

## Code of Audit and Supervisory Board Member Auditing Standards

Japan Audit & Supervisory Board  
Members Association (\*)

Enacted on March 25, 1975

Revised on July 20, 1982

Revised on September 29, 1993

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Revised on June 13, 2002

Revised on February 12, 2004

Revised on January 12, 2007

Revised on July 9, 2009

Revised on March 10, 2011

Revised on July 23, 2015

Revised on December 16, 2021

Final revision on August 1, 2022

### (Notes)

This translation is prepared only for reference purposes, and in the case of any matters falling within the ambit of the Code of Audit and Supervisory Board Member Auditing Standards (the “Code”), reference should be made to the original Japanese text of the Code. The Code is intended solely as a best practice benchmark by which audit and supervisory board members (“ASBMs”) may perform their audit duties. It does not replace or supplement in any way whatsoever the current legal regime applicable to ASBMs and does not give rise to duties for ASBMs over and above those imposed by prevailing legal standards. Non-conformity with the Code would therefore not per se give rise to legal liability or a cause of action against the ASBMs concerned. ASBMs are expected to prepare their own auditing standards applicable to the company, to the best possible level, by reference to the Code. The same shall be applied to other rules or standards prepared or enacted by the Association, including the “Audit Practice Standards for Internal Control Systems.”

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\* N.B. “Japan Audit & Supervisory Board Members Association” is the English translation of the formal name of the Association. “Japan Audit & Supervisory Board Members Association” was formerly translated as “Japan Corporate Auditors Association” but was renamed in 2013 as a consequence of the revision of the recommended English translation of “Kansayaku” from “Corporate Auditor” to “Audit & Supervisory Board Member.” To avoid confusion, previously published portions have been updated to use the current translations of the Association’s name and “Kansayaku.”

## **Revision of Code of Audit and Supervisory Board Member Auditing Standards**

Japan Audit & Supervisory Board  
Members Association

August 1, 2022

While most of the amendments under the “Act for the Partial Amendment of the Companies Act” established on December 4, 2019 took effect from March 1, 2021, the parts relating to the “electronic provision of shareholders’ meeting materials” will take effect on September 1, 2022. The Association examined those parts upon the previous revision of the Code (in 2021), but as the legal provisions relating to that electronic provision were yet to take effect when the previous revision was announced, corresponding provisions in the Code were separately stated at the end of the Code. For this revision, as the amended Companies Act is due to take effect, corresponding provisions have been added to the Code, and revisions have been made in consideration of the actual measures and the like anticipated to be taken by audit and supervisory board members (Article 63).

# Revision of Code of Audit and Supervisory Board Member Auditing Standards

Japan Audit & Supervisory Board  
Members Association

December 16, 2021

## I Background

Since its establishment in March 1975, the Code has been revised numerous times; in the February 2004 revision, the Code, including its structure, was revised in its entirety in order to clarify the roles and duties currently expected of audit and supervisory board members (“ASBMs”). Since then, while preserving the fundamental points of the 2004 revision, the Code has been revised several times to respond to various changes in the environment surrounding ASBMs, such as the Companies Act being amended and the Corporate Governance Code (the “Governance Code”) taking effect, and to developments in auditing practices.

Following the previous revision (in 2015), the amended Companies Act, amended Ordinance for Enforcement of the Companies Act, etc. took effect in March 2021, and the Governance Code was revised twice in 2018 and 2021, in addition to which the auditing standards for auditors have been revised several times, and each of these included new provisions related to the responsibilities, etc. of ASBMs. The Association has decided to revise the Code at this time in order to respond to these environmental changes.

Many of the provisions reflected in this revision may significantly affect ASBM practices, and there are many provisions that will need to be reviewed depending on practice trends moving forward. Accordingly, the Association will consider reviewing the Code as appropriate.

## II Substance of the Revisions

1. Upon this revision, revisions have been made simultaneously to the Code of Audit and Supervisory Board Member Auditing Standards, the Code of Audit Committee Auditing Standards, and the Code of Audit and Supervisory Committee Auditing and Supervising Standards. When doing so, in addition to reflecting the various provisions stated above, an effort was made to once again examine the consistency of these documents, such as differences in the structure of their provisions and the manner in which they are written.

Additionally, in the same way as the previous revision, supplementary notes separate from the provisions of the Code are included in order to add explanations regarding the handling of the relevant provisions of the amended Companies Act and the Governance Code, etc. relating to the revisions.

2. The main contents of the revisions are as follows.
  - (1) Main revisions in consideration of amendments to the Companies Act, the Ordinance for Enforcement of the Companies Act, etc.
    - Provisions were added regarding audits of matters such as the decision-making process of the board of directors regarding policies on the determination of the contents of individual director remuneration, etc. provided for in Article 361, paragraph 7 of the Companies Act (Article 49). Additionally, provisions were added regarding audits of indemnity agreements provided for in Article 430-2 of the Companies Act and insurance agreements executed for the benefit of directors/ASBMs, etc. provided for in Article 430-3 of the Companies Act

(Article 27). Furthermore, provisions were added regarding procedures for consent to judicial settlements provided for in Article 849-2 of the Companies Act (Article 56).

- Other than the above, the Association examined responses to the electronic provision of shareholders' meeting materials provided for in Article 325-2 of the Companies Act, but as the legal provisions relating to the matter are yet to take effect as of the announcement of this revision, provisions in the Code regarding those systems are stated separately.

(2) Main revisions in consideration of revisions to Governance Code

- As part of the roles and responsibilities of ASBMs and the audit and supervisory board ("ASB") in Principle 4.4, a reference was added regarding authority pertaining to the appointment and dismissal of ASBMs and the determination of remuneration of ASBMs. That authority itself was already provided for in the Companies Act, and the matters stated in the provisions of the Code summarizing best practices for ASBMs did not require any revision. However, in consideration of the intent behind the increased emphasis placed on that authority, statements to the effect that it is important to ensure the independence of ASBMs in order to ensure the reliability of audits have been made in the supplementary notes (supplementary notes to Article 9 and Article 12).
- Provisions were added regarding measures to be taken in consideration of Supplementary Principle 4.11.1 (disclosure of skills matrix, etc.) (Article 10, paragraph 6).
- Provisions were added regarding the participation of ASBMs in nomination and compensation committees, etc. in consideration of Principle 4.10 and Supplementary Principle 4.10.1 (Article 14, paragraph 3).
- ASBMs, etc. were added as parties that should engage in dialogue with shareholders and other stakeholders in Supplementary Principle 5.1.1. Upon the previous revision of the Code, it was anticipated that the expectation for ASBMs, etc. to engage in dialogue with shareholders and other stakeholders would increase in the future, and provisions regarding responses to that situation were included, but a statement to the effect that this intent has become more clear due to the subsequent revision of the Governance Code has been added to the supplementary notes (Article 15).
- Responses in consideration of Supplementary Principle 4.13.3 (establishment of a system in which the internal audit division reports directly to the ASB) (Article 38, paragraph 5).

(3) Main revisions in consideration of revisions to auditing standards for auditors

- Due to the revision of auditing standards for auditors, key audit matters (KAM) are required to be stated in the audit reports of auditors under the Financial Instruments and Exchange Act. As the Code mainly addresses the authorities and responsibilities of ASBMs under the Companies Act, no reference is made to KAM in the provisions, but a statement in regard to this has been made in the supplementary notes (supplementary notes to Article 48).
- However, in regard to measures by auditors regarding statements in the parts of disclosed documents, including audited financial statements, other than those financial statements and audit reports ("Other Statements"), in consideration of

the fact that the business report and supplementary schedules thereto constitute “Other Statements” under the Companies Act, provisions were revised and a supplementary note was added regarding measures in regard thereto (Article 48, paragraph 2).

(4) Other revisions

- Previously, the Code included provisions regarding specified ASBMs in various places, but for consistency with the auditing standards for audit committees and audit and supervisory committees, new provisions have been added to gather together the matters concerning specified ASBMs (Article 11).
- In regard to Chapter VI (Operational Audits) of the Code, the matters stated therein were changed during repeated revisions since the enactment of the Code, as a result of which differences, mainly in regard to structure, arose with the auditing standards for audit committees and audit and supervisory committees that were enacted later. Therefore, the current revision work included a reexamination of the structure of the provisions, as a result of which they were made consistent (Article 22 to Article 24).
- Other differences regarding detailed wording were reexamined.

### **III Companies to which the Code Applies**

As with the previous revisions, the Code applies to large companies, as defined in the Companies Act, and has been written mainly in consideration of listed companies. For companies that are not large companies, it is desirable that ASBMs refer to the Code while keeping in mind the company’s specific audit environment.

## **Revision of Code of Audit and Supervisory Board Member Auditing Standards**

Japan Audit & Supervisory Board  
Members Association

July 23, 2015

### **I Background**

Since its establishment in March 1975, the Code has been revised numerous times; in the February 2004 revision, the Code aimed to set out not only responses to legal requirements, but also “the audit practices that will be evaluated” and “the standards by which audit and supervisory board members (“ASBMs”) will be held accountable,” in addition to which the Code established that the fundamental duties of ASBMs include “to prevent corporate wrongdoing” and “to ensure and safeguard sound and continuous growth of their company” and that the fundamental auditing view of ASBMs is towards “the establishment and operation of a good corporate governance system.” Following that, due to factors such as the Companies Act, the Ordinance for Enforcement of the Companies Act, and the like taking effect in May 2006 and the “Final Report Regarding Findings of the Panel of Experts” (Japanese only) being published in April 2010, the Code has been revised several times, but these fundamental points of the 2004 revision have been preserved.

Subsequently, the amended Companies Act, amended Ordinance for Enforcement of the Companies Act, and the like took effect in May 2015, and the Corporate Governance Code (the “Governance Code”) took effect in June of that year. The Governance Code aims to improve the supervisory functions of the board of directors and to ensure effective audits and seeks positive and proactive behavior from ASBMs beyond their “defensive functions,” which fits exactly with the fundamental duties and fundamental auditing view of ASBMs set out in the February 2004 revision.

The Association has decided to revise the Code at this time in order to respond to these various changes in the environment surrounding ASBMs that have occurred since March 2011.

As many of the matters reflected in this revision, due to the major amendment of the Companies Act and the introduction of the Governance Code, may significantly affect ASBM practices, there are many provisions that will need to be reviewed depending on practice trends moving forward; accordingly, the Association will consider reviewing the Code as appropriate.

### **II Substance of the Revisions**

1. The Code includes both provisions on legal duties under the Companies Act and other laws and regulations as well as provisions on conduct that is desirable in consideration of good corporate governance; it is necessary for each company to appropriately adjust the latter type of provisions in consideration of its own environment when formulating its own ASBM auditing standards. Therefore, in order to make the Code easier to use, the Association has altered the format to include the level of each provision and supplementary notes.
  - (1) The provisions have been categorized into levels according to their meanings, and standard phrasing is used for each level to the extent possible. The meaning of each level is stated at the start of the Code, and each provision’s level is indicated after that provision. Please note that the level categorization of the provisions is based solely on the views of the Association and has not been confirmed by public or

governmental agencies, and please make use of the levels as a reference when establishing or reviewing your company's own ASBM auditing standards in consideration of the company's environment.

- (2) The newly added supplementary notes indicate the provisions of the amended Companies Act relevant to the current revision of the Code and explain the application of the Governance Code. In particular, the Governance Code is not itself legally binding, unlike laws and regulations such as the Companies Act. Instead, it utilizes a "principles-based approach" in which companies are expected to understand the intent of the Governance Code's principles and endeavor to achieve effective corporate governance in a way that suits the environment surrounding the company; even if a company decides not to adopt the principles and supplementary principles of the Governance Code due to the company's circumstances, it can explain those circumstances and the company's measures in response thereto (known as the "comply-or-explain approach") and leave ultimate evaluation to the market. Accordingly, it is not appropriate to make each principle and supplementary principle a standard of conduct to be universally complied with like the provisions of laws and regulations such as the Companies Act, and there are instances in which it is not possible to adequately explain that in the main text of the Code; therefore, explanations have been added in the new supplementary notes. Provisions that directly reflect Governance Code principles are in general categorized as level 4 under the system explained in (1) above due to these characteristics of the Governance Code. The Association recognizes that some provisions may not be suitable in light of the actual conditions of some companies and has therefore made it possible to apply the provisions with some latitude (including not adopting them) in order to suit the circumstances and environment of each company.
2. The content of the Code has been revised to reflect the amendments to the Companies Act, the Ordinance for Enforcement of the Companies Act, and the like as well as the principles of the Governance Code. Some of the principles of the Governance Code apply directly to ASBMs. Even for many of the principles focused on management or the board of directors, when ASBMs perform their audits, it is necessary for them to monitor and verify how management or the board of directors is addressing those principles. Regarding this point, the current revision not only sets out a provision to respect the principles of the Governance Code in general, but also includes provisions in response to principles that the Association believes deserve special consideration.
3. The main contents of the revisions are as follows.
  - (1) In consideration of the amendments to the Companies Act, the Ordinance for Enforcement of the Companies Act, and the like, provisions have been added regarding the determination of contents of proposals on the appointment, dismissal, or non-reappointment of accounting auditors (Article 34). Additionally, matters were added regarding systems to ensure the effectiveness of audits and other systems to ensure the appropriateness of corporate affairs (Articles 17 through 20, Article 24). Furthermore, provisions were added concerning the statement of opinions in audit reports regarding conflict-of-interest transactions with parent companies and the like, the expression of opinions regarding third-party allotments, etc. resulting in a change of control, and multiple derivative lawsuits (Article 26, Article 49, Article 55).

- (2) In consideration of General Principle 2, General Principle 4, and other principles of the Governance Code, the contents of the provisions on responsibilities and attitudes of ASBMs have been expanded, and provisions have been added regarding the role of ASBMs in bearing part of the company’s supervisory functions and regarding responses to the Governance Code (Article 2, Article 3, Article 13). “Supervisory functions” here is a concept with a broader meaning than the “supervision of the execution of the duties of directors” by the board of directors that is prescribed in the Companies Act and refers to the overall supervisory functions that are performed in cooperation between the board of directors and ASBMs or the audit and supervisory board (“ASB”); the Association view audits by ASBMs and the ASB as one part of this concept of supervision in the broad sense. General Principle 4 of the Governance Code sets out three roles and responsibilities as supervisory functions, some of which are to be performed by ASBMs or the ASB (refer to General Principle 4). In addition to auditing whether the board of directors is appropriately fulfilling those supervisory duties (refer to Article 381, paragraph 1 of the Companies Act), another example of a means through which ASBMs can be involved in these supervisory functions is by proactively expressing opinions regarding internal control systems, which serve as a foundation for appropriate risk-taking, from the initial establishment stages of those systems. Additionally, depending on the circumstances of the company, it may also be possible for ASBMs to proactively state their views in consideration of risk management, the rationality of business judgments, and the like not only in regard to individual matters, but also when formulating mid-term business plans. However, these types of involvement should vary depending on the circumstances of each company, and this was taken into account when determining the level category. The concept of the broad sense of supervisory functions was discussed in the Association’s news release titled “New Recommended English Translation for ‘Kansayaku’ and ‘Kansayaku-kai’” (October 23, 2012); the Code has been revised in consideration of the same concept.

Provisions regarding participation in bodies such as optional advisory committees have been added in Article 13, paragraph 3. This participation is not part of the inherent duties of ASBMs, and although the Association is not recommending that ASBMs proactively participate in such bodies, we do not believe that there is any issue in doing so to the extent that it does interfere with duties as ASBMs.

- (3) Additionally, in consideration of the general principles of the Governance Code and the like, provisions have been added regarding ASBM training, involvement in selection policies for ASBM candidates, dialogue with shareholders and other stakeholders, coordination with outside directors and the like, evaluation of the audit performance of the ASB, and other matters (Article 3, Article 9, Article 14, Article 16, Article 36).
- (4) In previous versions of the Code, the Japanese characters used for the term *renkei* (translated in previous revisions as “cooperation”) have carried a looser nuance of “connection” or “linking”; in this revision, different characters have been used for *renkei* (which is now translated as “coordination”) and impart a stronger nuance of “coordination” and “cooperation.” The choice of the previous characters was made in consideration of the fact that one part of the duties of ASBMs is to audit whether the audits carried out by accounting auditors or internal audit divisions and the like are appropriate and reasonable from an independent position, and ASBMs therefore perform audits not hand-in-hand with accounting auditors, internal audit divisions,



and the like, but simply in limited connection with them. Although the choice of the previous characters was based on careful consideration, and the intended reasoning should be respected, the use of the previous characters may lead to confusion in some situations, such as the Code using the previous characters while the “Joint Research Report Regarding Coordination Between Audit and Supervisory Board Members, Etc. and Accounting Auditors” (Japanese only), prepared by the Association and the Japanese Institute of Certified Public Accountants, uses the other characters in the same context. Because the meaning of the term can be sufficiently understood from the surrounding context, and in consideration of the actual benefits and the possible confusion, the Association decided to use only the current characters in this revision.

### **III Companies to which the Code Applies**

As with the previous revisions, the Code applies to large companies, as defined in the Companies Act, and has been written mainly in consideration of listed companies. For companies that are not large companies, it is desirable that ASBMs refer to the Code while keeping in mind the company’s specific audit environment.

## **Revision of Code of Audit and Supervisory Board Member Auditing Standards**

Japan Audit & Supervisory Board  
Members Association

March 10, 2011

### **I Background**

The Code, including its structure, was revised in its entirety in February 2004 in order to respond to changes in the domestic and international environments and to clarify the roles and duties currently expected of audit and supervisory board members (“ASBMs”). Following that, due to the Companies Act, the Ordinance for Enforcement of the Companies Act, and the like taking effect in May 2006, the Code was revised to reflect the Companies Act in January 2007 and July 2009. The Association has decided to revise the Code at this time in order to respond to various changes in the environment surrounding ASBMs that have occurred since the previous revision and to reflect developments in auditing practices.

### **II Substance of the Revisions**

While various issues were being raised both domestically and internationally regarding corporate governance in Japan, securities exchange listing rules were revised as part of an effort to improve listing systems, and the Association set out best practices to serve as practical guidelines for ASBM audits in the “Final Report Regarding Findings of the Panel of Experts” published by the Association in April 2010. The Association believes it is desirable to implement these best practices in day to day audit activities and has therefore made the necessary revisions.

The substance and main contents of the revisions are as follows.

1. Due to revisions to listing rules for the Tokyo Stock Exchange and other securities exchanges, listed companies are required to have at least one independent director/ASBM. Because outside ASBMs are often designated as independent directors/ASBMs, provisions on independent directors/ASBMs have been added (Article 5, paragraph 4).
2. In the “Final Report Regarding Findings of the Panel of Experts” prepared in April 2010, best practices were set out regarding development of an ASBM audit environment, auditing of internal control systems, auditing of third-party allotments, consent to audit remuneration for accounting auditors, and consent to appointment proposals; the contents of these best practices have been reflected in the relevant provisions of the Code (Article 5, paragraph 1 and Article 14, paragraph 3 regarding ensuring effectiveness of ASBM audits; Article 29 and Article 32 regarding exercising the right to consent to determination of accounting auditor remuneration and to appointment proposals; Article 44, paragraph 4 and others regarding strengthened cooperation with accounting auditors).
3. In consideration of the prevalence of group management and the increasing importance of maintaining the soundness of the corporate group (such as taking measures to prevent significant damage to the company due to misconduct in subsidiaries), fundamental provisions regarding ASBM audits in the corporate group have been included (Articles 22 and 35).
4. The importance of ASBM audits to prevent corporate wrongdoing is increasing. In particular, in consideration of preventing the spread of damage due to misconduct, the

duty of accountability, and other matters, thorough and highly transparent responses are sought, and there are increasing instances of third-party committees being established. Provisions regarding a basic view of the response of ASBMs to these circumstances have been added (Article 24).

- (1) Provisions have been added stating that, in cases of corporate wrongdoing, in consideration of preventing the spread of damage and maintaining trust in the company, ASBMs must audit whether directors are responding appropriately and thoroughly in accordance with their duty of care (paragraph 1).
  - (2) In cases of significant corporate wrongdoing, such as those involving directors, in order to quickly restore trust in the company and prevent the spread of damage, it is necessary for companies to promptly take corrective actions, such as identifying causes and preventing reoccurrence, for which transparency is ensured. In consideration of the company's corrective actions, it is important for ASBMs, as non-executive officers, to exercise the authority to audit operations and other such authorities granted to them under the Companies Act and thereby play a leading role in establishing a third-party committee with no conflicts of interest to thoroughly examine matters such as the identification of causes and the prevention of reoccurrence. Additionally, when finding it necessary, ASBMs should deliberate at meetings of the audit and supervisory board and examine the establishment of a third-party committee by an outside ASBMs or the like (paragraph 2).
  - (3) Unless they are found to have clear interests in the corporate wrongdoing in question, it is desirable that ASBMs, as non-executive officers, serve as members of the third-party committee and appropriately perform their duties, keeping in mind their duty of care to the company. Additionally, whether or not they serve as members of the committee, ASBMs will, taking care not to interfere with requests to promptly identify causes, relationships with the relevant authorities, and other matters, take such steps as receiving explanations regarding matters such as the process of the establishment of the third-party committee and the status of its response measures (paragraph 3).
5. Due to the increasing importance of appropriate disclosure for listed companies, provisions have been added regarding ASBM audits of the appropriateness of corporate information disclosure, including securities reports (Article 41).
  6. In consideration of factors such as ASBMs being required to express an opinion if a third-party allotment is carried out, provisions have been added regarding ASBM audits for third-party allotments (Article 46).
  7. The term "development" is used in connection to internal control systems in Article 362, paragraph 4, item 6 of the Companies Act, and it was defined in the previous revision of the Code to include "operation"; however, it was pointed out to the Association that this might cause misunderstanding in practice because "development and operation" is a phrase commonly used for internal controls of financial reporting. Accordingly, "development" has been replaced with "establishment and operation" where appropriate.

Other necessary revisions have been made, as well.

### **III Status of the Code; Companies to which the Code Applies**

Under the principle of "clarifying the roles and duties currently expected of ASBMs" that was set out when the Code was established, the Code includes best practices to serve as practical

guidelines for ASBMs in order to increase the effectiveness of ASBM audits. These best practices are not standards that must be followed without fail by ASBMs, so if ASBM auditing activities do not conform to these practices, ASBMs will not be subject to automatic legal liability; however, if the Code is adopted as-is to serve as the company's own standards, or the company prepares its own ASBM auditing standards with the Code as a reference, it must be noted that ASBMs will bear a duty to perform audits in accordance with those auditing standards.

As with the previous revisions, the Code applies to large companies, as defined in the Companies Act, and has been written mainly in consideration of listed companies. For companies that are not large companies, it is desirable that ASBMs conduct audits in reference to the Code while keeping in mind the company's specific audit environment.

## **Revision of Code of Audit and Supervisory Board Member Auditing Standards**

Japan Audit & Supervisory Board  
Members Association

July 9, 2009

The “Ministerial Ordinance for Partial Amendment of the Ordinance for Enforcement of the Companies Act and the Ordinance on Accounting of Companies, etc.” (Ministry of Justice Ordinance No. 7 of 2009) took effect on April 1, 2009, and amended parts of the Ordinance for Enforcement of the Companies Act and the Ordinance on Accounting of Companies. Accordingly, the Association has decided to revise the Code of Audit and Supervisory Board Member Auditing Standards.

The main contents of the revisions are as follows:

- (1) The necessary revisions were made to the Code’s provisions on disclosure of “basic policies regarding those who control the company’s determination of its financial and business policies” (commonly called takeover defense measures) in business reports due to the disclosure requirements for those basic policies having been changed to only include “a summary of the contents of the basic policy” and “a summary of the specific contents of measures.”
- (2) In cases where there is a demand from shareholders to file a lawsuit pursuing the liability of directors, but a lawsuit is not filed, the above amendment clarified that in addition to the determination of whether the parties subject to the demand had responsibilities or duties, the reasons for that determination must also be submitted or provided to the parties making the demand (as a “notice of reasons for not filing lawsuit”) when certain shareholders or the like so request; accordingly, the necessary revisions were made to the Code.

## Revision of Code of Audit and Supervisory Board Member Auditing Standards

Japan Audit & Supervisory Board  
Members Association

January 12, 2007

### I Background

The Code, including its structure, was revised in its entirety in February 2004 (which revision is herein referred to as the “2004 Code Revision”), in order to respond to changes in the domestic and international environments, and to clarify the roles and duties currently expected of audit and supervisory board members (“ASBMs”).

Thereafter, the Companies Act of Japan (*Kaishahou*) and the ministerial ordinances of the Ministry of Justice thereof which took effect in May 2006 stipulated provisions, which were already added to the Code at the time of the 2004 Code Revision, related to auditing the operating effectiveness of internal control systems and the development of an environment for ASBM audits, etc., and newly stipulated provisions related to the responsibilities, etc., of ASBMs.

In order to respond to these changes of law after the 2004 Code Revision and environmental changes, the Japan Audit & Supervisory Board Members Association has revised the Code again.

### II Substance of the Revisions

Taking into consideration the Companies Act of Japan and the ministerial ordinances of the Ministry of Justice, we have decided that it is not necessary to change the underlying policy of the Code. The preamble to the 2004 Code Revision has been kept intact. On the other hand, we have made revisions to maintain specific and systematic guidelines for audit practices, similar to the previous Code. They are meant not only to address the legal requirements, but also to clarify the audit practices that will be evaluated and to provide the standards by which ASBMs will be held accountable.

In this revision of the Code, the points primarily taken into consideration are as follows:

The companies to which the Code applies shall be large-scale companies under the Companies Act of Japan, as under the previous Code, and the revisions have been made mainly in consideration of listed companies. If the companies are not large-scale companies, it is desirable to conduct audits in reference to the Code while keeping in mind each company’s audit environment and relevant differences from large companies.

1. In the case of a large-scale company that maintains a board of directors, board of directors’ resolutions with respect to the basic policies of its internal control systems are required by the Companies Act of Japan. We have revised the Code, in accordance with the provisions of the Companies Act of Japan, with respect to, among other things, monitoring and verifying the contents of the board of directors’ resolutions and the operating effectiveness of internal control systems developed by directors. With respect to establishing a more concrete manner of auditing internal control systems, etc., we have decided to enact “the audit practice standards for internal control systems” based on the Code.
2. “Systems to ensure the effectiveness of ASBM audit activities” have been identified as part of the basic policy of internal control systems for which a board of directors’ resolution is required. Directors and the board of directors must be cognizant of

developing systems which are necessary for the performance of ASBM duties as required by law. Thus, we have specifically and systematically provided for the development of an ASBM audit environment by creating a separate section in the revised Code.

3. Matters concerning ASBMs that are required to be disclosed, such as matters pertaining to candidates for ASBMs and the status of the performance of duties of outside ASBMs, have been expanded by the Companies Act of Japan. Thus, we have made the required revisions to the Code concerning the procedures and the criteria for selecting ASBM candidates, in addition to the responsibilities, etc. of outside ASBMs.
4. ASBMs shall be granted the power to consent to the determination of accounting auditors' remuneration, etc., and the accounting auditors shall be obligated by law to provide the ASBMs with a notice of "matters concerning the performance of the accounting auditors' duties". Thus, necessary provisions have been added to the Code in relation to the responsibilities to be discharged by ASBMs in ensuring the appropriateness and reliability of accounting audits.
5. ASBMs' opinions shall be provided in the audit report if the "basic policies regarding those who rule on the company's determination of its financial and business policies" are included in a business report. Thus, a separate section addressing this issue has been added to the Code and also refers to the responsibilities to be discharged by ASBMs in ensuring the appropriateness of takeover defense measures.
6. The Companies Act of Japan introduced a system that requires ASBMs to give notice of their reasons for not filing a lawsuit pursuing the liability of a director; when demanded to do so by shareholders or director(s), and thereby the appropriate decision-making of ASBMs became more important. Thus, revisions have been made to the Code to address ASBMs' actions related to derivative lawsuits, etc.

# Revision of Code of Audit and Supervisory Board Member Auditing Standards

Japan Audit & Supervisory Board  
Members Association

Revised on February 12, 2004

## I Background

The Code was adopted by our association in March 1975 and then revised several times to incorporate the revisions to the Japanese Commercial Code (together with the Law for Special Provisions for the Commercial Code concerning Audits, etc., of *Kabushiki Kaisha*<sup>1</sup>, and collectively herein referred to as the “Japanese Corporations Law”). The Code has functioned as a set of standards of conduct for audit and supervisory board members (“ASBMs”) in performing their duties. The main contents of the Code are a philosophy of auditing for ASBMs and provisions regarding certain basic matters required by law. However, given the dramatic changes in recent years in the environment surrounding ASBM audits, it has become necessary for the Code to be revised so that it provides sufficient standards of conduct for ASBMs to perform their expected duties.

In the legal sphere, the ASBMs’ functions were reinforced by the 2001 revision of the Japanese Corporations Law in respect of corporate governance. Soon thereafter, the 2002 revision of the Japanese Corporations Law and related legislation introduced a new system of “a company with committees,” which provides an alternative governance system for large-scale companies. A new era has thus been opened, where companies compete in quality of corporate governance systems, including their audit systems. In addition, rapid progress is being made in the revision of relevant laws, regulations and accounting standards to keep up with the globalization of financial and capital markets, the move to consolidated management, and the accumulation of judicial decisions concerning director liability in response to repeated corporate wrongdoing.

In order to respond to these changes in domestic and international environments, to clarify the roles and duties currently expected of ASBMs, and to present specific standards for their conduct, we, Japan Audit & Supervisory Board Members Association, have reviewed and revised the Code in its entirety, including its structure, by incorporating several studies and the opinions of our internal committees and study groups.

## II Essence of Revision

In this revision of the Code, we have aimed not only to address the audit philosophy and legal requirements as with previous revisions of the Code, but also to provide specific and systematic guidelines for audit practices and thereby clarify the audit practices that will be evaluated and to provide the standards by which ASBMs will be held accountable. Recognizing that the ASBMs’ fundamental duties are to audit the directors’ performance of their duties from an independent position and thus to prevent corporate wrongdoing and to ensure and safeguard sound and continuous growth of their company, we have clarified that ASBMs shall perform their duties with a view to the establishment and operation of a good corporate governance system.

The essence of the revision is as follows.

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<sup>1</sup> Translation note: “kabushiki kaisha” means joint stock corporation, the most typical type of limited liability corporation under the Japanese Corporations Law.



1. With respect to decision-making by the board of directors and other organizations, the so-called business judgment rule is being established through judicial decisions for determining directors' fulfillment of the duty of care. In light of this, we have included in the revised Code the audit of whether management decisions are reasonably made on the basis of sufficient information and in accordance with an appropriate decision-making process.
2. With respect to individual director's performance of their duties, it is being recognized, particularly for large-scale publicly-held companies, that directors are required to establish so-called internal control systems as part of their duty of care. In light of this, we have decided to include in the revised Code provisions concerning the audit of whether internal control systems have been developed in a manner appropriate for the company's size, nature of business, and other relevant aspects of the company.
3. While the previous Code already included items like preventive audits to avoid corporate wrongdoing, internal controls, the relationship with accounting auditors (*kaikei-kansanin*), etc., we have now identified more specific audit standards that recognize the importance of development of the audit environment for ASBMs, taking into consideration the points mentioned in paragraph 2, such as establishing systems to assist ASBMs in performing their duties and a system of cooperation with the company's Internal Audit Division, etc. (defined in Article 32).
4. While the ASBM system is based on individual independence (*dokunin-sei*) among ASBMs, we have provided for strengthening the functions of the audit and supervisory board, its chairperson, outside ASBMs, etc., in order to improve their organizational efficiency.
5. In order to ensure the appropriateness, transparency and reliability of corporate disclosure, provisions have been included with respect to, among other things, the ASBMs' monitoring of the independence of accounting auditors, and monitoring and verifying whether the company has established and is operating such financial reporting systems as are necessary and adequate for the directors to prepare accurate financial statements, accounting documents and related disclosures.
6. Provisions have been added to reflect the 2001 revision of the Japanese Corporations Law and related legislation in respect of corporate governance, under which ASBMs are expected to fulfill specific roles in situations involving conflict of interest between directors and the company, such as that consent of the ASBMs is required for exemption or reduction of a director's liability or for the company's participation in a derivative lawsuit to assist the defendant directors.
7. In order to improve the transparency and ensure the reliability of ASBMs' audit activities and audit reports, provisions have also been added concerning ASBMs' conduct of audit reporting and disclosure as well as ASBMs' duty to provide explanations to the shareholders.

### **III Ensuring the Effectiveness of Audits by ASBMs**

In order for ASBMs to effectively discharge their responsibilities under the Code, it is extremely critical for directors, particularly representative directors, to be fully aware of the importance and usefulness of ASBM audits, and to be aware that directors are strongly required, as their own obligation, to develop an environment favorable to ASBM audits. ASBMs are strongly required, not only by the company but also by society, to make efforts, as an

independent organization playing a key role in corporate governance, to promote such awareness.

#### **IV Companies to which the Code Applies**

The Code has been prepared for large companies (including those deemed large-scale companies) as defined under the Japanese Corporations Law, and chiefly with publicly-held companies in mind. For small or medium companies, it is desirable to conduct audits in reference to the Code while keeping in mind each company's audit environment and relevant differences from large-scale companies.

## Code of Audit and Supervisory Board Member Auditing Standards

### Note: Regarding Levels of Provisions

| Lv.      | Category                                                                                                                                                                                                                                                                                                     | Phrasing                                                                                                                                                                                                                                                                                     |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1</b> | Legally mandated matters                                                                                                                                                                                                                                                                                     | In principle, “must” and “must not” are used.<br><br>However, the phrasing of laws and regulations is taken into consideration in some cases.                                                                                                                                                |
| <b>2</b> | Matters non-compliance with which may, in reasonable probability, constitute a breach of the duty of care                                                                                                                                                                                                    | In principle, “must” is used.                                                                                                                                                                                                                                                                |
| <b>3</b> | Matters non-compliance with which does not automatically constitute a breach of the duty of care but for which, depending on the manner of non-compliance, a breach may be recognized                                                                                                                        | In principle, “will” is used.                                                                                                                                                                                                                                                                |
| <b>4</b> | Matters for which there is a moral obligation to endeavor, matters that are preferred or desirable, and matters that are standards of conduct but do not fall under levels 1 to 3 above (such as matters that should be considered or examined but for which no specific behavioral guidelines are provided) | Appropriate phrasing is chosen in accordance with the circumstances.<br><br>“Should endeavor” is used for matters for which there is a moral obligation to endeavor, and in principle, “should” is used for matters that are standards of conduct but do not fall under levels 1 to 3 above. |
| <b>5</b> | Matters that do not fall under levels 1 to 4 above, such as confirmation of rights                                                                                                                                                                                                                           | Appropriate phrasing is chosen in accordance with the circumstances.                                                                                                                                                                                                                         |

## Chapter I Purpose of this Code

### Article 1 Purpose

1. This Code of Audit and Supervisory Board Member Auditing Standards (this “Code”) clarifies the responsibilities of audit and supervisory board members (“ASBMs”) and the attitudes they should have in discharging such responsibilities and sets out audit systems for discharging such responsibilities as well as standards and behavioral guidelines for conducting audits. [Lv. 5]
2. ASBMs should act in accordance with this Code, taking into consideration the company’s size, the nature of its business, various management risks surrounding the company, and other aspects related to the company’s particular audit environment, and should endeavor to ensure the effectiveness of their audits. [Lv. 4]

## Chapter II Responsibilities and Attitudes of ASBMs

### Article 2 ASBM Responsibilities

1. ASBMs bear part of the supervisory functions of the company in cooperation with the board of directors, and by auditing the directors' performance of their duties as a statutory independent organization entrusted by the shareholders, ASBMs are responsible for establishing a good corporate governance system. A good corporate governance system is one in which the company and its corporate group are able to consider the interests of and endeavor to cooperate with various stakeholders, achieve sound and sustainable growth and the creation of mid- to long-term corporate value, and accommodate society's trust. [Lv. 3]
2. Through fulfilling the responsibilities in the preceding paragraph, ASBMs should ensure that the company's decision-making is transparent and fair, endeavor to develop an environment that enables timely and decisive decision-making by the company, and endeavor, without interpreting the scope of their functions too narrowly, to positively and proactively express their opinions to directors and employees. [Lv. 4]
3. ASBMs must attend the board of directors' meetings and other important meetings, verify the contents of reports received from directors, employees, the accounting auditor, and other people in the company, conduct investigations with respect to the status of the operations and financial status of the company, and take any necessary measures when appropriate, including expressing suggestions, recommendations, or opinions to directors and employees and seeking injunctions against directors' acts. [Lv. 2]

#### Supplement to paragraph 1

The concept of "supervision" in this Code is not limited to "supervising the execution of the duties of directors" as stipulated in Article 362, paragraph 2, item 2 of the Companies Act; it includes the broader sense of overall supervisory functions in corporate governance. Supervisory functions in this broader sense are shared in cooperation between the board of directors and ASBMs (or the audit and supervisory board), and "auditing" is considered part of those functions. (The concept of the broad sense of supervisory functions was discussed in the Association's news release titled "New Recommended English Translation for 'Kansayaku' and 'Kansayaku-kai'" (October 23, 2012); statements in this Code are based on the same concept.)

Additionally, the cooperation with various stakeholders that is sought under the Corporate Governance Code (in these supplements and references, the "Governance Code") is to be carried out mainly by the board of directors and management; however, the ASBMs are required to support the board of directors and management in terms of establishing corporate governance systems.

#### Reference for paragraph 1

Governance Code, General Principles 2 and 4

### Supplement to paragraph 2

As stated in Principle 4.4 of the Governance Code, in order to sufficiently fulfill their roles and responsibilities, including so-called “defensive functions,” it is not appropriate for ASBMs to interpret the scope of their functions too narrowly. Already, in many cases of actual practice, ASBMs are expressing their opinions at important meetings, such as board of directors’ meetings and management committee meetings, as well as in a variety of situations about a wide range of matters, not only from the perspective of potential breaches of laws, regulations, or articles of incorporation, but also in consideration of risk management, the rationality of business judgments, and the like. (For specific examples, please refer to the Association’s news release titled “Results of Survey in Advance of 77th National Audit & Supervisory Board Members Conference” (October 8, 2013; Japanese only).) However, it must be noted that these types of actions should be taken in consideration of the circumstances of each company and are not uniformly required for all companies.

### **Article 3 ASBM Attitudes**

1. ASBMs must endeavor to preserve their own independent position and must maintain a fair and impartial attitude and act based on their own convictions. [Lv. 2]
2. ASBMs should continuously endeavor to cultivate their knowledge for such purposes as improving the quality of their audits in order to appropriately fulfill the roles and responsibilities expected of them as bearers of part of the company’s supervisory functions, in addition to which they should endeavor to find opportunities to continually update that knowledge after assuming office. [Lv. 4]
3. In order to obtain the proper perspective for auditing, ASBMs should endeavor to acquire necessary knowledge related to the company’s business, finances, organization, and the like and to find opportunities to sufficiently understand the roles and responsibilities that are required of ASBMs, in addition to which they should endeavor to deepen their understanding of management issues from an overall managerial perspective, grasp changes in management conditions and the corporate environment, and positively and proactively express their opinions. [Lv. 4]
4. ASBMs should continually strive to communicate with directors, executive officers, employees, and other people in the company and its subsidiaries and should endeavor to collect sufficient information and to develop the audit environment. [Lv. 4]
5. In formulating audit opinions, ASBMs should endeavor to come to appropriate opinions by diligently confirming the relevant facts, requesting attorneys’ and other outside professionals’ opinions when finding it necessary, and seeking rational grounds for their judgments. [Lv. 4]
6. ASBMs must be careful to maintain the confidentiality of any information they obtain in the course of performing their duties. [Lv. 2]
7. ASBMs should endeavor to make the directors, including the representative directors, fully understand and recognize that it is important and indispensable for the directors to develop a favorable environment for ASBM audits in order to establish and operate a good corporate governance system that accommodates society’s trust and ensures the sound and sustainable growth of the company and its corporate group. [Lv. 4]

Reference for paragraph 2

Governance Code, General Principle 4, Principle 4.4, and Supplementary Principle 4.14.1

Supplement to paragraph 3

“Positively and proactively express their opinions” means that ASBMs are expected to express their opinions in consideration of risk management, the rationality of business judgments, and the like without hesitation whenever they determine it would be beneficial for the company, instead of limiting their remarks or waiting for their opinions to be asked for the reason that the matter should be left solely to management.

### **Chapter III** **ASBMs and the Audit and Supervisory Board**

#### **Article 4 Full-time ASBMs**

1. The audit and supervisory board (“ASB”) must appoint one or more full-time ASBMs (*joukin no kansayaku*) from among the ASBMs. [Lv. 1]
2. Full-time ASBMs should keep in mind their particular role as full-time personnel and should actively endeavor to develop the audit environment and to collect information within the company [Lv. 4], and they will monitor and verify, on a daily basis, the status of the establishment and operation of internal control systems. [Lv. 3]
3. Full-time ASBMs should endeavor to share with other ASBMs information obtained in the course of performing their duties. [Lv. 4]

#### **Article 5 Outside ASBMs and Independent ASBMs**

1. Outside ASBMs (*shagai-kansayaku*) should keep in mind that their appointment is required by law in order to strengthen the level of independence and neutrality of the audit system, should actively try to obtain information necessary for their audit, and should endeavor to share that information obtained with other ASBMs and to develop the audit environment in cooperation with other ASBMs. [Lv. 4] Additionally, outside ASBMs should endeavor in cooperation with other ASBMs to share information with the Internal Audit Division, Etc. (defined in Article 38, paragraph 1) and the accounting auditor. [Lv. 4]
2. Because of their independence, the reasons for their appointment, and other related matters, outside ASBMs will keep in mind that they are particularly expected to express objective and neutral audit opinions and will actively, candidly, and directly pose questions and state their opinions to the representative directors and the board of directors. [Lv. 3]
3. Outside ASBMs, keeping in mind that the status of the performance of certain of their duties specified by law and regulation is disclosed in the business report, must perform their duties appropriately. [Lv. 2]

4. Outside ASBMs designated as independent ASBMs will keep in mind that they are particularly expected to act to ensure that managerial decision-making is fair and impartial in consideration of the interests of general shareholders and, by extension, the interests of the company (in this article, “Interests of General Shareholders”) and will exchange opinions with other ASBMs, strive in cooperation with other ASBMs to exchange information with the departments in charge of exchanging opinions with general shareholders and other such matters, and, when finding it necessary, express their opinions to the representative directors and the board of directors in consideration of the Interests of General Shareholders. [Lv. 3]

#### **Article 6 Functions of the ASB**

1. The ASB is composed of all ASBMs. [Lv. 1]
2. Given that the ASB is the only deliberative or decision-making organization for the purpose of formulating opinions regarding audits, each ASBM will report the status of performance of their duties to the ASB. [Lv. 3] Additionally, each ASBM should endeavor to ensure the effectiveness of audits through the utilization of the ASB. [Lv. 4] However, the ASB’s resolutions must not preclude any ASBM from exercising his or her own powers. [Lv. 1]
3. The ASB must express its opinions to the directors or the board of directors as necessary. [Lv. 2]
4. In addition to the matters that the directors and employees are statutorily required to report to the ASB, the ASB will determine through deliberations with the relevant directors the scope of matters that the directors and employees are to report to the ASB and will accordingly receive from them reports on such matters. [Lv. 3]

#### **Article 7 Duties of ASB**

The ASB must perform the following duties; however, the decision in item (iii) must not preclude any ASBM from exercising his or her own powers: [Lv. 1]

- (i) preparing audit reports;
- (ii) appointing and removing full-time ASBMs;
- (iii) deciding audit policy, 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 8 Operation of ASB**

1. It is desirable that ASB meetings be held on a regular basis and that the dates and times for the meetings for the year be fixed in advance, taking into consideration the scheduled dates and times of the board of directors’ meetings, each ASBM’s availability to attend, and other relevant factors. [Lv. 4] However, an ASB meeting will be held whenever found necessary. [Lv. 3]
2. The chairperson of the ASB should be appointed by resolution from among the ASBMs. [Lv. 4] The chairperson will convene and preside over ASB meetings and perform any

other duties entrusted to the chairperson by the ASB. [Lv. 3] However, the chairperson must not preclude any ASBM from exercising his or her own powers. [Lv. 1]

3. When finding it necessary, the ASB will request directors, employees of the department in charge of compliance, department in charge of risk management, accounting department, financial department, and other departments that have responsibility for internal control functions (the “Internal Control Division”), the accounting auditor, and other persons to attend meetings of the ASB and provide explanations. [Lv. 3]
4. The ASB must deliberate based on each ASBM’s report and formulate an audit opinion. [Lv. 2]
5. The ASB must deliberate any matter for which its resolution is required based on adequate materials. [Lv. 2]
6. ASBMs must confirm that the outline and the results of the proceedings and other matters provided by any laws and regulations are appropriately stated in the minutes of ASB meetings, and all attending ASBMs must affix to the minutes their respective signatures or their respective names and seal impressions (including electronic signatures). [Lv. 1]

#### **Article 9 Involvement in Procedure to Appoint ASBMs, etc.; Consent Procedures**

1. With respect to any proposal for the appointment of ASBMs to be submitted by the directors to a shareholders’ meeting, the ASB must deliberate on whether to give its consent to the proposal. [Lv. 1] In determining whether to give consent, the ASB will take into consideration the selection criteria, etc. set forth in Article 10. [Lv. 3]
2. It is desirable that the ASB have a prior opportunity to deliberate with the directors regarding the candidates for ASBMs, the contents of the selection policy for ASBM candidates, the procedures for deciding on a proposal for the appointment of ASBMs, the necessity for an appointment of substitute ASBMs, and other relevant matters. [Lv. 4]
3. When finding it necessary, the ASB will either demand that the directors include the appointment of ASBMs in the agenda of a shareholders’ meeting or will itself propose candidates for ASBMs to be submitted by the directors to the shareholders’ meeting. [Lv. 3]
4. ASBMs must, if they come to have an opinion regarding the appointment, dismissal, or resignation of any ASBM, express that opinion at a shareholders’ meeting. [Lv. 2]
5. Appointment of substitute ASBMs and other such matters will be conducted pursuant to the procedures provided for in this article. [Lv. 3]
6. ASBMs and the ASB will examine whether the matters relating to preventing and responding to improper business execution disclosed in proposals to appoint outside ASBMs are appropriately stated. [Lv. 3]

#### Supplement to Article 9

In the June 2021 revision to the Governance Code, as part of the roles and responsibilities of ASBMs and the ASB in Principle 4.4, a reference was added regarding authority pertaining to the appointment and dismissal of ASBMs and the determination of remuneration of ASBMs. This revision emphasizes ensuring the independence of ASBMs in order to ensure the reliability of audits, and it is becoming increasingly important to be actively involved in the appointment procedures, etc. set out in this Article.



Supplement to paragraph 2

This refers to cases in which companies establish policies on nominating ASBM candidates and the like; such policies are established with the involvement of the ASB, not only by the board of directors.

Reference for paragraph 2

Governance Code, Principle 3.1(iv)-(v)

**Article 10 Criteria of Selection, etc. of Candidates for ASBMs**

1. The ASB should establish a specific policy for use in such situations as when giving consent to proposals for the appointment of ASBMs, taking into consideration, among other relevant factors, (i) the distinctions between full-time and part-time ASBMs and between inside and outside ASBMs together with the respective numbers thereof, (ii) the term of office of incumbent ASBMs, (iii) specialized expertise, and (iv) possible vacancies in office. [Lv. 4]
2. When consenting to the selection of a candidate for ASBM and being involved in the selection policy for ASBM candidates, the ASB will carefully examine suitability to serve as ASBM in light of whether the candidate can complete the term of office, whether the candidate's independence from the executives can be sufficiently ensured, whether the candidate can maintain a fair and impartial attitude, and other relevant factors. [Lv. 3] It is also desirable that persons with appropriate experience and abilities and with necessary knowledge of financial, accounting, and legal matters be appointed as ASBMs and that in particular, one or more persons with sufficient knowledge of financial and accounting matters be appointed as ASBMs. [Lv. 4]
3. When selecting candidates for outside ASBMs, the ASB should confirm that there will be no difficulties as to their independence, taking into consideration factors such as their relationship with the company, its parent company, representative directors, other directors, and key employees, and should also examine factors such as each candidate's availability to attend the board of directors' meetings, ASB meetings, and other relevant meetings. [Lv. 4]
4. The ASB will ask the board of directors to express its views on the designation of independent ASBMs and, as necessary, deliberate with the board of directors in regard thereto. [Lv. 3]
5. When selecting candidates for ASBMs and outside ASBMs, in addition to the matters set forth in the preceding three paragraphs, the ASB will also examine statutorily required matters to be stated in the reference documents for shareholders' meetings with respect to a proposal for the appointment of ASBMs. [Lv. 3]
6. The ASB should examine whether appropriate disclosure is made regarding the knowledge, experience, abilities, and the like of each ASBM, including ASBM candidates, based on the circumstances of the company and, when finding it necessary, should express an opinion to the board of directors. [Lv. 4]

Reference for paragraph 2

Governance Code, Principle 4.11

Supplement to paragraph 6

This provision was added in consideration of Supplementary Principle 4.11.1 of the Governance Code. In regard to the disclosure of the combination of skills, etc., such as the skills matrix, of directors required under that principle, in light of the intent of the Governance Code, it may also be possible to include ASBMs in the scope of that disclosure based on the circumstances of the company.

### **Article 11 Appointment of Specified ASBMs**

1. The ASB may by its resolution appoint, determine, or designate one or multiple ASBMs to perform each of the following duties (“Specified ASBMs”): [Lv. 5]
  - (i) ASBMs determined as ASBMs provided for in Article 132, paragraph 5, item 2(a) of the Ordinance for Enforcement of the Companies Act, Article 130, paragraph 5, item 2(a) of the Ordinance on Accounting of Companies, and Article 132 of the Ordinance on Accounting of Companies;
  - (ii) ASBMs designated by the ASB to receive business reports and supplementary schedules thereto from the directors who prepared them and to send them to the other ASBMs; and
  - (iii) ASBMs designated by the ASB to receive accounting-related documents from the directors who prepared them pursuant to Article 125 of the Ordinance on Accounting of Companies and to send them to the other ASBMs.
2. When appointing, determining, or designating ASBMs under the preceding paragraph, the ASB should take into consideration whether the ASBM is an inside or outside ASBM, whether the ASBM is a full-time or part-time ASBM, whether the ASBM has specialized expertise, and other such matters based on the details of the duties specified in the relevant item above. [Lv. 4]
3. When finding it necessary, ASBMs provided for in the items of paragraph 1 will perform their duties through the Supporting Employees or the like provided for in Article 16 or the Internal Audit Division, Etc. provided for in Article 38, paragraph 1. [Lv. 3]

Supplement to paragraph 1, items 2 and 3

Under laws and regulations, business reports, supplementary schedules thereto, and accounting-related documents are to be received from the directors who prepared them by each ASBM, but in accordance with actual practices, receiving these documents and sending them to the other ASBMs are included in the duties of Specified ASBMs in this Code.

### **Article 12 Remuneration, etc. of ASBMs**

1. When there is neither a provision in the articles of incorporation nor any resolution of a shareholders’ meeting concerning the amount of remuneration, etc. to be received by each ASBM, ASBMs must determine the amount of remuneration, etc. to be received by each

ASBM through deliberation, taking into consideration the distinction between full-time and part-time positions, the sharing of audit affairs among ASBMs, the contents and level of the remuneration, etc. of directors, and other relevant factors. [Lv. 1]

2. If ASBMs come to have an opinion on the remuneration, etc. of ASBMs, they will express such opinion as necessary at a board of directors' meeting or at a shareholders' meeting. [Lv. 3]

Supplement to Article 12

Please see the supplement to Article 9.

### **Article 13 Audit Expenses**

1. ASBMs may receive advance payment or reimbursement from the company for expenses arising in connection to the performance of their duties. [Lv. 5]
2. It is desirable for the ASB to formulate in advance a budget for expenses arising in connection to the performance of ASBM duties based on the policy stated in Article 18, paragraph 2, item 6. [Lv. 4] However, ASBMs have the right to demand reimbursement from the company for any expenses incurred in an emergency or on an extraordinary basis, as well. [Lv. 5]
3. ASBMs have the right to demand payment from the company for expenses incurred when ASBMs receive, as necessary, advice from outside professionals. [Lv. 5]
4. ASBMs have the right to demand payment from the company for expenses incurred when ASBMs obtain training and the like suitable for acquiring, appropriately updating, or otherwise cultivating the knowledge necessary in order to deepen their understanding of their roles and responsibilities. [Lv. 5]
5. In incurring audit expenses, ASBMs should keep in mind the efficiency and appropriateness of each expenditure. [Lv. 4]

Supplement to paragraphs 3 and 4

The burden of expenses has been clarified, as well.

Reference for paragraphs 3 and 4

Governance Code, Supplementary Principle 4.13.2, Principle 4.14

## **Chapter IV Measures Based on the Corporate Governance Code**

### **Article 14 Measures Based on the Corporate Governance Code**

1. ASBMs in companies to which the Corporate Governance Code applies should perform their duties with sufficient understanding of the purpose and intent thereof. [Lv. 4]
2. ASBMs and the ASB should monitor whether the following supervisory functions of the board of directors are being appropriately exercised in order to promote the company's sustainable growth and the increase of its corporate value over the mid to long term and

to improve profitability, capital efficiency, and the like and should fulfill part of these supervisory functions within the scope of their own duties: [Lv. 4]

- (i) setting the broad direction of corporate strategy and the like;
  - (ii) developing an environment where appropriate risk-taking by the representative directors and other executive directors is supported; and
  - (iii) effectively supervising the representative directors, other directors, and other such people from an independent and objective standpoint.
3. ASBMs should actively consider participating in nomination and compensation committees and the like if they are requested to do so in order to ensure independence. [Lv. 4] If ASBMs participate in such committees, ASBMs will, keeping in mind their duty of care to the company, make appropriate judgments in order to achieve the company's sustainable growth and increased corporate value over the mid to long term. [Lv. 3]

Supplement to paragraph 1

Because the content of the Governance Code aims to contribute to companies' sustainable growth and increased corporate value over the mid to long term, Article 14, paragraph 1 does not mean that companies to which the Governance Code does not directly apply should not take in its main points.

Supplement to paragraph 2

As set forth in Article 2, paragraph 1, ASBMs and the ASB bear part of the company's supervisory functions (in the broad sense) in cooperation with the board of directors; General Principle 4 of the Governance Code provides three roles and responsibilities as examples of those supervisory functions, and ASBMs and the ASB bear part of those roles and responsibilities. (Please refer to General Principle 4 of the Governance Code.) In addition to auditing whether the board of directors is appropriately fulfilling those supervisory duties (refer to Article 381, paragraph 1 of the Companies Act), another example of a means through which ASBMs can be involved in these supervisory functions (in the broad sense) is by proactively expressing opinions regarding internal control systems, which serve as a foundation for appropriate risk-taking, from the initial establishment stages of those systems. Additionally, depending on the circumstances of the company, it may also be possible for ASBMs to proactively state their views in consideration of risk management, the rationality of business judgments, and the like not only in regard to individual matters, but also when formulating mid-term business plans. However, paragraph 2 is set at level 4 because the degree of these types of involvement should vary depending on the circumstances of each company. Any measures to be taken by ASBMs should be carried out in consideration of the roles and responsibilities set forth in Article 2.

Supplement to paragraph 3

Governance Code, Principle 4.10, Supplementary Principle 4.10.1. If independent outside directors do not make up half of the board of directors, in order to strengthen the independence and objectivity of the functions of the board of directors, as well as its accountability, regarding the nomination of senior management and directors (including succession planning), remuneration, and other such matters, it is

required to establish an independent nomination committee and compensation committee under the board of directors composed mainly of independent outside directors, and from the perspective of strengthening independence, objectivity, and accountability, it is possible to consider including ASBMs as constituent members based on the circumstances of the company. Taking that into consideration, this paragraph refers to measures in response to cases in which ASBMs are requested to participate in those committees.

## **Article 15 Constructive Dialogue with Shareholders**

1. When ASBMs engage in dialogue with shareholders with mid- to long-term perspectives and other stakeholders, ASBMs should coordinate with related departments and appropriately engage in such dialogue to a reasonable extent so that it contributes to the company's sustainable growth and increase of corporate value over the mid to long term. [Lv. 4]
2. The views and concerns of shareholders learned through the dialogue in the preceding paragraph should be appropriately and effectively relayed to the representative directors, other executive directors, the board of directors, and the ASB. [Lv. 4]

### Supplement to Article 15

In regard to dialogue between ASBMs and shareholders and other stakeholders, Footnote 17 of Guidance 4-1 of the Stewardship Code and Supplementary Principle 5.1.1 of the Governance Code have been revised to add ASBMs as parties to engage in such dialogue. This article sets out provisions regarding responses to cases in which institutional investors are interested in matters relating to audits and expect to have dialogue with ASBMs. "Shareholders with mid- to long-term perspectives and other stakeholders" means those who are not focused only on short-term interests and who are able to "wait until the improvements of corporate governance are achieved" (Basic Views Concerning the Corporate Governance Code (Draft), "Background," section 8); a typical example of this type of shareholder is an institutional investor or the like that has adopted the Stewardship Code and has a deep understanding of and interest in the mid- to long-term increase of the corporate value of the companies in which it invests so as to secure long-term returns for its customers and beneficiaries. "Coordinate with related departments" is included because it is necessary for ASBMs, when engaging in shareholder dialogue, to coordinate sufficiently with IR and other related departments and ensure that explanations are as consistent as possible across the company as a whole so that those explanations are easy to understand for shareholders and other stakeholders.

### Reference for Article 15

Governance Code, General Principle 5

## **Chapter V**

### **Development of the ASBM Audit Environment**

#### **Article 16 Regular Meetings with the Representative Directors**

ASBMs should hold meetings with the representative directors on a regular basis to confirm the management policies of the representative directors and to exchange opinions with the representative directors on any issues to be addressed by the company, the risks surrounding the company, the status of the development of a favorable environment for ASBM audits (such as the ensuring of sufficient employees to support ASBM duties (“Supporting Employees”) and establishment of systems for reporting to ASBMs), priority audit issues, and any other relevant matters and should endeavor to deepen their mutual understanding and trust with the representative directors. [Lv. 4]

#### **Article 17 Coordination with Outside Directors, etc.**

1. If the company has appointed outside directors, the ASB should examine matters relating to exchanging information and coordinating with the outside directors and endeavor to ensure the effectiveness of audits. [Lv. 4] ASBMs and the ASB should endeavor to ensure coordination with the outside directors so that the outside directors are able to strengthen their capacity to collect information without affecting their independence. [Lv. 4]
2. If a lead independent outside director has been selected, ASBMs and the ASB should endeavor to ensure coordination with that director. [Lv. 4]
3. In addition to the preceding two paragraphs, ASBMs should, through such means as holding meetings on a regular basis, exchange opinions with the non-executive officers, including outside directors, regarding issues to be addressed by the company, the risks surrounding the company, priority audit issues, and any other relevant matters and should endeavor to exchange information, develop a shared awareness, and deepen trust among the non-executive officers. [Lv. 4]

Reference for paragraph 1

Governance Code, Supplementary Principle 4.4.1

Reference for paragraph 2

Governance Code, Supplementary Principle 4.8.2

Reference for paragraph 3

Governance Code, Supplementary Principle 4.8.1

#### **Article 18 Systems to Ensure the Effectiveness of ASBM Audits**

1. ASBMs should endeavor to ensure the establishment of systems that will improve audit effectiveness and facilitate the performance of audit duties. [Lv. 4]

2. In order to ensure the establishment of the systems supporting ASBM audits mentioned in the preceding paragraph, ASBMs will determine the contents of the following systems and will request that directors or the board of directors develop such systems: [Lv. 3]
  - (i) the assignment of Supporting Employees and other matters relating to Supporting Employees;
  - (ii) matters relating to the independence of Supporting Employees from directors;
  - (iii) matters relating to ensuring the effectiveness of instructions to Supporting Employees;
  - (iv) the following systems and any other systems relating to reports to be provided to ASBMs:
    - (a) systems for directors and employees to report to ASBMs; and
    - (b) systems for directors, ASBMs, executive officers, and employees of the company's subsidiaries, or anyone who receives a report from any of these, to report to ASBMs;
  - (v) systems to ensure that any person who made a report in the preceding item does not receive disadvantageous treatment due to having made that report;
  - (vi) procedures for the advance payment or reimbursement of expenses arising in connection to the performance of ASBM duties and any other matters relating to policies on the handling of expenses or debts arising in connection to the performance of ASBM duties; and
  - (vii) any other systems to ensure the effectiveness of ASBM audits.

## **Article 19 Supporting Employees**

1. ASBMs should endeavor to strengthen the systems of Supporting Employees in order to ensure the effectiveness of audits, taking into consideration the company's size, the nature of its business, various management risks surrounding the company, and other aspects related to the company's particular circumstances. [Lv. 4]
2. It is desirable that the duties of the secretariat of ASBMs and the ASB be performed by employees who are dedicated exclusively to serving as Supporting Employees. However, if it is difficult to assign employees as dedicated Supporting Employees, ASBMs or the ASB should request the directors or the board of directors to, at the least, assign one or more employees who have other duties to also serve as Supporting Employees. [Lv. 4]

### Supplement to paragraph 2

This clarifies that at the least, one or more employees who have other duties should be assigned as Supporting Employees.

## **Article 20 Ensuring Supporting Employees' Independence and the Effectiveness of Instructions**

1. ASBMs should endeavor to ensure the independence of Supporting Employees from the executives. [Lv. 4]



2. ASBMs will examine any matters necessary for ensuring the independence of Supporting Employees and the effectiveness of instructions to Supporting Employees, such as clarifying the following matters: [Lv. 3]
  - (i) Supporting Employees' powers (such as investigative and information-collecting powers, as well as authority to attend meetings as necessary as instructed by ASBMs);
  - (ii) the organization to which Supporting Employees belong;
  - (iii) rights of ASBMs to control and direct Supporting Employees;
  - (iv) rights of ASBMs to consent to personnel changes, personnel evaluations, and disciplinary actions in regard to Supporting Employees;
  - (v) ensuring an appropriate number of dedicated Supporting Employees or Supporting Employees with other duties, each having the necessary knowledge and abilities, and systems for Supporting Employees with other duties to engage in supporting ASBMs;
  - (vi) securing funds for the activities of Supporting Employees; and
  - (vii) systems for the Internal Audit Division, Etc. to cooperate with Supporting Employees.

#### **Article 21 Systems for Reporting to ASBMs, etc.**

1. ASBMs should endeavor to strengthen the systems for directors and employees to report to ASBMs (including systems for the directors, executive officers, ASBMs, and employees of the company's subsidiaries to report directly or indirectly to ASBMs) and other relevant systems relating to reports to be provided to ASBMs. [Lv. 4]
2. ASBMs will request the directors to establish a system for immediately reporting to the ASB if a director discovers any fact that is likely to cause the company significant damage. [Lv. 3]
3. In addition to the matters set forth in the preceding paragraph, ASBMs should deliberate with directors and determine the matters that will be reported to ASBMs or the ASB on a regular basis and who will provide those reports. [Lv. 4] Additionally, when finding it necessary, ASBMs will request the board of directors and related directors to implement measures such as establishing or amending internal company rules or otherwise developing internal systems. [Lv. 3] The same applies to matters to be reported irregularly on an as-needed basis. [Lv. 3]
4. If the company has an internal reporting system for whistleblowers, ASBMs must monitor and verify whether that system effectively functions (both in the company and throughout the corporate group) by confirming that material information is provided to ASBMs and that it is ensured that any person who makes a whistleblowing report does not receive disadvantageous treatment due to having made that report. [Lv. 2] Additionally, ASBMs should endeavor to utilize information provided by the internal reporting system in performing their audit duties. [Lv. 4]
5. To ensure that a system of coordination with the company's Internal Audit Division, Etc. (defined in Article 38) is effectively established and operated, ASBMs will request that directors or the board of directors support and develop such a system. [Lv. 3]



Supplement to paragraph 1

“Indirectly” has been added here in consideration of the fact that reports from subsidiaries are not always made to the ASBMs of the parent company.

Reference for paragraph 4

Governance Code, Supplementary Principle 2.5.1

## **Chapter VI Operational Audits**

### **Article 22 Audit of Directors’ Performance of Duties**

1. ASBMs must audit the directors’ performance of their duties. [Lv. 1]
2. When finding it necessary when performing their duties, ASBMs must take any necessary measures when appropriate based on the situation, such as reporting, making proposals, or expressing opinions to the board of directors or making suggestions or recommendations to directors and the Internal Control Division. [Lv. 2]
3. If ASBMs find that there is, 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, ASBMs must state that misconduct or fact in the audit report. [Lv. 1] In addition, if there are any matters considered appropriate in order to fulfill the duty of accountability to shareholders, ASBMs will state such matters in the audit report. [Lv. 3]
4. The ASB must conduct deliberations based on the ASBM audit report of each ASBM, formulate the audit opinion of the ASB, and state that opinion in the ASB audit report. [Lv. 1]

### **Article 23 Audit of Executive Directors’ Performance of Duties**

1. If the board of directors has determined basic business policies, mid- to long-term business plans, and the like, ASBMs must monitor and verify whether or not directors are deciding on business execution soundly, fairly, appropriately, and efficiently and are executing business in accordance with those policies, plans, and the like. [Lv. 2]
2. With respect to the directors’ decisions on business execution and their execution of business, ASBMs must monitor and verify the directors’ performance of their legal duties, including their duty of care and their duty of loyalty, by applying the following considerations: [Lv. 2]
  - (i) There must be no material or careless error in understanding the relevant facts that constituted the basis of the decision;
  - (ii) The decision-making process must be reasonable;
  - (iii) The contents of a decision must not violate any law, regulation, or the articles of incorporation;

- (iv) The contents of a decision must not be obviously unreasonable as a decision of ordinary corporate management; and
  - (v) A decision must be made in foremost consideration of the interests of the company, not of the directors or third parties.
3. In order to fulfill the responsibilities under the preceding paragraph, ASBMs must perform the following duties:
- (i) ASBMs must take any necessary measures when appropriate based on the situation, such as making suggestions or recommendations to the directors, in case ASBMs find (a) that any director has committed or is likely to commit an act outside the purposes of the company or otherwise in violation of any law, regulation, or the articles of incorporation, (b) any fact that is likely to cause the company significant damage, a serious incident, or the like, or (c) any fact that is significantly inappropriate for the corporate affairs of the company. [Lv. 2]
  - (ii) Upon receipt of a report from a director, employee, or the like to the effect that the company is likely to suffer significant damage, ASBMs must conduct necessary investigations and take any necessary measures when appropriate based on the situation, such as reporting to the board of directors, providing suggestions to the directors, or convening a meeting of the ASB. [Lv. 2]
4. With respect to the matters provided for in the items of the preceding paragraph, when finding it necessary, ASBMs must take any necessary measures when appropriate based on the situation, such as convening a meeting of the board of directors or seeking an injunction against directors' acts. [Lv. 2]
5. With respect to the matters provided for in the preceding two paragraphs, when finding it particularly necessary due to an audit of the directors' performance of their duties, ASBMs or the ASB will express opinions to the board of directors, including opinions regarding the dismissal of the representative directors. [Lv. 3]

Supplement to paragraph 1

This paragraph is set at level 2 (matters non-compliance with which may, in reasonable probability, constitute a breach of the duty of care), but the cases in which non-compliance would be an issue are anticipated to be those in which ASBMs have failed to perform the monitoring and verification provided for in this paragraph. However, the cases in which a breach of the duty of care regarding the content of ASBM audits may be considered are those in which ASBMs failed to perform monitoring and verification by applying the considerations stated in paragraph 2.

Supplement to paragraph 5

This paragraph states that when finding it particularly necessary, it may be necessary to consider expressing opinions, including opinions regarding the dismissal of the representative directors; it does not necessarily require that such measures be taken in advance even when there are other means available. In regard to actual measures, it is important that first, measures for correction are taken not only by ASBMs but also in coordination with outside directors, and if it is still found necessary even then, the measures under this paragraph will likely be examined.

## **Article 24 Audit of Directors' Reports to the Board of Directors, etc. and Decision-Making of the Board of Directors**

1. ASBMs must monitor and verify the status of the directors' performance of their duties at meetings of the board of directors and the like. [Lv. 2]
2. With respect to the decision-making performed at meetings of the board of directors and the like, ASBMs must monitor and verify the directors' performance of their legal duties, including their duty of care and their duty of loyalty, by applying the considerations provided for in Article 23, paragraph 2. [Lv. 2]
3. ASBMs must confirm whether the representative directors and other executive directors are reporting to the board of directors on the status of the performance of their duties in a timely and appropriate manner and must monitor and verify whether the board of directors is appropriately performing its duty of supervision. [Lv. 2]
4. When finding it necessary in regard to the matters provided for in the preceding three paragraphs, ASBMs must take any necessary measures when appropriate based on the situation, such as reporting, making proposals, or expressing opinions to the board of directors, making suggestions or recommendations to directors, or seeking an injunction against directors' acts. [Lv. 2]

## **Article 25 Audit of Internal Control Systems**

1. With respect to the following systems ("Internal Control Systems") of the company developed based on board of directors' resolutions, ASBMs must monitor and verify the contents of such resolutions and the status of the Internal Control Systems established and operated pursuant to such resolutions: [Lv. 1]
  - (i) systems to ensure that the performance of the duties of directors and employees complies with all laws, regulations, and the articles of incorporation (in this article, "Legal Compliance Systems");
  - (ii) systems to retain and manage information related to the directors' performance of their duties;
  - (iii) company rules and other systems relating to the management of the risk of loss (in this article, "Risk of Loss Management Systems");
  - (iv) systems to ensure the efficiency of the directors' performance of their duties;
  - (v) the following systems and other systems to ensure the appropriateness of corporate affairs in the corporate group consisting of the company, its parent companies, and its subsidiaries:
    - (a) systems relating to reports to the company regarding the performance of the duties of directors of subsidiaries;
    - (b) company rules and other systems relating to the management of the risk of loss of subsidiaries;
    - (c) systems to ensure the efficiency of the performance of the duties of directors of subsidiaries; and
    - (d) systems to ensure that the performance of the duties of directors, executive officers, and employees of subsidiaries conforms to laws, regulations, and the articles of incorporation; and

- (vi) systems to ensure the effectiveness of ASBM audits set forth in Article 18, paragraph 2.
2. ASBMs must request on a regular basis that the representative directors and other related directors report on the status of the establishment and operation of the Internal Control Systems and must monitor and verify the status of the establishment and operation of the Internal Control Systems through, among other means, coordination with the company's Internal Audit Division, Etc., and through reports from the accounting auditor. [Lv. 2] Additionally, if directors responsible for Legal Compliance Systems, Risk of Loss Management Systems, and the like have been appointed, or if committees or the like responsible for those systems have been established, ASBMs should endeavor to achieve close coordination with those directors, committees, or the like by means such as regularly receiving reports therefrom. [Lv. 4]
  3. With respect to the establishment and operation of the Internal Control Systems, including systems to ensure the effectiveness of ASBM audits, when finding it necessary, ASBMs will deliberate with the representative directors and other related directors. [Lv. 3]
  4. If ASBMs find that the board of directors, the representative directors, or related directors and the like are neglecting the appropriate establishment and operation of Internal Control Systems, ASBMs must promptly provide suggestions or recommendations for improvement to the board of directors, the representative directors, or related directors and the like. [Lv. 2]
  5. ASBMs must report the results of their audit regarding Internal Control Systems to the ASB. [Lv. 2]
  6. If ASBMs find that the contents of board of directors' resolutions regarding Internal Control Systems are not appropriate, find that statements in business reports regarding Internal Control Systems are significantly inappropriate, or find that there is any material fact regarding the establishment and operation of the Internal Control Systems constituting a breach of the directors' duty of care, ASBMs must state so in the audit report. [Lv. 1] In addition, if there are any matters considered appropriate in order to fulfill the duty of accountability to shareholders, ASBMs will state such matters in the audit report. [Lv. 3]
  7. The ASB must conduct deliberations based on the ASBM audit report of each ASBM, formulate the audit opinion of the ASB, and state that opinion in the ASB audit report. [Lv. 1]
  8. Audits regarding Internal Control Systems will be governed by the "Audit Practice Standards for Internal Control Systems" enacted separately in addition to this Code. [Lv. 5]

## **Article 26 Audits in Corporate Group**

1. ASBMs of companies with subsidiaries must monitor and verify the directors' performance of their duties relating to the administration of subsidiaries in consideration of consolidated group management. [Lv. 2]
2. ASBMs should endeavor to perform their duties and to develop the audit environment of the entire corporate group while taking into consideration the significance of the damage that would be caused to the company by an incident of misconduct or a similar event

within a subsidiary and being mindful of whether Internal Control Systems are appropriately established and operated in the company and its subsidiaries. [Lv. 4]

3. If the company has a significant affiliated company, audits will be performed in accordance with the preceding two paragraphs in consideration of the significance of that affiliated company. [Lv. 3]
4. ASBMs of companies with a parent company, etc. must audit the directors' performance of their duties in consideration of protecting the interests of minority shareholders. [Lv. 2]

#### **Article 27 Audit of Competitive Transactions, Conflict-of-Interest Transactions, etc.**

1. With respect to the following transactions or matters, ASBMs must monitor and verify whether there exists any fact constituting a breach of directors' duties: [Lv. 2]
  - (i) any competitive transaction;
  - (ii) any transaction involving a conflict of interest;
  - (iii) the company's provision, without compensation, of any economic benefit (including the provision of any economic benefit in exchange for extremely low compensation);
  - (iv) any irregular transactions with a parent company, etc., a subsidiary, or a shareholder, etc.;
  - (v) the procedures for the company's acquisition or disposal of its own shares as well as the cancellation of shares;
  - (vi) agreements for limiting liability provided for in Article 427 of the Companies Act;
  - (vii) indemnity agreements provided for in Article 430-2 of the Companies Act; and
  - (viii) insurance agreements executed for the benefit of directors/ASBMs, etc. provided for in Article 430-3 of the Companies Act.
2. With respect to any matter set forth in the items of the preceding paragraph, ASBMs must take all necessary measures when appropriate based on the situation, such as making suggestions or recommendations to the directors, convening a board of directors meeting, or seeking an injunction against directors' acts, if ASBMs find any fact that constitutes or is likely to constitute a breach of any duty of a director. [Lv. 2]
3. In regard to transactions with parent companies, etc. that are required to be stated in financial statement notes, ASBMs must state their opinions in the ASBM audit report regarding the appropriateness of the board of directors' judgment of whether those transactions harm the interests of the company and regarding the appropriateness of the reasons for that judgment stated in the business report. [Lv. 1]
4. With respect to any material or abnormal transactions or matters other than those set forth in the items of paragraph 1, ASBMs will keep in mind whether there exists any fact constituting a violation of any law, regulation, or the articles of incorporation [Lv. 3] and must make suggestions or recommendations to the directors in order to prevent the occurrence of any material damage. [Lv. 2]

Supplement to paragraph 1, reference for items 6 to 8

This revision was made in consideration of the fact that provisions were added to the Companies Act regarding indemnity agreements and agreements relating to directors and officers liability insurance (D&O insurance). Additionally, together with the provisions for those agreements, a similar provision was added regarding agreements for limiting liability.

Supplement to paragraph 3

If, in response to Principle 1.7 of the Governance Code, the board of directors establishes procedures for appropriate examination of transactions between related parties according to the importance and characteristics of the transactions to ensure that the transactions do not harm the interests of the company or the common interests of the shareholders, and the board conducts supervision in consideration of those procedures, then ASBMs will likely in the same manner audit the status of the board of directors' performance of those duties.

**Article 28 Responses to Corporate Wrongdoing; Third-Party Committee**

1. If corporate wrongdoing (meaning an act in violation of laws, regulations, or the articles of incorporation or another improper or inappropriate act that leads to public criticism; the same applies below in this article) occurs, ASBMs should immediately request reports from the directors and other relevant parties, should request as necessary that an investigation committee be established and receive explanations from that committee, and should endeavor to understand the facts of the corporate wrongdoing. [Lv. 4] Additionally, ASBMs must monitor and verify the status of the response of directors and the investigation committee in regard to matters such as identifying causes, preventing the spread of damage, promptly resolving the issue, preventing reoccurrence, and publicly disclosing information. [Lv. 2]
2. If ASBMs find that the response of directors stated in the preceding paragraph is not appropriate in consideration of factors such as independence, neutrality, or transparency, ASBMs will, after deliberations by the ASB, take appropriate measures, such as recommending to the directors that they establish a third-party committee by requesting external, independent attorneys and other such persons to examine matters such as the identification of causes and measures to prevent reoccurrence of the corporate wrongdoing (in this article, a "Third-Party Committee") or, as necessary, establishing a Third-Party Committee by themselves requesting external, independent attorneys and other such persons to examine such matters. [Lv. 3]
3. It is desirable that ASBMs, excluding those found to have a clear interest in the corporate wrongdoing, serve as members of the Third-Party Committee [Lv. 4]; even if they do not, ASBMs will, unless doing so is found inappropriate in consideration of matters such as requests to promptly identify causes and relationships with relevant authorities, request explanations from the Third-Party Committee regarding the process of the establishment of the Third-Party Committee, the status of its response measures, and other such matters and, as necessary, request the Third-Party Committee to attend ASB meetings. [Lv. 3] If ASBMs serve as members of the Third-Party Committee, they will, keeping in mind their duty of care to the company, appropriately perform their duties as members in cooperation with the attorneys and other such persons also serving as members. [Lv. 3]



## **Article 29 Audit of Business Reports, etc.**

1. ASBMs must formulate their own audit opinions on whether business reports and supplementary schedules thereto (“Business Reports, Etc.”) for a given business year provide appropriate statements by monitoring and verifying the directors’ performance of their duties throughout the business year. [Lv. 1]
2. ASBMs must receive a Business Report, Etc. for each business year from the directors who performed duties relating to the preparation of the Business Report, Etc. and audit whether the Business Report, Etc. accurately presents the status of the company in accordance with laws, regulations, and the articles of incorporation. [Lv. 1]
3. Based on the preceding two paragraphs, ASBMs must state their opinions in ASBM audit reports on whether the Business Report, Etc. accurately presents the status of the company in accordance with laws, regulations, and the articles of incorporation. [Lv. 1]
4. Based on the ASBM audit report by each ASBM, the ASB must state its opinion in the ASB audit report on whether the Business Report, Etc. accurately presents the status of the company in accordance with laws, regulations, and the articles of incorporation. [Lv. 1]
5. In auditing Business Reports, Etc., ASBMs and the ASB will coordinate with the accounting auditor as necessary. [Lv. 3]

## **Article 30 Status of Performance of Duties of Outside ASBMs in the Business Report**

Of the matters concerning company directors/ASBMs and matters concerning outside directors/ASBMs, etc. that are disclosed in the business report, ASBMs and the ASB must verify whether the status of the performance of duties of outside ASBMs and other matters concerning ASBMs are stated appropriately. [Lv. 2]

## **Chapter VII Accounting Audits**

### **Article 31 Accounting Audits**

1. ASBMs and the ASB must formulate their own audit opinions on the appropriateness of the methods and the results of the accounting auditor’s audits regarding whether the accounting-related documents (meaning accounting documents, supplementary schedules thereto, consolidated accounting documents, and other documents set forth in Article 2, paragraph 3, item 3 of the Ordinance on Accounting of Companies; the same applies below) for a given business year appropriately indicate the status of the assets and the profits and losses of the company by monitoring and verifying the performance of duties of directors through the business year. [Lv. 1]
2. In order to ensure the appropriateness and reliability of accounting audits, ASBMs must monitor and verify whether the accounting auditor maintains an independent position and a fair and impartial attitude and conducts appropriate audits as a professional. [Lv. 2]

## **Article 32 Confirmation of Systems to Ensure the Appropriate Performance of the Duties of the Accounting Auditor**

In order to ensure the appropriate performance of the accounting auditor's duties, ASBMs must receive notices on the following matters from the accounting auditor and request an explanation from time to time to confirm whether the accounting auditor is following the standards for quality control necessary to appropriately perform their duties: [Lv. 2]

- (i) matters relating to the accounting auditor's independence and other matters relating to its compliance with laws, regulations, and the accounting auditor's audit rules;
- (ii) matters relating to policies on the acceptance and continuation of contracts for audits, services similar to audits, and other services related to either; and
- (iii) other matters relating to systems to ensure the appropriate performance of the accounting auditor's duties.

## **Article 33 Audit of Accounting Policies, etc.**

1. ASBMs must, by requesting the opinion of the accounting auditor, verify whether the accounting policies (meaning the principles and procedures of accounting, methods of displaying accounting information, and other matters that form the basis of the accounting-related documents' preparation; the same applies below in this article) are appropriate in light of the status of the company's assets, possible impact upon accounting-related documents, applicable accounting standards, fair accounting practices, and other relevant factors. [Lv. 2] When finding it necessary, ASBMs will provide suggestions or recommendations to the directors. [Lv. 3]
2. If the company intends to modify any of its accounting policies, ASBMs and the ASB must, prior to such modification, request that the directors report the reason for and impact of such modification, request the opinion of the accounting auditor with respect to the appropriateness of such modification, and decide on the appropriateness of such modification. [Lv. 2]

## **Article 34 Audit of Accounting-Related Documents**

1. ASBMs must receive accounting-related documents for each business year from the directors who performed duties relating to the preparation of accounting-related documents. [Lv. 1] ASBMs will request explanations from the directors, employees, and other people in the company on important matters and confirm those matters. [Lv. 3]
2. ASBMs must receive an accounting audit report and audit-related materials for the accounting-related documents for each business year from the accounting auditor. [Lv. 1] ASBMs will request explanations from the accounting auditor for important matters related to the accounting audit and examine the accounting audit report. [Lv. 3] If, after such an examination, ASBMs determine that the methods or results of the accounting auditor's audits are inappropriate, ASBMs must conduct audits on their own and state their determinations of inappropriateness and the reasons therefor in the ASBM audit reports. [Lv. 1]
3. Based on the ASBM audit report of each ASBM, the ASB must deliberate on the appropriateness of the methods used in the accounting auditor's audits and the results thereof and formulate its own audit opinion. [Lv. 1] If, after such deliberation, the ASB determines that the methods or results of the audit by the accounting auditor are



inappropriate, the ASB must state such determination of inappropriateness and the reasons therefor in the ASB audit report. [Lv. 1]

### **Article 35 Procedures for Appointment of Accounting Auditor, etc.**

1. The ASB must establish policies for deciding to dismiss or to not reappoint an accounting auditor. [Lv. 2]
2. The ASB will examine, for each accounting period, the appropriateness of reappointing the accounting auditor after obtaining necessary materials and receiving reports from the directors, relevant internal departments, and the accounting auditor. [Lv. 3]
3. In determining the appropriateness of reappointing the account auditor, the ASB will, taking into consideration the examination in the preceding paragraph, confirm the appropriateness of matters such as the status of the accounting auditor's performance of its duties (including the status of the performance of duties in previous business years), the accounting auditor's audit systems, its independence, and its expertise. [Lv. 3]
4. If the ASB determines that it is inappropriate to reappoint the accounting auditor, it must promptly examine a new accounting auditor candidate. [Lv. 2] When doing so, the ASB will obtain necessary materials and receive reports from the directors and relevant internal departments, confirm the matters set forth in Article 32, and carefully examine the candidate's independence, past performance record, and other such matters; additionally, the ASB will hold meetings with the candidate regarding matters such as audit plans, auditing systems, and level of audit remuneration. [Lv. 3]
5. In accordance with the confirmation and policies set forth in the preceding four paragraphs, the ASB must determine the contents of proposals regarding the appointment, dismissal, or non-reappointment of the accounting auditor that will be submitted to the shareholders' meeting. [Lv. 1]
6. In regard to proposals to appoint an accounting auditor, the ASB must confirm whether the reasons that the candidate was selected as an accounting auditor candidate are appropriately stated in the reference documents for the shareholders' meeting. [Lv. 2]

#### Supplement to paragraph 1

Article 126, item 4 of the Ordinance for Enforcement of the Companies Act provides that policies for deciding to dismiss or to not reappoint an accounting auditor are to be stated in the business report; however, even if statements in the business report fall under the responsibility of directors, it is necessary for ASBMs to establish such policies because ASBMs have the authority and responsibility for determining the contents of proposals regarding the appointment, dismissal, or non-reappointment of accounting auditors.

### **Article 36 Consent Procedures for Remuneration, etc. of the Accounting Auditor**

1. In each case where the company enters into an audit agreement with an accounting auditor, ASBMs will obtain necessary materials and receive reports from directors, relevant internal departments, and the accounting auditor, confirm the status of delegation of non-audit services and the appropriateness of the amount of remuneration for those services, and verify whether the contents of the audit agreement, such as the amount of remuneration, etc. for the accounting auditor and the person in charge of conducting the audit, are appropriate. [Lv. 3]

2. When determining whether to consent to the amount of remuneration, etc. for the accounting auditor, the ASB will, taking into consideration the verification in the preceding paragraph, confirm the appropriateness of matters such as the contents of audit plans of the accounting auditor, the status of the accounting auditor's performance of its duties (including the status of the performance of duties in previous business years), and the basis for calculating the remuneration estimates. [Lv. 3]
3. The ASB must confirm whether the reasons for its consent to the amount of remuneration, etc. for the accounting auditor are appropriately stated in the business report. [Lv. 2]

## **Chapter VIII**

### **Method of Audit, etc.**

#### **Article 37 Audit Plan and Sharing of Audit Affairs among ASBMs**

1. The ASB will formulate its audit policies while taking into consideration the status of the establishment and operation of Internal Control Systems and necessary factors such as importance and timeliness; in addition, it will appropriately choose the matters to be audited, the audit methods, and the timing of the audit and will prepare an audit plan. [Lv. 3] The audit plan will be prepared in consideration of the results of an analysis and evaluation of the effectiveness of the ASB as a whole, and important audit matters will be designated as priority audit items in the plan. [Lv. 3]
2. In preparing an audit plan, the ASB will, from time to time, deliberate or exchange opinions with the accounting auditor and the company's Internal Audit Division, Etc. in order to ensure the efficient conduct of ASBM audits. [Lv. 3]
3. The ASB will determine the sharing of audit affairs among ASBMs in order to conduct a systematic and efficient audit. [Lv. 3]
4. The determinations of the ASB regarding the sharing of audit affairs provided for in the preceding paragraph must not preclude any ASBM from exercising his or her own powers. [Lv. 1]
5. The ASB should explain its audit policies and audit plan to the representative directors and the board of directors. [Lv. 4]
6. The audit policies and the audit plan will be modified from time to time as necessary. [Lv. 3]

#### Supplement to paragraph 1

In practice, when formulating the audit plan for each year, there are many examples of companies identifying points for improvement, setting priority tasks for the next term, and selecting on-site audit locations based on the previous year's audit plan and an analysis and evaluation of performance and including such matters in the audit plan. It is also desirable to conduct performance evaluations for each ASBM, but including that in this Code would diverge greatly from actual practice, so it is not mentioned in this article. Additionally, whether or not to disclose the evaluation results is left to the discretion of the company and is therefore not mentioned in this Code.

Reference for paragraph 1

Governance Code, Supplementary Principle 4.11.3

**Article 38 Systematic and Efficient Audits through Coordination with Internal Audit Division, etc.**

1. In performing investigations into the status of the operations and finances of the company or other audit duties, ASBMs should endeavor to conduct systematic and efficient audits by maintaining close coordination with the company's internal audit division and other departments that hold jurisdiction over the monitoring functions in the Internal Control Systems (collectively, the "Internal Audit Division, Etc."). [Lv. 4]
2. ASBMs will receive reports on a regular basis from the company's Internal Audit Division, Etc. related to its audit plan and the results of its audits and will request, as necessary, that the company's Internal Audit Division, Etc. conduct investigations. [Lv. 3] ASBMs will effectively utilize the results of the audits of the Internal Audit Division, Etc. for ASBM audits of the Internal Control Systems. [Lv. 3]
3. ASBMs will receive reports regularly and whenever needed and will request explanations as necessary concerning the establishment and operation of Internal Control Systems from the Internal Control Division and any other departments found necessary by ASBMs in addition to the directors. [Lv. 3]
4. After receiving the reports from each ASBM, the ASB will examine the matters to be suggested or recommended to the directors or the board of directors. [Lv. 3] However, a determination of the ASB must not preclude any ASBM from exercising his or her own powers. [Lv. 1]
5. The ASB will make requests and recommendations to the board of directors or the directors regarding the development of systems as necessary so that the system of coordination with the Internal Audit Division, Etc. provided for in this article and the system for reporting to the ASB, etc. provided for in Article 21 are effectively established and operated. [Lv. 3]

Supplement to paragraph 5

This revision was made in consideration of Supplementary Principle 4.13.3 of the Governance Code.

**Article 39 Method of Audits in Corporate Group**

1. In regard to the status of the administration of subsidiaries, ASBMs will receive reports and explanations from directors, employees, and other such persons and inspect the relevant materials. [Lv. 3]
2. In performing their duties, ASBMs should endeavor to actively communicate and exchange information with, among others, the ASBMs, Internal Audit Division, Etc., and accounting auditors of the company's parent companies and subsidiaries. [Lv. 4]
3. When finding it necessary for the purpose of auditing the directors' performance of their duties, ASBMs will request that subsidiaries report on their business or will investigate the status of their operations and finances. [Lv. 3]

4. If the company has a significant affiliated company, audits should be performed in accordance with paragraph 1 and 2 in consideration of the significance of that affiliated company. [Lv. 4]

#### **Article 40 Attendance and Statement of Opinions at Board of Directors' Meetings**

1. ASBMs must attend board of directors' meetings and, when finding it necessary, state their opinions at the meetings. [Lv. 1]
2. If ASBMs find that directors have engaged or are likely to engage in misconduct, that there are facts constituting a violation of any law, regulation, or the articles of incorporation, or that there are other significantly inappropriate facts, ASBMs must report that finding to the board of directors without delay. [Lv. 1]
3. When finding it necessary, in order to make a report to the board of directors mentioned in the preceding paragraph, ASBMs will demand the convocation of a board of directors' meeting. [Lv. 3] If a convocation notice is not dispatched within a certain period from such demand, ASBMs will themselves convene a board of directors' meeting. [Lv. 3]
4. ASBMs must confirm that the outline and the results of the proceedings and other matters provided by any laws and regulations are appropriately stated in the minutes of board of directors' meetings, and all attending ASBMs must affix to the minutes their respective signatures or their respective names and seal impressions (including electronic signatures). [Lv. 1]

#### **Article 41 Written Resolutions of the Board of Directors**

When directors intend to omit resolution proceedings under the provisions of laws and regulations on matters that are to be resolved by the board of directors, ASBMs will examine the content (including the omission of the board of directors' resolution proceedings) and, when finding it necessary, make an objection. [Lv. 3]

#### **Article 42 Attendance and Statement of Opinions at Board of Directors' Meetings Formed by Special Directors**

1. When the board of directors stipulates that resolutions of the board can be made by special directors (*tokubetsu-torishimariyaku*), the ASB may by resolution appoint in advance an ASBM to attend board of directors' meetings formed by special directors. [Lv. 5] However, it must not preclude any other ASBMs from attending board of directors' meetings formed by special directors. [Lv. 1]
2. All ASBMs present at board of directors' meetings formed by special directors must, when finding it necessary, state their opinions at the meeting. [Lv. 1]
3. All ASBMs present at a board of directors' meeting formed by special directors must confirm that the outline and the results of the proceedings and other matters provided by any laws and regulations are appropriately stated in the minutes of such meeting and must affix to the minutes their respective signatures or their respective names and seal impressions (including electronic signatures). [Lv. 1]
4. ASBMs present at a board of directors' meeting formed by special directors must report on the agenda items of the meeting and other relevant matters to the other ASBMs. [Lv. 2]

#### **Article 43 Attendance at Important Meetings, etc.**

1. In order to understand important decision-making processes and the status of the performance of directors' duties, ASBMs will attend meetings not only of the board of directors but also of the management committee, executive committee, risk management committee, compliance committee, and other important meetings or committees [Lv. 3] and, when finding it necessary, will state their opinions at such meetings. [Lv. 3]
2. With respect to the meetings to be attended by ASBMs set forth in the preceding paragraph, ASBMs will make necessary requests to directors and other relevant officers in order to ensure ASBMs have the opportunity to attend such meetings and to receive sufficient explanations of relevant matters prior to attending. [Lv. 3]
3. ASBMs not attending a meeting or committee mentioned in paragraph 1 will receive a report and explanation of the agenda items from other ASBMs, directors, or employees who attended such meeting or committee and will inspect the relevant materials. [Lv. 3]

#### **Article 44 Audit of Document/Information Management**

1. ASBMs will inspect material internal documents circulated for approval and other material documents relating to business execution and, when finding it necessary, will request explanations from directors or employees or state their opinions to such individuals. [Lv. 3]
2. ASBMs will investigate whether certain documents and company rules, material records, and other material information are appropriately maintained, retained, and managed and, when finding it necessary, will request explanations from directors or employees or state their opinions to such individuals. [Lv. 3]

#### **Article 45 Audit of Statutory Disclosure Information, etc.**

1. In regard to systems to ensure that securities reports and other information the company is required to disclose under laws, regulations, and the like that significantly affects the company (in this article, "Statutory Disclosure Information, Etc.") do not contain any material errors or significantly misleading statements, ASBMs will, in accordance with Article 25, monitor and verify the preparation of Statutory Disclosure Information, Etc. and the establishment and operation of disclosure systems. [Lv. 3]
2. ASBMs will monitor and verify whether the directors adequately disclose information in a timely and appropriate manner with respect to occurrences or circumstances affecting the company's status as a going concern, material accidents or disasters, material litigation, and any other matters that may materially affect the soundness of the company. [Lv. 3]

#### **Article 46 Investigation, etc. of Directors and Employees**

1. ASBMs must, when finding it necessary, request reports on business from directors and employees or investigate the status of the operations and finances of the company. [Lv. 2]

2. ASBMs will, as necessary, conduct investigations through methods such as hearings and on-site audits, fully confirm the facts, and seek rational grounds for formulating audit opinions. [Lv. 3]

#### **Article 47 Investigation of Company Assets**

ASBMs should endeavor to ascertain the current status and actual value of the company's assets, including matters such as the status of the acquisition, holding, and disposal of material company assets and the management status of the assets and liabilities of the company. [Lv. 4]

#### **Article 48 Coordination with the Accounting Auditor**

1. In addition to holding meetings with the accounting auditor on a regular basis and requesting the accounting auditor to attend ASB meetings as necessary, ASBMs and the ASB should endeavor to develop systems to maintain close coordination with the accounting auditor and enable effective and efficient audits through such methods as receiving reports from the accounting auditor on its audit whenever needed and in a timely manner and actively exchanging opinions and information. [Lv. 4]
2. ASBMs and the ASB will receive an outline of the audit plan and an explanation of the priority audit items and other such matters from the accounting auditor and will exchange opinions on such matters with the accounting auditor [Lv. 3], in addition to which ASBMs and the ASB should endeavor to confirm and coordinate schedules relating to matters such as the confirmation of the contents of business reports and supplementary schedules thereto. [Lv. 4]
3. ASBMs should endeavor to share with the accounting auditor information that ASBMs acquire in the course of operational audits through such methods as providing the accounting auditor with information useful to the accounting auditor's audits or information on matters that may affect the accounting auditor's audits. [Lv. 4]
4. ASBMs may attend the accounting auditor's on-site audits and its audit presentations as necessary and may, from time to time, request a report from the accounting auditor on the process of its audits. [Lv. 5]
5. If ASBMs receive an accounting auditor's report or the like to the effect that there exists, 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 (including facts that may affect the ensuring of the appropriateness of financial and accounting documents), ASBMs must, upon deliberations of the ASB, conduct any necessary investigation and take any necessary measure in a timely manner, including making reports to the board of directors or providing suggestions or recommendations to the directors. [Lv. 2]

#### Supplement to Article 48

The revision of the auditing standards for auditors has made it necessary to state key auditing matters (KAM) in audit reports of auditors under the Financial Instruments and Exchange Act, but stating KAM in audit reports of accounting auditors under the Companies Act is optional. The accounting auditor under the Companies Act and the auditor under the Financial Instruments and Exchange Act are usually the same, and in practice, audits under the Companies Act and audits under the Financial Instruments



and Exchange Act, as well as coordination with ASBMs, etc. in both, are conducted as one audit. Additionally, KAM do not drastically change the existing communication between ASBMs, etc. and the (accounting) auditor, and communication regarding KAM can be considered to be included in the coordination stated in this article. For these reasons, this Code does not refer to KAM.

Supplement to paragraphs 1 and 3

Receiving reports and exchanging opinions has been separated from the provision of information to the accounting auditor, which has been set out in paragraph 3.

Supplement to paragraph 2

In regard to measures by auditors regarding statements in the parts of disclosed documents, including audited financial statements, other than those financial statements and audit reports (“Other Statements”), in addition to reading the Other Statements and identifying material differences with the financial statements as previously required, the revision of the auditing standards for auditors also requires comparing the Other Statements to the knowledge gained through audits, paying attention to signs of material errors in the Other Statements, and constantly making reports regarding the Other Statements under independent sections given headings in audit reports. In audits under the Companies Act, as business reports and supplemental schedules thereto constitute Other Statements, in addition to coordinating the timing of obtaining those documents and confirming their contents at an early state by receiving drafts, it will be even more important to maintain communication at all times, such as communication regarding the coordination of schedules, including the audit report dates of ASBMs, etc. and the accounting auditor.

**Article 49 Audit of Policies on Determination of Contents of Individual Director Remuneration, etc.**

If the board of directors is required to determine policies regarding the determination of remuneration, etc. for individual directors provided for in Article 361, paragraph 7 of the Companies Act, ASBMs must monitor and verify whether the process, procedures, and the like of determining those policies are appropriately conducted in accordance with laws and regulations. [Lv. 2]

Reference for Article 49

This revision was made in consideration of Article 361, paragraph 7 of the Companies Act. Companies with audit and supervisory boards that are public companies and large companies and are required to submit securities reports under Article 24, paragraph 1 of the Financial Instruments and Exchange Act are required to determine these policies.

**Chapter IX**  
**Basic Policies Regarding the Company's Control, etc.; Third-Party Allotments, etc.**

**Article 50 Basic Policies Regarding the Company's Control, etc.**

1. If the company establishes a basic policy regarding those who control the company's determination of its financial and business policies (in this article, a "Basic Policy"), ASBMs must examine the following matters and state their opinions in the audit reports, keeping in mind the status of deliberations of the board of directors and other committees and meetings: [Lv. 1]
  - (i) a summary of the contents of the Basic Policy; and
  - (ii) a summary of the specific contents of the following measures:
    - (a) the effective utilization of the company's assets, the formation of an appropriate corporate group, and other special measures contributing to the achievement of the Basic Policy; and
    - (b) measures for preventing control of the company's determination of its financial and business policies by those who are inappropriate in light of the Basic Policy (in this article, "Takeover Defense Measures").
2. ASBMs must examine the determinations of the board of directors as to whether they fall under the following requirements of each measure set forth in item (ii) of the preceding paragraph and the reason for such determinations, keeping in mind the status of deliberations of the board of directors and other committees and meetings, and must state their opinions in the audit reports as to whether: [Lv. 1]
  - (i) such measures are in line with the Basic Policy;
  - (ii) such measures do not impair the common interests of the company's shareholders; and
  - (iii) such measures are not for the purpose of maintaining the status of the company's directors.
3. If an ASBM assumes membership in a committee to make certain determinations regarding whether to trigger Takeover Defense Measures, that ASBM will appropriately make such determination to promote the maximum interests of the company, keeping in mind his or her duty of care to the company. [Lv. 3]

**Article 51 Audit of Third-Party Allotments, etc.**

In addition to the audits set out in Article 23 and in Article 45, paragraph 1, when the company issues shares for subscription or share options for subscription (in this article, "Shares for Subscription, Etc."):

- (i) If the company conducts an issuance of shares for subscription in which there is a change in the controlling shareholder and through which the subscriber of the Shares for Subscription, Etc. (or its subsidiaries) will come to hold a majority of the voting rights of all shareholders, ASBMs must express their opinion regarding that issuance of Shares for Subscription, Etc. [Lv. 1]
- (ii) If the company conducts a third-party allotment of shares or share options (including bonds with share options), ASBMs will examine matters related to



whether the allotment constitutes an issue at discount and express their opinions as required by laws, regulations, the listing rules of financial instruments exchanges, and the like. [Lv. 3]

- (iii) Regarding large-scale third-party allotments (meaning situations in which the ratio of voting right dilution in the most recent six months caused by third-party allotments is 25% or more or situations in which third-party allotments create a controlling shareholder; the same applies below in this article) conducted without a resolution of the shareholders' meeting, ASBMs will examine matters such as whether the purpose of the allotment is to maintain the status of the company's directors and will, as necessary, provide suggestions or recommendations to the directors. [Lv. 3] If ASBMs express third-party opinions as people independent from the large-scale third-party allotment, they will appropriately perform their duties, keeping in mind their duty of care to the company. [Lv. 3]

## **Chapter X**

### **Responses to Derivative Lawsuits, etc.**

#### **Article 52 Representation in Lawsuits between Directors and the Company**

If a lawsuit is filed by the company against a director or by a director against the company, ASBMs must represent the company. [Lv. 1]

#### **Article 53 Consent to Partial Exemption of Directors, etc. from Liability**

1. ASBMs will deliberate at ASB meetings when giving the following consents: [Lv. 3]
  - (i) consent to submit to the shareholders' meeting a proposal concerning the partial exemption of a director from liability;
  - (ii) consent to submit 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;
  - (iii) consent to submit 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; and
  - (iv) consent to submit 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 an outside director or other non-executive director for his or her partial exemption from liability.
2. ASBMs will decide whether to give consent mentioned in any item of the preceding paragraph by thoroughly examining and, as necessary, requesting outside professionals' opinions regarding, (i) for proposals for an amendment of the articles of incorporation, the appropriateness of such amendment, the appropriateness of the reason for the proposal, and other relevant factors, and (ii) for proposals for the partial exemption of liability, the reason for the exemption, the results of investigations by ASBMs, the contents of any relevant court judgments, and other relevant factors. [Lv. 3]

3. ASBMs will prepare and keep records concerning the process and results of the investigations and deliberations made by ASBMs to determine whether to give consent under any item of paragraph 1. [Lv. 3]
4. When a proposal for the partial exemption from liability of an accounting auditor under laws and regulations (including proposals for an agreement for limiting liability) is submitted to the shareholders' meeting or the board of directors, ASBMs and the ASB should follow the provisions of this article. [Lv. 4]
5. If ASBMs come to have an opinion regarding the partial exemption from liability of ASBMs or other such matters, they will, as necessary, express their opinions at board of directors' meetings and the like. [Lv. 3]

#### **Article 54 Receipt of Demand to File a Derivative Lawsuit; Notice of Reasons for Not Filing Lawsuit**

1. If any ASBM receives a demand from shareholders to file a lawsuit to pursue the liability of directors, such ASBM must promptly provide the other ASBMs with notice of such demand, and an ASB meeting must be convened to thoroughly deliberate on the response to such demand and to determine whether to file a lawsuit. [Lv. 1]
2. In determining whether to file a lawsuit mentioned in the preceding paragraph, ASBMs will in a timely manner make any necessary investigation, including requesting status reports or opinions from the directors to be sued and from any relevant departments of the company, collecting relevant materials, and requesting the opinions of outside professionals. [Lv. 3]
3. ASBMs will provide notice of the results of any determination made under paragraph 1 to the board of directors and to the directors to be sued. [Lv. 3]
4. In cases where a lawsuit to pursue the liability of directors is not filed as a result of the determination under paragraph 1, if the shareholders who demanded the filing of the lawsuit or the directors whose liability was to be pursued request, ASBMs must submit to them without delay documents stating the following matters and must provide notice of the reasons for not filing the lawsuit; [Lv. 1] in this case, ASBMs will consider the contents of that notice through deliberations of the ASB after requesting the opinions of outside professionals: [Lv. 3]
  - (i) the contents of investigations conducted by ASBMs (including materials that were used as the basis for the determination of the following item);
  - (ii) determination as to whether the directors to be sued had a responsibility or duty and the reasons for that determination; and
  - (iii) if determining that the directors to be sued had a responsibility or duty, the reason for not filing a lawsuit pursuing their liability.
5. ASBMs will prepare and keep records concerning the process and results of the investigations and deliberations made to determine whether to file a lawsuit. [Lv. 3]

#### **Article 55 Consent to Participation in a Derivative Lawsuit**

1. When consenting to the company's participation in a derivative lawsuit to assist the defendant directors, ASBMs will conduct deliberations at an ASB meeting. [Lv. 3]

2. In determining whether to consent to the participation mentioned in the preceding paragraph, the ASBMs will request status reports or opinions from the representative directors, from the defendant directors, from related directors, and from any relevant departments of the company and will request opinions of outside professionals, as necessary. [Lv. 3] ASBMs will prepare and keep records concerning the process and results of the investigations and deliberations conducted for the determination as to whether to consent to the participation. [Lv. 3]

**Article 56 Settlements in Lawsuits Pursuing Liability in Which the Company is the Plaintiff**

1. When consenting to a settlement in a lawsuit by the company pursuing the liability of directors or the like, ASBMs will conduct deliberations at an ASB meeting. [Lv. 3]
2. In determining whether to consent to the settlement mentioned in the preceding paragraph, the ASBMs will request status reports or opinions from the representative directors, from the defendant directors, from related directors, and from any relevant departments of the company and will request opinions of outside professionals, as necessary. [Lv. 3] ASBMs will prepare and keep records concerning the process and results of the investigations and deliberations conducted for the determination as to whether to consent to the settlement. [Lv. 3]

Reference for Article 56

This revision was made in consideration of Article 849-2 of the Companies Act.

**Article 57 Determining Objections to Settlements in Derivative Lawsuits**

1. In cases of derivative lawsuits where the court has given notice and issued demand to the effect that the plaintiff shareholders and the defendant directors are to settle the case in court, ASBMs must, at an ASB meeting, etc., promptly and thoroughly deliberate on the response to such notice and demand and determine whether to object to the settlement. [Lv. 2]
2. In determining the appropriateness of the judicial settlement mentioned in the preceding paragraph, ASBMs will request status reports or opinions from the representative directors, from the defendant directors, from related directors, and from any relevant departments of the company and will request opinions of outside professionals, as necessary. [Lv. 3] ASBMs will prepare and keep records concerning the process and results of the investigations and deliberations conducted for the determination as to the appropriateness of the judicial settlement. [Lv. 3]

**Article 58 Handling of Multiple Derivative Lawsuits, etc.**

1. ASBMs of ultimate, wholly-owning parent companies (meaning companies that have subsidiaries that are subject to the system of lawsuits to pursue specific liability (commonly called the multiple derivative lawsuit system) (such subsidiaries, “Wholly-Owned Subsidiaries” in this article); the same applies below in this article) will respond to lawsuits to pursue specific liability against directors or liquidators of a Wholly-Owned Subsidiary (in this article, “Wholly-Owned Subsidiary Directors, Etc.”) in accordance with the provisions of this chapter, keeping in mind the following:

- (i) If the ultimate, wholly-owning parent company receives a notice from a Wholly-Owned Subsidiary to the effect that the Wholly-Owned Subsidiary has received notice of action from the shareholders of the ultimate, wholly-owning parent company regarding the filing of a lawsuit to pursue specific liability against Wholly-Owned Subsidiary Directors, Etc., then ASBMs of the ultimate, wholly-owning parent company must represent the ultimate, wholly-owning parent company. [Lv. 1]
  - (ii) If the ultimate, wholly-owning parent company conducts a lawsuit to pursue specific liability against Wholly-Owned Subsidiary Directors, Etc., then ASBMs of the ultimate, wholly-owning parent company must represent the ultimate, wholly-owning parent company. [Lv. 1]
  - (iii) If the ultimate, wholly-owning parent company participates in a lawsuit to pursue specific liability to assist the defending Wholly-Owned Subsidiary Directors, Etc., then ASBMs of the ultimate, wholly-owning parent company must determine whether or not to consent to that participation. [Lv. 1]
2. If a Wholly-Owned Subsidiary receives a demand to file a lawsuit to pursue specific liability against Wholly-Owned Subsidiary Directors, Etc. from the shareholders of the ultimate, wholly-owning parent company, then ASBMs of the Wholly-Owned Subsidiary must represent the Wholly-Owned Subsidiary. [Lv. 1]

Supplement to Article 58

In the case of a filing against subsidiary directors/ASBMs of actions such as (i) multiple derivative lawsuits or (ii) derivative lawsuits by parent company shareholders when there has been a share exchange, etc., parent company ASBMs should respond to the lawsuit while keeping in mind that they themselves may be subject to certain liabilities, as well.

## **Chapter XI Reports on Audits**

### **Article 59 Report and Explanation of the Contents of Audits, etc.**

In order to ensure the transparency and reliability of audit activities and audit results, ASBMs must be aware that explaining, as necessary, the status of the performance of their duties and the contents of their audits is an important responsibility of ASBMs. [Lv. 2]

### **Article 60 Preparation of Audit Records**

ASBMs must prepare and keep audit records. [Lv. 2] Audit records will record the methods and results of ASBM audits as well as the processes, reasons, and other relevant matters leading to the formulation of ASBM audit opinions. [Lv. 3]

## **Article 61 Reporting to the Representative Directors and the Board of Directors**

1. ASBMs and the ASB will regularly report matters such as the status of their activities to the representative directors and the board of directors. [Lv. 3]
2. ASBMs and the ASB will report to the representative directors, the board of directors, and other related directors the process and results of audits regarding the priority audit items and of investigations, etc. specially made for that period and, when finding it necessary, will provide suggestions or recommendations and take appropriate measures based on the situation. [Lv. 3]

## **Article 62 Preparation and Notice of Audit Reports**

1. ASBMs must prepare ASBM audit reports and submit them to the ASB. [Lv. 1]
2. The ASB must prepare an accurate and clear ASB audit report through deliberations based on the ASBM audit report prepared by each ASBM. [Lv. 1]
3. The ASB will confirm, with respect to Business Reports, Etc., accounting-related documents, or other documents received from the directors who performed duties relating to the preparation of Business Reports, Etc. and accounting-related documents, whether all matters required by law and other matters to be disclosed have been appropriately stated in such documents, and the ASB will, as necessary, request explanations from the directors, state their opinions, or request modifications. [Lv. 3]
4. ASBMs will state in audit reports whether or not the contents of board of directors' resolutions regarding the Internal Control Systems provided for in Article 25, paragraph 1 are appropriate. [Lv. 3] Additionally, if there are any matters to be commented on regarding the Internal Control Systems established and operated pursuant to those resolutions, ASBMs will state the details of those matters in audit reports. [Lv. 3]
5. In preparing the ASB audit report, the ASB will confirm whether there has been any act by a director that is in violation of any law, regulation, or the articles of incorporation, any subsequent events, or any other relevant matters and will, keeping in mind the matters listed in Article 45, paragraph 2, examine whether there is any matter that should be stated in its ASB audit report. [Lv. 3]
6. In cases where the contents of an ASBM's own audit report are different from the contents of the ASB audit report, that ASBM will append a note with the contents of his or her own ASBM audit report to the ASB audit report. [Lv. 3]
7. Each ASBM will affix his or her signature or his or her name and seal impression (including his or her electronic signature) on his or her own ASBM audit report and the ASB audit report. [Lv. 3] Additionally, full-time ASBMs and outside ASBMs should state their positions as such. [Lv. 4] The date of preparation must be stated on the ASB audit report. [Lv. 1]
8. The Specified ASBMs must provide notice of (i) the contents of the ASB audit report concerning the Business Report, Etc. and of the ASB audit report concerning accounting-related documents to the specified directors and (ii) the contents of the ASB audit report concerning accounting-related documents to the accounting auditor. [Lv. 1] However, in cases where the audit report concerning the Business Report, Etc. and the audit report concerning accounting-related documents are both prepared together as one audit report, ASBMs must provide notice of the contents of such audit report to the accounting auditor. [Lv. 1]

9. In the preceding paragraph, the Specified ASBMs should, as necessary, (i) agree with the specified directors on and determine the date to provide notice of the contents of the ASB audit report concerning the Business Report, Etc. to the specified directors and (ii) agree with the specified directors and the accounting auditor on and determine (a) the date to provide notice of the contents of the accounting audit report concerning accounting-related documents to the Specified ASBMs and (b) the date to provide notice of the contents of the ASB audit report concerning accounting-related documents to the specified directors and the accounting auditor. [Lv. 4]

### **Article 63 Disclosure by Electronic Provision of Shareholders' Meeting Materials**

1. In cases where a company has provisions in its articles of incorporation to the effect that pursuant to Article 325-5, paragraph 3 of the Companies Act, all or some of the matters for electronic provision provided for in ministerial ordinances of the Ministry of Justice are not required to be stated in documents stating the matters for electronic provision, then when directors intend to take such measures, namely to omit all or some of such matters from the documents, under the articles of incorporation, ASBMs will examine whether such measures should be taken and, when finding it necessary, make an objection. [Lv. 3]
2. In cases where the measures mentioned in the preceding paragraph under the provisions in the articles of incorporation are taken, ASBMs may demand that directors give notice to shareholders who receive documents stating the matters for electronic provision that the matters stated in the documents stating the matters for electronic provision are part of the matters stated or recorded in the business report, accounting documents, or consolidated accounting documents that were audited when preparing the audit report. [Lv. 5]

Reference for Article 63

This revision was made in consideration of the introduction of rules for electronic provision of shareholders' meeting materials in the Companies Act.

### **Article 64 Disclosure by Deemed Provision**

1. In cases where a company has provisions in its articles of incorporation to the effect that it will take measures under the deemed provision rules provided for in Article 94, paragraph 1 of the Ordinance for Enforcement of the Companies Act, Article 133, paragraph 3 of the Ordinance for Enforcement of the Companies Act, Article 133, paragraph 4 of the Ordinance on Accounting of Companies, and Article 134, paragraph 5 of the Ordinance on Accounting of Companies, then when directors intend to take such measures, ASBMs will examine whether such measures should be taken and, when finding it necessary, make an objection. [Lv. 3]
2. In cases where the measures mentioned in the preceding paragraph under the provisions in the articles of incorporation are taken, ASBMs may demand that directors give notice to shareholders that the business report, accounting documents, or consolidated accounting documents actually provided to shareholders are a part of such documents that were audited when preparing the audit report. [Lv. 5]

## **Article 65 Reporting and Explanation at Shareholders' Meeting, etc.**

1. With respect to proposals, documents, electronic or magnetic records, and other materials to be submitted to a shareholders' meeting, ASBMs must investigate whether there are any matters that are in violation of any law, regulation, or the articles of incorporation or that are otherwise significantly inappropriate and, if such a matter is found, must report the results of the investigation at a shareholders' meeting. [Lv. 1] At the shareholders' meeting, ASBMs should state their own opinions, as necessary, for the purpose of discharging their responsibility of accountability. [Lv. 4]
2. ASBMs will provide explanations on questions by shareholders at shareholders' meetings in accordance with the management of the proceedings by the chairperson of the shareholders' meeting. [Lv. 3]
3. ASBMs will confirm that the outline and results of the proceedings and other matters provided by laws and regulations are appropriately stated in the minutes of shareholders' meetings. [Lv. 3]

### **Supplementary Provisions**

In this Code, the term "state" includes "recording" in electronic or magnetic records unless contrary to the context. The various documents mentioned in this Code include those prepared in the form of electronic or magnetic records.

End