Study Group to Review Minority Shareholder Protection and Other Frameworks of Quasi-Controlled Listed Companies: Second Phase

Minutes of the Eighth Meeting

Date: Friday, November 28, 2025, 14:00 – 15:30

Location: Tokyo Stock Exchange, 15F Special Conference Room

Attendees: See member list

Watanabe, Director, Listing Department, TSE:

We would now like to hold the Eighth Meeting of the Second Phase of the Study Group to Review Minority Shareholder Protection and Other Frameworks of Quasi-Controlled Listed Companies.

Thank you very much for taking the time to join us again today.

First, regarding attendance: Members Kansaku and Goto are absent. Representing Member Goto today, we have Ms. Kawamura from SoftBank Group. In addition, Member Ouchi and the observers from the Ministry of Justice are participating online.

With that, we would like to move straight into the agenda.

Let us begin by explaining today's agenda.

Ikeda, Senior Manager, Listing Department, TSE:

Thank you again for your time today. Up through the previous meetings, our discussions have focused mainly on the status of disclosures relating to group governance and minority shareholder protection. Starting today, in addition to that, we would like to ask for your views on whether there are any issues that, from the perspective of protecting minority shareholders, should also be addressed through enhancements to the listing rules.

We would appreciate receiving your comments today in three broad thematic areas. The Secretariat will provide an overview of the topics collectively, but we hope you will offer your views separately by theme. Thank you in advance.

Watanabe, Director, Listing Department, TSE:

Now, we would like to proceed with an explanation based on the materials.

Yamawaki, Manager, Listing Department, TSE:

I will now walk you through the materials.

To begin, please turn to the section summarizing investors' comments on current issues.

In this review, in addition to continuing to promote disclosures related to group governance, we hope to examine whether there are additional matters that should be addressed within the listing framework. For that purpose, we once again exchanged views with long-term, actively managed institutional investors, both domestic and overseas, regarding the challenges they perceive today.

Turning to page three, we summarize a number of concerns investors have expressed about whether the management teams of listed subsidiaries fully recognize the need, as independently listed companies, to meet the expectations of minority shareholders and work to enhance corporate value.

As noted in the second bullet within the boxed section, there are cases where management plans appear to rely to a considerable degree on the parent company. And as indicated in the third point, investors observe that subsidiaries have not made adequate progress in managing with an awareness of cost of capital or share price. Furthermore, as the fourth point states, some question whether sufficient consideration is being given in the first place to what the subsidiary's corporate value or stock price ought to be.

Continuing on page four, based on the circumstances just described, investors have expressed the view that the Exchange should further encourage the management teams of listed subsidiaries to manage their companies with stronger awareness of minority shareholders.

More concretely, as noted in the second and third bullets of the boxed text, some investors argue that requiring disclosure of the percentage of minority shareholders voting for or against director election proposals would help promote dialogue with minority shareholders and trigger reviews of governance structures. Others, as mentioned in the fourth point, have suggested that management of listed subsidiaries should also be encouraged to hold shares in the subsidiary as part of their incentive compensation.

Turning to page five, in addition to concerns about management's mindset, we continue to receive many comments from investors calling for improvements in the effectiveness and independence of independent outside directors who monitor management.

From that perspective, as shown in the second point, some investors believe that, when appointing independent outside directors, companies should be required to introduce a majority-of-the-minority condition or disclose the approval rate among minority shareholders, thereby strengthening independence and ensuring directors are more conscious of minority shareholders. Furthermore, as noted from the third point onward, some have commented that with respect to independence criteria, independence is not currently required uniformly in relation to large shareholders other than the parent company, and that the appropriateness of this, at least as a minimum standard, should be reconsidered.

Moving on to page six, which discusses a more specific type of situation, recent years have seen an increase in group reorganizations among operating companies, including a rising number of cases where a parent company makes a subsidiary wholly owned. Investors have also provided numerous comments regarding the fairness of such transactions.

Concerning this matter, we revised the Tokyo Stock Exchange's Code of Corporate Conduct this July, for example, by enhancing the content required in special committee opinions for going-private transactions and expanding the disclosure of valuation methodologies. Even so, we continue to hear concerns regarding cases occurring after the revision.

Pages seven and eight contain the materials on the alignment of management practices with the capital costs and stock prices of listed subsidiaries in the previous meeting, so I will omit the explanation.

Beginning on page nine, we move to the proposed measures under the listing rules, developed in light of the issues described thus far.

On page 10, we have summarized the proposed direction going forward.

As noted earlier, we have received comments from domestic and overseas investors: in addition to enhanced disclosure regarding group management, investors have called for further measures within the listing rules to encourage listed subsidiaries to implement management that is conscious of minority shareholders, to ensure the effectiveness and independence of independent directors, and to ensure fairness, even greater fairness, in the privatization of companies.

Regarding revisions to the listing rules, this Study Group has previously raised a wide range of issues. However, taking into account the investor feedback recently received, we believe it would be appropriate to narrow the scope somewhat and examine certain issues more deeply. Specifically, we have listed issues number one through number three for discussion today, and I will explain the details in the following pages.

Page 11 provides a summary of the overall initiatives for reference.

With respect to group management, we continue examining the appropriate form of parent–subsidiary listings from the standpoint of enhancing group corporate value and capital efficiency, and to continue promoting disclosure. As you discussed in the previous meeting regarding the compilation of case studies, we hope to work toward publishing that material within the year.

In addition, together with those efforts, the pink section below indicates the areas in which we intend to consider measures within the listing framework.

From page 12 onward are the specific topics for discussion, beginning with the analysis and disclosure of such data as the percentage of minority shareholders that voted for and against a director's appointment.

Page 13 shows the distribution of voting results for inside directors, such as top management, at recent general shareholder meetings.

As you can see from the table at the bottom left, there is a certain number of proposals where the approval rate among shareholders other than the parent company is relatively low. For example, when looking at proposals with approval rates below 50%, 2% of election proposals for inside directors fall into this category, while 5% of election proposals for representative directors do so.

Furthermore, under the UK Corporate Governance Code, an approval rate below 80% is considered to signal a significant level of dissent, and companies are required to analyze such votes. Applying that 80% threshold here, 12% of election proposals for inside directors and 32% of election proposals for representative directors fall below that line. Compared to the distribution of approval rates for listed companies without controlling shareholders, such as parent companies, on the right side, the proportion of proposals with low approval rates is higher.

The main reasons for opposition include issues such as the composition of the board of directors, including a low proportion of independent outside directors, and performance problems.

Page 14 shows the distribution of voting results for outside director election proposals.

Here, proposals with approval rates below 50% account for around 1% to 2% of the total, using the 80% threshold, around 7% fall into that category. The main stated reasons for opposition include concerns about the candidate's own independence or their effectiveness.

Based on these points, page 15 sets out the matters on which we would like to ask for your views.

In listed subsidiaries, the parent company typically holds a majority of the voting rights, and therefore the authority to appoint and remove directors ultimately rests with the parent. This itself accords with the principle of majority rule in corporate ownership.

At the same time, we believe that the management of a listed subsidiary must also make efforts to manage the company with proper awareness of minority shareholders, as a listed entity in its own right. From the perspective of protecting minority shareholders, it is also extremely important to ensure the independence and effectiveness of independent outside directors.

From this perspective, as indicated beneath the arrow, we would like to hear your views on requiring companies to analyze and disclose matters such as the approval and disapproval rates among minority shareholders for director election proposals, the reasons for opposition, and the necessity of additional measures taken in response, so that the voting results of minority shareholders can serve as a basis for constructive dialogue.

It should be noted that similar principles are reflected in the Corporate Governance Code, which expects all listed companies, regardless of shareholder structure, to analyze the reasons for votes against management proposals. However, given the background outlined this time, our intention is to begin by making such disclosure mandatory specifically for listed subsidiaries and similar companies.

With respect to the anticipated content of the disclosure, shown in the boxed section below, we envision disclosure of the scope of minority shareholders, the approval and disapproval ratios, and, when opposition votes are cast, the reasons and underlying factors for such opposition, as well as whether additional measures, including dialogue with shareholders, are necessary and the implementation status of such measures. We hope this will lead to dialogue with minority shareholders regarding our group management policies or the director appointment process, depending on the reasons for opposition.

Turning to page 16, we would also like to ask for your opinion on whether, if we were to require analysis and disclosure of minority shareholder voting results, the scope should extend beyond listed subsidiaries to companies that have large shareholders other than a parent company.

In considering the specific scope, one reference point is that, taking into account general patterns of voting participation, a shareholder holding around 30% of voting rights may be able to exert significant influence on ordinary resolutions at general shareholder meetings. We would appreciate your views on this as well.

From page 17 onward, we provide several reference materials relevant to the discussion of scope.

Here is the distribution of voting rights exercised at TSE-listed companies. At present, the median is 60%, and many companies fall in the 70% or 80% range. Taking this into account, even when a large shareholder holds only 30% or 40% of voting rights, there are many cases in which that shareholder is effectively regarded as having a majority.

On page 18, we reintroduce the recent revision to the tender offer system, under which the threshold for the so-called one-third rule has been lowered to 30%. As noted in the underlined passage, the revised framework reflects the view that holding 30% of voting rights can exert significant influence even over ordinary resolutions at a general shareholders' meeting.

Moving on, page 19 summarizes discussions from past meetings of this Study Group, so I will omit the explanation here.

From page 20 onward, we turn to the second major topic: the revision of independence criteria. The earlier discussion regarding disclosure of approval and disapproval rates also relates to ensuring the independence of independent outside directors, but the issue here concerns whether, as a minimum standard, there are certain categories of relationships for which independence should uniformly be considered impaired.

Specifically, as noted on page 21, one issue is whether independence should be required in relation to large shareholders other than the parent company.

Under the existing criteria, individuals connected to a parent company or to a subsidiary of a listed company are deemed to lack independence. However, independence with respect to other major shareholders of the company, or, conversely, with respect to entities in which the listed company itself is a major shareholder, is not uniformly denied.

As indicated by the disclosure required section of the table, when a company appoints someone connected to a major shareholder, it is required to disclose the relevant circumstances.

Against this backdrop, page 22 shows how many such appointments currently exist.

There are 71 companies that have appointed an executive officer of a major shareholder as an independent outside director. There are 34 companies that have appointed someone who is currently or recently affiliated with a major shareholder, and 39 companies have appointed individuals who had such affiliations in the past.

The table on the right shows the levels of shareholding held by these major shareholders. While many fall in the 10% range, holdings in the 20% and 30% ranges are also widely represented.

Many of these major shareholders have relationships with the listed company beyond merely holding shares, such as business relationships or personnel ties other than the dispatch of independent directors.

The following page is not intended for public release as part of today's meeting materials. It presents a specific case where concerns were raised by investors regarding the appointment of individuals associated with companies in which the listed company holds a major stake as independent outside directors.

Given this situation, page 23 outlines the matters we would like to discuss.

Even major shareholders other than the parent company can influence the management of listed companies through voting rights and other means. Therefore, depending on the circumstances, there is a potential risk of conflicts of interest.

Given the purpose of the independent director system, which is to appoint directors unlikely to have conflicts of interest with minority shareholders under any circumstances, we would appreciate your views on requiring independence from major shareholders as part of the independence criteria.

We would also welcome your opinions on how broadly major shareholders should be defined in this context, as well as whether independence should be required not only from individuals currently related to major shareholders but also those who were related in the recent past.

Finally, we would appreciate your thoughts on whether independence should likewise be required from companies in which the listed company itself is a large shareholder, given that the listed company may be able to exert influence over these entities.

From page 24 onward, we provide several reference materials illustrating current practical realities.

This page shows the status of governance-related contractual arrangements previously introduced at our study group. As you are aware, even when holding a low ownership ratio, listed affiliates typically maintain a certain level of important agreements concerning the nomination of directors and management personnel.

Page 25 summarizes major institutional investors' criteria for the exercise of voting rights.

It is standard practice to consider an individual affiliated with a large shareholder holding 10% or more, or in some cases 5% or more, as lacking independence, on the basis that such shareholders can exert influence over the listed company through their voting rights.

Page 26, prepared with reference to the Corporate Governance Code, compiles the independence criteria that listed companies themselves have voluntarily established.

When listed companies independently establish criteria for major shareholders, 90% of companies define independence from shareholders as holding 10% or more.

In addition, as noted in the final callout, there are a number of cases in which companies also deny independence for individuals affiliated with entities in which the listed company itself is a large shareholder.

Page 27 summarizes the independence standards applied by major overseas exchanges.

In the United States, there are no explicit, detailed criteria set out in the listing rules. By contrast, in the United Kingdom, Hong Kong, and Singapore, independence from large shareholders is required, and in many jurisdictions the threshold is set at around 5%.

Next, page 28 compiles comments offered in past meetings of this Study Group, so I will omit the explanation here.

From page 29 onward, we cover other discussion points.

Specifically, on page 30, what we have in mind is to conduct follow-up on cases of privatization, such as a parent company converting a listed subsidiary into a wholly owned subsidiary, taking into account the concerns raised by investors. We would like to present, at the next meeting or thereafter, the situation following the July revision of the Code of Corporate Conduct.

Accordingly, if there are any points that we should bear in mind when carrying out this follow-up, or if there are additional issues that should be considered in relation to possible revisions of the listing rules more generally, we would appreciate your comments.

Page 31 introduces the contents of the revisions made in July to the Code of Corporate Conduct, so I will omit the explanation here.

Page 32 sets out the schedule going forward.

Regarding the case study collection on disclosures related to group management, which you discussed at the previous meeting, we intend to revise the draft based on the comments received and aim for publication within the year.

Although recent media reports often focus on cases where parent–subsidiary listings have been dissolved, the TSE does not take the position that such listings are inherently undesirable. To the contrary, we hope to highlight cases such as where companies, with consideration for shareholders' and investors' perspectives, are making careful disclosures about the significance of parent–subsidiary listings and the appropriate protection of minority shareholders and are engaging in constructive dialogue with shareholders. We plan to provide an update at the time of publication.

The next meeting is scheduled for January. In that meeting, we intend to continue the discussion on potential revisions to the listing rules, as well as to follow up on the state of fairness in going-private transactions since the recent revisions. After that, in the next fiscal year, we hope to again review the status of disclosures regarding matters such as group management by listed companies.

That concludes the explanation.

Watanabe, Director, Listing Department, TSE:

As mentioned at the outset, we would like to receive your comments theme by theme.

To begin, we would appreciate your views on the first topic: the analysis and disclosure of the percentage of minority shareholders that voted for and against a director's appointment.

Kikuchi, Member:

First, regarding the institutional investor feedback summarized in detail at the outset, I will address the points that are deeply related to items 1, 2, and 3 for today's discussion.

In the investors' comments, for example, there was the point that, "We cannot say anything unless the parent company has disclosed it," or that "Even if we request a meeting with the independent outside directors, they still basically will not meet with us." In my own experience, and from what I have heard, when we try to engage in dialogue on capital policy, there are companies that, although fewer nowadays, used to respond by saying, "Please ask the parent company about that." So at the very entry point of communication, it is often unclear how one is supposed to move forward from there. This was also reconfirmed in the interviews this time. So, in designing the framework or thinking about disclosure, I am reminded again that the question of how to develop communication is just as important.

With that in mind, let me offer my comments on item one. Regarding explanations and disclosures concerning the exercise of voting rights by minority shareholders, there are opinions consistent with the content proposed by the TSE in Comments from Institutional Investor number three. When this Study Group first began, in the second meeting of the First Phase, I gave a presentation, and I made almost the same proposal.

Looking at this issue from the communication perspective I just mentioned, investors express certain views through their votes, whether in opposition or in support. However, if absolutely no response is given to those views, communication essentially stops there. And even if one tries to inquire further into the opinions, companies often do not provide answers. So, I believe that taking a step forward, not only analyzing the views but also providing some form of explanation, would represent progress, an improvement, in terms of communication.

But there is one minor point I would like to mention. On slide 15, in the third bullet, although it is a rare case, the opposite pattern can also occur, that is, minority shareholders vote in favor, but the parent or controlling shareholder votes against. There are such actual cases. I think the scope of disclosure should include such cases as well. If the explanation also covered instances where the direction of the votes is reversed, then it might help alleviate the issue I mentioned at the beginning, where communication gets stuck right at the entry point.

Kato, Member:

I also support the idea of requiring analysis and disclosure of minority shareholders' approval and disapproval rates for director election proposals in listed subsidiaries. In subsidiaries that have a parent company or controlling shareholder, special measures are needed to ensure the independence of independent outside directors, in contrast to companies without such shareholders. The proposal presented here is, I believe, one such measure.

As was noted earlier, when minority shareholders, those other than the parent or controlling shareholder, vote for or against director candidates, that outcome objectively signals certain concerns toward the company's directors, including its independent outside directors. Using those signals as leverage for various forms of engagement is beneficial. This proposal is theoretically grounded, because it envisions what kinds of actions would follow from disclosing this information, and what kinds of effects one might expect.

From that standpoint, there is one point I would like to confirm: the proposal on page 15, am I correct that it applies to all director election proposals, regardless of whether the individual is an independent outside director? That is something I would like to clarify.

This proposal does not say that if the minority shareholder approval rate is low, the individual would no longer qualify as an independent outside director. Rather, the proposal simply asks companies to disclose the results and then consider appropriate responses. So it is not an overly aggressive proposal. In fact, similar items are disclosed in extraordinary reports even now. Thus, the measure would not dramatically alter current practice, yet it would send a clear message that companies should engage on this point. For that reason, I believe it is a proposal worth considering.

Yamawaki, Manager, Listing Department, TSE:

In response to your question regarding page 15, yes, as you noted, the scope includes inside directors as well, not only independent outside directors.

Kanda, Member:

Thank you. I will also offer some observations.

I am basically in agreement with the proposal, but there are a few points where I think we need to be a little careful. As a premise, we are not prohibiting the existence of listed companies with controlling shareholders; in considering that, there are several related considerations I would ask you to keep in mind.

There are three points in particular. First, although I agree with disclosing approval and disapproval results, voting outcomes are, after all, just points. There are various reasons for this. As Mr. Kikuchi mentioned, there may be a concrete dispute, say, about a specific individual, that produces a divided vote. There may also be situations where the split reflects broader, more mid-to-long-term views about the company's overall management. There are many different patterns.

So, when we talk about analysis, a term I personally find a bit vague, though it may come from the UK, I would like to clarify who is intended to conduct that analysis – the management team or the board of directors. That should be made clear.

My second point concerns permitting a subsidiary or a quasi-controlled listed company. I believe that operating as a subsidiary or quasi-controlled listed company within a group management structure or under a controlling shareholder can sometimes enhance a company's corporate value. On the other hand, even if corporate value increases, its distribution must not be unfair between the controlling shareholder and minority shareholders.

That is where the notions of normal times and extraordinary times come in. In normal times, companies ordinarily operate with the aim of enhancing corporate value. But in transactions involving specific conflicts of interest, ultimately culminating in something like a cash-out, there is a sense of heightened conflict or extraordinary circumstances. And in such situations, fairness becomes especially important. This is a widely accepted understanding.

In that case, it is desirable that the following information disclosures be established during normal times as a prerequisite for disclosing voting decisions.

The first is the policy for managing the company as part of a group or with a controlling shareholder, why that structure is adopted, and why it is better than alternatives. That rationale should be explained continuously.

Second, when directors of the listed subsidiary or quasi-controlled company are dispatched from, for example, the parent company or controlling shareholder, it is desirable to disclose more substantial reasons for their appointment, explaining why this arrangement is appropriate.

Third, regarding matters that are difficult to discern from the outside, such as shareholder agreements, in addition to disclosure in the annual report, we would like the TSE to also consider and establish whether there is any additional disclosure that should be required from the perspective of general shareholders or today's theme.

My third point relates to scope. I do not have a firm view on the exact scope. But I do think that 30% is one reasonable benchmark.

Sampei, Member:

Regarding page 15, I understand this proposal as one that focuses specifically on protecting minority shareholders in listed subsidiaries, pinpointing that issue, and that there are many challenges, which makes a prompt response necessary. In that sense, it is a reasonable approach.

However, precisely because it is pinpointed and aimed at prompt action, the scope feels somewhat limited. If we consider this not only as an issue specific to the listed subsidiaries but more broadly as a situation in which a certain proportion of general shareholders expresses serious concern, then the implications become wider. And when we think about the need for listed companies to face such concerns sincerely, respond, explain, and disclose accordingly, I see this as one instance within a broader set of situations.

In that light, consistency with various codes is important. For example, the UK Corporate Governance Code’s threshold of below 80% approval, or in the ICGN Global Governance Principles, specifically Principle 10.10, which states that if a board-recommended proposal receives a significant number of opposing votes, say, 20% or more, that requires a response. I think framing this as part of a broader, more general rule makes the proposal cleaner and more coherent within the overall context.

Speaking personally, looking ahead to how the Corporate Governance Code is likely to evolve, I believe this type of international standard has a certain basis, so we should not ignore it. I think we will eventually be moving in that direction. And so, to ensure that this particular focused measure does not stand out awkwardly or become isolated from the broader framework.

In ICGN’s Principle 10.10, “when a shareholder meeting proposal recommended by the board receives a significant number of opposing votes, for example, 20% or more, the company should subsequently explain what measures it has taken to understand and address the concerns of the shareholders who opposed. And at the next general annual meeting, the board should report how those shareholder concerns were taken into account and what actions were taken." So when we say "analysis," it's not entirely clear what exactly is meant by that, but I think, in essence, this is what it comes down to.

The thinking behind this is that minority concerns should be taken into consideration, which ties directly to the principle of equality of shareholder rights. Even though decisions are made by majority vote, each minority shareholder and each majority shareholder has the same rights. Preserving that equality is what makes majority rule legitimate. Therefore, while the outcome itself does not change, when there is a substantial difference of opinion, one that warrants genuine attention, it cannot simply be said, "The matter has been decided, so your views can now be ignored." This is extremely important.

As specific responses, given that the prompt protection of minority shareholders in listed subsidiaries is required, and considering the broader context I just described, when thinking ahead to the possibility that something like a 20% principle may eventually be introduced, I believe we should design the system so that it will not become a patchwork once that happens.

If we look at pages 15 and 16, the proposal combines general shareholders with large shareholders who have special interests. For large shareholders, I consider the threshold to be 10% or more. On page 15, in the blue box, you have listed four items, but not all are necessary. I think the bottom two are particularly important - the presence of a significant number of dissenting votes and the additional responses, such as dialogue with shareholders.

As for why I consider 10% an appropriate benchmark, page 26 explains that 90% of companies use 10% ownership as the threshold for denying independence. And although European jurisdictions differ, the thresholds used by companies almost always fall below 10%; in fact, 10% is among the highest. So it is widely recognized that shareholders at or above that level have substantial influence. Under the Large Shareholding Report requirements in the Financial Instruments and Exchange Act as well, exemptions are no longer allowed once holdings exceed 10%. So I think the 10% mark carries significant meaning.

Kuronuma, Member:

Thank you.

I, too, am in favor of requiring analysis and disclosure of minority shareholders' approval and disapproval ratios for director election proposals, as well as the reasons for opposition and the responses taken, from the perspective of ensuring the independence of independent outside directors at listed subsidiaries.

In that context, the first item listed under the expected disclosure content is the scope of minority shareholders. I think this is appropriate in the sense that companies should disclose specifically which shareholders they excluded. However, because the minority shareholders become the denominator when calculating the percentage, if each company defines the scope differently, selecting shareholders based on its own criteria, those percentages lose their meaning. Therefore, I believe the TSE should set uniform rules on what is to be excluded from the category of minority shareholders.

I also agree with applying the same requirement to companies that have large shareholders other than the parent. As for what threshold should be used in such cases, there are various viewpoints, but considering the actual voting participation rates, I think 30%, a level at which it is realistically possible to secure a majority of the votes, is an appropriate standard.

It is possible to consider a lower threshold, of course. But if we do so, I believe that shareholders who fall into the category of large shareholders other than the parent should also be excluded from the definition of minority shareholders in companies that do have a parent company. In a situation where there is already a controlling shareholder, it is practically impossible for there to also be another shareholder with a 30% stake, but if the threshold were lowered to, for example, 10%, then such additional shareholders could exist, and they too should be excluded.

Takei, Member:

On the first point, the choice we're facing is whether to implement this measure at all, and then, assuming we do, whether to apply it only to director election proposals that receive over 50% approval, or to broaden it further.

I am not opposed to implementing it; however, I believe it should be limited to cases exceeding the 50% threshold. As Professor Kato mentioned earlier, whether the scope should be limited to independent directors, or perhaps only to representative directors, is something that can be further discussed.

Let me clarify the scope. It's not about a 30% majority shareholder suppressing the remaining 70% of shareholders. Rather, treating the remaining 70% as a minority based solely on the opinions of the 30% shareholders seems unreasonable. Also, the 60% voting participation rate mentioned in the materials refers to listed companies in general; it does not refer specifically to companies with controlling shareholders.

The proper range would be over 50%, and if we were to add anything further, whether to include the de facto parent company definition.

Ms. Kawamura:

Today, on behalf of Member Goto, I have been asked to convey his comments.

Regarding the analysis and disclosure of minority shareholders' approval and disapproval ratios in director elections, we recognize this as a question of how to incorporate minority shareholders' views into fair decision-making.

As Goto has mentioned several times in past meetings, it cannot be denied that, at the end of the day, capital operates under its own logic, and there is an element of a power game. At the same time, we are now in an era where companies are expected to earn the understanding of minority shareholders, and shareholders expect companies to provide explanations. So the question becomes how companies can engage with this reality. For instance, it may be useful to have a space, such as a shareholder newsletter or shareholder letter, where the company organizes the questions, objections, or concerns raised by minority shareholders and explains its views. Perhaps such an approach could be recommended.

We are cautious regarding the idea of making the disclosure of minority shareholders' views mandatory. When it comes to opposition votes, companies cannot simply obtain such information immediately through something like a questionnaire. And if companies are to ask individual investors directly and then compile that information into disclosure, that represents a considerable administrative burden. Dialogue is, of course, important, and as the TSE's explanation earlier made clear, companies must analyze proposals with low approval rates regardless. That analysis will be conducted. But making it mandatory to disclose the views of minority shareholders themselves would, in practice, raise the hurdle significantly for companies.

There is also the issue of proxy advisory firms, which cannot be ignored. In many cases, we presume that minority shareholder votes reflect the recommendations of those advisory firms. These firms make judgments based on their own rules. We are not criticizing that, but there are certainly cases where the company holds a different view.

If investors rely mechanically on standardized analyses or templates prepared by advisory firms, it raises the question of whether such reliance might be substituting for genuine analysis, and that could potentially pose an obstacle to fair decision-making from the issuer's perspective. For that reason, this point should be carefully considered before making disclosure mandatory.

In our own company's experience, there have been cases where we engaged in advance discussions with proxy advisory firms and, through careful explanation, were able to gain their understanding. That is why, in addition to disclosure, I think it is also essential to emphasize the importance of communication with both investors and advisory firms. In other words, companies should be more deliberate in explaining matters such as the rationale for determining independence at the time of director appointments.

Watanabe, Director, Listing Department, TSE:

Thank you very much.

Then, we would now like to ask for your views on the second point, the proposed revisions to the independence criteria.

Kikuchi, Member:

Within the industry, opinions are often exchanged using the independence stamp. In the Study Group, I have made several statements to the effect that the TSE's updating of its standards may be lagging behind.

As shown in the materials, regarding the definition of a major shareholder, many companies have already established internal standards at the 10% threshold. Institutional investors, some stricter ones set the bar at 5%, but as a standard practice, 10% has been commonly used for many years. And when it comes to communication, companies often say, "We are not in violation of the TSE's criteria." That becomes the end of the discussion and makes it difficult to push the conversation further. It ends up functioning, perhaps cover is a strong word, but something like that, as a shield, and I feel it has become an impediment to communication. So regarding this proposal on director appointments, I believe this part should be addressed promptly.

Then, a finer point relating to disclosures. As an additional comment, it's not just about the 10% major-shareholder threshold; there are also issues around business relationships, donations, and similar ties. In other words, it seems that the information that investors need to judge independence has not been sufficiently explained.

For example, in independent director notification forms, some companies simply write insignificant about sales and donations. The term insignificant is vague, what percentage does that correspond to? Some companies provide quantitative data, such as stating that the amount is below 1% of revenue, and so on. But there are others who write only the word insignificant, and I question whether that really meets the disclosure requirements implied by that yellow category in the table. So I think clarifying those standards and disclosure methods, at least adding a message that explanations should be more explicit and transparent would be beneficial.

Also, regarding the scope discussion earlier, this is something I intended to mention under Item 1 but forgot, I personally recognize that opinions will vary about thresholds. But I think the concept of important contracts is extremely significant. Regardless of the percentage, if a company has material contractual relationships, I would appreciate it if companies could proactively provide explanations in those cases.

Sampei, Member:

When we were given the explanation on page 23, it was said that independence, in this context, means an outside director who presents no risk of conflicts of interest with general shareholders in any circumstance. I found that very reassuring. My previous understanding had been that independence referred mainly to independence from the executive side. But interpreting it as you explained, as independence from conflicts with general shareholders, is in fact the more desirable interpretation.

That said, I think the broader understanding today still tends to be independence from management. And in that sense, when the Ministry of Economy, Trade and Industry discussed the Fair M&A Guidelines, although we generally speak of independent outside directors, the guidelines explicitly noted that in the M&A context, independence means independence from the acquirer, or independence from the transaction at hand. In other words, the meaning of independence changes depending on the situation. I believe this is roughly the broader way the term is understood today.

In that sense, what makes it difficult is the case where, even though a director comes from a large shareholder, there may indeed be independence from management.

As explained earlier, in light of the possibility of conflicts of interest arising between general shareholders and large shareholders, I think the question of whether requiring independence from large shareholders is sufficient can be organized into the following three issues.

The first issue is that it appears problematic because we are setting general shareholders and large shareholders in opposition to each other. If we look more broadly, differences of opinion among shareholders may occur, so it is not appropriate to simplify matters by saying that it is unacceptable solely because they come from a large shareholder and therefore is in opposition.

The second issue is that as a director, the individual has influence over board decisions. Simply by having a seat at the table, with a vote and a voice, they influence board resolutions.

The third issue is the substantial information asymmetry between such directors and general shareholders.

If we consider the first, whether independence from large shareholders is the appropriate and sufficient requirement, I am not convinced. Given that even among shareholders there can be disagreement, simply saying independence from large shareholders feels insufficient.

But if we consider the second and third points, then, as I believe Mr. Kikuchi also touched on earlier, this is not really about ownership percentages. On page 25 of the materials, there is a table showing institutional investors' voting guidelines. Regardless of specific thresholds, some investors make a substantive assessment of whether there is a relationship that clearly differs from that of ordinary shareholders, and whether having such individuals on the board increases concerns about information asymmetry.

In that sense, focusing too heavily on ownership percentages may miss the essence of the issue. With that in mind, I hope the review of independence standards will take these considerations into account.

Kanda, Member:

I actually think today's second topic (topic to be discussed two) is easier than the first one (topic to be discussed one). I say this from the standpoint of what this Study Group has discussed, I believe that, naturally, the independence of independent outside directors should also require independence from major or large shareholders.

Traditionally, speaking broadly, independence has meant no employment relationship, no family relationship, and no economic interest, including capital ties. In the context of the Companies Act, the focus was on independence from management, as Mr. Sampei said. But from the perspective of this Study Group, there has long been a view that this is not sufficient. Therefore, independence from major shareholders or large shareholders ought to be required.

Regarding the scope of coverage, looking at the yellow sections of the diagram on page 21, which refers to executive officers of major shareholders, I think it would be fine to ask for the past 10 years, with a reset after 10 years. In that case, then everything above that line, in the yellow zone, could be treated as lacking independence. I also believe that the same consideration should be given to independence from a listed company that is a major shareholder, as was mentioned as a recent example.

There is one more point, and this relates to what both Mr. Sampei and Mr. Kikuchi said. The third bullet on page 28 seems to be the key point. The reason is that when you see 1%, you think, “That is extremely low.” But then the sentence continues with “and if there is a contract related to the appointment of directors of the subsidiary,” and if that is the case, if such a contract exists, then regardless of the shareholding percentage, independence should be questioned.

Setting aside whether this falls within the scope of this Study Group, I think this part needs reorganizing. For example, even if an entity is a business partner or a donation recipient, normally those alone would not imply a contract regarding the appointment of directors of a subsidiary company. However, if, in fact, there is a contract, then independence should be denied. We should not necessarily fixate on the number of shares.

However, that issue is separate from the question, within the scope of this Study Group, of how we should define major or large shareholders. If we are going to define major or large shareholders specifically for the purpose of this Study Group, then 1% is too low. As mentioned earlier, perhaps around 10%, or somewhere in that range, is where the line should be considered.

Ouchi, Member:

My views may be close to what Professor Kanda just expressed. The discussion of shareholding thresholds appears under both discussion points one and two, but I believe the underlying perspectives are entirely different.

For point two, as has already been discussed, what matters is, based on various considerations, who is truly capable of making judgments in a manner that is not skewed toward the interests of all shareholders. That is the point that should be examined thoroughly. In reality, when speaking with institutional investors, I find that they apply standards that differ markedly from the exchange’s rules. Those standards are actually used in practice.

With that in mind, we should be careful not to let the second table influence the first. Point one, after all, concerns whether a shareholder is controlling the company, and that is fundamentally different from the question of whether someone can serve with genuine objectivity.

We have the rules governing tender offers under the Financial Instruments and Exchange Act, but the rationale there is, for example: if a 30% or 33% shareholder suddenly appears, the company could be thrown into confusion. Or existing shareholders may need to make decisions about whether to exit. The idea concerns how other general shareholders can behave, especially how they can take protective action, when faced with such potential upheaval in ownership. That is a separate matter from whether a shareholder exercises parent-like control under normal circumstances. I think these are distinct discussions.

So, as Professor Takei noted earlier, regarding point one, I think the discussion is about whether to expand the scope to the point where ordinary resolutions at general shareholders' meetings can be passed, based on the principle of a majority, and even if we compromise, taking into account the average ratio of voting rights exercise.

The underlying concern here is that Japanese companies are increasingly being expected to engage in active investment across various fronts; otherwise, they will not be able to meet the expectations of all shareholders as has also been pointed out in METI’s study group. In addition, as Japanese companies are likely to make large-scale investments into the United States in the future, both companies and the market must be cautious against short-termism, which could curtail or undermine the investment activities that support corporate growth. For this reason, I believe we must carefully listen to and distinguish between short-termism and the voices of institutional investors.

We must avoid the outcome of this study group being perceived as necessarily being correct just because it is the opinion of minority shareholders. I hope that in these forums, we will raise awareness of the need to clearly distinguish between opinions and interests that truly pursue the interests of all shareholders and actions and interests that only seek one's own profit.

Takei, Member:

Earlier, on the first topic (topic to be discussed one), Ms. Kawamura made a point, and I also forgot to mention this at the time, about that first topic. I apologize but let me add a few more details. Although today’s proposal reflects interviews with very capable active managers, in many of the real-world cases where you see 20% opposition, that figure is substantially driven by fairly mechanical voting by passive investors, including those following proxy advisors’ recommendations.

And as you know, passive investment has expanded significantly over the past 10 years. Along with that, various forms of formulaic, checklist-based voting have also increased markedly, and this has caused considerable difficulty for issuers. Against that backdrop, you still get these 20% opposition levels. So we must take a neutral, objective view and not assume that a 20% opposition rate always has deep meaning. Of course, companies will analyze the results, but we have to keep in mind that a large portion of the opposition votes comes from investors who are not acting on an active-management premise.

With regard to my second point, the review of the independence standards, I take a more cautious stance here. Regarding the earlier discussion on disclosing the percentage of votes for and against the first measure, I believe that many of the proposals that are subject to this are proposals related to the independence standards for outside directors, which are also subject to the second measure. Therefore, I believe that implementing the first measure will have a certain effect by allowing us to analyze why such high opposition votes occurred.

In particular, I opposed to the second measure, which would lower the scope of major shareholders who will be denied independence to 10%. At the table on page 23, if the current red percentage were to increase from over 50% to over 10%, that is five cards being played at once. I think cutting five cards all in one go really is too much.

There are several reasons. One reason is that, this issue can be adequately addressed by engaging in individual dialogue with institutional investors who have such concerns.

Secondly, I think it is also important to consider that the independence criteria are a negative requirement that states that a person is unsuitable for the role of outside director due to concerns about conflicts of interest. This has the effect of completely denying the person's right to serve as an outside director, without taking into consideration the positive requirement of whether the person's inclusion will enhance corporate value.

Given that, we are now in an era where one-third of the board must be independent outside directors, and that may eventually move to a majority. When that happens, we will be filling the remaining 49% of the seats with various kinds of people, and we need to calmly consider whether it is appropriate to simply assume that those who own more than 10% of the shares have a certain conflict of interest in increasing the company's value, and whether this will actually increase the company's value. If we revise the independence standards this time, it will become irreversible, but I think we still need to consider whether we can include appropriate people on the board of directors.

The TSE's documents show that 90% of the 325 listed companies have set their own independence standards. However, if we look at all listed companies, there are still over 3,000 companies that have not disclosed such standards. If almost all of them are rejected based on these independence standards, there is a concern that proper board practice will not be carried out.

Of course, if a company voluntarily applies a 10% rule today, that is perfectly fine. And if, in the course of engagement with institutional investors, a company decides to adopt such a criterion, I think that is also fine. But for the TSE to require all listed companies to adopt a 10% standard as a minimum standard, that, in my view, would be too drastic a change.

As was the case with the parent-subsidiary situations mentioned earlier, I believe we should be cautious about overemphasizing concerns about conflicts of interest and tightening regulations, and we should also be careful in terms of balancing this with the added value that the director candidate will truly bring to improving corporate value.

Kuronuma, Member:

Regarding the relationship between this Study Group and the tightening of independence standards: in order to protect the interests of general shareholders in quasi-controlled listed companies, we rely heavily on the role of independent outside directors. From that standpoint, protecting general shareholders in subordinate listed companies and ensuring that those who can objectively pursue the interests of general shareholders are appointed as independent directors, I believe that raising the independence criteria more broadly is justified under the purpose of this Study Group.

Given that and considering that many institutional investors' voting guidelines view executives of shareholders holding 10% or more as unable to objectively represent the interests of general shareholders, I think executives of major shareholders should indeed be regarded as lacking independence. The exact threshold is, of course, debatable, and it may be difficult to settle on a single uniform line.

As for the question of independence from entities in which the listed company itself is a large shareholder, I do not think this necessarily has to align with the independence standard discussed just now. The reason is this: when the listed company is a large shareholder in another entity, it has influence over the appointment of that entity's management. In that situation, if someone dispatched from that entity serves as a director of the listed company, they cannot necessarily be expected to represent the interests of the listed company's general shareholders. Based on that perspective, one tied to effective control, I think the threshold should be something like 30% or 40%.

Kato, Member:

Regarding the relationship between discussion points number one (topic to be discussed one) and number two (topic to be discussed two), I too have not yet fully organized my thoughts. I am still unsure whether the two arise from the same underlying concern, or whether they should be treated as separate matters. When designing a new system and later explaining it, there is a risk that, even if we create the rules described under point number two, we may be told, "But that has nothing to do with subordinate listed companies." So I believe we need clearer articulation.

At the same time, in today's explanation of what the role of independent outside directors is, the phrase used was that they must be able to represent the interests of general shareholders in all circumstances. That is a strong statement, but I believe an appropriate one under the current circumstances. Once you pursue that requirement seriously, if there is influence exerted by a large shareholder, then the idea that such a director cannot be trusted to represent the interests of general shareholders in all circumstances is understandable. In that respect, some kind of response or measure seems necessary.

What I personally find interesting from a practical standpoint is understanding why companies are appointing executives of major shareholders as independent outside directors. The lack of explanation is itself a problem. One possibility is that there is some contractual arrangement that leads to the appointment. Another possibility, similar to what Professor Takei mentioned, is that the major shareholder wishes to have someone on the board. They may feel that having such a person on the board, even without executive authority, has some meaning. On the other hand, it may be because there are no other suitable candidates.

Furthermore, even if such an individual is not appointed as an independent outside director, if the company truly believes that having that person on the board is desirable, then that person could simply join as a form other than that of an independent outside director. That seems straightforward. Therefore, when designing a new framework, I think we need to first organize our understanding of why companies find it meaningful to place executives of major shareholders on their boards.

Ms. Kawamura:

My view is quite close to what Professor Takei expressed earlier. With respect to changing the definition of independent outside directors, I do not believe that the lowering of the TOB threshold automatically means that numerical standards should be unified across all contexts. I understand the logic behind revising the TOB rules, since they deal with the emergence of a new large shareholder. But I cannot support extending the same numerical logic wholesale to all types of materiality assessments.

And in addition to the discussion on independence, the question of how to secure highly capable and suitably qualified independent outside directors is extremely important. If the independence threshold is raised too far, it could create an incentive to appoint someone completely safe who has no connection whatsoever to the business or industry, someone who would be broadly acceptable and uncontroversial, simply to clear the requirement. I think there is a real possibility that companies could end up in a situation where they feel they have no choice but to do that.

People who understand the company’s business are often those who can offer well-grounded advice or express dissent in a way that management will actually listen to. So, while ensuring no conflicts of interest with general shareholders is of course essential, once that baseline is met, I believe companies should retain some room to apply practical judgment when appointing such directors.

Moreover, if we place too heavy a burden on independent directors, assigning to them responsibility for securing independence in every conceivable way, then we risk running out of qualified candidates altogether. As Mr. Kikuchi noted at the outset, when a listed subsidiary responds with, “Please ask the parent company,” the problem lies with the company’s own stance, not with the independent director. Expecting the independent director alone to correct such structural issues is unrealistic. If we also demand that they handle investor engagement or take on an active role in disclosure, then, given that many of the most capable candidates are very busy, we may simply exhaust the supply of qualified individuals. I believe this requires careful consideration.

Leaving the independence framework aside for a moment: having a shareholder with significant voting power dispatch a director is not inherently wrong. A shareholder with substantial influence should have opportunities to express its views, not only at the general meeting. And in M&A transactions, the allocation of board seats is often an explicit point of negotiation. That, too, should not be dismissed. Likewise, if there is an excellent executive at a sister company, the idea of having that person serve as a director is not misguided. Of course, questions of independence will arise.

Sampei, Member:

Responding to Professor Takei's earlier point that independence is a negative requirement, and the positive requirement is enhancing corporate value, from my perspective, independence is a minimum requirement. And above that minimum, of course it is desirable to bring in people who have real ability.

The underlying purpose has not changed: independent outside directors must be able to monitor and check the internal executive directors, and as a team, raise corporate value. However, I felt that that does not mean independence is a negative, lower-priority requirement.

And this is based on my own experience, but there are companies with very deep business relationships where the outside director seat is already predetermined, and directors from that business partner company always come in. When the person currently serving retires, the next person from the same company comes in. And when you ask, "Why is it always someone from that company?" they say, "Well, it just happens that this person is suitable." In fact, there is no explicit contract there, but when you watch it, it is obviously strange.

Things like that continue to happen, and investors and shareholders latch onto these examples, feel frustration, and worry. And rightly so, they sense that this deviates significantly from the original purpose of having independent outside directors on the board.

Watanabe, Director, Listing Department, TSE:

Thank you very much.

Then let us move to the third topic. If you have any comments on the other discussion points we would like to hear them. Thank you.

Sampei, Member:

Regarding the third topic, I think the proposal as presented is fine. But because this has become a very important issue in the capital markets, I would like to offer a few comments.

Right now, in situations where a parent company group essentially takes a listed subsidiary private, minority shareholder protection has become a matter of intense focus among investors, especially overseas investors, and, in fact, a matter of serious concern. On July 22, the TSE revised the Code of Corporate Conduct, including very significant measures such as strengthening the functioning of special committees and expanding the required disclosure of key assumptions in share valuation. However, due to a recent case that has raised concerns, there has been an interpretation, incorrect, in my view, that even though the TSE revised the rules, the revisions have no effect.

In the background is the fact that the case in question was announced on June 3, before the TSE's revisions took effect. I believe there are two important issues here.

First, the traditional rule-following mindset, the revision is not in force yet, so it has no effect, is problematic from the standpoint of corporate behavior. Even though there had already been various news reports and an announcement that such revisions were going to be made.

Since the introduction of the Corporate Governance Code in 2015, a principles-based approach has been adopted. In my understanding is that in the ongoing discussions surrounding revisions to the Code, this evolution toward a principles-based regime, reducing supplementary principles and emphasizing the principles themselves, continues.

If that is the framework, then companies must think about how to act in accordance with the spirit of the principles. Otherwise, in a principles-based system, it becomes impossible to argue for reducing the number of items or streamlining the Code.

The second point is monitoring of cases after the implementation date. If a case diverges from the expectations or requests in terms of the revised rule, then the TSE should provide guidance. Over time, through accumulating such practice, we should be able to demonstrate how cases are changing. And if, even then, the outcomes still fall short of expectations, then reconsideration or further revision may become necessary.

The document simply says follow-up, but if the TSE proceeds with this understanding, I believe the capital markets, where some investors are currently somewhat suspicious, will gradually gain clarity and confidence.

Watanabe, Director, Listing Department, TSE:

Thank you very much.

With that, we will close today's agenda, and I would like to provide information on the schedule for the next meeting.

Ikeda, Senior Manager, Listing Department, TSE:

Thank you again for all the thoughtful comments today. Regarding our next study group, we expect to continue the discussion from today, but we would like to discuss the details in advance.

Watanabe, Director, Listing Department, TSE:

With that, we will adjourn today's meeting. Thank you very much for your participation.