ICGN
International Corporate Governance Network

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ICGN Statement to the Japanese Council of Experts on the Revised Draft of the Corporate Governance Code

I would like to begin by thanking the Japanese Financial Services Agency (JFSA) and the Tokyo Stock Exchange (TSE) for graciously hosting this session.

International Corporate Governance Network (ICGN) welcomes the continued work of the JFSA and the TSE Council of Experts on advancing corporate governance reform in Japan.

We appreciate the hard work of the policy teams and appreciate their efforts to reflect the views of investors in their draft Code.

We would like to re-iterate our strong support for several areas of the new draft:

- We welcome the clear expectation that companies should consider and apply the interpretive guidance when implementing the Code. The explicit statement that the guidance is intended to serve as a reference point is particularly helpful in supporting consistent and effective application, and in driving alignment with investor expectations.

- We are pleased that the draft Code maintains a strong emphasis on the timeliness of disclosures. In particular, we strongly support the expectation that companies seek to disclose their Yuho at least three weeks in advance of the AGM. This will enhance efficiency and improve the quality of dialogue between shareholders and companies. However, we once again strongly emphasise that three weeks is a baseline or minimum investor expectation and should not become the default best practice, as companies continue to improve their governance over time. We also support continued efforts to streamline and optimise the reporting framework through consolidation of requirements.

- We welcome the strengthened focus on capital allocation and efficiency. Investment in growth, including R&D, technology and workforce, is fundamental to long-term value creation, and investors expect more proactive and disciplined use of capital in these areas. We therefore support the clearer expectation that companies assess whether excess cash holdings may be impairing capital efficiency, as well as the inclusion of real assets as an illustrative example under Principle 4.2 guidance. Given the importance of these measures, we suggest upgrading them from the guidance to the principle.

- At the same time, we believe further enhancements would be beneficial. In particular, companies should be expected to provide clearer disclosure on their optimal capital structure, target balance sheet positioning, and approach to cross-shareholdings. While the retention of annual assessment and disclosure requirements is positive, greater specificity is needed, including explicit expectations to set and disclose clear reduction targets and exit timelines, alongside a more granular disclosure of cost of capital assessment methodologies. We also support language discouraging companies from impeding cross-shareholders seeking to sell.

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- We are pleased that the Code retains a clear and robust focus on directors' fiduciary duty to all shareholders. As providers of capital who bear the economic risk of loss, shareholders should remain the primary reference point for board decision-making. This principle should underpin the overall application of the Code.
- We also welcome the strengthened references under General Principle 1's guidance to appropriate board action in protecting shareholder interests in the context of anti-takeover measures, capital policy, including share options and management buyouts, and related party transactions. However, given this is a critical area of board responsibility and an important safeguard for investors, we believe it should be reinstated from the guidance to the principle section, with explanations encouraged.
- We believe it is helpful that oversight of risk management and internal control has been more clearly delineated, including through its separation from Principle 4.3, ensuring that these critical functions receive appropriate focus and attention at board level.
- Finally, we support the amended language on board diversity, which better reflects the objective of enhancing board quality and effectiveness. Continued progress in this area remains an important component of strong governance, such as requiring companies to clarify their rationale with regards to diversity and desired board composition and to have a more comprehensive and wide-ranging approach to candidate selection.

We believe there remain several areas where the Code could be further strengthened:

- We welcome the enhanced expectations regarding independent directors for prime listed companies with a majority owner. However, to align with international best practice, the Code should go further. Majority independent boards should be established as the baseline for most companies. We believe this should be the expected direction of travel, rather than framed as exceptional or limited to circumstances involving controlling shareholders.
- Further work on the quality of independent directors is needed to ensure they are sufficiently qualified, have sufficient experience, and are truly independent. The authority of the nomination and remuneration committees must also be strengthened.
- The Code should more clearly address independent board leadership. As a matter of best practice, companies should appoint an independent chair. At a minimum, the designation of a lead independent director should be encouraged as an interim measure. We note that appointing a Lead Independent Director remains optional for companies retaining a *kansayaku* structure. Clearer expectations about the LID's authority, information access, and coordination would materially strengthen independence.
- The Code does not currently address disclosure of individual vote counts in director elections. This is an important transparency mechanism that would strengthen shareholder oversight and should be incorporated.
- We encourage more comprehensive disclosure of executive remuneration frameworks and structures, beyond the policies and procedures referenced in Principle 3.1, to ensure investors have a clear understanding of pay design and its alignment with long-term value creation.

- The Code would benefit from a clearer expectation, for example within Principle 4.3, that the board should explicitly review and approve the company's material financial reporting, consistent with international best practice.

- Principle 1.1.1 states that boards *should* consider dialogue and other measures in the case of significant dissent; however, we would suggest the Code should adopt a more robust approach, such as an expectation that boards understand investor views and create a formal action plan to address their concerns.

- We reiterate our view that it is unhelpful for the Code to remain silent on AGM formats. The Code should not endorse or encourage fully virtual AGMs, which risk undermining shareholder rights and limiting meaningful participation, physical participation safeguards shareholder rights and the quality of dialogue. We support hybrid AGM formats, which enhance accessibility for both domestic and international investors while preserving the ability for shareholders to attend and participate in person. A clear statement reflecting international best practice for AGMs should be included.

- Finally, we believe further emphasis is needed on the role of independent outside directors in engaging directly with shareholders. Independent directors, alongside chairs and lead independent directors, should be available for engagement on key governance topics to better align Japan with international best practice and enforce accountability. Strengthening expectations in this area will be critical to the long-term effectiveness and credibility of the governance reform agenda.

Conclusion

In conclusion, ICGN reiterates our support for Japan's governance reform agenda and our willingness to continue to be a long-term partner and supporter of this work.

We encourage the government to move forward with this work, and look forward to working with you to support this.

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