

Audit and Supervisory Board Regulations (Template)

Japan Audit & Supervisory Board
Members Association
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Article 1 Purpose

These Regulations provide for matters relating to the audit and supervisory board (the “ASB”) pursuant to laws, regulations, and the articles of incorporation.

Article 2 Organization (Note 1)

1. The ASB shall be composed of all of the audit and supervisory board members (“ASBMs”).
2. The ASB shall have a chairperson.
3. The ASB shall have full-time ASBMs.
4. In addition to the preceding paragraph, the ASB shall have ASBMs who attend board of directors’ meetings formed by special directors (*tokubetsu-torishimariyaku*) as provided for in Article 8, item (iii) and ASBMs who perform the matters stated in Article 9 (in these Regulations, “Specified ASBMs”).

Article 3 Duties of the ASB

The ASB shall perform the following duties; however, the decisions in item (iii) must not preclude any ASBM from exercising his or her own powers:

- (i) preparing audit reports;
- (ii) appointing and removing full-time ASBMs;
- (iii) deciding audit policies, methods for investigating the status of the operations and finances of the Company, and other matters regarding the performance of ASBM duties; and
- (iv) other duties provided for in laws, regulations, and the articles of incorporation.

Article 4 Holding of Meetings

ASB meetings shall be held on a regular basis (Note 2). However, an ASB meeting may be held whenever necessary.

Article 5 Persons with the Right to Convene Meetings

1. ASB meetings shall be convened and presided over by the chairperson.
2. Each ASBM may request the chairperson to convene an ASB meeting.

3. If the chairperson does not convene an ASB meeting despite a request under the preceding paragraph, the ASBM who made the request may convene and preside over an ASB meeting.

Article 6 Convocation Procedures

1. ASB meetings shall be convened by sending notification to each ASBM at least one week before the day of the meeting (Note 3).
2. ASB meetings may be held without following the convocation procedures if all of the ASBMs so consent.

Article 7 Resolution Method

1. Resolutions of the ASB shall require a majority of the ASBMs.
2. When conducting resolutions, the ASB shall deliberate thereon based on adequate materials.

Article 8 Matters for Resolution by the ASB

The ASB shall resolve upon the following matters unless otherwise provided for in laws, regulations, or the articles of incorporation:

- (i) appointing or removing the chairperson of the ASB (Note 4);
- (ii) appointing or removing full-time ASBMs;
- (iii) deciding ASBMs who will attend board of directors' meetings formed by special directors (Note 5);
- (iv) appointing Specified ASBMs (Note 6);
- (v) formulating a Code of Audit and Supervisory Board Member Auditing Standards;
- (vi) matters concerning audit policies, audit plans, audit methods, sharing of audit affairs, and the like;
- (vii) matters found necessary for the ASBMs' fulfillment of their duties, such as budgets for audit expenses and matters concerning the performance of duties to be carried out by ASBMs (Note 7);
- (viii) policies for deciding to dismiss or to not reappoint the accounting auditor;
- (ix) deciding the appropriateness of reappointing the accounting auditor (Note 8);
- (x) deciding the contents of proposals regarding the dismissal or non-reappointment of the accounting auditor that will be submitted to the shareholders' meeting;
- (xi) deciding the contents of proposals regarding the appointment of the accounting auditor that will be submitted to the shareholders' meeting;
- (xii) appointing a person to temporarily perform the duties of the accounting auditor when the office of accounting auditor is vacant;
- (xiii) appointing ASBMs to provide explanations pursuant to Article 11, paragraph 3 in cases where the accounting auditor has been dismissed in accordance with the procedures provided for in Article 11, paragraph 1, item (i);
- (xiv) deciding to request that the appointment of ASBMs (including substitute ASBMs; the same applies in the following item) be included in the agenda of the shareholders' meeting;
- (xv) deciding to request that a proposal regarding the appointment of ASBMs be submitted to the shareholders' meeting; and

- (xvi) other matters found necessary by the ASB in relation to the performance of ASBM duties.

Article 9 Specified ASBMs

1. The ASB shall by resolution appoint Specified ASBMs to perform the following duties:
 - (i) receiving from the directors the business reports, supplementary schedules thereto, and accounting-related documents to be received by each ASBM and sending those business reports, etc. to the other ASBMs (Note 9);
 - (ii) notifying the directors specified as the persons to receive such notification (in this article, the “Specified Directors”) of the contents of the audit reports of the ASB regarding the business reports and supplementary schedules thereto;
 - (iii) reaching an agreement with the Specified Directors regarding the day on which the notification under the preceding item is to be made;
 - (iv) receiving notification of the contents of accounting audit reports from the accounting auditor and notifying the other ASBMs of the contents thereof (Note 10);
 - (v) reaching an agreement with the Specified Directors and the accounting auditor regarding the day on which the notification under the preceding item is to be received;
 - (vi) notifying the Specified Directors and accounting auditor of the contents of the audit reports of the ASB regarding accounting-related documents; and
 - (vii) reaching an agreement with the Specified Directors regarding the day on which the notification under the preceding item is to be made.
2. Specified ASBMs shall be full-time ASBMs. (Note 11)

Article 10 Matters for Consent by the ASB

The ASB shall give consent by resolution for the following matters requiring the consent of the ASB unless otherwise provided for in laws, regulations, or the articles of incorporation:

- (i) directors submitting to the shareholders’ meeting a proposal regarding the appointment of ASBMs (including substitute ASBMs); and
- (ii) the remuneration, etc. of the accounting auditor or the person temporarily performing the duties of the accounting auditor.

Article 11 Matters for Consent by All ASBMs

1. The consent of the ASBMs for the following matters requiring the consent of all ASBMs may be granted following deliberation by the ASB (Note 12):
 - (i) dismissing the accounting auditor due to statutory grounds for dismissal;
 - (ii) submitting to the shareholders’ meeting a proposal concerning the partial exemption of a director from liability;
 - (iii) submitting to the shareholders’ meeting a proposal concerning the amendment of the articles of incorporation to provide that directors may be partially exempted from liability by a board of directors’ resolution;
 - (iv) submitting to the board of directors a proposal concerning the partial exemption of a director from liability based on the provisions of the articles of incorporation;
 - (v) submitting to the shareholders’ meeting a proposal concerning the amendment of

the articles of incorporation to provide that the Company may enter into an agreement with a non-executive director for his or her partial exemption from liability;

- (vi) the Company participating in a derivative lawsuit to assist the directors, liquidators, or former directors or liquidators who are defendants; and
 - (vii) the Company reaching a settlement in a lawsuit to pursue the liability of directors, liquidators, or former directors or liquidators.
2. Consent under the preceding paragraph may be granted in writing or by electronic or magnetic records in cases of urgent necessity.
 3. In the case of the dismissal provided for in paragraph 1, item (i) of this article, the ASBMs appointed by the ASB must report on the dismissal and the reasons therefor at the first shareholders' meeting held after the dismissal.

Article 12 Deliberations Regarding Exercise of Powers by ASBMs

When exercising powers or performing obligations relating to the following matters, ASBMs may deliberate thereon at ASB meetings in advance:

- (i) explanations regarding questions from shareholders to the ASBMs notified before a shareholders' meeting (Note 13);
- (ii) matters such as reports to the board of directors and requests for the convocation of board of directors' meetings;
- (iii) reports on the results of investigations relating to proposals, documents, and other materials submitted to the shareholders' meeting;
- (iv) requests for injunctions against directors' acts that exceed the scope of the Company's purposes or other acts in violation of laws, regulations, or the articles of incorporation;
- (v) stating opinions at the shareholders' meeting regarding the appointment, dismissal, resignation, and remuneration, etc. (meaning remuneration, bonuses, and other economic benefits received as compensation for the performance of duties) of ASBMs;
- (vi) expressing the opinions of the ASBMs that must be notified to shareholders when performing an issuance of shares for subscription that will result in a change of control (Note 14);
- (vii) matters relating to lawsuits between the Company and the directors; and
- (viii) other matters related to the filing of lawsuits and the like.

Article 13 Deliberations Regarding Remuneration, etc.

Deliberations regarding the remuneration, etc. of the ASBMs may be held at ASB meetings if all of the ASBMs so consent. (Note 15)

Article 14 Reports to the ASB

1. ASBMs shall report the status of the performance of their duties to the ASB on a regular basis and as appropriate, in addition to which ASBMs must report thereon whenever requested by the ASB.
2. ASBMs who have received a report from the accounting auditor, a director, an employee of the internal audit department, etc., or any other person must report that fact to the ASB.

3. The ASB shall as necessary request reports from the accounting auditor, the directors, the employees of the internal audit department, etc., and other persons.
4. In relation to the preceding three paragraphs, if an ASBM, the accounting auditor, a director, an employee of the internal audit department, etc., or any other person notifies all of the ASBMs of a matter to be reported to the ASB, it will not be necessary to report that matter to the ASB.

Article 15 Preparation of Audit Reports (Note 16)

1. The ASB shall prepare an ASB audit report through deliberations based on the audit report prepared by each ASBM. (Note 17)
2. If the contents of the ASB audit report are different from the contents of an ASBM audit report, and the relevant ASBM so requests, the ASB shall append a note with the contents of that ASBM audit report to the ASB audit report.
3. Each ASBM shall affix his or her signature or his or her name and seal impression (including by electronic signature) to the ASB audit report. Full-time ASBMs and outside ASBMs shall state their positions as such. (Note 18)
4. The provisions of the preceding three paragraphs shall apply *mutatis mutandis* in cases where the Company prepares temporary accounting documents or consolidated accounting documents.

Article 16 Minutes

1. The ASB shall prepare minutes stating the following matters, and the attending ASBMs shall affix their signatures or their names and seal impressions (including by electronic signature) thereto:
 - (i) the date, time, and location at which the meeting was held (including the method of attendance in cases where an ASBM, director, or the accounting auditor was not present at that location but attended the ASB meeting);
 - (ii) the outline and the results of the proceedings;
 - (iii) if any opinions were expressed or any statements were made at the ASB meeting in regard to the following matters, a summary of those opinions or statements:
 - (a) a report from a director that he or she has discovered a fact that is likely to cause the Company significant damage; and
 - (b) a report from the accounting auditor to the effect that it has discovered, in connection with the directors' performance of their duties, any misconduct or any material fact constituting a violation of any law, regulation, or the articles of incorporation;
 - (iv) the names of any director and the name of the accounting auditor if the accounting auditor attended the ASB meeting; and
 - (v) the name of the chairperson of the ASB.
2. If it is determined that a report to the ASB is not necessary pursuant to the provisions of Article 14, paragraph 4, minutes stating the following matters shall be prepared:
 - (i) the details of the matters regarding which it was determined that a report to the ASB is not necessary;
 - (ii) the day on which it was determined that a report to the ASB is not necessary; and
 - (iii) the name of the ASBM who performed the duties relating to the preparation of the minutes.

3. The Company shall retain the minutes provided for in the preceding two paragraphs at its head office for ten years.

Article 17 ASB Secretariat

Administrative duties for convening ASB meetings, the preparation of minutes, and other administrative duties relating to the operation of the ASB shall be performed by employees who support ASBM duties, such as ASBM staff.

Article 18 Code of ASBM Auditing Standards

Matters concerning audits by the ASBMs and the ASB shall be governed by the matters provided for in laws, regulations, the articles of incorporation, and these Audit and Supervisory Board Regulations as well as the Code of Audit and Supervisory Board Member Auditing Standards established by the ASB.

Article 19 Amendment and Abolition of these Regulations

These Regulations may be amended or abolished by the ASB.

Supplementary Provisions

These Regulations shall take effect from [TBD].

- (Note 1) Each company has discretion regarding whether or not to have a chairperson of the ASB and to determine specific persons as Specified ASBMs. Additionally, for companies that have adopted the system of board of directors' meetings formed by special directors (Article 373 of the Companies Act), the ASBMs who attend those board of directors' meetings are appointed by the ASBMs from among themselves (Article 383, paragraph (1) of the Companies Act).
- (Note 2) For "on a regular basis," please state something such as "once per month" based on the actual circumstances of the company.
- (Note 3) It is possible to stipulate a shorter period in the articles of incorporation (Article 392, paragraph (1) of the Companies Act). In that case, state the period stipulated in the articles of incorporation.
- (Note 4) There are no provisions in laws and regulations regarding the procedures for appointing the chairperson of the ASB, but this template provides for the chairperson to be appointed by a resolution of the ASB.
- (Note 5) This item is not necessary for companies that have not adopted the system for board of directors' meetings formed by special directors (Article 373 of the Companies Act). It is provided for in laws and regulations that the ASBMs who attend board of directors' meetings formed by special directors are to be appointed by the ASBMs from among themselves (Article 383, paragraph (1) of the Companies Act), but this template provides that those ASBMs are appointed by a resolution of the ASB.
- (Note 6) Under laws and regulations, if specific ASBMs are determined as the persons to perform duties such as the notification of ASB audit reports concerning business reports, supplementary schedules thereto, and accounting-related documents, those ASBMs are Specified ASBMs, but if specific persons are not determined, then all

of the ASBMs are Specified ASBMs (Article 132, paragraph (5), item (ii) of the Ordinance for Enforcement of the Companies Act and Article 130, paragraph (5), item (ii) of the Ordinance on Accounting of Companies). This item is provided for cases in which specific persons are determined as Specified ASBMs, so in cases where specific persons are not determined as such, this item is not necessary. There are no provisions in laws and regulations regarding the procedures for appointing specific persons as Specified ASBMs, but this template provides for such persons to be appointed by a resolution of the ASB.

- (Note 7) In regard to the differentiation between “performance” and “fulfillment,” ordinarily, either one may be used depending on the context. In this template, in accordance with the definitions stated in the explanation of terms in the Audit and Supervisory Board Member Audit Implementation Manual (available in Japanese only), “performance” is used to mean carrying out matters that have been decided and refers to individual acts, while “fulfillment” is used to mean achievement and refers to the achievement of a certain set of duties.
- (Note 8) In regard to the term of office of the accounting auditor, in laws and regulations, it is only stated that it will be deemed that the accounting auditor has been reappointed at an annual shareholders’ meeting unless otherwise resolved at that annual shareholders’ meeting (Article 338, paragraph (2) of the Companies Act), and there are no provisions stating that the ASB must perform duties such as deliberating on or deciding the reappointment of the accounting auditor. However, in light of the purpose of the provisions that the contents of proposals regarding the appointment, dismissal, and non-reappointment of the accounting auditor be decided by the ASB (Article 344 of the Companies Act), this template provides that the ASB will decide the appropriateness of reappointing the accounting auditor every year.
- (Note 9) Under laws and regulations, business reports, supplementary schedules thereto, and accounting-related documents are to be received from the directors by each ASBM. In this template, in consideration of practical convenience, receiving those documents from the directors and sending them to the other ASBMs are included in the duties of the Specified ASBMs.
- (Note 10) There are no provisions in laws and regulations regarding the Specified ASBMs notifying the other ASBMs of the contents of accounting audit reports received from the accounting auditor, but in this template, in order to clarify the duties of the Specified ASBMs, notifying the other ASBMs of the contents of those accounting audit reports is included in the duties of the Specified ASBMs.
- (Note 11) Under laws and regulations, it is not necessary for Specified ASBMs to be full-time ASBMs. Accordingly, please consider the necessity of this provision based on the actual circumstances of the company.
- (Note 12) Under laws and regulations, a resolution of the ASB is not required for the consent of all ASBMs to the dismissal of the accounting auditor due to statutory grounds for dismissal, the consent of all ASBMs regarding the partial exemption of directors from liability, the consent of all ASBMs to the participation of the company in derivative lawsuits to assist directors, liquidators, or former directors or liquidators who are defendants, and the consent of all ASBMs to the company reaching a settlement in a lawsuit pursuing the liability of directors, liquidators, or persons who were directors or liquidators (Article 340, paragraph (2); Article 425, paragraph (3); Article 426, paragraph (2); Article 427, paragraph (3); Article 849, paragraph (3); and Article 849-2 of the Companies Act). However, in light of the importance of these matters, this template provides that consent may be granted

following deliberation by the ASB.

- (Note 13) In regard to advance questions, under laws and regulations, even if it is necessary to conduct an investigation in order to provide an explanation regarding a matter for which a shareholder has requested an explanation, if that shareholder has notified the company of that matter “a reasonable period of time prior” to the day of the shareholders’ meeting, it is necessary to provide an explanation regarding that matter (Article 314 of the Companies Act and Article 71, item (i) of the Ordinance for Enforcement of the Companies Act). Here this template provides that, as a preferable approach, the ASB will in principle deliberate on matters notified to the ASBMs before the shareholders’ meeting.
- (Note 14) In relation to an issuance of shares for subscription resulting in a change of control of a public company, if a subscriber of shares for subscription comes to hold a majority of voting rights as a result of receiving shares for subscription due to an allotment, etc. thereof, information regarding that allotment must be notified to the shareholders (Article 206-2 of the Companies Act). The opinion of the ASBMs regarding that issuance of shares for subscription must be stated in the notification to the shareholders (Article 42-2, item (vii) of the Ordinance for Enforcement of the Companies Act).
- (Note 15) In regard to the remuneration, etc. of each ASBM, if there are no provisions in the articles of incorporation and no resolution by the shareholders’ meeting, it is necessary for the ASBMs to determine the remuneration, etc. by deliberation within the range resolved upon by the shareholders’ meeting (Article 387, paragraph (1) and paragraph (2) of the Companies Act). This template provides that ASB meetings can be used to deliberate on remuneration, etc. Even in this case, that deliberation requires the consent of all ASBMs.
- (Note 16) Under laws and regulations, a resolution of the ASB is not required in cases where the ASB prepares an audit report (Article 130, paragraph (3) of the Ordinance for Enforcement of the Companies Act). Therefore, in this template, the preparation of audit reports is not stated in Article 8, Matters for Resolution by the ASB (although ordinary ASB resolutions are not allowed to be made in writing or by electronic or magnetic record, according to explanations by the government officers who were in charge of the Ordinance for Enforcement of the Companies Act, ASBs cannot be prevented from making final decisions regarding the preparation of ASB audit reports following deliberation on at least one occasion by appropriate methods such as resolutions in writing or by electronic or magnetic record). However, based on the usual practices of the company, it is also possible to add “preparing ASB audit reports” to Article 8 and specify it as a matter for resolution.
- (Note 17) Under laws and regulations, in cases where the ASB prepares an audit report, the ASB must deliberate on the contents of the ASB audit report at least once by holding a physical meeting or by another method that allows the simultaneous exchange of opinions by transmitting and receiving information (Article 130, paragraph (3) of the Ordinance for Enforcement of the Companies Act and Article 128, paragraph (3) of the Ordinance on Accounting of Companies).
- (Note 18) Under laws and regulations, the signatures or names and seal impressions of the ASBMs are not required to be affixed to the audit report, nor is it required to indicate which ASBMs are full-time ASBMs and outside ASBMs. However, in order to ensure the authenticity of the audit report and reliability of audits, it is preferable for each ASBM to sign his or her name and then affix his or her seal impression (or electronic signature if the audit report is prepared as an electronic or

magnetic record) and for full-time ASBMs and outside ASBMs to be indicated as such.

For views regarding signatures and seal impressions, please refer to page 11 and below in “Regarding Statements in Audit Reports of Audit and Supervisory Board Members, etc. in Consideration of Matters Such as Key Audit Matters and Changes in Practices During the COVID-19 Pandemic” (available in Japanese only) by the Japan Audit & Supervisory Board Members Association.

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