New Rules for Share Structure and Governance of Japanese Corporations

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Recent amendments to the Japanese Commercial Code[1] and other laws, particularly the Audit Special Exceptions Law[2], have introduced major changes to the capital and share structure as well as to the governance system of Japanese corporations that will profoundly reshape the corporate environment in Japan and pave the way for a variety of new investment and governance models, which will be relevant both for domestic Japanese companies and for Japanese subsidiaries of foreign companies.

Some of the amendments became already effective, while others have been enacted and will become effective at the beginning of the next fiscal year on April 1st, 2003. Further amendments are planned.

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1 *Shôhô*; all provisions mentioned in this article without express reference to a legal act refer to the Commercial Code.

2 Law containing special exceptions to the Commercial Code pertaining to the auditing of a joint-stock corporation *(Kabushiki kaisha no kansa-tô ni kansuru shôhô no tokurei ni kansuru hôritsu).*

The present overview can merely briefly introduce the major changes to the regulations pertaining to (1) shares, (2) digitalisation of information and processes and (3) corporate governance. These amendments were introduced by a total of three different legislative acts already entered into force, precisely the Law of 29 June 2001, No. 79[3], the Law of 21 November 2001, No. 128[4], the Law of 5 December 2001, No. 149.[5]

Some of the amendments mentioned hereinafter are based on a further legislative measure enacted not during the 153rd, but during the current 154th legislative session of the Japanese Parliament that will enter into force on April 1st, 2003.[6]

I. SHARES

1. "Par Value Shares"

"Par Value Shares" have been abolished. While previously all shares of a newly established *kabushiki* kaisha had to be issued at an issue price of at least 50,000 JPY and, in case of par value shares, with a face value of at least 50,000 JPY ("par value"), now shares can be issued at any issue price.[7]

This amendment is expected to boost the issuing of stock options by Japanese companies. Especially if a significant increase in the value of a company is expected, smaller share denominations allow a more flexible allocation of future profit expectations, which are securitised in the form of stock options.[8]

2. Classes of Shares

With the amendments to the Commercial Code, the possibility to issue different classes of shares has been substantially increased, adding flexibility to the shareholding structure.

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3 Law partially modifying the Commercial Code and other provisions and containing other provisions *(Shôhô tô no ichibu wo kaisei suru tô no hôritsu).* This Law was enacted during the 152th legislative session of the Japanese Parliament and is referred to in the report on new legislation published by the author in ZJAPANR, vol. 12 (2001), 249, 256, reference number VI.7.

4 Law partially modifying the Commercial Code and other provisions *(Shôhô tô no ichibu wo kaisei suru hôritsu).*

5 Law partially modifying the Commercial Code and the Law containing special provisions to the Commercial Code pertaining to the control of a joint-stock corporation *(Shôhô oyobi kabushiki kaisha no kansa-tô ni kansuru shôhô no tokurei ni kansuru hôritsu no ichibu wo kaisei suru hôritsu).*

6 Law No. 44/2002, Law partially modifying the Commercial Code and other provisions *(Shôhô tô no ichibu wo kaisei suru hôritsu).*

7 Under previous legislation, "non-par value" shares with an issue price of less than 50,000 JPY could be issued only in case of an additional capital increase after incorporation, which is an option rarely chosen and cumbersome (par value shares could only be issued with a face value below 50,000 JPY by changing upon the capital increase the par value for all par value shares, including the already issued par value shares).

8 However, the requirement to allocate at least 50% of the issue price to share capital has not been abolished.

Already before the amendment it has been possible to provide for preferred dividend rights. The amendments allow, in addition thereto, particularly:

- flexibility in the amount of dividends paid to owners of particular classes of shares (Article 222 III);
- flexibility for issuing of tracking stock, *i.e.* a share receiving dividends on the basis of the results of a subsidiary or business unit;
- flexibility in provision of voting rights for particular classes of shares and topics of decision, including the election of Directors (Article 222 VII).

In all cases an appropriate provision in the Articles of Incorporation is required. Particularly, shares with limited voting rights can be issued as described in the following table:

Table I :

Classes of Shares
under the Previous and the Amended Commercial Code

	Previous Commercial Code	*Amended Commercial Code*
Voting Rights	Exclusion of voting rights for preferred shares possible, but mandatory revival of voting rights in case of two dividends not paid (Article 242 I)	Permanent exclusion of voting rights possible (Article 222 I)
	No partial exclusion or partial inclusion of voting rights	Selective voting rights possible (*e.g.* appointment of Directors, transfer of business, changes of Articles of Incorporation etc.) (Article 222 I)
Dividends and Liquidation Rights	Preferred dividend rights only with respect to total result	Preferred dividend rights with respect to results of subsidiaries, divisions, projects etc. (tracking stock) (Article 222 III)
Proportion of Number of all Shares Issued	Up to 1/3 of the Number of Outstanding Shares	Up to 1/2 of the number of outstanding shares (or new units if applicable) (Article 222 VI, VI)

3. Treasury Stock

As a result of the amendments, the acquisition of Treasury Stock (shares owned by the issuing company itself) has been largely deregulated. This shall give particularly to public companies, as well as those in preparation of going public, an additional tool to not only support their share, but also participate in a positive price performance.

Table II :

Treasury Stock Regulation
under the Previous and the Amended Commercial Code

	Previous Commercial Code	*Amended Commercial Code*
Purpose of Acquisition	Limited: Catalogue of defined purposes Treasury share type stock options, redemption of shares, merger with or acquisition of entire business of Shareholder, execution of collateral, mandatory acquisition from minority Shareholders objecting fundamental changes	Unlimited: not limited to any ratio nor to specified reason but only by amount of funds (see below "Fund for Acquisition")
Relationship to Stock Options	Special provision for Stock Options	No Special provision for Stock Options
Maximum Number of Treasury Shares	Limited: 1/10 of the issued outstanding shares	Unlimited (not specified), but *de facto* limit due to limited funds for acquisition (see below)
Decision Procedure for Acquisition	Resolution of Shareholders' Meeting, approving specified limit within the legal limit (maximum number and specified purpose)	Resolution of Shareholders' Meeting (Resolution of Board of Directors as for shares owned by subsidiary), approving specified limits and purposes in its own discretion
Method of Acquisition	Not specified (considered unnecessary with respect to detailed catalogue)	Regulated (for details see next table on requirements on transactions)
Funds for Acquisition	Limited: Acquisition had to be made using distributable profits (*haitô kanô rieki*) [minus] actual distribution	Limited: Acquisition has to be made using distributable profits (*haitô kanô rieki*) [minus] actual distribution [plus] excess of the sum of profit and capital reserves over ¼ of paid-in capital respectively (respective dissolution resolution required)
Term of Possession	Limited	Unlimited (not specified)

The decision procedure and requirements for purchase, sale and redemption of Treasury Shares under the provisions of the Amended Commercial Code depends on the nature of the transaction and the contracting party, as explained in the following table. The "actions/items" listed in the table are those which have to be published in the annual report (Art. 84 Ministry of Justice Enforcement Order).

Table III :

Resolution Requirements for Transactions regarding Treasury Stock

Action / Item	*Transaction Specification*		*Resolution Requirement*
	Seller	*Circumstances*	
Purchase of Treasury Stock issued by a Public Company (listed in a regulated market)	Unspecified Person[9] (Article 210 I, IX)		Ordinary Resolution of Annual Shareholders' Meeting (simple majority)
	Specified person (Article 210 I, IX proviso)	other than Subsidiary[10] (Article 210 II (1), V-VII)	Resolution of Extraordinary Shareholders' Meeting (qualified majority)
		Subsidiary[11] (Article 211-3)	Resolution of Board of Directors
Purchase of Treasury Stock issued by a Private Equity Company			Resolution of Extraordinary Shareholders' Meeting (qualified majority)
Redemption			Resolution of Board of Directors
Possession			No resolution required
Disposal	To unspecified person / company	in the market (Article 211 I)	Resolution of Board of Directors
		at market price (Article 211 I)	
	To specified person / company	at specially favourable issue price (Article 211 III – 280-2 II)	Resolution of Extraordinary Shareholders' Meeting (qualified majority)
	Company that bars transfer of shares (Article 211 II)		

9 Acquisition in the regulated market or by Tender Offer Bid.

10 Acquisition by Tender Offer Bid, provided that the transaction results in the company owning more than 1/3 of the shares, or provided that shares are acquired from more than 10 selling parties within 60 days.

11 Acquisition by Tender Offer Bid, provided that the transaction results in the company owning more than 1/3 of the shares.

4. Authorised Capital

Authorised Capital is the total number of shares authorised to be issued stipulated in the Articles of Incorporation by resolution to be adopted of the Shareholders' Meeting with qualified majority. Within the range of the Authorised Capital, the Board of Directors decides upon the issue of new shares by simple resolution. Previously existing limitations of the number of shares authorised to issue have been abolished for companies whose Articles of Incorporation contain restrictions of the transfer of shares.[12]

Under the previous Commercial Code, the Authorised Capital could not exceed four times the number of outstanding issued shares. Under the amended Commercial Code, this restriction remains valid for companies, whose Articles of Incorporation contain no restrictions of the transfer of shares, as the Board of Directors of such companies can also issue new shares to third parties based on resolutions with simple majority. For companies with transfer restriction the new provisions allow issuing any number of authorised shares, thus giving privately equity companies, especially those before going public, the possibility to issue a large number of share call option rights or new shares without calling for a decision of the Shareholders' Meeting.

Table IV :

Authorised Capital
under the Previous and the Amended Commercial Code

	Previous Commercial Code	*Amended Commercial Code*
Companies with Restrictions on the Transfer of Shares	Authorised Capital may not exceed four times the number of outstanding shares.	No limit to the number of outstanding shares.
Companies without Restrictions on the Transfer of Shares	Authorised Capital may not exceed four times the number of outstanding shares.	Authorised Capital may not exceed four times the number of outstanding shares.

12 Restrictions on the transfer of shares can be introduced by decision of an Extraordinary Shareholders' Meeting with specially qualified majority of 1/2 of all shareholders and 2/3 of all voting rights.

5. Share Call Options ("Stock Options")

Share Call Options oblige the company, upon execution of the option, to issue new shares to the holder of the call option or transfer to him treasury stock. "Stock Options" for employees or other third parties, as they are commonly, albeit non-technically called, are one of the most common forms of issuing such preferential share call options to non-Shareholders.

While the issue of share call options is usually decided by the Board of Directors, in case of a preferential issue of share call options to non-shareholders an resolution of an Extraordinary Shareholders' Meeting (with qualified majority) is required.

Table V :

"Stock Options"
under the Previous and the Amended Commercial Code

	Previous Commercial Code	*"New Stock Option"*
Type of Option	(1) "Treasury Share" stock option – right to purchase shares held by the company (2) "Pre-emptive Right" stock option – subscription right for new shares	One type: Right to acquire shares regardless of whether newly issued shares or treasury shares
Potential beneficiaries	Directors and Employees	Not limited
Limitation of number of shares subject to rights	(1) Up to 1/10 of the outstanding shares (2) Limit of Treasury Shares (up to 1/10 of outstanding shares)	Unused authorised capital plus treasury shares
Term to Exercise	Up to 10 years	Not specified, discretion of the company
Specification of Beneficiaries	Beneficiaries to be specified by resolution of Annual Shareholders' Meeting	Not required

6. New "Share Units"

Under previous legislation, voting rights were not allocated to individual shares, but – mandatorily – to so-called share units (*tan'i kabu*).

This mandatory system of allocating shares to share units has been substituted by an optional system of share units (*tangen kabu*).

Table VI:

The New Share Unit System

Requirements	• Optional system to be adopted by Articles of Incorporation (Art. 221 I), separately for each class of shares (Art. 221 III) • Number of shares for one new unit ≦ 1000 and ≦ number of outstanding shares／200 • Redemption or Decrease of Number of Shares per New Unit by resolution of Board of Directors (Art. 221 II)
Voting Right	One Voting Right for One New Unit (Art. 241 I Proviso)
Share Certificate	Share Certificate Issue for shares equal to less than one unit can be excluded in Articles of Incorporation (Art. 221 V)
Rights of Shareholders of Shares equal to less than one New Unit	Put Option: Right to offer to the company to purchase such Shares (Art. 221 VI as referred to by Art. 220-6)

II. DIGITALISATION OF CORPORATE INFORMATION AND GOVERNANCE PROCESSES

The new legislation has introduced various measures of digitalising corporate documentation and processes, particularly pertaining to the information flow between the company and Shareholders. In some cases, details are deferred to the decision of the Ministry of Justice (MoJ) by Enforcement Order.

Regretfully, the reform has only introduced a – yet partial – digitalisation of the Shareholders' Meeting, but not any digitalisation of the board. Consequently, for board meetings still physical presence of the participating board members is required, without possibility of representation. A digitalised board meeting would allow easily board structures where a majority of non-executive Directors outside the company, and often outside of Japan, could control the executive Directors as a kind of virtual supervisory board, which is in fact a model in line with the original concept of corporate governance of the Commercial Code, according to which executive Directors should report to the non-executive.

Generally speaking, if for the execution of a document an original signature or a seal imprint are required under normal procedures, they can be replaced by a digital signature (registered with a certification authority according to *Denshi shomei hô*, the Electronic Signature Law, in connection with Enforcement Order of the Ministry of Justice, No. 22 of 29 March 2002).

1. Digitalisation of Corporate Information

The following documents can be kept by the company and made available to third parties who have the right to be informed, in digitalised format:

- Articles of Incorporation (Article 166 III);
- Minutes of Shareholders' Meeting (Article 244 IV);
- Minutes of Board of Directors' Meeting (Article 260-4 IV);
- Shareholders' Register (Article 223 II);
- Balance sheet, proposals relating to the disposition of profits or the disposition of loss (Article 281 II);
- Profit and loss statement, business report, annexed specifications (Art. 281III);
- Auditor's report (Article 281-3 III, and Article 14 V, Article 281 III Audit Special Exceptions Law).

2. Digitalisation of Notices

The following notices and communications can be sent by e-mail to an e-mail address recorded in the company's books and records:

- Notice for convening a Shareholders' Meeting (Article 232 II);
- Request to convene a Meeting of the Board of Directors by any Director, to the Director who is entitled to convene such meeting according to the Articles of Incorporation (Article 259 III);
- Submission of Auditor's Report to Directors (Article 281-3 III / Article 14 V Audit Special Exceptions Law).

3. Digitalisation of the Shareholders' Meeting

The digitalisation of the process of the Shareholders' Meeting and of all communications and notices pertaining thereto, including exercise of voting rights, has been introduced in two steps. It should be noted in this context as well that, generally, whenever for the execution of a document an original signature or a seal imprint are required under normal procedures, a certified digital signature is required as a substitute.

Under legislation currently in force[13], the following processes can already be performed electronically, particularly by e-mail and similar forms of electronic messaging:

- Notice for Shareholders' Meeting (Article 232 II);
- Proposal of purposes of Shareholders' Meeting by Shareholders (Art. 232-2 III);
- Request for explanation in Shareholders' Meeting by Shareholders (Article 237-3 III);
- Notice for exercising of votes in Shareholders' Meeting by Shareholders if the Shareholder wishes to divide his votes (Article 239-4 II);

13 Law No. 128/2001, see *supra* note 4.

- Request for cumulative voting for election of Directors (Article 256-3 III);
- Filing of a document establishing a power of representation for votes by proxy (Article 239 III, Article 222-5 III, Article 204-2 III);
- Voting by Shareholders who do not attend the Shareholders' Meeting (Article 239-3 I), provided however that the company receives the message expressing the vote by the end of the day preceding the Shareholders' Meeting;
- Preparation of Minutes of Shareholders' Meeting (Article 244 IV).

Furthermore, as already mentioned under (a), minutes of Shareholders' Meeting can be kept and stored by the company in electronic format (Article 244 V).

A further amendment will enter into force on April 1st, 2003.[14] Under current legislation, single Shareholders may express their vote by electronic messaging at the latest the day the meeting is held (see above).

The further amendment will allow the 'holding' of a Shareholders' Meeting without any physical gathering of the Shareholders at all, but entirely by communication and voting in the form of electronic messaging, provided that all Shareholders consent to each item on the agenda in form of an electronic message with digital signature (Art. 253).[15]

For wholly owned subsidiaries of, *e.g.,* foreign companies this will allow holding all Shareholders' Meetings by electronic messaging. For private companies with minority Shareholders, the more convenient option will be obtaining a proxy by e-mail with digital signature (see above), instead of running the risk of receiving objections in the form or electronic messages.

Modifying the Articles of Incorporation is not required for enabling an online or digitalised electronic Shareholders' Meeting. On the other hand, even by stipulation in the Articles of Association the Shareholders cannot be forced to consent to a meeting and voting by electronic means. At present it can not bee foreseen, when and in what form future amendments shall introduce Shareholders' Meetings that can be held entirely by electronic means, with deliberations and majority votes by electronic communication and messaging, even against the will of single Shareholders. If introduced at all, such entirely electronic Shareholders' Meetings against the will of minority Shareholders are likely to require a respective stipulation in the Articles of Incorporation, an entry in the Commercial Register, public notice and, last but not least a clear notice on the share certificates and in the Shareholders' Register. Furthermore, upon introduction, which should require a qualified majority, objecting minority Shareholders should have the right to request the company to purchase their shares. Only such statutory and publicity regulations could grant that Shareholders who cannot or wish not to handle computers are not discriminated in their rights.

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14 Law No. 44/2002, see *supra* note 6.

15 *I.e.,* any item which does not obtain unanimous consent is considered declined.

III. General Corporate Governance

*1. Board of Directors (*torishimari yakkai kai*)*

The amendments to the Commercial Code have changed the provisions pertaining to the liability of a Director towards the company. The high degree of liability of Directors towards the company has long been a topic of discussion in Japan.

The amended Commercial Code provides for three different decision procedures, based on which the liability of a Director can be limited:

- by resolution of the Shareholders' Meeting
- by resolution of the Board of Directors
- by anticipated agreement between the Director and the company

Table VII :

Limitation of the Liability of a Director towards the company under the amended Commercial Code

	Limitation by Resolution of the Share	*Resolution Board of Directors (Article 266 XII)*	*Agreement with Director (Article 266 XIX – XXIII)*
Category of Director	All Directors	All Directors	Outside Directors
Type of Liability	Article 266 I (5) – Liability towards the company		
Required Provision in Articles of Incorporation	Not Required	Authorisation to Board of Directors	Authorisation of execution of agreements and the maximum amount of liability
Procedure	Resolution of Extraordinary Shareholders' Meeting	Resolution of Board of Directors	Execution of agreements between each Director and the Company before the occurrence of damage
Subjective Requirement for Directors	No Bad Faith or Gross Negligence	No Bad Faith or Gross Negligence	No Bad Faith or Gross Negligence

The liability cannot be reduced, whether by resolution or agreement, to an amount below the minimum liability summarised in the following table:

- Representative Directors: *six times* annual director remuneration and similar benefits
- Inside Directors other than Representative Directors: *four times* annual director remuneration and similar benefits
- Outside Directors other than Representative Directors: *two times* annual director remuneration and similar benefits.

2. *"Committee for Material Assets" of the Board of Directors (*jûyô zaisan iinkai*)*

As of 1st April 2003, a large and "quasi-large" *kabushiki gaisha* will have an additional, optional organ that may decide quickly upon important matters in place of the Board of Directors and can be established by simple board resolution. This will constitute an attractive option for boards with many members, which lack flexibility to adopt a resolutions rapidly.

"Executive Committees" have long been established in the Japanese corporate governance practice, and their composition and role depend largely on individual stipulations in each company's Articles of Incorporation and board rules. However, such "Executive Committees" could not be entrusted with any obligatory competency of the Board of Directors (Article 260).

They are not affected by this amendment, and they should not be confused with this new organ, which can take decisions pertaining to important assets and significant loans instead of the Board of Directors.

The optional Material Assets Committee can obtain delegation of two mandatory board competences, and is established under the following conditions (Article 1-3 I Audit Special Exceptions Law):

- The "Committee for Material Assets" can be established in a large company, *i.e.* share capital exceeding 500,000,000 JPY or debts exceeding 20 billion JPY (Article 1-2 I Audit Special Exceptions Law), or in a "quasi-large company", *i.e.* share capital exceeding 100,000,000 JPY and audit by the accounting auditors required according to the Articles of Incorporation (Article 2 II Audit Special Exceptions Law)
- Number of Directors : 10
- Number of Outside Directors : 1
- Establishment by resolution of the Board of Directors

Members: 3 or more Directors appointed by the Board of Directors (Article 1-3 III & IV Audit Special Exceptions Law).

Responsibilities and authority: Resolving upon any of the following matters entrusted by the Board of Directors (Article 1-3 II & V Audit Special Exceptions Law):

- Transfer, assignment and/or any other disposition of material assets of the company (Article 260 II no.1);
- Decision on significant new liabilities (Article 260 II no.2)

*3. Statutory Auditors (*kansa yaku*)*

Powers and responsibility of the Statutory Auditors (*kansa yaku*) have been reinforced. Some of the amendments do not refer to all companies, but only to certain categories of companies.

Table VIII :

Provisions pertaining to Statutory Auditors under the Previous and the Amended Commercial Code

	Previous Commercial Code	*Amended Commercial Code*
	All companies	
Term of Office	3 years	4 years
Right to State Opinion in the Shareholders' Meeting	Only the removed Statutory Auditor had right to state opinion.	The resigning Statutory Auditor has the right to state reason for resignation. Other Statutory Auditors have right to state opinion on the resignation of other Statutory Auditors
	Only medium-sized and larger companies (share capital 100 million JPY or more)	
Attendance of Board of Directors meeting	No obligation	Obligation
	Only large companies (share capital 500 million JPY or more or debts of 20 billion JPY or more)	
Qualification as Outside Auditor (Article 18 I Audit Special Exceptions Law)	No employment relationship to the company for a period of at least 5 years	Never ever any employment relationship to the company
Number of Outside Auditors (Article 18 I Audit Special Exceptions Law)	At least one	At least ½ of all Statutory Auditors
Extended powers of the Board of Statutory Auditors (Article 18 III referred to by Article 3 II, III Audit Special Exceptions Law)		Consent of existing Statutory Auditors required for the appointment of new Statutory Auditors Right to propose to the Shareholders' Meeting an agenda regarding the appointment of Statutory Auditors

4. Shareholders and Shareholders' Meeting

The following amendments for Shareholder Derivative Suits have been implemented:

Table IX :

Provisions pertaining to the Settlement of Shareholder Derivative Suits under the Amended Commercial Code

Term for examination of action by the company, before a Derivative Suit is admissible	Extended from 30 days to 60 days (Article 267 III)
Settlement of a Shareholder Derivative Suit within or outside a pending litigation	Settlement between the Company and Directors (Article 268 V) Settlement with Directors in Derivative Suits (Article 268 VI, VII as referred to by V)
Involvement of the Company	Involvement as Defendant Assistant (Article 268 VIII)

IV. NEW OPTIONAL CORPORATE GOVERNANCE STRUCTURE

As of April 1st, 2003[16], Japanese Corporate Law will provide for an optional alternative governance model for larger corporations, modelled according to the Anglo-American example of a corporation managed by executive managers and controlled by the Board of Directors.

The new model will not replace the current governance system composed of Board of Directors and Statutory Auditors, but will be an option that can be chosen by large or "quasi-large" companies, based on respective provisions in the Articles of Incorporation. In Japanese language, it is called *iinkai tô setchi kaisha* system, a term to be translated hereinafter into "Committee Model".

This option is a further alternative for larger companies in addition to the Committee for Material Assets described above.

1. Conditions for Establishment (Article 1-2 III Audit Special Exceptions Law)

- The Committee Model can be established only in a large company (share capital exceeding 500,000,000 JPY or debts exceeding 20 billion JPY) or in a "quasi-large company" (share capital exceeding 100,000,000 JPY and audit by the accounting auditors required according to the Articles of Incorporation).
- Establishment of the Committee Model requires provision in the Articles of Incorporation.

16 Introduced by Law No. 44/2002.

2. Governance System

Upon adoption of the Committee Model, a corporation will be governed by the following organs, which are different from the organs of the current, common structure of a corporation

- Board of Directors
- Three Committees (Director Proposal Committee, Statutory Audit Committee, Compensation Committee) appointed by the Board of Directors among its members
- One or more individual Executive Directors (Article 21-5 I Audit Special Exceptions Law).

In the Three Committee Model, Statutory Auditors are abolished (Article 21-5 II Audit Special Exceptions Law).

3. Committees and Members of the Committees

Three or more Directors are appointed to each committee by resolution of the Board of Directors. The majority shall be outside Directors. As for the Audit Committee, the members may not be at the same time Executive Directors.

The following Committees have to be established obligatorily. The company may not choose to establish only a part of such committees.

Director Proposal Committee (Article 21-8 I Audit Special Exceptions Law):

- The Director Proposal Committee decides upon the agenda in respect of appointment and dismissal of Directors to be submitted to the Shareholders' Meeting.

Statutory Audit Committee (Article 21-8 II Audit Special Exceptions Law):

The Statutory Audit Committee replaces the Statutory Auditors and their functions in the current governance system. It

- audits the administration of duties of the Directors and executives
- decides upon the agenda in respect of appointment, dismissal and non-reappointment of accounting auditors

Compensation Committee (Article 21-8 III Audit Special Exceptions Law):

- The Compensation Committee decides upon the policy and amount of compensation to be received by each of Directors and executives (Article 21-8 III, 21-11 I Audit Special Exceptions Law).

4. Executive Directors

Executive Directors are one or more Directors appointed by the Board of Directors. The Executives decide upon the matters entrusted by Board of Directors. They will assume the role that Representative Directors are currently playing in the usual business structure of a Japanese corporation. If two or more Executive Directors are appointed, the Board of Directors shall establish the criteria for the distribution of representation and management rights among them.

However, management policy of the company may not be entrusted to Executive Directors (Article 21-7 III Audit Special Exceptions Law).