Study Group to Review Minority Shareholder Protection and other Framework of Quasi-Controlled Listed Companies: Second Phase
Minutes of the First Meeting

Date: Friday, January 6, 2023, 10:00 – 11:40
Place: Tokyo Stock Exchange, 15F Special Conference Room
Attendees: See member list

[Kikuchi, Director, Listing Department, TSE]

Today, we are holding the first meeting of the second phase of the Study Group to Review Minority Shareholder Protection and other Framework of Quasi-Controlled Listed Companies. Thank you for gathering here today, despite your busy schedules at the start of the new year. My name is Kikuchi. I work in the Listing Department and I will be moderating this Study Group. I'm looking forward to working with you all.

First of all, I would like to ask Mr. Ao, the Senior Executive Officer in charge of the Listing Department, to say a few words as we reboot the Study Group.

[Ao, Senior Executive Officer, TSE]

I am very grateful for your participation in this meeting, which is being held right at the start of the new year due to some scheduling conflicts. We look forward to working with you again this year.

This Study Group was established in December 2019 to discuss the issues raised by cases involving listed companies with controlling or quasi-controlling shareholders, how to coordinate interests with minority shareholders of listed companies, and the framework for protecting minority shareholders.

Since then, with your help, the Study Group has held four meetings for discussion, and published an Interim Report, in September 2020, which outlined what the issues are and what needs to be considered regarding the framework for protecting minority shareholders based on these issues. Since the Interim Report was published, the Corporate Governance Code has been revised, progress has been made on discussions on statutory disclosure. A certain amount of discussion and deliberation on the protection of minority shareholders has been accumulating outside of the stock exchange, and so we would like take advantage of this timing to resume discussions by the Study

Group as a “second phase” and to deepen discussions in a way that builds on the Interim Report, as the starting point.

[Kikuchi, Director, Listing Department, TSE]

Today is the first meeting after rebooting the Study Group, and I would like to introduce a few changes in the members of the Study Group since the last time we met.

First, Mr. Seita Ouchi, Managing Executive Officer of Nippon Steel Corporation, has joined the Study Group to replace Mr. Shozo Furumoto also from Nippon Steel Corporation.

Regretfully, Ms. Yuri Okina and Mr. Noriyuki Yanagawa, who participated up until the last meeting, have decided not to rejoin the Study Group due to other obligations.

Please note that one of the observers, the FSA, is participating online today.

Next, before we start today’s discussion, I would like to confirm how the Study Group operates.

[Ikeda, Senior Manager, Listing Department, TSE]

My name is Ikeda and I work in the Listing Department. I would like to explain how the Study Group operates.

First, as in previous meetings, we will not stream meetings online and we would like to keep meetings private so that we can have a lively exchange of opinions.

On the other hand, to ensure the transparency of our discussions, we will announce on our website that a meeting is to be held on the day of the meeting, in practice. We intend to publish the materials used in the meeting on our website at the same time that the meeting ends.

Regarding the proceedings of the Study Group, previously, the proceedings were summarized by the secretariat in the form of a “summary of proceedings” which we published after participants confirmed their contents. However, since the issues we are discussing are of great interest to investors and others, if possible, from this meeting, the secretariat will prepare “minutes” of the meeting on a verbatim basis, and after the minutes have been checked and corrected by members, we will publish them as soon as possible after the meeting.

[Kikuchi, Director, Listing Department, TSE]
As was explained just now, do you agree to the minutes of the meeting being published in lieu of a summary of proceedings from now on?

Thank you very much. So, since you have all agreed, from this meeting we will publish the minutes of the meeting.
We ask you to be careful with the way you handle the details in the proceedings before they are made public.
That completes our explanation of the way the Study Group will operate.

Next, we would like to explain today's agenda.

[Ikeda, Senior Manager, Listing Department, TSE]
Of the numerous issues that were outlined in the 2020 Interim Report, today we would like to start by focusing discussions on "information disclosure" as an issue that should be addressed promptly. After reviewing the survey conducted by the TSE, which we will introduce in a moment, we would like to discuss the specific details and the scope of disclosure. That is the first topic.
The second topic is the issue of governance, which is a topic that needs to be discussed in depth, and we would like to discuss it in depth at subsequent meetings. Before we embark on a detailed discussion, we would first like to ask for your general opinions on the second topic, with regard to the specific points to be discussed from the perspective of aligning the focus of the discussion.

[Kikuchi, Director, Listing Department, TSE]
Now, I would like to ask a TSE representative for an explanation based on the materials we have distributed. Since there are no major changes to the details in the document from the details previously explained to the members, we will keep the explanation short and focus on the items that we would like you to discuss.

[Shirozu, Manager, Listing Department, TSE]
I would now like to explain Document 3, which you have in front of you, on behalf of the secretariat. I would like to take a moment to briefly explain the parts other than the items we would like you to discuss.

Please turn over the cover page. On pages 2 to 4, you will find a summary of the Study Group's Interim Report and a summary of developments since the Interim Report was published. In the Interim Report, we organized the issues we considered, such as the enhancement of information disclosure and governance, and today we would like to focus discussions on information disclosure.

Moving on to page 5, "II. Information Disclosure" and thereafter, we have summarized materials related to the disclosure issue.

On page 6, we have listed the details that companies are required to disclose under the current listing system, by type of disclosing entity. Looking at the list as a whole, we believe that not only disclosures by listed subsidiaries to minority shareholders, but also information disclosures by listed parent companies to shareholders of listed parent companies, fulfills the function of providing information to minority shareholders of the subsidiaries, in some aspects.

Starting on page 7, we have summarized the results of a survey conducted by the TSE last year on the status of governance-related contracts executed by listed companies.

Page 7 provides a summary of the survey. We surveyed listed companies that have parent companies or listed companies that have other associated companies to determine whether they have contracts or intra-group rules for each of items (1) to (9) in the table below.

Then, page 8 onwards shows the aggregated results divided into companies with parent companies and companies that have other associated companies, which do not have a capital relationship up to the level of a parent company.

First, regarding companies with a parent company, page 8 shows the aggregate results of the status of contracts executed, and it shows that a certain number of contracts exist, mainly for prior consent, prior consultation, and the right to nominate candidates for board members.

Next, on pages 9 and 10, we have aggregated the extent to which these contracts are disclosed. Page 9 aggregates the status of disclosure on the listed subsidiary side and page 10 on the listed parent company side. We do not believe that disclosure is necessarily adequate in either case. Some companies include details of specific provisions in their disclosures about executed contract, while others provide a summary, and examples of these actual

disclosures are included on pages 11 and 12.

Next, pages 13 and 14 show the status of contracts executed among companies that have other associated companies. This is also a situation in which, while the majority of voting rights are not held, contracts exist to a certain extent, mainly for the right to nominate candidates for directors, matters related to maintaining shareholding ratios, prior consent and prior consultations, and so on. Moving on to pages 15 and 16, regarding the disclosure on contracts, the Financial System Council's Working Group on Corporate Disclosure has been discussing the disclosure on contracts in annual securities reports, and we have included details of the Working Group's report as a reference.

Next, on page 17 and thereafter we introduce examples of disclosures related to the policy and approach to group management and the positioning of listed subsidiaries.

Pages 17 and 18 are examples of disclosures by listed subsidiaries. We have included examples of subsidiaries explaining their position within the parent company's group. However, only a few companies currently provide such specific explanations.

Pages 19 and 20 are examples of disclosures by listed parent companies. Page 19 lists examples of group management policy disclosure. There are a very small number of examples in which companies describe the policy of what they intend to do with their listed subsidiaries, and in a few cases, companies disclose how they consider whether their subsidiaries should remain listed. Page 20 lists examples of disclosure of the significance of having a listed subsidiary, and includes specific examples that explain not only the rationale for "owning a subsidiary" but also the rationale for "keeping the subsidiary listed," but such examples are only a part of the picture.

Moving on to page 21, the Ministry of Economy, Trade and Industry's Group Guidelines also refer to the disclosure of information by a parent company regarding its listed subsidiaries, and details in those guidelines have been included for your reference.

Next, "III. Governance" on page 22 and thereafter are materials relating to governance issues.

On page 23, we introduce recent cases in which listed companies and their

shareholders came into conflict over the election of directors, including independent directors.

Page 24 outlines Supplementary Principle 4.8.3 regarding governance systems at companies with a controlling shareholder, which was newly added to the Corporate Governance Code. The page includes a table which aggregates listed companies' responses to this principle.

Next, is "IV. Scope of Application." On page 26, we have included an image of the expansion of the minority shareholder protection framework, as suggested in the Interim Report. We believe that, with regard to expanding the scope of application, rather than expanding the scope across the board, it would be better, for example, to vary the scope for each discipline such as expanding this scope with regard to information disclosure, or that scope with regard to procedures.

Finally, starting on page 27, we have explained the items we would like you to discuss today. We would like to know your opinions on two major topics, disclosure and governance.

Regarding the first topic, information disclosure, first, on page 28, as subitem (1) of item 1, we have in mind a listed subsidiary with a "parent company that is a listed company," and we believe that the objective here is to ensure sufficient predictability when minority shareholders and investors make decisions. To this end, we would like to hear your opinions on how we should enhance information disclosure. In particular, we would like to hear what specific information you consider it important to include in the disclosures by listed subsidiaries, based on the current disclosure items, and whether there are any matters that should be kept in mind when disclosing such information. Furthermore, given that disclosure on the part of listed parent companies complements the disclosure of information to minority shareholders of their subsidiaries, we would also like to ask how a listed parent company could go about enhancing its disclosures.

For your reference during the discussion, the table at the bottom of the page summarizes the current disclosure items and the status of the disclosures introduced in this document.

Next, on page 29, if possible, we would like to hear your opinions regarding

subitem (2), which differs from subitem (1) in terms of shareholder attributes, regarding the disclosure of information on listed companies with “unlisted parent companies” or “individual controlling shareholders”. In such cases, we are asking whether, in principle, the same disclosure requirements as those for listed subsidiaries could be considered, taking into account differences in shareholder attributes, and if they can, whether there are any particular points that should be kept in mind. Furthermore, regarding disclosing party, since unlisted parent companies and individual controlling shareholders themselves are not subject to the listing rules, we believe that appropriate disclosure should be required from controlled listed companies, and we would like to hear what you think about that.

Moving on, for the second item, we would like you to discuss the possibility of expanding the existing disclosure framework which targets “controlling shareholders” and enhancing the disclosure of information concerning listed companies with “quasi-controlling shareholders,” which are not currently subject to disclosure requirements.

In this case, given that information disclosure is required in cases where a company has a large shareholder holding a certain percentage of voting rights, we would like to ask your opinions on how we should enhance disclosure, taking into consideration that the strength of influence in such cases varies and that the company may not necessarily have substantial control.

In particular, we would like to ask what you think about the scope of application of disclosure requirements, and whether it is conceivable that the disclosure items and content should be the same for companies with a controlling shareholder, and if so, whether there are any particular points that should be considered.

The overall image of the discussion of information disclosure is shown in the table at the bottom of page 29. Again, we would like to start with subitem (1) of item 1, which is disclosure when a listed company has a listed parent company, then move on to subitem (2), which is disclosure when a listed company has an unlisted parent company or an individual controlling shareholder. Then we would like to move on to item 2, shown towards the right, and to have a discussion on how to expand disclosure in cases where the shareholding is less than 50%.

Turning to page 30, the second major topic we would like to ask for your opinions is governance. We would like to ask you what governance issues you think should be considered going forward in light of recent cases and the enactment of Supplementary Principle 4.8.3 of the Corporate Governance Code. This is just an example, but given that independent directors are expected to play a central role in governance, we feel that how to secure the independence of independent directors, assuming that the controlling shareholder has the right to select and dismiss independent directors or, as many companies have established a special committee in response to the enactment of the Corporate Governance Code, how to secure the effectiveness of such committees, are issues we would like you to focus on. But the discussion does not have to be limited to this, we would like to hear a wide range of opinions on governance issues.

In addition, since this is the first meeting after rebooting the Study Group, we would like to hear your opinions, not only from the perspective of governance and information disclosure, but also in light of the recent situation surrounding companies with controlling or quasi-controlling shareholders.

That concludes the explanation from the secretariat.

[Kikuchi, Director, Listing Department, TSE]

So, I would like to move on to ask your opinions. Today's discussion will be divided into two halves, as there are two major topics to be discussed, information disclosure and governance. I would like to begin the first half of the discussion by asking for your opinions on information disclosure and the issues listed on pages 28 and 29 of the explanatory document.

So, who would like to start?

[Kikuchi, member]

Now, since this is the start of the second phase, I would like to start by making a general point. I was given the opportunity to make a presentation during the first phase of the Study Group, in which I shared some of my thoughts on information disclosure. What I am going to say will be a repeat of

some of what I said then, but since a bit of time has passed, I would like to reiterate my thoughts.

First of all, I believe that, as the basic premise for information disclosure, the perspective of being able to evaluate corporate value and make appropriate investment and financing decisions is essential. As was summarized after the first phase, I think it will be necessary to go one step further than the usual disclosure, or perhaps I should say more proactive disclosure is needed, given the possibility that parent-subsidiary listing(s) may create conflicts of interest.

What I am going to say now overlaps slightly with what I said during the first phase, but I think it is an essential point. I think companies should clearly disclose the strategies of each corporate group. I think parent companies, in particular, are strongly demanded to do so. Disclosures by parent companies and subsidiaries are summarized in the document compiled by the TSE. Of the group strategies, in terms of having subsidiaries and having subsidiaries listed on the stock exchange, comparatively speaking, there are a large number of explanations about having subsidiaries, but not so many about why it is necessary to list subsidiaries. I believe that this is a major talking point and issue for discussion. Naturally, there are many cases in which a company has a subsidiary, and I believe that an explanation of why it is listed on the stock exchange is required.

Next, I would also like to mention material contracts. This is an issue that has been raised by the Working Group on Corporate Disclosure, and I believe that we should make it a requirement rather than a request in this regard.

Several companies, including those that received shareholder proposals at last year’s general meeting of shareholders, have made progress in disclosing material contracts this year. I believe that companies need to be proactive in disclosing information, rather than just being forced to do so after an event has occurred.

Also, this may be slightly related to the topic of governance, but I am aware that the Governance Code has been amended with regard to the Prime Market, and while many companies have responded by establishing special committees, little is disclosed about how the special committees are working. I

think it is necessary for companies that are responding by establishing special committees to disclose the content of special committee meetings, such as what discussions are taking place and how meetings are being held.

[Kanda, member]

I have one question and two rough impressions.

My question is whether you could tell us whether the actual number of listed subsidiaries, in other words, listed companies with a listed parent company, and listed companies with an unlisted parent company or individual as a controlling shareholder, which are the subject this discussion, is increasing in the three markets, and if so, by how much?

I have two impressions. First, I think it is an excellent idea to promote the kind of information disclosure mentioned today, since the market participants can make investment decisions based on this information. However, when it comes to the timing, or the nature of the documents, I think that information is formerly being disclosed in securities reports, which is a statutory system, and that it should naturally be the premise of the discussion here. Since the TSE is now considering non-financial information disclosure, I think we need to sort out the concept, whether disclosure should be made promptly after annual general meetings and as needed, just like “explain” in the Corporate Governance Code, or whether it could be only once a year.

My second impression is an issue of logic, and is the difference between (1) and (2). It sounds like information disclosure is being requested of listed parent companies if there is a listed parent company, or through listed subsidiaries if there is no listed parent company. But I don’t think the information currently being disclosed by listed parent companies is targeted to shareholders of their subsidiaries, but to the investors and shareholders of their own company. Therefore, it needs some logic to directly require parent companies to disclose information toward general shareholders of its subsidiaries. Listed parent companies also need to make it clear which information is disclosed to general shareholders of subsidiaries and which information is disclosed to their own shareholders. I think that needs to be sorted out, although they may be the same information and it depends on what is being requested as content of

disclosure.

[Shirozu, Manager, TSE]
Although the aggregate data for the change in the number of listed subsidiaries differs slightly in terms of shareholder attributes, the number of listed subsidiaries that have a listed parent company is declining. Looking at data since 2018, the percentage was 8.7% in 2018, then 8.6%, 8.0%, 7.5%, and most recently in 2022 it was 6.8%. Then, regarding the change in listed companies with a major shareholder, not only those with shareholding ratio of 50% or more, if talking about companies with shareholders who have more than 20% but less than 50% of shares, and this includes not only listed parent companies but also unlisted companies and subsidiaries, the number and percentage of listed companies that have such shareholders are increasing. Looking at data since 2018, the percentage was 21.0% in 2018, then 21.4%, 23.3%, 23.5%, and most recently in 2022 it was 25.4%. In terms of numbers, this is 958 companies.

[Kuronuma, member]
First of all, as my impressions after reading the survey conducted by the TSE, I was surprised to see that many listed companies which have governance contracts with their shareholders do not disclose the details of those contracts.

As to what kind of issues to be discussed regarding disclosure, I believe that items (1) to (9) on page 7 of the document, which were used by the TSE when conducting their survey this time, are all very important items. If there is an agreement with the parent company or shareholders regarding each item, it would be good to disclose the details of that agreement, and if there is no agreement, it would be good to disclose that there is no agreement.

As for items that should be disclosed by listed parent companies, it would be appropriate for parent companies, not subsidiaries, to explain the coordination and allocation of business areas across the entire group, and listed subsidiaries should then go on to disclose details of the coordination to the extent that it relates to the subsidiaries. I believe that this, as Mr. Kanda mentioned earlier, is to some extent an issue that is determined from the perspective of what matters are important to the minority shareholders of the subsidiary and what matters

are important to the shareholders of the parent company.

If the controlling shareholder is an unlisted company or an individual, and this is something that is unavoidable, I think the listed company in question will have to disclose information related to the controlling shareholder. I think this is just a means.

Next, regarding the extent to which information disclosure should be expanded with respect to listed companies with quasi-controlling shareholders, the level of influence of the quasi-controlling shareholder should not be an issue, as long as the company is only required to disclosure the details of agreements with the quasi-controlling shareholder, if agreements have been entered into, or the fact that no such agreements have been entered into if no agreements have been entered into. Now I am only talking about disclosure on agreements relating to governance. I still believe that companies should be required to disclose the items in (1) to (9) as mentioned earlier. I do not think that investigations into the existence of agreements will incur significant costs, and so I think the scope of disclosure could be extended to all shareholders. However, if this is not the case, one idea would be to set a threshold of shareholding ratio of, say, 20%.

Even if TSE makes a decision that TSE dose not expand the scope of disclosure to quasi-controlling shareholders, if a listed company has given a certain shareholder the right to appoint a majority of directors, for example, I think that such a shareholder should be treated as a controlling shareholder and should be subject to the same rules.

As an additional point, that is not really related to disclosure, I am a little concerned about agreements regarding the nomination of director candidates at subsidiaries with a nomination committee. For companies with three statutory committees (nomination, audit and remuneration), I think such an agreement would be invalid as it would violate the intent of the law, but even if invalid, I think that TSE should take steps to stop listed companies from entering into such agreements. At companies with a voluntary nomination committee, I think that such agreements would not really be desirable, although that may well depend on the characterization of the nomination committee. I think this should be included as a discipline under the TSE’s self-regulations, separate from

disclosure.

[Kansaku, member]
I would like to make a few comments and ask a few questions.

Regarding the items for discussion on page 28, the purpose of information disclosure of ensuring sufficient predictability for minority shareholders and investors to make decisions, is a very legitimate purpose. For this purpose, as Mr. Kuronuma pointed out earlier, I think it is appropriate to require companies to disclose information on any agreements regarding items (1) to (9) on page 14.

I also have some questions. It seems that the discussion this time is limited to governance-related agreements, but I think that, for example, the Working Group on Corporate Disclosure, which was referred to earlier, also discussed agreements regarding shareholdings and the sale of shares. For shareholders, in addition to agreements directly related to governance, covenants between parties regarding the shareholding and transfer of shares are also very important, and I think that this is precisely where the TSE should take an interest. So, my first question is whether or not the TSE has conducted a survey on agreements relating to shareholdings and transfers.

To begin with governance-related contracts, I agree with Mr. Kuronuma that it does not matter what percentage of shares a shareholder owns, and furthermore, in my opinion, it does not matter if a counterparty is a shareholder or not. If a company enters into such an agreement even with a person who does not own a single share, it should be subject to disclosure. I feel that the issue of governance-related contracts should be considered as a different type of disclosure item from the group management approach and policies that have been disclosed so far. In such cases, agreements on restriction of the ownership and sale of shares are also absolutely crucial, as well as issues directly related to governance, such as the nomination of candidates for the board. This is because such agreements may have a direct impact not only on the incorporation of a reasonable premium or discount, but also on investment decisions on whether to even buy the company’s shares in the first place. In particular, it would be of great interest whether such agreements exists or not,

for those people who acquire a certain equity interest intending to influence management to some extent, and so I think it is also necessary to consider the disclosure of such agreements.

Some of my points may be slightly off topic for this meeting, but I was asked to express my opinions in a broad range of topics and so I have done so.

Next, in terms of governance-related contracts, disclosure could focus on the outline and purpose of the agreement, but so given that actual disclosure examples vary widely, I believe that disclosing the contract itself is the best way forward. In relation to Mr. Kanda's point earlier, I think that the most desirable form of disclosure would really be to disclose the entire contract that is currently in effect.

Also, and this is something that was also pointed out at the beginning, and that also relates to the last topic of about governance, I think it is extremely important to ensure transparency regarding what matters were discussed at special committee meetings, and so I wanted to reiterate this point.

Going back to my questions, looking at the document, despite holdings of less than 20%, I felt that there were more governance-related agreements entered into than I had expected. In cases in which governance-related contracts have been executed with shareholders who hold less than 20% of the shares, do most cases involve holdings of close to 20%? Or are there cases in which shareholders with much smaller holdings have executed such contracts? Please tell us if you learn anything about this during the course of your investigations.

[Shirozu, Manager, TSE]

Regarding your first question about whether our survey covers agreements concerning shareholdings as part of a contract, it did. "Governance-related contracts," which were the subject of TSE's survey, include a wide range of agreements. Rather than separating them into "contracts on governance" and "contracts on shareholding," as was discussed by the Financial System Council's Working Group on Corporate Disclosure, we refer to them collectively as "governance-related contracts." To be more specific, please look at the summary of the survey on page 7. For example, (2) is "matters related to maintenance of shareholding ratio and anti-dilution" and covers restrictions on a

company's issuance of new shares and the existence of rights to subscribe to shares in proportion to shareholders' capital contribution in a share issuance. Item (3) is "matters related to sale and further purchases of shares held by shareholders, and other matters regarding handling of shares," which is a compilation of several items in one section, and covers the existence of prohibitions or restrictions on the transfer of shares, pledging as collateral, or other disposition of shares by shareholders, prohibitions or restrictions on additional acquisition, and the matters of whether shareholders are able to request the sale of shares or designate a recipient when exiting. So, the points you raised are being confirmed in items (2) and (3).

[Kansaku, member]

May I add one point? I am aware that the survey only covered cases in which the company was a party to the agreement, but did it also include things like shareholder contracts?

[Shirozu, Manager, TSE]

The scope of the survey was limited to those agreements involving listed companies as parties, so we have not been able to track contracts between shareholders.

[Kansaku, member]

I asked because I thought that restrictions on the ownership and transfer of shares would mainly be included in the contracts between shareholders.

[Shirozu, Manager, TSE]

I appreciate your questions.

As for the less than 20% holding category, since the scope of this survey was limited to cases in which a company is affiliated with another company, the less than 20% holding category covers companies that would fall under "other associated companies" for accounting purposes as such shareholders hold between 15% and 20% of shares and have a certain amount of influence. Therefore, companies with holdings of less than 20% are not uniformly included in the survey, and the results include other associated companies with holdings of between 15% and 20%.

[Kansaku, member]
I understand, thank you very much.

[Kato, member]
I would like to make a comment regarding the survey results. I believe that the results of this survey came out prior to the development of a disclosure system based on the recommendations of the Working Group on Corporate Disclosure, and I believe that it is necessary to consider how much will change once the development of the system based on the recommendations of the Working Group on Corporate Disclosure is complete, when establishing disclosure regulations as the stock exchanges' self-regulations.

My personal impression is that the existence of a governance-related contract executed between a listed subsidiary and its parent means that decisions are made at the listed subsidiary in a different way than was anticipated under the Companies Act or the various rules generally applicable to listed companies, and therefore, this information is very important for investors in listed subsidiaries and should be disclosed by listed subsidiaries. However, listed subsidiaries are in a very special position. When disclosing contracts with their parent companies, I think that it is impossible to ignore the parent company's intentions, or put another way, that in reality, the parent company exercises a great deal of influence on what the listed subsidiary should disclose.

This current situation may change after the development based on the recommendations of the Working Group on Corporate Disclosure, but I think we need to keep an eye on the extent to which it will change. In particular, if TSE requires companies to disclose some sort of matters not covered by the recommendations of the Working Group on Corporate Disclosure as a self-regulation, this would mean that listed subsidiaries would be required to disclose matters that they are not legally obligated to disclose. And so, the question is how this will be addressed by parent companies and will parent companies understand the need to require their listed subsidiaries to disclose matters that are not required to be disclosed in the annual securities report.

In that case, TSE's self-regulation could clearly state that even though the management of the listed subsidiaries is bound by the policies of the corporate group, parent companies must cooperate so that the listed subsidiaries make disclosures for the general investors who have invested in them. This may work

for a listed parent company, but it is difficult to say whether it would work or whether there is a way to make it work for a non-listed parent company. However, I think that there are circumstances in which the disclosure of governance-related contracts, especially those between parent and subsidiary companies, is inevitably influenced by the intentions of the parent company, and so it is important to create an environment through self-regulation, in which the subsidiary can disclose information that should be disclosed for the benefit of general shareholders without being influenced by the parent company or with being shielded from the influence of the parent company.

[Sampei, member]

First of all, at the start of the second phase, on page 3 there is an outline of the Interim Report. I thought it would be good to have (iii) as a sentence similar to (ii) at “scope of application” at the bottom of the page. At the second phase, having (iii) by making an analogy to (ii) means, (iii) should indicate, for example, that a listing system framework relating to the fair treatment of subsidiary minority shareholder rights that should be applied to listed companies that are quasi-controlling shareholders should be considered. As several members have already mentioned, I think it is necessary to guide not only subsidiaries, but also parent companies on the stance they should take.

As you are aware, the Corporate Governance Code has been revised, and the notes to Section 4 of the Code clearly states that controlling shareholders should respect the common interests of the company and its shareholders and should not treat minority shareholders unfairly. Since the Code adopts principle-based approach, I think the notes to the Code in principle-based approach is a very important, so we should be considering how to implement this as some kind of framework somewhere. In the US, this would link to a fiduciary duty to other shareholders, so I think the way in which this can be disseminated in Japan is the important issue.

Thank you for conducting a preliminary survey to provide us with clear data so that we have a basis for discussing the issues.

So, regarding information disclosure, on page 28, first of all, I believe that the purpose of disclosure is to ensure an environment in which shareholders can make informed decisions and to maintain the fairness of the market. The primary purpose of disclosure is to create an environment for informed decision

making by the company's shareholders, and so if a listed subsidiary makes an agreement with a specific shareholder, such as a controlling shareholder, that agreement should be disclosed, as has already been discussed. On pages 13 and 14, we also know that contracts exist extensively regardless of the percentage of the shareholding, and that the reality is that the percentage of companies which have contracts is numerically the same between companies in which major shareholders own less than 20% and companies in which major shareholders own 40% or more. In addition, as was mentioned earlier, according to the discussions of the Working Group on Corporate Disclosure, the percentage of holdings is irrelevant when disclosing information in annual securities reports, so if the TSE is concerned about the percentage of holdings, the scope will be narrowed.

I have been talking about listed subsidiaries, but if the responsibility is placed solely on the listed subsidiaries, I think this will create an unbalance in terms of group management. So, I believe that controlling shareholders should also disclose this information to their own shareholders. Otherwise, when there is a significant conflict of interest with the general shareholders of the subsidiary, there is a possibility that the direction of group management decided by the parent company will be opposed or resisted by the subsidiary or the subsidiary's general shareholders, and that it will be impossible to complete the decision. You could say that this is a risk. Therefore, I think that the parent company should methodically disclose to the parent company's shareholders that such a situation is possible, why such a situation is possible, and that although there is an agreement with the listed subsidiary, it is not certain whether the decision will be completed smoothly or not.

I think the same principle applies to the case on page 29 in which a company has an unlisted parent company or an individual controlling shareholder. However, as several members have pointed out, sometimes things do not work in accordance with the principle. I would like to hear various opinions on the specific kinds of situations in which this is happening.

Regarding the second point, the disclosure of information regarding listed companies with quasi-controlling shareholders, in terms of the fairness of informed decisions, if some kind of agreement has been made with a certain shareholder or someone else, the details of that agreement should be

disclosed, and the shareholding ratio should not matter.

Rather, what companies should be properly explaining is how the content of the agreement will be accomplished if, for example, shareholders with less than a 20% holding were to be involved with the election of directors. For example, certain data has been published that indicates that, on average, voting rights are exercised roughly less than 60%. If a shareholder holds less than 20% of shares while less than 60% of voting rights are exercised, that shareholder will have an influence of roughly 30%. When that happens, is it possible to get the rest to pass the vote? But if that is not a certainty, then why does the shareholder enter into the agreement with such a holding ratio? The more likely such agreement is to be achieved, the greater the impact on minority shareholders, and this needs to be explained. On the other hand, if the likelihood of achieving such an agreement is low, yet despite that, it is not clear what the intention of the parent company or shareholder is in concluding such an agreement, and what its purpose is as a parent company or shareholder. I think that such details should be disclosed as information on what is the ultimate goal of the parent company or the shareholder.

In relation to this, specific items are listed on page 26, and of these, I would particularly like to expand the scope of application on the third information disclosure item, “Disclosure in CG reports (contracts, etc.),” and the two “Procedures.”

[Goto, member]

Whether it is the six or nine items (listed in the survey on the governance-related agreements), I think they are all very important topics from the perspective of investors, and I think it would be completely acceptable to make an effort to create rules so that these items are disclosed. I am making my comments as an operating company that deals with investors and the capital market, and in fact, we frequently receive such questions from investors. And so, we answer these questions anyway. And so, I don’t have any objection to disclosure being the rule. In fact, I think that this situation in which all this information is not being disclosed is indeed a problem. For example, in cases where various values can change depending on how the parent-subsidiary thinks, or where decision-making is influenced by how the parent-subsidiary

thinks, it may be necessary for both the parent company with a listed subsidiary, and for the listed subsidiary, to make as much information as possible that is not visible to minority shareholders, visible to minority shareholders.

While rules should be made wherever possible, there are quite a few things that are not determined by a company. When clarifying disclosure rules, I would like to see a firm acceptance of “not yet determined” as a way of answering questions. Such responses may be criticized by investors, but I think they will have to take it in their stride. There is also the current situation and logic of not being able to decide matters. I think there are some positive opinions on this too.

One example is mid-term plans. So, there are companies that can present their plans and companies that cannot. We are an investment company, so our profit and loss for each period fluctuates greatly. In such a situation, I think it would be misleading to present our plan as a prediction in advance. I think that there are many operating companies that do not publish a mid-term plan purposefully.

Then, facing the market, there is the difficult question, from the parent company’s perspective, of “what is your policy for holding shares in your subsidiary?” One word can affect the stock price, so even if you want to comment on strategy and tactics, you don’t want to say something unless it is factual. For example, let’s assume there is a company called Company A, which is a listed subsidiary that you may sell in the future. Investors always ask the challenging question as to whether you are going to hold on to it. However, companies never answer. But the person who asked the question is also satisfied that the company cannot answer the question. If that is the case, you may think investors need not ask the question, but I can understand why they would want to ask it.

As an actual party concerned, I am always wondering about rules for disclosure between parents and subsidiaries, how we should answer the question in cases where we own a subsidiary as a parent company or 20% to 30% of shares in an affiliate relationship, and how we should deal with the

market logic that it would be better not to answer the question if it is a listed stock.

[Takei, member]

First, as everyone has mentioned, the issue of coordinating with what is being done institutionally by the Working Group on Corporate Disclosure is inevitably relevant, and how various things should be done by the Exchange will also have to be dealt with in relation to that. As Mr. Kato mentioned, this is an issue stemming from the nature of laws and regulations and self-regulation.

To make it easy to understand I will talk in terms of Company P and Company S. Company P is the parent company or the party that owns the stock, while Company S is the listed subsidiary or the party being held. There is an issue of how it is difficult to cover Company P with TSE's self-regulations, but there is an issue of what will happen if enshrined in statutes. And there is also a difference in the nature of how the confidentiality obligations in contracts between Company P and Company S can be terminated. In that sense, I think we need to fundamentally sort out what the relationship is between what we are trying to do this time and what to be done under statutes. The first point is that discussions on specifics significantly depend on that. As of today, it is difficult to say much more than this as laws and regulations have not yet been decided, but they should be organized accurately. Also, as Mr. Kanda mentioned, there has been a discussion about timing. Annual securities reports are published once a year, but Corporate Governance Reports can be published at any time. I think the timing is clearly different in both cases. Regarding other issues, I think there have been many comments to the effect that we must sort out what to do in terms of the division of roles between laws and regulations and self-regulations.

Second, regarding the details to be disclosed, I understand that what you are trying to do here is disclosure from the perspective of whether or not Company S's shareholders are being unfairly harmed, and I wonder if you will go beyond that. I think that we should look at necessity and reasonableness to see if Company S's shareholders have been unfairly harmed. From that perspective, I think that disclosing the full text of contracts is going a bit too far. For example,

when a business alliance is formed, it is also of benefit to the general shareholders of Company S in the sense that the business alliance will increase the corporate value of Company S. When engaging in discussions that are generally of benefit to Company S's shareholders, if the details of the business alliance were to be written in the contract and disclosed, there is a concern that this would be of benefit to Company S's competitors. Disclosure is something that everyone can see, not just Company S's shareholders. While Company S may not always be harmed, on the contrary, there may be cases where it is not in the Company S's best interest. That said, if the statutory disclosures are limited to a summary disclosure, I have a doubt about whether the full text could be disclosure under the self-regulatory regime. I think we will have to see how far we need to go from the perspective of whether Company S's shareholders are generally not being harmed.

Thirdly, regarding the nomination committee at Company S. In the US, a listed company with a controlling shareholder is not included in the mandatory obligation to establish a nomination committee. It is not such an easy choice between two options, either Company P establishes a committee, or Company S's independent directors will do everything and Company P should keep quiet. I think that is also why the Governance Code also allows the option of having a special committee. I think that not letting Company P do much of anything is going a bit too far from the perspective of whether the general shareholders of Company S are being unfairly harmed. I think this is something we have to be careful about.

[Ouchi, member]

Although it is relevant to governance, the topic for the latter half of today's discussion, I would like to say something here because I think it relates to the current discussion by Mr. Takei. Of the members gathered here today, we are one of the few here who could be directly targeted by the discussion in the sense that we are an operating company with listed subsidiaries.

Regarding the meaning of having a listed subsidiary, parent companies do not intend to make gains by unfairly harming the interests of minority

shareholders. The presence of a parent company provides stability in governance and management, and being listed, even if only partially, provides vitality and pride for those who work inside the company. I believe that the reason why listed subsidiaries have historically been adopted for many years, both in other countries and in Japan, is that they are attractive investment stocks by aiming for best combination of the two.

What I would like us to discuss is how to increase this attractiveness, in other words, how to improve on the best combination of vitality with a kind of governance stability. Conversely, I think that the number of listed subsidiaries will probably decrease if their attractiveness is lost. It is not that parent companies want to unfairly siphon off their profits. That is the way it appears from the parent company's standpoint.

From this perspective, there are various legal systems including ones in other countries, and rather than discussing each regulation on a one-off basis, I would like to have a discussion from the viewpoint of how regulations are organized overall and how the various systems will ultimately function comprehensively as regulations. Specifically, for example, if we refer to system in the Companies Act, there is the concept of an internal control system from the parent company's perspective. Article 100 of the Regulations for Enforcement of the Companies Act imposes an obligation on the parent company to establish systems to ensure the proper governance and operations of group, as an "obligation to establish an internal control system". Although "internal" is not a term used in the law, it is a term commonly used, including in court precedents. I think that how decision-making mechanism should be established, how audit system should be established, what kind of items should be discussed in the parent company, as Mr. Takei commented, and how much or more of an investment should be approved by the parent company are "internal" issues. If too much detail of specific monetary standards, etc., is disclosed, internal information will be revealed to a hostile company or to a company with whom you are intending to engage in some kind of major transaction. That is the same as asking an independent company to reveal all of its decision-making process including its approval criteria, and I don't think that it appropriate. I believe that

there are some interests that should be granted based on the fact that they are internal, which should be kept close at hand. I do not mean to imply that we want to hide everything, but I think it is crucial for us to find a way to strike this balance.

What is being discussed here leads to only the argument that everything should be disclosed if we genuinely consider the interests of minority shareholders and so I would like you to take this perspective into consideration.

Moving on, and this relates to the discussion on governance scheduled for the second half, when we think about the independence of directors, for example, the concept and structure of independent directors and outside directors, etc., are well developed. This is the idea to focus on the independence from an objective point of view, that is to say, the idea to look at the independence of the person based on attributes, rather than how that person was selected. On the other hand, introducing MoM [i.e., majority of minority] is the idea that since they were selected by minority shareholders they must have a high degree of independence, which is focusing on the process. I have my doubts as to whether it is okay to mix these two ideas. If you take the idea that this person is objectively independent, regardless of who chooses him or her, then you should go with that, and if you take the idea that a person is independent because of the process by which he or she was chosen by minority shareholders, then you should go with that. If we argue that independence is not enough if it is not based on a process, then it would also suggest that the argument we used that a person has independence due to their “objectivity,” is flawed.

I hope that you will consider the issues I have just mentioned, and that we can have a balanced discussion.

[Kikuchi, member]

I would like to add one more comment.

Regarding the issue of unlisted companies and individuals, for example, there are many, many examples of start-ups whose founders are as so-called major shareholders. I feel that it may become necessary, in various discussions, to separate such cases from other cases where there are other so-called non-

listed shareholders that are organizations. In the case of startups in particular, the shareholder situation is diversified. Some companies are owned by individuals who normally own several dozen percent of the share, as is the case immediately after listing, while some have individual shareholders who decreased their shareholding over the years since listing, or some are actually owned by a kind of management company. There can be a number of patterns where the controlling shareholder is an individual, and so I feel that it is difficult to argue that there is a single rule for “individuals” in general. I know it is difficult to make this argument as it complicates the discussion, but with regard to unlisted companies and individuals, I think we need to discuss the issues carefully by dividing cases.

[Kikuchi, Director, Listing Department, TSE]

I appreciate your remarks.

I would now like to move on to the second topic for discussion, governance. I would like to ask for your opinions on the issues listed on page 30 of the document. Since today is the first meeting after the resuming meetings, we would like to hear your opinions not only on the issues of information disclosure and governance, but also on a wide range of issues based on recent trends.

[Sampei, member]

I would like to comment on governance. Just now, Mr. Ouchi talked from the corporate point of view. For example, Nippon Steel Corporation has recently made a move to make its listed subsidiary a wholly owned subsidiary, and we can infer from the disclosed information that the company is carefully considering various issues. On the other hand, in my interactions with many companies, I have found that parent companies still explain the meaning of having a subsidiary or, as Mr. Kikuchi mentioned earlier, the meaning of listing a subsidiary, by emphasizing only the economic synergy aspect. While this is a reasonable from a group management perspective, parent companies are, however, often two-faced in terms of their management responsibility for listed subsidiaries. When talking with the same company, they talk about how they respect the independence of the subsidiaries while claiming that they are engaging in group management and particularly when there is a corporate scandal, etc. at the subsidiary, that independence is suddenly emphasized and they say that, “They (the subsidiary) are independently managed as a listed

company, so we think they can solve the problem by themselves" and the responsibility of being the parent company or controlling shareholder just seems to disappear. I find it very uncomfortable that they take different stances depending on situation.

I hope a balance can be found, but in that balance, I am concerned that no deep thought will be given to structural conflicts of interest with minority shareholders of subsidiaries in control or quasi-control situations. Although today's discussion seems to be focused exclusively on this aspect, I hope that a good balance will be maintained and ultimately the aim will be to increase corporate value.

Amidst this, while it is natural for a majority of shareholders to vote for or against a proposal at a general meeting of shareholders, I think it does not mean that they can unfairly treat minority shareholder interests by controlling power. It's not the case that if you own 51% you can force a company to do everything you request, and that the 49% minority shareholders don't matter and their dissenting opinions won't be heard. Since they have a 49% share, you need to think properly about how to consider their intentions in accordance with the amount of their investment. In other words, it is dishonest and unfair to act as if they own 100% of the shareholder rights, even though in economic terms, they do not own 100% of the company. So, I think we should make fiduciary duty more prevalent, like in the US.

Also, in terms of the historical background, when the business market was expanding, such conflicts may not have been so noticeable because the overall pie was getting larger. As we enter an era in which the market as a whole is not growing, however, I think such conflicts will become more noticeable. It used to be good, but now I think there is a difference in the background.

[Kuronuma, member]

In a paper published in 2021 by Associate Professor Tsunoda of Osaka University[1], he argues that the so-called "independent personnel theory" that a

[1] Kazuma Tsunoda, "Reconsidering parent-subsidiary listings [Part 1] - From the perspective of executive personnel in subsidiary companies" Commercial Law Review No. 2277 (2021), "Reconsidering parent-subsidiary listings [Part 2] - From the perspective of executive personnel in subsidiary companies" Commercial Law Review No. 2278 (2021)

listed subsidiary's nomination committee should make decisions independently of its parent company, can only be understood based on the idea that parent-subsidiary listings should be abolished in the future. I believe that Mr. Tsunoda's argument is highly objectionable in that it does not sufficiently distinguish between a director who executes the operations of a subsidiary and an independent director. However, I think it is first necessary to confirm that our discussion here is not based on the idea of what needs to be done to achieve that objective, in the direction of abolishing listed subsidiaries.

My personal view based on this is that, with regard to the proposal to require a MoM condition for the appointment of independent directors of subsidiaries, which is the most drastic of all the opinions expressed in the Interim Report, such a requirement would not prevent a parent company from exercising its right to appoint and dismiss the executive directors of its subsidiaries. The entire board of directors of the subsidiary also has the authority to supervise the subsidiary's operations, and in this regard, requiring a MoM condition for the appointment of independent directors would not disable the parent company's ability to supervise the subsidiary.

Mr. Tsunoda's argument focuses on the fact that if the independent personnel theory is promoted, parent-subsidiary listings will lose the benefits of parent-subsidiary listing such as dual monitoring by the parent company and the market and the realization of relationship-specific investment. Given this, even if MoM are required for independent directors, I do not think it would prevent double monitoring or relationship-specific investment. Though this is an opinion on the viewpoint of someone who is not a member of this Study Group, I would like to state my opinion for the record.

[Kansaku, member]

Regarding governance, as Mr. Kuronuma pointed out, in terms of governance reform to date, I think that the most important role of independent directors is to defend and represent the interests of the general and minority shareholders. With respect to directors appointed by a resolution of the general meeting of shareholders, I think there are various possible institutional designs such as requiring the approval of at least a majority of the minority shareholders, or, if not, dismissing the directors. However, without a certain level of support from the minority shareholders, I think it may not be possible to justify that independent directors are advocates for the interests of general and minority

shareholders. From this perspective, I would definitely consider the introduction of MoM as a positive move.

As for ensuring the effectiveness of special committees, I believe that the way forward is to shift to securing and utilizing independent directors, rather than establishing and developing special committees in practice. Therefore, as I just said I really think it is important for special committees to enhance disclosure. I feel that an approach that guides independent directors to advocate for the interests of general shareholders as much as possible would be better in the medium- to long-term.

[Kato, member]

When considering the issue of governance, I think it is necessary to develop a system that will take advantage of the “Notes” to General Principle 4 of the Corporate Governance Code, which describes something akin to the responsibilities of the controlling shareholder as mentioned earlier by Mr. Sampei. When I first looked at the description about controlling shareholder in the “Notes” to General Principle 4, I did not understand what it was saying to whom. The Corporate Governance Code is a message to listed companies, but only this description about controlling shareholder is a message to controlling shareholders of listed companies, regardless of whether such controlling shareholders are a listed company. In that sense, although I understand that this may have been the limit of what could be stated at the Corporate Governance Code level, I personally find it problematic that the subject of the message has been intentionally obscured. I think that the intention of the drafters of the Corporate Governance Code was along the lines of what Mr. Sampei mentioned, and I feel that it is necessary to make use of this in designing specific governance systems.

At the same time, what Mr. Kuronuma and Mr. Ouchi said is very important, and if we believe that the corporate form of a listed subsidiary has some social and economic significance, then I agree that we need to take care not to undermine its merits.

On top of that, regarding independent directors, how to ensure independence from the controlling shareholder, even though the controlling shareholder ultimately appoints independent directors through a general meeting of shareholders, is a very difficult question. There are a number of options for

MoM, such as the power of appointment or establishing a condition of notification under the Code of Corporate Conduct as an independent director. At companies without a controlling shareholder, independent directors are qualified through formal independence requirements plus an independent appointment by a general meeting of shareholders. I think it follows naturally from current Corporate Governance Code and listing rules that the same conditions should be required to be substantially secured for companies with a controlling shareholder.

Next, I think we need some kind of balance when it comes to special committees. In other words, when a company adopts the format of a listed subsidiary, there are various relationships between the parent company and its subsidiaries. In my opinion, it would be too rigid to require consultations with the special committee whenever there is any transaction between the parent and its subsidiaries. With regard to special committees, it would be better for each company to consider what transactions are important to the interests of the listed subsidiaries and minority shareholders, and then take a more balanced approach of having the listed subsidiaries disclose the situations in which the special committee plays an important role. I think this would rather help the listed subsidiaries secure the interests of minority shareholders.

[Goto, member]

In a discussion of shareholder rights and voting rights from the perspective of controlling shareholders and controlled companies, it is most important to go back to the original concept of shareholder rights and voting rights to sort this out. While a great deal of discussion is needed about the position of minority shareholders, I think that the perspective that the voting rights themselves represent an economic responsibility to the company and how much capital is invested in the company is also a very important topic. Then, when considering the distribution of shares or companies through the market, I feel that if there is a topic to be discussed in the practice of corporate acquisitions, then a set of clearly defined rules should be created in advance in the overall process. If we try to organize that holding a certain small number of shares grants some right to dissent to investors who have invested hundreds of billions, the decision-making process itself, such as requiring a majority or two-thirds, as discussed earlier, will no longer be possible. On top of that, there are cases where

unanimity is obviously necessary. I feel that, in such cases, it would be fairer to address that within the overall topic of shareholder rights itself, which is to make unanimous decisions.

[Kikuchi, member]

Mr. Kato touched on this a bit, but I think we should think about what we mean by “independent.” Normally, “independent” refers to being “independent” from the management of the company, but as stated in the Interim Report, I think it is also important to have a perspective of being “independent” from the parent company. From this perspective, and this is probably a request to the TSE, I think we need to consider “independent” in terms of the TSE’s criteria. According to the TSE’s criteria, parent companies, etc. are not considered “independent,” but the so-called major shareholders are included in the “independent” category. The results of the survey by the TSE this time indicate that there are a certain number of companies that have not quite many shareholdings but that have entered into certain contracts, and I think we need to review the TSE’s definition of “independent”. I think there is a danger of misleading the discussion if we proceed with discussions within this Study Group on the basis of the TSE’s current definition of “independent”.

[Kanda, member]

I have two comments.

Regarding independence, and this relates to what Mr. Kikuchi just said and what Mr. Ouchi said earlier, the TSE’s concept of “independent directors” is based on the concept of outside directors in the Companies Act and is an extension of that concept. The Companies Act requires that there be no employment relationship and, after the 2014 revision, it also requires that there be no kinship relationship, and, in addition, the TSE’s criteria also requires that there be no economic business relationship. These are generally referred to as the three requirements. I think it is possible that the TSE may, in its listing rules, have further independence requirements, such as those mentioned in the last round of discussions. However, at that time, as Mr. Ouchi mentioned, there is a question as to whether it should be required by procedure, in other words, the idea that a person who has gone through MoM is independent, or, as Mr. Kikuchi mentioned, whether the three requirements such as the absence of an

economic business relationship in the relationship to the parent company should be required. Going forward, I think this should be considered with a view to the actual situation.

Related to this, but a more detailed point, I think that the example given in the Interim Report, that the nomination committee's opinion should be respected, is difficult as a system or framework, although I think it is correct in general terms. If the parent company owns 51% of the company, the parent company can choose directors, and so no matter what the nomination committee says, the parent company can choose the directors.

I think the way to deal with this issue, regardless of whether addressing through the independence requirement is appropriate, will be determined from what perspective to seek additional measures, if necessary.

Regarding special committees, I agree with what many people have said. Special committees do not always deliberate under normal circumstances, and so special committees will only discuss issues when there is a conflict of interest between the parent company and general shareholders of the subsidiary, or when a specific transaction becomes problematic. After clarifying this, it is then a matter of disclosing the status of activities. Annual securities reports will start to disclose the activities of various voluntary committees, but in terms of securing effectiveness, I think we can take the approach of first disclosing the status of their activities, although this will be done while keeping an eye on the situation of disclosure in the annual securities reports.

[Takei, member]

The term "best owner" is used in the context of the restructuring guidelines, and I think "best match" mentioned earlier by Mr. Ouchi is also a good term. I think there are many options for the best match, in other words, the best match between how to increase the corporate value and attractiveness of Company S and how to devise a way to avoid undue harm to Company S's shareholders. No option is perfect and some options have side effects. Of course, I am not denying that companies who want to do this should do it. However, if they are forced to do this then various side effects and problems may arise and so rather than forcing companies to "do it this way," I think we are at the stage where we should present a number of options.

From that perspective, I think it is important to indicate two principles to show at this stage. The first principle is to clarify the code of conduct for what an independent director of a Company S with a Company P should do. I think the TSE probably published the concept of independent directors about 10 years ago, but I think we need to clearly work out what the independent directors of Company S should do, by which I mean having a code of conduct for the independent directors of a Company S with a Company P. If we focus our discussion on the process of selection, the aspect of coercion comes in to play somewhat, so before that, we should indicate what independent directors should do.

The second principle is, as a development of the first principle, what matters an independent director of a Company S should get involved in. The problem that always arises when talking about independence is that having independence, on the contrary, means that the independent director may not understand the business. There are many differences on a case-by-case basis as to whether an independent director deciding everything about Company S will enhance the corporate value of Company S. Consequently, rather than having independent directors of Company S decide everything, principles should first be established and then Company S should be left to think about it. Since the responsibility for considering the best match lies with Company S, I think it is possible to present these two principles for Company S to consider.

Thirdly, I also think the point that Mr. Kikuchi just made about the TSE's independence criteria is a good point. When shareholders have above a certain percentage of shares, and even if the percentage of Company P's shares is not up to that of a parent company, how to consider the independence at Company S under the independence criteria is also an issue to be discussed, which relates to both the first half and the second half of today's discussion. As for the certain percentage, I think many people will say that under current criteria for exercising voting rights, there is no independence once a shareholder holds about 10% of shares, so I don't think the percentage should be 20% but maybe 10%. I think this is also a good opportunity to straighten out the independence criteria concept.

[Kato, member]

As Mr. Kuronuma mentioned during the first half of the discussion, I think there is a problem with the way nomination committees at listed subsidiaries are

being used. Establishing a nomination committee appears that the company is giving consideration to governance, but I feel that there are considerable differences among companies in terms of the actual situation. As with the issue of independent directors, the role that can be expected of nomination committee is very different from that of a normal company when the parent company or controlling shareholder controls most of the voting right at general meetings of shareholders. I think it would be useful to have some kind of materials about the actual status of nomination committees when considering governance issues.

[Kikuchi, Director, Listing Department, TSE]

Thank you very much.

I think we have run out of new opinions for today, so I would like to close today's discussion. Finally, we would like to explain how we will run the next meeting and the schedule for that meeting.

[Ikeda, Senior Manager, Listing Department, TSE]

We appreciate the lively discussion today.
We will immediately get to work preparing minutes of today's discussion, which we will ask you to review when they are ready. We will contact you regarding the minutes by e-mail.

Regarding the disclosure of information, we have received a number of comments today, and the secretariat will present a specific proposal once we have sorted through your comments. Regarding governance too, we have received a number of suggestions, and we would like to discuss these with you after we have sorted out what points we would like to consider.

[Kikuchi, Director, Listing Department, TSE]

If there are no further questions, I would like to conclude the meeting.

We really appreciate your participation today.

END