Principles for Responsible Institutional Investors

《Japan's Stewardship Code》

Summary of Public Comments (in Japanese) and Replies

No.	Summary of Comments	Replies
	●Title	
1	I would like to suggest revising the main title to "Principles of Action for Responsible Institutional Investors." In addition, does the subtitle need to include the expression "Japan's"?	Although, as pointed out, the Code will largely function as "principles of action" for institutional investors, it also includes other requirements, for example, the development of skills and resources as provided for in Principle 7. In addition, the stewardship code in the UK is titled "UK Stewardship Code." Based on the above, we would like to keep the original title.
	●Preamble	
	▼Stewardship responsibilities	
2	"Stewardship" is a "fiduciary duty" derived from the concept of "trust" under traditional practice in the UK. That is, fiduciary duties to institutional investors principally should mean the "management of (and fiduciary duty associated with) the investment assets entrusted by the ultimate beneficiaries in the best possible manner"; and the sustainable growth of investee companies is merely the result of such activities. For this reason, it may be better not to include the enhancement of sustainable growth of investee companies as part of the stewardship responsibilities.	As pointed out, the ultimate goal for institutional investors is to enhance the medium- to long-term investment returns for their clients and beneficiaries. However, the purpose of the Code is to indicate the importance of encouraging the improvement of corporate value and sustainable growth of investee companies through constructive engagements in order to increase the medium- to long-term investment return. Therefore, we believe that stewardship responsibilities should be explained without leaving out this train of thoughts.
3	When investee companies have ample funds but are not able to find promising investment opportunities, in considerable amount of cases, they buy back their own shares or increase dividend payouts, thereby profiting the shareholders from the micro point of view. In addition, the	As pointed out, requesting investee companies to enhance the direct distribution of profits does not always mean the fulfilment of stewardship responsibilities. The Code does not necessarily reject such a request; but rather point out the importance of each institutional investor making substantial judgments as to the true meaning of fulfilling their stewardship

	vigorous payouts to shareholders by companies with sluggish growth and the provision of funding to growth companies through flow back of such payouts may result in appropriate capital allocation in the financial market as a whole from the macro point of view.	responsibilities.
4	The UK Stewardship Code provides that "compliance with the Code does not preclude a decision to sell a holding, where this is considered in the best interest of clients or beneficiaries." The message of this provision seems obvious, yet it may be appropriate to include in the Code the possibility of selling the shares in order for this to be clear to the public.	Based on the comment, the Code was partially revised for the sale of a holding. (Note) Specifically, a footnote was added to the preamble to the Code, stating that the Code does not preclude a decision to sell a holding, where this is considered in the interest of clients and beneficiaries.
5	Can the stewardship responsibilities of "institutional investors as asset owners" who are entrusting their assets to "institutional investors as asset managers" to manage funds be fulfilled, for example, by understanding the entrustees' policies/activities for fulfilling the entrustees' stewardship responsibilities and exerting influence on them as necessary?	Paragraph 7 of the preamble to the Code states, "(t)he 'institutional investors as asset owners' are expected to disclose their policies on fulfilling their stewardship responsibilities and contribute to the enhancement of the corporate value of investee companies through their own actions and/or the actions of the asset managers, to which they outsource their asset management activities." Therefore, "institutional investors as asset owners" are expected to take actions appropriately in light of their circumstances, including the method indicated in the comment.
	▼Purposeful dialogues [engagements]	
6	Shareholder engagement from the viewpoint of short-term investment management may lead to the maximization of short-term profits and work against the generation of long-term corporate value. As institutional investors and investee companies do not have a common understanding as to the scope and purpose of the "purposeful dialogues [engagements]," it may be helpful to include the definition of the term in the guidance such as "dialogues [engagements] aiming to contribute to the improvement of medium- to long-term corporate value." Please clarify the meaning of "purposeful."	Guidance 4-1 states that the purpose of dialogues or engagement is "enhancing the companies' medium- to long-term value and capital efficiency, and promoting their sustainable growth." However, based on the comment, a further clarification was made in the Code regarding the purpose of dialogues or engagement by adding the same explanation stated in Guidance 4-1 as a footnote under Principle 1.
	▼Costs associated with stewardship activities	
7	If the ultimate purpose of stewardship activities is the enhancement of medium- to long-term investment returns to clients and beneficiaries, should the costs associated with the stewardship activities be borne by	The stewardship activities of institutional investors ultimately aim for enhancing the medium- to long-term returns to the clients and beneficiaries. Therefore, as pointed out, an appropriate level of costs for stewardship activities is an indispensable element in asset

	the clients and beneficiaries? Going forward, it is necessary to come to an agreement on the appropriate level of costs associated with stewardship activities.	management, and we believe it is important that both institutional investors and clients/beneficiaries share this concept.
	▼Scope of institutional investors	
8	･Will the Code also be applied to foreign institutional investors? ･Is it correct to understand that investments in foreign companies by domestic institutional investors are outside the scope of the Code?	In principle, the Code targets "institutional investors investing in Japanese listed shares," which includes foreign institutional investors. Thus, we prepared the English version of the Code and would welcome the acceptance of the Code by foreign institutional investors. The Code basically does not take into account domestic institutional investors investing in shares listed in foreign countries. However, this does not mean to exclude such investors from accepting and signing up to the Code.
9	I understand that the FSA will publish a list of institutional investors who signed up to the Code. In relation to such list, I am concerned that the list will be misunderstood as the list of first-class institutional investors, thereby putting those who did not sign up to the Code in an unfavorable position because they are specialized in bond investment management or focusing on short-term trading, etc. When publishing the list, the FSA should communicate the purpose of the Code accurately.	The preamble to the Code (Paragraph 9) provides a clarification regarding the Code's application stating that the principles in the Code should be applied in a manner suited to each institutional investor's specific conditions and situations; namely, among other factors, the investor's size and investment policies (e.g., whether the policies are oriented toward long-term or short-term returns, or active or passive strategies). However, based on the comment, we will ensure to provide an appropriate communication to avoid causing misunderstandings over the purpose of the Code at the publication of the list and other occasion.
10	Paragraph 14 of the preamble to the Code requires institutional investors to publicly disclose their intention to accept the Code and "information that are required to be disclosed by the principles of the Code," including the policy on how they fulfill their stewardship responsibilities. Does this mean that the Code rightfully allows acceptance of the Code and public disclosure for only a part of their investment products involving shares?	The Code primarily targets institutional investors investing in Japanese listed shares and institutional investors can thus declare their intention to accept the Code and publicly disclose information as required by the principles of the Code for only a part of their investment products involving Japanese listed shares. In such case, institutional investors can declare their acceptance of the Code as a whole without specifying (or disclosing) each investment products that is or is not subject to the Code by clarifying that their acceptance of the Code only relates to their investment products involving Japanese listed shares.
	●Principle 2 (Appropriate management of conflicts of interest)	
11	I would like to suggest adding specific examples of conflicts of interest in the footnote to Guidance 2-2. Although the scope of the issue may be wide, specific guidance should be provided as it is an important part of the principles of actions.	As pointed out, it is very important for institutional investors to manage conflicts of interest appropriately when fulfilling their stewardship responsibilities. However, listing specific examples of conflicts of interest may cause formalism to such investors' actions. As such, we deliberately decided not to indicate such examples in the

<table>
<tr><td></td><td></td><td>Code.</td></tr>
<tr><td>12</td><td>Although Guidance 2-2 states that “institutional investors should put the interest of their client and beneficiary first,” it may be appropriate to clearly state at the beginning of Guidance to Principle 2 that “institutional investors are expected to put the interests of their clients and beneficiaries first at all times.”</td><td>Based on the comment, a sentence was inserted at the beginning of Guidance 2-1 stating that “institutional investors should put the interest of their client and beneficiary first.”</td></tr>
<tr><td></td><td colspan="2">● Principle 3 (Appropriate monitoring of investee companies)</td></tr>
<tr><td>13</td><td>It may be better to specify monitoring items under each guidance as in the UK Stewardship Code.</td><td>While various items can be used for monitoring the investee companies, we believe it is important that each institutional investor determine which monitoring items to use according to its investment policy, the characteristics of the investee companies and other factors. Furthermore, if we list the monitoring items, institutional investors may misunderstand that following and focusing on such listed items is deemed satisfactory. We therefore deliberately decided not to indicate specific monitoring items in any more detail than those currently placed in the guidance to the Principles.</td></tr>
<tr><td>14</td><td>It is difficult for small-sized institutional investors, to collect exclusive information other than that publicly available. Thus, it may be appropriate to revise the expression “appropriately monitor” to “appropriately observe”.</td><td rowspan="2">Principle 3 of the Code is not intended to require institutional investors to acquire generally unavailable and exclusive information as to the situation and condition of the investee companies.

In addition, for the recommended use of the term “monitoring” in Japanese, it was pointed out in the Council meeting that in light of the Code’s purpose, use of the term “monitoring” in Japanese is not necessarily appropriate because the term has a nuance of one-sided surveillance of the investee companies.

As pointed out, it is expected that institutional investors, after obtaining information as to the situation and condition of the investee companies, will take action as necessary. However, in order to draw a clear distinction between Principles 3 and 4, Principle 3 only refers to the capturing of information (“monitoring” in English) and the actions beyond capturing information are covered in Guidance 4-1 of Principle 4.

In any event, each institutional investor is expected to make their own decision as to how specifically to capture the situation of (i.e., “monitor”) the investee company.</td></tr>
<tr><td>15</td><td>Required actions under Principle 3 should include not only capturing the situation and condition of the investee companies (which is being implied in the current Japanese version), but also taking necessary actions based on the captured information. To make this clear, the Code should use the term “monitoring” in the Japanese version in order to convey more straightforward message.

NB: While the English version of the Code already uses the term “monitor”, this comment suggests using such term in Japanese version as well, which currently is using the another term. It should therefore be noted that this question mainly relates to the terminology of the Japanese version and does not affect the contents or message contained in the English version. However, we would be grateful if you could read our answers as reference information for the implied message in this</td></tr>
</table>

	Principle.	
16	Guidance 3-2 states, "institutional investors should review as appropriate the effectiveness of the monitoring." Is it correct to assume that the method for confirming the effectiveness of such monitoring is up to individual institutional investors?	As pointed out, it is important that each institutional investor should consider and determine the appropriate way for reviewing the effectiveness of monitoring in line with their own circumstances.
	● Principle 4 (Common understanding with investee companies and solving problems through constructive engagement)	
17	Principle 4 requires institutional investors to conduct "purposeful and interactive dialogues [engagement]," "reach a common understanding with investee companies," and "solve problems" at all times. However, I speculate that this pattern of behavior is applicable principally to activists. Assuming that the Code is not intended to require all institutional investors to comply with this specific style of operation, this paragraph should be revised to make clear that this is a requirement at the time of emergency.	In case a risk of possible loss in corporate value is identified in investee companies, more in-depth engagement is considered necessary (see the latter half of Guidance 4-1). However, the Code does not require the engagement only in such circumstances. Rather, the Code recommends a drastic departure from the stance of having engagement only when problems occur in investee companies. Having engagements with investee companies even if they do not have any specific problem, and for example, exchanging views as to the investee companies' medium- to long-term vision will encourage both investee companies and institutional investors to make efforts to achieve sustainable growth that are not biased towards the short-term perspective. It should be noted, however, that the target of engagement should be selected by each institutional investor taking into account its specific situation and condition. Falling into the formalism where placing implementation of engagements itself as the sole purpose of having engagements (for example, conducting numerous engagements without any purpose) should be avoided. Investee companies, on the other hand, should keep in mind that just because they received a request for engagement from an institutional investor, it does not necessarily mean that the institutional investor is considering the company as problematic.
18	In some cases, "requesting further explanation from the companies" as in Guidance 4-1 is not sufficient, and more forceful means may be necessary. Institutional investors have the right to cast an opposing vote on election (or re-election) of proposed directors or to submit shareholder proposal to remove directors, and should exercise these rights when it is necessary. I believe that ignoring this tense relationship between shareholders and investee companies, and using ambiguous expression	The Code states that in case a risk of possible loss in corporate value is identified through the monitoring of and engagement with companies, institutional investors should endeavor to arrive at a more in-depth common understanding with such company by, for example, requesting further explanation. After taking the above action, each institutional investor should consider and determine the most suitable way to solve existing problems, given the situation where "requesting further

	in the Code as mentioned above, is not appropriate.	explanation from the companies" is not adequate. From these view points, the Code recommends that institutional investors should have a clear policy in advance on how they design engagement with investee companies in various possible situations (although the Code does not require disclosure of the policy) (Guidance 4-2).
19	Footnote 6 attached to Guideline 4-3 in the exposure draft (footnote 10 in the final version) contains the wording "(w)hen an institutional investor needs to receive information on undisclosed material facts." In relation to the insider trading regulations, this expression gives an impression that institutional investors are willing to obtain undisclosed information actively. Thus, it may be appropriate to revise the wording to convey that the footnote is referring to the situation where the institutional investors accidentally receive information on undisclosed material facts.	Footnote 6 in relation to Guideline 4-3 in the exposure draft (footnote 10 in the final version) covers circumstances where institutional investors accidentally receive undisclosed material information as well as where they attempt to obtain undisclosed material information based on their exclusive relationship with the investee companies. However, as pointed out, it is not desirable to give impression that the Code encourages active obtaining of undisclosed information. Thus, an additional paragraph has been inserted to the beginning of the guideline, stating that "(i)n principle, institutional investors can well have constructive dialogue with investee companies based on public information, without receiving information on undisclosed material facts."
20	In Principle 4, it may be appropriate to clearly indicate the counterparty of engagement as "directors in cluding the management and outside directors" instead of "investee companies" to reflect the purpose of constructive engagement from a long-term perspective. (One other similar comment)	We consider beneficial to conduct engagement with the officers of investee companies (i.e., the management and directors including outside directors) to enhance the companies' medium- to long-term corporate value and capital efficiency, and promote their sustainable growth. In this regard, investee companies are also expected to provide opportunities for such engagement to a reasonable extent. However, we believe it is not necessarily appropriate to uniformly restrict the target of engagement to the management or directors including outside directors (for example, at times it may be appropriate to have engagement with working-level staff in the areas of investor relations (IR)/shareholder relations (SR)).
	● Principle 5 (Disclosure of voting policy and voting activity)	
21	In some cases, it is appropriate to disclose voting activities publicly without summarizing the information from the viewpoint of fulfilling stewardship responsibilities. Thus, the format for disclosing information on voting activities may be better left to the rational discretion of institutional investors.	As pointed out, the Code is not intended to preclude the possibility of disclosing voting activities outright when this is considered most suitable for the institutional investors in their efforts to fulfill their stewardship responsibilities.
22	While Guidance 5-3 requires institutional investors to aggregate voting records into each major kind of proposal and publicly disclose them, it also accepts exceptional treatment. However, public disclosure of	For a disclosure approach other than disclosing aggregate data publicly, Guidance 5-3 states, "the types of activities institutional investors give priority to in fulfilling their stewardship responsibilities can vary depending on such factors as their stewardship policy and

	aggregate data should be the minimum and mandatory requirement, and there should be no exception.	investment policy, and the types of their clients and beneficiaries. If there is a reason to think a disclosure approach different from the disclosure in aggregate mentioned above would portray an investor's whole stewardship activities more appropriately, the investor may choose the approach while explaining the reason."
23	The FSA should disclose information regarding voting results such as URLs on the view. Additionally, voting results should be made available to the public for 3-5 years after disclosure.	We plan to publicly disclose the list of institutional investors that declare their acceptance of the Code. In doing so, in addition to the names of institutional investors, we will disclose the URL of the website relevant to each investor's stewardship-related information in a format that can be understood at a glance. Considering the importance of disclosing the results of voting activities with some visibility as to historical trend and changes, a single year's disclosure (i.e., removal of the current year's voting results in the following year) may not meet the Code's purpose. With this in mind, we believe it is important that institutional investors determine a specific approach for public disclosure considering their own circumstances as well as the position of recipients of the information.
24	Developing principles for exercising voting rights, disclosing voting activities, and conducting 'purposeful dialogue [engagement]' are practically difficult for investment managers under discretionary investment management agreements covering domestic shares when such managers do not have the right to exercise voting rights by instruction (e.g., the managed assets are owned under the client's name; and the client itself will exercise voting rights). Is it correct to assume that such investment managers are not required to take the same approach as those who have rights to exercise voting rights by instruction?	There are various ways to comply with the Code depending on the type of investment management. For example, as pointed out, the Code is not intended to require a formulation of voting strategy and disclosure of voting activities uniformly when such requirements are considered unreasonable. It should be noted, however, that it is considered important for investment managers, if they retain rights other than those regarding voting activities, to consider and determine the approach for fulfilling their stewardship responsibilities substantially and appropriately in relation to such other rights.
	●Principle 6 (Reporting to clients and beneficiaries)	
25	Guidance 6-3 states, "institutional investors should choose the format and the content of the reports in light of any relevant agreement with the recipients (i.e., clients and beneficiaries) and the recipient's convenience, and the costs associated with the reporting." Is it correct to assume that "any relevant agreement with the recipients" here is noted purely as an example?	If there are existing agreements with clients and beneficiaries as to the format and contents of the reports, institutional investors should obviously respect such agreements. However, where there is no such agreement, the Code is not intended to require institutional investors to newly enter into agreements with their clients and beneficiaries uniformly. In this regard, institutional investors should make appropriate decisions considering their relationships with clients and beneficiaries and their own circumstances.
26	Due to the nature of the business, it is difficult to report to their clients	As pointed out, when it is practically difficult to report to their clients and beneficiaries

	and beneficiaries individually in the case of investment trusts. In this case, could we assume that the latter part of footnote 8 in the Code (footnote 12 in the final version) is applicable, and such trust may thus choose to publicly disclose the relevant information on their website?	individually, institutional investors may choose, instead of individual reporting, to publicly disclose the information on their website. It should be noted, however, even in the case of public disclosure, institutional investors should consider and determine the subject of disclosure so that it will be beneficial to recipients of such disclosure.
	●Principle 7 (Engagements and judgments based on the in-depth knowledge of the investee companies)	
27	The definition of the term “skills and resources” is broad; hence clarification is necessary by stating, for example, “institutional investors should develop a framework necessary for having engagements and making proper judgments.” (Two other similar comments)	There are various ways to develop skills and resources for making necessary judgments in pursuing engagements with investee companies and engaging in stewardship activities, including the enhancement of knowledge through the exchange of views with other investors as well as the development of a framework that you referred to. Each institutional investor should thus develop the desired skills and resources by considering and deciding the most suitable method for fulfilling their stewardship responsibilities.
28	It may be appropriate to remove Principle 7 from the Code, as it seems to overlap with the contents of Principles 3, 4 and 5. Compliance with Principles 3, 4 and 5 seems to evidence adequate skills and resources to fulfill stewardship responsibilities. (One other similar comment)	In order to enhance the quality of implementation of Principles including 3, 4 and 5, it is considered meaningful to clearly stipulate the importance of having skills and resources to fulfill stewardship responsibilities as a separate principle.
29	Guidance 7-3 states, “(i)nstitutional investors should review at an appropriate time samples of their previous engagements with investee companies and the judgments they made, and improve their stewardship policy and voting policy based on such review. Institutional investors should continually endeavor to improve the quality of their stewardship activities.” Does this mean that it is up to institutional investors to decide the method of such review at an appropriate time and whether or not to improve their policies based on such review?	As pointed out, in order to implement their stewardship responsibilities appropriately, each institutional investor, in light of their circumstances, should consider and decide the method of review at an appropriate time and whether or not to improve their policies based on such review.
	●Others	
	▼Is the Code subject of FSA inspection/supervision?	
30	It is the institutional investors’ voluntary decision whether or not to sign up to the Code. Accordingly, is it correct to understand that the FSA will not check institutional investors’ compliance status with the Code when inspecting/supervising institutional investors?	The significance of the principles-based approach adopted by the Code is for institutional investors to develop, improve, and make their stewardship activities truly appropriate in light of the purpose and spirit of the Code instead of systematically following the wordings in the Code.

	(Two other similar comments)	To achieve wide acceptance of the Code, we therefore believe that it is important to encourage institutional investors' voluntary and independent actions rather than making acceptance of the Code a direct subject of FSA inspection and supervision.
	▼Legal issues	
31	When multiple investors have discussions with an investee company via engagements and other measures under some common policies, will it be considered as the act of jointly controlling the investee company, thus subject to the large shareholding report rule or other regulations?	The Joint Holder concept under the large shareholding reporting rule will be applied when shareholders have an agreement with each other regarding the exercise of "voting rights and other shareholder rights." The "voting rights and other shareholder rights" are defined as the legal rights including "rights to propose, rights to inspect books and records, rights to request that the company file a lawsuit against erring directors, etc., in addition to voting rights." The FSA will add to the Q&A (discussed at the fourth Council meeting) that mere agreement as to general shareholder activities other than the exercise of legal rights does not fall under the Joint Holder concept. We will continue the discussion as necessary for the possibility of further clarification of this matter. Additionally, the FSA published a paper titled "Clarification of Legal Issues Related to the Development of the Japan's Stewardship Code" to clarify issues associated with the existing legal system in Japan by outlining the legal interpretation in an easy to understand format including the contents of above Q&A. The paper is referred to in the Code in the footnote to the preamble with the URL of the FSA's website so that readers of the Code can refer to the paper easily (http://www.fsa.go.jp/en/refer/councils/stewardship/material/legalissue.pdf).
32	Let us assume that an institutional investor conducted constructive, purposeful engagement with an investee company and the investee company improved its management strategy based on such engagement. As of this point, it is highly likely that the institutional investor becomes an insider of the investee company regarding its corporate strategy, and that the institutional investor will be restricted from trading the investee company's shares until the strategy is disclosed publicly. Such a status (i.e., restriction on freedom of investing activities) would harm the interests of beneficiaries.	Using the example in the comment, if the institutional investor is not aware of the investee company's decision to improve its corporate strategy, even after conducting engagement with the investee company, such investor would not be subject to prohibition of insider trading. Additionally, investee companies are required to perform timely disclosure (i.e., immediate disclosure of material corporate information related to facts that have been decided or have occurred), to which the decision to improve corporate strategy will likely be applicable. The Code does not preclude the possibility of institutional investors obtaining undisclosed

		material facts through engagement based on their special relationship with the investee companies. However, in principle, institutional investors may have purposeful engagement with investee companies based on public information, without receiving undisclosed material facts (Guidance 4-3 and footnote 10).
	▼Stewardship responsibilities of investee companies	
33	・ The Code should include a statement requiring not only institutional investors, but also investee companies to work sincerely towards achieving constructive "purposeful dialogues [engagement]." ・ The corporate governance code should be developed in Japan. (Five other similar comments)	Your comment is highly appreciated. With regard to your first comment, engagements should be interactive; thus, we expect investee companies to sincerely cooperate with institutional investors in their attempt to achieve constructive "purposeful dialogues [engagement]."
▼Others		
34	Based on the private property rights secured under the Constitution, is it acceptable to consider that investment of self-owned assets, regardless of the amount, is completely free from application of the Code or any public disclosure required by the Code?	The Code is targeted at institutional investors entrusted by clients and beneficiaries (including ultimate beneficiaries) to manage funds. Therefore, the Code is not applicable to pure investment of self-owned assets.
35	It may be appropriate to clarify that the Code only relates to the engagement between investee companies and institutional investors, thus, proposals made by individual shareholders are not the subject of the engagement between investee companies and institutional investors.	We do not consider that proposals made by individual shareholders are excluded as the subject of engagement between investee companies and institutional investors.
36	Discretionary investment business operators that are entrusted by clients such as pension funds, to manage funds and exercise voting rights should have a common understanding as to significance/necessity of stewardship with their clients. In this regard, continuing promotion of such significance/necessity is requested to an extensive range of institutional investors including pension funds.	As pointed out, we believe it is very important to promote awareness of the Code's significance/necessity to an extensive range of institutional investors including asset owners such as pension funds. We will continue making efforts to promote and increase acceptance of the Code.