



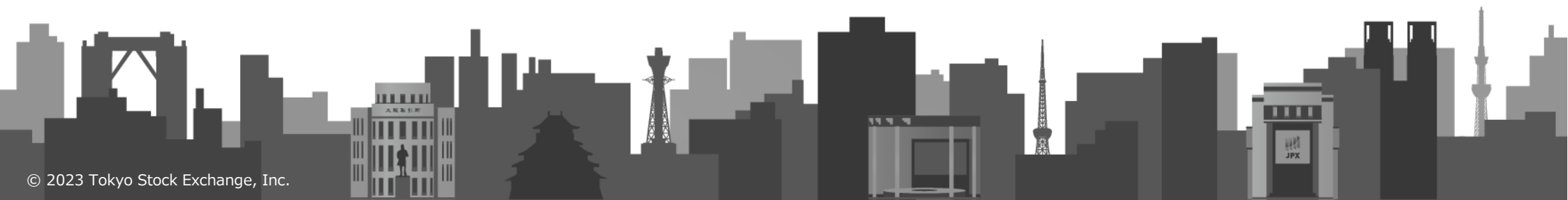
# **Secretariat's Explanatory Material**

*The Third Council of Experts Concerning  
the Revision of the Quarterly Disclosure System*

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**Exchange & beyond**  
**Tokyo Stock Exchange, Inc.**

October 27, 2023



## 1 Summary of the 2nd Council

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## 2 Item to be Discussed Today

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# 1. Summary of the 2nd Council

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- Summary of the 2nd council and thoughts based on the opinions are followed (opinions favoring the proposal are omitted).

## <Summary of the 2nd Council>

### (Disclosed Contents)

- Regarding the omission of the cash flow statements, it should not be perceived by investors as a disregard for cash flow.
- For companies that disclose cash flow statements in their quarterly securities reports, the burden of preparing them may not be too great.
- Since the companies applying for JP-GAAP are allowed to omit the cash flow statements, is it excessive to request the proactive disclosures?
- Matters requested for proactive disclosures should not be perceived as items required to be disclosed.
- It should be noted that the importance and usefulness of information changes depending on the nature of the business, etc.
- How about adding contingencies and subsequent events to the list of items requiring proactive disclosure?

### (Whether or not a review is conducted)

- When a review is conducted, it should be clarified that the subject of the review is quarterly financial statements.
- When the review report is attached, the quarterly financial statements that are the subject of the review must also be disclosed.

## <Thoughts based on the 2nd Council>

### (Disclosed Contents)

- Regarding the items requested for voluntary disclosures as “the useful information for investment decisions” based on the needs of investors, it shall be emphasized that it is the example of them since the needs of investors are different depending on the industry or the business.

### (Whether or not a review is conducted)

- It shall be clarified in the summary information section that quarterly financial statements are the subject of the review

# Summary of the 2nd Council and Thoughts (Disclosure Timing)

## <Summary of the 2nd Council>

### (In the case of a mandatory review)

- The earnings report of 1Q and 3Q should be disclosed after the completion of review based on the purpose of the obligation of review.
- In cases where the disclosure of 1Q and 3Q earnings reports are significantly delayed due to the implementation of the review, the earnings reports that have not yet been reviewed may be disclosed in advance.

### (In the case of an optional review)

- Two-step disclosure (note 1) may confuse the users.
- Since it is integrated into the earnings reports, the suggestion of the two-step disclosure should be reconsidered.
- Two-step disclosure could be considered from a timeliness perspective.
- Is there a practice of two-step disclosure in other countries? (note 2)

### (Other)

- When a company decides the disclosure timing, the determination of the fulfillment of obligations of disclosure of the financial results would be ambiguous.

## <Thoughts based on the 2nd Council>

### (In the case of mandatory review)

- In cases where a review is required, the earnings reports shall be disclosed as soon as the review is completed, in principle, in light of the purpose of requiring the review from the standpoint of ensuring credibility.

### (In the case of an optional review)

- In the case of optional review, each of the listed companies shall judge the disclosure timing since it is integrated into the earnings report and the stance that two-step disclosure is desired shall not be shown (but it does not prevent from the two-step disclosure).

note 1: it means that a company preliminary discloses the earnings report before the complete of review (1st step) and discloses it again after the review (2nd step).

note 2: The status of disclosure in Germany is as below. A certain number of cases of prior disclosure of earnings reports and other partial information were identified, regardless of whether or not a review was conducted.

(# of companies)	Reviewed	Not Reviewed	Total
With Preliminary Disclosure	3	9	12
Without Preliminary Disclosure	1	25	26

### (Notes on aggregation)

- Aggregate disclosure status in the most recent 1Q or 3Q subject to the 38 listed companies on the Prime Market of the constituents of DAX Index as of the end of Sept. 2023.
- “With Preliminary Disclosure” indicates the case that a company discloses a part of financial information prior to the disclosure of 1Q and 3Q required by the Exchange.

# Summary of the 2nd Council and Thoughts

## (Partial Obligation to Review and Enforcement, etc.)

### <Summary of the 2nd Council>

#### (Partial obligation to review)

- It should be emphasized that a review is optional in principle.
- Depending on the timing of the mandatory review, it may not be possible to disclose 1Q and 3Q earnings reports within 45 days of the end of the quarter since it takes a long time to conduct a review.

#### (Enforcement)

- It may be necessary to consider whether or not a provision such as a correction order in the statutory disclosure is necessary.
- It may be necessary to sort out the segregation of duties between the FSA and TSE.
- It should be clearly stated that the exchange will have a hearing to the auditor with the listed company's consent regarding the release of confidentiality.
- Regarding the range extension of the lifting confidentiality, the range should be clarified not to be expanded without limitation.

#### (Handling of earnings reports of 2Q and full year)

- No special objections.

#### (Data distribution format of earnings reports)

- It is welcomed since the range of data distribution is expanded more than the current one.
- It is doubtful that all of the listed companies would be able to submit the HTML files.

### <Thoughts based on the 2nd Council>

#### (Partial obligation to review)

- Modify the expressions based on the previous council.
- Add that compliance review shall be basic, but fair presentation review shall be assumed if a company prepares earnings reports conforming to the regulation on the new system without any omissions of disclosures.

#### (Enforcement)

- The necessity for correction order will be considered based on the fact that the exchange does not have the compulsory investigation rights and the fraud detection functions of the exchange are inferior to Securities and Exchange Surveillance Commission (hereinafter referred to as "SESC").
- Since a review to earnings reports of 1Q and 3Q is optional in principle, it shall be clarified in the exchange rules that the exchange is able to make an inquiry of the necessary investigation for the accurate report and the report of the result in the case that the suspicion of fraud occurs.

#### (Data distribution format of earnings reports)

- Maintain the original draft as the basic concept and policy (all of the domestically listed companies use the tool of printing companies).

## (Comparison of the process to correction in the FIEA and the Exchange rules)

- In the Financial Instruments and Exchange Act (hereinafter referred to as “FIEA”), in the event of any false statement in a financial report, etc., a correction order may be issued after identifying false content (it is subject to penal regulations where a company disobeys the order).
- On the other hand, in the exchange if the suspicion of fraud occurs, the exchange should make an inquiry to the listed company when it deems necessary. When it is recognized that circumstances have arisen that should be corrected based on the facts pertaining to the inquiry, the disclosure of the correction will be required.
- Regarding the enforcement in the law and the exchange rules, there is a difference that the exchange does not have the compulsory investigation rights and the fraud detection functions of the exchange are inferior to SESC.

## (Specific policies about the enforcement (Draft))

- Since a review to earnings reports of 1Q and 3Q is optional in principle, there is a possibility that the exchange will not get the accurate report against the inquiry to the listed company which is based on the current exchange rules.
- The exchange may clarify in the listing rules that listed companies are required to conduct necessary investigations and report the results of investigations for accurate reporting when deemed necessary, such as when suspicions of fraud, etc. arise, in order to increase the effectiveness of confirmation with listed companies and to implement enforcement more appropriately. (It is subject to the enforcement measures where a company do not investigate or report the result).

### (Reference: the FIEA, Article 10, Paragraph 1)

Article 10(1) If the Prime Minister discovers that a securities registration statement contains a false statement about a material particular, omits a statement as to a material particular that is required to be stated, or omits a statement of material fact that is necessary to prevent it from being misleading, the Prime Minister, at any time, may order the person submitting the securities registration statement to submit an amended statement, and if the Prime Minister finds it to be necessary, the Prime Minister may order the suspension of the validity of a notification under Article 4, paragraphs (1) through (3). In such a case, irrespective of the category of proceeding for hearing statements of opinion under Article 13, paragraph (1) of the Administrative Procedure Act, the Prime Minister must conduct a hearing.

Note: mutatis mutandis application of Article 24-2, Paragraph 1 of the same Act in the case of annual securities reports and Article 27-4-7, Paragraph 4 of the same Act in the case of quarterly securities reports.

### (Reference: Securities Listing Regulations, Rule 415, Paragraph 1 and 2, and Rule 416, Paragraph 1)

Rule 415 1. Where the exchange makes an inquiry of corporate information of a listed company by deeming that it is necessary to do so, such listed company shall make an accurate report on an inquiry matter immediately.

2. Where the exchange deems that it is necessary and appropriate to disclose a fact pertaining to an inquiry as prescribed by the preceding paragraph, a listed company shall disclose details immediately.

Rule 416 1. In circumstances where a change or correction should be made to the information disclosed pursuant to the provisions from Rules 402 through 411-2 or the provisions of Paragraph 2 of the preceding rule, a listed company shall disclose details of such change or correction immediately.

# Summary of the 2nd Council and Thoughts

## (Enhancement of Information Disclosure)

### <Summary of the 2nd Council>

#### (Disclosure of changes in the business environment)

- In the case of the long supply chain, etc., it intertwines with the factors of plus and minus. Therefore, even if it is an objective fact, it may mislead the users to disclose it before the examination of the impact.
- Preparers provide information of what is essential. There are some cases not to disclose the impact of the changes in the business environment since it has little impact on us.
- Regarding the key point of disclosure, it is better to supplement the reasons or thoughts of the investors why they need these information.
- It seems that highlighting examples of best practice would prompt the disclosures more.

#### (Basket clause)

- The disclosure guidance of the basket clause is used in the various practices, so in the case of revising the position, the exchange should make it well-known.

### <Thoughts based on the 2nd Council>

#### (Disclosure of changes in the business environment)

- Add the reasons or thoughts of the investors why they need these information to key points of disclosure regarding changes in the business environment.
- Add that in the case that the impact of the change is expected to be minor, if the interests of the investors are strong, it is considered to disclose that the impact is minor.



## 2. Item to be Discussed Today

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# Item to be Discussed Today

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- What do you think about the Practical Policy Concerning the Revision of the Quarterly Disclosure System (Draft), which is based on the previous discussions? (Refer to Document 3)