



DETERMINATION OF MERGER NOTIFICATION M/13/020 -

MUTB / FGL Lux

Section 21 of the Competition Act 2002

Proposed acquisition by the Mitsubishi UFJ Financial Group, Inc. of FGL Lux Holdings, S.à.r.l

Dated 26 July 2013

Introduction

1. On 8 July 2013, in accordance with section 18 of the Competition Act 2002 ("the Act"), the Competition Authority ("the Authority") received a notification of a proposed acquisition of indirect sole control by Mitsubishi UFJ Financial Group, Inc. ("MUFG"), through its wholly-owned subsidiary Mitsubishi UFJ Trust and Banking Corporation ("MUTB"), of FGL Lux Holdings, S.à.r.l ("FGL Lux") from FGL Holdings, LLC ("FGL").

The Undertakings Involved

The Acquirer - MUFG

2. Mitsubishi UFJ Financial Group, Inc. is a Japanese financial group headquartered in Japan and listed on the Tokyo, Osaka, Nagoya, and New York stock exchanges. MUFG consists of five primary companies: (1) The Bank of Tokyo-Mitsubishi UFJ, Ltd., (2) Mitsubishi UFJ NICOS Co., Ltd., (3) Mitsubishi UFJ Securities Holdings Co., Ltd., (4) Mitsubishi UFJ Lease & Finance Company Limited and (5) MUTB.
3. MUFG's services include commercial banking, trust banking, securities, credit cards, consumer finance, asset management and leasing. MUFG has offices and subsidiaries in more than 40 countries worldwide.¹
4. MUTB, a wholly-owned subsidiary of MUFG, is a Japanese Trust Bank based in Japan. MUTB provides retail and commercial banking services, asset management and administration services, real estate services, and stock transfer agency services to clients from a network of branches and subsidiaries in Asia, Europe and United States.
5. Globally, MUFG, through Mitsubishi UFJ Global Custody S.A. ("MUGC"), provides fund administration services from Luxembourg to "traditional (long-only) mutual funds" for Japanese investors.²
6. In the State, MUFG is active only through two subsidiaries, namely Engine Lease Finance Corporation and Aviation Lease Finance, L.L.C., both of which provide aircraft engine lease financing.³

¹ MUFG has a less than 50% stake in Mitsubishi UFJ Lease & Finance, the parent of two Irish entities, namely Mitsubishi UFJ Lease & Finance (Ireland) Limited and MUL Aviation Capital Limited, both entities provide aircraft leasing services. MUFG does not control these two Irish entities.

² MUFG has confirmed to the Authority that it does not provide such services to hedge funds or family office funds.

7. For the financial year ending 31 March 2012, MUFG had a worldwide turnover of approximately €11,841,000,000 and a turnover in the State of approximately €[...].

The Vendor – FGL

8. FGL is a limited liability company incorporated in Delaware in the US and is majority owned and controlled by funds and affiliates of BV Investment Partners.⁴ FGL owns 100% of the shares in FGL Lux.

The Target – FGL Lux

9. FGL Lux is a wholly owned subsidiary of FGL and is involved in the fund administration business. FGL Lux comprises two businesses: Butterfield Fulcrum Group (“BFG”) and Family Office Reporting Services (“FORS”).⁵
10. BFG provides fund administration services, including front, middle and back office services, to hedge funds,⁶ funds of funds⁷ and private equity and real estate funds. BFG’s services include independent daily, weekly or monthly deliverables such as net asset value calculations, registrar and transfer agency services, reconciliations reporting, profit and loss attribution and analysis and trade capture and support.
11. FORS provides customised reporting services to family offices,⁸ multi-family offices,⁹ high-net worth individuals, foundations, corporate and private trust companies and financial institutions. The services provided include portfolio accounting and valuations, performance reporting, preparing financial statements, tax planning and compliance solutions. FORS has an office in Dublin.¹⁰
12. Within the State, FGL Lux is also active through Butterfield Fulcrum Group (Ireland) Limited, which provides investment business services including the administration of collective investment schemes (e.g. performance of valuation services, fund accounting services and acting as transfer agents or registration agents for such funds).
13. For the financial year ending 31 December 2012, FGL Lux had a worldwide turnover of €{...} and a turnover in the State of €[...].

³ These entities differ from those identified at footnote 1 as these entities are directly or indirectly controlled by MUFG. Information on Engine Lease Finance Corporation can be found here <http://www.elfc.com>.

⁴ For information on BV Investment Partners see: <http://www.bvlp.com/portfolio/business-and-information-services/fgl-holdings/>

⁵ For information on BFG and FORS see <http://www.bfgl.com> and <http://fors.bm/> respectively.

⁶ For information on hedge funds please see: <http://lexicon.ft.com/Term?term=hedge-funds>.

⁷ Investopedia defines a ‘fund of fund’ as “a mutual fund that invests in other mutual funds”, see: <http://www.investopedia.com/terms/f/fundsoffunds.asp>.

⁸ The US Securities and Exchange Commission defines “family offices” as “entities established by wealthy families to manage their wealth and provide other services to family members, such as tax and estate planning services.” See: <http://www.sec.gov/rules/final/2011/ia-3220-secg.htm>

⁹ Investopedia defines a multi-family office as being “more closely related to traditional private wealth management practices, seeking to build their business upon serving many clients”, see: <http://www.investopedia.com/terms/f/family-offices.asp>. More information on multi-family funds can be found here: <http://www.forbes.com/sites/russalanprince/> and here: http://lexicon.ft.com/Term?term=multi_family-offices.

¹⁰ The notifying parties have stated that although FORS has an office in Dublin, it has [...].

Rationales for the Proposed Transaction

14. MUFG states that it is not currently active in the hedge fund administration business and is seeking to enter this sector. The proposed transaction "*presents an attractive opportunity to acquire an established business in this sector*".

Third Party Submissions

15. No submissions were received.

Competitive Analysis

16. The Parties submit that the transaction concerns the hedge fund and family fund administration business as these are the activities undertaken by FGL Lux (through BFG and FORS) within the State.
17. Globally the activities of FGL Lux and MUFG overlap horizontally in the provision of administrative services to collective investment schemes, more particularly funds. The Authority has most recently reviewed proposed mergers in the fund administration in 2012.¹¹
18. However the parties provide these services to different forms of collective investment schemes. FGL Lux provides services to hedge funds and family office funds based in several locations, including Dublin. MUFG provides mutual fund services only from Luxembourg, and it has confirmed to the Authority that it does not provide these services to Irish domiciled funds or to Irish based investors.¹²
19. Within the State, FGL Lux is active in the provision of hedge fund and family fund administration services and MUFG is active in aircraft engine lease financing. The activities of MUFG and FGL Lux do not overlap horizontally in the provision of administrative services, whether in a wider context to collective investment schemes or in a narrower context to hedge funds and family funds.
20. The proposed transaction does not give rise to any vertical competition concerns.
21. In light of the above the Authority is of the view that this transaction will not result in a substantial lessening of competition in any market for goods or services in the State.

Ancillary Restraints

22. FGL has entered into a non-solicitation covenant with respect to [...] to apply for a period of [...] years post completion. These restrictions are directly related to and necessary for the implementation of the proposed transaction and are consistent with past Authority guidance.

¹¹ For a full description of the fund administration sector please see the Authority's Determination in M/12/015 – State Street / Goldman Sachs available to download at: www.tca.ie.

¹² The services are provided to funds whose ultimate investors are Japanese clients of Mitsubishi UFJ Global Custody, Japan a fully owned subsidiary of MUGC.

DETERMINATION

The Competition Authority, in accordance with section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition whereby the Mitsubishi UFJ Financial Group, Inc. would acquire indirect sole control of FGL Lux Holdings, S.à.r.l will not be to substantially lessen competition in markets for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition Authority

Stephen Calkins

Member of the Competition Authority

Director, Mergers Division