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

Date: Wednesday, March 22, 2023, 13:00 - 14:20
Place: Tokyo Stock Exchange 15F Conference Room 1
Attendees: See list of members
※ Absent: Professor Kansaku

[Kikuchi, Director, Listing Department, TSE]
The time has now come to begin the second 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 end of the fiscal year. We are looking forward to talking with you today.

First of all, I would like to mention that Professor Kansaku is absent due to certain reasons, and that two of our observers, the Financial Services Agency and the Ministry of Justice, are participating online.

Now, I would like to begin the proceedings straight away. First, let us explain today’s agenda.

[Ikeda, Senior Manager, Listing Department, TSE]
I would like to thank you for participating in the discussion on information disclosure and governance issues to be considered in the future during the first meeting back in January.

Today, we would like to continue and expand on the discussion of information disclosure we started at that meeting. Regarding Document 2 and 3 distributed to you, Document 2 summarizes the specific direction for measures, contents, and key points for disclosure, based on the comments we received at the last meeting. We would like you to comment on the details in these matters.

In addition, in Document 3 we have included examples of actual disclosures made by various companies for reference when discussing the issues.

With regard to information disclosure, based on discussions at today’s meeting, TSE would like to promptly take action starting with enhancing disclosure in Corporate Governance reports and we would appreciate your comments on this matter.

That completes my explanation of the agenda.

[Kikuchi, Director, Listing Department, TSE]
Next, a TSE representative will provide explanations based on the documents. As this was explained during the preliminary explanation, we will keep the explanation short.

[Shirozu, Manager, Listing Department, TSE]
I would now like to explain Document 2 distributed to you, on behalf of the secretariat. As we were given time to explain it beforehand, I will keep this explanation short.

Please turn over the cover page and page 1, and look at page 2, where we have listed the issues we would like you to discuss today. At the last meeting, we received a wide range of comments on information disclosure. Document 2 is based on those discussions and summarizes the directions that could be taken to enhance information disclosure as well as the actual content of disclosure that could be enhanced. Today, we would like to hear your comments on these points.

First, starting on page 3, we have summarized the direction of information disclosure enhancement that we will be pursuing in the future.

On page 4, we have listed the information disclosure framework that has been developed for situations in which there is a controlling shareholder, particularly when both the parent company and the subsidiary are listed companies. The sections circled in red are the specific items that we would like to organize into points for disclosure during this meeting.

Moving on, page 5 describes the specific measures envisioned in terms of the direction of our measures.

On the left-hand side of the table are cases in which there is a parent-subsidiary relationship. In this case, we believe that it is first necessary to enhance the effectiveness of disclosure in the Corporate Governance report under the disclosure framework set forth on the previous page, and to this end, we believe that it is important to organize and clearly specify the points to be included in each disclosure item. We also believe that it will be necessary to encourage parent companies to cooperate with their subsidiaries, which are

required to disclose information regarding their parent company to their minority shareholders.

Next, on the right-hand side of the table, we look at cases more broadly, and sort out companies that have a certain voting rights ownership relationship, although that relationship does not reach a parent-subsidiary level. Although disclosure has not been required until now in such cases, we are considering requiring disclosure on a request basis in other associate/affiliate relationships (i.e., where there is an equity method relationship) in the future.

As a specific measure, we are considering revising the Corporate Governance Reporting Guidelines, which is the guidelines on details to be disclosed in Corporate Governance reports, to clearly state and disseminate these disclosure details, and to compile and publish examples of actual disclosures to give companies an idea of what to disclose. We also believe that ongoing follow-up thereafter is necessary to promote and establish disclosure.

As noted in the bullet at the bottom, regarding the disclosure of governance-related contracts, the FSA is currently considering amending the Cabinet Office Ordinance on Disclosure of Corporate Affairs regarding disclosure of "Material Contracts" in Annual Securities Reports, and it will be necessary to ensure consistency with such amendments. Therefore, TSE plans to wait until the amendment to the Disclosure Ordinance is finalized and then to make a decision in line with the amendment to the Ordinance.

On pages 6 and 7, we have included for your reference a summary of the comments we received on the general aspects of disclosure during the previous meeting.

Then, on page 8 onwards, we have summarized the key points for each disclosure item.

First, starting from page 8 we have included disclosure of details related to the approach and policy on group management, and on page 9 we have included the disclosure of the parent company's approach and policies on group management. We believe it is important to describe the basic approach and policies regarding business portfolio strategy and group management systems as overall and general details relating to group management. We believe that the details that should be included here are, for example, details on the use of wholly owned subsidiaries and listed subsidiaries, or the approach to coordinating business opportunities within the group, or the policy for reviewing

the business portfolio.

Page 10 refers to the disclosure of the reasons for the parent company of having a listed subsidiary. On this page, based on the general approach and policy on group management mentioned earlier, we believe it is important for companies to explain the reasons for having individual listed companies, not only in terms of the rationale for owning subsidiaries, but also in terms of the rationale for listing subsidiaries from the perspective of the benefits of listing and, conversely, the constraints and costs associated with listing.

Examples of these disclosures by parent companies can be found in 1-1 to 1-10 in the reference material in Document 3.

We believe, however, that it is naturally necessary to take into account the fact that specific and detailed disclosure by such parent companies may actually cause managerial obstacles.

On the other hand, page 11 refers to the disclosure of the parent company's group management approach and policy made by its subsidiaries. When considering disclosure by a subsidiary to its minority shareholders, we believe it is important to include information on the parent company's group management strategy, particularly information that has a significant impact on the subsidiary, such as the positioning of the subsidiary and the segregation of business areas.

Examples of disclosures of these matters by subsidiaries are included in 1-11 to 1-16 in the reference materials.

Next, page 12 onwards covers disclosure items related to the company's approach and measures to ensure independence and protect minority shareholders.

Page 13 relates to the parent company's disclosure of measures to ensure the effectiveness of the governance framework at its listed subsidiaries. This is based on the premise that a listed parent company must give consideration to ensuring the independence of its listed subsidiaries, and requires an explanation to all investors, including its own shareholders, of the details of such considerations. Here, TSE still requires a description of the parent company's policy on involvement of the parent company in the establishment and operation of the governance framework of the listed subsidiary. More specifically, it is important to state the policy on the exercise of voting rights in the election and dismissal of independent directors of listed subsidiaries and the

parent company's involvement in the process of nominating independent directors of listed subsidiaries. In particular, if the listed subsidiary has a nominating committee, given all this, we believe that it is necessary to explain this.

Examples of disclosure of these matters by parent companies are included in 2-1 to 2-5 in the reference materials.

Meanwhile, page 14 relates to the disclosure of subsidiary's approach and measures to ensure independence from the parent company and guidelines regarding measures to protect minority shareholders, especially in the context of transactions. Regarding governance frameworks to protect minority shareholders in listed subsidiaries, while many companies are responding to the enactment of the Supplementary Principle 4.8.3 of the Governance Code by establishing special committees, in such cases, it is important that the composition of the special committees (their members), matters discussed, and the status of activities of the committee be disclosed.

Examples of disclosures regarding special committees by subsidiaries are included in 2-6 to 2-9 in the reference materials.

Moving on to page 15 and page 16. In these pages, we have summarized the idea that disclosure should also be required in cases where there is a certain voting right holding relationship, in the same way as in the cases where there is a parent-subsidiary relationship.

Specifically, we believe in requiring disclosure, on a request basis, in the case of an equity method relationship between listed companies, in other words, other associate/affiliate relationships, in the same way as disclosure for parent/subsidiary relationships.

However, in such cases, the state of group management and the strength of its influence vary depending on the company. Given that the situation is not always similar to that of a parent/subsidiary relationship, we believe that companies should consider the contents of the description according to their situation. In particular, for listed companies that are only minimally affected by group management and are not greatly influenced, we are considering asking them to clearly state this situation along with the reasons for such judgment, and we believe this would be extremely useful information for minority shareholders.

For your reference, page 17 contains data showing that the number of shareholders with holding of 20% or more has increased.

Up to this page, the discussion is made for cases in which a listed parent company exists as the controlling shareholder of the listed company, but the information on pages 18 and 19 is organized for cases where the controlling shareholder of a listed company is an unlisted parent company or an non-corporate controlling shareholder.

Unlisted parent companies and non-corporate controlling shareholders are not subject to the disclosure requirements under the listing rules and therefore no disclosure is made by these shareholders. However, regardless of this, we believe that listed companies with such shareholders should still be required to disclose necessary matters to minority shareholders, and therefore, in principle, we believe that the same disclosure will be required as when a company has a listed parent company.

Depending on the shareholder's situation, for example, if the unlisted parent company is a non-operating company such as an asset management company, we believe it would be appropriate for the company to clearly state such situation and explain that it is not part of the group management.

This is the end of our summary of the matters to be addressed regarding information disclosure. We would be grateful for your comments on these matters. We would also like to hear a wide range of opinions on information disclosure, not only on the issues we are planning to address today, but also on any other issues you think we should continue to consider.

That concludes the explanation from the secretariat.

[Kikuchi, Director, Listing Department, TSE]

Now, I would like to hear from our members.

[Kato, member]

With regard to the disclosure by listed parent companies, I would like to comment on the measures to ensure the effectiveness of governance framework at listed subsidiaries, which has been proposed on the page 13.

Here, based on our previous discussion, an explanation for cases where a

nomination committee is established at a listed subsidiary has been added, which I believe is, in itself, is a very important disclosure item. However, it is the listed subsidiary at which the nomination committee has actually been established, and information about how the parent company views the role of the nomination committee at its listed subsidiary is very important to the listed subsidiary and its general shareholders and investors. Naturally, since the subsidiary is also a listed company, I am sure that disclosures regarding its nomination committee will be included in the subsidiary's Corporate Governance report. However, if disclosures are made by the listed parent company regarding a special nomination committee, as it were, I believe that the disclosures made by the listed subsidiary regarding its nomination committee should be enhanced in a manner that maintains consistency.

[Kanda, member]

While some of the finer points are somewhat difficult issues, I agree with the information presented in the document. With that in mind, I have one question and four comments.

My question is a simple one. Looking at page 17, it appears that the number of listed subsidiaries is falling, but the number of listed companies with major shareholders is gradually increasing. Why do you think that is?

My first comment relates to the extent of the expansion and I think it should be up to equity method affiliates. I feel that 30% or 40% is a bit insufficient, and as for how far to go beyond that, I think it would be better for the line itself to be clear, so I think up to equity method affiliates would be good.

My second comment is that when we are asked to disclose the reasons for having a listed subsidiary, various information is actually disclosed, and I think there has been discussion on this in the past, but I think there are certain types of disclosure. For example, if TSE can indicate the disclosure policy or the way in which companies disclose information for each type of situation, to a certain extent, such as after an M&A, after an IPO, or with an alliance relationship, I think this will make it possible to compare information. I don't think it's bad for companies to disclose non-financial information in different ways, and I think there are some companies that disclose enough information. However, I also believe there are some aspects that are a little difficult to understand from an

investor's point of view. Therefore, I suggest that TSE encourage disclosure with some kind of pattern in mind.

Moving on to my third and fourth comments. I'm afraid I'm only talking about logic, but I'm wondering if there is any difference in the logic if the parent company is listed or not listed. If the parent company is listed, the parent company also discloses information. As I may have mentioned during the last meeting, this disclosure is for the benefit of shareholders and investors of the listed parent company. Regardless of whether the parent is listed or not, the listed subsidiary is required to disclose information for the benefit of general shareholders of the listed subsidiary. From this perspective, it is a basic stance and extremely important for the listed subsidiary to make disclosures for its general shareholders. However, in this case, if the parent also happens to be listed and the disclosure that the parent company is making to the parent's investors is beneficial to the subsidiary's general shareholders, it would be acceptable to simplify the disclosure, or the subsidiary can either include it or simply say where to find the information without including it. I think that this is the way to organize disclosure frameworks from a logical perspective.

My fourth comment is that while we often talk about the "independence" of listed companies, I think we need to clarify what that really means. In terms of the management of listed subsidiaries, from the perspective of group management, in the extreme, there is what I call "integrated management," which is involves operating as a single entity. On the other hand, there is management based on independent decisions by subsidiaries, which I call "independent management". I believe these two forms of management are possible and of course some form of management in between these two is also possible. I do not think that the independence of a listed subsidiary is necessary because of its seamless management style. The independence of a listed subsidiary is necessary in both cases. Independence means that the corporate value of the subsidiary and the results of the subsidiary's management are fairly distributed, and that the parent company does not take too much, i.e. 60% is provided to a parent company if the parent company owns 60%, and 40% to general shareholders if they own 40%. I think that both management styles are acceptable, and that is the meaning of the independence requirement. To ensure independence, I believe there are separate rules for specific

transactions regarding conflicts of interest, but I think we should also take the approach of including information about independence in this sense, when disclosing information.

[Shirozu, Manager, Listing Department, TSE]

Regarding the increase in the number of companies with major shareholders, the latest data shows that some of the increase is due to new listings, but there has been an increase in cases in which companies have established capital relationships or increased their shareholdings to become major shareholders of 20% or more after listing. Compared to such cases, there are fewer cases in which major shareholder decrease their shareholdings. I believe that this may be due to the fact that there are few cases in which the equity of a major shareholder decreases, whereas situations in which there is a new major shareholder are fixed and continue to accumulate.

[Kikuchi, member]

First, I would like to express a general opinion. Document 3 includes a summary of specific examples. I think it is very important that these documents be made available to the public. When I participate in discussions such as the ones we have at this study group, I often hear comments such as, "So what are investors looking for?" and "What kind of case studies should we refer to?”. So, I think it is of great significance that specific examples are published. I think it would be extremely beneficial to continue to produce these kinds of documents once the direction of TSE, including this study group, has been decided. That was my first opinion.

Next, I would like to give my opinion on each issue.

Regarding group management, this is the direction I have always talked about and so I agree with it. If you ask me if I have anything specific to add, I would like to add something about cash management because it is related to group management.

There are three possible positions, shareholder of only the parent company, shareholder of both the parent company and the subsidiary, and shareholder of only the subsidiary. This is something that for which opinions will vary depending on the shareholder’s position. That is, if there is an investor who is a shareholder of only the parent company, it may be most desirable for the group

to streamline its cash management. On the other hand, we have seen the odd cases in which there are large loans to the parent company, in addition to cash management. In such cases, from the standpoint of a shareholder of only a subsidiary, I think it would be better for the subsidiary to use the money for investment. Opinions may vary, as I have explained, depending on the position of the shareholder. I think it would help ensure transparency to disclose the group's management policy as well as its basic approach to cash management in the group.

Regarding independence, I believe that Supplementary Principle 1.1.1 of the Corporate Governance Code states that a company should examine and analyze proposals made by the company when a significant number of opposing votes are cast. I believe it is important to be thorough in this regard. If the listed subsidiary receives a certain number of opposing votes, analysis by the listed subsidiary is a must, and if possible, the opinion of the listed parent company as to what it thinks about the proposal would be helpful when communicating with shareholders.

Regarding the expansion of the scope of information disclosure, as Mr. Kanda mentioned, the application of the equity method is one of the easier-to-understand standards, and I agree with this direction at this time. However, from the standpoint of a so-called general institutional investor, the determination that there is no independence is often based on the major shareholder, which would be 10%. I think that may be going too far, and I am sure there are many opinions on this issue. I think we need to discuss how far to expand information disclosure and to think a little bit more about independence.

Finally, regarding non-listed and individual shareholders, about which I made a number of comments during the first meeting, I wonder if it encompasses other issues, particularly cases such as start-ups, in which certain individuals are the major shareholders. I believe that many companies, such as startups, in which certain individuals are major shareholders, indicate in their risk disclosures that they are dependent on certain individuals. I think it would be one way to encourage them to clearly explain how this is linked to their risk information.

Although there are not many examples in Japan, there are many cases of

start-ups issuing class shares. In such cases, such discussions would be completely meaningless unless they are based on the percentage of voting rights held rather than shareholdings. I think it is necessary as a precaution to discuss the percentage of voting rights held, although this is based on the assumption that more companies will issue class shares.

[Kuronuma, member]

I generally agree with the proposed method of indicating the points to be described in order to enhance disclosure and the items that should be listed in the points to be described.

Looking at the individual items, I expect a large number of companies to disclose their approach to group management and the reasons for having listed subsidiaries as can be seen from the examples. If the points described here are presented, I think that this will encourage all parent companies with listed subsidiaries to disclose such details.

Regarding disclosure by listed subsidiaries, I think that disclosure could be encouraged by indicating key disclosure points regarding segregation of business areas and future prospects.

Next, regarding the matter of ensuring the effectiveness of the governance framework at listed subsidiaries, I think it is very important to require disclosure of the approach to voting on the election and dismissal of independent directors, but looking at the examples, some companies merely state that a decision will be made on a case-by-case basis depending on the proposal, and do not mention anything more than that. However, I don’t think it is enough to just state that decisions will be made on a case-by-case basis as appropriate depending on the proposal. I think it would be better to have language that encourages more detailed disclosure.

Then, regarding the disclosure of whether a parent company gets involved in the nomination process of independent directors, this is a difficult issue, and I can’t find any examples of this in the disclosure examples. While it may be natural to make decisions on each individual proposal with respect to voting rights, I suspect that there are many examples of involvement in the nomination process prior to that point. If disclosure is required here, I think most companies will state "we do not do that", in other words, "none" unless they have some an

official system or regulations that require consultation. However, in reality, if the subsidiary is consulting with the parent company, or if they are making preliminary reports and if candidates may be changed based on such reports, I think that investors would really like to know about such details. This may have something to do with confidentiality, but it is somewhat unsatisfactory to just write "none" as disclosure and so I feel it would be good to have a measure that would encourage more in-depth descriptions.

In addition, it seems to me that companies that have established special committees have already written about their special committees, such as the matters they discuss, their authority and roles and so on, as described in the document. However, my impression is that not many companies have detailed descriptions of the activities of such committees, so I think it is well worth encouraging them to provide detailed information about that.

[Sampei, member]

First, I would like to comment on pages 4 and 5. Although it is outside the scope of this discussion, I think that the disclosure of the category of periodic disclosure of "Matters related to controlling shareholders, etc.” at the very bottom under "Listed companies with listed subsidiaries" on the left side of page 4, where a bar is drawn, will be important in the future. At this meeting, we are only being asked to discuss the top section, and addressing things that can be done quickly, but I would like us to discuss not only what can be done quickly but also what we think is necessary, even if it requires amending the listing rules.

The perspective I am referring to is that explanations of group management or corporate groups from corporations that have listed subsidiaries are quite one-sided. For example, taking the balance sheet as an example, the companies only talk about the left side and not the right side, or taking a coin as an example, the companies only talk about the front side not the flip side. So, what is on the right side of the balance sheet or the flip side of the coin? It’s the conflicts of interest that come with group management. For example, the owner of 50.1% of a company, can control management and force the subsidiary to do what they say, but the subsidiary has minority shareholders and their common interests must be properly considered. In such a case, to what extent is the owner thinking properly about the fact that there is a discrepancy here? If things

are going well, there is no need to worry too much, but companies do not think about what to do when problems arise. Such situations exist, and so I think we still need to think about the part outside the box.

In fact, even when talking to the same parent company, depending on the time and situation, especially in normal times or in emergencies, they sometimes refer to the subsidiary as an integral part of the group, and sometimes push the subsidiary aside by stating they respect the independence of the subsidiary. Last year, when there was a scandal at a listed subsidiary of a listed company, the parent company did not take any action with a view that the subsidiary was a member of the group because the parent company "respects their independent management". Furthermore, even though the parent company had overwhelming control and the other minority shareholders could not do anything even if they all worked together, the parent company failed to fulfill its responsibilities as a controlling shareholder or to take the lead in addressing the common interests of shareholders. Herein lies the challenge. I would like us to discuss the issues in the part outside the box in the future.

Regarding today's discussion, I am very grateful that page 16 indicates an intention to expand the scope of the disclosure to other associated/affiliate relationships. What I found extremely shocking in the last meeting's document was that contracts are concluded even though a shareholder does not have that many shares. I am surprised at how the shareholder with that number of shares can have that kind of authority. In this sense, although it is easy to understand the threshold as X percentage or more, rather than having such a limit, I think it would be better to make it a case in which there is a special contract.

There is a description on page 14 about special committees. Since the Governance Code was revised, some subsidiaries have actually explained that, instead of increasing the number of independent directors by a certain number, they will in some cases establish special committees on a non-permanent basis. In such cases, I feel that the number of shareholders who cast votes against the companies has clearly increased as a result of confusion over their voting decisions. However, the companies do not necessarily understand the reason. The reason is that the special committee is non-permanent and has not actually been established, so the independence of the members of the special committee has not been explained. Since the explanation has not been

provided, investors taking a careful look at the company are uncertain whether the special committee will be able to manage conflicts of interest as expected. Moreover, the investors regard that the companies are not complying with the Code or not even explaining though the companies are intending to comply with the Code. Consequently, the investors will oppose proposals to re-elect the representative director. So, I think it is meaningful for both corporations and shareholders to clarify this point in these revised guidelines.

In the various examples presented in Document 3, for example, on page 13, Suido Kiko states in its "Group Management Agreement" that the interests of general shareholders are taken into consideration in several agreements. Just reading this makes me feel that they are giving general shareholders proper consideration. Then on page 18 ASKUL states that they "recognize the importance of maximizing the common interests of shareholders." While they may just say so, I think it is a good trend to at least include such a mention.

Finally, regarding the point on page 13 about including the voting policy for the appointment and dismissal of independent directors, I don't think this needs to be limited to the appointment and dismissal of independent directors. Since listed subsidiaries are subsidiaries, I would like them to exercise their voting rights appropriately for the dismissal of executive directors if something happens, and I would like them to take appropriate action based on the common interests of shareholders at that time. Therefore, I would like to present the policy on this.

[Ouchi, member]

I'd like to make three points.

First, to get straight to the point, I strongly oppose the proposal to expand the scope of disclosure to include equity-method affiliates. While it is true that the broader the scope of disclosure, the greater the transparency, I believe that disclosure must have a purpose. An equity-method company is a legal entity for which, due to certain relationships, it is appropriate for the equity interest to be attributed to the investor on the consolidated balance sheet. In terms of expanding the scope of disclosure from the standpoint of independence, as Mr. Sampei mentioned earlier, there needs to be a reason, such as the existence of a control agreement or a relationship in which the company is controlled in some way. In other words, using the concept of consolidation, which has a

completely different purpose, would be like patching together things that are incompatible. The concept should be explained in a way that is explainable or consistent with the Japanese legal system, such as based on the concept of mutual ownership under the Companies Act. I strongly oppose expanding the scope based on a vague notion that an equity-method affiliate is likely to have a certain relationship with the company or that it is part of a group.

My second point relates to the election and dismissal of independent directors on page 13. This point is also similar to Mr. Sampei's thinking. I think it is acceptable to explain the approach to the appointment of officers, in other words, why they are good candidates for the company. However, it is questionable to disclose only about the appointment and dismissal of independent directors. In other words, in the past, the requirements of independent directors have been objectively accumulated and we have believed that independence meant they had no vested interest in the company. Not only to explain the view of appointment and dismissal specifically for them, or in some cases, but also to apply some rules, such as MoM, to the process itself, would be to introduce something contradictory as a system, or something with a different purpose. I can understand this, if we are talking about the entire board, but if we are only talking about independent directors only, then I oppose this proposal.

Next is my third point. As a common desire of those who are actually in charge of operations and listed companies, including myself, we would like to see the stock exchange become more appealing and attract capital to the stock exchange from all over the world. Although I believe that this is still the case at this point, I am very much in favor of moving in a direction that makes the capital market more attractive. But again, I think it is very important to harmonize the convenience on the capital side and the convenience on the fund-raising side by listing. In this sense, rather than just finishing our deliberations at this stage and enforcing the soft law, I would like us to continue our deliberations, taking into consideration the opinions of those in charge of operations, including the specific details to be disclosed.

[Goto, member]

Like Mr. Ouchi, I would also like to comment from an operating company

perspective.

First of all, regarding the most important topic under discussion, the direction of enhanced disclosure, I am of course personally in favor of the proposal. However, those of us who follow the rules, take things more seriously than we might appear on the surface. We will do everything in our power to comply when asked to disclose certain information. So, from the perspective of those who are trying their very hardest to comply, those who fail to comply stand out. Many companies are not actually complying, which is why I think we are having this discussion here now. I still think that as long as we all come to a consensus on the rules for disclosure, there should definitely be a strict penalty for those who do not disclose. To this end, the various authorities of TSE could be strengthened. The penalty does not have to be something that would cause the company to go out of business, but I believe that when TSE tries to encourage companies to comply based solely on a good faith belief, there would be different motivations, and various cases where it would be difficult to make a judgment. The stricter the rules are that if companies do not follow them then they will be penalized, the better the system itself will be, in my view.

Then, I have another comment on the scope of disclosure. From a practical standpoint, it is better to keep the scope as limited as possible, but I still believe that companies have a responsibility to respond to the various interests of their investors.

However, when it comes to how to look at stock holdings, the question is whether to look at direct or indirect holdings. I think there will be several ways of looking at how far upstream we should go in considering the shareholding ratio. One example that is sometimes seen, and this includes my company, is that a parent company, a subsidiary company, a second-tier subsidiary, a third-tier subsidiary, and a fourth-tier subsidiary are all listed on the stock exchange. In this case, the parent company with direct ownership is directly accountable. For example, if we discuss a situation with three levels of ownership, parent - subsidiary – second-tier subsidiary, the direct relationship with the second-tier subsidiary is between the second-tier subsidiary and the subsidiary, where there are various discussions related to a parent-subsidiary relationship like we are discussing today. I think that the disclosure here would have to be necessary and sufficient to satisfy the discussion of disclosure by a parent company and a subsidiary based on the holding relationship between the subsidiary and the

second-tier subsidiary. Then, if we discuss the relationship between the parent company and the subsidiary, I think there is some debate as to whether the parent company should disclose information on the second-tier subsidiary. However, we, the parent company, go to read about the enterprise value of the subsidiary. When looking at the corporate value of the subsidiary, what kind of discussion should the subsidiary have with the second-tier subsidiary? I believe that the subsidiary should fulfill its disclosure responsibilities in accordance with proper rules, which will lead to a positive evaluation by investors (including the parent company), which will ultimately be reflected in the market value. In that way, from the parent company's point of view, it would be good to organize the rules based on a direct relationship between a parent company and a subsidiary, and then to think carefully about a relationship that fulfills the disclosure responsibility.

On the other hand, there may be investors who say that "I am an investor in a third-tier subsidiary, but I want to know the thinking of the company four-tiers above." In such cases, since digitalization has come this far, I think that links can be included so that by clicking on a link, investors can jump straight to a subsidiary or second-tier subsidiary's website to find out about the subsidiary's relationship or second-tier subsidiary's relationship with the third-tier subsidiary. I think it is necessary for investors to be able to find out information if they are interested in it. However, these days, I think the responsibility is fulfilled if the information is presented in a digital format, if possible. I feel that it is probably more important than anything else for investors to have access to information.

Then, based on our view, we are not too particular about whether the shareholding ratio is 50%, 30%, or 5%, but rather, if investors wants to hear an explanation, we will respond to that request. However, I would like to point out something about direct and indirect shareholdings.

Regarding how to disclose the approach to group management, one minor point that caught my attention was the discussion about mentioning costs. I feel that this is not very realistic when considered from a practical perspective. The quantitative changes in cost and value, etc., resulting from the listing of an unlisted subsidiary need to be considered in a variety of mathematical cases, including various calculations and future projections. Since it was such a good topic to bring up, we discussed what we needed to point out among our divisions, but we concluded that it would to be quite difficult to show all of this

information. I think it is necessary to properly explain the qualitative aspects. I would like to request that the disclosure of costs as a quantitative aspect be made into a rule that is realistically possible.

Finally, I would like to comment on disclosure regarding special committee meetings. I think that the issue of how best to describe specific matters discussed at special committee meetings is similar to the issue of board meetings. As to whether to disclose specific individual matters discussed, matters that are required to be disclosed under other rules, such as financial results figures, should absolutely be disclosed. I don't think it is necessary to disclose, for example, those items that are not originally required to be disclosed by the rules, including strategic discussions and decisions. Some of the guidance in the document may need to be modified in this regard. I would like this to be discussed from the perspective of maintaining the superiority of strategies as a company. Instead, for example, in the same way that a company's articles of incorporation list the company's business objectives, I think it is possible to list and indicate matters that are basically required to be disclosed as a general rule.

[Takei, member]

I'd like to make three comments.

First, disclosure is being expanded this time, and I am sure that there are various purposes behind the expansion of disclosure. I would like to request TSE's staff in charge of disclosure practice to apply the rules in a manner that is consistent with the purpose of the disclosure, or rather, not to implement them in a perfunctory manner. It was explained earlier that it is necessary to take into consideration the possibility that specific and detailed disclosure of certain information, such as confidential information, may actually hinder business management. Those staff in the practice need to understand this. Also, regarding the word "cost" (of listing) on page 10, for example, the staff should not adhere to the formalism that a description using the word "cost" must be included or that, when considering how to examine cost, it must be measured quantitatively. Regarding the 4 points on page 10, It is not absolutely necessary to write them as a list, rather, I think how to describe them will depend on the flow of the text. So my first comment is that once the disclosure framework is determined, I would like TSE to coordinate with the operational aspects of the

framework to ensure that the framework is operated in such a way that the staff in the practice are not too concerned about the format.

My second comment is that when reading pages 13 and 14, I also wondered why only independent directors were discussed. As always, I will refer to the parent company as Company P and the subsidiary as Company S. Originally, we were talking about the independence of Company S from Company P, which is why independent directors have been the subject of the discussion. If you think about it, it is in the common interest of the general shareholders of Company P and Company S whether directors who will increase the corporate value of Company S can be appointed, and this is an important issue from an investor's perspective. Moreover, in practice, nomination committees are highly likely to have certain discussions about the top management of Company S, rather than merely selecting independent directors. In light of these things, it may be better to discuss the all directors of Company S. I think we should organize our thinking before reaching a conclusion. As for why we are only focusing on the independent directors at Company S, that's certainly something I wondered about when I read pages 13 and 14. Maybe that's how this discussion started originally, but I think it would be good for TSE to revisit this discussion here.

My third comment relates to the part about future expansion, particularly as it relates to unlisted parent companies and non-corporate controlling shareholders on pages 17 and 18. There are some things that TSE can do and some things that are difficult to do. Ultimately it may be a matter of coordinating with the FSA. It may be a matter of how to adjust or not adjust the current disclosure framework of reporting on the situation at parent companies, etc. under the Financial Instruments and Exchange Act. Also, I think it is difficult to know what the approach to this discussion will be until the details of the disclosure framework reform regarding governance-related contracts are finalized. I hope this will be considered in the future as an issue of what to do at TSE and what to do in terms of the legal system, including in conjunction with statutory disclosure.

This discussion will widen the gap or gulf. This means that if Company P happens to be listed, a wide range of information will be available, but that if Company P is not listed, no information will be available. Whether Company P

is listed or not does not change the importance from the perspective of the general shareholders of Company S. Therefore, I would like to discuss how to deal with the gulf that will be created this time as the next issue, and I would like us to consider this while looking at the end of the various discussions of statutory systems in the future.

[Kanda, member]

I would like to make two additional comments.

First, if the two parties are coming together to form the parent company, then of course that should be covered if considering the purpose this time. Those who practice law will know of the very famous Supreme Court decision in the Jupiter Telecommunications, Inc. case, involving a wholly owned subsidiary. In this case, Sumitomo Corporation and KDDI together owned 70% of the company and made it a wholly owned subsidiary. When two companies own more than 50% of a company, or fall into the situation where the disclosure is required if the scope of the disclosure is expanded, there should naturally be some kind of policy, such as a partnership agreement, between the parent companies. If the parent company is a listed company, such details will be disclosed, but from the subsidiary's point of view, it can be called a listed subsidiary, so of course it would be included in the scope of disclosure. I think it would be good to consider this point when making disclosure rules.

My second comment relates to page 13, which has been discussed a little bit. TSE has a system of independent directors, which requires listed companies to notify TSE of their appointment. As was pointed out earlier, this is a system that simply requires independence from the company. It is a system that requires additional independence in terms of economic and business relationships with outside directors/auditors, as defined in the Companies Act. Outside directors/auditors under the Companies Act is also a system based on the rule of independence from the company (although the requirements of "outside" include some degree of independence from the parent company). However, in this context, as I mentioned at the last meeting and as Mr. Takei has pointed out, the issue is independence from the parent company or controlling shareholder. The document cites the Corporate Governance Code, and the Code clarifies this point. Therefore, I think it is necessary to disclose independence from the parent company or controlling shareholder. I don't

necessarily read that the view from the way it is written on pages 13 and 14, although I think that is the intent of page 13. I think it would be desirable to require disclosure of independence from the parent company and controlling shareholder, not simply independence under the independent director/auditor system today.

On top of that, although it may not be a topic for today, I think TSE needs to create another system of independent directors. By that I mean an independent director system for listed subsidiaries. Listed subsidiaries will be required to appoint and report at least one director/auditor who is independent from the parent company or controlling shareholder (independent directors/auditors, especially in terms of economic and business relationships), in line with the current system. This is not the same as requiring an ordinary listed company to appoint and report a person who is independent of the company and its management. Naturally some people will be independent of both, and that is fine in those cases. Therefore, although it is goes beyond today's topics, I think the independent director/auditor system still needs to be revised.

[Kuronuma, member]

I would like to make an additional comment.

This is the same issue as the second point raised by Mr. Kanda, but this time the issue is the protection of minority shareholders in subsidiaries, and therefore the disclosure of the views on the election and dismissal of independence directors, and involvement in the election and nomination process is required. Of course, non-independent directors/auditors are also important, especially for the shareholders of the parent company. However, the central theme of this issue is the protection of minority shareholders in subsidiaries. Given that it is the parent company that exercises voting rights even if the subsidiary is required to disclose information, we are discussing requiring disclosure by the parent company, which actually exercises voting rights and has decision-making authority. Here, if we put too much emphasis on the importance of directors/auditors who are not independent directors/auditors, then the result will be a discussion about whether the same level of disclosure should be made for both, and I think that would be a distraction from the purpose of this discussion. I believe that we should be careful about this.

[Kato, member]

I would like to comment on the expanding the disclosure of information to other affiliates/affiliates on page 16. I thought that this is an issue on which various members have different opinions, so I would like to express my opinion.

As mentioned in the document, I understand that the reason for the proposed expansion of information disclosure to other associated/affiliated companies is that, first of all, it is a fact that group management is conducted in a way that includes other associated/affiliated companies. Although it is a bit old, according to a survey in 2018, about 20% or 30% of companies include companies other than consolidated subsidiaries in their group management rules, which, in other words, could be interpreted as including them in group management. In this case, if in reality companies other than consolidated subsidiaries are being included in the scope of group management, then when requiring disclosure of group management policies in cases where group management is conducted, I think there is a view that a framework that includes at least equity method affiliates would be more in line with the actual situation. In other words, there is currently a gap between the reality of group management and the framework for disclosure of information on group management, and there are still some items that are not required to be disclosed based on the policy that listed companies should disclose group management information. Therefore, the expansion of disclosure to other associated companies/affiliated companies is meant to fill this gap.

Next, regarding the expansion of disclosure to listed companies with other associated companies, I believe that this is a balancing issue with the fact that TSE requires independence from other associated companies at the initial listing examination stage. In other words, since TSE's policy is to require independence from other associated companies when approving listing, then it is necessary to consider consistency with this policy. If it is TSE's policy is that in cases where a company has an other associated company, it is not allowed to be listed unless it is independent in the sense that Mr. Kanda mentioned, then I think it would be an idea to review disclosure regulations in line with that policy.

Finally, with regard to the issue of disclosure regarding other associated companies and affiliated companies, it may be necessary to consider the relationship with the revisions to the system for reporting large-volume holdings that are currently under consideration. In other words, listed companies with

listed affiliates issue statements of large-volume holdings, and statements of large-volume holdings are issued regarding listed companies with an other associated company. Based on the type of information that is disclosed in such statements of large-volume holdings, in other words, from the perspective of balance or consistency with disclosure documents, it is necessary to consider the expansion of information disclosure to other associated companies and affiliated companies.

[Sampei, member]

As I think Mr. Kikuchi mentioned earlier, with regard to the disclosure of the ratio of voting rights exercised, when looking to understand the current situation and facts, or when looking at how much influence a parent company has in the exercise of voting rights, rather than simply the ratio of shares held by the parent company, the true influence can be examined by looking at the ratio of voting rights exercised, rather than by looking at the number of issued share as the usual denominator. In this sense, it is a very important number. I would very much like to see this disclosed, but I am not really sure how disclosure can be encouraged under the listing system. For example, when considering disclosure in extraordinary reports after general meetings of shareholders, it is not realistic because misstatements in extraordinary reports lead to liabilities, which requires accuracy. So, my question is, are there other ways for TSE to encourage disclosure?

[Shirozu, Manager, Listing Department, TSE]

The issue is whether it is possible to accurately determine the percentage of voting rights exercised, and I think the assumption is that the situation varies from company to company. We are not actually considering this at TSE, but as mentioned in a recent literature, it has been suggested that, similar to disclosure of proposals that received a lot of opposition, the disclosure of the exercise ratio be incorporated into the Corporate Governance Code. The purpose of this is that since the Governance Code is principles-based and that each company can disclose how it ascertains its voting ratio based on its own judgment and interpretation. Also, although I suspect that this is not the case in many instances, in some situations, it is permissible to explain. It is thought that it might be conceivable to introduce the listing system in a somewhat softer format, and I think such a measure might be possible.

[Takei, member]
I’m afraid this would be a very minor point, but regarding the confidential information mentioned earlier, in the discussion on the establishment of special committees on page 14, there are two languages, "specific items to be discussed" and "main items discussed." I am wondering what “specific” indicate. I don’t think it is a good idea for companies to write about individual transactions because that would involve leaking a variety of confidential information. So, in that case, I am concerned about the phrase "main items discussed," which is distinguished from the phrase "specific items to be discussed." I think it is good to write the kind of matters being discussed, such as the nature and character of the item, but I think it goes too far to require disclosure of each specific transaction that is discussed. If you have the description of "specific items to be discussed" in addition to the description of "main items discussed," then I assume that in practice, companies may be required to write about individual specific transactions. I think it would be better not to ask for too much detail and specific information.

[Kikuchi, Director, Listing Department, TSE]
Thank you very much.
I think we have run out of new opinions today. I appreciate your comments. We have received comments from various perspectives. We will review your comments, and then inform you of our future response. So, we will close today's discussion. Finally, I would like to explain the plan for our next meeting.

[Ikeda, Senior Manager, Listing Department, TSE]
Thank you again for your time today.
As Kikuchi mentioned earlier, we have received a number of suggestions, including the suggestions for disclosure at equity method affiliates. Based on today’s discussion, we would like to discuss the specifics of enhancing disclosure at TSE. We would be happy to discuss this with you individually regardless of whether we consult with you on this at the next meeting. We will then contact you separately regarding the details of the next meeting.

[Kikuchi, Director, Listing Department, TSE]
With that, I hereby declare today’s meeting adjourned.

Thank you for your participation in today's discussion. We look forward to talking to you all again at the next meeting.

End