International Corporate Governance Network

Attention: Council of Experts

Email: jstewardship@fsa.go.jap

8 February 2014

Dear Sirs,

Response to Japanese Consultation Exposure Draft
Principles for Responsible Institutional Investors

The International Corporate Governance Network (ICGN) is an investor-led organisation of governance professionals with members including institutional investors responsible for assets under management in excess of US18 trillion. Our mission to inspire and promote effective standards of corporate governance to advance efficient markets and economies world-wide. As such we welcome the opportunity to comment on the Draft Principles for Responsible Institutional Investors ("the Principles") produced by the Council of Experts. For more information about ICGN please visit www.icgn.org.

The ICGN welcomes the Principles as a positive development for improving the quality of dialogue between companies and investors. Companies and investors have a mutual interest in helping to promote the long term success of the company. It is therefore useful for both parties to have clear guidance regarding their respective roles and responsibilities.

Responsible investment requires high standards of transparency, probity and care. The Principles will serve to encourage such an approach by providing guidance which will ultimately enhance meaningful dialogue between companies and investors.

We recognize that the Tokyo Stock Exchange published the 'Principles of Corporate Governance for Listed Companies' in 2004. In this regard, we respectfully recommend that a review of the Principles for companies be undertaken in the near future to ensure its applicability to modern corporate governance standards.

Members of the ICGN are strong supporters of the concepts of flexible application of standards, commonly referred to as comply or explain. In this regard, any set of principles of governance whether for investors or companies, should be applied with flexibility and understanding of the specific circumstances of individual companies and their markets.

Once again, we applaud the Council of Experts in taking forward this initiative and being an early adopter of the concept of a Stewardship Code which we strongly support. We attach an annex which elaborates on some of the draft principles. Furthermore, the ICGN position on standards of corporate governance, applicable to both companies and investors, is set out in our Global Corporate Governance Principles. In addition, the ICGN Statement of Principles of Institutional Investor Responsibilities clarifies the responsibilities of investors both in relation to their internal governance and their external role as investors in companies and other assets.

Should you wish to discuss any of the points that we have raised, please contact Kerrie Waring, ICGN's Managing Director, by email at kerrie.waring@icgn.org or by telephone on +44 (0) 207 612 7079.

Yours faithfully,

Michelle Edkins
Chairman, ICGN Board

Cc: ICGN Board Members
ICGN Shareholder Responsibilities Committee

Annex 1:

ICGN Response to Japanese Consultation Exposure Draft: Principles for Responsible Institutional Investors- Japan's Stewardship Code

Principle 1: Institutional Investors should have a clear policy on how they fulfill their stewardship responsibilities and publicly disclose it.

We agree that the policy of how institutional investors fulfill their stewardship responsibilities will vary depending on the role of the investors, the investment strategies in place and the structure of these relationships. Disclosure of policies from the investment community is an appropriate way for there to be a clear understanding of these roles. In turn, the disclosure by investee companies of their policies of governance and engagement with shareholders should be encouraged.

Principle 2: Institutional investors should have a clear policy on how they manage conflicts of interest in fulfilling their stewardship responsibilities and publicly disclose it.

It is important to emphasize the need for clear policies on how to manage conflicts of interest. We suggest that this principle may be strengthened by adding reference to the fact that investors should also 'understand such conflicts and strive to minimize them'. Institutional investors acknowledge that some of the more financial transactions that are occurring today and sophisticated investment strategies can lead to potential conflicts of interests. Disclosure when appropriate and which does not violate any agreements between general and limited partners, for example, can be managed effectively.

Principle 3: Institutional investors should monitor investee companies so that they can appropriately fulfill their stewardship responsibilities and support the sustainable growth of the companies.

We encourage institutional investors to actively monitor companies. We would suggest a reconsideration of the drafting in this principle with regards to the words 'and support the sustainable growth of companies.' When monitoring a company, the role of an investor is to 'assess the individual circumstances, performance and long-term potential of companies in order to make an informed investment decisions'. This is different from the reference to 'supporting the sustainable growth of companies' which may infer a degree of influence more relevant to management.

With regards to paragraph 3.3, the language is important to consider as the factors listed, governance, should include "board and corporate governance best practices," as well as other factors that are important considerations for institutional investors. As the language suggests, one investor may find certain factors more relevant than others. In addition, one would suggest that more than just material losses should be considered when investors are monitoring and engaging investee companies. Investors would much rather gain knowledge at early states clearly, however, it may take time for companies to release financial information, awards of executive compensation or similar pay constructs only later to find that restatements or misstatements occurred. Conflicts of interest may not have been disclosed to investors. Changes in senior management may trigger enhanced monitoring and engagement, and any of these changes of circumstances may not initially impact the company's bottom line. Investors should not be hampered by certain time frames for engagement or material losses that must be realized before effective monitoring may begin.

Principle 4: Institutional investors should seek to arrive at an understanding in common with investee companies and work to solve problems through constructive engagement with investee companies.

By virtue of monitoring investee companies, investors will seek to engage intelligently and proactively on matters relating to corporate governance. 'Engagement' can be described as purposeful dialogue with the aim of preserving or enhancing value on behalf of beneficiaries or clients. Investors generally enter into dialogue with company officials as a means to seek discussion on matters that are of importance, including a potential loss of value. Investors are owners of the companies and as such, may seek on-going dialogue to enhance their understanding of a company, its policies and governance. This will encourage a fuller understanding of the long term strategic direction of the company in promoting its success.

Principle 5: Institutional investors should have a clear policy on voting and disclosure of voting activity. The policy on voting should not be comprised only of a mechanical checklist; it should be designed to contribute to sustainable growth of investee companies.

We believe that investors should make informed voting decisions at investee companies, applying due care, intelligence and independent judgement. Investors should seek to vote all shares held however the ability to vote all shares in Japan can be challenging given the high number of companies that have their annual meetings within a similar time frame. In addition investors should be to exercise voting rights without being required to provide overly stringent documentation supporting their right to vote the ballots of investee companies.

Most investors have disclosed proxy voting policies and/or guidelines that help to articulate the method used to cast ballots. Voting is a key investor right and should be valued. The investee company should take strides to review the votes and any voting patterns and to engage investors in dialogue beyond the more traditional time frame of the annual meeting.

The use of proxy advisors is one that each institutional investor makes depending on a variety of factors. The practice of contracting with a proxy advisor may provide an investor with the ability to put resources into other critically needed areas and generally, is made with a full understanding of the proxy advisor's voting guidelines to ensure alignment with the investor's investment strategy.

Principle 6: Institutional investors in principle should report periodically on how they fulfill their stewardship responsibilities, including their voting responsibilities, to their clients and beneficiaries.

Institutional investors recognize that they must fulfill their stewardship responsibilities through their activities and policies. Flexibility for reporting purposes should be considered inasmuch as investors may have thousands of members and significant assets under management.

Principle 7: To contribute positively to the sustainable growth of investee companies, institutional investors should have in-depth knowledge on the investee companies and their business environment and capabilities to appropriately engage with the companies and make proper judgments in fulfilling their stewardship activities.

Institutional investors may utilize both internal and external expertise and sources of information when determining the issues for engagement with investee companies. Information must be accessible to investors within a reasonable amount of time prior to annual meetings, earnings reports and so forth. Better engagement that makes the most of the time for all participants is welcome and is the responsibility of both parties.

Timely and adequate disclosure of relevant company information, including the background of director candidates and whether they are independent of the company, would go a long way to establish a constructive dialogue. Language barriers, time differences, and short time frames for dialogue during the annual meeting cycle should be overcome. The improvement of stewardship activities by institutional investors can occur more robustly when the investee companies make an equal and significant commitment to honorable engagements on their side.

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