May 7, 2021

Engagement Agenda

"Takeover Defense Measures"

(Requesting disclosure on necessity of "Takeover Defense Measures" which may depress the evaluation of the company in the capital market.)

Status of Engagement Dialogues for Companies Whose Takeover Defense Measures Expired at Their General Meeting of Shareholders in 2020, And Sending of Letters to Companies Whose Takeover Defense Measures Expire at Their General Meeting of Shareholders in 2021

Since 2018, the Institutional Investors Collective Engagement Forum (hereinafter referred to as "IICEF"), as the coordinator/secretariat for collective dialogue/meeting conducted by the investors participating in IICEF's engagement meeting program (hereinafter referred to as the "Participating Investors"), has sent letters to companies which have introduced countermeasures against large-scale purchase (hereinafter referred to as "Takeover Defense Measures"). In the letters, we explained views of the Participating Investors on various arguments concerning Takeover Defense Measures, and also requested such companies to, if they are to submit a proposal to keep the Takeover Defense Measures at a future general meeting of shareholders, disclose information concerning the necessity of keeping the Takeover Defense Measures in light of risks of depressing the evaluation in the capital market in their convocation notice and/or timely disclosure material.

1. Overview of this agenda

(1) Participating Investors' Recognition of Takeover Defense Measures

Investors who invest broadly in Japanese shares including passive managers like the Participating Investors have viewpoints of, so to speak, a universal owner of "Japan Company Limited." They take a position to support an increase in corporate value through sustainable growth with an approach of super-long term investment, and do not pursue near-term shareholder returns. Accordingly, they do not support abusive takeover actions by a short-term investor who sacrifices medium- to long-term corporate value.

First of all, while there is a view that the legal system in Japan has not yet been sufficiently established, the TOB rule prescribed in the Financial Instruments and Exchange Act regulates transactions in which control is acquired through circumvention and requires purchase of all

shares, and companies are allowed to request information concerning the acquirer, securing of time for reviewing the offer and information disclosure by submitting the position statement report. In addition, we saw judicial precedents in which emergency invocation of a Takeover Defense Measure using stock acquisition rights was permitted based on approval by the general meeting of shareholders, etc., and in which directors' responsibilities were denied where shares were sold to white knights at lower prices than hostile takeover offer prices, among others. There was also a case where a Takeover Defense Measure was once abolished but a proposal of emergency invocation ~~was~~ submitted to the general meeting of shareholders was approved and voted for.

The number of judicial precedents permitting invocation of Takeover Defense Measures is still small, but the legal system relating to abusive takeover actions has been mostly completed. Of course, it is difficult to establish a flawless legal system, and it is possible to acquire one-third or more of shares issued and outstanding through in-market purchases, not through TOB, for the purpose of controlling management, but that will not be so easy considering a possible stock price hike. If acquisition of control through in-market purchases is possible in spite of such price hikes, it is nothing else that the share price was extremely low from the acquirer's viewpoint. In this respect, it should not be tolerated that a company introduces Takeover Defense Measures as though justifying stagnant share price.

In some cases, Takeover Defense Measures are allegedly introduced in order to prevent outflows of important confidential technologies to overseas. However, basically, what can be prevented by Takeover Defense Measures is abusive acquisition, while strategic acquisitions with reasonable purpose by competitors, etc., cannot be blocked. It is unlikely for an acquirer to declare its takeover action as an abusive acquisition trial. It will not be possible to invoke Takeover Defense Measures only because the acquirer is a foreigner or a foreign company, either. If a company intend to block strategic acquisitions by foreign companies that have shown fair purposes, because of overseas outflow concerns, that should be beyond the scope of Takeover Defense Measures.

In other cases, Takeover Defense Measures are introduced based on the notion that they can be used as "weapons" for negotiating higher acquisition price. But whether the TOB price is low or high should be up to the shareholders' decision, and even if the company considers the proposed TOB price is low and a hostile takeover occurs due to a failure to reach an agreement in the negotiation, the company should just express the reasons and opinions on its view of such low price. Trying to invoke Takeover Defense Measures insisting that the TOB price is too low

deprives of opportunities for shareholders who believe the TOB price is sufficient or high enough to take profits. Therefore, in our view, the idea that Takeover Defense Measures can be used as "weapons" in price negotiations is very questionable.

Most importantly, Takeover Defense Measures have the aspect of weakening the self-discipline of the management team, as they limit the shareholders' rights to bring about changes in management teams that have not produced satisfactory achievements. The Pparticipating Iinvestors suspect that there is misunderstanding among the management teams that they can prevent acquisition proposals which they do not want to accept, including those with reasonable strategic purposes, by introducing Takeover Defense Measures. Such misunderstanding should weaken the management team's sense of tension toward entrustment of shareholders and bring complacency into management. In certain instances, it may result in neglecting faltering share price. As such, introducing or keeping Takeover Defense Measures will lead to investors' concerns over the management's entrenchment, which will also grow their distrust of the management.

In this way, introducing and keeping Takeover Defense Measures can lower the investors' confidence as well as appraisal of governance and corporate value, and may also depress the evaluation in the capital market. Most listed companies are making efforts on information disclosure and IR activities and the like in order to build a relationship of trust with investors, and to get proper evaluation of corporate value to form fair stock valuation. However, if a company tries introducing/keeping Takeover Defense Measures, it is difficult for investors to find convincing reason for the company's decision of introducing/keeping the program, taking such risks of lower investor confidence and poorer evaluation of corporate value.

From the standpoint of the Participating Investors, if we had to, we might be able to consider a proper reason for introducing Takeover Defense Measures in the case where the management team "recognizes that there are management issues/challenges at the time, has already started implementing management reforms aiming for medium- to long-term growth and wants grace for the time being as it will still need some more time before it sees the outcomes produced and a fair stock price formed." In such a case, we would like the management team to clarify the management issues recognized by the team, the reform policies and plans, the goals and target time of achievements, the expected change of corporate value at the time of the achievements. If the explanations of these points are satisfactory enough, we may possibly regard the introduction/keeping of such Takeover Defense Measures with limited duration as reasonable.

(2) Request for information disclosure concerning the necessity of Takeover Defense Measures

Companies with Takeover Defense Measures have in-detail explanations of the schemes in their disclosure materials, but unfortunately, their discussions of the necessity of the programs are not sufficiently satisfactory to investors. As the purposes of the introduction, many of these companies argue that the measures should prevent abusive acquisitions such as damaging important management resources and hindering long-term business, and that they are effective in securing information-gathering time for shareholders judgments. However, these reasons are not convincing from the investors' viewpoint, considering the risk of lowering the evaluation in the capital market.

If a company plans to propose to keep its Takeover Defense Measures at a future general meeting of shareholders, we would like the company to disclose information concerning the necessity of keeping the Measures in light of risks of depressing the evaluation in the capital market such as the following in their convocation notice and/or timely disclosure material as supplementary information to the proposal:

-How the company understands the current stock price situation and corporate value evaluation in the capital market;

-What the company thinks about the possible investor confidence decline caused by the Takeover Defense Measures; and

-What are the specific reasons behind company's decision of introducing/keeping the plan which may expose its corporate value to the risk of poorer evaluation.

2. Status of engagement dialogues with companies whose Takeover Defense Measures Expired at their General Meeting of Shareholders in 2020

We selected 30 companies with market capital of a certain amount or more from among the companies whose Takeover Defense Measures were to expire at their general meeting of shareholders to be held between March and June 2020 and sent letters to them. Among the companies which received the letters, 13 companies decided to discontinue the Takeover Defense Measures and 17 companies submitted a proposal to keep the Measures to their general meeting of shareholders.

Unfortunately, among the 17 companies which submitted the proposal to keep the Measures, there were no companies which provided sufficiently satisfactory reasons for the Participating Investors. However, developments of the framework to objectively determine the acceptability of the invocation of the Takeover Defense Measures made progress such as increasing the number of outside directors and enhancing the board independence.

On the other hand, among the 13 companies which decided to discontinue the Measures, multiple companies explained to the Participating Investors that, after deep discussions by the board of directors, going forward, they decided to reinforce the justification/validity of management by further increasing support from investors rather than relying on Takeover Defense Measures.

3. Starting to send letters to companies whose Takeover Defense Measures expire at their general meeting of shareholders between March and June 2021

We selected 13 companies with market capital of a certain amount or more from among the companies whose Takeover Defense Measures were to expire at their general meeting of shareholders to be held between March and June 2021, after excluding the companies that already publicly announced abolition of the Measures, and started to send letters requesting to describe the reasons for keeping the Takeover Defense Measures, if that is the case, in their convocation notice and/or timely disclosure material, as we did in the past years.

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