statute, the Company may, save in respect of the [SMFG-GBP Preference Shares], by Special Resolution from time to time reduce its share capital in any way and in particular without prejudice to the generality of the foregoing power may...(b) with or without extinguishing or reducing liability on any of its shares (i) cancel any paid-up share capital which is lost or which is not represented by available assets..."*

37 The holders of the SMFG-GBP Preference Shares have no voting rights other than in the limited circumstances set out in Article 14 of the SMFG-GBP Articles. These limited circumstances do not include an entitlement to vote on the SMFG-GBP CRR Reduction.

38 SMFG-GBP's ordinary shareholders are entitled to pass unanimous written resolutions in lieu of holding a general meeting. Article 72(b) of the SMFG-GBP Articles provides *inter alia*:

*"A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by all Members (or their duly authorised representatives) for the time being entitled to receive notice of and attend and vote at general meetings (or a general meeting at which the relevant resolution might have been considered) shall be as valid and effective as if the same had been adopted at a general meeting of the Company duly convened and held..."*

39 On 20 May 2010, SMFG as the sole ordinary shareholder of SMFG-GBP, will resolve by way of written special resolution pursuant to Article 72(b):

*"THAT pursuant to Article 18 of the Second Amended and Restated Articles of Association of the Company and conditional upon the confirmation by the Grand Court of the Cayman Islands and with effect from the date upon which this resolution takes effect pursuant to the Companies Law (2009 Revision) of the Cayman Islands:*

(a) *The capital redemption reserve be reduced from £37,670,296.16 to nil.*

(b) *The credit arising from the reduction of the capital redemption reserve be:*

(iii) *Set off against the accumulated deficit on the balance sheet of the Company as at 30 April 2010 in the amount of £37,669,285.52; and*

(iv) *Applied to the creation of a fully distributable capital reserve in the amount of £1,010.64."*

40 The proposed reduction does not involve:

40.1 An alteration or variation of the rights attached to the SMFG-GBP Preference Shares;

40.2 the diminution of any liability in respect of unpaid capital; or

40.3 the repayment to any shareholder of any paid-up capital;

**AND YOUR PETITIONER HUMBLY PRAYS AS FOLLOWS:**

- 1 That the SMBC-GBP Capital Reduction and the SMBC-GBP CRR Reduction proposed to be effected by the Special Resolution set forth in paragraph 30 of this Petition be confirmed and the above-mentioned Minute may be approved by this Honourable Court.
- 2 That the SMFG-GBP CRR Reduction proposed to be effected by the Special Resolution set forth in paragraph 39 of this Petition be confirmed
- 3 That to this end all necessary inquiries and directions may be made and given.
- 4 Alternatively, such other order may be made as this Honourable Court shall think fit.

Dated the 18 day of May 2010

  
\_\_\_\_\_  
**MAPLES and CALDER**

**NOTE: It is not intended to serve this Petition on anyone.**

**ENDORSEMENT**

This Petition having been presented to the Grand Court of the Cayman Islands on the      day of  
May 2010 will be heard at the Grand Court of the Cayman Islands on the      day of  
2010 at 10 o'clock or as soon thereafter as the Petition can be heard.

Issued by Maples and Calder, attorneys for the Petitioners, whose address for service is PO Box 309,  
Ugland House, Grand Cayman, KY1-1104 Cayman Islands. (Ref: CJM/655155/18736709).