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Proposal Based on the Materials for
the Sixth Council of Experts Concerning the Corporate Governance Code

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I would like to suggest considering the following matters in relation to the document titled "Draft Proposals regarding the Corporate Governance Code (Excerpt)".

1. Regarding [Principle 1.2. Exercise of rights at the general meetings of shareholders] (p. 3)

Recognizing that general shareholder meeting are places for constructive dialogue with shareholders, listed companies should establish an appropriate environment for the exercise of rights at general meetings from the perspective of shareholders.

Supplementary principles

1.2.1 Regarding information related to general shareholder meeting, listed companies should provide necessary materials with accuracy so shareholders can make appropriate decisions.

1.2.2 Notification of the convening of general shareholder meeting should be sent at an early stage so shareholders can secure a sufficient amount of time to examine the general meeting agenda, and information recorded in the notification should be published electronically such as through TDnet between the time the board approves the convening of a general meeting and the sending of the notification for the general meeting.

1.2.3 Listed companies should set an appropriate schedule for a general shareholder meeting, bearing in mind the perspective of holding sufficient and constructive dialogue with shareholders and the provision of accurate information for such dialogue.

- Supplementary Principle 1.2.2 states that "Notification of the convening of general shareholder meeting should be sent at an early stage". However, as described in p. 2 of the material I submitted for the fifth Council, given the great responsibility borne by companies in disclosing information, I believe that a certain time would still be necessary to enable companies to responsibly disclose sufficient information. For this reason, I believe that the Code should clearly state that setting aside enough time to maintain the reliability of information should be a prerequisite for any efforts

made to dispatch the convocation notices earlier.

- Also, making the information contained in securities reports available during the review period before shareholders exercise their voting rights, as is done in foreign countries, would lead to the establishment of an environment which allows shareholders to exercise their voting rights effectively. In order to create such environment, I believe that it will be necessary for companies to set schedules relating to general shareholder meeting in a flexible fashion, taking into account the shareholders' perspective. For this reason, I believe that the Code should state that "listed companies must give due consideration to setting schedules relating to general shareholder meeting in such a way as to allow institutional investors both in Japan and abroad, as well as general shareholders, to make use of securities reports and comprehend the company's situation."

2. Regarding [General Principle 4] (p. 12)

Given their fiduciary responsibility toward shareholders and with the view of attaining sustainable corporate growth, of increasing medium- to long-term corporate value, and of improving earnings capacity and capital efficiency, the boards of listed companies should appropriately fulfill such roles and functions as:

- (1) Indicate the broad direction of corporate strategies
- (2) Develop an environment that supports appropriate risk-taking by senior management (ensuring accountability)
- (3) Engage in highly effective monitoring of management and directors from the perspective of independent objectivity

Such roles and functions should be equally and appropriately exercised regardless of the form of company organization that is adopted, whether a company with *Kansayaku* board (where a part of these roles and functions are performed by the *kansayaku* board), a company with three committees, or a company with audit and supervisory committee.

- OECD Principles stipulate that "the accountability of the board of directors to the company and its shareholders should be ensured." The current proposal, however, merely states "Given their fiduciary responsibility toward shareholders", failing to link fiduciary responsibility and accountability. I believe that fiduciary responsibility and accountability to shareholders should be indicated clearly and separately.
- Accountability is only indicated clearly in point (2) ("Develop an environment that supports appropriate risk-taking by senior management (ensuring accountability)"). I believe, however, that the Code needs to clearly describe the kind of fiduciary responsibility and accountability that the board of directors must fulfill.
- Furthermore - and this is not limited to the responsibilities of the board of directors - I believe that, in a company's governance, accountability is extremely important to ensure transparency in fulfilling the fiduciary responsibility to shareholders. Governance functions differ based on a company's institutional design. I believe that the Code should stipulate the necessity for companies to clearly explain how fiduciary responsibility and accountability are fulfilled on the basis of what kind of institutional design.

3. [Principle 4.4. Functions of *kansayaku*] (p.14)

Kansayaku, in performing such functions as exercising their powers regarding the auditing the execution of duties by directors, the appointment or dismissal of the external auditor or audit remuneration, should make appropriate decisions from an independent and objective standpoint, bearing in mind their fiduciary responsibility toward shareholders.

In addition, so-called defensive functions, such as the audit of operation and the audit of accounts, are part of the important roles expected of *kansayaku*. To fully perform these functions, it would not be appropriate for *kansayaku* to view this defensive sphere too narrowly, and they should actively exercise their rights and express their views appropriately at board of directors meeting and to management.

- At p. 12 of Material 1 for the fourth council ('The expected roles and responsibilities of *kansayaku*'), the following points are presented for consideration: "What should we think about professional knowledge and experience required of *kansayaku*?", and "It is pointed out that *kansayaku* should include person(s) with knowledge of finance/accounting. What should we think about it?" Proposed principle 4.4 and supplementary principle 4.4.1, however, do not mention the specialized knowledge required of *kansayaku*.
- As stated on p. 6 of the material I submitted for the fifth council, I believe that accounting auditors' insight into audit and specialized expertise in finance/accounting will be necessary in order to completely fulfill *kansayaku*'s functions including the process of appointing and evaluating accounting auditors and supervising audit implementation. Also, given that *kansayaku* are in a position to judge the reasonableness of the audit results carried out by accounting auditors, the appointment of *kansayaku* having sufficient insights into the professional duties of accounting auditors will ensure that *kansayaku* can fulfill their duties effectively. Therefore, I believe that at least one of them should be thoroughly familiar with audits carried out by accounting auditors, and possess insights into and skills relating to finance/accounting.
- Likewise, such specialized knowledge is necessary not only for *kansayaku*, but also for outside directors and the Audit and Supervisory Committee, etc., which are expected to serve a monitoring function at the board of directors, and I believe that it should be included in Chapter 4 ("Responsibilities of the Board").
- At p. 13, Material 1 for the fourth council ("The expected roles and responsibilities of *kansayaku*") presents a point for consideration focusing on "the structure necessary for *kansayaku* to effectively fulfill their responsibilities

(securing personnel/budgets for supporting *kansayaku*; cooperation and information sharing with the management, internal audit department, outside directors, external auditors, etc.) Proposed principle 4.4 and supplementary principle 4.4.1, however, do not mention such a structure.

- As stated on p. 7 of the material I submitted for the fifth council, I believe that developing a sufficient structure will prove essential to enable *kansayaku* to fulfill their role more effectively. To this end, I believe that the Code should comprehensively include the description of “securing personnel/budgets for supporting *kansayaku*; cooperation and information sharing with the management, internal audit department, outside directors, external auditors, etc.”