

November 8, 2016

Opinion Statement for the 10th Council of Experts Concerning the Follow-up of
Japan's Stewardship Code and Japan's Corporate Governance Code

Kengo Nishiyama

As I'm not able to attend the 10th Council of Experts Concerning the Follow-up of Japan's Stewardship Code and Japan's Corporate Governance Code for certain reasons, I'd like to make some comments on the meeting topic "Effective Stewardship Activities of Institutional Investors". Please note that the comments expressed herein are solely my personal views, and do not represent views of the organization I belong to.

• Effective Stewardship Activities by Asset Managers, Especially Concerning Managing Conflicts of Interest

Even though asset managers have the perception that they have policies to avoid/address conflicts of interest, it seems that asset owners and others often raise doubts about conflicts of interest. One of the reasons would be a gap between the "level" of conflicts of interest from the viewpoint of asset owners and the "level" of conflicts of interest from the viewpoint of asset managers. I believe that it is essential to have discussion between asset owners and asset managers to fill the gap. Moreover, the fact that asset managers do not necessarily fully disclose their policies for managing conflicts of interest would be another reason for the view that their efforts are not sufficient. Accordingly, I believe that they are required to make proactive and clear-cut disclosures, which help readers clearly understand practical matters – substance, not form.

In order for asset management companies to avoid/manage conflicts of interest, considering the fact that many asset management companies in Japan belong to financial institutions (holding companies) groups, efforts of asset managers alone are not sufficient. If there are doubts about circumstances shown in "Case Study on Conflict of Interest at Proxy Voting", the material used in the 8th Council meeting, I believe it is essential that each financial group as a whole reaffirms the importance of avoiding/managing conflicts of interest and takes necessary measures and that issuing companies also enhance their awareness that carrying out activities described in the Case Study itself falls under the category of conflicts of interest.

As for the former, it is necessary to review a policy for managing conflicts of interest for a

financial group as a whole, and positively make disclosure. As for the latter, it would be necessary that, for instance, the Corporate Governance Code additionally stipulates that they should not conduct activities specified in the above-mentioned Case Study. Even at present, I believe there is almost no situation where such cases distort asset managers' voting decisions. However, it is also true that persons in charge of proxy voting are not completely free from concerns about "someone may criticize our proxy voting decisions." The most important thing is creating an environment where they can exercise their voting rights without being conscious of such concerns.

• **Enhanced Disclosure of Voting Results**

First of all, I believe that all institutional investors should at least disclose their voting results by sorting and aggregating them by major categories of proposals. There may be a concern that only the figures are picked up, but it is considered very important to know the overview of proxy voting by institutional investors, and analyze their voting results. Furthermore, many institutional investors have already disclosed aggregate voting results by main category of proposals. When such a practice has become established, it is considered that there is little concern that only the figures are picked up. If they are concerned about that, it will be more important to disclose voting results with enhanced explanations about reasons for or background of their voting decisions, instead of choosing not to disclose them. In this regard, it would be better to bring it closer to the rule-based approach, rather than the principle-based approach. However, there currently is variance in ways of aggregate disclosure concerning certain categories of proposals: for example, with regard to proposals for appointing directors/*kansayaku*, some investors count votes for/against individual candidates separately; and other investors regard appointment decisions on all candidates as one proposal, where if they voted against just one of them, they count it (i.e. the proposal on appointing all candidates) as one "against" vote in aggregate disclosure. Thus, it is necessary to standardize the way of aggregation.

Having said that, I take a cautious stance for "disclosure at the company/proposal level" under the current circumstances. If we go for it when there still are doubts about situations shown in the above-mentioned "Case Study on Conflict of Interest at Proxy Voting", I'm afraid that persons in charge of proxy voting are likely to come under pressure in making voting decisions. I believe that priority should be given to addressing the need for enhancing recognition and awareness of conflicts of interest among the entire financial institution groups, not only asset managers, as well as among issuing companies, and improving their policies for managing such conflicts.

It, however, does not hamper their voluntary disclosure at the company/proposal level. Institutional investors capable of doing so should actively do so. Furthermore, if issuing companies request them to disclose their voting results, they should disclose the results and offer explanations even at the moment. (In doing so, asset owners' understanding would be necessary upon such disclosure.)

- **Passive Managers' Engagement, etc.**

I assume that most passive managers use TOPIX as their benchmark, while TOPIX includes almost 2,000 listed companies. Even if passive managers narrowed down the number of investee companies, they still need to exercise their voting rights, and thus we cannot deny the possibility of their engagement being just for form's sake. Meanwhile, when companies are listed on TSE First Section, they are invested in by pension funds, etc., which results in the situation where "they cannot easily find the effect of their efforts for enhancing corporate governance and engagement activities".

If passive managers narrow down investee companies, for instance, to JPX400, they will be able to exercise more efficient and effective voting rights, as they can spend more time on each company; and companies will also be able to see specific effects of their "efforts for enhancing corporate governance and engagement activities."

- **Self-Evaluation of Asset Managers and Monitoring of Asset Managers**

I believe that self-evaluation of asset managers is necessary. There may be a view that such an evaluation should be done by the Financial Services Agency, etc., but I consider that it is desirable to take the form of self-evaluation, which is to be disclosed, and is, in turn, evaluated and judged by asset owners, etc.

- **Clarification of What Asset Owners Require from Asset Managers**

I consider this is also extremely important. Especially in case of asset owners who have a large number of stakeholders, I feel that it is very important not only to show it to asset managers, but also to familiarize wide-ranged stakeholders with it through active disclosure.

- **Others (Stewardship Activities of Corporate Pension Funds)**

As for corporate pension funds, there would be many difficulties in conducting stewardship

activities due to the scale and manpower reasons. Nonetheless, I consider that it is essential to create an environment that encourages them to conduct such activities to the extent possible, by establishing “the Stewardship Code for Corporate Pension Funds”, etc.

I believe that the publication of proposed Opinion Statement, which is to be discussed this time, is very meaningful for conducting corporate governance and stewardship activities, so it is critical to have in-depth discussion to refine Opinion Statement even further.