

Japan's Corporate Governance Code

**Seeking Sustainable Corporate Growth and Increased Corporate Value
over the Mid- to Long-Term
(Proposed Revisions)**

Japan's Corporate Governance Code

In this Corporate Governance Code, “corporate governance” means a structure for transparent, fair, timely and decisive decision-making by companies, with due attention to the needs and perspectives of shareholders and also customers, employees and local communities.

This Corporate Governance Code establishes fundamental principles for effective corporate governance at listed companies in Japan. It is expected that the Code's appropriate implementation will contribute to the development and success of companies, investors and the Japanese economy as a whole through individual companies' self-motivated actions so as to achieve sustainable growth and increase corporate value over the mid- to long-term.

Objectives of the Code

1. It is important that companies operate themselves with the full recognition of responsibilities to a range of stakeholders, starting with fiduciary responsibility to shareholders who have entrusted the management. The Code contains key principles that can contribute to effective corporate governance for the purpose of achieving “growth-oriented governance” beyond “defensive governance” by promoting timely and decisive decision-making based upon transparent and fair decision-making through the fulfillment of a company's accountability in relation to their responsibilities to shareholders and stakeholders.

The Code calls for appropriate corporate governance disciplines to create an environment for promoting healthy entrepreneurship where the management can perform their management skills to the full, which ultimately leads to a company's sustainable growth and increased corporate value over the mid- to long-term. It is not appropriate to view each Principle (General Principle and Principle) as a limit on the management. Rather, each Principle promotes the management's decisive decision-making and business activities with risk-taking.

2. It is hoped that the Code will also have the effect of promoting mid- to long-term investment. Market participants who have the strongest expectations for the improvement of corporate governance are usually shareholders with mid- to long-term holdings, and they usually wait until corporate governance improvements are achieved. Notwithstanding recent concerns over the growth of investment activities based on short-termism in the market place, such shareholders with mid- to long-term holdings

have the potential of becoming important partners for companies. The Code asks companies to examine whether there are issues in their corporate governance in light of the aim and spirit of the Principles of the Code, and take self-motivated actions in response to those issues. Such efforts by a company will make possible further corporate governance improvements, supported by constructive and purposeful dialogue with shareholders (institutional investors) based on the company's explanation of its path for growth over mid- to long-term. In this sense, the Code and "Principles for Responsible Institutional Investors" «Japan's Stewardship Code» are like "the two wheels of a cart," and it is hoped that these will work appropriately and together for achieving effective corporate governance in Japan.

3. The Code is formulated for these purposes, and it is expected that the management of companies will use this Code as supporting material when considering and implementing company initiatives. Proactive initiatives taken by the management toward improving corporate governance to achieve a company's ideal state with sufficient attention to principles of the Code are beneficial to various stakeholders.

"Principles-Based Approach" and "Comply or Explain"

4. The Code does not adopt a rule-based approach, in which the actions to be taken by a company are specified in detail. Rather, it adopts a principles-based approach. Accordingly, companies should judge whether their activities are consistent with the Principles of the Code in light of the aim and spirit of the principles, not against the literal statements and wording of the principles, even where the principles may appear abstract and broad on the surface. Shareholders and other stakeholders are also expected to fully understand the significance of this principles-based approach in their dialogue with companies.
5. The Code adopts a "comply or explain" approach (either comply with a Principle or explain the reasons for not doing so). In other words, the Code is not legally binding and assumes that if a company finds a specific Principle it considers inappropriate to comply with in view of its individual circumstances, the company may choose not to comply with that Principle, provided that the company explains fully the reason why it does not comply. Further, this means that, depending on a company's situation, there are cases where a company should refrain from formalistically complying with a Principle, and instead should proactively choose to "explain." It is desirable that companies choose to comply or explain in light of the aim and spirit of each Principle and fully recognize the aim of "comply or explain."

In addition, when companies choose to explain for a Principle they will not comply

with, they should carefully tailor their explanation in light of the aim and spirit of a Principle in a manner such that their explanation will be fully understood by shareholders and other stakeholders. Companies should fully recognize that offering a superficial explanation using boiler-plate expressions would be inconsistent with the concept of comply or explain. Accordingly, companies should provide “carefully tailored explanation.”

6. Also, from the perspective of providing sufficient information to shareholders and other stakeholders, instead of simply complying with a Principle, explaining the specific content of measures a company has taken and the reasonable grounds for evaluating why it complies with a Principle through measures is a desirable initiative for promoting constructive dialogue.
7. On the other hand, it is also necessary that shareholders and other stakeholders understand the aim of the comply or explain approach and sufficiently consider the specific circumstances of companies. Particularly, it is not appropriate to mechanically assess that effective corporate governance is not realized based solely on the fact of partial non-compliance with some Principles while superficially interpreting wording and statements of the Principles of this Code. In such a case, shareholders and other stakeholders should constructively assess the company’s carefully tailored explanation.

Application of this Code

8. Principles in this Code are comprised of General Principles and Principles. Whether a company should comply or how they should comply depends on its industry, size, business characteristics, organizational structure and business environment. Accordingly, companies should purposefully implement each Principle in this Code to achieve effective corporate governance in light of their surrounding situation.
9. All General Principles and some Principles in this Code include “Interpretive Guidance” sections. “Interpretive Guidance” is not subject to comply or explain. However, its role is to support effective implementation of each Principle. It contains measures considered to be best practices and good practices for carrying out Principles, as well as the background and purposes of the Principle. Companies are expected to use “Interpretive Guidance” as a reference when implementing the Code. Each company has discretion in implementing specific measures, as long as the company acts in accordance with the aim and spirit of each Principle.
10. Some Principles in this Code assume specific organizational structures. With respect to such Principles, companies that adopt other organizational structures are expected to construe and apply such Principles in accordance with their specific organizational

structures.

“Streamlining” of the Code to Promote Implementation by Companies in Substance

11. Since the Code took effect in 2015, corporate governance reform in Japan has seen progress to some extent. However, in order to truly achieve sustainable growth and increased corporate value of companies over the mid- to long-term, it is important not to end at formalistic implementation, but to realize corporate governance reform in substance with efforts by both companies and investors. Based on such problem recognition, in the 202X revisions of the Code, the Code was streamlined from the perspective of giving substance to the Code itself while going back to the aim and spirit of the Code, which applies a principles-based approach and comply or explain approach.

Specifically, in order to clarify on which items a company should focus, then existing Supplementary Principles were reclassified by upgrading core parts of corporate governance to Principles, while removing parts that overlapped with other provisions within the Code or other laws and regulations. Since the Code aims to support management in considering and implementing measures to increase corporate value over the mid- to long-term, the Code was revised to emphasize key elements as concisely as possible and to distinguish important items from others.

12. These are the purposes of streamlining the Code. The intent is not to only reduce company implementation costs and disclosure burdens. It is not appropriate to understand that those provisions or statements that have been moved to “Interpretive Guidance” and are outside of the scope of comply or explain or that have been removed from the Code have lost importance after the 202X revisions. Companies are expected to implement each Principle of the Code in substance while fully understanding the aim of streamlining of the Code.

Notes on the 202X Revisions

13. In conjunction with the 202X revisions, the Financial Services Agency and the Tokyo Stock Exchange published a document titled “the Revised Corporate Governance Code to Promote Growth Investments,” describing the aims of the revisions. Companies, shareholders, and stakeholders are expected to refer to the document.

14. Given that annual securities reports contain useful and reliable information for decision making by investors, the 202X revisions states that the submission of annual securities reports before general shareholder meetings is a key measure to ensure the

appropriate exercise of rights by shareholders at general shareholder meetings as stated in Principle 1.2.

The Interpretative Guidance complements the Principle by stating that it is best to submit annual securities reports at least three weeks before the general shareholders meetings, and companies should consider such measures as moving back the dates of general shareholder meetings. The Financial Services Agency acknowledges the operational burden and difficulty of submission of annual securities reports three weeks or more before the date of general shareholder meetings given common practices under the existing laws. The Financial Services Agency will coordinate in tandem with the Ministry of Justice to consider the legal framework. This includes the consolidation of annual securities reports and business reports and the unification of audits required under the Companies Act and the Financial Instruments and Exchange Act as discussed by the Legislative Council, and the optimization of disclosure items in the annual securities reports.

General Principles

Securing the Rights and Equal Treatment of Shareholders, and Dialogue with Shareholders

1. Companies should take appropriate measures to fully secure shareholder rights and develop an environment in which shareholders can exercise their rights appropriately and effectively.

In addition, companies should secure effective equal treatment of shareholders.

Given their particular sensitivities, adequate consideration should be given to the issues and concerns of minority shareholders and foreign shareholders for the effective exercise of shareholder rights and effective equal treatment of shareholders.

In order to contribute to sustainable growth and the increase of corporate value over the mid- to long-term, companies should engage in constructive dialogue with shareholders even outside the general shareholder meeting.

Appropriate Cooperation with Stakeholders Other Than Shareholders

2. Companies should fully recognize that their sustainable growth and the creation of mid- to long-term corporate value are brought about as a result of the provision of resources and contributions made by a range of stakeholders, including employees, customers, business partners, creditors and local communities. As such, companies should endeavor to appropriately cooperate with these stakeholders.

The board and the management should exercise their leadership in establishing a corporate culture where the rights and positions of stakeholders are respected and sound business ethics are ensured.

Ensuring Appropriate Information Disclosure and Transparency

3. Companies should appropriately make information disclosure in compliance with the relevant laws and regulations, but should also strive to actively provide information beyond that required by law. This includes both financial information, such as financial standing and operating results, and non-financial information, such as business strategies and business issues, risk and governance.

The board should recognize that disclosed information will serve as the basis for constructive dialogue with shareholders, and therefore ensure that such information, particularly non-financial information, is accurate, clear and useful.

Responsibilities of the Board

4. Given its fiduciary responsibility and accountability to shareholders, in order to promote sustainable corporate growth and the increase of corporate value over the mid- to long-term and enhance earnings power and capital efficiency, the board should appropriately fulfill its roles and responsibilities, including:
 - (1) Setting the broad direction of corporate strategy;
 - (2) Establishing an environment where appropriate risk-taking by the management is supported; and
 - (3) Carrying out effective oversight of directors and the management (including *shikkoyaku* and so-called *shikkoyakuin*) from an independent and objective standpoint.

Section 1: Securing the Rights and Equal Treatment of Shareholders, and Dialogue with Shareholders

General Principle 1

Companies should take appropriate measures to fully secure shareholder rights and develop an environment in which shareholders can exercise their rights appropriately and effectively.

In addition, companies should secure effective equal treatment of shareholders.

Given their particular sensitivities, adequate consideration should be given to the issues and concerns of minority shareholders and foreign shareholders for the effective exercise of shareholder rights and effective equal treatment of shareholders.

In order to contribute to sustainable growth and the increase of corporate value over the mid- to long-term, companies should engage in constructive dialogue with shareholders even outside the general shareholder meeting.

Interpretive Guidance

Companies have various stakeholders, including shareholders. Without appropriate cooperation with these stakeholders, it would be difficult for companies to achieve sustainable growth. Suppliers of capital are an important cornerstone, and shareholders are the primary starting point for corporate governance discipline. Companies should secure appropriate cooperation with shareholders and strive toward the achievement of sustainable growth by fully securing shareholder rights and providing for the smooth exercise thereof.

In addition, the Companies Act requires companies to equally treat shareholders based on the class and number of shares they hold. Gaining broad confidence of shareholders that they receive equal treatment will also contribute to strengthening support from the suppliers of capital.

Given the importance of shareholder rights, companies should ensure that the exercise of shareholder rights is not impeded. In particular, adequate consideration should be given to the special rights that are recognized for minority shareholders with respect to companies and their officers, including the right to seek an injunction against illegal activities or the right to file a shareholder lawsuit, since the exercise of these rights tends to be prone to issues and concerns. Also given the issues of structural conflicts of interest and information asymmetry among minority shareholders, management and controlling

shareholders, companies should ensure appropriate procedures and safeguard the interests of minority shareholders by thoroughly evaluating the necessity and rationale from the perspectives of whether, for example: (i) the objective of adopting and triggering an anti-takeover measure is not associated with entrenchment of the management or the board; (ii) a company's capital policy that results in a change of control or in significant dilution, including share offerings and management buyouts, will not unfairly harm the existing shareholders' interests; and (iii) related party transactions will not harm the interests of the company or the common interests of its shareholders. Controlling shareholders should respect the common interests of the company and its shareholders and should not treat minority shareholders unfairly. Companies with a controlling shareholder should develop a governance system to protect the interest of minority shareholders.

Also, because capital policy may have a significant effect on shareholder returns, as a significant premise for substantively securing the rights of shareholders, companies should explain their basic strategy with respect to their capital policy.

With the establishment of Japan's Stewardship Code, institutional investors should engage in purposeful dialogue (engagement) based on the in-depth knowledge of investee companies and their business environment. Regularly engaging in dialogue with shareholders to gain their understanding of specific business strategies and business plans and taking appropriate action when there are concerns are extraordinarily useful for companies to strengthen the foundations of management legitimacy and support their efforts to generate sustainable growth. During dialogue with shareholders, management and directors should listen to the views of shareholders and pay due attention to their interests and concerns, clearly explain business policies to shareholders in an understandable manner so as to gain their support, and work for developing a balanced understanding of the positions of shareholders and other stakeholders and acting accordingly. If the management and directors give due attention to the views of shareholders through dialogue, they can absorb views and analyses of business management from the perspective of capital providers. Dialogue with shareholders should also inspire healthy entrepreneurship in the management and directors and thereby contribute to sustainable corporate growth.

Principle 1.1 Constructive Dialogue with Shareholders

- (1) Companies should, positively and to the extent reasonable, respond to the requests from shareholders to engage in dialogue so as to support sustainable growth and increase corporate value over the mid- to long-term. The board should establish, approve and disclose policies concerning the measures and organizational structures aimed at promoting constructive dialogue with shareholders.
- (2) Taking the requests and interests of shareholders into consideration, to the extent reasonable, the management, directors, including outside directors¹, and *kansayaku*, should basically engage in dialogue with shareholders.
- (3) Based on the content of dialogue with shareholders, companies should take appropriate measures such as internally sharing information and conducting reviews as necessary.

Interpretive Guidance

Policies for promoting constructive dialogue with shareholders should at minimum include (i) appointing a member of the management or a director who is responsible for overseeing and ensuring that constructive dialogue takes place, including the matters stated in items (ii) to (v) below, (ii) measures to ensure positive cooperation between internal departments such as investor relations, corporate planning, general affairs, human resources, corporate finance, accounting and legal affairs with the aim of supporting dialogue, (iii) measures to promote opportunities for dialogue aside from individual meetings (e.g., general investor meetings and other IR activities), (iv) measures to appropriately and effectively relay shareholder views and concerns learned through dialogue to the management and the board, and (v) measures to control insider information and material information to which the fair disclosure rule applies when engaging in dialogue.

Companies should recognize that there are situations where outside directors should engage in dialogue depending on the main topics of dialogue and should select appropriate persons for each dialogue from the perspective of holding constructive

¹ Outside director: A director who satisfies certain requirements such as not holding specific positions, including the position of executive director, in the company or its subsidiaries (Article 2, Paragraph 15 of the Companies Act). Furthermore, matters such as not holding a specific position in the parent company or other subsidiaries and not having specific kinship ties with controlling shareholders is also required for outside directors under the Companies Act.

dialogue with shareholders, taking into consideration the requests from shareholders and the main topic of the dialogue.

Principle 1.2 Exercise of Shareholder Rights at General Shareholder Meetings

Companies should, considering that general shareholder meetings are an opportunity for constructive dialogue with shareholders, take appropriate measures from the shareholders' perspective to ensure the exercise of shareholder rights at such meetings, for example, providing accurate information to shareholders as necessary in order to facilitate appropriate decision-making at general shareholder meetings such as by submitting the annual securities reports before the general shareholder meetings, appropriately setting the dates related to general shareholder meetings including dates of meetings and record dates for exercising voting rights, and for companies listed on the Prime Market, making the Electronic Voting Platform available, at least to institutional investors.

Interpretive Guidance

General shareholder meetings provide one of the few opportunities for shareholders to directly express their opinions to companies through the exercise of their voting rights and opportunities for constructive dialogue with shareholders. Companies should take appropriate measures from the perspectives of shareholders to enable shareholders to facilitate appropriate decision-making at general shareholder meetings.

For Example:

- (i) Since annual securities reports contain useful and reliable information for decision-making by investors, including information related to governance such as remuneration of directors and cross-shareholdings, it is best to submit annual securities reports at least three weeks before the general shareholder meetings. To do so, companies consider such measures as moving back the dates of general shareholder meetings and the record dates for exercising voting rights from the customary time under the current practice.
- (ii) Companies disclose information included in the convening notice through electronic means such as through TDnet² or on the company's website during the

² TDnet: The Tokyo Stock Exchange operates a real-time internet service (Timely Disclosure

period between the board approval of convening the general shareholder meeting and sending the convening notice to give shareholders sufficient time to consider the agenda.

(iii) Bearing in mind the number of institutional and foreign shareholders, companies take steps for the creation of infrastructure allowing electronic voting, including the use of the Electronic Voting Platform, and the provision of English translations of the convening notices of general shareholder meetings.

(iv) In order to prepare for cases where institutional investors who hold shares in street name express an interest in advance of the general shareholder meeting in attending the general shareholder meeting or exercising voting rights, companies work with a trust bank (*shintaku ginko*) and/or custodial institutions to consider such possibility.

Principle 1.3 Company Proposals that are Opposed to by a Considerable Number of Shareholders at General Shareholder Meetings

When the board recognizes that a considerable number of votes have been cast against a proposal by the company and the proposal was approved, it should analyze the reasons behind opposing votes and why many shareholders opposed, and take actions appropriately in order to contribute to ensuring the shareholder rights.

Interpretive Guidance

For example, the board could explain to shareholders the results of an analysis on the reasons behind opposing votes and why many shareholders opposed, as well as the status of the company's response measures based on the analysis.

Principle 1.4 Cross-Shareholdings

When companies hold shares of other listed companies as cross-shareholdings³, they should disclose their policy with respect to doing so, including their policies regarding the reduction of cross-shareholdings. In addition, the board should annually assess

network) which distributes the information provided by listed companies on a timely basis in accordance with its listing rules.

³ Cross-shareholding: There are cases where listed companies hold the shares of other listed companies for reasons other than pure investment purposes, for example, to strengthen business relationships. Cross-shareholdings here include not only mutual shareholdings but also unilateral ones.

whether or not to hold each individual cross-shareholding, specifically examining whether the purpose is appropriate and whether the benefits and risks from each holding cover the company's cost of capital. The results of this assessment should be disclosed.

Companies should establish and disclose specific standards with respect to the voting rights as to their cross-shareholdings, and vote in accordance with the standards.

When cross-shareholders (i.e., shareholders who hold a company's shares for the purpose of cross-shareholding) indicate their intention to sell their shares, companies should not hinder the sale of the cross-held shares by, for instance, implying a possible reduction of business transactions.

Companies should not engage in transactions with cross-shareholders which may harm the interests of the companies or the common interests of their shareholders by, for instance, continuing the transactions without carefully examining the underlying economic rationale.

Section 2: Appropriate Cooperation with Stakeholders Other Than Shareholders

General Principle 2

Companies should fully recognize that their sustainable growth and the creation of mid- to long-term corporate value are brought about as a result of the provision of resources and contributions made by a range of stakeholders, including employees, customers, business partners, creditors and local communities. As such, companies should endeavor to appropriately cooperate with these stakeholders.

The board and the management should exercise their leadership in establishing a corporate culture where the rights and positions of stakeholders are respected and sound business ethics are ensured.

Interpretive Guidance

Companies have a variety of important stakeholders besides shareholders. These stakeholders include internal parties such as employees and external parties such as customers, business partners and creditors. In addition, local communities form the foundation for the on-going business activities of companies. Companies should fully recognize that sustainable growth and increasing corporate value over the mid- to long-term can be achieved through appropriate cooperation with these stakeholders including through investment in human capital, appropriate distribution and fair and reasonable transaction with suppliers (including a fair price-passthrough within a supply chain).

The appropriate actions of companies based on the recognition of their stakeholder responsibilities will benefit the entire economy and society, which will in turn contribute to producing further benefits to companies, thereby creating a virtuous cycle. Furthermore, investments that contribute to local communities resulting in increasing corporate value over the mid- to long-term are important in the context of revitalizing the foundation of company sustainability and activities.

Based on such awareness, companies should draft and implement a code of conduct for employees in order to express their values with respect to appropriate cooperation with and serving the interests of stakeholders and carrying out sound and ethical business activities. The board should be responsible for drafting and revising the code of conduct, and should ensure its compliance broadly across the organization, including the front line of domestic and global operations.

Principle 2.1 Business Principles as the Foundation of Corporate Value Creation Over the Mid- to Long-Term

Guided by their position concerning social responsibility, companies should undertake their businesses in order to create value for all stakeholders while increasing corporate value over the mid- to long-term. To this end, companies should draft and maintain business principles that will become the basis for such activities.

Principle 2.2 Ensuring Diversity

Companies should determine and disclose the status of their policies and voluntary and measurable goals for ensuring diversity, including the promotion of employees to senior positions in the company from perspectives including gender, international experience, career experience (including lateral employees), age, and cultural background.

Companies should disclose its policies for human resource development and internal environment development to ensure diversity, as well as the status of their implementation.

Interpretive Guidance

The existence of diverse perspectives and values reflecting a variety of experiences, skills and characteristics is a source of innovation and new value creation and can be a strength that supports companies' transformation and sustainable growth. In light of the importance of human resource strategies to achieve sustainable growth, companies should determine their policies and voluntary and measurable goals for ensuring diversity suitable for its situation from perspectives including gender, international experience, career experience (including lateral employees), age, and cultural background.

Principle 2.3 Whistleblowing

Companies should establish an appropriate framework for whistleblowing, and the board should monitor its enforcement.

Interpretive Guidance

Companies should establish an appropriate framework for whistleblowing such that

employees can report illegal or inappropriate behavior, disclosures, or any other serious concerns without fear of suffering from disadvantageous treatment. Also, the framework should allow for an objective assessment and appropriate response to the reported issues. As a part of establishing a framework for whistleblowing, companies should establish a point of contact that is independent of the management and rules to secure the confidentiality of the information provider and prohibit any disadvantageous treatment.

Principle 2.4 Roles of Corporate Pension Funds as Asset Owners

Because the management of corporate pension funds impacts stable asset formation for employees and companies' own financial standing, companies should take and disclose measures to improve human resources and operational practices, such as the recruitment or assignment of qualified persons, in order to increase the investment management expertise of corporate pension funds (including stewardship activities such as monitoring the asset managers of corporate pension funds), thus making sure that corporate pension funds perform their roles as asset owners. Companies should ensure that conflicts of interest which could arise between pension fund beneficiaries and companies are appropriately managed.

Section 3: Ensuring Appropriate Information Disclosure and Transparency

General Principle 3

Companies should appropriately make information disclosure in compliance with the relevant laws and regulations, but should also strive to actively provide information beyond that required by law. This includes both financial information, such as financial standing and operating results, and non-financial information, such as business strategies and business issues, risk and governance.

The board should recognize that disclosed information will serve as the basis for constructive dialogue with shareholders, and therefore ensure that such information, particularly non-financial information, is accurate, clear and useful.

Interpretive Guidance

Companies are legally required to disclose a wide range of information. The timely and appropriate disclosure of information in accordance with the relevant laws and regulations is essential for investor protection and securing market confidence. The board, *kansayaku*, the *kansayaku* board and external auditors all bear an important responsibility in this regard, starting with the establishment of an appropriate internal control system as to financial information.

In order to enhance transparency and fairness in decision-making and to ensure effective corporate governance, companies should actively strive to provide information including, but not limited to, what is required by laws and regulations and each Principle of the Code.

It has been noted that while the quantitative part of financial statements of Japanese companies conform to a standard format and therefore excel with respect to comparability, non-financial information, such as financial standing, business strategies, risks and environmental, social and governance matters, is often boiler-plate and lacking in detail, therefore less valuable. The board should actively commit to ensure that disclosed information, including non-financial information, is as valuable and useful as possible.

Irrespective of whether the disclosed information is required by law, the appropriate provision of information is an effective means to develop a shared awareness and understanding with shareholders and other stakeholders, in particular given that they suffer from information asymmetry. Appropriate information disclosure will also

contribute to constructive dialogue based on Japan's Stewardship Code.

Principle 3.1 Full Disclosure

In addition to making information disclosure in compliance with relevant laws and regulations, companies should disclose and proactively provide the information listed below:

- (1) Company objectives (e.g., business principles), business strategies and business plans;
- (2) Basic views and guidelines on corporate governance based on each of the Principles of the Code;
- (3) Board policies and procedures in determining the remuneration of the management and directors;
- (4) Board policies and procedures in the appointment/dismissal of the management and the nomination of directors and *kansayaku* candidates; and
- (5) Explanations with respect to the individual appointments/dismissals and nominations based on (4).

Principle 3.2 English Language Disclosure

Bearing in mind the number of foreign shareholders, companies should, to the extent reasonable, take steps for providing English language disclosures.

Principle 3.3 External Auditors

External auditors and companies should recognize the responsibility that external auditors owe toward shareholders and investors, and take appropriate steps to secure the proper execution of audits.

Interpretive Guidance

The *kansayaku* board should, at minimum, ensure (i) establishing standards for the appropriate selection of external auditor candidates and proper evaluation of external auditors, and (ii) verifying whether external auditors possess necessary independence and

expertise to fulfill their responsibilities. The board and the *kansayaku* board should, at minimum, (iii) give adequate time to ensure high quality audits, (iv) ensure that external auditors have access, such as via interviews, to the management including the CEO and the CFO, (v) ensure adequate coordination between external auditors and each of the *kansayaku* (including attendance at the *kansayaku* board meetings), the internal audit department and outside directors, and (vi) ensure that the company is constituted in the way that it can adequately respond to any misconduct, inadequacies or concerns identified by the external auditors.

Section 4: Responsibilities of the Board

General Principle 4

Given its fiduciary responsibility and accountability to shareholders, in order to promote sustainable corporate growth and the increase of corporate value over the mid- to long-term and enhance earnings power and capital efficiency, the board should appropriately fulfill its roles and responsibilities, including:

- (1) Setting the broad direction of corporate strategy;
- (2) Establishing an environment where appropriate risk-taking by the management is supported; and
- (3) Carrying out effective oversight of directors and the management (including *shikkoyaku*⁴ and so-called *shikkoyakuin*⁵) from an independent and objective standpoint.

Interpretive Guidance

With due attention to their fiduciary responsibilities to shareholders and the fact that they are elected by shareholders, the directors and *kansayaku* should secure appropriate cooperation with stakeholders other than shareholders and act in the interest of the company and the common interests of its shareholders.

The ideal state of the board changes depending on its path for growth and the situations surrounding the company, and the ideal division of responsibilities between the board and management varies depending on the situations at each company. The board should persistently consider the ideal state of the board based on such perspectives.

Companies may choose one of three main forms of organizational structure under the Companies Act: Company with *Kansayaku* Board, Company with Three Committees (Nomination, Audit and Remuneration), or Company with Supervisory Committee. Irrespective of which form of organizational structure is adopted, what is important is that

⁴ *Shikkoyaku*: According to the Companies Act, Companies with Three Committees (Nomination, Audit and Remuneration) must appoint one or more *shikkoyaku* from directors or non-directors by a resolution of the board and delegate business administration to *shikkoyaku*. Also, authority to make certain kinds of business decisions may be delegated to *shikkoyaku*.

⁵ *Shikkoyakuin*: There are cases where a Company with *Kansayaku* Board or a Company with Supervisory Committee creates positions with the title of “*shikkoyakuin*” for persons who are delegated by the board a certain range of discretion regarding business administration. Unlike *shikkoyaku* in Companies with Three Committees (Nomination, Audit and Remuneration), *shikkoyakuin* is not a statutory position.

the various institutions within the company effectively and fully execute their responsibilities through creativity and ingenuity.

The possibility cannot be ruled out that, due to changes in the external environment or other factors, a decision made by a company ultimately results in losses for the company. In such a circumstance, the reasonableness of the decision-making process at the time of the decision is generally considered an important factor in determining whether or not the management and directors should owe personal liability for damages. The Code includes principles and practices that are expected to contribute to such a reasonable decision-making process, and it is expected that these promote transparency, fairness, timeliness and decisiveness as well.

Principle 4.1 Roles and Responsibilities of the Board I: Setting Strategic Directions for Companies' Business Strategies

The board should view the establishment of corporate goals (e.g., business principles) and the setting of strategic direction such as creating a path for growth toward corporate goals as one major aspect of its roles and responsibilities. It should engage in constructive discussion with respect to specific business strategies and business plans.

When establishing and disclosing business strategies and business plans, with the aim of achieving growth, the board should articulate their earnings plans and capital policies taking into account the cost of capital, present targets for profitability and capital efficiency, and explain specific measures that will be taken in order to achieve growth related to allocation of business resources such as growth investment (including capital expenditure, R&D, human capital, and intangible assets, including intellectual properties) and review of their business portfolio.

Interpretive Guidance

Companies should set a path for growth toward corporate goals (e.g., business principles), taking into account their strengths including competitive advantages and various stakeholders, and operate business activities in accordance with this path. The board has roles and responsibilities in constructing and presenting the path for growth.

Based on the path for growth, the board should establish and disclose business strategies and business plans while accurately identifying the company's cost of capital. Also, in order to achieve these presented earnings plans, capital policies and targets for profitability and capital efficiency, companies should appropriately allocate capital and other business resources such as by carrying out growth investments and business portfolio reviews.

The board should, from the perspective of increasing corporate value over the mid- to long-term, provide explanations that are clear and logical to shareholders regarding specific measures that will be taken in order to achieve their business strategies, business plans and capital policy, taking into account its profitability, capital efficiency, the cost of capital, growth potential, growth stage of a company and opportunity cost (loss of profit from taking one option over another). When considering investments, the board should sufficiently recognize that there are various investment opportunities; for example, (i) from such perspectives as investing internally (investing in assets such as capital expenditure, R&D, human capital and intangible assets, including intellectual properties)

or investing externally (investing in M&As, business alliances, and start-ups), (ii) from such perspectives as short or mid- to long-term, (iii) from such perspectives as domestic investments (investing in regions such as human capital and establishing regional headquarters) or overseas investments. Investing in intangible assets, including intellectual properties, should be addressed strategically in terms of their creation, acquisition, strengthening, protection, and monetization, in recognition of their role as a source of competitiveness and corporate value.

In formulating and announcing business strategies, companies should clearly present the basic policy regarding the business portfolio decided by the board and the status of the review of such portfolio.

In addition, recognizing that a mid-term business plan (*chuuki keiei keikaku*) is a commitment to shareholders, if the board and the management have created and disclosed a plan, they should do their best to achieve the plan. Should the company fail to deliver on its mid-term business plan, the reasons underlying the failure of achievement as well as the company's actions should be fully analyzed, an appropriate explanation should be given to shareholders, and analytic findings should be reflected in a plan for the ensuing years.

Principle 4.2 Roles and Responsibilities of the Board II: Establishing Environment for Supporting Appropriate Risk-taking

- (1) The board should establish an environment that supports appropriate risk-taking by the management.
- (2) The board should persistently review whether the allocation of the company's business resources is appropriate in light of its disclosed business strategy and business plan created with the aim of achieving growth.
- (3) Also, the remuneration of the management should include appropriate incentives to increase corporate value over the mid- to long-term.

Interpretive Guidance

The board should view the establishment of an environment that supports appropriate risk-taking by the management as a major aspect of its roles and responsibilities. It should welcome proposals from the management based on healthy entrepreneurship, fully examine such proposals from an independent and objective standpoint with the aim of

securing accountability, and support timely and decisive decision-making by the management when approved plans are implemented.

Based on its business strategies and plans, the board should persistently review the allocation of company business resources that support appropriate risk-taking and that lead to sustainable growth and increased corporate value over the mid- to long-term, including whether business resources, such as financial assets like cash and real assets, are utilized efficiently in growth investments. The board should effectively supervise the allocation of business resources and the implementation of business portfolio strategies to ensure that they contribute to the sustainable growth of the company.

Also, the board should design management remuneration systems through objective and transparent procedures and determine specific amount of remuneration accordingly. In doing so, the proportion of management remuneration linked to mid- to long-term results and the balance of cash and stock should be set appropriately, reflecting mid- to long-term business results and potential risks, as well as promoting healthy entrepreneurship.

Principle 4.3 Roles and Responsibilities of the Board III: Effective Oversight of the Management and Directors (i)

- (1) The board should, from an independent and objective standpoint, appropriately evaluate company performance and reflect the evaluation in its assessment of the management including appointment/dismissal of the management according to objective, timely and transparent procedures.

Epecially, regarding the appointment/dismissal of the Chief Executive Officer (CEO), the board should, based on the company objectives (e.g., business principles) and specific business strategies, proactively engage in the establishment and implementation of a succession plan for the CEO and appropriately oversee that the development of succession candidates and appointment of a qualified CEO are strategically carried out by deploying sufficient time and resources. The board should establish objective, timely, and transparent procedures such that a CEO is dismissed when it is determined, via an appropriate evaluation of the company's business results, that the CEO is not adequately fulfilling the CEO's responsibilities.

- (2) The board should engage in oversight activities in order to ensure timely and

accurate information disclosure.

- (3) The board should appropriately deal with any conflict of interests that may arise between the company and its related parties, including the management and controlling shareholders. Regarding transactions between the company and its related parties, the board should establish appropriate procedures beforehand in proportion to the importance and characteristics of the transaction. In addition to their use by the board in monitoring (including approving) such transactions, these procedures should be disclosed.

Interpretive Guidance

The board's major roles and responsibilities from an independent and objective standpoint include effective oversight of the management and directors such as appointment/dismissal of management, timely and accurate information disclosure, and managing related party transactions.

The selection of core management members is the foundation of effective corporate governance. In particular, appointment/dismissal of a CEO is one of the most important strategic corporate decisions to be made. Given such importance, the board should monitor appointments/dismissals of management.

Principle 4.4 Roles and Responsibilities of the Board III: Effective Oversight of Management and Directors (ii)

The board should establish appropriate internal control and enterprise risk management systems.

Interpretive Guidance

The establishment of effective internal control and proactive enterprise risk management is not only important for mitigating risks and sustaining trust, but it also has the potential of supporting management in decisive risk-taking. The board should appropriately establish such systems on an enterprise basis and oversee their operational status in addition to utilizing the internal audit department. Responses to cybersecurity risk, supply chain disruption risk due to geopolitical factors, such as changes in the global economic security environment, and the risk of leakage of technological and other information could also lead to profit opportunities. These risks could be included in the

factors to be considered when establishing a risk management system, and responses to these risks should be appropriately conducted.

Principle 4.5 Roles and Responsibilities of the Board IV: Sustainability Measures

The board should address sustainability matters positively and proactively in terms of increasing corporate value over the mid- to long-term. Also, the board should develop a basic policy for the company's sustainability initiatives and take appropriate measures.

Interpretive Guidance

Sustainability (mid- to long-term sustainability) is an important management issue. From the perspective of assessing mid- to long-term corporate value, the importance of sustainability-related information is growing globally. The International Sustainability Standards Board (ISSB) has formulated a global sustainability disclosure standard (ISSB Standards), and there has been progress in countries' implementation of the sustainability disclosure standard. Meanwhile, it is important for companies to further promote positive and proactive responses to sustainability issues.

The board should recognize that dealing with sustainability issue, such as taking care of climate change and other global environmental issues, respect of human rights, fair and appropriate treatment of the workforce including caring for their health and working environment, crisis management for natural disasters, and diversity are important management issues that can lead to earning opportunities as well as risk mitigation, and should take appropriate measures to address these issues.

Principle 4.6 Roles and Responsibilities of *Kansayaku* and the *Kansayaku* Board

Kansayaku and the *kansayaku* board should bear in mind their fiduciary responsibilities to shareholders and make decisions from an independent and objective standpoint when executing their roles and responsibilities, and they should positively and proactively exercise their rights and express their views at board meetings and to the management.

Interpretive Guidance

Although so-called “defensive functions,” such as business and accounting audits, are part of the roles and responsibilities expected of *kansayaku* and the *kansayaku* board, in order to fully perform their duties, it would not be appropriate for *kansayaku* and the *kansayaku* board to interpret the scope of their function too narrowly.

kansayaku or the *kansayaku* board should secure cooperation with outside directors so that such directors can strengthen their capacity to collect information without having their independence jeopardized.

Principle 4.7 Use of Optional Approaches

In adopting the most appropriate organizational structure (as stipulated by the Companies Act) that is suitable for a company’s specific characteristics, companies should employ optional approaches, as necessary, to further enhance governance functions.

In particular, if the organizational structure of a company is either Company with *Kansayaku* Board or Company with Supervisory Committee and independent directors do not compose a majority of the board, the company should establish an independent nomination committee and remuneration committee under the board, comprised primarily of independent directors, and seek appropriate involvement and advice from the committees.

Companies listed on the Prime Market should basically have the majority of the members of each committee be independent directors⁶, and should disclose the mandates and roles of the committees, as well as the policy regarding the independence of the composition.

Interpretive Guidance

The ideal state of the board can vary depending on the characteristics of each company. Companies should adopt the optimal organizational structure best suited to their specific situation, while effectively utilizing optional committees, such as nomination committees and remuneration committees, to further strengthen their governance framework.

In order to strengthen the independence, objectivity and accountability of board

⁶ Independent director: The listing rules of securities exchanges provide that the outside directors, as defined in the Companies Act, are independent directors where they satisfy independence criteria of securities exchanges and the company determines that they do not have the possibility of conflicts of interest with its shareholders.

functions on the matters of nomination (including succession plan) and remuneration of the management and directors, the formation of nomination committee and remuneration committee is important. A nomination committee and remuneration committee should have the responsibilities of appropriately involving and providing advice to the board, including from the perspective of gender and other diversity and skills, in the examination of such important matters as nominations and remuneration.

Principle 4.8 Roles and Responsibilities of Independent Directors

Companies should make effective use of independent directors taking into consideration the expectations listed below with respect to their roles and responsibilities:

- (1) Monitoring of the management through important decision-making at the board including the appointment/dismissal of the management;
- (2) Monitoring of conflicts of interest between the company and the management or controlling shareholders;
- (3) Appropriately representing the views of minority shareholders and other stakeholders in the boardroom from a standpoint independent of the management and controlling shareholders; and
- (4) Provision of advice on business policies and business improvement based on their knowledge and experience with the aim to promote sustainable corporate growth and increase corporate value over the mid- to long-term.

Interpretive Guidance

Independent directors are expected to proactively perform important roles and responsibilities primarily relating to matters indicated in (1) through (4) of this Principle based on an independent and objective standpoint from the management and controlling shareholders.

For example, independent directors should put effort into reflecting the views of minority shareholders in the boardroom through directly holding dialogue with shareholders as necessary. Also, by building a trusting and candid relationship with the management, in normal times, independent directors should delegate business execution to the management and carry out strategic discussions and decision-making via monitoring and provision of advice. If independent directors cannot agree with an

explanation provided by the management, it is necessary that they express opposing opinions in order to appropriately perform their roles and responsibilities. Further, independent directors should perform their roles and responsibilities, including by proactively making contribution in a nomination committee and remuneration committee, in mitigating management bias and ensuring that the appointment/dismissal of CEOs and management (including a succession plan) and remunerations are appropriate from the perspective of increasing corporate value over the mid- to long-term. In companies with controlling shareholders, the roles and responsibilities of independent directors are particularly important due to the structural conflict of interests between the management/controlling shareholders and minority shareholders.

On the other hand, in emergencies such as deteriorating business performance, the handling of misconduct, and corporate takeovers, independent directors should act to protect the common interests of shareholders and increase corporate value over the mid- to long-term by utilizing their independent standpoint from the management, and if the management has a conflict of interests, by appropriately making judgement as a decision maker and fulfilling their accountability.

Principle 4.9 Ensuring the Expertise of Independent Directors

The board should select candidates for independent director who have sufficient expertise to fulfill their roles and responsibilities in contributing to the sustainable growth of the company and increasing corporate value over the mid- to long-term, such as those who are expected to contribute to frank, active and constructive discussions at board meetings.

Interpretive Guidance

In order for independent directors to effectively and appropriately fulfill their roles and responsibilities, it is necessary to appoint a certain number of independent directors who have sufficient expertise. The objective and independent standpoint of independent directors ensures the credibility and fairness of their roles and responsibilities. Of these, this Principle is relevant to the expertise of each independent director, which is the basis for the board to appropriately fulfill their roles and responsibilities.

The board could consider what kind of candidate would be qualified for fulfilling the roles and responsibilities in contributing to the sustainable growth of the company and increasing corporate value over the mid- to long-term, taking into account company

objectives (e.g., business principles) and specific business strategies. Then, the board could establish a standard with respect to necessary expertise such as insights, skills and experience in order to appoint appropriate independent directors.

Principle 4.10 Securing Sufficient Number of Independent Directors

Companies should appoint independent directors who have sufficient expertise to fulfill their roles and responsibilities with the aim of contributing to sustainable growth of companies and increasing corporate value over the mid- to long-term. Companies listed on the Prime Market should therefore appoint at least one-third of their directors as independent directors (two directors if listed on other markets) that sufficiently have sufficient expertise.

Companies listed on the Prime Market with a controlling shareholder should appoint at least the majority of their directors (one-third of directors if listed on other markets and with a controlling shareholder) as independent directors who are independent of the controlling shareholder.

Irrespective of the above, if a company listed on the Prime Market believes it needs to appoint the majority of directors (at least one-third of directors if listed on other markets) as independent directors based on a broad consideration of factors such as the industry, company size, business characteristics, organizational structure and circumstances surrounding the company, it should appoint a sufficient number of independent directors.

Interpretive Guidance

This Principle relates to the “number” of independent directors, which is a necessary element for independent directors to appropriately and effectively fulfill their roles and responsibilities. Although this Principle expects companies to appoint a certain percentage/number of independent directors, merely securing a certain number of independent directors would not immediately result in the fulfillment of the roles and responsibilities of independent directors. Securing independent directors with necessary expertise is the basis for fulfilment.

Companies listed on the Prime Market with a controlling shareholder could select to establish a special committee composed of independent persons including independent director(s) to deliberate and review material transactions or actions that conflict with the interests of the controlling shareholder and minority shareholders, in lieu of appointing at

least the majority of their directors (one-third of directors if listed on other markets and with a controlling shareholder) as independent directors who are independent of the controlling shareholder, if they consider it appropriate.

It is also desirable that companies, which do not have a controlling shareholder, but have a shareholder with substantial control, take the approach in accordance with the aim of this Principle.

Principle 4.11 Ensuring Independence of Independent Directors

Boards should establish independence standards aimed at securing effective independence of independent directors, taking into consideration the independence criteria set by securities exchanges.

Interpretive Guidance

Ensuring the “independence” of independent directors secures the credibility and fairness of their roles and responsibilities, assuming that their expertise and the number of independent directors are sufficient.

In order to appoint independent directors who are objectively independent, the board should establish an objective independence standard for effectively determining that there is no potential conflict of interest between an independent director and general shareholders, such as if the independent director is associated with another entity with certain capital and business ties with the company, there being no potential influence from the associated entities.

Principle 4.12 Effective Functioning of Independent Directors

Independent directors should endeavor to exchange information and develop a shared awareness among themselves from an independent and objective standpoint.

Independent directors should endeavor to establish a framework for communicating and coordinating with the management and for cooperating with *kansayaku* or the *kansayaku* board.

Interpretive Guidance

Independent directors could hold regular meetings consisting solely of independent

directors (executive sessions) to exchange information and develop a shared awareness and to contribute proactively to discussions in the boardroom from the perspective of an objective and independent standpoint. Also for communicating and coordinating with the management and for cooperating with *kansayaku* or the *kansayaku* board, for example, appointing a director who is primarily in charge of communication, coordination and cooperation (the “Lead Independent Director”) from among themselves is one option.

Principle 4.13 Preconditions for Board and *Kansayaku* Board Effectiveness

- (1) The board should be well balanced in knowledge, experience and skills in order to fulfill its roles and responsibilities, and it should be constituted in a manner to achieve both diversity, including gender, international experience, career experience, age, cultural background, and appropriate size. The board should identify necessary skills that it should have in light of business strategies and disclose the combination of skills that each director possesses in an appropriate form according to the business environment and business characteristics, along with policies and procedures for nominating directors.
- (2) Persons with appropriate experience and skills as well as necessary knowledge on finance, accounting, and the law should be appointed as *kansayaku*. In particular, at least one person who has sufficient expertise on finance and accounting should be appointed as *kansayaku*. At least one person with with management experience in other companies should be included in independent directors.
- (3) The board should annually analyze and evaluate effectiveness of the board as a whole, and should disclose a summary of the results.

Interpretive Guidance

The board should identify the skills that are needed to perform its roles and responsibilities, and execute and implement its business strategies and business plans. Also, the board should consider the appropriate balance between knowledge, experience and skills of the board as a whole, as well as diversity and appropriate board size. Then, the board should make disclosure in accordance with the aim of this Principle, for example, “skills matrix” that lists knowledge, experience and skills of each director.

Outside directors, outside *kansayaku*, and other directors and *kansayaku* should devote sufficient time and effort required to appropriately fulfill their respective roles and

responsibilities. Therefore, where directors and *kansayaku* also serve as directors, *kansayaku* or the management at other companies, such positions should be limited to a reasonable number.

In addition, when evaluating the board effectiveness, it is beneficial to make evaluations that take into account how the board should function in order to fulfill their roles and responsibilities. While there are a variety of ways for making evaluations, for example, one option is for each director to make a self-evaluation and to evaluate the board as a whole.

Principle 4.14 Active Board Deliberations

- (1) The board should endeavor to foster a climate where free, open and constructive discussions and exchanges of views take place, including the raising of concerns by outside directors.
- (2) In order to fulfill their roles and responsibilities, directors and *kansayaku* should proactively collect information, and as necessary, request the company to provide them with additional information. Also, the board and the *kansayaku* board should verify whether information requested by directors and *kansayaku* is being provided smoothly.
- (3) Companies should establish a support structure for directors and *kansayaku*, including providing sufficient staff within the department that supports the board.

Interpretive Guidance

For the board to sufficiently perform its roles and responsibilities, it is crucial that the substantial deliberation is held in the boardroom. The board is expected to proactively implement measures to promote substantial and active deliberation.

The board should attempt to make deliberations active, for example, (i) sharing materials for the board meeting sufficiently in advance of the meeting date, (ii) providing sufficient information as necessary in addition to board materials to directors by the company (where appropriate, the information should be organized and/or analyzed to promote easy understanding), (iii) determining in advance the schedule of board meetings for the current year and anticipated agenda items, (iv) setting appropriately the number of agenda items and the frequency of board meetings, and (v) securing sufficient time for

deliberations.

In order to fulfill the roles and responsibilities of directors and *kansayaku*, it is essential that companies provide them with appropriate support, including responding to information requests made by directors and *kansayaku*.

Companies should ensure coordination between the internal audit department, directors and *kansayaku* by establishing a system in which the internal audit department appropriately reports directly to the board and the *kansayaku* board in order for them to fulfill their functions.

Also, in order to make deliberations active and to provide appropriate support including the provision of information to directors and *kansayaku*, including outside directors and *kansayaku*, it is important to promote initiatives such as enhancing the functions of the board secretariat (e.g., corporate secretary) who supports the board. It is desirable that the board secretariat proactively operate board meetings not only to serve their administrative functions in operating meetings, including those listed in (i) through (v) above, but also so that the boardroom and each committee operate as effective forums for discussion by setting appropriate agendas in light of the roles and responsibilities of the applicable meeting body. Also, as necessary, the board secretariat is expected to take on the role of communicating and coordinating with internal divisions of the company in order to appropriately provide company information when requested by outside directors and outside *kansayaku*.

In addition, the functions of the board secretariat are considered to be particularly important when an independent director serves as the chair of the board, or when the ratio of outside directors on the board is significant.

Principle 4.15 Director and *Kansayaku* Training

Directors and *kansayaku* should deepen their understanding of their roles and responsibilities as a critical governance body at a company, and should endeavor to acquire and update necessary knowledge and skills on the company's business, finance, and organization. Accordingly, companies should provide and arrange training opportunities suitable to each director and *kansayaku* along with financial support for associated expenses and should disclose their training policy for directors and *kansayaku*. The board should verify whether such opportunities and support are appropriately provided.