Material 4

Provisional Translation

Reference Material for the 23rd Council: Group Governance/Shareholding Structure

January 26, 2021
Japan Financial Services Agency

(1) Current Situation of Listed Subsidiaries and the Like

(1) Report by the Financial System Council's Study Group on the Internationalization of Japanese Financial and Capital Markets (June 2009)

Report by the Financial System Council's Study Group on the Internationalization of Japanese Financial and Capital Markets (Jun 17, 2009) *(excerpts)*

II. Issues concerning capital policies

4. On subsidiary listings

At present, there are a considerable number of publicly listed companies that are owned by a parent company.

With respect to the listing of a company that has a parent company, there have been suggestions that it would not be appropriate to deny such listings purely on the basis of this fact. Justifications provided for such a suggestion include an assertion that even though investors can only obtain minority shareholdings, investors may be willing to trade shares in such companies, and investors may appreciate governance by the parent company.

Nevertheless, there have also been suggestions that such listing arrangements may not necessarily be desirable. There may be inherent potential for conflicts of interest between the parent company and the minority shareholders of its listed subsidiary, and there may be danger that the shareholders' rights of a listed subsidiary will not be fully protected due to the control exerted by the parent company.

Taking these issues into account, due consideration should be given as to if and how the public listing of these subsidiaries ought to be in the future. At the very least, adequate measures need to be implemented to protect the rights of minority shareholders by eliminating the undesirable effects of conflicts of interest and control by the parent company.

For this reason, if the subsidiary listings continue to take place in the future, the stock exchanges should consider introducing rules to ensure that the conflicts of interest are properly managed and that the parent company does not abuse its power, through such measures as requiring the appointment of outside directors and auditors who are not from the parent or sister companies and who can give sufficient consideration to the interests of minority shareholders.

(1) Current Situation of Listed Subsidiaries and the Like ①

- Concerning listed subsidiaries and the like, it is pointed out that such listings have significance from the perspectives that the subsidiaries can acquire their own financing means, etc.
- The number of actual cases of equity financing by listed subsidiaries is only several per year.

Views on advantages of listing subsidiaries

- There are legitimate purposes for listing a company with a controlling shareholder, for example: acquiring a subsidiary's own means of financing; earning a right valuation of the subsidiary's stock price (eliminating/reducing conglomerate discount); enhancing the creditworthiness of the subsidiary; serving as a means of restructuring the industry/group (corporate view)
- If synergy is running in a right way, both the listed parent company and the listed subsidiary can be attractive targets of investments (corporate view)

	Public offering				Third-party allotment of shares			
	Listed subsidiaries		Other		Listed subsidiaries		Other	
	Number of financing cases	Total amount (million yen)	Number of financing cases	Total amount (million yen)	Number of financing cases	Total amount (million yen)	Number of financing cases	Total amount (million yen)
2014	8	11,853	185	1,399,307	4	1,140	126	266,676
2015	5	55,050	164	1,336,379	4	28,150	113	484,379
2016	3	16,571	98	551,165	2	2,161	76	483,643
2017	6	11,990	160	2,774,460	4	3,151	121	2,427,261
2018	5	4,738	164	957,788	4	1,649	116	715,264
2019	5	362,429	65	806,666	4	361,712	47	279,289

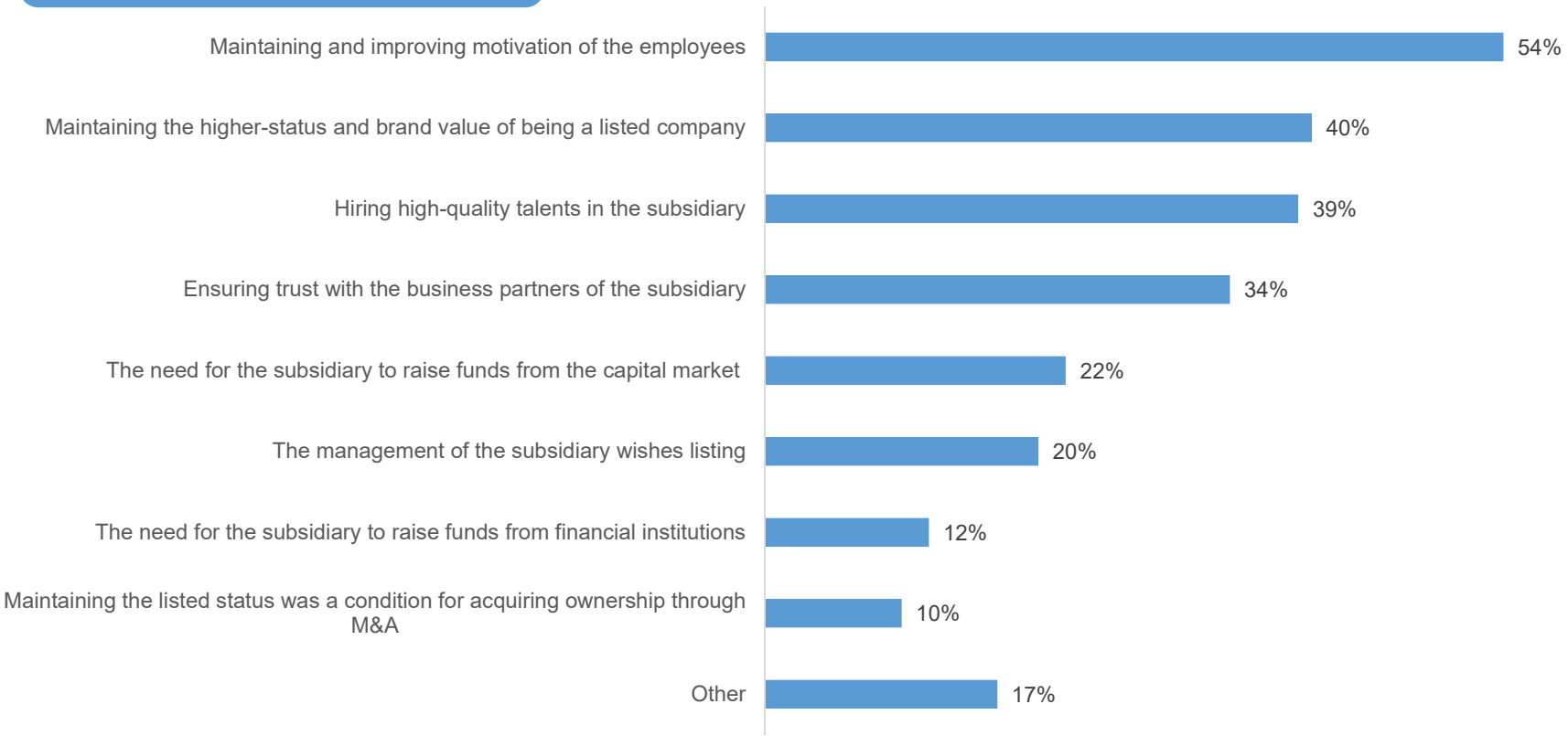
Source: prepared by FSA, based on the reference material for the first meeting of TSE's Study Group to review Minority Shareholder Protection and other Framework of Quasi-Controlled Listed Companies

(1) Current Situation of Listed Subsidiaries and the Like ②

- As reasons for holding listed subsidiaries, many companies named the following reasons: **"maintaining and improving motivation of employees," "maintaining the higher-status as a listed company," and "hiring high-quality talents".**

Reasons for holding a listed subsidiary/subsidiaries

(N=90 companies)
Multiple choices allowed



Source: prepared by FSA, based on the report on FY2018 Economic and Industrial Research Project commissioned by METI (Research on Corporate Governance for Group Management) (Economic and Industrial Policy; research expenses related to the 4th Industrial Revolution)

(1) Current Situation of Listed Subsidiaries and the Like ③

☐ In the previous meetings of the Follow-up Council, multiple members referred to the following points concerning group governance.

(Optimization of group management)

- It is necessary to discuss **group strategies and group-wide internal control** from the perspective of effectively securing and allocating management resources to realize the overall optimization of a group, business portfolios, as well as formulating and implementing group-level business portfolio strategies.

(Protection of minority shareholders of subsidiaries)

- **Disciplines/principles on group governance (parent-subsidiary listings) are not yet clear,** and a patchwork of policies has made companies' decision-making processes complicated. It has rather prevented companies from taking dynamic and speedy strategic actions, which are essentially important. That is becoming a serious issue. **By establishing a principle, as a fundamental norm, that controlling shareholders must protect minority shareholders, various issues will be clear-cut, and companies will be given the flexibility to strategically use parent-subsidiary listings by complying with the principle.**

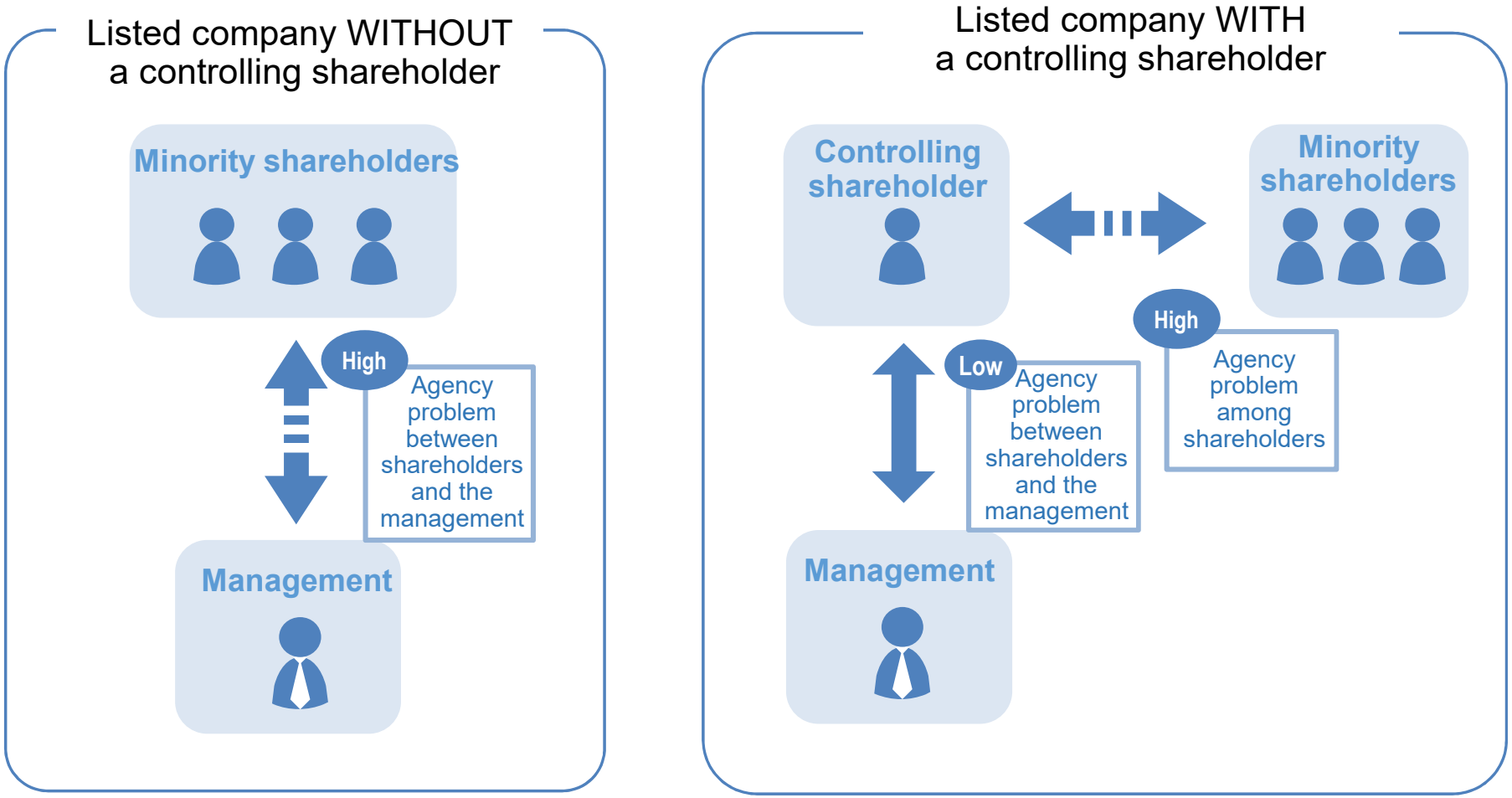
- It is important **to eliminate negative effects of parent-subsidiary listings.** Currently, controlling shareholders have sort of option rights to controlled companies: the former can acquire 100% ownership at a time that is advantageous for them, or sell the shares of the subsidiaries. Accordingly, there are cases where minority shareholders are at the mercy of such controlling shareholders. **Companies should develop and disclose strategies for the dissolution of parent-subsidiary listings, specifying whether they plan to have 100% ownership or sell the shares of the subsidiaries (zero ownership).**
- The stronger the business ties between a parent company and its subsidiary, the more likely conflict of interests between the parent company and general/minority shareholders of the subsidiary is to arise; and if it leads to a serious dispute, it will impair corporate value of both companies. In case each company undergoes drastic corporate transformation (CX), their relationship may give rise to a conflict of interest. There is a risk of losing strategic freedom and speed, and thus reducing the capability to achieve CX. **Parent-subsidiary listings should not be allowed except such transitional cases as spin-off of growth businesses, and the Code should clearly state fiduciary duty [the parent company's obligations to protect the interest of minority shareholders], which is a legal principle commonly used in the US and Germany.**
- It is important to address **the protection of minority shareholders from a controlling shareholder.**

- **With respect to types of situations with a high risk of potential conflict of interest between a controlling shareholder and minority shareholders,** it is suggested that **the Code should clarify points to note by focusing on decision-making process and disclosure, and present best practices.** Especially, we should consider whether it is possible to present best practices of **ways and processes of decision-making** from the perspective of the involvement of independent directors and minority shareholders in such types of situations.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Opinions concerning conflict of interest)

- Concerning listed subsidiaries and the like, it is pointed out that, since controlling shareholders have an economic motive for effectively overseeing the management, it is expected that **the agency problem between shareholders and the management will be reduced.**
- On the other hand, it is also pointed out that, since controlling shareholders may pursue their own benefits from transactions with the listed subsidiaries and the like at the cost of interests of minority shareholders, it is **necessary to address the agency problem among shareholders.**



(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Overview of institutional frameworks in other countries #1)

☐ In Germany, **minority shareholders are protected under systematic laws pertaining to corporate groups (AktG or Stock Corporation Act).**

Germany

[In case a controlled company is a stock corporation (AG)]

"Control Agreement" concluded between parent company and its subsidiary = "Contractual *konzern* (corporate group)"	• While the controlling company **can issue instructions to the controlled company, including instructions for taking actions disadvantageous to the controlled company, the controlling company has obligations to purchase shares held by minority shareholders of the controlled company, and to make considerable compensation for dividends.**
	• Directors of the controlling company **have a duty of care of an ordinary and conscientious business leader** to the controlled company **(In case of a breach of the duty, they are liable for damages).**
Substantive controlling influence = "Factual *konzern*"	• The controlling company should not exercise influence in order to induce the controlled company to take any legal act that is disadvantageous to the latter, or to take or not to take any measure in a way that results in an disadvantage for the latter (provided, however, **that the prohibition will be removed, if the controlling company compensates for such a disadvantage**).
	• To ensure the above-mentioned compensation, it is obliged to **prepare a Controlled Company Report (specifying transactions between controlling and controlled companies), and undergo inspections by annual account auditors/supervisory board.**

[In case a controlled company is a limited liability company (GmbH)]

Control Agreement concluded between controlling and controlled companies	• It is understood that **the above-mentioned provisions of the Stock Corporation Act** for stock corporations **are applied mutadis mutandis** to LLCs, as needed.
Control Agreement not concluded	• **A judicially created doctrine**, the majority shareholders' (*Gesellschafter* or company members') **duty of loyalty** to the minority shareholders, has been developed. Underlying concepts of this doctrine, including subordinate relation, controlling influence, and konzern, are almost the same as those in the Stock Corporation Act

Source: prepared by FSA, based on Japan Institute of Business Law "Research report on group governance" (March 2020)

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Overview of institutional frameworks in other countries #2)

- In overseas countries other than the UK, the US and Germany, there are cases where **corporate governance code, etc. stipulates controlling shareholders' responsibilities to minority shareholders.**
- There are also cases where **minority shareholders' opinions are reflected in the appointment of independent directors.**

Examples of establishing a system where minority shareholders' opinions are reflected to the appointment of independent shareholders

Korea: Code

General shareholders' opinions should be reflected on processes of nominating/appointing directors. Without improving such processes, it is difficult to ensure the independence of outside directors not limited to full-time directors, in spite of reinforcing requirements and qualifications for outside directors.

Especially, in case of domestic corporations, because of strong influence of controlling shareholders over corporate management, **the cumulative voting system should be adopted in order to secure the independence of directors and reflect minority shareholders' opinions on decisions.**

Italy: Listing rules

Minority shareholders may appoint at least one independent shareholder.

ICGN Global Governance Principles

The board should ensure that shareholders of the same series or class are treated equally and **afforded protection against misuse or misappropriation of the capital they provide** due to conduct by the company's board, its management or controlling shareholder, including market manipulation, false or misleading information, material omissions and insider trading.

Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress. *(omit the rest)*

Examples of defining controlling shareholder's responsibilities to minority shareholders

France: Code

When a corporation is controlled by **a majority shareholder** (or a group of shareholders acting in concert), the **latter assumes a specific responsibility with regard to the other shareholders**, which is direct and separate from that of the Board of Directors. They take particular care to prevent conflicts of interest and to take account of all interests.

Taiwan: Code

A corporate shareholder, which has control over a company listed on TWSE/TPEx, must comply with the following stipulations:

1. **Undertakes duty of loyalty to other shareholders, and does not, directly or indirectly, cause the company to conduct any business that is against ordinary commercial practices or does not make profit;** *(snip)*
4. **Does not intervene in the company's policy decisions unreasonably, or impede management activities;**
5. **Does not restrict or impede the company's management or production by acts of unfair competition, including monopolizing the company's procurement, and closing their market;** *(omit the rest)*

OECD Principles of Corporate Governance

Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress. Abusive self-dealing should be prohibited.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Discussions held in Japan #1)

- Legislative Council Corporate Law Subcommittee, which was established in 2010 toward the revision of the Companies Act, proposed in “Interim Proposal concerning Revision of Companies Act” with respect to clearly stating the following matters in the Companies Act.

[Interim Proposal concerning Revision of the Companies Act (December 2011) by Counsellor’s Office, Civil Affairs Bureau of Ministry of Justice] ***(excerpts)***

II. Protection of minority shareholders of subsidiary

1. Responsibilities of parent company, etc.

With respect to whether or not rules should be clearly written concerning the responsibilities of a parent company in case a stock company suffered a disadvantage in a transaction with its parent company involving a conflict of interest between them, either of the following options shall be adopted.

[Proposal A] The following matters are to be clearly stated by law:

(1) If the stock company suffered a disadvantage as a result of such a transaction compared to a hypothetical situation without such a transaction, the parent company is liable to pay an amount equivalent to the disadvantage to the stock company.

(2) A determination on the existence or non-existence of the disadvantage set forth in (1) as well as its degree shall be made by considering terms and conditions of the transaction, terms and conditions of other transactions between the stock company and the parent company, and all other circumstances.

(3) An exemption from the obligation set forth in (1) shall not be granted without the consent of all shareholders of the stock company.

(4) The obligation set forth in (1) shall be subject to an Action for Pursuing Liability, etc. prescribed in Article 847, Paragraph 1 of the Companies Act.

(Note) With respect to the responsibilities of natural persons who are deemed to have influence equivalent to that of parent companies based on the percentage of their voting rights, similar provisions to the above (1) to (4) should be stipulated.

[Proposal B] Such matters are not to be stipulated by the Act.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Discussions held in Japan #2)

- Towards the revision of the Companies Act in 2014, Legislative Council Corporate Law Subcommittee (chaired by Professor Shinsaku Iwahara, Tokyo University) discussed **whether or not rules should be clearly written concerning the responsibilities of a parent company in case a stock company suffered a disadvantage in a transaction with its parent company involving a conflict of interest between them.**
- The above-mentioned provision was not introduced, and instead, the Act was revised in a way to strengthen the regulation about disclosure concerning related-party transactions.

Summary of positive public comments

- In a transaction involving a conflict of interest between a parent company and its subsidiary, there is a concern that the parent company may pursue its own benefit at the cost of the interest of the subsidiary.
- It is confirmed in practice that there are some cases where parent companies infringe interests of their subsidiaries to pursue their own short-term benefits.
- With respect to a parent-subsidiary transaction, which is not provided for in the current Act, from the perspective of demonstrating the prudence of the stock market of Japan, it is useful to clearly articulate that it is not allowed to exploit the interest of the subsidiary, using influence based on voting rights.
- The proposed provision allows for holding the parent company responsible, without specifying actual state of the parent company's exercise of influence, and without being based on the premise that directors of the company are held responsible, so it is considered that the proposal offers an appropriate solution.
- The proposal seems to focus on remedying unfair transfer of profits caused not necessarily by an individual officer of the parent company, and thus offers a realistic solution.

Summary of negative public comments

- In principle, a parent company and its subsidiary share a mutual interest. The Act should not be revised based on the assumption that there is "a concern that the parent company may pursue its own benefit at the cost of the interest of the subsidiary," which is far from real situations.
- Directors of the parent company have management responsibilities primarily to its own shareholders. The priority should be given to such responsibilities over management responsibilities to minority shareholders of the subsidiary.
- As the requirements of Proposal A are not clear, it may unreasonably impede the group management, by excessively withering transactions within the group.
- There is a concern that there may be abuse of legal action by minority shareholders of the subsidiary against the parent company.
- The current Act already provides for the protection of minority shareholders of subsidiaries, for example, by stipulating directors' liability for damages due to negligence of their duties and the parent company's liability for damages due to unlawful act.
- Because Proposal A sets requirements for individual transactions, even if a determination on the existence or non-existence of the disadvantage as well as its degree is made by considering all circumstances, the scope of circumstances to be considered will not become clear until the lawsuit. Eventually, there remains a concern the subsidiary's benefits as a result of the group management are not sufficiently considered.

(Note) Proposals A and B are interim proposals subject to public consultation. For details, please refer to the previous page..

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Discussions held in Japan #3)

☐ The Companies Act revised in 2014 eventually introduced the following disclosure requirements.

【Revision of regulations related to the Companies Act in 2014】*(excerpts)*

Regulation for Enforcement of the Companies Act

Article 118 Business reports must contain the following: *(Items (i) to (iv) omitted)*

(v) If there is any transaction between the stock company and its Parent Company, etc. (including a transaction between the stock company and a third party that results in a conflict of interest between the stock company and its Parent Company, etc.) that requires the notes prescribed in Article 112, paragraph (1) of the Regulation on Corporate Accounting to be included in the tables of explanatory notes on unconsolidated financial statements of the stock company for the relevant business year (excluding a transaction for which the particulars set forth in items (iv) through (vi) and (viii) of the paragraph are to be omitted pursuant to the proviso to the paragraph), the following particulars relating to the transaction:

(a) particulars to be given due consideration so as not to harm the interests of the stock company in carrying out the transaction (if those particulars do not exist, that fact);

(b) the judgment of the directors of the stock company (in the case of a Company with a Board of Directors, the board of directors; the same applies in (c)) related to whether or not the transaction harms the interests of the stock company, and the reason therefor;

(c) in the case of a stock company which has Outside Directors, if the judgment of the board of directors under (b) differs from the opinion of the Outside Directors, such opinion.

Article 128 1. The annexed detailed statement of a business report must have as their content important particulars that supplement the content of the business report. *(Paragraph 2 omitted)*

3. If there is any transaction between a stock company and its Parent Company, etc. (including a transaction between the stock company and a third party that results in a conflict of interest between the stock company and its Parent Company, etc.) that requires the notes prescribed in Article 112, paragraph (1) of the Regulation on Corporate Accounting to be included in the tables of explanatory notes on unconsolidated financial statements of the stock company for the relevant business year (limited to a transaction for which the particulars set forth in items (iv) through (vi) and (viii) of the paragraph are to be omitted pursuant to the proviso to the paragraph), the particulars listed in Article 118, item (v), (a) through (c) relating to the transaction must be included in the content of the business report's annexed detailed statement.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Discussions held in Japan #4)

☐ The Companies Act revised in 2014 eventually introduced the following disclosure requirements.

【Revision of regulations related to the Companies Act in 2014】*(excerpts)*

Regulation on Corporate Accounting

(Explanatory Notes on Transactions with Affiliated Parties)

Article 112 **1**. Explanatory notes on transactions with Affiliated Parties comprise of important matters listed below in cases where there are transactions between a Stock Company and Affiliated Parties (including those which are transactions between the Stock Company and a third party and which cause a conflict of interest between the Stock Company and the Affiliated Party); provided, however, that for Stock Companies other than Companies with Financial Auditor(s), the matters listed in item (iv) through item (vi), and in item (viii) may be omitted:

(i) when the Affiliated Party is a Company, etc., the matters listed below:
- (a) the name;
- (b) the rate of voting rights held by the relevant Stock Company out of the total number of voting rights held by all shareholders in the Affiliated Party;
- (c) the rate of voting rights held by the Affiliated Party out of the total number of voting rights held by all shareholders in the Stock Company;

(ii) when the Affiliated Party is an individual, the matters listed below:
- (a) the name;
- (b) the rate of voting rights held by the Affiliated Party out of the total number of voting rights held by all shareholders in the Stock Company;

(iii) the relationship between the Stock Company and the Affiliated Party;

(iv) the nature of any transactions;

(v) the transacted amounts for each class of transaction;

(vi) the transaction terms and conditions and the transaction terms and conditions decision policy;

(vii) the balance on the last day of the relevant business year for each major entry pertaining to obligations or claims arising through any transactions;

(viii) when there have been changes to the terms and conditions, that fact, the nature of the changes and the nature of the effect of the changes on the Financial Statements.

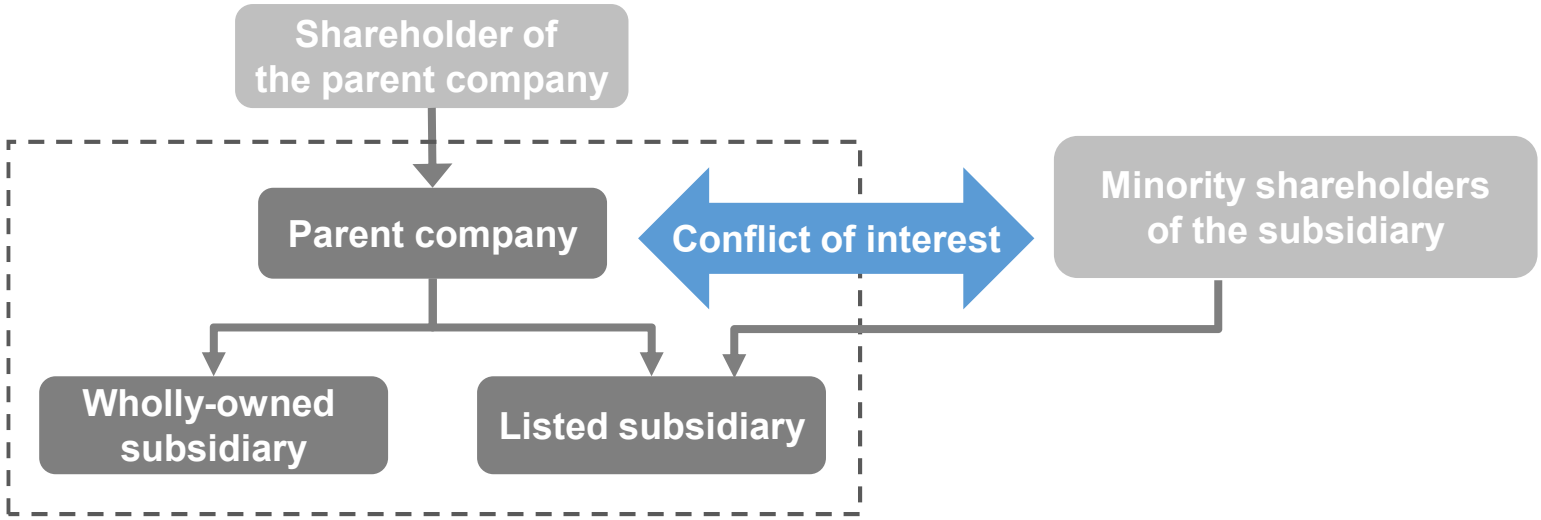
(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Discussions held in Japan #5)

- CGS Study Group of the Ministry of Economy, Trade and Industry (METI) (Chair: Professor Hideki Kanda, Gakushuin University, Secretariat: Corporate System Division) published **"Practical Guidelines for Group Governance System" (Group Guidelines)** on June 28, 2019. The overview of the Group Guidelines is summarized below.

Group structure	➢ A reasonable group structure should be considered, in order to increase mid- to long-term corporate value of the group and achieve the group's sustainable growth.
Business portfolio management	➢ It is important to identify core businesses, and strategically concentrate management resources on such core businesses through M&As and divestment of non-core businesses for strengthening such core businesses.
Internal control system	➢ **A parent company's Board is responsible for appropriately monitoring and overseeing the establishment/implementation of the entire group's internal control system.** ➢ A group should consider **introducing/developing the "Three Lines of Defense" model and its appropriate implementation.** The Group Guidelines also refers to emergency responses.
Nomination of and remuneration for the management of subsidiaries	➢ A parent company's Board and its Nomination/Remuneration Committees should consider expanding **the scope of their deliberations,** for example, **by including the top management of key wholly-owned subsidiaries.**
Governance related to listed subsidiaries	➢ A parent company should ensure that its board deliberates 'reasonable grounds for maintaining the listing of its subsidiary' and "ensuring the effectiveness of the governance system', and fulfill its accountability to investors through disclosures of such matters. ➢ Listed subsidiaries should, **in principle, aim at increasing the proportion of independent directors on the board (e.g. at least one-third, or a majority).*** * Even in case it is difficult to immediately do so, the introduction of the following mechanism should be considered: with respect to a significant transaction involving a conflict of interest, **a committee comprised mainly of independent directors (or independent *kansayaku* (audit & supervisory board members)) deliberates/examines the transaction.**

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Opinion concerning risk of structural conflict of interest)

- In discussions on listed subsidiaries, it has been pointed out that there is a **risk of structural conflict of interest** between a parent company, which is a controlling shareholder, and general shareholders of its listed subsidiary.
- In the METI's Group Guidelines, specific situations that may give rise to possible risk of conflict of interest are categorized into three cases.



Specific situations that may give rise to possible conflict of interest between a parent company and its listed subsidiary

- ✓ In case of a direct transaction between a parent company and its subsidiary
- ✓ In case of business transfer/business adjustment between a parent company and its subsidiary
- ✓ In case a parent company (controlling shareholders) acquires a 100% ownership of its subsidiary

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Comparison of the US and Japanese institutional framework)

Types of transactions

(1) Direct transaction: irregular transaction (e.g. purchase of the company's product at a low price)

(2)' Business adjustment: taking away business opportunities; divestment of business at a low price

(2) Business transfer: transfer of business at an unfair cost (e.g. transfer of competing/redundant business)

(3) Acquisition by controlling shareholder: acquisition at an unfair price

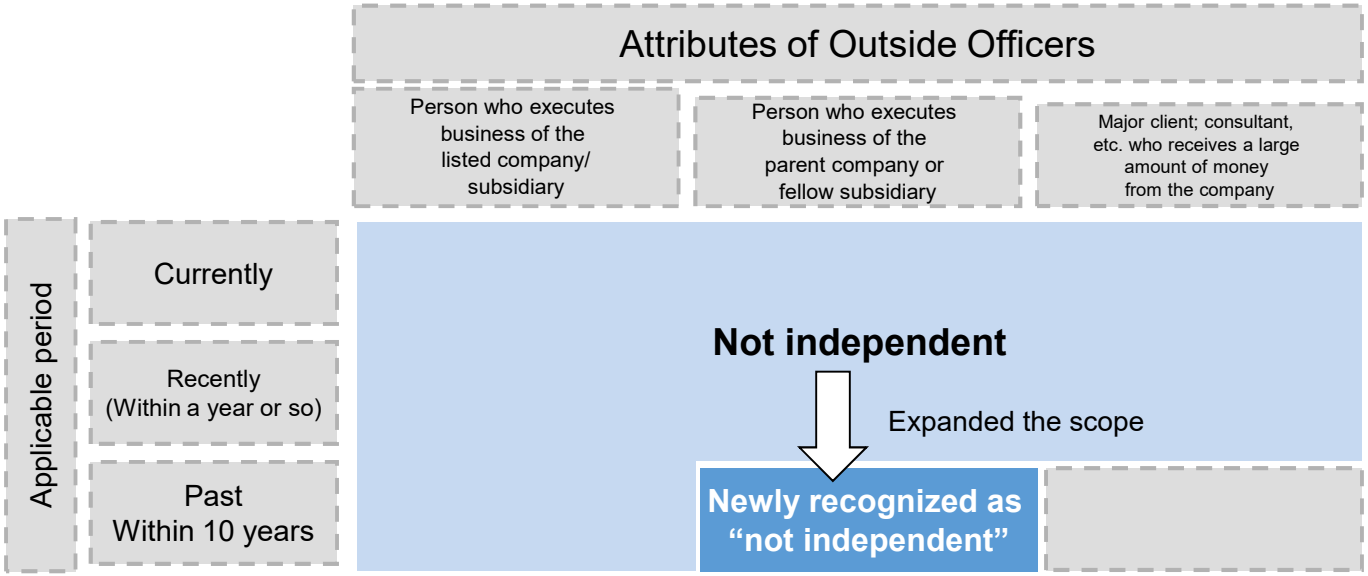
	Japan (Note)	The US
(1) Direct transaction	• Disclosure of **related-party transactions** (Business Report, Securities Report) • Requirement for obtaining an opinion that an important transaction involving a controlling shareholder, etc. **"will not undermine the interest of minority shareholders"** (Timely Disclosure)	• Fiduciary duty of controlling shareholders; in principle, the "entire fairness" standard applies. (Note) Allowing for injunction application due to a breach of fiduciary duty (The same shall apply hereinafter)
(2) Business transfer	• **Dissenting shareholders' appraisal rights** (Companies Act) • Requirement for obtaining an opinion that an important transaction involving a controlling shareholder, etc. **"will not undermine the interest of minority shareholders"** (Securities Listing Regulations) • Disclosure of **related-party transactions** (Business Report, Securities Report)	• Fiduciary duty of controlling shareholders; in principle, the "entire fairness" standard applies.
(2)'Business adjustment	No specific institutional framework for restriction	• Controlling shareholders are liable for damages, if they are deemed to have "taken away business opportunities".
(3) Acquisition by controlling shareholder	• **Dissenting shareholders' appraisal rights** (Companies Act) • Requirement for obtaining an opinion that an important transaction involving a controlling shareholder, etc. **"will not undermine the interest of minority shareholders"** (Timely Disclosure)	• Fiduciary duty of controlling shareholders; in principle, the "entire fairness" standard applies. However, (1) in case of satisfying either (i) MoM (Majority of Minority) conditions or (ii) requirements by a properly functioning special committee, the burden of proof will shift (2) in case of satisfying both of the above (i) and (ii), the management decision principle will apply.

(Note) In all types from (1) to (3), there is a possibility that controlling shareholders, etc. may become liable for a general lawful act in a specific case.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Latest revision of the Securities Listing Regulations, etc.)

(1) Revision of the independence criteria for independent officers

- A new attribute, “a person who has not belonged to the parent company or a fellow subsidiary in the past 10 years,” was added to the independence criteria.



(2) Enhanced disclosure of the group management policy of a parent company

- Encourages listed companies, which have listed subsidiaries, to enhance disclosure on the following matters in their CG Reports:
  - ✓ Reasons for holding a listed subsidiary, based on the view/policy of the group management; and
  - ✓ Policy for ensuring the effectiveness of the governance system of a listed subsidiary, and/or related agreement

- Encourages listed subsidiaries, whose parent company is also listed, to disclose the following matter:
  - ✓ The parent company’s view/policy of the group management, and/or related agreement

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (TSE's Study Group)

- Tokyo Stock Exchange (TSE) established "Study Group to review Minority Shareholder Protection and other Framework of Quasi-Controlled Listed Companies" **to explore how to protect minority shareholders of listed subsidiaries and the like,** and published the interim report on Sept. 1, 2020.
- The Study Group identified issues to be further discussed, such as information disclosure, governance, and the scope of "controlling shareholders".

Background of discussion

- There were some cases where minority shareholders were not deemed properly protected, typically when companies came to have controlling shareholders after listings.
  - ✓ Information on agreements with controlling shareholders regarding the appointment of directors, etc. has not sufficiently been disclosed
  - ✓ There was no clarity about how business opportunities and business segments are coordinated and allocated within a controlling shareholder's group
  - ✓ When a controlling shareholder conducted a tender offer aiming at taking its listed subsidiary private, the controlling shareholder has not obtained an opinion that actively expresses "the interests of minority shareholders will not be undermined."
  - ✓ There was **absence of independent directors** who represent the interests of general shareholders.
- There were similar cases in companies with shareholders who do not fall under the definition of "controlling shareholder" but substantively have influence ("quasi-controlling shareholders").
- Taking these cases into account, the Study Group reviews the framework for protecting minority shareholders under the current listing system.

Issues to be discussed

Disclosure	✓ Enhancement of disclosure by including such information as an agreement on governance of the listed company, as well as its view/policy on conflict of interest and related supervision/control
Procedures	✓ Framework for protecting minority shareholders when a controlling shareholder conducted a tender offer aiming at taking its listed subsidiary private, including expected roles of a special committee
Governance	✓ **Appointment of independent directors, etc.**
Scope of application	✓ Applying the framework for protecting minority shareholders, which was designed for "controlling shareholders", to "quasi-controlling shareholders" as well

(Note) It is stated that, "as for disclosure and the scope of application, it is desirable to institute/implement feasible measures step by step."

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like

(Rules on the number of independent directors in other countries) cited from Material 4 for the 21st Council

Provisions on the number of independent directors of the board in other countries' codes, etc.

2 or more	3 or more	At least one-third	A majority
Italy (*1)	Korea (*2)	Portugal Hong Kong (*3) Singapore (*4)	United Kingdom (*5) United States (*6) France Italy (Large-scale companies(*1)) Sweden Australia Singapore(*4) Korea (Large-scale companies(*2)) ICGN

(*1) Other than large-scale companies, at least two persons are required except for the chairman. Large-scale companies with concentrated ownership, such as controlling shareholders, require at least one-third. (Code)
(*2) Half or more independent directors are recommended for large-scale companies. (Code)
(*3) Listing rules require at least one-third independent directors.
(*4) Seek a majority when the Chairman of the Board is not independent. (Code) In addition, at least two persons were required under the Listing Rules to date, but at least one-third were required under the Amended Listing Rules, which will become effective on January 1, 2022.
(*5) At least half excluding the Chairman of the Board of Directors are required. In addition, the Chairman of the Board of Directors is required to be independent.
(*6) Listing rules require at least half independent directors. (Code)
(*7) In Germany, it is required that more than half of the members of the shareholder representative in the supervisory board are independent.(Code)

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Voting guidelines of investors)

□ Among investors, **there are multiple asset managers who vote against the appointment of the top management of a listed subsidiary in case its board comprises less than one-third of independent directors.**

Company	Criteria	Target	Specific Voting Guidelines
Nissay AM	Independent directors: less than 2 members, or less than one-third	Representative Director	**In case of a company with a parent company, unless at least two or one-third of the board members are independent directors,** (vote against) **the appointment of Representative Director**
Sumitomo Mitsui Trust AM	Independent directors: less than one-third	Director	**In case of a company with a parent company or the like**[*1], unless a majority or **at least one-third** of the total board members **are independent directors, and satisfy certain conditions**[*2], vote against **the appointment of directors** *1. A company which has a shareholder who holds more than 50% of the total shares, or which reported, in its Corporate Governance Report, that it has a parent company or controlling shareholder *2.Nomination Committee or the equivalent (including optional advisory committee) comprises a majority of independent officers, or comprises a half of independent officers and is chaired by an independent officer
Mitsubishi UFJ Kokusai AM	Outside directors: less than one-third	Director	In case of **a listed company with a parent company or the like, if outside directors do not represent at least one-third** of the board members, vote against **the appointment of directors**
Nomura AM	Outside directors: 2 members or less than one-third	Chairman, President, etc.	**If there are no more than two outside directors, or outside directors represent less than one-third of board members,** in principle, vote against **the re-appointment of Chairman, President, etc.** However, in case of a **Company with Audit & Supervisory Board which does not have a controlling shareholder**, for an AGM to be held by Oct. 2021, the threshold is two or 20% of board members, whichever larger.
Tokyo Marine AM	Independent directors: less than 2 members, or less than one-third	Director being top management	Because it is necessary to enhance the independence of the board of **a company with a controlling shareholder**, we demand the appointment of multiple independent directors, representing at least one-third of the board members. **In case the company does not appoint multiple independent directors, representing at least one-third of the board members, we will make a negative decision on the director who will assume the top management position.**
Amundi Japan	Independent directors less than one-third	Representative Director & outside director who is not fully independent	In case of **a listed subsidiary, unless fully independent outside directors represent at least one-third of the board members,** vote against **the appointment of Representative Director and outside directors who are not fully independent**
ISS	Independent directors: less than one-third	Director being top executive	**In case of a company with a parent company or controlling shareholder,** unless the board, after the AGM, will include at least two independent directors, or at least one-third of the board members will be independent based on ISS independent criteria, vote against the director being the top executive.

(Note) AM stands for Asset Management.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Corporate initiatives #1)

☐ In Corporate Governance Reports, companies generally disclose the following matters as “Policies relating to measures for protecting minority shareholders when conducting transactions etc. with controlling shareholders”.

Relationship with controlling shareholder at the time of reporting

Listed subsidiaries

a Capital

i. Stake of a controlling shareholder (in addition to stating it in another section)
- Including capital relationships with other group companies, not only the largest shareholder

b Personnel

i. Dispatch of directors/officers, concurrent positions, number of such people
- Including a framework for protecting minority shareholders in case directors, etc. are dispatched from the parent company

ii. Dispatch of employees, number of such people

c Business

i. Difference in business domains and background
- Including coordinated matters concerning business domains

ii. Types/conditions of business alliances, etc.

iii. Types/conditions of business transactions

d Evaluation

i. Advantages/disadvantages of being a listed subsidiary, including the above-mentioned matters
- e.g. business stability, possible business expansion (advantages); and possible impact of a controlling shareholder on decisions on management policies (disadvantage)

e minority shareholders

i. Existence of an agreement for the protection of minority shareholders, and its details
- e.g. an upper limit of the parent company’s ownership ratio, memorandum in consideration of minority shareholders’ rights

Decision-making process for transactions with controlling shareholder

a Decision-making criteria

i. Guidelines for decision-making/ transactions
- e.g. Ensuring terms of conditions of transactions with a controlling shareholder are equitable to those of transactions with others

b Procedures

i. Deliberative body and decision-making body
- e.g. Commencement of transactions with controlling shareholders needs to be approved by officers in charge, boards, separately-established meeting bodies, etc.

ii. Use of outside directors

iii. Use of external organizations

c Monitoring

i. Monitoring body
- e.g. Terms and conditions as well as the status of transactions with controlling shareholders are regularly examined by boards, separately-established meeting bodies, etc. after the commencement

ii. Criteria for alert
- e.g. If terms and conditions are disadvantageous to the company, negotiate for cancellation, etc.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Corporate initiatives #2)

- To ensure the effectiveness of governance systems of listed subsidiaries, **some companies take such measures that an optional committee mainly comprising independent directors deliberates important transactions with controlling shareholders.**

Examples of statements in Corporate Governance Reports

The Company established the Rules for Related Party Transaction Management. In case of conducting a transaction with our parent company XXX, or conducting a related party transaction […] set forth in the Rules, it is required to **clarify the need for such a transaction and the adequacy of trade terms and conditions, and then obtain an approval of the management meeting**. Furthermore, for the purpose of strengthening corporate governance, the Company established an **advisory committee comprising only outside directors; and important transactions out of related party transactions approved by the management meeting further require deliberations by the advisory committee and an approval of the board**. In addition, the advisory committee deliberates the formulation of a policy for protecting minority shareholders, and makes recommendations to the board, which, in turn, makes necessary management decisions by respecting such recommendations. […]

[…], with respect to important transactions, etc. with our parent company or its subsidiary […] (hereinafter, "Parent Group"), **the Supervisory Committee for Conflict of Interest in Transactions between Group Companies, which** is an advisory body of the board and **consists only of independent directors, makes deliberations from the perspective of protecting interests of minority shareholders.**

[…] with respect to important transactions out of such transactions, it is required to consult in advance with Governance Committee, where a majority of its members are **independent directors and independent external experts, and obtain its recommendation; and then the Board of Directors makes decisions whether or not to conduct such transactions.** Furthermore, to secure the fairness, the status of transactions with the parent company is regularly reported to Governance Committee.

[…] To conclude an agreement for an important transaction, etc. with Company XXX […], upon receiving recommendations from the consultation committee for parent-subsidiary transactions comprising mainly outside officers, the board of directors deliberates the matter, and confirms that the transaction will not undermine the interests of shareholders other than the parent company, before concluding the agreement.

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Recent example #1)

- The supervision of conflicts of interest among the company, the management, a controlling shareholder, etc. is one of roles and responsibilities of independent directors.
- However, there is a recent case where **a listed subsidiary experienced an absence of independent directors as a result of the voting decision of a shareholder who owns approx. 45% of voting rights.**

- In 2012, Company X and Company Y concluded a business/capital alliance agreement, and started Business A. **(Company Y's voting rights ratio: approx. 45%)**

Sequence of events	
July 2019	• Company X sent convening notices for the AGM to shareholders • Company Y **announced that it will vote against the proposal for re-electing President of Company X because of "poor business performance"** • On the same day, Company X **announced that it requested Company Y for a consultation toward a dissolution of the alliance, together with the following facts** ✓ **In Jan., Company Y requested Company X to consider the transfer of Business A; upon consideration at an independent officers' meeting, it replied to Company Y in Feb. that it will not transfer the business.** ✓ **In June, Company Y demanded the resignation of President** ✓ **Overview of the business/capital alliance agreement (the right to demand sale of shares)** concluded in 2012 • Company Y **announced that it will vote against the re-election of** Company X's **President and 3 independent directors** * It opposed the re-appointment of the **independent directors based on a comprehensive judgment, considering their responsibility for having appointed the President who caused poor business performance**
Aug.	• At the AGM of Company X, **proposals for re-electing President and all 3 independent directors were voted down**

Corporate Governance Code [Principle 4.7 Roles and Responsibilities of Independent Directors] ***(excerpts)***

Companies should make effective use of independent directors, taking into consideration the expectations listed below with respect to their roles and responsibilities:

iii) **Monitoring of conflicts of interest between the company and the management or controlling shareholders**

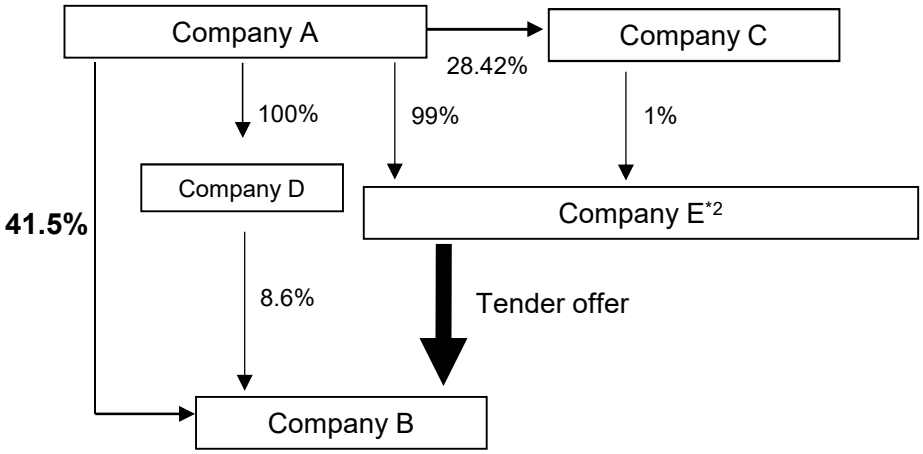
Source: prepared by FSA, based on listed companies' timely disclosures

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Recent example #2)

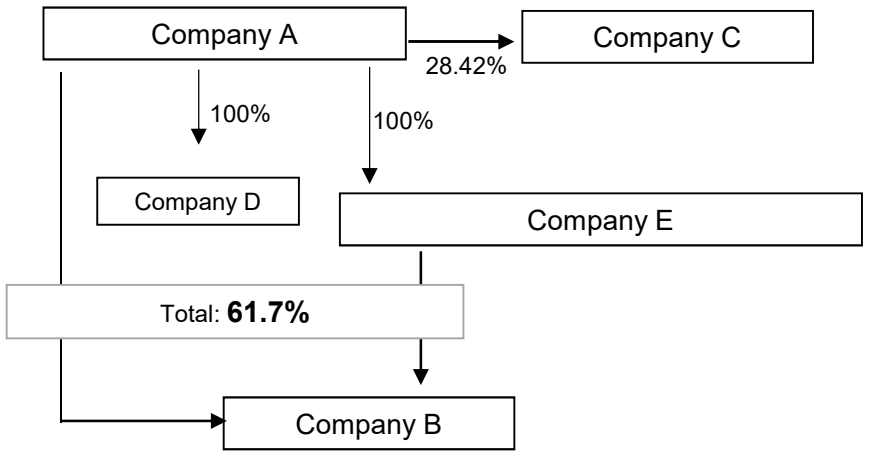
☐ Recently, a target company of a tender offer has caused controversy over **its special committee's opinion stating "the interests of minority shareholders will not be undermined."**

Overview of tender offer by Company A to acquire Company B *1

[Before tender offer]



[After tender offer]



*1. After this tender offer, Company B commenced squeeze-out procedures, and eventually, Company B went private.
*2. Special Purpose Company established by Company A (equity contribution of 99%) and Company C (equity contribution of 1%)

☐ When the offeree (Company B) was to announce the opinion about the tender offer according to the Securities Listing Regulations, its special committee submitted a report stating as follows:

(1) **It is considered reasonable that**, while the offeree's Board agrees with this tender offer, **the offeree announces the opinion that whether or not to accept this tender offer is up to shareholders of the offeree.**

(2) **The offeree's board decision on such an opinion that whether or not to accept this tender offer is up to shareholders of the offeree,** while the board agrees with this tender offer**, is considered not to undermine the interests of general shareholders of the offeree.** *(omit the rest)*

←It was questioned **whether a non-stakeholder's opinion stating "it will not undermine the interests of general shareholders" is sufficient** for judging the fairness of this tender offer, and was **suggested that who to judge the fairness should be reviewed.**

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (Statement of concerned organization #1)

- Concerning the risk of conflict of interest between a controlling shareholder and minority shareholders of **listed subsidiaries and the like,** market players also **call for the improvement in the protection of minority shareholders' interests.**

Japan Association of Corporate Directors
Urgent Proposal: Corporate Governance of Listed Subsidiaries in Japan (2019)

July 30, 2019

Japan Association of Corporate Directors (chaired by Yoshihiko Miyauchi) […] hereby announces its view of corporate governance of listed subsidiaries in Japan, and controlling shareholders' obligations for protecting minority shareholders, by correcting wrong interpretations of the Western theory of capital. […]

・ This opinion should not be construed as denying the parent-subsidiary listing as it has an incubation support function which accelerates the business expansion of subsidiaries. However, […] the **parent-subsidiary listing has a risk of developing a conflict of interest between a parent company and minority shareholders/ general shareholders of a subsidiary, which calls for a disciplined governance mechanism and its appropriate handling.** […] there, independent directors of a listed subsidiary need to play an important role to protect the interests of minority shareholders.
・ […] If independent directors, who are expected to check the control of tyranny shareholders, can be dismissed for no urgency or illegal act, the basic structure of governance will fail. […]
・ **Right from the start, there is such a structural contradiction that a controlling shareholder can appoint/elect independent directors who are responsible for protecting minority shareholders from conflicts of interest between the controlling shareholder and minority shareholders. In order to resolve this contradiction and prevent conflicts, leading countries in terms of corporate governance have introduced mechanisms to put controlling shareholders under certain legal obligations for protecting minority shareholders.** It can be said that the parties to the above-mentioned conflicts are, in some sense, victims of the underdevelopment of institutions. **In order to improve the quality of corporate governance in Japan and develop the capital market to be truly global, it is urged that an institutional framework should be established, that is similar to leading frameworks in the US, the UK, and Germany.**

(2) Protection of Minority Shareholders of Listed Subsidiaries and the Like (statement of concerned organization #2)

August 1, 2019

Opinion on Corporate Governance of Listed Companies with a Controlling shareholder

Japan Corporate Governance Network

One of the characteristics of the capital market in Japan is the fact that there are a large number of listed subsidiaries.

Listed subsidiaries have such advantages as accelerating the growth through their own financing instruments, and maintaining and improving motivation of the employees. However, it is considered that there is a structural risk of conflict of interest between a controlling shareholder and other shareholders of a subsidiary (hereinafter, “minority shareholders”), and quite a few investors raise questions about current practices of the protection of minority shareholders.

As long as the listing of subsidiaries is not institutionally prohibited, **protecting the interests of minority shareholders of listed subsidiaries is a significant challenge to the trust in Japan’s capital market. Accordingly, listed subsidiaries must establish effective governance systems for protecting the interests of minority shareholders. In doing so, independent directors play a key role, as they are expected to secure the interests of minority shareholders through the oversight of conflict of interest with controlling shareholders.** […] **As long as receiving benefits from the capital market in Japan by holding controlled companies as listed subsidiaries, controlling shareholders should be responsible for the establishment of such governance systems.** From that perspective, controlling shareholders should not refuse the reappointment of independent directors, for whose appointment the controlling shareholders voted at least once, unless such directors have made obvious mistakes, etc. [*omit the rest*]

(3) Optimization of Group Management

(3) Optimization of Group Management
(Decision on group management policy and business portfolio management #1)

☐ From February 2020, **listed companies which have listed subsidiaries** are required to disclose **reasons for holding the listed subsidiaries, based on their views and policies of the group management.**

- A listed company which has a listed subsidiary needs to disclose the following matters in its Corporate Governance Report:
  - Reasons for holding the listed subsidiary and measures for ensuring the effectiveness of the listed subsidiary's governance system, based on its view and policy of the group management
  - The agreement with the listed subsidiary, if any, which is related to the descriptions about its view and policy of the group management (on a request basis)
- A listed company which has a parent company needs to disclose the following matters in its Corporate Governance Report:
  - View and measures concerning ensuring the independence from parent company (including unlisted company)
  - View and policy of the parent company (including unlisted company) concerning the group management, and the related agreement, if any (on a request basis)

[Preparation Guidelines for Corporate Governance Reports: I-5 Other special circumstances which may have material impact on corporate governance] **partially omitted*

・In case your company has a listed subsidiary, please describe your view and policy of the group management, and, in light of them, also describe **reasons for holding the listed subsidiary, as well as measures for ensuring the effectiveness of the listed subsidiary's governance system. If your company has concluded an agreement** (including consensus documents under other names) which is related to the descriptions about your view and policy of the group management, **it is desirable to describe the overview of the agreement.**

* If your company has multiple listed subsidiaries, please **describe reasons for holding each listed subsidiary separately.**

* "Reasons for holding a listed subsidiary" should be described from the perspective of maximizing corporate value of the group.

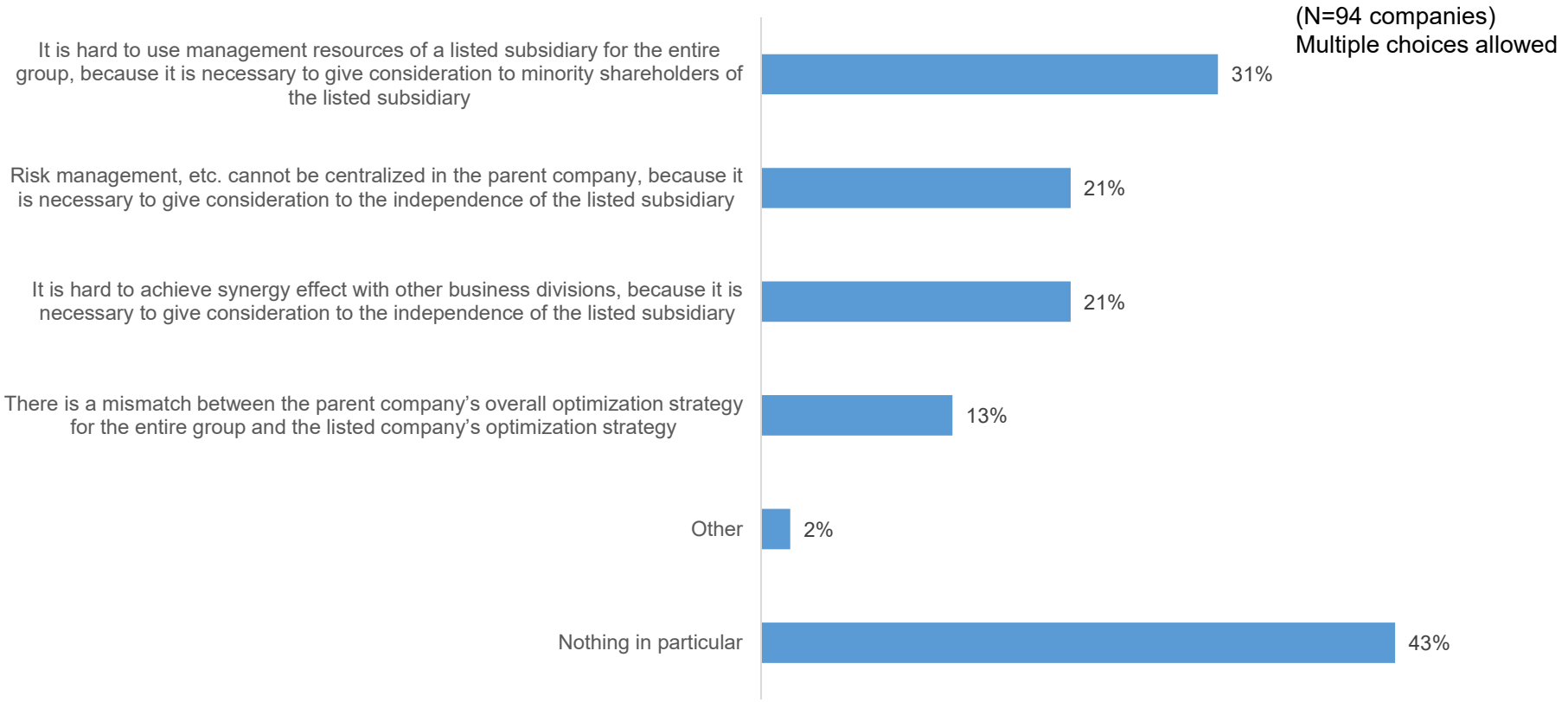
* With respect to "measures for ensuring the effectiveness of the listed subsidiary's governance system", please describe the policy of your company's involvement, as the parent company, in establishing and implementing the governance system of the listed subsidiary, as well as measures for ensuring the listed company's independence from the perspective of protecting minority shareholders.

・In case your company has the parent company (including unlisted company), from the perspective of protecting minority shareholders, please describe your company's **view/policy for ensuring the independence from the parent company**. Furthermore, it is desirable to describe **the parent company's view and policy of the group management, as well as the overview of the related agreement, if any.**

(3) Optimization of Group Management
(Decision on group management policy and business portfolio management #2)

☐ **Nearly 60% of companies** which have listed subsidiaries **recognize that there are some sort of issues** in formulating/implementing business portfolio strategies for the entire corporate groups.

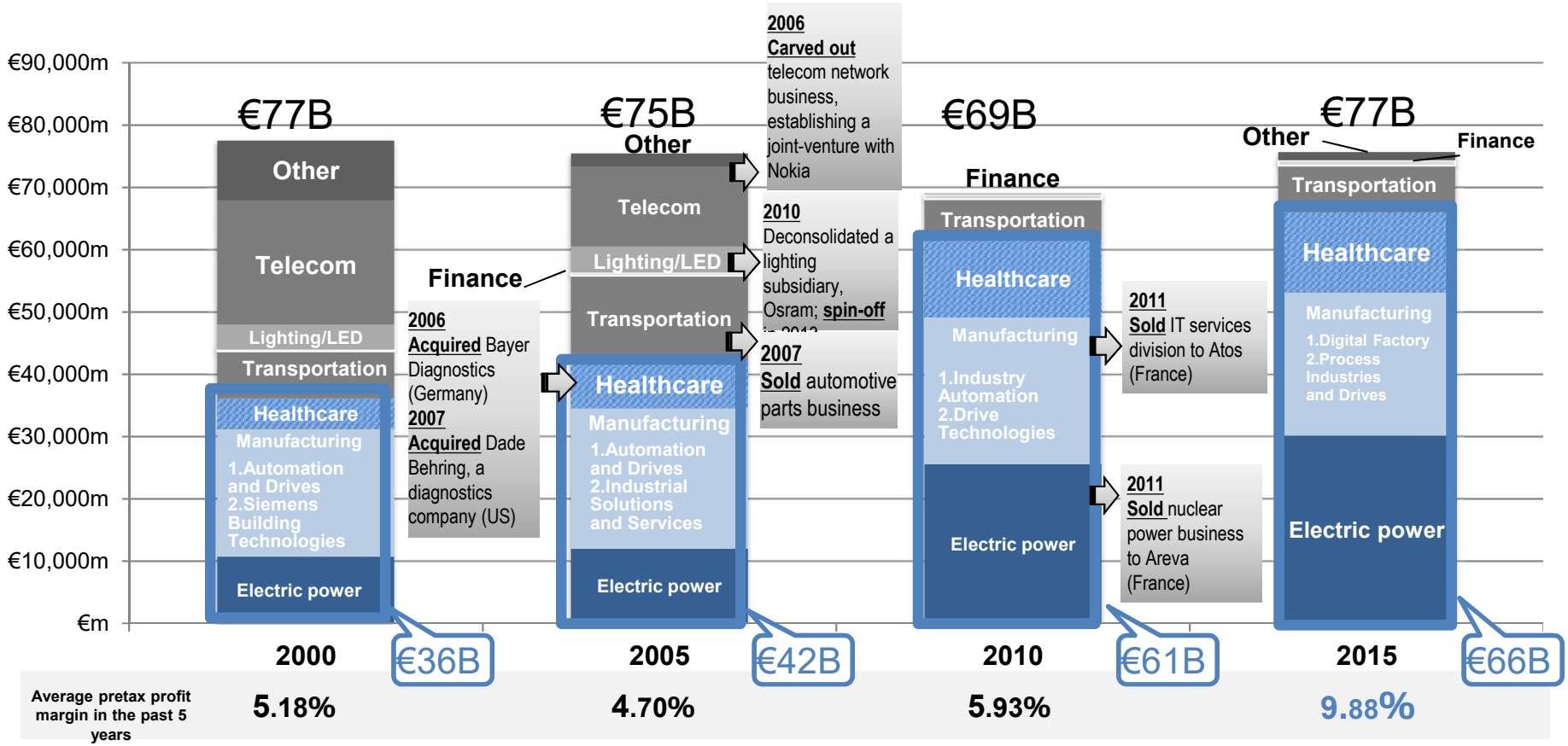
Issues in listed subsidiaries in formulating/implementing business portfolio strategies for the entire corporate groups



Source: prepared by FSA, based on the report on FY2018 Economic and Industrial Research Project commissioned by METI (Research on Corporate Governance for Group Management) (Economic and Industrial Policy; research expenses related to the 4th Industrial Revolution)

(3) Optimization of Group Management
(Decision on group management policy and business portfolio management #3)

- **In Europe and the US,** there are companies which have **successfully increased earnings power of the entire group by boldly disposing of non-core businesses that have little synergy with core business divisions, and strengthening core businesses.**
- For example, Siemens AG (Germany) stipulated in its portfolio policy that it will withdraw from any business which does not have a chance to be No. 1 or No. 2 in the industry, and implemented the policy by using strict indicators for management decisions. It resulted in an increase in its earnings power.



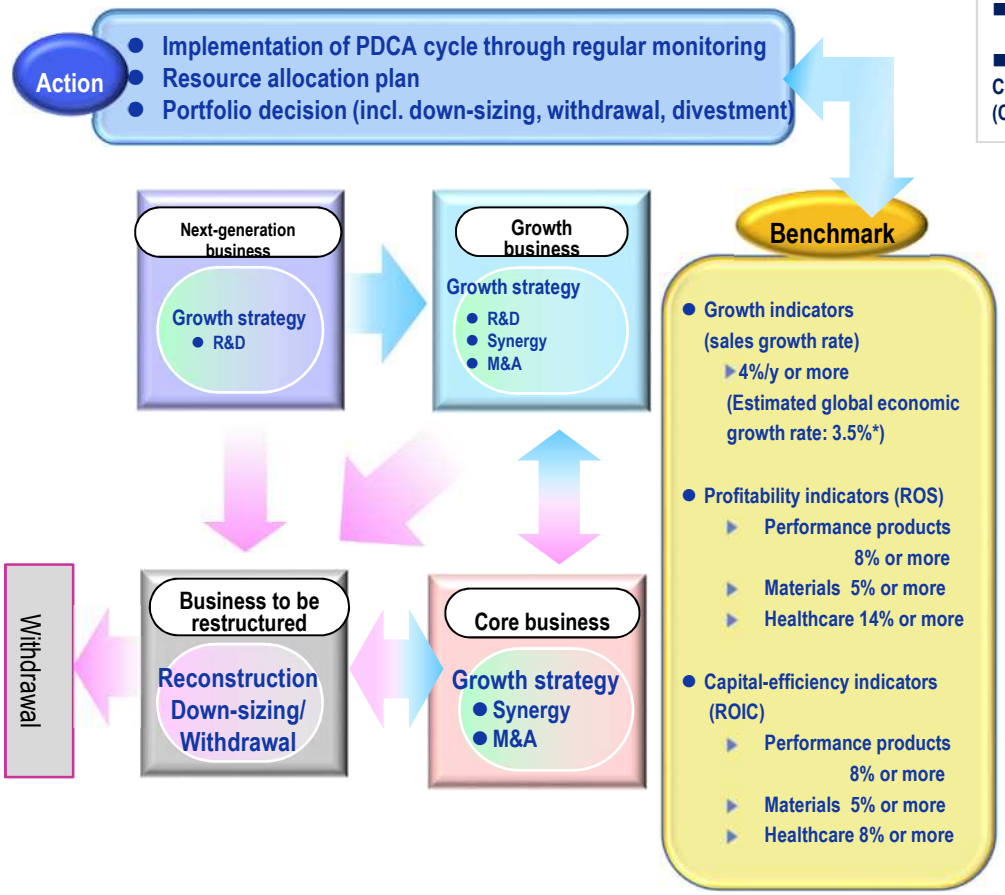
Source: prepared by FSA, based on Siemens Annual Report, THOMSON ONE, Nomura Research Institute "Knowledge Creation and Integration" (August 2017 issue)

(3) Optimization of Group Management
(Decision on group management policy and business portfolio management #4)

☐ In Japan as well, there are companies which **practice business portfolio management from the viewpoint of overall group management**.

Criteria concerning business portfolio management: Benchmarks for our current MTBP (2016-20)

- Positioning of each business and subsidiary/affiliate by using segment-specific indicators
- Accelerating optimum resource allocation and portfolio, while performing regular monitoring



Review process for business portfolio management: Our management structure (*partially re-posted*)

Executive meeting for monitoring businesses
- Held twice a year
- Demand a scenario to improve business which failed to satisfy the indicators
- Improvement: grade remains unchanged
  Not achieved: downgrade
- Secretariat & person in charge

Corporate Planning (CSO) / Corporate Management (CFO)

Board meeting to discuss portfolio
- Held once a year
- Half-day discussion, focusing only on this topic
- Lead to formulation of mid- to long-term strategy
- Secretariat & person in charge

Corporate Planning (CSO) / Legal Affairs (CCO)

- **Tentative decision criteria for current Mid-Term Business Plan (2016-20)**

①In case ROIC of a business is below the benchmark (performance products & healthcare 8%, chemicals 5%), it will be subject to the monitoring, and (additional) measures for such a business will be discussed.

(Under normal conditions, the same target ROIC should be used for all business segments,. However, before the start of the current MTBP period, the company was in a difficult position to achieve even ROE of 10%, so the above-mentioned figures are "tentative" benchmarks for the purpose of achieving ROE of 10%. This will be corrected in the next MTBP.

②For business monitoring, in addition to the above-mentioned thresholds of ROIC, we will focus on the deviation from MTBP to select SBU. We will check the progress of the action plan and the investment plan, and discuss whether it is necessary to consider EXIT. We will instruct the relevant business company to review the business strategy, including EXIT recommendation, and the business company will put it into practice.

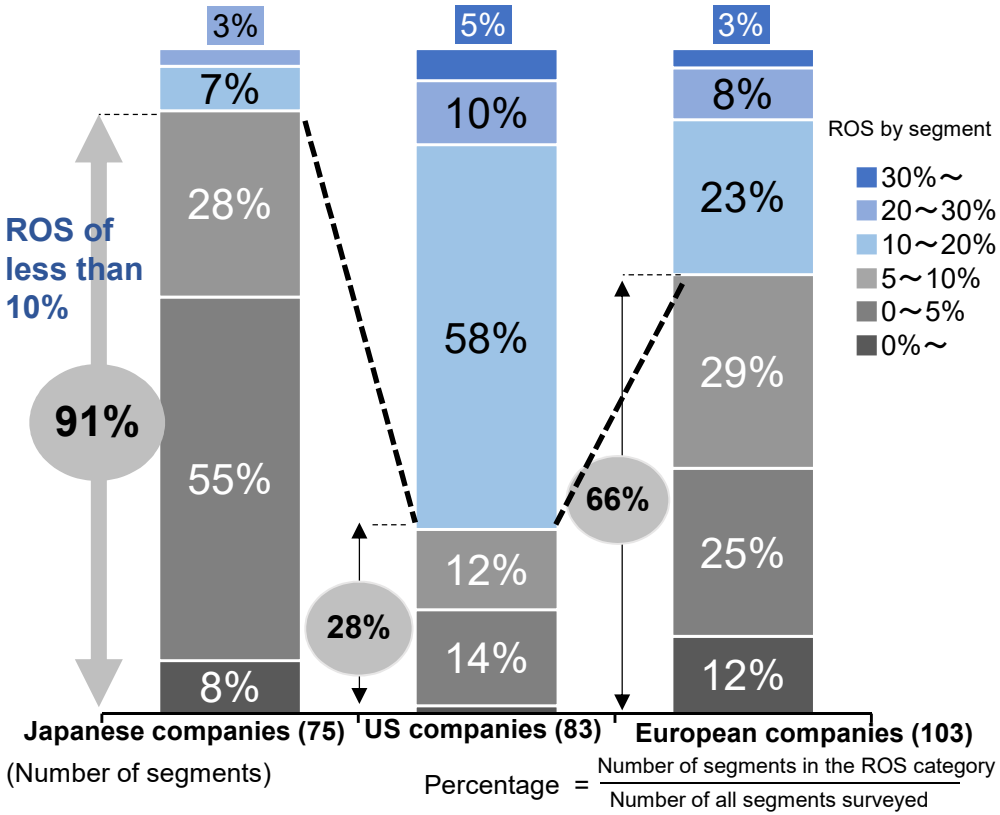
- **We promote the transformation as follows: not only CFO, but also CCO/CSO are selected from those who have experience in acquisition and divestment of businesses; and external professional(s) is/are assigned to the M&A office.**
- **The position of CFO is served by a person who has work experience with an investment bank, and CFO leads initiatives seeking the use of the capital market (e.g. spin-off & listing, etc.)**

Source: Presentation Material for the 2nd meeting of METI's "Business Restructuring Study Group" (Feb. 14, 2020) prepared by Member Kobayashi

(3) Optimization of Group Management (Conglomerate discount)

- Among major **diversified companies, the percentage of underperforming segments* is approx.90% of such companies in Japan, while the percentage is approx. 30% in the US and approx. 70% in Europe.** * Segments whose return on sales (ROS) is less than 10%
- In this regard, some argue that there has occurred a **conglomerate discount,** which refers to a tendency of the market to value a company that operates in multiple industries (diversified company) lower than a single-line company in the respective industry.

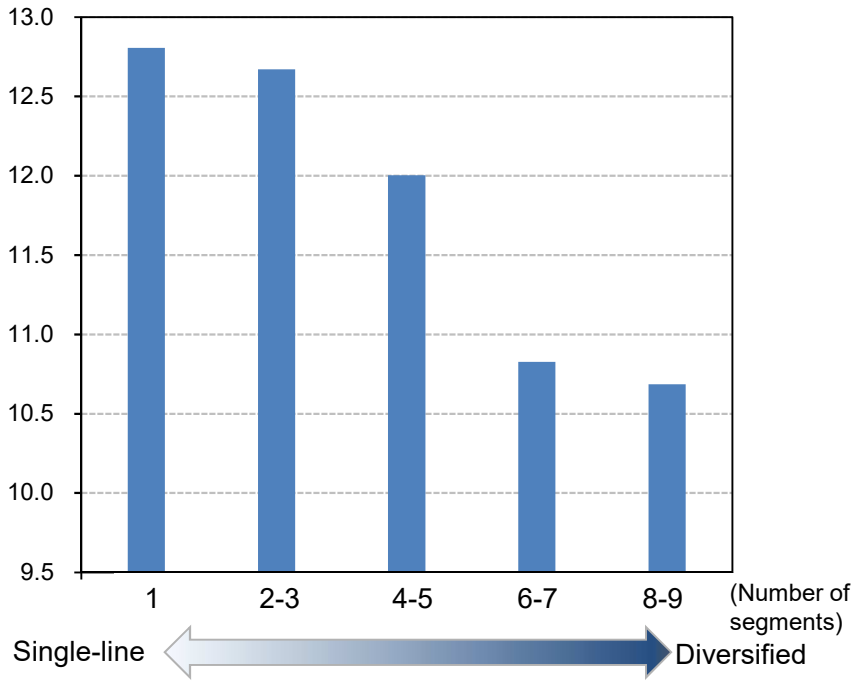
Distribution of ROS by segment



Percentage = Number of segments in the ROS category / Number of all segments surveyed

Source: prepared by FSA, based on Material for the 1st meeting of METI's "Business Restructuring Study Group" (prepared by METI based on Deloitte Tohmatsu Consulting's report using Bloomberg database. Among the world's top 500 companies in terms of consolidated global sales, whose sales and operating income by segment are available for 8 consecutive years from '06 to '13, they analyzed top 50% companies in HHI calculations by country, whose overseas sales ratio is 20% or more.)

Average PER by the number of business segments (12 months forecast)



(Note) Surveyed TOPIX 1000 companies; forecast based on QUICK consensus (if not available, based on Toyo Keizai's forecast)
PER: Stock price / Current net income (earnings) per share
Source: prepared by FSA, based on Material for the 1st meeting of METI's "Business Restructuring Study Group" (prepared by SMBC Nikko Securities)

(3) Optimization of Group Management (Risk management incl. internal control: opinions expressed so far)

- With respect to a group's internal control and risk management, it has been pointed out, since before COVID-19, that there is a challenge of ensuring the quality especially in overseas subsidiaries.
- After COVID-19, it is especially pointed out that there is a need for corporate transformation and introduction of remote auditing.

Opinions before COVID-19

- **Fraud cases in listed subsidiaries (including overseas subsidiaries)** are caused by the tendency where parent companies hold back because of a large number of anonymous shareholders and thus **the control does not work properly,** and/or where people may consider that any fraud will not occur owing to the external control, including checking by an auditing firm. Even if a parent company dispatches officers to a listed subsidiary, it is difficult for the officers to share information solely with a certain shareholders (the parent company).
- While each overseas subsidiary has its own evaluators, it is difficult to ensure the quality equivalent to that in the Head Office, and therefore, **ensuring the quality is a challenge.**
- We started the reconstruction of the group's internal control system. First, we are working on the **visualization in the group.** Specifically we **prepared a common format for the group**, which covers multiple items, including ESG and human rights elements, and the weight on each item differs depending on line of business.
- Even in smaller business sites, if a problem comes to the surface, it will often pose a significant risk. Therefore, we prepared a **risk assurance map, taking into account particular characteristics of some overseas subsidiaries' structure and business forms, and make evaluations accordingly.**

Opinions after COVID-19

- Experiencing the pandemic, companies are definitely more aware of the need for risk management, and some companies **established a risk management committee, and examine risks from two distinct viewpoints: offensive (growth-oriented) and defensive governance.** They are increasingly aware that the traditional efforts were insufficient in terms of the following two points: (1) **BCP was not sufficient** (even if they can continue operations, recovery is slow or insufficient), (2) **Inevitable risks (e.g. cyber risk) have not been thoroughly examined in terms of people, goods, money, and information.**
- It is necessary to dynamically and repeatedly review **flexible allocation of resources, risk assessment, and internal audit planning, giving due consideration to impacts of transformation** of companies triggered by the crisis experience.
- Due to COVID-19, **remote internal auditing** is projected to increase, but it is considered there will be **restrictions especially to auditing abroad, etc.** It is effective to consider the proactive use of local resources (internal auditors) or external service providers in each country, as well as the assignment of auditors, who were expected to perform audits in other countries, to other internal audit work.

Source: prepared by FSA, based on results of interviews conducted in June 2020

(3) Optimization of Group Management (Risk management incl. internal control: Companies Act)

☐ **The development of internal control system,** which must be decided on by the board according to the Companies Act, also covers **corporate groups (business groups).**

The Companies Act
Article 362 (Authority of Board of Directors)
1. Board of directors shall be composed of all directors. 2&3. *(omitted)*
4. Board of directors may not delegate the decision on the execution of important operations such as the following matters to directors:
(i) to (v) *(omitted)*
(vi) The development of **systems necessary to ensure that the execution of duties by directors complies with laws and regulations and the articles of incorporation**, and other systems prescribed by the applicable Ordinance of the Ministry of Justice as systems necessary **to ensure the properness of** operations of a Stock Company and **operations of group of enterprises** consisting of the Stock Company and its Subsidiary Companies; or
(vii) *(omitted).*

Specified by the Act upon the 2014 revision

Regulation for Enforcement of the Companies Act
Article 100 (Systems for Ensuring the Properness of Business Activities)
1. The systems prescribed by Order of the Ministry of Justice as established in Article 362, paragraph (4), item (vi) of the Act are the following systems of the stock company:
(i) systems regarding retention and management of information in relation to the execution of the duties of a director of the stock company;
(ii) rules and other systems related to management of the risk of loss of the stock company;
(iii) systems to ensure that the execution of the duties of a director of the stock company is performed efficiently;
(iv) systems to ensure that the execution of the duties of an employee of the stock company complies with laws and regulations and the articles of incorporation;
(v) the following systems and other systems to ensure the properness of business activities in a business group comprised of the stock company and any Parent Company or Subsidiary Companies thereof:
(a) systems related to reporting of particulars regarding the execution of the duties of a director, executive officer, member who executes the business, person who is to perform the duties of Article 598, paragraph (1) of the Act, and other corporations equivalent thereto (referred to as a "director, etc." in (c) and (d)) of a Subsidiary Company of the stock company;
(b) rules and other systems related to management of the risk of loss of a Subsidiary Company of the stock company;
(c) systems to ensure that the execution of the duties of a director, etc. of a Subsidiary Company of the stock company is performed efficiently;
(d) systems to ensure that the execution of the duties of a director, etc. or an employee of a Subsidiary Company of the stock company complies with laws and regulations and the articles of incorporation.
2&3 *(omitted)*

(3) Optimization of Group Management
(Risk management including internal control: Principle for Preventing Corporate Scandals)

- In response to recent corporate scandals of listed companies, Japan Exchange Regulation (JPX-R) published “Principles for Preventing Corporate Scandals” in March 2018, in order to help the companies take preventive (ex-ante) measures against corporate scandals.
- In Principle 5 concerning **consistent business management throughout the entire corporate group,** it is stipulated that it is important to effectively manage businesses throughout the group, taking into account the business significance of each group company and its respective degree of risk involved.

Principle 5: Execute consistent business management throughout the entire corporate group

Companies should execute **effective business management throughout the entire corporate group**. When building their management structures, **companies must pay sufficient attention to the importance of each group company and the potential risks involved** in line with their overall structures and characteristics.

Overseas subsidiaries and acquired subsidiaries, in particular, require highly effective management in accordance with their individual characteristics.

(Explanations)

5-1 Corporate scandals, whether they occur at the head company or a group company, can have a serious impact on the value of the corporate group. In accordance with the Principles, it is important for companies developing business with a large number of group companies to establish a framework to ensure that their reporting lines (including chains of supervisory command) covering their subsidiaries, affiliates, and other similar organizations function and that supervisory functionality is demonstrated.

Consistent, group-wide compliance policies are vital, even in cases where some group companies have a certain degree of independence in terms of management and operations.

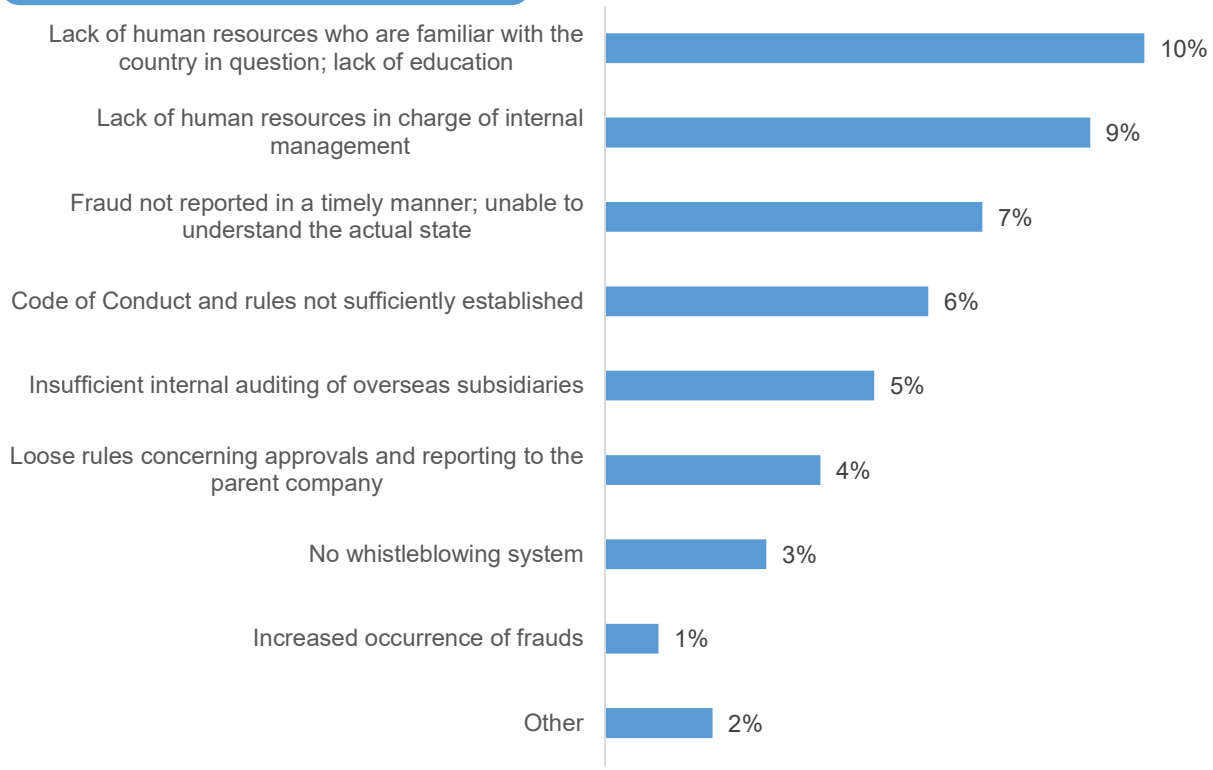
5-2 Companies with overseas subsidiaries and acquired subsidiaries, in particular, need to implement their business management with the following points in mind.

- That the geographical distance between the head company and its overseas subsidiaries/sites can limit the frequency of audits and that numerous factors, including differences in language, culture, accounting standards, and legal structures, can weaken business administration, and other elements.
- That mergers and acquisitions require companies to gather a sufficient base of the necessary information, make sufficient assessments of the necessary management frameworks in advance, and then promptly build and operate effective management frameworks after acquiring their targets

(3) Optimization of Group Management
(Risk management incl. internal control: Management of overseas subsidiaries)

- According to a fraud survey for Japanese companies, respondents pointed out such issues of managing overseas subsidiaries as “lack of human resources who are familiar with the country in question,” “unable to understand the actual state due to the lack of timely reporting on fraud,” and “Code of Conduct has not been sufficiently developed.”
- In the survey, **5% of companies reported that a fraud was discovered within 3 years from an overseas M&A.**

Issues of overseas subsidiary management



Fraud discovered within 3 years from overseas M&A

Fraud was discovered (within 3 years from overseas M&A)

5%

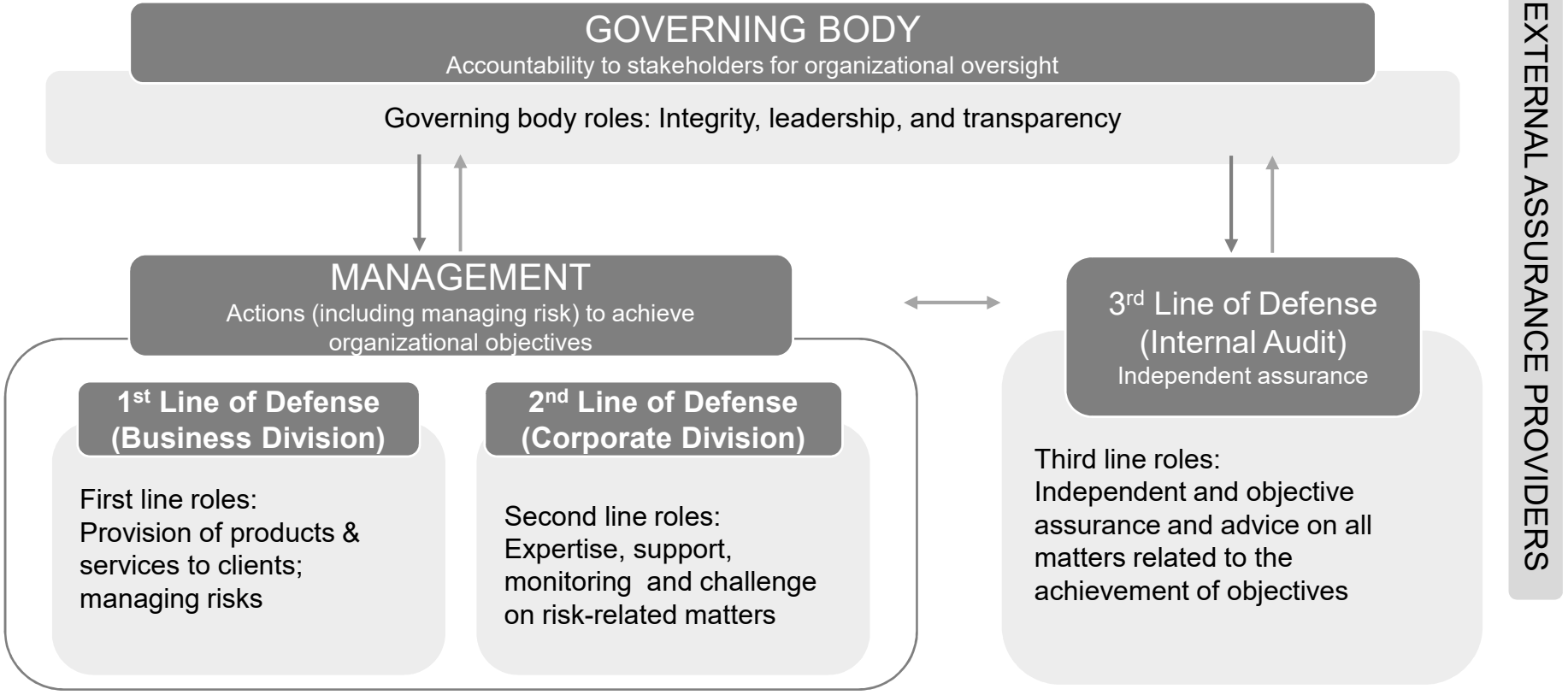
Source: prepared by FSA, based on KPMG FSA “Fraud Survey for Japanese Companies” (March 2019)

(Note) The above survey was sent to all of 3,699 listed companies as of June 30, 2018 (excluding REITs, foreign companies, and Bank of Japan), and 429 companies responded to the survey.

(3) Optimization of Group Management (Risk management including internal control: Three Lines Model)

- In July 2020, the Institute of Internal Auditors (IIA) published **"The IIA's Three Lines Model: An Update of the Three Lines of Defense".**
- This update focuses on the point that risk management is not just a matter of "defense" and protecting value, but also **contributes to achieving objectives and creating value**.

IIA's Three Lines of Defense Model

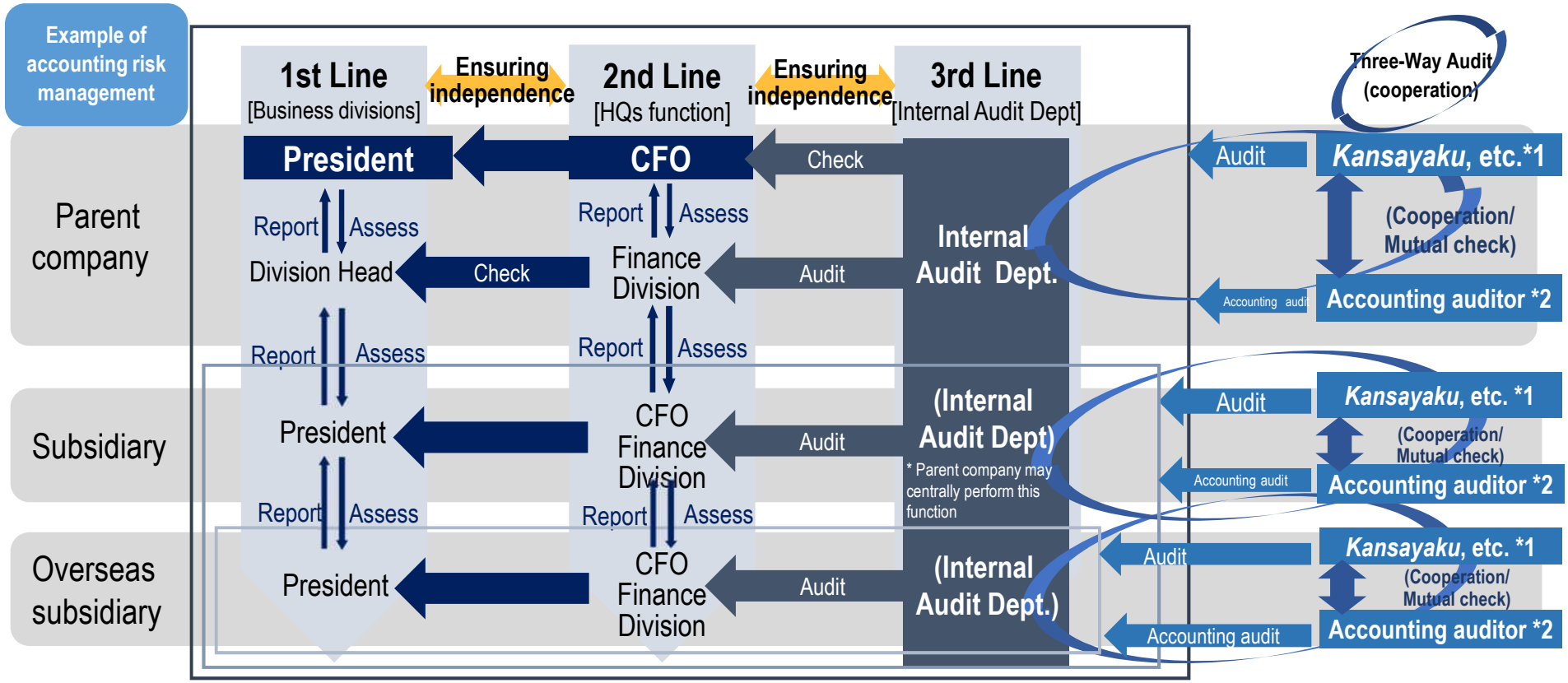


Source: prepared by FSA, based on "The IIA's Three Lines Model: An Update of the Three Lines of Defense"

(3) Optimization of Group Management (Risk management including internal control: Example of implementing Three Lines Model (illustrative purpose only))

- "Internal control system" is meant not only for **compliance and fraud prevention, but is a part of risk management** and a "mechanism for ensuring that business strategies are executed".
- In order to effectively put into practice the "Three Lines of Defense" as an organizational model for that purpose, it is considered important that 2nd and 3rd Lines perform check functions over 1st Line by ensuring the effectiveness of the reporting lines through the exercise of the authority of personnel affairs, performance appraisals, budget allocation, etc.

(Note) In the past corporate scandals, the lack of the independence of 2nd and 3rd Lines was considered problematic.



*1 The same shall apply to audit & supervisory committee members, and audit committee members.
*2:Companies with Audit & Supervisory Committee, Companies with Three Committees (Nomination, Audit and Remuneration), and Large Companies must have Accounting Auditor(s). (Companies Act. Article 327, Paragraph 5, and Article 328, Paragraphs 1&2)

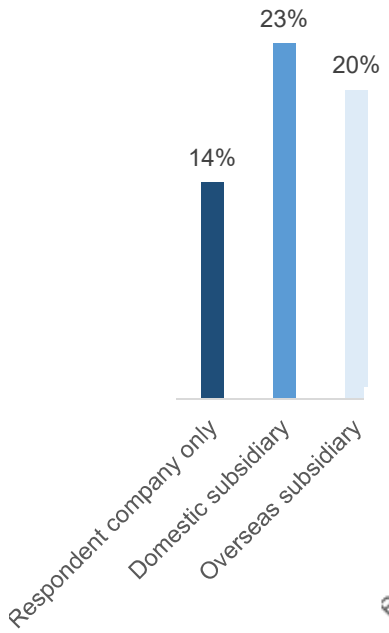
Source: prepared by FSA, based on METI's "Practical Guidelines for Group Governance System" (Group Guidelines) (issued on June 28, 2019)

(3) Optimization of Group Management
(Risk management including internal control: corporate scandal in group company)

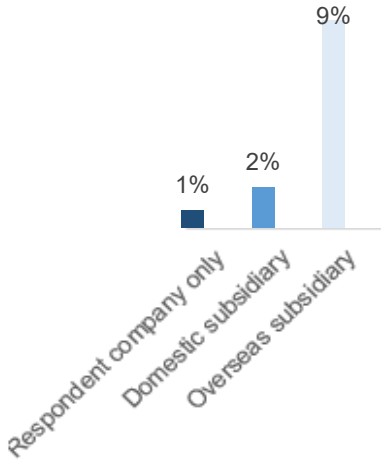
- According to the fraud survey for Japanese companies, in case of **a corporate scandal in a subsidiary,** regardless of whether a subsidiary is located in Japan or overseas, **the amount of loss tends to be larger.**
- As root causes of corporate scandals, the data shows “operations dependent on a specific person” in case of scandals at domestic subsidiaries, and “underdevelopment or absence of Code of Conduct or other ethical standards” in case of those at overseas subsidiaries.

Amount of loss due to fraud

[Max. loss of 0.1 billion yen or more]

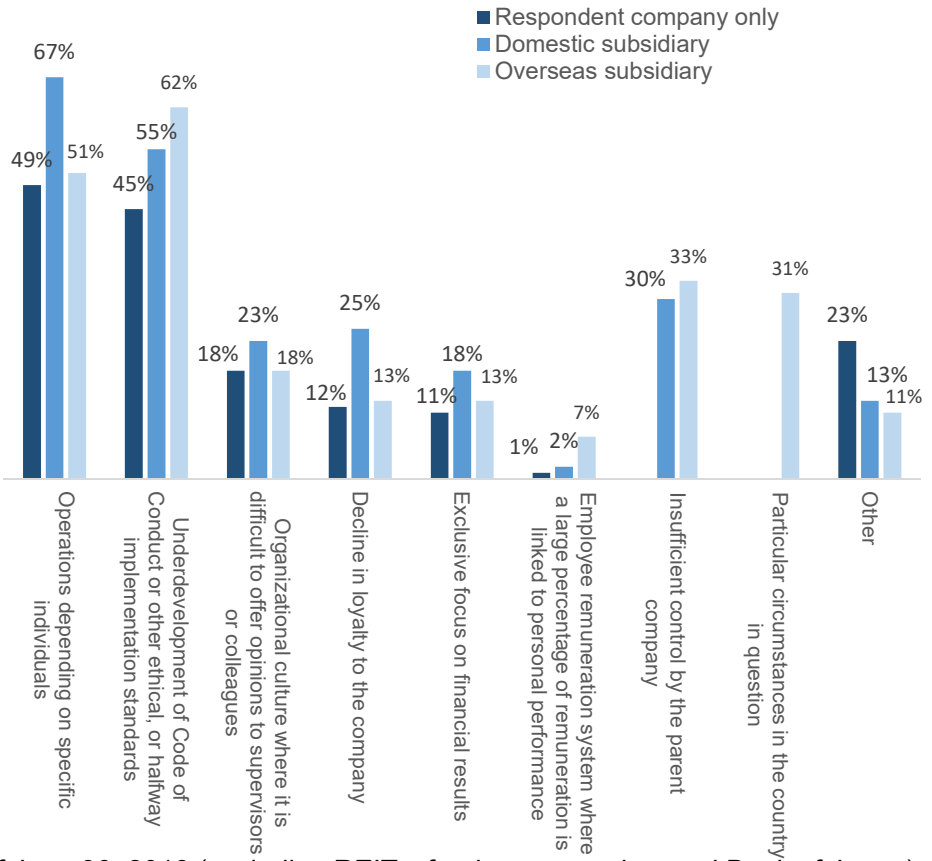


[Max. loss of 1 billion yen or more]



Root causes of fraud

Multiple choices allowed



(Note) The above survey was sent to all of 3,699 listed companies as of June 30, 2018 (excluding REITs, foreign companies, and Bank of Japan), and 429 companies responded to the survey. (Response ratio: 11.6%)

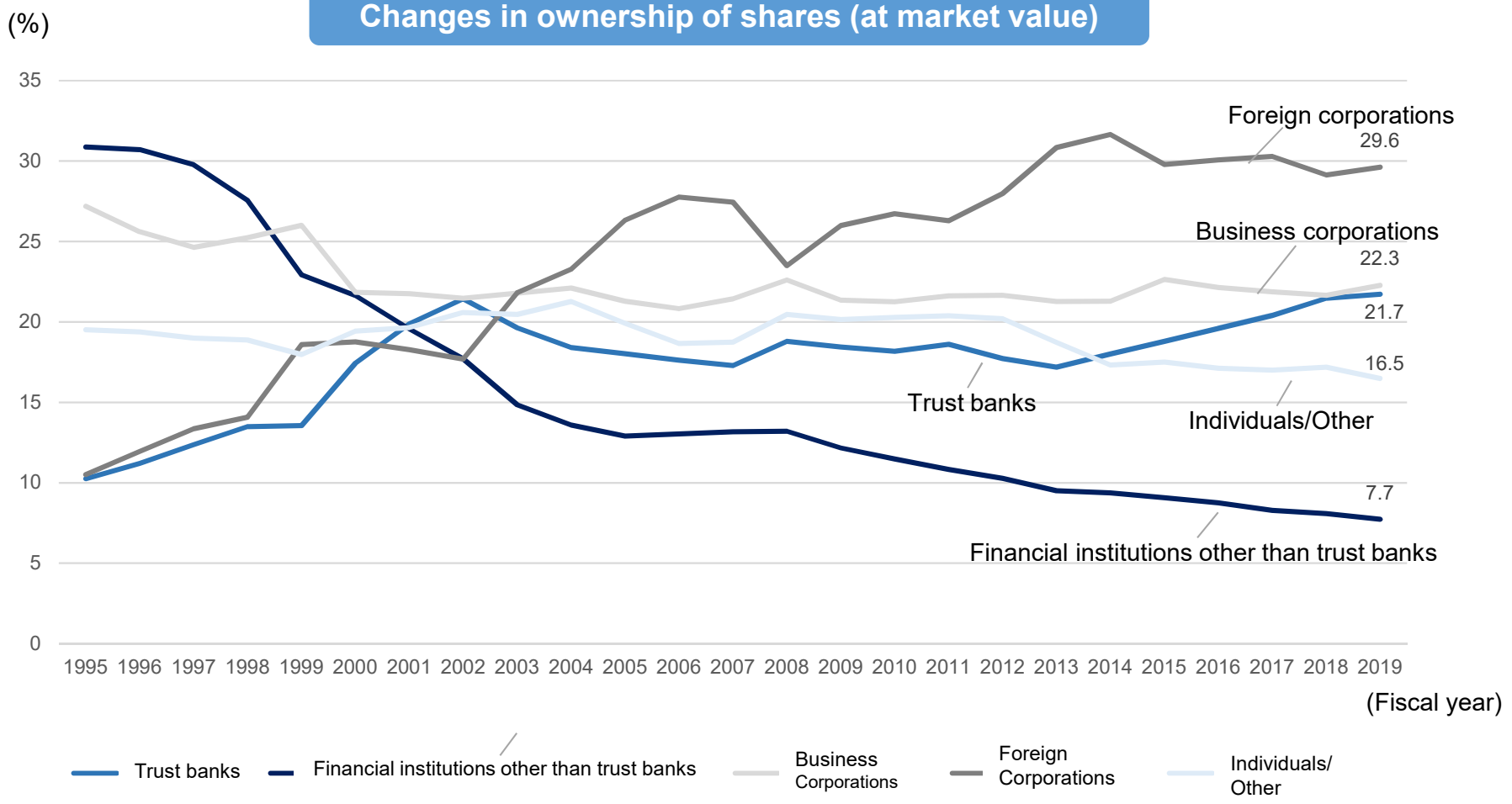
Source: prepared by FSA, based on KPMG FSA “Fraud Survey for Japanese Companies” (March 2019)

(4) Cross-shareholdings

(4) Cross-shareholdings (Ownership of shares)

- In Japan, ownership ratios of **foreign corporations and trust banks have been increasing.** On the other hand, ownership ratios of other financial institutions (banks and insurance companies) have been declining.

Changes in ownership of shares (at market value)



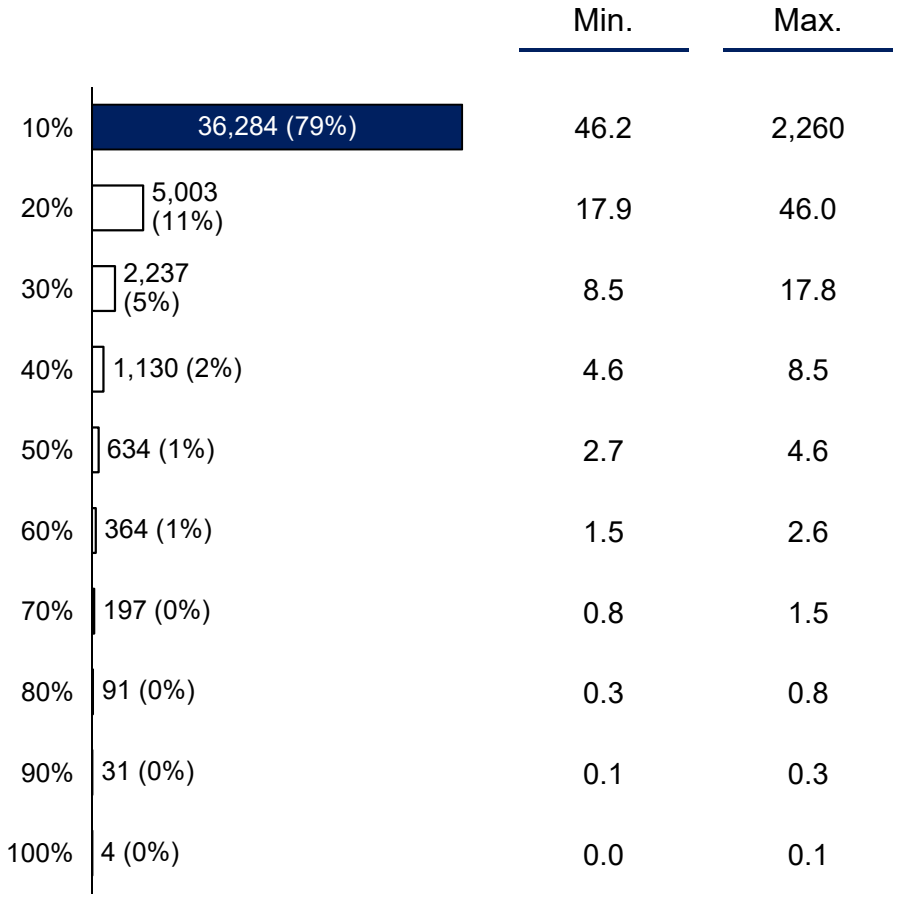
(Note) Data for FY2004 to FY2009 include securities listed on JASDAQ Securities Exchange; and from FY2010, such securities are included as securities listed on JASDAQ section of Osaka or Tokyo Stock Exchange.
Source: prepared by FSA, based on Tokyo Stock Exchange "2019 Share Ownership Survey"

(4) Cross-shareholdings (Current shareholding status)

☐ Actually, certain companies are holding/held a large amount of shares as cross-shareholdings.

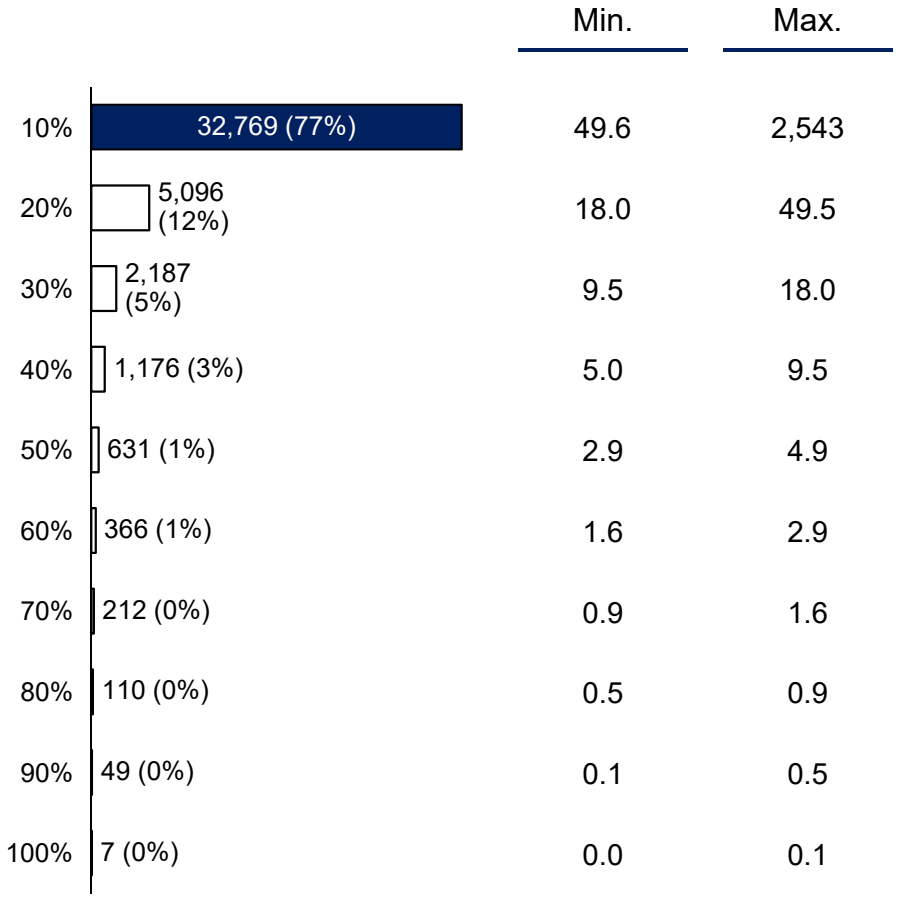
Value of shareholdings by percentile of value of shareholdings

(Note) Unit: billion yen. Figures in parentheses represent a percentage of total value of all shareholdings



Value of shares held by percentile of value of shares held

(Note) Unit: billion yen. Figures in parentheses represent a percentage of total value of all shares held.



Source: prepared by FSA, based on Securities Reports filed by companies

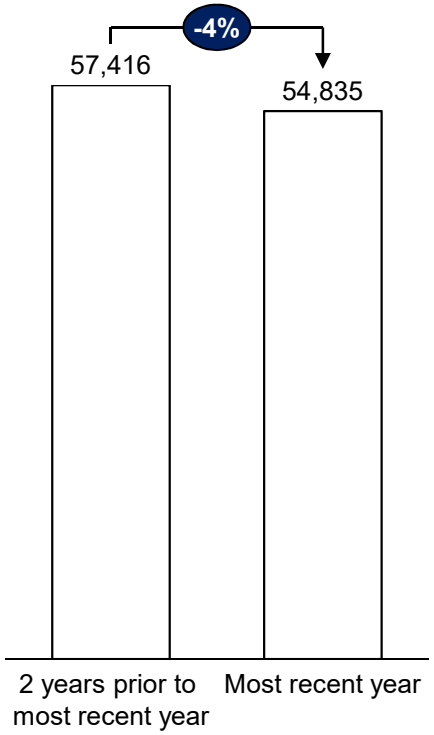
(4) Cross-shareholdings (Changes in cross-shareholdings)

☐ The larger the value of shareholdings, the more the value of cross-shareholdings has decreased in the past 2 years.

Change in value of cross-shareholdings reported on BS

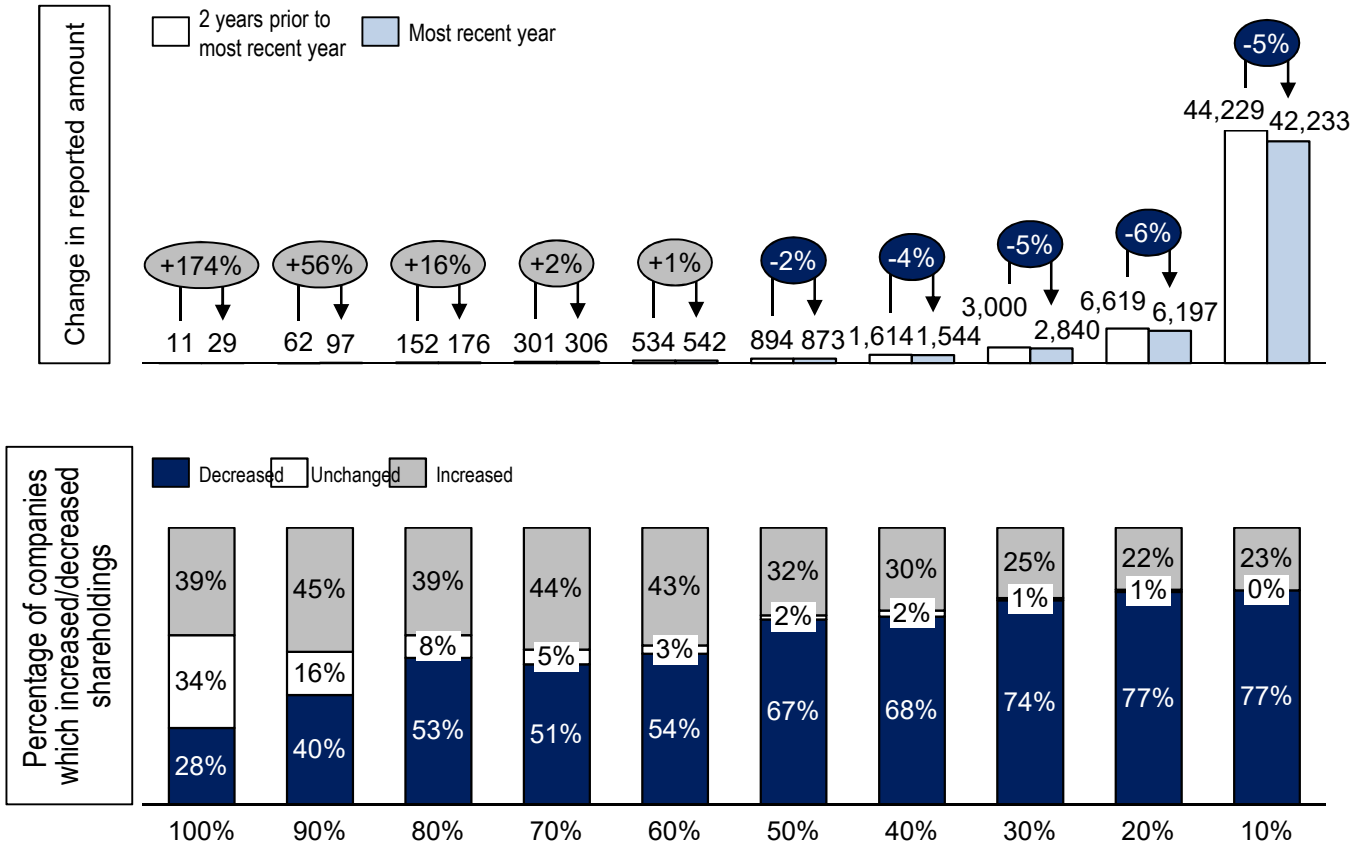
(Note) Unit: billion yen.
Data for 1,338 companies

Adjusted value per share recorded on balance sheet (BS) in the most recent year, in order to obtain constant value per share throughout the year as for securities held by each company 2 years prior to the year



Change in value of cross-shareholdings reported on BS by percentile of shareholdings in the past 2 years

(Note) Unit: billion yen



Source: prepared by FSA, based on Securities Reports filed by companies

(4) Cross-shareholdings (Examples of good disclosure expected by investors)

① Cross-shareholdings in general

Key disclosure item	Key points of good disclosure expected by investors (examples)
● Policy on cross-shareholdings	• Specifically describe how the company takes advantage of shareholdings in light of its business strategy; for example, the use of know-how/license of the investee company ➢ Merely stating “We are considering the effect of the shareholdings in light of the business strategy” is not sufficient • Specify the upper limit of shareholdings ➢ It is important to take the perspective of how the company is making the most of shareholders’ equity, and it is desirable to review the size of shareholdings based on a proportion to shareholders’ equity, instead of a proportion to total assets. • Explain the policy for the sale of the shares, if any • Provide indicators used for making decisions on the sale of the shares, if any
● Method of assessing rationale for holdings	• Specifically describe the extent of contribution to acquiring operating revenue in a similar manner to the assessment of investments in businesses, instead of merely assessing market value (unrealized gain) and dividends e.g. ・The size of business transactions increased by more than xx% compared to the average in the past x years, etc. ・ROE, RORA, etc. increased by xx%, etc. * Assessment merely based on market value (unrealized gain) and dividends is the same method for assessing pure investments, so it is necessary to keep in mind that a separate assessment is required for cross-shareholdings
● Details of assessment by the board, etc.	• Describe results of assessment in accordance with the policy on cross-shareholdings ➢ Merely stating “The board assesses whether it is appropriate to hold the shares in light of the purpose of holding” is not specific enough • Specify date/time and agenda in the description of board discussions

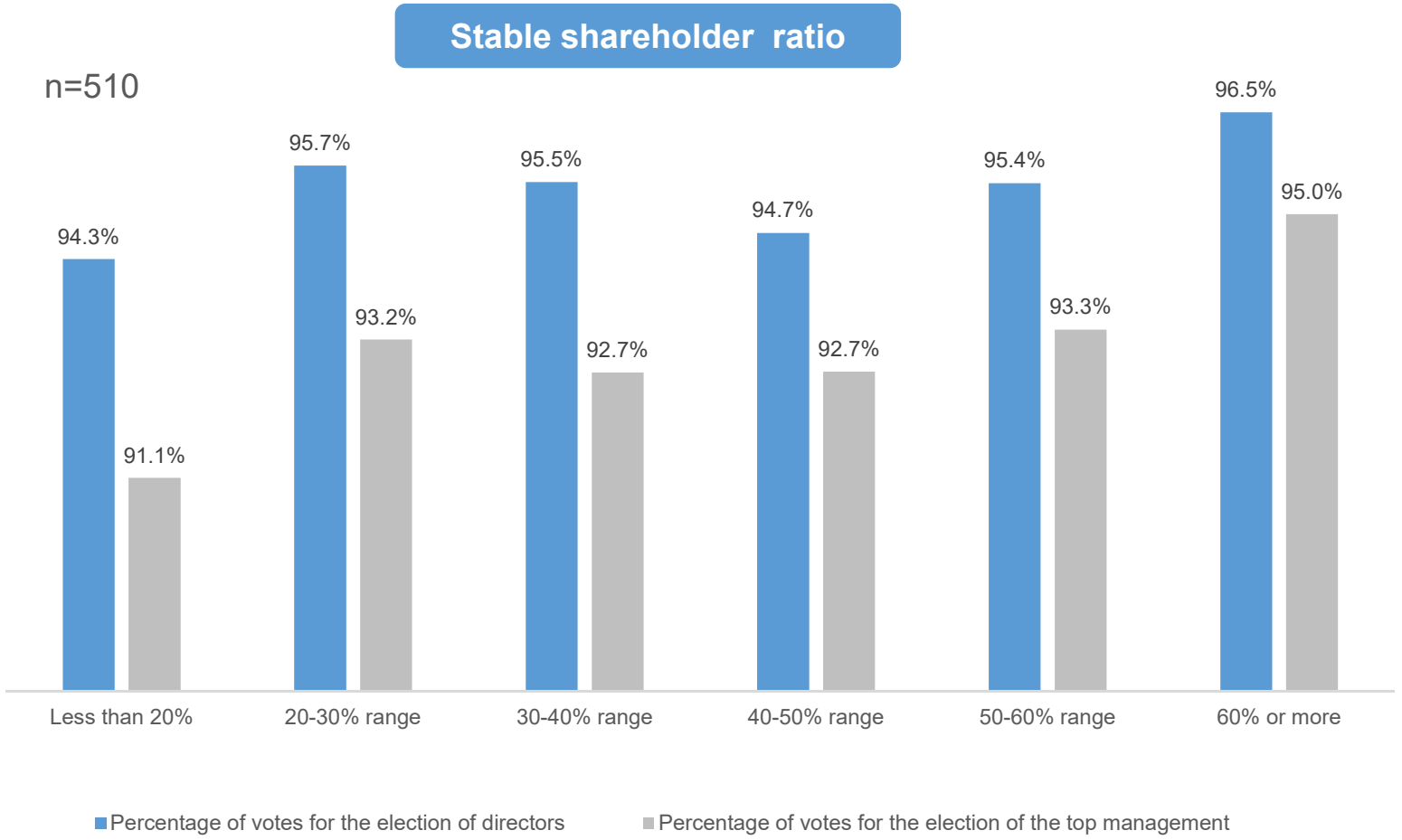
(4) Cross-shareholdings (Examples of good disclosure expected by investors)

② Individual holding

Key disclosure item	Key points of good disclosure expected by investors (examples)
● Purposes of shareholding	• In accordance with the policy on cross-shareholdings, specifically describe how the company takes advantage of the holding in light of its business strategy, by linking to related businesses and transactions ➢ Explanations by merely referring to such broad categories as business segments (used for financial reporting), “business transactions” and “financial transactions”, as well as such descriptions as “to maintain/strengthen trading between the companies” and “to contribute to regional development” are too abstract and insufficient • In case of mutual shareholdings, describe specific reasons for such holdings
● Quantitative effect of holding	• With respect to the indicators set in “Method of assessing rationale for holdings” under “① Cross-shareholdings in general” on the previous page, provide actual results and describe an assessment thereof * Assessment merely based on market value (unrealized gain) and dividends is the same method for assessing pure investments, so it is necessary to keep in mind that a separate assessment is required for cross-shareholdings (In case it is difficult to explain quantitative effect of holding) ✓ Specify in what aspects quantitative measurement was difficult ✓ Specify how to make the most of the holding in light of business strategy * In case of referring to trade secret, describe what aspect is trade secret, etc.
● Reasons for increase in holding	• Not just describing the acquisition process, such as “acquired through dividend reinvestment” or “acquired through the client share ownership program”, specifically explain how the company takes advantage of the holding in light of its business strategy; for example, the use of know-how/license of the counterparty • Merely stating “to strengthen the business relationship” is not sufficient
● Whether the issuer also holds the share of the company (mutual shareholdings)	• In case of strategically holding shares of a listed holding company, even if the counterparty which holds the company’s shares is an entity under the control of the holding company, it is deemed, in effect, as cross-shareholdings with the holding company, so specify whether shares are mutually held as reference information in the footnote

(4) Cross-shareholdings (Relation between the stable shareholder ratio and the percentage of votes ‘for’ the election of directors)

- In case the stable shareholder ratio is “less than 20%,” both the percentage of votes ‘for’ the election of directors, and the percentage of votes ‘for’ the election of the CEO were the lowest. In case of the stable shareholder ratio is “60% or more,” the percentages of ‘for’ votes are the highest.



Source: prepared by FSA, based on Shoichi Tsumuraya “Empirical Analysis of Cross-shareholdings” (Nikkei Business Publications, 2020)

(4) Cross-shareholdings (3 mega bank groups' targets of reducing cross-shareholdings)

☐ Since the introduction of the Corporate Governance Code, **3 mega bank groups, etc.** have moved **toward the reduction of cross-shareholdings, announcing reduction targets.**

3 mega banks	Outstanding balance as of 3/31/2015 (acquisition cost)	Target reduction (initial)	Deadline (initial)	Amount of actual reduction (acquisition cost basis)	Next target
Mitsubishi UFJ	2.8 trillion yen	By 800 billion yen (approx.30%) vs. end-March 2015	By end-March 2021	783 billion yen (Interim 2020)	(Ongoing) Reduction of 800 billion yen in total by around end-March 2021 (= Ratio of acquisition cost to Tier 1 capital to be approx. 10%))
Mizuho	2.0 trillion yen	By 550 billion yen (approx.30%) vs. end-March 2015	By end-March 2019	543 billion yen (as of end-March 2019)	(New) Reduction of 300 billion yen by end-March 2022 (compared to end-March 2019)
Sumitomo Mitsui	1.8 trillion yen	By 500 billion yen (approx.30%) vs. end-Sept. 2015	By end-Sept. 2020	510 billion yen (as of end-Sept. 2020)	(New) Reduction of 300 billion yen over 5 years from end-March 2020 * The bank set a new target, as it was sure to achieve the target written on the left when including shares to be sold, of which it already obtained a consent for sale.

(Note) Outstanding balance as of 3/31/2015, target reduction (initial), and deadline (initial) were announced on Nov. 13, 2015

	Outstanding balance as of 3/31/2016 (acquisition cost)	Target reduction (initial)	Deadline (initial)	Amount of actual reduction (acquisition cost basis)	Next target
Sumitomo Mitsui Trust	0.7 trillion yen	By 200 billion yen (approx.30%) vs. end-March 2016	By end-March 2021	117.6 billion yen (as of end-March 2020)	(Ongoing) Reduction of 200 billion yen in total by end-March 2021 (=the ratio to Common Equity Tier1 Capital to be reduced by half, compared to end-March 2016 (ratio: 42%)) * The next target to be announced in FY2021

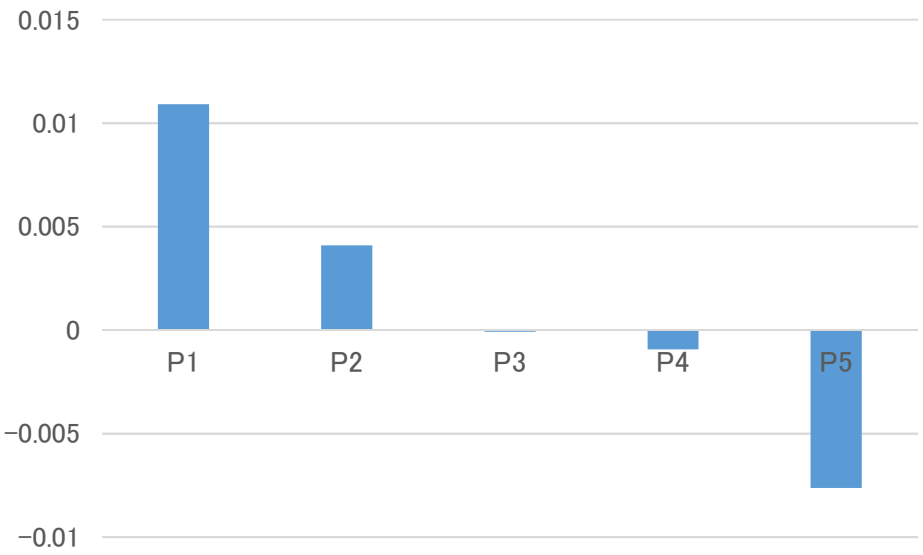
(Note) Outstanding balance as of 3/31/2016, target reduction (initial), and deadline (initial) were announced on May 18,2016

Source: prepared by FSA, based on each bank's publicly available data, etc.

(4) Cross-shareholdings (Relationship between cross-shareholdings and profit margin)

- Among empirical studies, there are the following findings: the higher the percentage of **cross-shareholdings, the lower the profit margin** (study result); **the ratio of institutional ownership has a significant positive effect on the profit margin** (empirical study).

Relationship between cross-shareholdings and profit margin (t + 1 year)



(Note) Listed companies are classified into 5 portfolios from P1 to P5, depending on the percentage of cross-shareholdings (P5 represents the highest-percentage groups of cross-shareholdings).
The vertical axis shows figures after deflating operating income by total assets at the end of the previous year, and making industry-adjustment by using the industry-median. The population of portfolios is all listed companies, data of which covers 6 years from 2010 to 2015.

Source: prepared by FSA, based on S.Tsumuraya, et al. “Relationship between cross-shareholdings and accounting figures” from Monthly Capital Market 2020.5 (No.417)

Relationship between ratio of institutional ownership and profit margin

- Since 2010, **the ratio of institutional ownership has had a significant positive effect on ROA and return on sales.**
- This finding coincides with a preceding study which analyzed the relationship between the institutional ownership and business results in 27 countries.

Source: FSA summarized relevant parts from Hideaki Miyajima, Takuji Saito “Corporate Governance Reform under Abenomics: What outcomes did two codes produce? (RIETI Policy Discussion Paper Series 19-P-026, Oct. 2019)

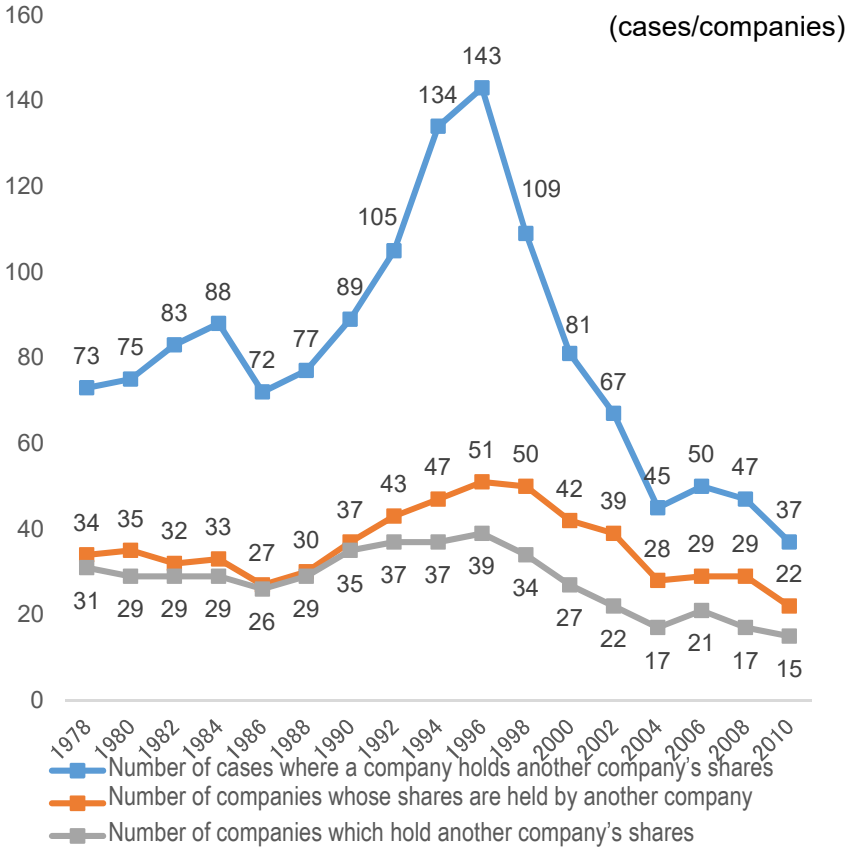
- A hypothesis that “corporate managers, who are insulated from disciplinary power of stock market, avoid making difficult decisions and do not make efforts to perform their duties” was empirically tested.
- **Cross-shareholdings have a negative impact on the frequency of investments and business restructuring of Japanese companies.** Such companies are **reluctant to take risks,** and it may lead to impediment of future growth.

Source: FSA summarized relevant parts from Naoshi Ikeda, Kotaro Inoue, Sho Watanabe, September 2017 “ENJOYING THE QUIET LIFE: CORPORATE DECISION-MAKING BY ENTRENCHED MANAGERS” NATIONAL BUREAU OF ECONOMIC RESEARCH Working Paper 23804

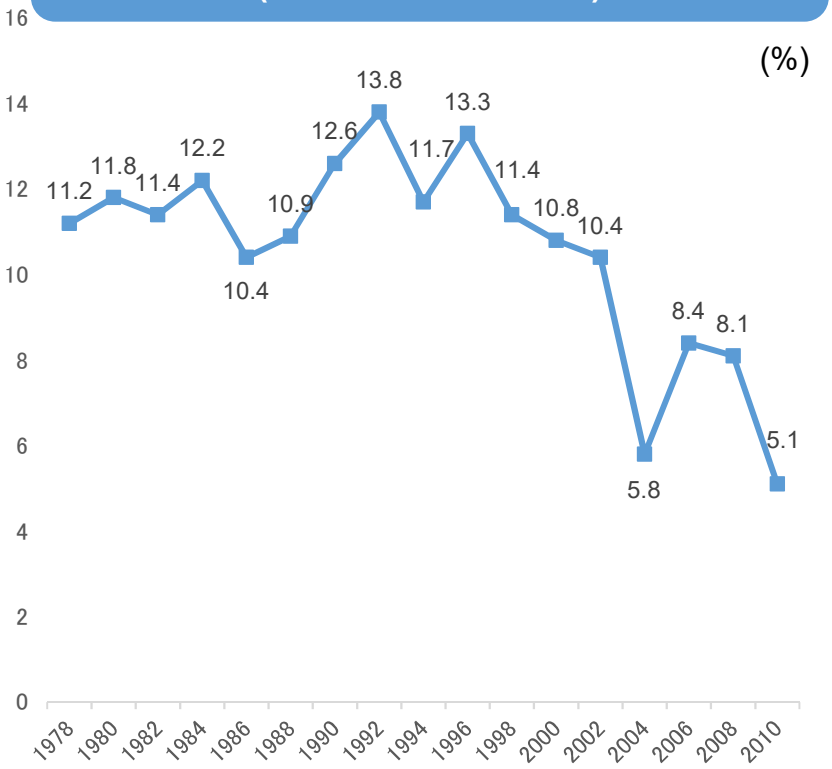
(4) Cross-shareholdings (Initiatives for reducing cross-shareholdings in other countries: Germany)

- In 2002, the Schröder administration in Germany exempted tax (approx. 50% in total of corporate income tax and trade tax; slightly varied depending on region) on capital gain from transfer of shares, for the purpose of unwinding close mutual shareholding relationships between financial institutions and business corporations (abolished in 2008).

Changes in shareholdings among 100 major companies in Germany



Percentage of shares mutually held among 100 major companies in Germany (added-value basis)



Source: prepared by FSA, based on Nomura Research Institute "Research Report on the Capital Market Reform and Financial Institutions' Responses in Germany" (June 2014)

(4) Cross-shareholdings (Redefinition of tradable shares: exclusion of cross-shareholdings)

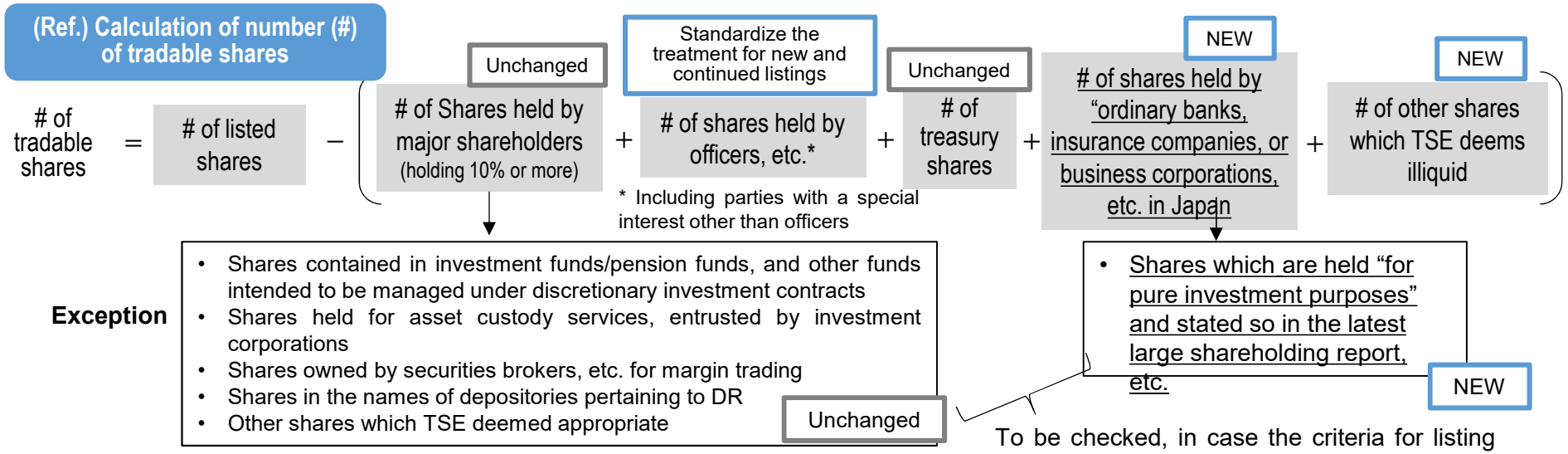
- With respect to the ratio of tradable shares, which is an element of listing criteria, the Tokyo Stock Exchange solicited public comments for the redefinition of "tradable shares" (from Dec. 25, 2020 to Feb. 26, 2021).
- In the proposal for public comments, cross-held shares are newly excluded from the definition of tradable shares.

Overview of proposal for public comments

- Listed shares held by "ordinary banks, insurance companies, or business corporations, etc. in Japan" shall be excluded from tradable shares even if they are held by shareholders who hold less than 10% of the listed shares.
  - However, in case the reason for holding the shares is specified as "for pure investment purposes" in the latest large shareholding report, etc., such shares shall be treated as tradable shares.
- Shares held by parties with a special interest other than officers shall be excluded from tradable shares.
  - Although the above-mentioned shares are currently excluded only in the listing examination criteria, the same treatment will apply to the continued listing criteria.

*1. Ordinary banks do not include trust banks and *shinkin* banks (credit associations).
*2. Business corporations refers to corporations other than financial institutions and financial instruments business operators.
*3. Parties with a special interest refers to: (i) spouse and blood relatives within the second degree of kinship of an officer of the listed company; (ii) company, a majority of whose voting shares are held by an officer or persons set forth in the above (i); and (iii) subsidiaries and affiliates of the listed company and officers thereof.

⇒ The Stock Exchange will revise the form of "Table of Distribution of Stocks, etc.", which listed companies are required to submit, and provide a notice, etc. later.



Source: prepared by FSA, based on TSE "(Reference Material) Redefinition of Tradable Shares" (Dec. 2020)

(4) Cross-shareholdings (Investor voting trend at companies with cross-shareholdings)

- In its proposed proxy voting policy for 2021, ISS, a proxy advisor, is considering such a change that it will recommend voting against the election of directors of a company which is deemed to have excessive cross-shareholdings.

Direction of proxy voting policy revision

2. Cross-shareholdings

For companies which are deemed to have excessive cross-shareholdings (in case the value of cross-shareholdings accounts for 20% or more of the net assets), ISS proposes to adopt a new policy, effective from Feb. 2022, which recommends voting against directors who are top executives.

Background

Capital misallocation and reduced market discipline resulting from cross-shareholdings have long been viewed as amongst the most serious corporate governance problems in Japan. It is common for Japanese companies to own long-held shares of other companies for reasons other than pure investment purposes, for instance, in order to strengthen relationships with customers, suppliers, or borrowers. Here, "cross- shareholdings" refer not only to mutual cross-shareholdings but also to unilateral holdings where these are designated by the company as shareholdings for non-investment purposes (the typical description for such shareholdings). Such cross-shareholdings may place the company's desire to strengthen its business relationships in conflict with its responsibility to create long-term value for shareholders, as funds used to buy such shares are not available for acquisitions, CapEx, dividends or share buybacks. Moreover, such practices reduce market discipline as management-friendly shareholders will almost always support board-backed resolutions and oppose shareholder proposals.

Intent and Impact

The proposed policy, which will apply for meetings on or after Feb 1, 2022, will be to recommend against the top executive(s) if the balance sheet amount of cross-shareholdings exceeds 20 percent of net assets. To collect data, we will use information in the Yuho annual securities filings which are usually disclosed after the shareholder meeting. Therefore, we will use information disclosed one year ago after the prior year's AGM. Based on 1500 Japanese companies randomly selected, at 7 percent of such companies, the balance sheet amount of cross- shareholdings exceeds 20 percent of net assets. Negative vote recommendations would be made at those companies under the proposed policy.

Current ISS Policy, incorporating changes:	New ISS Policy:
General Recommendation: ISS has three policies for director elections in Japan: one for companies with a statutory auditor board structure, one for companies with a U.S.-type three committee structure, and one for companies with a board with audit committee structure[4].	**General Recommendation:** ISS has three policies for director elections in Japan: one for companies with a statutory auditor board structure, one for companies with a U.S.-type three committee structure, and one for companies with a board with audit committee structure[4].
1. **At companies with a statutory auditor~~y~~ structure:** vote for the election of directors, except:	1. **At companies with a statutory auditor structure:** vote for the election of directors, except:
▪ Top executive(s)[5] at a company that has underperformed in terms of capital efficiency (i.e., when the company has posted average return on equity (ROE) of less than five percent over the last five fiscal years)[6], unless an improvement[7] is observed;	▪ Top executive(s)[5] at a company that has underperformed in terms of capital efficiency (i.e., when the company has posted average return on equity (ROE) of less than five percent over the last five fiscal years)[6], unless an improvement[7] is observed;
▪ For meetings on or after **Feb 1, 2022**, top executive(s) at a company that allocates a significant portion (20 percent or more) of its net assets to cross-shareholdings[8];	▪ For meetings on or after **Feb 1, 2022**, top executive(s) at a company that allocates a significant portion (20 percent or more) of its net assets to cross-shareholdings[8];
▪ Top executive(s) if the board, after the shareholder meeting, will not include at least two outside directors; and, for meetings on or after **Feb. 1, 2022**, outside directors will comprise less than one-third of the board;	▪ Top executive(s) if the board, after the shareholder meeting, will not include at least two outside directors and for meetings on or after **Feb. 1, 2022**, outside directors will comprise less than one-third of the board;
▪ Top executive(s) at a company that has a controlling shareholder, where the board, after the shareholder meeting, will not include at least two independent directorsor independent directors will comprise less than one-third of the board ~~at least one-third of the board members will not be independent directors~~ based on ISS independence criteria for Japan;	▪ Top executive(s) at a company that has a controlling shareholder, where the board, after the shareholder meeting, will not include at least two independent directors or independent directors will comprise less than one-third of the board based on ISS independence criteria for Japan;
▪ An outside director nominee who attended less than 75 percent of board meetings during the year under review[9]; or	▪ An outside director nominee who attended less than 75 percent of board meetings during the year under review[9]; or

Note: These guidelines for Companies with *Kansayaku* (statutory auditors) Board also apply to Companies with Three Committees, and Companies with Audit Committee.

Source: ISS "Proposed ISS Benchmark Policy Changes for 2021: request for Comments" (comment period: Oct, 14 through Oct. 26, 2020)