Provisional translation

Laws, Regulations, and Q&As Regarding the “Act of Material Proposal” and “Joint Holders” Under the Large Shareholding Reporting Rule

- To promote constructive dialogue between institutional investors and investee companies -

August 26, 2025

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Introduction

About this document

- The “Principles for Responsible Institutional Investors《Japan’s Stewardship Code》(hereafter “the Code”)” were published in February 2014. Since then, the Code has been revised twice in May 2017 and March 2020, and the third revision was published in June 2025.
- The Code requests institutional investors to conduct constructive dialogue with investee companies to foster sustainable growth in investee companies and enhance the medium- to long-term investment return for clients and beneficiaries. It is expected that each institutional investor will be encouraged to make self-motivated changes in their mindsets, and constructive dialogues between companies and investors will deepen and become more effective.
- In light of environmental changes such as the increase in passive investment, the growing significance of constructive dialogues between institutional investors and investee companies, and the expansion of collaborative engagement, the scope of the “act of material proposal” was clarified to enable institutional investors to engage in in-depth dialogue. The scope of “joint holders” was also clarified to promote collaborative engagement that contributes to improving corporate value in the medium to long term, through the amendment of the Financial Instruments and Exchange Act in 2024 and the subsequent amendment of related Cabinet orders and the Q&As.
- To facilitate smooth dialogues between institutional investors and investee companies, this document summarizes the following issues described in the laws and Q&As:
  1. Relationship between “act of material proposal” in the Large Shareholding Reporting Rule and dialogues with investee companies
  2. Relationship between “joint holders” in the Large Shareholding Reporting Rule and collaborative engagement

Note
- Statements in this document merely indicate a general interpretation of laws and regulations as of today and do not provide any answer with respect to the application of laws and regulations in individual cases. Application of laws and regulations to individual cases is substantially determined on a case-by-case basis, based on the facts of the case and in light of the purport of laws and regulations.
- Statements in this document do not guarantee future interpretations by the FSA.
- This document was originally prepared in Japanese and has been translated for reference purpose only.

Legend
Act：The Financial Instruments and Exchange Act
Order：Order for Enforcement of the Financial Instruments and Exchange Act
Cabinet Office Order：Cabinet Office Ordinance on Disclosure of the Status of Large-Volume Holdings in Share Certificates, etc.

1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (1/9)

- For financial instruments business operators who repeatedly and continuously execute buy/sell transactions of shares in their daily operations, the Large Shareholding Reporting Rule includes the “Special Reporting Rule” to relax the frequency and deadline of submission of “the Large Shareholding Report” and “Change Report.”

- However, from the viewpoint of preventing the use of the “Special Reporting Rule” in a manner that may ignore the purpose of “the Large Shareholding Reporting Rule,” stockholders who intend to engage investee companies in an “act of material proposal” are not allowed to use the “Special Reporting Rule” (see the next page).

- Therefore, when engaging in dialogues with investee companies, institutional investors should consider what kind of acts fall under the “act of material proposal.”

Issue

- For this reason, in terms of encouraging dialogues between institutional investors and investee companies, the following is the issue:
  - What kind of acts fall under the “act of material proposal”?

1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (2/9)

Financial Instruments and Exchange Act

- The Large Shareholding Reporting Rule imposes certain disclosure requirements on large shareholders, aimed at increased market transparency and fairness, and ultimately investor protection by promptly providing information concerning large shareholdings to investors, considering that such information is important in terms of influence over management, as well as supply and demand in the market.

- It is usually required to submit the “Large Shareholding Report” and “Change Report” within five business days after the occurrence of the event for submission. However, disclosures of detailed information on each transaction would impose an excessive administrative burden for the financial instruments business operators who repeatedly and continuously executes buy/sell transactions of shares in their daily operations, so they can use a relaxed required frequency of submissions of the “Large Shareholder Report” and “Change Report.” In such a case, it is only required to judge whether it is necessary to submit a report on the reference dates pre-registered twice in a month, and if submission is necessary, to submit the report within five business days of the reference dates (the so-called “Special Reporting Rule”).

- For financial instruments business operators to use the Special Reporting Rule, all the following conditions are satisfied:
  1. The holding ratio of stocks shall not exceed 10%.
     *The Special Reporting Rule cannot be used when the purpose is to acquire stocks for which the holding ratio of stocks exceeds 10%.
  2. The purpose of holding shall not be to conduct an “act of material proposal.”
  3. The record date is notified to the authorities.

1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (3/9)

- “Act of material proposal” refers to any act that result in a material change to, or has a material impact on, the business activities of an issuer. Specifically, it denotes to an act that meets all the following three criteria (also see Reference 2 in Slide 18):

(i) The action is an act of “proposing” to the issuer.
(ii) The matters of the proposal fall under any of the matters listed in Article 14-8-2 (1) of the Order.
(iii)The act of proposal is intended to cause a material change in or materially affect the business activities of the issuer.

- A summary of (i) through (iii), along with their applicability to the act of material proposal is shown below (for details, please see Slides 5 through 10).

	(i) and (ii)	(iii)	Whether it falls under the act of material proposal
Matters that have a relatively large impact on the business activities of the issuer	・ Selection or dismissal of the representative director ・ Appointment of a specific person as a director ・ Absorption merger (only if the company is to be absorbed), stock swap (only if the company is to be a wholly-owned subsidiary), demerger of a core business ・ Transfer, suspension or abolition of a core business ・ Acquisitions by third parties ・ Dissolution ・ Petition for commencement of bankruptcy proceedings	These proposals **generally satisfy condition (iii)** regardless of the manner in which they are proposed.	**Yes, they fall under the category of the act of material proposal.**
Matters that have a relatively small impact on the business activities of the issuer	・ Disposal of or acceptance of assignment of important assets ・ Borrowing a significant amount ・ Significant changes to the composition of directors ・ share exchange, share transfer, or share delivery, or split or merger of the company (excluding the above) ・ Transfer, acquisition, suspension, or abolition of the business in whole or in part ・ Important changes in the policy concerning dividend distribution ・ Important changes in the policy concerning the increase in or reduction of the amount of stated capital ・ Listing or delisting on the Financial Instruments Exchange Market ・ Significant changes in capital policies	Condition (iii) is satisfied **only when made in a manner that does not allow autonomous decisions by the management.** (e.g., shareholder proposals)	**Yes, they fall under the category of the act of material proposal.**
		Condition (iii) is **NOT** satisfied if the decision is left to the autonomy of management.	No, they do not fall under the category of the act of material proposal.
Others	Matters other than the above	Condition (iii) does not need to be considered.	No, they do not fall under the category of the act of material proposal.

1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (4/9)

What Q&As clarify

- The “**act of material proposal**” refers to an act that causes material changes to or materially influences the issuer’s business activities, and specifically, an act that satisfies all of the following three criteria (also see Reference 2 in Slide 18).

(i) The action is an act of “proposing” to the issuer;
(ii) The matters of the proposal fall under any of the matters listed in in Article 14-8-2 (1) of the Order; and
(iii) The act of proposal is intended to cause a material change to or materially affect the business activities of the issuer.

- The Q&As clarify how each criterion is applied as follows (excerpt from “Q&As with respect to Large Shareholding” published by the Policy and Markets Bureau, Financial Services Agency (take effect as of May 1, 2026)):

(Question) In a dialogue with an issuer, when an institutional investor who holds more than 5% of the shares of the issuer conducts any of the following acts, does it fall under an “act of material proposal”?

(A) An act to seek an explanation of the issuer’s management policies, including policies on governance, capital strategy, appointment/dismissal/nomination of management, and shareholder returns.
(B) An act to explain its own voting policy, specific plans for the exercise of voting rights for the issuer based on such policy, and policy for holding and disposing of shares.
(C) An act to request sales of strategic shareholdings.
(D) An act to request changes to the succession plan or nomination policies of representative directors.
(E) An act to request an increase in the number of independent directors to the extent necessary to comply with the principles of the Corporate Governance Code.
(F) An act to request a review of the business portfolio.

(Answer) To fall under the category of “act of material proposal” it is necessary to satisfy all of the following criteria (i) to (iii):

(i) The action is **an act of “proposing”** to the issuer (or its subsidiary);
(ii) The matters of the proposal **fall under any of the matters listed in each item of Article 14-8-2 (1)** of the Order for Enforcement of Financial Instruments and Exchange Act (hereinafter referred to as the “Order”), and
(iii) The act of proposal is **intended to cause a material change to or materially affect the business activities of the issuer.**

With respect to the actions listed in (A) to (F) above, the following points in particular are considered in relation to the criteria (i) to (iii).

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1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (5/9)

What Q&As clarify (cont’d)

- Concerning criterion (i) (The action is an **act of “proposing”** to the issuer), if it is an act intended to share awareness among shareholders and issuers, such as an act of requesting an explanation of the issuer's management policy, or an act of explaining its own policy on the exercise of voting rights or its specific plan for the exercise of voting rights, the action does not meet criterion (i) and is not considered to be an “act of material proposal.”

(Question) In a dialogue with an issuer, when an institutional investor who holds more than 5% of the shares of the issuer conducts any of the following acts, does it fall under an “act of material proposal”?

(A) An act to seek an explanation of the issuer's management policies, including policies on governance, capital strategy, appointment/dismissal/nomination of management, and shareholder returns

(B) An act to explain its own voting policy, specific plans for the exercise of voting rights for the issuer based on such policy, and policy for holding and disposing of shares.

(C) to (F) omit

（Answer）

1 Criterion (i)

Criterion (i) requires that the action be a “proposal” to the issuer.

Actions described in (A) and (B) above are viewed **as the act intended to share awareness among shareholders and issuers. As long as they merely seek explanations about the issuer's management policies, including policies on governance, capital strategy, appointment/dismissal/nomination of management and shareholder returns, or explain their own voting policy, specific plans for the exercise of voting rights for the issuer based on such policy, and policy for holding and disposing of shares, they do not fall under criterion (i) the act of “proposing” and are not considered to fall under the “act of material proposal.”**

However, it should be noted that if the statement of opinions to the issuer substantively requests the issuer to take action (Note 1), it falls under criterion (i).

(Note 1) In relation to criterion (ii), if an action the investor requests the issuer to take does not fall under the matters set forth in each item of Article 14-8-2 (1) of the Order (hereinafter referred to as the “matters listed in each item”), it does not fall under the “act of material proposal.”

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1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (6/9)

What Q&As clarify (cont’d)

- Concerning criterion (ii) (The matters of the proposal fall under any of the matters listed in Article 14-8-2 (1) of the Order), proposals concerning the sale of strategic shareholdings, changes to the policy on a succession plan or the nomination of the representative director, an increase in the number of independent outside directors and the review of business portfolios are considered as follows.

(Question) In a dialogue with an issuer, when an institutional investor who holds more than 5% of the shares of the issuer conducts any of the following acts, does it fall under an “act of material proposal”?

(A)&(B) Omit
(C) An act to request sales of strategic shareholdings.
(D) An act to request changes to the succession plan or nomination policies of representative directors.
(E) An act to request an increase in the number of independent directors to the extent necessary to comply with the principles of the Corporate Governance Code.
(F) An act to request a review of the business portfolio.

（Answer）

2. Criterion (ii)

Criterion (ii) limits the content of proposals that fall under the category of the “act of material proposal” to the matters listed in each item.

Whether or not acts from (C) to (F) fall under the matters listed in each item is considered as follows:

Concerning (C), **a proposal to sell the strategic shareholdings held by the issuer without designating a specific issue is not normally considered to fall under the proposal for “disposal of important assets” (Item 1).** In addition, **when the investor requests the sale of individual issues held by the issuer as strategic shareholdings**, although it is necessary to be determined in light of the book value of the issue, the ratio of the book value of the issue to the total assets of the issuer, the purpose of holding the issue, etc., **given the nature of strategic shareholdings, it is not normally considered to fall under the proposal for “disposal of important assets” (Item 1).**

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1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (7/9)

What Q&As clarify (cont’d)

Concerning (D), **a proposal seeking the appropriate creation and operation of succession plans for representative directors or changes to the policy on the nomination, selection, or dismissal of representative directors per se, is not generally considered to fall under a proposal to appoint or dismiss representative directors (Item 3), to appoint a specified person designated by the proposer as a director (Item 4), or to make a significant change to the composition of directors (Item 5)**. However, it should be noted that such a proposal may fall under a proposal to dismiss a representative director (Item 3) if it substantively seeks the dismissal of a representative director.

Concerning (E), the determination must be made in light of the issuer’s current board composition. For example, if compliance with the principles of the Corporate Governance Code can be achieved by increasing the number of independent directors, **and the investor merely requests an increase in the number of independent directors necessary to comply with the principles of the Corporate Governance Code without presenting a specific candidate, it is normally not considered to be a proposal to appoint a specified person designated by the proposer as a director (Item 4) or a significant change to the composition of directors (Item 5).**

Concerning (F), an act of requesting a transfer, acquisition, suspension, or abolition of the business as a part of a review of the business portfolio is generally considered to fall under “transfer, acquisition, suspension or abolition of business” (Item 7). However, unless it is separately recognized that there is the purpose of the Criterion (iii) described below, it is not considered to fall under the “act of material proposal.”

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1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (8/9)

What Q&As clarify (cont’d)

- Concerning criterion (iii) (the act of proposal is **intended to cause a material change to or materially affect the business activities of the issuer**):
  - A proposal for any of the matters listed in each item that has a relatively large impact on the business is highly likely to fall under Criterion (iii).
  - Only a proposal for any of the matters listed in each item that has a relatively small impact on the business is unlikely to fall under Criterion (iii). Only when a proposal is made in a manner that does not allow the management to make an autonomous decision, such as exercising a shareholder’s right to propose, it satisfies criterion (iii) and would be considered to be a material proposal.

3. Criterion (iii)

Criterion (iii) requires that the purpose will cause a material change to or materially affect the business activities of the issuer.
For example, **concerning a proposal for any of the matters listed in each item that has a relatively large impact on the business activities of the issuer (Note 2)**, even if the proposal is made in a dialogue with the issuer, if it is realized, it would cause a material change to the business activities of the issuer or materially affect the business activities of the issuer. Therefore**, it is highly likely that the proposal falls under criterion (iii) “The act of proposal is intended to cause a material change to or materially affect the business activities of the issuer.”**

(Note 2) The following matters are considered to be matters that have a relatively large impact on the business activities of the issuer among the matters listed in each item.

- Selection and dismissal of representative directors and representative executive officers, or selection and removal of executive officers (item 3).
- Appointment of the person designated by the proposer as a director (item 4).
- Absorption merger (only if the company is to be absorbed), stock swap (only if the company is to be a wholly-owned subsidiary) (item 6).
- Demerger of a core business (item 6).
- Transfer, acquisition, suspension, or abolition of business (item 7), which relates to the transfer, suspension, or abolition of the issuer's core business.
- Dissolution (Item 12; Article 16, item 2 of the Cabinet Office Order).
- Petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, or commencement of reorganization proceedings (item 12; Article 16, item 3 of the Cabinet Office Order).
- Acquisition of control of the issuer by a third party (Item 12; Article 16, item 4 of the Cabinet Office Order).

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1 “Act of material proposal” under the Large Shareholding Reporting Rule and dialogues with investee companies (9/9)

What Q&As clarify (cont’d)

Meanwhile, even if a case falls under criteria (i) and (ii), if it is deemed that there is no purpose to cause a material change to or materially affect the business activities of the issuer, it is not considered to fall under the category of “act of material proposal.”
Specifically, **concerning matters listed in each item that have a relatively small impact on the business activities of the issuer (Note 3),** even if such matters are proposed in a dialogue with the issuer, it is considered that the purpose of such a proposal is to normally request the management to consider such matters and leave the decision on whether or not to adopt such matters to the autonomous decision of the management of the issuer. **It is unlikely that the person who makes such a proposal intends to cause a material change to or have a material impact on the business activities of the issuer. Therefore, such a proposal is less likely to fall under Criterion (iii).**

(Note 3) Among the matters listed in each item, matters other than those listed in Note 2 above are considered to be matters that have a relatively small impact on the business activities of the issuer.

However, although it is necessary to be determined on a case-by-case basis, even if the matters listed in each item have a relatively small impact on the business activities of the issuer, **if the proposal is made in a manner that does not leave the adoption or rejection of the proposal to the autonomous decision of the management of the issuer**, it is considered that the proposal is intended to cause a material change to or materially affect the business activities, and **it should be noted that it is highly likely to fall under Criterion (iii)**.
For example, (a) proposals made by the exercise of shareholders right to propose, (b) proposals made public without obtaining the consent of the issuer (so-called campaigns), and (c) proposals that suggest or imply the exercise of shareholders right to propose, campaigns, or proxy solicitation if the proposals are not implemented, would normally be considered to be proposal made in a manner that does not leave the adoption or rejection of such proposal to the autonomous decision of the management.

(Note 4) In addition, the Special Reporting System does not apply to cases where the purpose is to “acquire shares for which the shareholding ratio will exceed 10%” of shares issued by the issuer (Article 27-26 (1) of the Act, Article 13, item 3 of the Cabinet Office Order). Therefore, although it is necessary to be determined on an individual case-by-case basis, when making a proposal suggesting or implying “acquisition of shares for which the shareholding ratio will exceed 10%” if the proposal is not implemented by the issuer, it is necessary to note that it may be considered that such acquisition of shares is intended and the proposer has the purpose to “acquire shares for which the holding ratio of shares will exceed 10%” at the stage of such proposal.

Other than the above, if, for example, a shareholder passively expresses their opinion in response to a request from the issuer for an opinion on a specific agenda item, the possibility of falling under Criterion (iii) is considered to be low.

2

“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (1/6)

- Under the “Large Shareholding Reporting Rule,” it is necessary to aggregate the shareholdings held by “joint holders” when calculating the “shareholding ratio” of holders of stock. A “person who has agreed to jointly exercise voting rights and other shareholder rights” with the holder of stock falls under a “joint holder,” except in the cases where the Collaborative Engagement Exemption applies (see the next page).

- Therefore, if institutional investors “have agreed to jointly exercise voting rights and other rights as shareholders” with “other investors” when taking actions for individual investee companies in coordination with the “other investors,” in principle, the “other investors” fall under “joint holders” in the Large Shareholding Reporting Rule. In such a case, the institutional investors need to submit the “Large Shareholding Report” and “Change Report” relating to the Large Shareholding Report while aggregating the shareholdings of the “other investors.”

Issues

- For this reason, when institutional investors take actions for individual investee companies in coordination with “other investors,” the following are the issues:
  1. Under what circumstances do “other investors” fall under the “joint holders” as the “person that has agreed to jointly exercise voting rights and other shareholder rights”?
  2. Under what circumstances would the Collaborative Engagement Exemption apply?

(Ref.) The Code states that “engaging with investee companies in collaboration with other institutional investors (collaborative engagement) is also an important option” (Guidance 4-6 of Principle 4).

“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (2/6)

Financial Instruments and Exchange Act

- Under the “Large Shareholding Reporting Rule,” a holder of stock is required to calculate its “shareholding ratio” by including the shareholding of a person that corresponds to any one of the following (“Joint Holder”).
  - a. A person who has agreed to obtain or assign shares in cooperation with the shareholder
  - b. A person who has agreed with the shareholder to jointly exercise voting rights and other shareholder rights.
  - c. A person who has a special relationship with the shareholder, such as a certain capital relationship.

- After the amendment of the Financial Instruments and Exchange Act in 2024 (take effect as of May 1, 2026), with respect to an agreement that corresponds to b. above, if the agreement between a holder of stock and “other investors” meets all of the following criteria from i. to iii. (i.e., Collaborative Engagement Exemption), the other investors are not deemed as “joint holders” by exception.
  - i. A stockholder and other investors involved in the agreement are institutional investors.
  - ii. The purpose of the agreement is not to jointly conduct an act of material proposal.
  - iii. Shareholders agree only on each individual exercise of rights.

    * “Shareholders agree only on each individual exercise of rights” is satisfied when the following conditions are met:

    (a) An agreement is made at each shareholders’ meeting;
    (b) A resolution subject to the agreement is specified so that it can be clearly distinguished from other resolutions, and;
    (c) Shareholders agree to jointly exercise voting rights with respect to the resolution by mutually selecting either to vote for or against the resolution.

2

“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (3/6)

Clarification

- Concerning Issue 1 (under what circumstances do “other investors” fall under the category of “joint holders”), as outlined below, another investor is unlikely to be considered a “joint holder” in the following situations: (i) where an agreement between an investor and another investor concerns shareholders’ general activities that are unrelated to the exercise of legal rights, and (ii) where two investors merely exchange their opinions or communicate their plans for the exercise of voting rights and find that their opinions or plans are the same. This interpretation may also apply to the definition of “a person in a Special Relationship” under the tender offer rule.

(Question) If a stockholder exchanges opinions with another investor about the exercise of voting rights against a specific investee company, or agrees with the “other investor” to jointly request the investee company to initiate a dialogue or to change its business policy, will the “other investor” be considered a “joint holder” under the Large Shareholding Reporting Rule?

(Answer) The concept of a “joint holder” applies when an investor agrees with another investor to “jointly exercise voting rights and other shareholder rights” (Article 27-23 of the Financial Instruments and Exchange Act).

The “voting rights and other shareholder rights” likely encompasses the “legal rights of shareholders including rights to propose, rights to inspect books and records, rights to demand the filing of directors’ and officers’ liability lawsuits in addition to voting rights.”

Accordingly, as long as the agreement between the investor and another investor remains within the scope of shareholders’ general activities that are unrelated to the exercise of legal rights, the other investor is unlikely to be considered a “joint holder.”

(Question) When a stockholder communicates their plan for the exercise of voting rights at the shareholders meeting of a specific investee company to the “other investor”, and such plan coincides with the other investor’s plan, will the “other investor” be considered a “joint holder” under the Large Shareholding Reporting Rule?

(Answer) The concept of a joint holder applies when an investor agrees to jointly exercise voting rights and other shareholder rights (Article 27-23 of the Financial Instruments and Exchange Act).

The FSA’s view is that the “agreement” in the preceding paragraph means an agreement containing the element of a mutual or unilateral promise to act in the future (written or verbal and explicit or implied) and differs from a mere exchange of views.

Therefore, in cases where an investor communicates their plan for the exercise of voting rights during the discussions with another investor, and discovers that the other investor’s plan happens to align, the other investor is unlikely to be considered a “joint holder.”

“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (4/6)

Clarification

- Concerning Issue 2 (under what circumstances the Collaborative Engagement Exemption applies): To qualify for the Collaborative Engagement Exemption, it is necessary that the “purpose of the agreement is not to jointly conduct an act of material proposal”. As outlined below, this criterion is deemed to be satisfied in cases where: Some investors unilaterally conduct an act of material proposal regardless of the agreement with other investors, or the agreement solely concerns the exercise of voting rights against company proposals.

(Question) When a stockholder has agreed to “jointly exercise voting rights as shareholders” with “other investors,” and if the “other investors” unilaterally conduct an act of material proposal regardless of the agreement, or if the content of agreement is only to exercise voting rights against company proposals, would such cases be regarded as having “the purpose of an agreement is to jointly conduct an act of material proposal”?

(Answer) The reason for requiring that the criterion “purpose of an agreement is not to jointly conduct an act of material proposal” be met to avoid becoming a “joint holder” is that, when an agreement is formed in a manner that amplifies influence over the management, the aggregate shareholding information of the parties to the agreement is considered material for investment decisions.

Therefore, it is considered that the “purpose of an agreement is to jointly conduct an act of material proposal” not only (1) when the scope of agreement explicitly include joint conduct of an act of material proposal, but also (2) when the agreement is formed based on the assumption of joint conduct of an act of material proposal, such as parties agree to jointly exercise voting rights with respect to a shareholder proposal based on the assumption that parties jointly submit a shareholder proposal regarding matters that could be regarded as acts of material proposal as listed in the Cabinet Orders, and (3) when there is a background that the agreement is formed with intention of joint conduct of an act of material proposal.

On the other hand, although it depends on specific circumstances, when the “other investor” conducts an act of material proposal independently and unilaterally regardless of the agreement, normally such agreement is not based on the assumption of joint conduct of an act of material proposal, and it would not be deemed that the “purpose of an agreement is to jointly conduct an act of material proposal” by this fact alone.

In addition, when the content of the agreement is only to vote against company proposals, normally, the content of the agreement does not include an act of “proposing” against the issuer, and it is not considered that the “purpose of an agreement is to jointly conduct an act of material proposal.”

“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (5/6)

What Q&As clarify

- Concerning Issue 2 (under what circumstances would the Collaborative Engagement Exemption apply), it is necessary that the “agreement is only on each individual exercise of rights,” to be subject to the Collaborative Engagement Exemption. What constitutes the “agreement which is only on each individual exercise of rights” is considered as follows (excerpt from “Q&A with respect to Large Shareholding” published by the Policy and Markets Bureau, Financial Services Agency (take effect as of May 1, 2026)).
- As stated in the Q&A, “the mere fact that identical agreements are formed at multiple general shareholders meetings of the same company over several consecutive years does not, by itself, preclude satisfaction of condition (a),” even if investors exercised their voting rights in the same way over several consecutive years, this would not, in hindsight, immediately preclude satisfaction of condition (a) as long as agreements were formed at each individual general shareholders’ meeting.

(Question) What constitutes the criterion “agreement which is only on each individual exercise of rights” to apply the Collaborative Engagement Exemption?

(Answer) To fall under the “agreement which is only on each individual exercise of rights,” it is necessary to satisfy all of the following conditions (Article 14-6-3 of the Order);
(a) An agreement is made at each shareholders’ meeting.
(b) A resolution subject to the agreement is specified so that it can be clearly distinguished from other resolutions.
(c) Shareholders agree to jointly exercise voting rights with respect to the resolution by mutually selecting either to vote for or against the resolution.

Condition (a) requires that the agreement be formed for each general shareholders’ meeting. Therefore, if there is a comprehensive agreement for resolutions in multiple or future general shareholders meetings, such as an agreement “to vote against resolutions to appoint A as a director at the general shareholders’ meetings of Company X for the next five years,” then condition (a) is not considered to be met.

For example, the mere fact that identical agreements are formed at multiple general shareholders meetings of the same company over several consecutive years does not, by itself, preclude satisfaction of condition (a). However, if it is deemed that a comprehensive agreement has been substantively formed regarding resolutions at multiple or future general shareholders meetings — based on specific circumstances including the background and contents of each agreement, and the manner in which voting rights are exercised at the general shareholders meeting by each stockholder who is party to the agreement — then condition (a) is not considered to be satisfied.

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“Joint holders” under the Large Shareholding Reporting Rule and collaborative engagement (6/6)

What Q&As clarify (cont’d)

Concerning condition (b), if the resolution subject to the agreement is specified to the extent that it can be uniquely identified, such as “Resolution No. X at Company X’s annual general shareholders meeting in FY 20XX” and “the resolution for the election of Candidate A, out of the resolutions for the election of directors at Company X’s annual general shareholders meeting in FY 20XX,” it is normally considered to satisfy this condition (b). On the other hand, if the resolution is not uniquely identified, such as “resolutions pertaining to organizational restructuring,” it is not considered to be “specified so that it can be clearly distinguished from other resolutions.”

The number of resolutions subject to the agreement is not limited, and even if the agreement is formed for multiple resolutions, condition (b) is considered to be satisfied if each resolution is individually specified to the extent that it can be uniquely identified.

Condition (c) requires an agreement to jointly exercise voting rights by mutually selecting either to vote for or against the resolution, subject to the agreement.

Therefore, if stockholders form an agreement that delegates the decision on whether to vote for or against the resolution to the discretion of a specific holder — such as “leaving the judgement to Holder B” to vote for or against the resolution — then it cannot be considered that the voting decision on whether to vote “for” or “against” the resolution is mutually selected under the agreement, and condition (c) is not satisfied.

Furthermore, even if the agreement superficially indicates a decision to vote for or against the resolution, condition (c) is still not satisfied if, in substance, the decision on whether to vote for or against the resolution is left to the discretion of a particular holder who is party to the agreement, based on specific circumstances including the contents of agreement, the decision-making process of each holder as to whether to vote for or against the resolution and other background surrounding the agreement.

ref

Reference 1: Overview of the Current Large Shareholding Reporting Rule

- The Large Shareholding Reporting Rule requires the disclosure of certain matters on large shareholders for the purpose of enhancing the transparency and fairness of the market and ensuring investor protection by quickly providing information regarding large shareholdings to investors, as such information is important from the perspective of impacts on the management and supply and demand in the market.

General Reporting

Obligations of Large Shareholders	1. If an investor becomes a large shareholder (over 5% shares): ⇒ The investor must submit a “large shareholding report” within five business days of acquiring over a 5% stake in a company. 2. If there are any material changes, such as a 1% or more increase/decrease in the ownership ratio following the submission of the large shareholding report: ⇒ The investor must submit a “change report” within five business days of the change.

Special Reporting

Overview of the Special Reporting Rule	The rule allows institutional investors who repeatedly and continuously execute buy/sell transactions of shares in their daily business operations to report under relaxed frequency submissions. [Details of relaxation] Only to judge whether it is necessary to submit a “large shareholding report” and a “change report” on the reference dates pre-registered twice in a month and submit the report within five business days of the reference dates.

Joint Holders

Treatment of Joint Holders	A shareholder is required to calculate its shareholding ratio by including the shareholding of a person that corresponds to any one of the following (“Joint Holder”): 1. A person who has agreed to obtain or assign shares in cooperation with the shareholder 2. A person who has agreed with the shareholder to jointly exercise voting rights and other shareholder rights. 3. A person who has a special relationship with the shareholder, such as a certain capital relationship.

ref Reference 2: Interpretation of the act of material proposal, provided before the 2024 amendment of the Financial Instruments and Exchange Act

- Concerning what actions are considered an act of material proposal under the Large Shareholding Reporting Rule, for which the Special Reporting Rule is not applicable, the following interpretation has been indicated in the "Responses from the FSA" that was published by the Financial Services Agency (FSA) in 2006 when the concept of the act of material proposal was established.

Summary of comments received	Responses from the FSA
There may be debates as to whether an act is considered an act of material proposal, depending on the situation of proposing, such as making a proposal at the request of the issuer. Please indicate what you consider to be the criteria for acts of material proposal.	Whether an act is classified as an act of material proposal is determined on a case-by-case basis according to related regulations, but it must fulfill the following three criteria: i) Firstly, **the matters of the proposal fall under any of the matters listed in each item of Article 14-8-2 (1) of the Order.** As for the listed matters containing terms such as "important" or "a large amount of," such matters for which the degree is mild do not fall under an act of material proposal. ii) Secondly, the act of proposal **is intended to cause material changes to or materially affect the business activities of the issuer**, in accordance with the text in Article 27-26 (1) of the Financial Instrument and Exchange Act. Thus, any act that exerts heteronomous influence regardless of the issuer's proactive business policy is classified as such an act. However, even if the act fulfills criterion i), it is unlikely to fulfill criterion ii) when, for example, the issuer simply requested an opinion, or it is a statement of opinions at dialogues with shareholders that the issuer proactively set (e.g., in results reporting, IR presentations). iii) Finally, the action **is an act of "proposing" to the issuer (or its subsidiary).** Even if the act fulfills criteria i) and ii), it is unlikely to fulfill criterion iii) when, for example, an analyst or fund manager simply asks a question as part of their research activities. In any case, the matter will ultimately be judged on a case-by-case basis.