TRANSLATION FOR REFERENCE PURPOSSE ONLY

Investigation Report

January 7, 2012

Olympus Corporation
Director Liability Investigation Committee

TRANSLATION FOR REFERENCE PURPOSSE ONLY

January 7, 2012

To the Board of Auditors of Olympus Corporation

Olympus Corporation Director Liability Investigation Committee

Chairman Commissioner	Kazuo Tezuka	[seal:] Kazuo Tezuka
Commissioner	Hideki Matsui	[seal:] Attorney Hideki Matsui
Commissioner	Satoru Mitsumori	[seal:] Attorney Satoru Mitsumori

TRANSLATION FOR REFERENCE PURPOSSE ONLY

List of Abbreviations and Terms

Abbreviation/Term	Official name and explanation
Agreement Dated March 1, 2000	EXEMPTED LIMITED PARTNERSHIP AGREEMENT between Olympus/ GCI Cayman that sets forth such items as the transfer of 30 billion yen (said amount is revised accordingly) to QP at the request of Olympus for the purpose of short-term money management
The 2009 Committee's Report	A report dated May 17, 2009 by 3 outside experts that includes attorneys
21C	Twenty First Century Global Fixed Income Fund Ltd. A Pass-Through Fund of Cayman registry that was involved in the Singapore Route. The Director is Mori. Money was transferred to 21C in the form of Hillmore and Easterside having made loans, etc., and money was transferred in the amounts of 20 billion yen to Proper and 19.3 billion yen to CFC respectively in the form of 21C subscribing for bonds issued by Proper and CFC. Note that out of the 20 billion yen that was transferred to Proper, 8 billion yen was transferred to CFC by means of Proper subscribing for bonds issued by CFC.
AXAM	Axam Investments Ltd. A Cayman company formed on November 19, 2007 by Sagawa in order to receive the money that was to be paid by Olympus accompanying the Gyrus acquisition as part of the Loss Separation Settlement Scheme. The stock options and the Warrant Purchase Rights granted to Axes from Olympus as part of the FA fee was assigned from AXES to AXAM for 24 million dollars.
AXES (Axes America)	Axes America LLC A company that Sagawa formed in the state of Delaware that executed the FA Agreement with Olympus at the time of the Gyrus acquisition. The Warrant Purchase Rights and stock options were granted as part of the FA fee; and, the purchase price for said Warrant Purchase Rights as well as the purchase price for the Preferred Shares that were issued in place of the stock options that were used in the settlement of the separated losses. Note that AXES had been abbreviated as "AXAM" in the FA Agreement and the Revised FA Agreement, but it is a different company from "AXAM Investments Ltd." that is listed as "AXAM" in this Report.
CD	Creative Dragon SPC A Pass-Through Fund that was mainly involved in the Loss Separation Settlement Scheme. It was used at the time the money for the shares in the Three Domestic Companies (13.7 billion yen) and for the purchase of Gyrus' Preferred Shares (620 million dollars), etc., that was paid to DD and GT was made to flow back to Olympus.
CFC	Central Forest Corp. One of the Receiver Funds. A Fund of Cayman registry that Sagawa and Nakagawa set up by March 1998 after Yamada and Mori requested that Sagawa and Nakagawa establish Receiver Funds for "Tobashi" that would be excluded from Olympus' consolidated accounting.
DD	Dynamic Dragon II SPC A Pass-Through Fund of Cayman registry. Using as its resources the 13.7 billion yen total that was paid to GT/ DD as the money for the shares in the Three Domestic Companies, Easterside made a CD investment, and subsequently, it went through GPAI, TEAO, LGT-GMI, and flowed back to Olympus.
Easterside	Easterside Investments Limited A special-purpose company in the British Virgin Islands that was involved in the Singapore Route. It received an investment (approximately 30 billion yen) from the Singapore Branch of SG Bank using a deposit in the name of Olympus at said bank as collateral, and injected capital into the Receiver Funds (QP), etc., through 21C and Proper. Olympus was borrowing bonds from SG Bond that said Fund had invested in, and was encashing them.
FA	Financial Advisor
FA Agreement	The Financial Advisor Agreement dated June 5, 2006 between Olympus and AXES
GC	Global Company Co., Ltd. A company formed by Yokoo and others, and the substantive administrator of GCI Cayman.

GCI	Global Company Investment Co., Ltd. A company formed by Yokoo and others, and the substantive administrator of GCI Cayman.
GCI Cayman	GCI Cayman Limited A company formed by Yokoo and others. It is the General Partner to Neo and GCNVV, and in addition to having received fund management fees (management fees) from Neo and GCNVV, it was also paid contingent fees and termination fees at the time GCNVV was terminated.
GCNVV	G.C. New Vision Ventures, L.P. A Fund established on March 1, 2000 that also had the purpose of being used in the scheme to provide money to the Receiver Funds. Multiple Funds have invested in GCNVV, but all such money was paid by Olympus. On the one hand, GCNVV used a portion of the money to invest in venture companies, and while the amounts varied depending on the time period, it provided approximately 30 billion yen to the Receiver Funds (QP).
GIM (LGT-GIM)	PS Global Investable Markets-O One of the investment products called a class fund that was set up and being managed by the LGT Bank Group. Through an account that was opened at LGT Bank, Olympus and its wholly-owned subsidiary, OAM, purchased investment equity in the LGT-GIM Fund in January 2000 in order to inject into the Receiver Funds the capital for the Receiver Funds to acquire by transfer at book value the financial assets Olympus held that carried unrealized losses (the purchase amounts were 15 billion yen on the part of Olympus and 20.3 billion yen on the part of OAM).
GPAI	GPA Investments Ltd. A Pass-Through Fund that was mainly involved in the Loss Separation Settlement Scheme. It was used at the time the money for the shares in the Three Domestic Companies (13.7 billion yen) and the purchase of Gyrus' Preferred Shares (620 million dollars), etc., that were paid to DD and GT was made to flow back to Olympus.
GT	Global Target SPC A Pass-Through Fund of Cayman registry. Using as its resources the 13.7 billion yen total that was paid to CD/ DD as the money for the shares in the Three Domestic Companies, Easterside made a CD investment, and subsequently, it went through GPAI, TEAO, LGT-GMI, and flowed back to Olympus.
Gurdon Overseas S.A	It is believed to be a Fund that involves Walch, who assisted Yamada, Mori and others in raising capital through the LGT Bank route. In September 2008, 1.259 billion yen was paid from Neo.
GV	Genesis Venture Capital Series 1 Ltd. A Pass-Through Fund of Cayman registry that was involved in the Singapore Route. Money was transferred to GV in the form of Proper and CFC subscribing for bonds issued by GV in the amount of 4 billion yen on the part of Proper and 5.1 billion yen on the part of CFC. At the time GCNVV was established in March 2000, GV became its Limited Partner along with Olympus, and it contributed 5 billion yen of cash to GCNVV. This cash, however, is assumed to have been expended from the 9.1 billion yen that was transferred from Proper and CFC.
Hillmore	Hillmore East A special-purpose company that was involved in the Singapore Route. It received an investment (15–45.6 billion yen) from the Singapore Branch of Commerzbank using a deposit in the name of Olympus at said bank as collateral, and injected capital into the Receiver Funds (QP), etc., through 21C and Proper.
ITV	New Investments Ltd. Class Fund IT Ventures One of the investment products called a class fund that was set up and being managed by the LGT Bank Group. After Olympus floated into ITV the excess money that was raised for the purpose of executing the Loss Separation Scheme, it had ITV invest in ITX, the Three Domestic Companies, and multiple venture companies in Japan.
ITX	ITX Corporation
LGT Bank	LGT Bank in Liechtenstein AG The bank of the Principality of Liechtenstein that was used in the Europe Route. It loaned money (approximately 30 billion yen in total) to Receiver Funds (CFC) using Japanese government bonds, etc., that Olympus had deposited at said bank as collateral.
Nayland Overseas S.A	It is believed to be a Fund that involves Walch, who assisted Yamada, Mori and others in raising capital through the LGT Bank route. 950 million yen was paid from Teao.

NEO	Neo Strategic Venture, L.P. A Pass-Through Fund (Limited Partnership) of Cayman registry that was involved in the Europe Route. Established on March 15, 2000, its General Partner is GCI Cayman, and its Limited Partner is TEAO. Out of the capital that was injected from GIM by way of TEAO (30 billion yen), it injected 19.4 billion yen into Receiver Funds (QP). Outside of that, several cash transfers were mutually conducted between NEO and QP.
NEWS CHEF	NEWS CHEF Inc.
OAM	Olympus Asset Management Ltd.
OCA	Olympus Corporation of Americas
OFH	Olympus Finance Hong Kong Ltd.
OFUK	Olympus Finance UK Ltd.
OUKA	Olympus UK Acquisition Limited
Perella	Perella Weinburg Partners UK LLP.
Proper	A Pass-Through Fund that was involved in the Singapore Route. Established by Yamada and Mori. 20 billion yen was transferred from 21C to Proper in the form of 21C subscribing for bonds, out of which 8 billion yen was transferred from Proper to Receiver Funds (CFC). Also, 4 billion yen was transferred from Proper to GV as well, and it is assumed that this became the resource for the investment capital from GV to GCNVV.
PwC	PricewaterhouseCoopers Legal LLP.
QP	Quick Progress Co., Ltd. One of the Receiver Funds. A Fund of Cayman registry that Sagawa and Nakagawa set up by March 1998 after Yamada and Mori asked Sagawa and Nakagawa to establish Receiver Funds for “Tobashi” that would be excluded from Olympus’ consolidated accounting.
SG Bond	SG Bond Plus Fund A Fund of Cayman registry that was involved in the Singapore Route. It was set up in February 2005, and the investment manager is Strategic Growth Asset Management, owned by Chan. Olympus invested 60 billion yen in SGBond, and it repaid the money that had been loaned to Hillmore and Easterside using deposits in the name of Olympus at SG Bank and Commerzbank as collateral. By such means, the Loss Separation Scheme using time deposits was converted to the Loss Separation Scheme using investment capital into Funds.
SG Bank	Societe Generale A French bank that was used in the Singapore Route. It loaned money (approximately 30 billion yen) to a Pass-Through Fund (Easterside) using a deposit in the name of Olympus at said bank’s Singapore Branch as collateral, and eventually, capital was injected into the Receiver Funds, etc.
TEAO	TEAO Limited A special-purpose company of Cayman registry that was involved in the Europe Route. By March 2000, it had already been established, and the Director is Mori. Money (31 billion yen) was transferred to TEAO in the form of LGT-GIM purchasing bonds issued by TEAO. TEAO invested a portion of said capital (30 billion yen) into NEO, and a portion of that (19.4 billion yen) was injected into the Receiver Funds (QP). Also, a portion of the balance that was transferred from LGT-GIM to TEAO (approximately 10.1 billion yen) was invested in ITV, and had become the purchase capital for ITX Corporation.
Axes Japan	Axes Japan Securities Co., Ltd. A company in which Nakagawa/ Sagawa made investments, and in which Nakagawa serves as CEO.
KPMG AZSA LLC	Presently KPMG AZSA LLC (the company name was “Asahi Auditing Corporation” until January 2004, and the company name from January 2004 until July 2010 was “KPMG AZSA LLC”). Olympus’ accounting auditors until the fiscal year ending March 2009.
Altis	Altis Co., Ltd.
Receiver Funds	In the context of the Loss Separation Scheme (a method to prevent unrealized losses from surfacing by having Funds that are excluded from Olympus’ consolidated accounting purchase at book value financial products with large amounts of unrealized losses), Funds whose main purpose is to be made to purchase financial products that have unrealized losses. Specifically, it refers to CFC and QP.
Woodford	Michael Christopher Woodford

Exposed Funds	Funds in which Olympus made direct investments in relation to the Loss Separation Scheme. Specifically, it refers to GCNVV, LGT-GIM, and SGBond.
Olympus	Olympus Corporation
Share Subscription Agreement	The Share Subscription Agreement dated September 30, 2008 between Olympus, Gyrus, and AXAM regarding the granting of the Preferred Shares to AXAM, and the purchase of the Warrant Purchase Rights from AXAM
Participants	The directors who participated in the formulation of the Loss Separation Scheme and the maintenance of the subsequent separated state; Yamada, Mori, and Nakatsuka are relevant.
Call Option Agreement	The Call Option Agreement dated February 14, 2008
Commerzbank	Commerzbank International Trust (Singapore) Ltd. A German bank that was used in the Singapore Route. It loaned money (approximately 15–45.6 billion yen) to a Pass-Through Fund (Hillmore) using a deposit in the name of Olympus at said bank's Singapore Branch as collateral, and eventually, capital was injected into the Receiver Funds, etc.
General Partner	Managing Partner (General Partner)
Capital-Injected State	A state in which capital that is essentially not required is injected into a Receiver Fund or a Pass-Through Fund for the purpose of loss separation
Asset Management Standards	"Asset Management Standards (management of surplus money/ derivatives transaction management/ management regulations)" implemented from March 25, 1997. It was revised to "Asset Management Regulations" as of April 2000.
Gyrus	Gyrus Group PLC
Revised FA Agreement	The agreement dated June 21, 2007 that revises the FA Agreement between Olympus and AXES
Ernst & Young ShinNihon LLC	Ernst & Young ShinNihon LLC Olympus' accounting auditors from the fiscal year ending March 2010
Loss Separation Scheme	A method to prevent unrealized losses from surfacing by having Funds that are excluded from Olympus' consolidated accounting purchase financial products that carry large amounts of unrealized losses.
Formulation of the Loss Separation Scheme	The act of executing the Loss Separation Scheme. Specifically, it refers to two actions; the establishing of Receiver Funds that will acquire by transfer those financial products with unrealized losses, and the execution of "preparatory acts for the purpose of loss separation" in which capital is injected into said Funds from Olympus; and the execution of the "acts of loss separation" in which financial products with unrealized losses are assigned to said Funds from Olympus for an amount equivalent to book value.
State of Loss Separation	A state in which the unrealized losses of financial assets that Olympus had held from the past do not surface in Olympus' consolidated accounting, by means of the execution of the Loss Separation Scheme.
Loss Separation Settlement Scheme	A method to settle the losses that had been separated by means of the Loss Separation Scheme. Specifically, at the time Olympus acquires depreciable assets such as "goodwill" in the process of corporate acquisitions, etc., methods were employed such as to tack on the portion of losses that had been separated based on the Loss Separation Scheme to the value of said assets, and to settle the separated losses by subsequently depreciating the assets that were padded with the portion of losses over the allowable number of years.
The Third Party Committee	The Committee established on November 1, 2011 whose Committee Chairman is Attorney Tatsuo Kainaka
The Third Party Committee's Investigation Report	The Investigation Report submitted by the Third Party Committee on December 6, 2011
Pass-Through Fund	In the context of the Loss Separation Scheme, Funds that were used for the purpose of injecting into the Receiver Funds the capital that Olympus raised; and, in the context of the Loss Separation Settlement Scheme, Funds that were used to enable the capital to flow back to Olympus that was contributed from Olympus in the pretext of acquisition capital for the Three Domestic Companies or the FA fee for the Gyrus acquisition. Specifically, it refers to SGBond, Easterside, DD, GT, CD, AXAM, GPAI, 21C, Proper, GV, LGT-GIM, TEAO, Neo, ITV, GCNVV, etc.
"Tokkin"	Specified Money Trusts and Specified Fund Trusts
Nissho Iwai	Nissho Iwai Corporation (presently Sojitz Corporation)
People Who Knew	Refers to Yamada, Mori, Nakatsuka, Shimoyama, Kishimoto, and Kikukawa. Directors who knew about the Loss Separation Scheme and the maintenance of the subsequent separated state, or could have found out about the same
Humalabo	Humalabo Co., Ltd.
This Committee	The Director Liability Investigation Committee (Chairman Commissioner: Kazuo Tezuka)

The Three Routes	The Europe Route, Singapore Route, and Domestic Route
The Series of Problems	The deferment of posting losses related to the investment of securities, etc., from the 1990s by Olympus centering around the method of using the acquisitions of Gyrus and the Three Domestic Companies that was reported in the Third Party Committee's Investigation Report, and the series of related problems
The Resolution to Purchase	The resolution of the Board of Directors' meeting of March 19, 2010, in which the purchase of the Preferred Shares from AXAM for 620 million dollars was approved
The Three Domestic Companies	Altis, NEWS CHEF, and Humalabo
The Problem of the Surplus Dividend Distributions	The problem of the dividend distributions of surplus money that Olympus executed over the 5 years from the fiscal year ending March 2007 (139^{th} Term) to the fiscal year ending March 2011 (143^{rd} Term)
The Preferred Shares	The Dividend Preferred Shares that Gyrus issued to AXAM
Limited Partner	Limited Liability Partner (Limited Partner)
The Warrant Purchase Rights	The right to subscribe for stock purchase warrants in the acquisition vehicle with an upper limit of the lower of either 20 percent of the total number of shares outstanding in the acquisition vehicle, or stock purchase warrants for new shares equivalent to an issue price of 200 million dollars, which was to be included in the FA fee based on the Revised FA Agreement. The item that was called the "Warrant Purchase Rights" within Olympus.

Outside collaborators

Abbreviation/Term	Official name and explanation
Walch	Gerhard Walch He had been working at LGT Bank, but retired several years ago. He is believed to be involved in both Funds of Gurdon Overseas S.A and Nayland Overseas S.A.
Grueter	Peter Grueter He had been working at LGT Bank as the successor to Walch, but retired in November 2011.
Sagawa	Hajime Sagawa A person with whom Yamada, who was involved in Olympus' finances since around the year 1980, deepened relations with through Nakagawa, whom Yamada met in the course of managing the company's assets; Sagawa was involved in specifically planning the tactics in which the financial products carrying unrealized losses would be subjected to "tobashi" using Funds that would be excluded from Olympus' consolidated accounting. He formed AXES in the year 1997 based on the laws of the state of Delaware in the U.S. Also, he made investments in AXES and Axes Japan along with Nakagawa.
Chan	Full name unknown A person that Yamada and Mori made an acquaintance with through Nakagawa when they were introduced to Commerzbank's Singapore Branch, when Yamada and Mori were looking for sources to raise capital for the Receiver Funds around the year 1998. At the time, Chan had been working at Commerzbank, but after resigning from Commerzbank in the year 2000, he transferred to SG, and in the year 2004, he resigned from SG and formed his own company. The investment manager for SG Bond, a tax-exempt limited partnership set up in Cayman in February 2005, was Strategic Growth Asset Management, which was owned by Chan.
Nakagawa	Akio Nakagawa A person with whom Yamada, who was involved in Olympus' finances since around the year 1980, met in the course of managing the company's assets; Nakagawa was involved in specifically planning the tactics in which the financial products carrying unrealized losses would be subjected to "tobashi" using Funds that would be excluded from Olympus' consolidated accounting. He has experience working for a foreign-owned securities company, and after forming Axes Japan, he served as the President/ CEO. Also, he made investments in AXES and Axes Japan along with Sagawa.
Yokoo	Nobumasa Yokoo A person with a background working at a large securities company, who had a close friendship with Yamada through transactions with Olympus at the time he worked for the securities company; a person who had been consulted with respect to the investment activities at Olympus even before the Series of Problems. Yokoo was also the person who introduced Yamada and Mori to the executives at LGT Bank. From around 1998 to 2004, Yokoo formed GC and its affiliated companies, GCI and GCI Cayman.

Directors

Abbreviation/Term	Official name and explanation
Imai	Morito Imai His tenure as director was from before the year 1991 to June 26, 1998.
Ohmon	Masaaki Ohkado His tenure as director was from before the year 1991 to June 29, 1999.
Okubo	Masaharu Okubo His tenure as director was from June 26, 1998 to June 29, 2011.
Kawamata	Hironobu Kawamata His tenure as director has been since June 26, 2009.
Kikukawa	Tsuyoshi Kikukawa His tenure as director was from June 29, 1993 to November 24, 2011. Note that he served as Representative Director from June 28, 2001 to October 26, 2011.
Kishimoto	Masatoshi Kishimoto His tenure as director was from before the year 1991 to June 29, 2005. Note that he served as Representative Director from June 27, 1991 to June 29, 2005.
Kuruma	Hiroshi Kuruma His tenure as director has been since June 29, 2011. Note that he is an outside director.
Kosaka	Shinya Kosaka His tenure as director was from June 27, 1996 to June 29, 2005.
Kobayashi	Masao Kobayashi His tenure as director was from before the year 1991 to June 28, 2001.
Komiya	Hiroshi Komiya His tenure as director was from June 26, 1998 to June 28, 2001, and from June 27, 2002 to June 29, 2005.
Sawamura	Ichiro Sawamura His tenure as director was from before the year 1991 to June 29, 2000.
Shimoyama	Toshiro Shimoyama His tenure as director was from before the year 1991 to June 29, 2004. Note that he served as Representative Director from before the year 1991 to June 27, 2001.
Suzuki	Masataka Suzuki His tenure as director has been since June 29, 2005.
Sekimoto	Kenichi Sekimoto His tenure as director was from before the year 1991 to June 27, 2002.
Takagi	Mikio Takagi His tenure as director was from June 29, 2000 to June 28, 2001.
Takahashi	Isao Takahashi His tenure as director was from June 27, 1997 to June 28, 2001, and from June 27, 2003 to June 29, 2006.
Takayama	Shuichi Takayama His tenure as director has been since June 29, 2006. Note that he has served as Representative Director as of October 26, 2011.
Takemura	Hidehiro Takemura His tenure as director was from before the year 1991 to June 26, 1998.
Chiba	Masanobu Chiba His tenure as director was from June 27, 2008 to June 29, 2011. Note that he is an outside director.
Tsukaya	Takashi Tsukaya His tenure as director has been since June 29, 2006.
Terada	Masaaki Terada His tenure as director was from June 27, 1995 to June 26, 2009.
Toyoshima	Toru Toyoshima His tenure as director was from June 29, 2005 to June 28, 2007. Note that he is an outside director.
Nakatsuka	Makoto Nakatsuka His tenure as director was from June 29, 2011 to December 7, 2011.
Nagai	Shouhei Nagai His tenure as director was from before the year 1991 to June 28, 2001.

Nagasaki	Tatsuo Nagasaki His tenure as director was from June 26, 1998 to June 28, 2001, and from June 29, 2005 to June 26, 2009.
Nishigaki	Shinichi Nishigaki His tenure as director has been since June 26, 2009.
Hayashi	Junichi Hayashi His tenure as director has been since June 27, 2008. Note that he is an outside director.
Hayashida	Yasuo Hayashida His tenure as director has been since June 29, 2011. Note that he is an outside director.
Fujii	Kenji Fujii His tenure as director was from June 27, 1991 to June 29, 1999.
Fujita	Rikiya Fujita His tenure as director was from June 28, 2007 to June 29, 2011. Note that he is an outside director.
Furuhata	Hiroyuki Furuhata His tenure as director was from June 27, 1997 to June 28, 2001, and from June 29, 2004 to June 27, 2008.
Mandell	Robert A. Mandell His tenure as director was from June 29, 2005 to June 27, 2008. Note that he is an outside director.
Miyata	Koji Miyata His tenure as director was from June 29, 1995 to June 29, 2006.
Mori	Hisashi Mori His tenure as director was from June 29, 2006 to November 24, 2011.
Mori (Takeyuki)	Takeyuki Mori His tenure as director was from June 29, 1999 to June 28, 2001.
Morishima	Haruhito Morishima His tenure as director has been since June 29, 2005.
Yanagisawa	Kazuhisa Yanagisawa His tenure as director was from June 29, 1999 to June 28, 2001, and since June 29, 2005.
Yamaoka	Yoshihide Yamaoka His tenure as director was from June 27, 1996 to June 28, 2001.
Yamada	Hideo Yamada His tenure as director was from June 27, 2003 to June 29, 2011. Note that he served as an auditor from June 29, 2011 to November 24, 2011.
Yusa	Atsushi Yusa His tenure as director was from June 26, 1992 to June 27, 2008.
Yoden	Yuzuru Yoden His tenure as director was from before the year 1991 to June 26, 1998.
Yonekubo	Ken Yonekubo His tenure as director was from June 29, 1995 to June 29, 2005.
Watanabe	Kazuhiro Watanabe His tenure as director has been since June 27, 2008.

TRANSLATION FOR REFERENCE PURPOSSE ONLY

<Table of Contents>

I Outline of the investigation

1. Background of the formation of the Director Liability Investigation Committee

(1) Formation of the Third Party Committee and the submission of its Investigation Report

At the Board of Directors' Meeting held on October 14, 2011, the Olympus Corporation (hereinafter referred to as "Olympus") removed from the office of representative director, and president and executive officer, Michael Christopher Woodford (hereinafter referred to as "Woodford." Note that honorifics and job titles are omitted with respect to people's names in this Report), who had been pointing out for some time the non-transparent transactions conducted by Olympus in the past in its acquisition projects. Subsequently, however, the voices of shareholders and others were raised questioning the validity and demanding clarification of (i) the payment to the financial advisor (hereinafter referred to as "FA") in the acquisition of Gyrus Group PLC (hereinafter referred to as "Gyrus") and (ii) the acquisitions and subsequent recognition of impairment losses of Altis Co., Ltd. (hereinafter referred to as "Altis"), NEWS CHEF Inc. (hereinafter referred to as "NEWS CHEF"), and Humalabo Co., Ltd. (hereinafter referred to as "Humalabo," and together with Altis and NEWS CHEF referred to as the "Three Domestic Companies"); and the stock price fell sharply.

In seeking to conduct a strict and thorough investigation by an independent investigation committee to find out whether or not there was any fraudulent or inappropriate conduct or unreasonable business judgment with respect to all of the transactions from the planning to the execution of the acquisitions of Gyrus and the Three Domestic Companies, to achieve accountability with the shareholders and other stakeholders, and to seek proposals for the improvement of the corporate governance regime, on November 1, 2011, Olympus established an investigation committee (Chairman Commissioner: Tatsuo Kainaka; hereinafter, referred to as the "Third Party Committee") made up of five lawyers and one certified public accountant who had no conflicts of interest with Olympus.

Subsequently, based on the discovery that there had been a deferment of posting losses related to securities investments, etc., at Olympus from around the year 1990, the Third Party Committee was also commissioned to investigate the facts concerning said deferral, and on November 8, 2011, it submitted the Investigation Report (hereinafter referred to as the "Third Party Committee Investigation Report") concerning that commissioned work.

The Third Party Committee conducted an investigation of the facts concerning whether or not there was any fraudulent or inappropriate conduct or unreasonable business judgment with respect to all of the transactions from the planning to the execution of the acquisitions of Gyrus and the Three Domestic Companies, as well as evaluation/ verification work of the same; and, on December 6, 2011, it submitted its investigation report (hereinafter referred to as the "Third Party Committee's Investigation Report").

(2) Request from shareholders to file suit against the current and former directors

On November 7, 2011, Olympus received a request from its shareholders to conduct a careful investigation, and to file suit to pursue liability against the current and former directors who are subsequently judged to be liable. This is because the current and former directors of Olympus were believed to have violated the duty of due care of a prudent manager and committed an abuse of discretion in business judgment regarding the acquisition of Gyrus and the Three Domestic Companies (note that it was on November 9, 2011 that Olympus received individual shareholder notifications prescribed in Article 154, Paragraph 3 of the Act on Transfer of Bonds, Shares, etc., concerning said shareholders).

Also, on November 17, 2011, which was after Olympus had announced the deferment of posting losses, Olympus received an additional request from the aforementioned shareholders to investigate the facts, and to also file suit to pursue liability against the current and former directors who are subsequently judged to be liable concerning the illegal expenditure, avoidance of posting losses, and the compensation of losses regarding the acquisitions of Gyrus and the Three Domestic Companies, as well as the handling of matters after suspicions of fraudulent conduct, etc., were pointed out by Woodford.

(3) Formation of the Director Liability Investigation Committee

In reaction to the submission of the Third Party Committee's Investigation Report, Olympus issued a press release on the same day as said submission stating that it took the results and the advice of the Third Party Committee's investigation seriously, that it would review drastic measures toward the restoration of confidence as quickly as possible, and that it would promptly make revisions to the securities reports, etc., that it had submitted from 2007 to 2011.

Also, in reaction to the submission of the Third Party Committee's Investigation Report, on December 7, 2011, the Board of Auditors of Olympus, bearing in mind the request to file suit from the aforementioned shareholders, established the Director Liability Investigation Committee (Chairman Commissioner: Kazuo Tezuka; hereinafter referred to as the "Director Liability Investigation Committee" or "this Committee"), made up of three attorneys who had no vested interests in Olympus and its current and former directors, in order to have an independent investigation committee conduct a thorough investigation on whether or not there were acts of violations of the duty of due care of a prudent manager, etc., in the performance of duties on the part of the current and former directors with respect to the past deferment of posting losses at Olympus and the Series of Problems related to it, and to identify the liability of the current and former directors in relation to said Series of Problems.

Note that on the same day, the Board of Directors of Olympus established the Non-Director Management Liability Investigation Committee made up of three attorneys who had no vested interests in Olympus and its current and former auditors, etc., in order to identify whether or not there were acts falling under violations of the duty of due care of a prudent manager, etc., with respect to the auditing of the directors' performance of duties on the part of the current and former auditors in relation to said Series of Problems.

2. Revision of securities reports, etc., by Olympus and the addition of commissioned work

(1) Revision by Olympus of the settlement of accounts in past fiscal years

On December 14, 2011, after the investigations of this Committee had begun, Olympus submitted to the Kanto Regional Finance Bureau a revised report of the securities reports, etc., with respect to the settlement of accounts in past fiscal years from the fiscal year ending March 2007 to the fiscal year ending March 2011.

(2) The addition of commissioned work

On the same day, after the press release concerning the revision of the settlement of accounts in past fiscal years, the Board of Auditors of Olympus requested that this Committee also include an investigation and review on whether or not there were acts falling under violations of the duty of due care of a prudent manager, etc., in the performance of duties on the part of the current and former directors concerning the problem of the dividend distributions of surplus money that Olympus executed after April 1, 2007, and the commissioned work was added.

3. Composition of this Committee

(1) Composition

The members of this Committee are as follows. None of its commissioners have vested interests in Olympus and its current and former directors.

Chairman Commissioner:	Kazuo Tezuka (Attorney)
Commissioner:	Hideki Matsui (Attorney)
Commissioner:	Satoru Mitsumori (Attorney)

(2) Assistants

This Committee appointed the following people as assistants, and had them provide assistance in the Investigation. None of the assistants have vested interests in Olympus and its current and former directors.

Assistants to this Investigation Committee
Kaneko & Iwamatsu
(Attorney Takashi Kisaki)
(Attorney Kengo Iida)
Marunouchi Sogo Law Office
(Attorney Koichiro Oba)
(Attorney Taizo Ota)
(Attorney Takashi Nuibe)
(Attorney Toru Nagashima)
(Attorney Satoru Nakano)
Asahi Law Offices
(Attorney Noriyasu Kaneko)
(Attorney Jun Yamazaki)
Certified Public Accountants 6 people

4. Purpose of the investigation and review

The purpose of the investigation and review that was commissioned to this Committee by the Board of Auditors of Olympus is to provide the assessment of this Committee on whether or not it would be appropriate for Olympus to file suit to pursue liability against the current and former directors on the legal aspects based on the investigation and review, as well as the results of said investigation and review, on whether or not there were acts falling under violations of the duty of due care of a prudent manager, etc., in the performance of duties on the part of the current and former directors of Olympus with respect to the problems described below.

Note

The deferment of posting losses related to the investment of securities, etc., from the 1990s by Olympus centering on the method of using the acquisitions of Gyrus in addition to Altis, NEWS CHEF, and Humalabo that was reported in the Third Party Committee’s Investigation Report, and the Series of Problems related to it (hereinafter referred to as the “Series of Problems”)

The problem of the dividend distributions of surplus money that Olympus executed after April 1, 2007 (hereinafter referred to as the “Problem of the Surplus Dividend Distributions”)

II Method and scope of the investigation and review

1. Method of the investigation and review

(1) Investigation of the facts

In view of the background of the Board of Auditors of Olympus being led to establish the Director Liability Investigation Committee subject to its taking seriously the investigation results and advice of the Third Party Committee as well as the time constraints of the deadline by which the aforementioned request to file suit by Olympus' shareholders should be handled, this Committee decided to proceed with respect to the Series of Problems in the aforementioned □ that as a general rule, the investigation and review would be premised on the facts that were recognized in the Third Party Committee's Investigation Report, and with respect to the Problem of the Surplus Dividend Distributions, etc., in the aforementioned □, that as a general rule, the investigation and review would be premised the amounts/ numbers listed in the revised report of the securities reports (a further revised report was submitted on December 26, 2011) for the fiscal year ending March 2007 (139^{th} Term) to the fiscal year ending March 2011 (143^{rd} Term) that Olympus submitted to the Kanto Regional Finance Bureau on December 14, 2011.

For that matter, with respect to the current and former directors of Olympus, in light of the official responsibilities of this Committee to review and determine whether or not there was liability of directors and whether or not it would be appropriate to file suit to pursue liability, this Committee conducted hearing procedures with respect to the current and former directors (excluding those who are already deceased). Specifically, it took in the opinions, etc., through written inquiries of all of the current and former directors listed later who were targeted in the investigation (excluding those who are already deceased and those who were not resident in Japan), and it also conducted a hearing by means of direct interviews concerning those people in which such requirement could be acknowledged.

In addition, this Committee conducted an investigation of facts that were deficient in the facts recognized in the Third Party Committee's Investigation Report in determining whether or not there was liability as directors and whether or not it would be appropriate to file suit to pursue liability. Also, the committee conducted investigations that were considered to be reasonably necessary to carry out the work commissioned to it. Specifically, it reviewed and analyzed the documents submitted by Olympus to the Third Party Committee and other documents and conducted interviews over a total of 31 times with Olympus' directors and auditors (including those who had already resigned) as well as its employees.

(2) Review concerning the directors' liability

In parallel with the investigation in (1), this Committee conducted work to review and determine whether or not there was liability of directors and whether or not it would be appropriate to file suit to pursue liability with respect to the Series of Problems and the Problem of the Surplus Dividend Distributions, etc., on the part of the current and former directors of Olympus (the specific scope is described in 2 below). Specifically, it reviewed and analyzed judicial precedents, etc., in which violations of the duty of due care of a prudent manager on the part of directors had been questioned, searched for legal principles in judicial precedents of litigations pursuing the liability of directors, and determined whether or not there was liability on the part of the directors based on the facts recognized in (1), while with respect to the Series of Problems, it reviewed and determined Olympus' damages for which there was reasonable cause for the directors to assume liability.

2. Scope of the investigation and review

In investigating/ reviewing the commissioned work, this Committee conducted an investigation and review primarily of the following items.

(1) Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the Formulation of the Loss Separation Scheme and its maintenance

▯ Whether or not there were preparatory acts for the purpose of loss separation and whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the acts of loss separation

▯ Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the maintenance of a State of Loss Separation

▯ Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the acquisition of shares in ITX Corporation

(2) Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the Loss Separation Settlement Scheme

▯ Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the acquisition of shares in the Three Domestic Companies

▯ Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the payment of FA fees related to the Gyrus acquisition

(3) Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the handling of matters after there had been media coverage of the suspicions, etc., related to the problems of the Three Domestic Companies and Gyrus (hereinafter referred to as the “Emergence of Suspicions”)

(4) Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the misrepresentations in the securities reports, etc., that were submitted subsequent to the fiscal year ending March 2007

(5) Whether or not there was liability on the part of the directors concerning the dividend distributions of surplus money, etc., that were implemented after April 1, 2007

(6) Violations of the duty of due care of a prudent manager on the part of the directors and damages

(7) Regarding the liability of each of the current and former directors and whether or not it would be appropriate to pursue liability

Also, the scope of the directors subject to the above-mentioned investigation on whether or not there were violations of the duty of due care of a prudent manager and whether or not there was liability was restricted to the currently-appointed directors of Olympus, or those who served in the position of a director of said company subsequent to the day of the closing of the general shareholders' meeting held in June 1997.

III Outline of the Incident and the people who were involved in or knew about the Series of Problems

1. Regarding the outline of the course of the Incident and the Series of Problems

(1) The management of financial assets and the incurring of a massive amount of losses at Olympus

Olympus faced a drastic decrease in its operating profit due to the sudden appreciation in the yen after the year 1985, and based on the judgment that it would be difficult to immediately improve operating revenue from sales efforts in its core business, in order to increase non-operating profits, it aimed for an efficient management of excess money and worked out an objective to deploy aggressive financial policies. Based on said objective, with respect to the management of its financial assets, Olympus also began to manage domestic and foreign bonds, futures trading in stocks/ bonds, interest/ currency swaps, structured bonds, specified money trusts, and specified fund trusts, in addition to the safe financial products up to that time.

However, after that, in the early part of the year 1990, Olympus had to carry the losses from its management of financial assets due to the bursting of the so-called bubble economy. In order to recover said unrealized losses, although the risks were higher, it contemplated the recovery of a large amount of losses by means of financial products such as derivatives, etc., in which large returns were anticipated. However, the consequence was that the losses grew even larger due to such products.

In such circumstances, it was decided that beginning in the fiscal year ending March 2001, mark-to-market accounting standards of financial products would be introduced, in which a market value basis would be adopted to replace the acquisition cost basis of up that time. If a marked to market valuation of its financial assets were to be made, Olympus faced a situation in which it would be forced to post as a valuation loss the huge amount of unrealized losses that had expanded to roughly 95 billion yen by the year 1998.

(2) The execution of the separation of losses in financial products and the maintenance of a state of separation

Faced with such a situation, considerations were made at Olympus centering around the employees who belonged to the Finance Department with respect to plans to avoid such situations by receiving the advice of outside consultants, etc.; and, from around March 1998, it formulated a scheme to separate from Olympus the financial products carrying unrealized losses by using Funds that would be excluded from Olympus' consolidated accounting (hereinafter referred to as the "Loss Separation Scheme"), and led to the execution of the same. With respect to the separation from Olympus of such financial products carrying unrealized losses, such acts were carried out by a very limited number of employees that belonged to the Finance Division, and were subsequently maintained by said limited number of employees and the directors and others who were in charge of the Finance Division (hereinafter referred to as the "Directors and Others Involved"). With respect to the fact of said separation of losses and the status of the unrealized losses, while the same was periodically reported to successive top management (Representative Directors), it was not reported to the other directors or auditors. Also, with respect to said Loss Separation Scheme, not only was its structure extremely complex, such as its execution using multiple overseas Funds, but there were also elaborate cover-ups being carried out by the Directors and Others Involved with outside collaborators, and it remained a closed scheme, so to speak, that was intentionally hidden by the Directors and Others Involved. Consequently, for the long period of more than 10 years after that, not even the auditing firm knew about it, let alone the directors, auditors, and employees outside of the Finance Division.

(3) Acts in preparation for the settlement of a separation of financial assets

The Directors and Others Involved had considered that the losses that had been separated from Olympus in such ways had to be settled at some time, and as the method for doing so, they thought of attempting to settle said separated losses by means of a method in which at the time of the acquisition of shares of stock and assets of other companies in corporate acquisition projects, a portion of losses that was separated in the Loss Separation Scheme to the value of said assets was tacked on, or by paying large amounts of fees to the FA at the time of such acquisitions, said portion that was tacked on and the fee amounts would subsequently be posted under assets such as “goodwill,” etc., and gradually be depreciated and posted in terms of accounting as expenses over the depreciation period (hereinafter referred to as the “Loss Separation Settlement Scheme”). Then, what was carried out in execution of this was the acquisition of shares in the Three Domestic Companies of Altis, NEWS CHEF, and Humalabo, and the purchase of the Warrant Purchase Rights and the Preferred Shares in Gyrus that were paid as the FA fee that accompanied the acquisition of said company.

A portion of the acquisition of shares in the Three Domestic Companies, and the purchase of the Warrant Purchase Rights and the Preferred Shares in Gyrus that were paid as the FA fee that accompanied the acquisition of said company, had both been conducted following a resolution of the Board of Directors, and could have become an opportunity for the directors and auditors in attendance at the Board of Directors’ meeting other than the Directors Involved to discover the facts of the aforementioned loss separation. The other directors and auditors, however, failed to detect the purpose of the acquisition of shares in the Three Domestic Companies or the payment of the FA fee that accompanied Gyrus acquisition, and they approved the same based on the explanation of the Directors Involved. In particular, from the end of 2008 to around June 2009, the auditing firm made an unusual indication of matters to the auditors and to those in charge of accounting and others to the effect that the acquisition price for the shares in the Three Domestic Companies and the FA fee that accompanied the Gyrus acquisition were too high, and that judging from economic rationality with respect to these transactions, there was the risk of violations of the duty of due care of a prudent manager. Even though the fact that said indications had been made was also reported to the Board of Directors, the other directors, etc., did not consider it to be a serious situation, and subsequently in March 2010, a resolution was passed authorizing the purchase of the Preferred Shares that were granted as the FA fee that accompanied the Gyrus acquisition, for the huge amount of 620 million dollars from the party that acquired them.

In contrast to the separation of unrealized losses in the financial products that had been incurred at Olympus and the maintenance of the same by the Directors and Others Involved, the other directors, etc., could not find out about said facts for a long period of time, and in contrast to the scheming of the transactions for the purpose of settling the losses by the Directors and Others Involved, while many of the other directors were given the opportunity to become aware of the same through the process of holding deliberations with respect to such transactions at the Board of Directors’ meetings, eventually, they ended up having authorized said transactions. As a result, interest and fees were generated in the formulation of the Loss Separation Scheme and its maintenance from the time the losses were separated until they were recovered, while at the same time, mainly as a result of fees, etc., having been paid to the collaborators, etc., who were involved in the management of the Funds in the settlement of the loss separation, Olympus incurred a large amount of losses that it will be unable to recover. Also, due to the financial statements not being prepared properly, it led to the dividend distributions of surplus money and the acquisitions of treasury stock that were in excess of the distributable amount for dividend distributions. Furthermore, amidst the execution of the loss separation, a Fund that was used in the Loss Separation Scheme was made to purchase shares in ITX Corporation, and because the stock price fell, this lead to Olympus suffering losses.

(4) The subsequent history

Then, in July 2011, there was media coverage in some magazines concerning suspicions with respect to the point that the acquisition price for the shares in the Three Domestic Companies and the acquisition price for Gyrus including the purchase of its Preferred Shares were huge amounts. The Representative Director at the time, Woodford, who learned about this from an acquaintance, as to independently commission an outside accounting firm to conduct an investigation; and, with the fact that a presentation was made to the directors and others of there being suspicions having served as an opportunity, a Third Party Committee was established at Olympus made up of independent third parties. In the process of the investigations of said Committee, the aforementioned facts were revealed, and such is the outline of the matter in question.

In light of the actual circumstances of the matter in question as described above, in conducting a review on the legal aspects with respect to whether or not there were acts falling under violations of the duty of due care of a prudent manager, etc., in the performance of duties on the part of the current and former directors of Olympus concerning the Series of Problems and the Problem of the Surplus Dividend Distributions, etc., we will review the matter by dividing them into the directors who were involved in the acts toward the Loss Separation/ Maintenance and Settlement, knew about such acts, or could have found out the same (hereinafter referred to as “Participants” and “People Who Knew”), and the other directors.

2. Regarding the directors who face the problem of whether or not they were involved in, knew about, or could have found out about the Series of Problems

Those who potentially fall under the Participants and People Who Knew are the Representative Director, the directors who were in charge of divisions or departments that engaged in the management of financial assets such as the Finance Division, or the employees who belonged to such divisions or departments; specifically, they are

8 people consisting of □Hideo Yamada, □Hisashi Mori, □Makoto Nakatsuka, □Toshiro Shimoyama, □Masatoshi

Kishimoto, □Tsuyoshi Kikukawa, □Masaharu Okubo, and □Hironobu Kawamata.

With respect to the 8 people mentioned above to begin with, we will review them in order as follows, regarding their involvement or knowledge (including possible knowledge) concerning the aforementioned Formulation of the Loss Separation Scheme and its execution, the maintenance of a State of Loss Separation, the acquisition of shares in ITX, and acts toward the settlement of the loss separation.

(1) Regarding Hideo Yamada and Hisashi Mori

1) Regarding their backgrounds

The outline of the backgrounds of Hideo Yamada (hereinafter referred to as “Yamada”) and Hisashi Mori (hereinafter referred to as “Mori”) are as follows.

Since October 1980, Yamada was consistently involved in the management of financial assets in the Treasury Group in the Accounting Department. After being appointed as the Group Leader of said Group in January 1989, after October 1980, following a change of the Group’s name, he became the Group Leader of the Finance Group in the Accounting Department. Thereafter, in April 1994, he was appointed as the Vice Head of the Accounting Department; and, in April 1997, he was appointed as the Head of the Administration/ Finance Department. In July 2001, he was appointed as the Vice Head of the Operation Management Office, which managed the Finance Department, and in April 2002, he was appointed as the Head of the Administration Management Office, which similarly managed the Finance Department. Subsequently, other than serving as the Head of the Corporate Center from April 2003 to March 2009, which controlled the Finance Department, he was appointed as a director in June 2003, and in June 2011 was appointed as an auditor.

Mori, after being transferred to the Treasury Group in the Accounting Department in June 1987, worked in the Treasury Group in the Accounting Department (and the Finance Group in the Accounting Department) until March 1997. Subsequently, on April 1, 1997, he was appointed as the Administration/ Finance Department Finance Group Leader, and from the following April 1998 to March 2000, he was the Assistant to the Head of the Administration/ Finance Department. After April 2000, other than serving as the Administration Finance Department Finance Planning Group Leader until March 2001, he served as the Vice Head of the Administration/ Finance Department from October 2000 to June 2001. Further, he served as the Head of the Finance Department from July 2001 to March 2002, and after serving as the Head of the Overall Management Planning Office and the Office Manager of the Management Planning Headquarters after April 2002, he served as the Head of the Management Planning Headquarters from June 2005 to March 2011. He was appointed as a director in June 2006.

2) Regarding their involvement or knowledge with respect to the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

Yamada and Mori are the central figures who formulated and executed the Loss Separation Scheme with respect to the huge amount of unrealized losses, and it can be acknowledged that they were actively involved in the loss separation, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation.

3) Regarding their involvement or knowledge with respect to the acquisition of shares in the Three Domestic Companies

Yamada and Mori were the ones who formulated and executed the Loss Separation Scheme with respect to the huge amount of unrealized losses, and were also the ones who formulated and executed the Loss Separation Settlement Scheme. It is clear that they knew that the money for the shares in the Three Domestic Companies based on the Board of Directors’ meeting resolution of February 22, 2008 would be used for the purpose of settlement of the loss separation. In particular, it is believed that the reason Mori was transferred to a department related to management planning after April 2002 was because Yamada and Mori had intended to attempt a settlement of the loss separation using M&A projects such as the acquisition of shares in the Three Domestic Companies and the Gyrus acquisition.

4) Regarding their involvement or knowledge with respect to the FA fee related to the Gyrus acquisition

Yamada and Mori were the ones who formulated and executed the Loss Separation Scheme, and were also the ones who formulated and executed the Loss Separation Settlement Scheme. It is clear that they knew that the fee to the FA related to the Gyrus acquisition (the purchase price for the Warrant Purchase Rights and the Preferred Shares) would be used for the purpose of loss separation settlement.

(2) Regarding Makoto Nakatsuka

1) Regarding his background

Makoto Nakatsuka (hereinafter referred to as “Nakatsuka”), after joining the company in April 1981, belonged to the Treasury Group in the Accounting Department until December 1985. Subsequently, after being temporarily transferred to Omachi Olympus Co., Ltd., he was transferred to the Treasury Group in the Accounting Department in March 1988, and belonged to said Group until September 1990; from October of the same year to March 1997, he belonged to the Finance Group in the Accounting Department. Subsequently, after serving as the Administration/ Finance Department Finance Planning Group Leader from April 1997 to March 2000, he served as the Administration/ Finance Department Finance Group Leader (and the Finance Department Finance Group Leader) from April 2000 to May 2002. After serving as the Head of the Finance Department from April 2002 to March 2006 (during which time he concurrently served as an ITX director), from April 2006 to May 2008, Nakatsuka served as the Head of Department of the Management Planning Headquarters Financial Strategy Department, which was to be newly in charge of financial asset management (during which time, he was an executive officer from June 2007). After serving as the Representative Director and President of ITX (full-time service) from June 2008 to May 2010, he became an executive officer of Olympus in June 2010, the Head of the Corporate Center in April 2011, and was appointed as a director in June 2011.

2) Regarding his involvement or knowledge with respect to the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

Nakatsuka, in following the instructions of Yamada and Mori, gave instructions to banks to transfer money, and appointed himself to be the Representative of CFC, a Receiver Fund, among other things, for the execution of the Loss Separation Scheme that was formulated by Yamada and Mori. Furthermore, under the instructions of Yamada and Mori, Nakatsuka committed such acts as signing the Comprehensive Agreement Granting Revolving Collateral Interest dated July 14, 2003 and the Extension Agreement on Loans Secured by Accounts dated July 18th of the same year, both as the Representative of CFC, and performing the actual work on the procedures in making investments in SG Bond, for the maintenance of a State of Loss Separation.

It is not possible that Nakatsuka would not have known the purpose of these acts, and it can be acknowledged that Nakatsuka was aware of the fact that he was committing these acts for the purpose of separating the financial products that had incurred unrealized losses from the main body of Olympus, and for the purpose of maintaining a State of Loss Separation.

In addition, as described above, Nakatsuka was in charge of the actual work for the execution of the Loss Separation Scheme while he knew of its purpose, and it can be acknowledged that he naturally also knew about the acquisition of shares in ITX by means of ITV on January 28, 2000, which was conducted in parallel with the execution of the Loss Separation Scheme.

3) Regarding his involvement or knowledge with respect to the acquisition of shares in the Three Domestic Companies

As previously described, Nakatsuka was involved in the acts of loss separation and in the maintenance of a State of Loss Separation, and it is presumed that he knew that the unrealized losses that had been separated would have to be dealt with at some point in time. Also, at the time of the execution of the acquisition of shares in the Three Domestic Companies based on the Board of Directors' meeting resolution of February 22, 2008, other than being involved as a decision-maker, he had actually heard from Yamada that the shares in the Three Domestic Companies were being acquired for the purpose of settlement of the loss separation, and it can be acknowledged that he knew that the money for the shares in the Three Domestic Companies based on the Board of Directors' meeting resolution of February 22, 2008 would be used for the purpose of settlement of the loss separation.

4) Regarding his involvement or knowledge with respect to the FA fee related to the Gyrus acquisition

As previously described, Nakatsuka was involved in the acts of loss separation and in the maintenance of a State of Loss Separation, and it is believed that he knew that the unrealized losses that had been separated would have to be handled at some point in time; and, as described in 3), with respect to the acquisition of shares in the Three Domestic Companies as well, he knew that its purpose was to be used as a partial settlement of the loss separation. Therefore, it can be acknowledged that with respect to the FA fee related to the Gyrus acquisition as well, he either knew, or at the very least, could have found out that the same would be used for the purpose of settlement of the loss separation.

(3) Regarding Toshiro Shimoyama

1) Regarding his background

Toshiro Shimoyama (hereinafter referred to as "Shimoyama") served as the Representative Director and President from the year 1984 to June 1993, was appointed as the Representative Director and Chairman from July 1993 to June 2001, and resigned as a director in June 2004.

2) Regarding his involvement or knowledge with respect to the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

Olympus faced a drastic decrease in its operating profit due to the sudden appreciation in the yen after the year 1985, and based on the judgment that it would be difficult to immediately improve operating revenue from sales efforts in its core business, in order to increase non-operating profits, Shimoyama aimed for an efficient management of excess money and worked out an objective to deploy aggressive financial policies (Board of Managing Directors' meeting resolution of May 20, 1987). Shimoyama was the Representative Director and President at the time, and it is believed that he naturally focused attention on the status of the management of financial assets under said objective. He had been receiving reports in order to grasp the status of the management of financial assets. When considering at the same time that Shimoyama had been appointed as the Representative Director and President for 9 years from the year 1984 (note that he was appointed as the Representative Director and Chairman for 7 years thereafter until June 2001) and was doing the steering for Olympus, it is believed that he had been receiving reports that a huge amount of unrealized losses of nearly 100 billion yen had been incurred in the financial assets of Olympus after the bursting of the bubble.

In addition, as described later in 1 (3) 2) of Section IV, since at least the time when Kikukawa was appointed as the President in June 2001, Yamada and Mori were making periodic reports directly at meetings attended by the 3 individuals consisting of Kishimoto, Kikukawa, and Ohta at a frequency of about twice a year, on the status of the unrealized losses of the financial assets that had been separated from Olympus and were being managed in Funds, based on documents prepared by the employees of the departments in charge of financial asset management, and they had been making periodic reports to Shimoyama as well using similar documents, separately from said meetings. Because one example of the documents used in said reports is a document entitled “135PB management report,” dated September 12, 2003 (“135” refers to the 135th Term at Olympus (from April 1, 2002 to March 31, 2003), PA refers to the first half, and PB refers to the second half), said document lists Shimoyama as one of the people to whom it was addressed. In said document, under each of the account titles of “Deposits,” “Bonds,” “Investment Trusts,” and “Invested Capital,” there are numbers listed that correspond to “Comparison to the previous fiscal year,” “Balances” for outward purposes, and “Unrealized Losses” that had actually been incurred; and further, as shown below, it lists under each of these account titles the form of ownership within Olympus for outward purposes as well as the Funds to which money that was earned from its utilization had been transferred.

Deposits	SG Deposits (21C, Proper, GV)
Bonds	Government bonds (CFC)
Investment Trusts	GIM (TEAO, GCNS)
Invested Capital	GCNV[1] (QP)

It is believed that the entry with respect to “Deposits” means that the money that was earned by providing as security the deposits that Olympus held at SG Bank had been transferred to 21C, etc.; the entry with respect to “Bonds” means that the money that was earned by providing as security the government bonds that Olympus deposited at LGT Bank had been transferred to CFC; that the entry with respect to “Investment Trusts” means that the money that was invested in LGT-GIM had been transferred to the Funds of TEAO, etc.; and the entry with respect to “Invested Capital” means that the money that was invested in an Investment Business Fund (GCNVV) had been transferred to QP. In other words, said document is one that represents, in the form of unrealized losses in each of the financial assets, that each of the financial assets of Olympus had eventually been replaced by financial assets carrying a large amount of unrealized losses and had become nearly worthless items. By reading the above-mentioned entries in each of the account titles together with the “Unrealized Gains and Losses” numbers, the “Balances” under each of the account titles such as “Deposits” had eventually been replaced by financial assets carrying a large amount of unrealized losses after the money that had been deposited or invested in each of the

[1] This is believed to refer to GCNVV.

account titles was transferred in some form or another to a Fund; and, it can be grasped that unrealized losses had been incurred as they are listed in “Unrealized Gains and Losses” respectively under each of the account titles. If reports had been made to Shimoyama using such documents after the loss separation, it can be acknowledged that an explanation of the Loss Separation Scheme had naturally been made to Shimoyama, who was Representative Director and Chairman at the point in time they began to plan the loss separation.

Based on these facts, it is natural to believe that Shimoyama knew about the Formulation of the Loss Separation Scheme and its execution at the point in time prior to June 2001 as well, and that hypothetically, even if he did not know, it can be acknowledged that he could have found out. Furthermore, from the fact that the aforementioned periodic reports had been taking place after June 2001, it can be acknowledged that Shimoyama knew that a State of Loss Separation had been maintained after June 2001 at the latest.

Next, regarding the acquisition of shares in ITX, to have ITV, a Pass-Through Fund, purchase shares in ITX on January 28, 2000 using as much as 10 billion yen of its money was a matter of great importance that could have disrupted the financial plan for the purpose of maintaining the overall Loss Separation Scheme. Consequently, at the time Yamada and Mori made an explanation and report to Shimoyama on the Loss Separation Scheme; it is to be expected that they would have made an explanation and report with respect to the purchase of ITX shares at the same time. Therefore, it can be acknowledged that Shimoyama naturally knew about the acquisition of shares in ITX by means of ITV. Hypothetically, even if he did not know, taking the aforementioned circumstances into account, it can be acknowledged that he obviously could have found out.

(4) Regarding Masatoshi Kishimoto

1) Regarding his background

Masatoshi Kishimoto (hereinafter referred to as “Kishimoto”) was appointed as the Representative Director and President in June 1993, was appointed as the Representative Director and Chairman in June 2001, and resigned as a director in June 2005.

2) Regarding his involvement in or knowledge of the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

As described later in 1 (2) 7) of Section IV, the Formulation of the Loss Separation Scheme by Yamada and Mori was completed by March 2001. As long as there was the requirement to actually transfer money for the Formulation of the Loss Separation Scheme for which the cumulative total exceeded 100 billion yen, it is inconceivable that Yamada and Mori carried out such acts without the permission of Kishimoto, who was the Representative Director and President from the year 1993 to June 2001. It is reasonable to believe that Yamada and Mori carried out the Formulation of the Loss Separation Scheme after obtaining Kishimoto’s consent.

In addition, Kishimoto, as the Representative of Olympus, signed the Written Agreement (dated July 18, 2003) of the Term Extension Agreement (extended until July 22, 2008) of the Loans Secured by Accounts (30 billion yen) to CFC by LGT Bank based on the Written Agreement dated July 23, 1998, as well as the Written Agreement dated July 14, 2003 of the Comprehensive Agreement Granting Collateral Interest with respect to said loan. Because it is inconceivable that Kishimoto did not know about the content and purpose of these agreements that he himself signed as the Representative of Olympus, it is reasonable to acknowledge that Kishimoto knew the meaning of the Loans Secured by Accounts (30 billion yen) to CFC by LGT Bank, and that Kishimoto was actively involved in the acts for the purpose of maintaining a State of Loss Separation. Furthermore, as previously described in (3) 2), Kishimoto, along with Kikukawa and Ohta, had been receiving periodic reports from Yamada and Mori with respect to the fact that the losses were in a state of having been separated and the status of unrealized losses in said state. Therefore, it can be acknowledged that Kishimoto also knew about and had consented to the fact that a State of Loss Separation had been maintained.

Furthermore, regarding the acquisition of shares in ITX, to have ITV, a Pass-Through Fund, purchase shares in ITX on January 28, 2000 using as much as 10 billion yen of its money was a matter of great importance that could have disrupted the financial plan for the purpose of maintaining the overall Loss Separation Scheme. Consequently, at the time Yamada and Mori obtained the prior consent of Kishimoto, who was the Representative Director and President at the time, with respect to the Loss Separation Scheme; it is reasonable to believe that they would have explained and obtained consent with respect to the purchase of ITX shares at the same time. Therefore, it can be acknowledged that Kishimoto naturally knew about and had consented to the acquisition of shares in ITX by means of ITV.

(5) Regarding Tsuyoshi Kikukawa

1) Regarding his background

To give a brief background of Tsuyoshi Kikukawa (hereinafter referred to as “Kikukawa”), he was appointed as a director in June 1999, came to be in charge of the Management Planning Department, Administration/ Finance Department, Human Resources and Accounting Department, was appointed as a director and the Head of the Corporate Center in April 2001, and as the Representative Director and President in June 2001.

2) Regarding his involvement or knowledge with respect to the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

As described later in 1 (2) 6) of Section IV, in September 1999, indications were made by KPMG AZSA LLC to Yamada and Mori to the effect that they were trying to commit acts of “Tobashi”; and, with this indication serving as impetus, Olympus posted extraordinary losses of 16.8 billion yen as losses under “Tokkin and Swaps” in the half-year period ending September 1999. Based on circumstances such as Olympus’ non-consolidated net income for the current period being around 4.7 billion yen at the time of the fiscal year ending March 1999, and a “Loss on Sale of Securities” totaling approximately 7 billion yen (portion of terminated short-term “Tokkin” 6.4 billion yen) having been disclosed on April 23, 1999 after a report to the Board of Directors (Management Committee), it is clear that at the time, it was an extremely important management issue for Olympus as to whether or not it would post extraordinary losses of 16.8 billion yen. It is to be expected that the circumstances with respect to that point would have been reported to Kikukawa, who was the officer in charge.

After Kikukawa was appointed as the director in charge of the Administration/ Finance Department in June 1999, at the Management Committee meeting of January 28, 2000, under the agenda entitled “Classification arranged by purpose of liquidity on hand and its management method,” resolutions were passed for ? the purchase of investment equity in LGT-GIM (40 billion yen), which was the execution of a preparatory act for the Europe Route in the Loss Separation Scheme, ? the investment of 30 billion yen in a Business Investment Fund (GCNVV), the main purpose of which was similarly the execution of a preparatory act for the Domestic Route in the Loss Separation Scheme, together with ? a basic portfolio of financial assets with holdings of 68 billion yen in cash and deposits and 45 billion yen in managed securities excluding government bonds and strategic holding shares. The person who proposed said agenda is listed as Kikukawa. Of the aforementioned, ? and ? are core preparatory acts for the purpose of loss separation, and ? was necessary in the securing of the collateral to be provided upon raising capital, which was a preparatory act for the purpose of loss separation. It is believed, however, that this was planned by Yamada and Mori for the purpose of continuing to hold the deposits and government bonds (which would be provided as collateral) as liquidity-on-hand assets, which would become necessary in order to maintain a State of Loss Separation. Regarding the aforementioned basic portfolio of financial assets, with Olympus’ non-consolidated current assets totaling around 244.5 billion yen at the time (fiscal year ending March 2000), a little over 28% of it would be invested in LGT-GIM, a class fund that LGT Bank had set up and was managing, as well as in a Business Investment Fund (GCNVV). In addition, cash and deposits/ managed securities in excess of 110 billion yen would be held/ managed after having set up a basic portfolio of financial assets with the explanation that “until such time that a primary purpose is provided, we will aim for an improvement in capital efficiency.” However, in light of the scale of said basic portfolio of financial assets and the magnitude of the effects it would have on Olympus’ financial condition, it must be said that it is difficult to believe that Yamada and Mori succeeded in having Kikukawa propose said agenda item at the Management Committee meeting without having explained to Kikukawa the purpose of loss separation by means of the aforementioned basic portfolio of financial assets. Therefore, it is inconceivable that Kikukawa, who was the person that proposed said agenda at the Management Committee meeting (at the time, it was integrated with the Board of Directors), in addition to being the director in charge of the Management Planning Department, Administration/ Finance Department, Human Resources and Accounting Department, would have made the proposal at the Management Committee meeting without having known the true intention of ⍰ to ⍰. It is reasonable to believe that an explanation was made with respect to the true intention of the “Classification arranged by purpose of liquidity on hand and its management method” (the Loss Separation Scheme) by Yamada, who was the one who explained said agenda to Kikukawa, who made the proposal.

When taking into account the above circumstances, it can be acknowledged that on January 28, 2000, at the latest, Kikukawa knew about the execution of the Loss Separation Scheme that Yamada and Mori were trying to carry out, and had had consented to the same (for the very reason that he consented, he became the person to propose the same at the Management Committee meeting).

In addition, Kikukawa was actively involved in the acts for the purpose of maintaining a State of Loss Separation. This includes signing, as the Representative of Olympus along with Kishimoto, of the Term Extension Agreement of the Loans Secured by Accounts dated July 18, 2003. Also, as previously described in (3) 2), Kikukawa, along with Kishimoto and Ohta, had been receiving periodic reports from Yamada and Mori with respect to the fact that the losses were in a state of having been separated as well as the status of unrealized losses in said state.

Therefore, it can be acknowledged that Kikukawa knew about and consented to the fact that a State of Loss Separation had been maintained.

Furthermore, regarding the acquisition of shares in ITX, to have ITV, a Pass-Through Fund, purchase shares in ITX on January 28, 2000 using as much as 10 billion yen of its money was a matter of great importance that could have disrupted the financial plan for the purpose of maintaining the overall Loss Separation Scheme. Consequently, at the time Yamada and Mori explained the Loss Separation Scheme and obtained the consent of Kikukawa, who was the director in charge of Finance and Accounting, it is reasonable to believe that they would have made an explanation with respect to the purchase of shares in ITX and the required cost, and obtained his consent at the same time.

Therefore, it can be acknowledged that Kikukawa naturally knew about and had consented to the acquisition of shares in ITX by means of ITV.

3) Regarding his involvement or knowledge with respect to the acquisition of shares in the Three Domestic Companies

In January 2000 at the latest, Kikukawa knew about and consented to the Formulation of the Loss Separation Scheme and its execution to separate the huge amount of unrealized losses (95 billion yen–100 billion yen) to Funds outside the company, and subsequently, as previously described in (3) 2), had been receiving periodic reports from Yamada and Mori and others with respect to the status of the separated losses. Consequently, it is believed that Kikukawa, at the time, knew that there was a huge amount of losses (losses that had been separated) that should be settled (in other words, that there was the necessity for a Loss Separation Settlement). Because of this, at the time Yamada and Mori executed the Loss Separation Scheme that they formulated, it is reasonable to believe that they would have made an explanation to and obtained the consent of Kikukawa, who was the Representative Director and President at the time. Therefore, it is clear that Kikukawa knew that the money for the shares in the Three Domestic Companies based on the Board of Directors' meeting resolution of February 22, 2008 would be used for the purpose of the Loss Separation Settlement Scheme.

4) Regarding his involvement or knowledge with respect to the FA fee related to the Gyrus acquisition

As previously described in 2), Kikukawa knew about and had consented to the Formulation of the Loss Separation Scheme and its execution; and in addition, as previously described in 3), he had received an explanation of and had consented to the Loss Separation Settlement Scheme. Furthermore, he granted approval on the approval circular as the final decision-maker concerning the FA fee related to the Gyrus acquisition. At the same time, he signed both the FA Agreement, which set forth the framework of the fee, and the Revised FA Agreement as the

Representative of Olympus. Further, he signed the Written Agreement granting veto rights to the Preferred Shares as the Representative of Olympus, which would become the main reason for purchasing Gyrus' Preferred Shares for the extremely high price of 620 million dollars.

Therefore, it is clear that Kikukawa knew that the fee payable to the FA related to the Gyrus acquisition (the purchase price for the Warrant Purchase Rights and the Preferred Shares) would be used in the Loss Separation Settlement Scheme.

(6) Regarding Hironobu Kawamata

1) Regarding his background

Hironobu Kawamata (hereinafter referred to as "Kawamata") was transferred from March 1988 to the Treasury Group in the Accounting Department, which was the department in charge of the management of financial assets at the time. After working at the Finance Group in the Accounting Department (and the Finance Group in the Administration/ Finance Department) from October 1990, he served as the Group Leader of the Finance Group in the Administration/ Finance Department from April 1997 to the end of March 2000 (thereafter the Administration/ Finance Department Finance Group Leader until March 2001). Subsequently, he was temporarily transferred to Olympus America in May 2000, served as the Head of the Accounting Department from October 2004 to June 2009 (Head of the Business Support Headquarters in April 2007), and was appointed as a director in June 2009.

2) Regarding his involvement or knowledge with respect to the Formulation of the Loss Separation Scheme and its execution, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation

From the fact that Kawamata was working from March 1998 to March 2000 in the Group that was in charge of the management of financial assets at Olympus, and that said Group at the time was generally made up of around 4 people, the possibility cannot be ruled out that he knew about, or could have found out about the Formulation of the Loss Separation Scheme, the acquisition of shares in ITX, and the maintenance of a State of Loss Separation that were being carried out by Yamada, who was his superior at the time, and Mori, who was either his subordinate or colleague at the time. In the process of the investigation by this Committee, however, we found no evidence by which it could be acknowledged that Kawamata knew about or could have found out about such acts at the time.

3) Regarding his involvement or knowledge with respect to the acquisition of shares in the Three Domestic Companies

We found no facts to support that Kawamata was in a situation to know about, or could have found out that the money for the shares in the Three Domestic Companies would be used for the purpose of settlement of the loss separation.

4) Regarding his involvement or knowledge with respect to the FA fee related to the Gyrus acquisition

We found no facts to support that Kawamata was in a situation to know about, or could have found out that the FA fee related to the Gyrus acquisition would be used for the purpose of the settlement of the loss separation at the point in time prior to the start of the Loss Separation Settlement (after February 2008).

However, at the time from the end of the year 2008 to the spring of the year 2009, as the Head of the Accounting Department, Kawamata actually received indications from KPMG AZSA LLC that the FA fee related to the Gyrus acquisition was excessive. With respect to this point, as will be described later in detail in 2 (4) 2) B of Section VIII, Ernst & Young ShinNihon LLC, who had been appointed as Olympus' accounting auditors in June 2010, reached a conclusion acknowledging the accounting treatment done in March 2010 for the purchase price of Gyrus' Preferred Shares as "goodwill," after they had obtained an understanding of the items of concern, etc., that KPMG AZSA LLC had concerning the FA fee for Gyrus. Therefore, due to the fact that the accounting auditors had acknowledged the posting of goodwill, Kawamata judged that there were no problems with the FA fee related to the Gyrus acquisition, and it is believed that it cannot be said that he knew about or could have found out that the FA fee would be used for the purpose of settlement of the loss separation.

(7) Masaharu Okubo

1) Regarding his Background

Masaharu Okubo (hereinafter referred to as "Okubo") was elected Director in June 1998, and on April 1, 2001 took the position of Division Manager of the Operations Division, reporting to the Center Head of the Corporate Center. From July 1, 2001 until the end of October 2002, he served as the Center Head of the Corporate Center. (At this point, Yamada, Mori, and Nakatsuka, who had been involved in maintaining the State of Loss Separation, were reporting to Okubo.)

2) Okubo's involvement in or knowledge about the development and implementation of the Loss Separation Scheme, acquisition of the ITX shares and maintenance of the State of Loss Separation

We have not found any facts that can confirm that, as of April 1, 2001 when he assumed the position of Division Manager of the Operations Division reporting to the Center Head of the Corporate Center, Okubo had any knowledge of the loss separation that had been already accomplished by this time, or of any of the acts of Yamada, Mori and others thereafter until October 2002 that were undertaken to maintain the State of Loss Separation. Further, as stated in (3) 2) above, at least from the time that Kikukawa took the position of President in June 2001, Yamada and Mori had periodically—about twice each year—given reports directly at meetings attended by Kishimoto, Kikukawa, and Ohta with respect to the status of the unrealized losses that had been separated from Olympus and managed through Funds. In consideration of the fact that we have found no evidence to confirm that Okubo had ever attended these meetings, it can be acknowledged that none of said reports were ever presented to Okubo.

We have considered the facts detailed below in order to determine whether or not Okubo could have had knowledge of the State of Loss Separation at the time of his assumption of the post of Division Manager of the Operations Division, which oversaw the Finance Department, on April 1, 2001, by which time the State of Loss Separation had been already accomplished:

① A complex scheme was used to separate losses, such as using multiple overseas Funds to pass the losses through,

in order to make the mechanism not so easy to immediately understand;
② Meetings were held in advance with LGT Bank and Commerzbank with regard to making deposits with these banks as well as pledging such deposits as collateral so that it would not be possible to tell from bank statements that these deposits were serving as collateral. Therefore, such meticulous cover-up efforts with the assistance of these outside third parties made it very difficult to detect the presence of said deposits and their role as collateral; and,
③ There was never a dispute between LGT Bank, Commerzbank, and the business investment fund concerned (GCNVV), and therefore opportunities scarcely arose that could have led to the uncovering of the State of Loss Separation. In view of the above facts, it can hardly be acknowledged that [Okubo] could have possessed any knowledge of the State of Loss Separation, which had been already accomplished by that time.

In addition, we have considered the following facts in order to determine whether or not Okubo could have found out about the additional acts that Yamada, Mori, and others had engaged in for the purpose of maintaining the State of Loss Separation after Okubo's assumption of the post of Division Manager of the Operations Division, which oversaw the Finance Department, on April 1, 2001 until October 2002:
① Okubo was in charge of the Corporate Center (or the Operations Division, which was under the control thereof) for only about one year and seven months.
② Immediately before taking up the above position, Okubo was the Head of Department of the Analysis Instruments Business Department, and there is no record to indicate that, at any point even prior to this, that he had ever held any position in either the Finance Department or the Accounting Department. Therefore, he lacked sufficient knowledge of financial and accounting matters.
③ During the time that Okubo was in charge of the Corporate Center (or the Operations Division, which was under its control), a deposit that had been held with the Societe Generale was increased by 15 billion yen, while a deposit of 15 billion yen was withdrawn from Commerzbank prior to maturity (as of the end of March 2001, there was already a deposit of 30 billion yen with the Societe Generale). While this is the only act carried out during that time that may possibly be suspected of being intended for the maintenance of the State of Loss Separation involving Olympus as a directly involved party, it represents nothing more than a simple transfer of funds, and it is hardly unusual for a deposit to be transferred from one foreign bank to another.

In view of the above facts, it can hardly be acknowledged that Okubo, who was a Director at that time, could have found out about any of the additional acts that Yamada, Mori, and others were engaging in for the purpose of maintaining the State of Loss Separation.

Therefore, we have found no facts that might confirm that Okubo had found out, or could have found out that the State of Loss Separation was being maintained at that time.

Furthermore, as far as the ITX shares were concerned, these shares were acquired by ITV on March 31, 2000, an event that took place before Okubo had taken up the post of Division Manager of the Operations Division, which oversaw the Finance Department; and therefore, it can scarcely be acknowledged that he had known, or could have known of the acquisition of the ITX shares.

3) Okubo's involvement in or knowledge of the acquisition of the Three Domestic Companies and the FA fee

relating to the acquisition of Gyrus

Okubo ceased to be director in charge of the finance as of October 2002. We have uncovered no facts that might confirm that Okubo had, or could have had any knowledge that the purchase price for the shares of the Three Domestic Companies and the FA fee relating to the acquisition of Gyrus were intended for the settlement of losses.

IV. Whether or not Directors violated the duty of due care of a prudent manager in connection with the Formulation of the Loss Separation Scheme and the maintenance of the Scheme

1. Facts that serve as the premise in determining liability

In addition to the facts that are stated in Section III. "Overview of the Incident, and people who were involved in or knew the Series of Problems associated with the Incident" above, we describe the following facts (in chronological order) that premise the process of assessing whether or not there were violations of the duty of due care of a prudent manager on the part of Directors in connection with the Formulation of the Loss Separation Scheme (preparatory acts for the purpose of loss separation, and acts of loss separation).

(1) Up to the planning of the Loss Separation Scheme (up to the early part of the year 1998)

1) Losses arising from the management of financial assets

During the early part of the 1980s, Olympus had managed its financial assets using financial commodities that carry relatively low risk. Starting in 1985, however, the company, in addition to the safe financial commodities that it had been using, began to manage its financial assets using primarily bonds, foreign bonds, stock futures, and bond futures, and by the end of the 1980s had begun to use interest rate swaps and foreign exchange swaps, structured bonds that incorporated such derivatives, and structured bonds linked to the Nikkei Stock Average and other equity indexes. In addition, in the late 1980s Olympus started to invest its financial assets in specified money trusts and specified fund trusts (hereinafter collectively referred to as "Tokkin").

However, the collapse of the so-called bubble economy around 1990 left Olympus with losses that resulted from the investments which the company had made earlier on to manage its financial assets. Olympus began to rely heavily on Tokkin in the hope of recouping the losses, while making attempts to make up for a substantial amount of the losses through derivatives and other such financial commodities. The use of these commodities, however, only resulted in deepening the losses, and by about 1998, the size of the company's unrealized losses had ballooned to nearly 95 billion yen.

In the mid-1990s and thereafter, Yamada and Mori made the decisions as to which financial commodities should be purchased. Yamada and Mori also regularly made reports on the status of Tokkin and other financial assets to the Director responsible for accounting at meetings that were held about once a month. (It should be noted that the company's "Asset Management Standards (rules on the management of surplus money and the control and management of derivatives transactions)" implemented on March 25, 1997 (hereinafter referred to as "Asset Management Standards") stipulate that the Head of Department of the Accounting Department must submit reports to the aforesaid Director at least once a month with regard to the status of financial assets.)

2) Changes to accounting standards

Around 1997, many discussions began to take place over possible changes to the accounting standards for financial commodities that centered on the introduction of mark-to-market accounting, which would eventually aid in bringing Olympus' unrealized losses out into the open. Olympus had been given relevant information by its accounting auditor, Asahi Auditing Corporation (presently KPMG AZSA LLC; hereinafter collectively referred to as

"KPMG AZSA LLC"), and, by the beginning of 1998 at the latest, had become aware of the push towards the introduction of mark-to-market accounting. It should be noted that the official switch from historical cost accounting to mark-to-market accounting was publicly announced after the "Accounting Standards for Financial Instruments" came into effect in January 1999 (prior to that, either the "basket type cost method" or "basket type lower of cost or market method" was permitted to account for Tokkin intended for asset management; however, under the aforesaid standards, each component of trust assets must be marked to market). Said standards apply to any fiscal year that commenced after April 2000.

(2) Formulation of the Loss Separation Scheme (from January 1998 to March 2001)

1) Start of discussions on a possible Loss Separation Scheme

Once it became clear in early 1998 that, as mentioned above, mark-to-market accounting would be introduced in the near future, which would require that financial commodities be marked to market, Olympus found itself with a massive amount of unrealized losses which totaled approximately 95 billion yen, and which would need to be posted as valuation losses on the company's books. Under the circumstances, discussions began to take place primarily between Yamada, who was the Head of Department of the Administration and Finance Department at that time, and Mori, who was then the Assistant Head of Department of said department with regard to prospects for a scheme that would prevent the unrealized losses on financial assets from being posted on the company's books (i.e., deferment of the posting of unrealized losses).

Both Yamada and Mori consulted with domestic and foreign securities firms in an attempt to find ways to deal with the situation; however, they were unable to find radical measures that might prove effective. Around this time, Yamada and Mori began holding discussions with Nakagawa from Axes (Japan) Securities Co., Ltd., and Sagawa from Axes America, with whom they had previously consulted concerning the management of investments, to consider using a "tobashi" scheme to transfer the [unrealized] losses to Funds that would not be excluded from Olympus' consolidated accounting so that the losses would not show up on its financial statements. Yamada and Mori then asked Sagawa and Nakagawa to create Receiver Funds to which the losses would be transferred by way of the "tobashi" scheme and which would be excluded from Olympus' consolidated accounting, and by March 1998 CFC and QP were formed as Funds of Cayman registry.

2) Formulation of the Loss Separation Scheme

Yamada and Mori, after having consulted with the aforesaid Nakagawa and Sagawa, devised a method for preventing the unrealized losses from being uncovered (Loss Separation Scheme) by allowing the Receiver Funds, which would be excluded from Olympus' consolidated accounting, to purchase the company's financial commodities that carried large unrealized losses at their book value. It should be noted that Yamada and Mori had informed Kishimoto, who was the President at that time, of the formulation and implementation of the Loss Separation Scheme, and had obtained his approval.

In order to implement the Loss Separation Scheme developed by Yamada and Mori, it was necessary to have Receiver Funds that could acquire by transfer the company's financial commodities that carried the unrealized losses, and it was also necessary to ensure that such Receiver Funds had sufficient capital to purchase said financial commodities at prices equivalent to their corresponding book values. To prepare for the loss separation, Yamada and Mori decided to inject capital from Olympus into CFC and QP, which were the Receiver Funds, to be used to acquire by transfer the company's financial commodities that carried the unrealized losses at their book value. In order to inject the necessary capital, Yamada and Mori, after having consulted with the aforesaid Nakagawa and Sagawa, developed two methods, as follows: ① have the Receiver Funds take out a loan from a bank against Olympus's bank deposits as collateral; and ② have a business investment fund, which would be undertaken by Olympus, transfer the necessary capital to the Receiver Funds.

In actual practice, the injection of capital into CFC and QP, which were the Receiver Funds, from Olympus was carried out primarily via three routes (hereinafter said three routes shall be individually referred to as the "Europe Route," the "Singapore Route," and the "Domestic Route.") The details of each route are explained below.

3) Injection of capital into the Receiver Funds via the Europe Route (Preparatory act 1)

A. Direct loan from LGT Bank to CFC

Around March 1998, Yamada and Mori were introduced to a senior management member of LGT Bank by Yokoo of GC, and reached an agreement with said senior management member on a scheme under which Olympus would deposit assets, including Japanese government bonds, with LGT Bank, who would in turn make a loan to CFC against said deposit as collateral. Further, Mori had explained to LGT Bank that a collateralized loan scheme was necessary to enable Olympus to carry out the acquisition of a European company in a confidential manner, and LGT Bank gave its approval for the proposed scheme. In addition, while setting up this scheme, Mori had obtained prior confirmation from LGT Bank that a procedure would be used to ensure that documents (bank statements) sent to Olympus from the bank would not make it apparent that Olympus's assets deposited with the bank were being pledged as collateral.

Subsequently from April 1998 until September 1998, Olympus deposited approximately 21 billion yen in Japanese government bonds with LGT Bank. (Note that the amount of government bonds deposited with LGT Bank by Olympus amounted to 25 billion yen at the end of the half-year period ending September 1999, which increased to 35 billion at the end of the fiscal year ending March 2000.) Using the government bonds and other assets held in Olympus' account as collateral, LGT Bank executed a loan to CFC (hereinafter referred to as "Account Collateral Loan") (the first Account Collateral Loan provided to CFC by LGT Bank was for approximately 18 billion yen in 1998). It should be noted that at the time of execution of said loan, Olympus also entered into a blanket revolving collateral agreement with LGT Bank, which allowed deposits, marketable securities, or other assets held in Olympus' name at the bank to be pledged as collateral for CFC's present or future indebtedness to the bank. It should be also noted that no resolution was passed at any meeting of the Board of Directors, or no decision-making procedures were undertaken within Olympus that would enable Olympus to pledge collateral to a third party by entering into a blanket revolving collateral agreement arising from the lending of funds to CFC. (The provision of tens of billions of yen and more in assets as collateral against debt owed to a third party after the conclusion of such blanket revolving collateral agreement would be deemed “substantial borrowing” under the old Commercial Code of Japan; and therefore, a resolution had to be passed at a meeting of the Board of Directors of Olympus.) Thereafter, LGT Bank set up a credit facility of 30 billion yen for CFC, and, in addition to the loan of approximately 18 billion yen mentioned earlier, extended another 12 billion yen prior to the end of 1998 (for a total amount of approximately 30 billion yen).

B. Injection of capital from LGT-GIM

Another Europe route involved providing investment capital to LGT-GIM (i.e., owning an equity investment in LGT-GIM), which was a class Fund undertaken and managed by LGT Bank, and having the funds received as investment capital injected into the Receiver Funds.

(A) Resolution of and report to the Board of Directors’ meetings

At the Board of Directors’ meeting of Olympus which was held on January 28, 2000, a resolution was passed as detailed below with respect to the agenda item entitled “Money Management through the Purchase of Fund Shares.” (It should be noted that we have found no evidence to confirm that any explanation was given at said meeting with regard to the fact that the money contributed to the aforesaid Fund would be injected into the Receiver Funds.):

Name of the Fund: LGT Premium Strategy G.I.M. (JPY) Fund
Purpose: To gain a profit
Purchase amount: No more than 40 billion yen
Investment manager: LGT Capital Management
Description of assets invested by the Fund:
Diversified investments which are primarily stocks and bonds in the major markets around the world
Investment period: 5 years

Subsequently, at the Board of Directors’ meeting ([held together with a meeting of] the Management Committee) which was held on March 31, 2000, a report was presented entitled “Report on the Outsourcing of Money Management,” which stated the following details in connection with the outsourcing of money management which was approved at the Board of Directors’ meeting held on January 28, 2000:

Name of the investment trust purchased: LGT Class Fund PS Global Investable Markets (G.I.M.)
Purchase amount: 35 billion yen
(comprised of Olympus: 15 billion yen; and Olympus Assets Management Limited [OAM]: 20 billion yen)
Date of purchase: March 21, 2000
Investment manager: LGT Bank in Liechtenstein

(B) Injection of capital into the Receiver Funds

As stated in the report presented at the Board of Directors’ meeting held on March 31, 2001, Olympus, and OAM, which is a 100% owned subsidiary of Olympus, each made an investment into GIM through their respective accounts that they had opened at LGT Bank (Olympus invested 15 billion yen, and OAM approximately 20 billion yen) on March 17, 2000. Using the money that was gained through the above investment, LGT-GIM purchased corporate bonds issued by TEAO on March 21, 2000 and made a payment of 31 billion yen to TEAO. In turn, TEAO, using the money gained from the above transaction, provided investment capital of 30 billion yen in NEO, which was formed on the same day. NEO then made money transfers on March 23 and 24, 2000 for 19.4 billion yen in total to QP, which is one of the Receiver Funds. (In addition, from the remaining 10.6 billion yen NEO provided investment capital of 10.1 billion yen to ITV on March 22, 2000; and, as stated later, ITV used 10 billion from said investment capital to purchase ITX shares as of March 31, 2000.)

Note that subsequent to the money transfers referred to above, several two-way money transfers took place between NEO and QP.

4) Injection of capital into the Receiver Funds via the Singapore Route (Preparatory act 2)

A. Around 1998, Yamada and Mori, while looking for sources of funding to inject capital into the Receiver Funds, became acquainted, through Nakagawa, with Chan, who was working at Commerzbank International Trust (Singapore). Yamada and Mori then formulated a scheme under which Olympus would make a term deposit with Commerzbank, who would, as explained below, then make a loan to a special purpose company against said deposit as collateral, and said special purpose company would inject capital into the Receiver Funds through several Funds (hereinafter referred to as “Pass-Through Funds”).

B. Loans from Commerzbank International Trust (Singapore) and the Societe Generale

Yamada and Mori, at a certain point after October 1999, undertook an arrangement for Hillmore, which was a special purpose company virtually controlled by Yamada and Mori, to begin taking out a loan from Commerzbank against Olympus’ term deposit held at the bank as collateral. As of March 31, 2000, the term deposit that Olympus held with Commerzbank amounted to approximately 30.6 billion yen; and, as of September 30, 2000, the amount of the term deposit reached approximately 45.6 billion yen.

Subsequently, Chan left for another job at the Societe Generale in 2000. As a result, Yamada and Mori restructured the existing scheme of using the term deposit held with Commerzbank as collateral into a new scheme, under which a term deposit to be held with the Societe Generale now would be used as collateral. In other words, a term deposit was made with the Societe General in an equivalent amount to the term deposit held with Commerzbank, and, using the new term deposit as collateral, Easterside, another special purpose company which was also virtually controlled by Yamada and Mori, took out a loan from the Societe Generale, while, at the same time, the loan which Hillmore had taken out from Commerzbank was repaid. (Note, however, that as of March 31, 2001, the restructuring of the scheme had not been fully completed, and at that point, Olympus had still held the term deposit with Commerzbank for approximately 15 billion yen, while approximately 30 billion yen in term deposit was held at the Societe Generale.)

As a result of the foregoing, during the period from October 1999 until March 31, 2001, Commerzbank provided a loan for between approximately 15 billion yen and approximately 45.6 billion yen to Hillmore, and the Societe General extended to Easterside a loan of approximately 30 billion yen.

C. Transfer of money from Hillmore and Easterside to the Receiver Funds

Hillmore and Easterside transferred the money obtained through the loans taken out against Olympus' term deposit to 21C, which was a Pass-Through Fund, in the form of loans or by purchasing bonds issued by 21C. (As far as the transfer of said money from Easterside to 21C is concerned, the money was transferred by way of loans at least until March 2001; however, Easterside thereafter began to transfer the money by purchasing bonds issued by 21C.) Subsequently, using the money transferred from Easterside to purchase bonds issued by Proper and CFC, which were Funds incepted by Yamada and Mori. 21C transferred 20 billion yen to Proper, and 19.3 billion yen to CFC. In addition, from the 20 billion yen transferred to Proper from 21C, 8 billion was transferred from Proper to CFC by way of a purchase of bonds which were issued by CFC.

Proper and CFC each purchased bonds which were issued by GV. Through this process, 4 billion yen from Proper and 5.1 billion yen from CFC were transferred to GV. (Upon the inception of GCNVV in March 2000, GV, along with Olympus, became a limited partner (hereinafter referred to as "Limited Partner"), and contributed 5 billion in capital to GCNVV. It is believed that said capital came from the 9.1 billion yen that was transferred from Proper and CFC mentioned above.)

5) Injection of capital into the Receiver Funds via the Domestic Route (Preparatory act 3)

Yamada and Mori developed a method by which Olympus would undertake a business investment fund within Japan and provide investment capital thereto so that said Fund would be able to inject capital into the Receiver Funds. Effective March 1, 2000, GCNVV was undertaken as a business investment fund with the aim of realizing the above method. GCNVV was undertaken with Olympus and GV as Limited Partners, and GCI Cayman as a general partner (hereinafter referred to as "General Partner"). Its capital was comprised of 30 billion yen contributed by Olympus, 5 billion yen by GV, and 0.1 billion yen by GCI Cayman. It should be noted, however, that the investment capital of 5 billion yen from GV was funded with the money that had been transferred from Olympus through the Europe Route and the Singapore Route, as stated above. In addition, GCI Cayman provided an equity contribution by appropriating the initial management fee as investment capital. Therefore, all of the capital of GCNVV was funded by ultimately by Olympus alone.

A. Resolution of and report to the Board of Directors' meetings

An agenda item entitled "Money Management through the Inception of a Business Investment Fund, and Purchase of Fund Shares" was presented to the Board of Directors' meeting of Olympus which was held on January 28, 2000. At the meeting, a resolution was passed for the approval of the purchase of shares in a business investment fund as described below:

Name of the Fund: G. C. Venture Capital (tentative name)
Purposes: ① To pursue and support the creation of new businesses
② To utilize outside specialists
Purchase amount: No greater than 30 billion yen
Place of establishment: Currently being selected by the investment manager
Investment manager: Global Company (GC) Co., Ltd.
Asset custodian: A financial institution with an AA rating or better, such as LGT Bank
Investment period: 10 years

Further, at the Management Committee meeting held the same day, which was normally held together with a meeting of the Board of Directors, a deliberation was held and approval was given concerning the inception of a business investment fund under the agenda item "Classification by Purpose and Management Method for Liquidity on Hand." Kikukawa was the Director who was responsible for the agenda item, and Yamada, who was the Head of Department of the Administration and Finance Department, presented the agenda item.

The material presented at said management meeting stated the following:

Purposes: ▪ To pursue and support the creation of (new) businesses by creating business plans, acquiring technical and business information, forming partnerships, etc.
▪ To establish an investment structure by utilizing external resources, and speed up the process of business creation.
▪ To earn capital gains as a return on investments.

Establishment of a Board to Review Business Investments (tentative name):
A board will be established which will report directly to the President for the purpose of conducting internal reviews of potential investment projects.

The aforesaid material was prepared under the initiative of Yamada and Mori. Note that, in the eyes of Yamada and Mori, the inception of GCNVV per se was not entirely aimed at injecting capital into the Receiver Funds as part of the preparatory act they had engaged in for the purpose of loss separation, but was also intended for the creation of new businesses.

Subject to the approval of the Board of Directors described above, an authorization document was drafted by Yamada and Mori; and ultimately, based on this document, Kishimoto, President, gave his approval as of February 24, 2000, after consensual decision-making between Kikukawa, who was the Director in charge of administration and finance, and accounting, and Ohta, who was the Head of Department of the Accounting Department. According to said approval, the purchase amount was to be 30 billion yen, and the date of purchase would take place between late February and early March in 2000.

In addition, according to the minutes of a meeting of the Board of Directors, at the Board of Directors' meeting which was held subsequently on March 31, 2000, a report was presented entitled "Report on the Purchase of Shares in a Business Investment Fund," which stated the following:

Name of the Fund: G. C. New Vision Ventures L.P.
Purchase amount: 30 billion yen
Date of purchase: March 14, 2000
Investment period: 10 years
Investment manager: GCI (Cayman)

B. Agreement with the Business Investment Fund

As of March 1, 2000, an agreement was entered into by and between Olympus and GCNVV, a business investment fund. The key terms of the agreement are described below:

① Date of inception: March 1, 2000
② Fiscal year end: December 31
③ Term of agreement: 10 years (however, the term may be extended for a further two years)
④ Fees:

Initial management fee: 1.5% of the investment capital provided by the Limited Partners (525 million yen)

Management fee: 0.25% of the net asset value, payable on each record date (there will be four record dates in each year, for a total of 1.0% payable annually)

⑤ Allocation of gains and losses upon termination of the agreement:

Upon termination of the agreement, the net asset value of each investment target will be calculated, and if the calculated value is higher than the purchase cost, then the difference will be deemed a gain. 90% of the gain will be allocated to the Limited Partners, with the remaining 10% allocated to the General Partner.

If, upon termination of the agreement, the calculated net asset value of an investment target falls below the purchase cost, then the difference will be deemed a loss. The loss will be entirely attributed to the Limited Partners.

C. Injection of capital into QP by GCNVV

By purchasing a note issued by QP in the name of short-term money management, GCNVV injected capital to a maximum of 32 billion yen in cash into QP. It should be noted that money was transferred from GCNVV to QP and paid back from QP to GCNVV on a number of occasions, and the amount of capital injected into GCNVV from QP varied significantly from time to time. (In accordance with the Third Party Committee's Investigation Report, the history of money transfers and payments between the two parties is shown in Exhibit 15 attached to said report.) The money transferred to QP was made available, via CFC and others, to other Funds, etc., whose fiscal year end did not match the year of preparing documents to evidence that the Funds actually held cash.

(Since the fiscal year end of GCNVV was December 31, repayments from QP to GCNVV were often made on or around December 20 prior to the year end. This practice was used to make it appear as if GCNVV held the money in question as a deposit as of December 31 of each year so that the accountant who was in charge of closing audits of GCNVV would not raise any concerns about the money being transferred to QP. It should be noted that in the fiscal years 2003, 2004 and 2005 the repayments from QP were made subsequent to the fiscal year end of December 31; however, no concerns were raised by the accountant so long as it was confirmed that GCNVV held a deposit during the closing audit.)

Further, as of March 1, 2000, at the request of Olympus, one of the Limited Partners, an agreement was entered into by and between Olympus, and GCI Cayman, who was the General Partner, with regard to the injection of capital into QP by GCNVV. The agreement stipulated, among other things, that 30 billion yen would be transferred to QP for the purpose of a short-term investment (the amount to be modified as necessary), and that, since no due diligence would be performed with respect to said transfer, Olympus would be responsible if any problems arose from the transfer to QP. In addition, the injection of capital into QP by GCNVV was, as mentioned earlier, based on a note issued by QP which guarantees repayment, and said note was signed by Mori, who was the Director of Olympus.

6) Posting of extraordinary losses in the half-year period ending September 1999 and the fiscal year ending March 2000

In the midst of the process of formulating the Loss Separation Scheme under the initiative of Yamada and Mori, on September 30, 1999 KPMG AZSA LLC, having been informed of the “tobashi” being practiced within Olympus, contacted the company to make inquiries with Yamada, Mori, and Nakatsuka. Yamada and the others initially denied having practiced “tobashi.” After relentless questioning, however, they eventually admitted that they had engaged in “tobashi,” whereby financial commodities carrying unrealized losses held under a specified fund trust were sold at their book value according to said trust’s books to a Fund, which was associated with individuals connected with foreign securities companies.

In response, KPMG AZSA LLC asked that such “tobashi” transactions be terminated immediately, as they were deemed illegal. Yamada and the others agreed, and said illegal transactions were cancelled the same day. KPMG AZSA LLC also raised concerns over the fact that Olympus had engaged in the above illegal transactions using a specified fund trust, and requested that Olympus discontinue the basket type cost method that the company had been using up to this point, and instead adopt the basket type lower of cost or market method (by which any financial commodities included in the trust assets under a specified fund trust must be market to market, if the sum of their individual market values falls below their combined purchase cost). Olympus agreed to the above request. (Note, however, that, even though the company had agreed to adopt the basket type lower of cost or market method to account for specified fund trusts, the specified fund trust that would be subject to this new method had not yet matured at this point.; therefore, in the half-year period ending September 1999, an allowance was posted rather than a valuation loss). In addition, KPMG AZSA LLC asked Olympus to eliminate, as was the case with specific fund trusts, those currency and interest rate swap transactions that could create a breeding ground for fraudulent activities, and Olympus agreed to eliminate these swap transactions before the end of the fiscal year ending March 2000.

As a result, Olympus posted an extraordinary loss of 16.8 billion yen in the half-year period ending September 1999. (By March 2000, Olympus terminated all of the specified fund trusts that it had held at that time; and therefore, there was no outstanding balance for specified fund trusts.)

However, the extraordinary loss that was posted in the aforesaid period was hardly enough to cover all of the unrealized losses on the financial assets that Olympus had held at that point.

It should be noted that we have uncovered no facts to confirm that any reports, etc., were ever presented at any of the meetings of the Board of Directors or the Board of Managing Directors held at that time that indicate that the posting of the extraordinary loss in the half-year period ending September 1999 was the result of the concerns raised by KPMG AZSA LLC concerning the illegal transactions involving the “tobashi” practice. Further, no facts have been uncovered to suggest that such reports were ever presented to any of the Directors at that time, with the exception of Shimoyama, Kishimoto, and Kikukawa.

7) Accomplishment of the State of Loss Separation

After having carried out the preparatory act described above for the injection of capital into CFC and QP through the three routes referred to above, Olympus injected capital into CFC and QP, which were the Receiver Funds. Through the injection of capital, CFC and QP were able to use the capital to purchase the financial assets that carried unrealized losses from Olympus, or the Tokkin undertaken by the company. Through the assignment of Olympus’s financial assets that carried unrealized losses at their book value to CFC and QP, Olympus effectively separated said losses without any unrealized losses being incurred by the company, thereby accomplishing the State of Loss Separation. It is believed that the accomplishment of the State of Loss Separation through the Formulation of the Loss Separation Scheme occurred at a certain point before the end of the fiscal year ending March 2001 at the latest, which was the first year that the revised accounting standards mentioned earlier applied.

As a result of the assignment of the aforesaid financial assets at their book value to the Receiver Funds under the Loss Separation Scheme, the amounts of losses that were transferred to the Receiver Funds by Olympus were approximately 64 billion yen to CFC, and approximately 32 billion yen to QP, which were therefore separated from the company as a result.

(3) Maintenance of the State of Loss Separation and its settlement (April 2001–to March 2011)

1) Maintenance of the State of the Loss Separation

By providing its assets as third-party collateral, Olympus was able to have financial institutions provide loans which were used to fund the capital injected into the Receiver Funds via the Europe Route and the Singapore Route. However, it was necessary for the Receiver Funds to eventually make repayment of such loans and release the collateral pledged to the financial institutions. Olympus also injected capital into the Receiver Funds via the Europe Route and the Domestic Route, using the investment capital that was provided to the Funds, and said investment capital needed to be repaid as well.

Therefore, Yamada and Mori began to consider settling the State of Loss Separation. To be specific, they thought of creating an outflow of money by having Olympus pay high prices to acquire the venture companies that were purchased by the Funds at low prices, or having Olympus undertake payment of fees, etc., to the Funds in connection with large-scale mergers and acquisitions. By having such money back-flow, it would be possible to clean up the claims and debts held by the Funds, etc., that were involved in the Loss Separation Scheme. In addition, “goodwill” would be posted on the company’s books, representing the extra money necessary to pay for business acquisitions or to make payment of fees, etc., in connection with the mergers and acquisitions, and such goodwill would be amortized over a certain allowable number of years and therefore be charged to expenses.

However, after April 2001 there were scarcely any opportunities that could allow “having Olympus pay high prices to acquire the venture companies that were purchased by the Funds at low prices,” or “having Olympus undertake payment of fees, etc., to the Funds in connection with large-scale mergers and acquisitions” as Yamada and Mori had thought of earlier. As a result, it turned out that Olympus would need to maintain thereafter the State of Loss Separation accomplished through the injection of capital detailed earlier.

2) Periodic reporting of the State of Loss Separation

A. Monitoring of the State of Loss Separation

In April 2001, an employee in the unit responsible for managing financial assets who handled money transfers and other administrative procedures was assigned, under the direction of Yamada and Mori, to monitor how large the losses were being incurred at each of the Receiver Funds, as well as each of the Pass-Through Funds that were being used for the injection of capital into the Receiver Funds. About once every six months, said employee prepared documents for the periodic reports referred to in B. below. It is understood that, in preparing such documents, said employee received detailed reports, either in writing or verbally, from the individuals who were actually involved in the management of the Receiver Funds and Pass-Through Funds with regard to the status, etc., of the unrealized losses on the financial assets managed by each of these Funds. Based on these detailed reports, said employee supposedly prepared the necessary documents (however, we have been informed that the materials that were collected for the purpose of preparing the aforesaid documents were disposed of upon the completion of each periodic report referred to in B. below). It should be noted that the same employee, under the direction of Mori or Nakatsuka, also handled the making of deposits and withdrawals into and from the bank accounts (including sending payment instructions for money transfers) that were held by CFC and QP, which were the Receiver Funds.

B. Periodic reports to Shimoyama, Kishimoto, and Kikukawa

Using the documents prepared by the employee in the unit responsible for managing financial assets as described in A. above, Yamada and Mori, after June 2001 when Kikukawa was appointed President, began to make reports on a regular basis, about twice each year, directly to Kishimoto, Kikukawa, and Ohta at meetings that were attended by these three individuals with regard to the status of the unrealized losses on the financial assets that were held by the Funds that had been separated from Olympus. In addition, apart from the above meetings, periodic reports were made to Shimoyama as well.

An example of the documents used for the purpose of these periodic reports (which had been prepared by the aforesaid employee in the unit responsible for managing financial assets) is a document dated September 12, 2003 entitled "135 PB Investment Report." As is clear from the fact that this document states its recipients as "Mr. Shimoyama, Director," "Mr. Kishimoto, Chairman," "Mr. Kikukawa, President," and "Mr. Ohta, Corporate Auditor," this report was presented to Shimoyama, Kishimoto, Kikukawa, and Ohta. In this document, the section entitled "Investment Forecasts" breaks down according to the account titles "Deposit," "Bond," "Investment Trust" and "Investment Capital"; and, for each account title "Period-Over-Period Change" is shown for "Outstanding Balance," which was supposedly an official figure, and for "Unrealized Loss/Gain," which had been actually incurred. Furthermore, under each account title the document states type of asset, which was indicated for the sake of formality, and the Fund/Funds to which the capital gained from each asset was transferred, as shown below:

Deposit: Deposit at Societe Generale (21C, Proper, GV)
Bond: Government bond (CFC)
Investment trust: GIM (Teao, GCNS)
Investment capital: GCNV[2] (QP)

The same document also details "changes in the unrealized losses/gains" arising from the maintenance of the State of Loss Separation, and the following is noted: "Investment structure adjustments: Outflow of funds (external outflow of funds: △26; accounting figures: +7 /internal adjustment (to reflect accounting figures: △8)"

This type of regular report was given once every six months up until around 2006 or 2007.

Further, in addition to the periodic reports mentioned above, Yamada and Mori made reports to Kikukawa, who was the President, whenever necessary with regard to loss separation, and the status of the unrealized losses at the destination Funds of the separated losses.

3) Acts for the maintenance of the State of Loss Separation after April 2001

A. Complete transfer of a loan from Commerzbank to the Societe Generale

As stated earlier, as of the end of March 2001 Olympus had term deposits of approximately 15 billion held with Commerzbank, and approximately 30 billion yen held with the Societe Generale. Using these deposits as collateral, each bank had provided a loan to Hillmore and Easterside.

[2] It is believed that this was meant to be GCNVV.

Subsequently, by September 30, 2001 Olympus had increased the term deposit held with the Societe Generale to approximately 45 billion, and, using this term deposit as collateral, had arranged for said bank to extend a loan of approximately 45 billion yen to Easterside, while withdrawing the remaining term deposit that was held with Commerzbank. Olympus had continued to keep the term deposit of 45 billion yen with the Societe Generale until the end of March 2004, and between April 2004 and September 30 of the same year had further increased the amount of the term deposit to as much as 55 billion yen.

B. Re-conclusion of the blanket revolving collateral agreement with LGT Bank, and preparation of an agreement for the renewal of the Account Collateral Loan agreement

On July 14, 2003, Kishimoto, as the representative of Olympus, and Nakatsuka, as the representative of CFC, signed and entered into a blanket revolving collateral agreement, under which Olympus would provide LGT Bank with collateral comprised of Olympus assets, etc., that had been already deposited with the bank to guarantee an Account Collateral Loan extended to CFC by LGT Bank. The above agreement was, technically speaking, a newly concluded agreement; however, it is presumed that, from a practical point of view, said agreement was a “re-conclusion” of the collateral agreement which had existed previously.

In addition, on July 18, 2003, Kishimoto and Kikukawa, as the representatives of Olympus, and Nakatsuka, as the representative of CFC, signed and entered into an agreement for the renewal of the Account Collateral Loan which had been extended to CFC by LGT Bank ([said renewal agreement] notes that the original agreement prior to the renewal was dated July 23, 1998).

C. Switch from a Societe General loan to an equity contribution to SG Bond

In February 2005, Olympus provided investment capital of 60 billion yen to SG Bond, which was formed by Chan for investment purposes.

Subsequently, SG Bond invested Olympus’ investment capital of 60 billion yen into a bond worth approximately 60 billion yen, and loaned said bond to Easterside. Easterside then sold the bond loaned by SG Bond in the market and gained cash. Using the money gained from said sale of bond, Easterside repaid its loan from the Societe Generale, which was secured against the deposit that Olympus had held with the bank.

In addition, of the approximately 60 billion yen transferred from SG Bond to Easterside, the portion that had remained after the loan was repaid to SG Bank was transferred from Easterside to 21C.

D. Termination of GCNVV

(A) Status of the Board of Business Investment

GCNVV, which was established in March 2000, had scouted for venture businesses with technological capabilities and, by 2005, made investments in over 30 companies, all the while transferring to QP a majority of the money provided as investment capital, as described earlier, in the name of short-term money management.

The status of the investments undertaken by GCNVV was reported every three months to the Board of Business Investment (Board to Review Business Investments), which had been established by Olympus. The Board of Business Investment was comprised of one chairman and four to six members (several from the financial and management planning fields, and several more from technical fields). At the time of its establishment, Kikukawa served as chairman, followed by Okubo who was chairman for the half-year period from September 2002 to March 2003, and from March 2003 until September 2007 when GCNVV was terminated as described in (E) below Yamada was chairman. While most of the members of the board changed in each fiscal year, only Mori served as a member throughout the entire time, from the launch of the board until the termination of GCNVV in September 2007. The matters that were reported from GCNVV at meetings of the Board of Business Investment were then reported to meetings of the Board of Directors about once every three to six months. Separate from its injection of capital into QP, GCNVV made investments in various venture companies in order to create new businesses, or for pure investment purposes. It was true, however, that in the eyes of Yamada and Mori these investments provided great opportunities for facilitating the Loss Separation Scheme.

(B) Return of money through redemption before maturity

In March 2006, GCNVV returned to Olympus 6 billion yen, which is 20% of the company's investment capital, through redemption before maturity. In a similar fashion, through redemption before maturity GCNVV returned 1 billion yen to GV, its Limited Partner, and 20 million yen to GCI Cayman, its General Partner, each accounting for 20% of their respective investment capital.

(C) Termination of GCNVV

Subsequently, changes were introduced in 2007 to the accounting standards to account for investment partnerships for consolidated accounting, and as a result it became necessary for Olympus to incorporate GCNVV and its principal investees directly into the company's consolidated financial statements. However, it was very likely that incorporating GCNVV and its key investees directly into Olympus' consolidated accounting would alert the auditing firm responsible for Olympus to keep the company under even closer scrutiny; and therefore, it was possible that the State of Loss Separation using QP would be exposed.

Therefore, Yamada and Mori decided to prematurely terminate GCNVV without waiting for its maturity in 2010, and, after having consulted with Yokoo from GC, proceeded to terminate GCNVV in September 2007. As a result of the termination, the shares that had been held by GCNVV in its investees were taken over in physical form by Olympus and GCI Cayman. Among these shares, the shares in the Three Domestic Companies were to be taken over by Olympus at the book value of the purchase cost paid by GCNVV. Upon the termination of GCNVV, GCI Cayman, its General Partner, received approximately 1.125 billion yen as an incentive fee, and approximately 537 million yen as a mid-term termination charge. The aforesaid mid-term termination of GCNVV was reported to a meeting of the Management Implementation Committee which was held on July 20, 2007; however, we have uncovered no facts to confirm that said termination was brought up for discussion, or reported at any meeting of the Board of Directors.

(4) Acquisition of shares in ITX Corporation

As stated earlier, capital was injected into the Receiver Funds or Pass-Through Founds for the Formulation of the Loss Separation Scheme. However, not all of the injected capital was used to aid the act for facilitating the purchase of the financial commodities carrying unrealized losses at their book value (acts of loss separation), and in fact, the remaining surplus money was not returned to Olympus, but instead, was used to undertake new money management transactions at the Receiver Funds or Pass-Through Funds.

At present, the details of certain transactions have been uncovered that were undertaken as part of the new money management transactions mentioned above. Among these transactions, the acquisition of shares in ITX by ITV on March 31, 2000 involved a particularly large amount of capital invested.

Seeing that the acquisition of the ITX shares by ITV is the most representative of these new money transactions carried out by the Receiver Funds or Pass-Through Funds involving the capital that was not returned to Olympus, the Committee has examined said transaction as detailed below with regard to whether or not there were violations of the duty of due care of a prudent manager:

1) Seeking to cover up losses with the profit arising from a rise in ITX’s share price

Yamada and Mori had been aware that the State of Loss Separation accomplished through the Formulation of the Loss Separation Scheme had merely disguised the unrealized losses incurred on the company’s financial assets as loans from banks, etc., and therefore had to be settled eventually. As a way for settling said state, Yamada and sought to cover up the losses with the profit that would be earned from a rise in the share price of ITX. In other words, Yamada and Mori had planned to have ITV, which was a Pass-Through Fund, acquire shares in ITX under the Loss Separation Scheme, and use the gain arising from a rise in the share price of ITX, which at that time had been working towards its initial public offering, to settle the losses that had been separated.

2) Acquisition of shares in ITX by ITV

As a result of the investment capital of approximately 10.1 billion yen provided from NEO on March 22, 2000 described earlier on, ITV had, as of March 31, 2000, held approximately 10.1 billion yen in surplus money (the capital which was not used to carry out acts of loss separation).

On March 31, 2000, Yamada and Mori, using said surplus money of approximately 10.1 billion yen, purchased 9,323 shares in ITX for 10 billion yen from Nissho Iwai Corporation (on September 5, 2001, ITX executed a two-for-one share split, and, as a result, the number of shares in ITX held by ITV increased to 18,646). Subsequently, the shares in ITX that had been held by ITV were assigned to Olympus at the end of March 2006 (according to a report of a meeting of the Board of Directors of Olympus, the company acquired 15,500 shares [in ITX] from “Bank Liechtenstein“ and “LGT Class Fund”). Therefore, as of the end of March 2006, ITV ceased to hold the aforementioned shares in ITX. We note, however, that even prior to disposing of its shares in ITX to Olympus at the end of March 2006, ITV had, other than those shares in ITX purchased from Nissho Iwai for 10 billion on March 31, 2000, purchased and disposed of shares in ITX; however, no details on such transactions are available at the present time.

2. Whether or not there were violations of the duty of due care of a prudent manager on the part of the directors concerning the Formulation/ maintenance of the Loss Separation Scheme

(1) Violations of the duty of due care of a prudent manager in relation to the Formulation of the Loss Separation Scheme

The Formulation of the Loss Separation Scheme per se not only could make it extremely difficult for Olympus to carry out the closing of its books in a proper manner, but also could lead to misrepresentations in the company's securities reports, etc. In addition, it could create an unnecessary burden on Olympus arising from the carrying out of the acts of loss separation (such as interest expenses on the loans taken out from Funds, fees, etc., incurred for the Formulation of the Loss Separation Scheme).

Therefore, it must be acknowledged that there was a violation of the duty of due care of a prudent manager, and that there was a violation of the duty of good faith by said employees when any Directors or employees who had been involved in the Formulation of the Loss Separation Scheme, or had known, or could have known that the Formulation of the Loss Separation Scheme would be carried out approved (tacitly approved), or left it unattended without taking any remedial measures to stop the acts concerned.

(2) Violations of the duty of due care of a prudent manager in relation to the maintenance of the State of Loss Separation

Subsequently, the Formulation of the Loss Separation Scheme was completed before the end of March 2001 at the latest, and the State of Loss Separation had continued to be maintained thereafter. Such State of Loss Separation per se not only could make it extremely difficult for Olympus to carry out the closing of its books in a proper manner, but could also lead to misrepresentations in the company's securities reports, etc., In addition, it could create an unnecessary burden on Olympus arising from the maintaining of the State of Loss Separation (such as interest expenses on the loans taken out from Funds, fees, etc., incurred for the maintenance of the State of Loss Separation).

Therefore, it must be acknowledged that there was a violation of the duty of due care of a prudent manager, or the duty of oversight and supervision by said Directors, and that there was a violation of the duty of good faith by said employees when any Directors or employees who had been involved in any acts carried out for the maintaining of the State of Loss Separation, or any Directors or employees who had known or could have known that acts would be carried out for the maintaining of the State of Loss Separation approved (tacitly approved), or left it unattended without taking any remedial measures to stop the acts concerned.

(3) Violations of the duty of due care of a prudent manager in relation to the act of putting surplus money to a new use in the context of the Formulation of the Loss Separation Scheme

Furthermore, any persons who had known or could have known that the capital that would not be necessary for loss separation was being injected into the Receiver Funds or Pass-Through Funds (hereinafter referred to as “Capital-Injected State”), or that the State of Loss Separation was taking place should immediately have corrected the Capital-Injected State or the State of Loss Separation, and implemented measures, such as causing the capital injected into the Receiver Funds or Pass-Through Funds at that point to be eventually returned to Olympus through the Pass-Through Funds or financial institutions, etc., concerned. Nonetheless, it must be acknowledged that there was a violation of the duty of due care of a prudent manager, or the duty of oversight and supervision by said Directors, and that there was a violation of the duty of good faith by the employees concerned if any Directors who had known or could have known of the existence of the Capital-Injected State or the State of Loss Separation had approved (tacitly approved), or left it unattended without immediately taking corrective measures, or had approved (silently accepted), or left the act as it was carried out for undertaking new investments using the capital injected into the Receiver Funds or Pass-Through Funds.

Therefore, it must be acknowledged that there was a violation of the duty of due care of a prudent manager, or the duty of oversight and supervision by said Directors, and that there was a violation of the duty of good faith by the employees concerned when any persons who had known or could have known of the existence of the Capital-Injected State (or the State of Loss Separation) as of March 31, 2000, at which point said State had already taken place, had been involved in the acquisition of shares in ITX using the capital injected into ITV, or had approved (tacitly approved), or left it unattended.

Based on the above premises, we will now consider, in what follows, whether or not the current and former Directors of Olympus violated the duty of due care of a prudent manager as described below.

(4) Regarding the liability of the directors who were Participants or were People Who Knew

1) Regarding Yamada

As described previously, Yamada was an employee from January 1998 until June 28, 2004. Subsequently, he was elected Director on June 29, 2004, and then took the post of Corporate Auditor in June 2011.

Yamada, after having consulted and conspired with Mori, and with the consent of Kishimoto and Kikukawa, formulated and implemented the Loss Separation Scheme, and, until the losses that had been separated were settled, actively became involved in the acts carried out for the maintenance of the State of Loss Separation. In addition, on March 31, 2000, Yamada took the initiative in willingly taking part in causing the Capital-Injected State, and, using the surplus money that had been injected, also willingly became involved in the acquisition of shares in ITX by ITV.

Therefore, it can be acknowledged that, with respect to the Formulation of the Loss Separation Scheme and the maintenance of said Scheme until June 28, 2004, and the acquisition of shares in ITX by ITV, Yamada violated his duty of good faith as an employee. Also, it is asserted that, with regard to the maintenance of the State of Loss Separation, Yamada violated his duty, as a Director, of due care of a prudent manager from June 29, 2004 until the settlement of loss separation in March 2011.

2) Regarding Mori

As described previously, Yamada was an employee from January 1998 until June 28, 2006. Subsequently, he was elected Director on June 29, 2006.

Mori, after having consulted and conspired with Yamada, and with the consent of Kishimoto and Kikukawa, formulated and implemented the Loss Separation Scheme, and, until the losses that had been separated were settled, actively became involved in the acts carried out for the maintenance of the State of Loss Separation. In addition, on March 31, 2000, Mori took the initiative in willingly taking part in causing the Capital-Injected State, and, using the surplus money that had been injected, also willingly became involved in the acquisition of shares in ITX by ITV.

Therefore, it can be acknowledged that, with respect to the Formulation of the Loss Separation Scheme and the maintenance of said Scheme until June 28, 2006, and the acquisition of shares in ITX by ITV, Mori violated his duty of good faith as an employee. Also, it is asserted that, with regard to the maintenance of the State of Loss Separation, Mori violated his duty, as a Director, of due care of a prudent manager from June 29, 2004 until the settlement of loss separation in March 2011.

3) Regarding Nakatsuka

As described previously, Yamada was an employee from January 1998 until June 28, 2011.

In addition to providing instructions to banks for money transfers under the direction of Yamada and Mori to help said two individuals formulate the Loss Separation Scheme, Nakatsuka, as the representative of CFC, signed the blanket revolving collateral agreement dated July 14, 2003 as well as the agreement for the renewal of account collateral loan dated July 18, 2003 for the purpose of maintaining the State of Loss Separation. Further, despite that fact that Nakatsuka was involved in causing the Capital-Injected State, and had known that Yamada and Mori would cause ITV to acquire shares in ITX using the surplus money that had been injected into ITV, he left the situation as it was without taking any measures to stop said acquisition. Therefore, it can be acknowledged that Nakatsuka violated his duty of good faith as an employee due to his acts described above until the settlement of loss separation in March 2011.

4) Regarding Shimoyama

As described previously, Shimoyama was the Representative Director and Chairman from January 1998 until June 2001. Subsequently, he retired from the position of Director in June 2004.

From January 1998 until after June 2001 when Yamada and Mori began reporting to Shimoyama on a regular basis regarding the status of unrealized losses, Shimoyama either had found out, or could have found out about the Formulation of the Loss Separation Scheme, and the maintenance of said Scheme thereafter. In addition, Shimoyama was aware, at least after he began to receive reports regularly in June 2001 from Yamada and Mori regarding the status of unrealized losses, of the Capital-Injected State, as well as the fact that the State of Loss Separation was being maintained. Therefore, Shimoyama was under an obligation to immediately cause Yamada or Mori to cease the Capital-Injected State or the acts of loss separation, or to implement measures to correct the State of Loss Separation, while taking steps as necessary to cause the capital injected into the Receiver Funds or Pass-Through Funds at that point to be eventually returned to Olympus through the Pass-Through Funds or financial institutions, etc., concerned. In addition, because, as stated earlier, Shimoyama had known, or could have known of the acquisition of shares in ITX by ITV, he was under an obligation to implement measures to stop such acquisition. Nonetheless, Shimoyama left the Capital-Injected State, the State of Loss Separation, and the acquisition of shares in ITX by ITV as they were; and, it can be acknowledged that, with regard to these omissions, Shimoyama, as a Director, violated his duty of due care of a prudent manager.

5) Regarding Kishimoto

As described previously, Kishimoto was the Representative Director and President from January 1998 until June 2001, and held the position of Representative Director and Chairman until June 2005.

Kishimoto, as mentioned earlier, had at least been informed of and approved the Formulation of the Loss Separation Scheme and the maintenance of the State of Loss Separation thereafter carried out by Yamada, Mori and others. Furthermore, Kishimoto had also received an explanation on and approved the acquisition of shares in ITX by ITV.

Therefore, it can be acknowledged that, with regard to this conduct, Kishimoto, as a (Representative) Director, violated his duty of due care of a prudent manager.

6) Regarding Kikukawa

As described previously, Kikukawa was a Director from January 1998 until March 2011. In addition, from June 1999 Kikukawa served as the Director in charge of the Administration and Finance Department, the Accounting Department, the Management Planning Department, and others. Furthermore, he became the Representative Director and President in June 2001.

Kikukawa had been aware of and approved, prior to January 28, 2000 at the very latest, the Formulation of the Loss Separation Scheme carried out by Yamada, Mori, and Nakatsuka, and the maintenance of the State of Loss Separation thereafter. Furthermore, Kikukawa had also been aware of and approved the acquisition of shares in ITX by ITV.

Therefore, it can be acknowledged that, with regard to this conduct, Kikukawa, as a Director, violated his duty of due care of a prudent manager.

(5) Regarding the liability of the directors other than the Participants or People Who Knew

In what follows, we will now consider the liability of the Directors who were other than the Participants or People Who Knew with regard to the Formulation of the Loss Separation Scheme, and the maintenance of said Scheme.

1) Whether or not there were violations of the duty of oversight and supervision

A. Description of violations of the duty of oversight and supervision

Representative directors, and the executive directors of a joint-stock company (kabushiki gaisha) which has established a board of directors, directly assume the duty of due care of a prudent manager, and the duty of good faith with regard to the execution of the operations that they themselves undertake.

As a matter of fact, said representative directors and directors are responsible not only for the execution of the operations that they undertake themselves, but also for the execution of the operations that others undertake, as they assume the duty of oversight and supervision over other directors and employees.

(A) Description of the duty of oversight and supervision over representative directors, and directors in charge of the execution of operations

The directors of a joint-stock company which has established a board of directors are under an obligation to exercise oversight not only over the matters that are presented to meetings of the board of directors, but also over the execution of operations by the representative directors and executive directors, even for those matters that are not presented to meetings of the board of directors, and, if necessary, to implement the necessary measures, through meetings of the board of directors, to ensure the proper execution of operations by said directors. It should be noted, however, that as far as the matters that are presented to meetings of the board of directors are concerned, a violation of the duty of oversight may be acknowledged only in the case where the content of the operational activities of the representative directors and the executive directors were "overlooked, even though there were special circumstances such that they were known or could have been known" (Tokyo District Court, judgment, April 22, 1980; Tokyo District Court, judgment, October 26, 1995).

(B) Description of the duty of oversight and supervision over employees

The directors of a joint-stock company which has established a board of directors are not responsible for supervising each and every employee. However, it is generally understood that if these directors, under whatever circumstances, have known, or could have known about any fraudulent conduct of employees, they have an obligation to implement the necessary measures to prevent such fraudulent conduct by exercising their authority to call meetings of the board of directors, or elect or dismiss managers, etc.

Furthermore, it is generally understood that representative directors have an obligation not only to execute operations themselves, but also to pay attention extensively to all areas of the operations of the company. They also have an obligation to exercise a higher level of due care than the other directors who are in charge of particular operations only, and to implement measures to deter [any fraudulent conduct] or prevent such conduct from occurring in good faith for the sake of the company's interests. Similarly, because the executive directors must carry out the operations of the divisions and departments for which they are responsible, they have an obligation, as is the case with representative directors, to supervise the employees of these divisions and departments.

In view of the foregoing, we will now consider whether or not there were violations of the duty of oversight and supervision by the Directors who were neither Participants nor People Who Knew.

B. Whether or not there were violations of the duty of oversight and supervision by Directors who were neither Participants nor People Who Knew

(A) Period between January 1998 and March 2001

During the period from January 1998 to March 2001, Shimoyama and Kishimoto were the only Representative Directors, and no other Directors assumed the position of Representative Director. In addition, during the same period, the unit responsible for managing financial assets where Yamada, Mori, and Nakatsuka worked was practically under the supervision of Kishimoto[3] and Kikukawa, who were Directors; and, no other Directors were responsible for said unit. Further, we have found no particular circumstances that could suggest that any of the Directors who were neither Participants nor People Who Knew at that time had known, or could have known of the Formulation of the Loss Separation Scheme, or the State of Loss Separation arising therefrom. Therefore, it can hardly be acknowledged that during the above period there were any violations of the duty of oversight and supervision by the Directors who were neither Participants nor People Who Knew with regard to the Formulation of the Loss Separation Scheme, or the State of Loss Separation that arose.

Similarly, we have found no particular circumstances that could suggest that any of the Directors who were neither Participants nor People Who Knew at that time had known, or could have known of the acquisition of shares in ITX by ITV that was carried out by Yamada and Mori on March 31, 2000. Therefore, again, it can hardly be acknowledged that there were any violations of the duty of oversight and supervision by the Directors who were neither Participants nor People Who Knew with regard to the acquisition of shares in ITX by ITV.

(B) After April 2001

A) Okubo (during the period from April 2001 until October 2010)

While retaining his position as Director, on April 1, 2001 Okubo became the Division Manager of the Operations Division within the Corporate Center, and from July 1, 2001 until the end of October 2002 served as the Center Head of the Corporate Center. In other words, from April 1, 2001 and the end of October 2002, Okubo was the Director in charge of the unit responsible for managing financial assets.

However, as stated earlier, it can hardly be acknowledged that Okubo had ever known, or could have known that the State of Loss Separation was being maintained.

In addition, from April 1, 2001 until the end of October 2002, Okubo, as the Director in charge of operations, had an obligation to exercise supervision over Yamada, Mori, Nakatsuka, and others who were employees working within the divisions and departments for which he was responsible. Between April 2001 and the end of October 2002, a deposit that had been held with the Societe Generale was increased by 15 billion yen, while a deposit that had been held with Commerzbank as of the end of March 2001 (15 billion yen) was withdrawn. It has become apparent that among the acts that Yamada, Mori, Nakatsuka, and others had carried out during this period for the maintenance of the State of Loss Separation, the above transaction involved Olympus as a directly involved party. Therefore, the issue here is whether or not Okubo had violated his duty of supervision over Yamada, Mori,

[3] At that time, the unit responsible for managing financial assets was directly controlled by Kishimoto, who was President. It is believed that until May 1999 Fujii officially held the position of Director in charge of the Human Resources Department, the Administration and Finance Department, and the Accounting Department. However, it is presumed that, in reality, he was not in charge of the Administration and Finance Department, or the Accounting Department. It should be noted that Fujii retired from the position of Director in June 1999.

Nakatsuka, and others who were at that time employees working within the divisions and departments for which he was responsible. However, in light of the facts stated in Section III-2 above, it can hardly be acknowledged that Okubo could have found out about any additional acts that Yamada, Mori, Nakatsuka, and others had engaged in for the purpose of maintaining the State of Loss Separation. In addition, for most of the aforesaid period, Okubo remained the Center Head of the Corporate Center, which oversaw not only the unit responsible for managing financial assets, but also the human resources, administration, and other indirectly related divisions and departments. As such, we have uncovered no facts that could suggest that there was any apparent problem in Okubo's supervision over Yamada, Mori, Nakatsuka, and others who were employees at the unit responsible for managing financial assets.

Therefore, it can be acknowledged that there are not sufficient grounds for admitting that Okubo had violated his duty of supervision over Yamada and Mori, who were employees within the departments and divisions for which he was responsible.

B) Other Directors who were neither Participants nor People Who Knew

From April 2001 onwards, Kishimoto and Kikukawa were the only Representative Directors, and no other Directors took the position of Representative Director. In addition, until the State of Loss Separation was settled, Kikukawa, Yamada, Mori, and Okubo were the only Directors who were in charge of the unit responsible for managing financial assets, and thus no other Directors were in charge of operations.

Further, we have uncovered no facts that provide evidence that any of the Directors at that time who were neither Participants nor People Who Knew had been aware of the Formulation of the Loss Separation Scheme, or the maintenance of said Scheme.

In addition, the following circumstances had existed with regard to the State of Loss Separation:

- A complex scheme was used to separate losses, such as using multiple overseas Funds to pass the losses through, in order to make the mechanism not so easy to immediately understand;
- Meetings were held in advance with LGT Bank and Commerzbank with regard to making deposits with these banks as well as pledging such deposits as collateral so that it would not be possible to tell from bank statements that these deposits were serving as collateral. Therefore, such meticulous cover-up efforts with the assistance of these outside third parties made it very difficult to detect the presence of said deposits and their role as collateral; and
- There was never a dispute between LGT Bank, Commerzbank, and the business investment fund concerned (GCNVV); and therefore, opportunities scarcely arose that could have led to the uncovering of the State of Loss Separation.

In addition, we have uncovered no grounds for determining that the Directors who were neither Participants nor People Who Knew could have found out about the State of Loss Separation.

Furthermore, we have uncovered no particular circumstances that could confirm that these Directors had found out, or could have found out about any of the acts carried out by Yamada, Mori, Nakatsuka, and others with the consent of Kishimoto, or Kikukawa.

In keeping with the foregoing, we believe that it can hardly be acknowledged that the Directors who were neither Participants nor People Who Knew violated the duty of oversight and supervision with regard to the Formulation of the Loss Separation Scheme or the maintenance of said Scheme.

2) Whether or not there were violations of the duty of developing internal controls

A. Description of violations of the duty of developing internal control

In a large joint-stock company such as Olympus, it would not be realistic to expect that individual directors should try to directly oversee and/or supervise the execution of operations by other directors, or the conduct of all employees. However, it would not be appropriate for these directors to assume no responsibility whatsoever simply because it is troublesome for them to make efforts to directly supervise the execution of operations by other directors and employees. Therefore, it is generally understood that the following statements should hold at least in the case of a joint-stock company of reasonable size:

- Representative directors, or the executive directors have an obligation to determine in specific terms a risk management system within the divisions and departments for which they are responsible; and
- Other directors come under an obligation to oversee the performance of the duty of the representative directors, or the executive directors to develop the aforesaid risk management system.

(It should be kept in mind, however, that the duty of developing such risk management system (the duty of developing internal control) has become the subject of debate following an Osaka District Court judgment handed down on September 20, 2010.)

Based on the above argument, we will now consider whether or not there were any violations of the duty of developing internal control by the Directors who were neither Participants nor People Who Knew.

B. Whether or not there were violations of the duty of developing internal control by the Directors who were neither Participants nor People Who Knew

(A) Period between January 1998 and March 2001

The Directors who were neither Participants nor People Who Knew had an obligation to oversee whether or not the Representative Directors (Shimoyama and Kishimoto) and the Director in charge of operations (Kikukawa) had been performing their duty of developing a risk management system concerning the management of financial assets.

The issue here is the assessment of under what circumstances should the Directors who were neither Participants nor People Who Knew be deemed to have violated their duty of supervising the performance of the duty of the aforesaid Representative Directors and Director to develop a risk management system. In this regard, it would be reasonable to assume that “so long as the proper supervision over the execution of job duties is carried out under a reasonable risk management structure, it is considered justifiable for other directors to trust that the directors which they supervise are lawfully executing their prescribed job duties, unless there are particular circumstances that raise concerns that the supervised directors have been illegally executing their job duties. Therefore, unless there are such special circumstances, [said other directors] should not be deemed to have violated their duty of due care, which specifically refers to the duty of oversight” (Tokyo High Court, judgment, May 21, 2008).

In consideration of the same, during the period from January 1998 through March 2001, the following types of structure, systems, standards, etc. had been formulated and were in operation at Olympus at that time as a risk management system for managing the financial assets of the Administration and Finance Department concerning the management of financial assets.

① The “Asset Management Standards” (changed to the Asset Management Regulations from April 2000) became effective from March 1997, including the Standards for Management of Surplus Money and the Regulations for Management of Derivatives Transactions; a risk management system was formulated to a certain extent with respect to the management of financial assets; items were being treated such that short-term investment plans would be determined by the Officer in charge and approved by the President, that transactions other than short-term investment plans would require the decision of the Officer in charge or the President, and that in the event unrealized losses were incurred to a certain extent, losses would be cut, etc.

② Once a month, the status of the management of financial assets, including specified fund trusts, was being regularly reported to the Officer in charge.

③ The Administration and Finance Department was to manage assets, and the Accounting Department was to perform audits (an Audit Office was established within the Accounting Department).

④ Audits were being performed by an auditing firm, so for the directors other than the executive directors, they could expect some kind of indication to be made by the auditing firm if there were transactions with some problems at the time (there are no facts to suggest that the Directors other than the People Who Knew and the Participants were aware of any indications from the auditing firm).

⑤ An audit of prioritized audit items was performed each period by the Board of Auditors, and a prioritized audit of the actual state of management of derivatives transactions and of a financial subsidiary (OAM) was performed for the fiscal year ended March 1999, based on methods such as interviews with those in charge in the Administration and Finance Department. Also, the “Audit Concerning the Readiness of Our Company for the Introduction of New Accounting Standards” was raised as a prioritized audit item on the part of the Auditors for the fiscal year ended March 2000, and a prioritized audit was performed based on methods such as taking in the reports from those in charge of practical work in the Accounting Department, and furthermore, “The Effective Use of Assets/ Money Management (Administration and Finance Department)” was raised as a prioritized audit item in the fiscal year ended March 2001, and an audit was performed.

⑥ The Board of Directors’ Regulations had been established, and “Important matters concerning accounting” had been designated as a Board of Directors resolution item, in addition to a statutory resolution item.

⑦ In the Management Committee meeting on January 28, 2000 (held simultaneously with the Board of Directors’ meeting), the following measures were set forth and broadly implemented in an effort to strengthen the management control and reporting system for funds on hand with the goal of mitigating the impact of a drop in the value of financial assets on operating results, etc.

- That the basic portfolio of financial assets be subject to the deliberations of the Board of Managing Directors and the Management Committee,
- That the positions by asset class of the basic portfolio as well as the realized and valuation gains and losses be reported to the Board of Managing Directors and the Management Committee on a quarterly basis,
- That a report on the content of investments etc. in the Business Investment Fund be made every six months
- That efforts be made to enhance the internal controls system in relation to “other managed securities” in the basic portfolio that falls under securities investments.

⑧ At the Management Committee meeting on March 31, 2000, it was resolved that a portfolio would be established with a higher weighting in deposits and government bonds premised on minimizing risk and securing liquidity with respect to the financial portfolio for the fiscal year ended March 2001.

⑨ The status of the management of financial assets was being reported to the Board of Directors and the Management Committee on an irregular basis after January 2000 (on January 28, 2000, March 31, 2000, and March 30, 2001).

⑩ Although on an irregular basis, the status on the management of the Business Investment Fund was being reported to the Board of Directors, generally at a rate of roughly once every three to six months.

In addition to the circumstances above, there were circumstances such as the fact that the revised accounting standards for financial instruments had been applied from the fiscal year ended March 2001, that theoretical discussions about the duty to formulate an internal controls system hadn't been set before the abovementioned September 19, 2000 judgment was handed down by the Osaka District Court, and that there had been no other judgments handed down. Furthermore, the Board of Directors and the Management Committee passed resolutions on investments in LGT-GIM (January 28, 2000) and GCNVV (January 28, 2000) (a report had also been made regarding the former on March 31, 2000), but judging by the documents, etc. distributed at that time, there are no circumstances by which the Board of Directors’ meeting resolution itself could be deemed particularly unreasonable.

If circumstances such as those above are considered collectively, in viewing the risk management system for the management of financial assets that had been formulated at that time, the evaluation can be made that a “reasonable risk management system” existed that would be the basis in determining whether or not there was a violation of “the duty to monitor the status of the performance of duties by the Representative Director or the executive directors to formulate a risk management system” that was borne by at least the other Directors.

Note that as described above, when Yamada, Mori, and Nakatsuka sought to engage in “tobashi” in which financial instruments carrying unrealized losses in the specified fund trust would be sold at said trust’s book value to the funds in which the people concerned at the foreign securities firms were involved and money would be received, because the fact can be acknowledged that they had ceased said "tobashi" upon receiving indications from KMPG AZSA LLC on September 30, 1999, hypothetically, in the event that the directors other than the Participants and People Who Knew were aware of said fact, it could constitute special circumstances that are enough to suspect that there were some problems in the risk management system at that time. However, we did not find any circumstances confirming that the directors other than the Participants and People Who Knew were aware of said fact. We also did not find any special circumstances in particular that would make the directors other than the Participants and People Who Knew suspect that the performance of duties of the Representative Director or the executive directors at that time was illegal.

From the above, we can judge that a violation of the duty to monitor as directors concerning the formulation of a risk management system cannot be acknowledged on the part of the directors other than the Participants and People Who Knew during said period.

(B) After April 2001

a) Regarding Okubo (From April 2001 to the end of October 2002)

As noted above, Okubo was the executive director who supervised the department that managed financial assets from April 1, 2001 to the end of October 2002, and bore the responsibility to specifically determine and formulate a risk management system for the division he supervised. In consideration of the same, during the period from April 1, 2001 to October 31, 2002, the following types of structure, systems, standards, etc. had been formulated and were in operation in Olympus at that time as a risk management system for managing financial assets (including recognizing and understanding its status), in addition to the items previously noted in B (A) ①–⑩.

i. Standards for presenting matters and reports to the Board of Directors were set forth from April 2001, in which monetary amount standards were set forth with respect to the presenting of matters on the disposition and acquisition of important assets, while at the same time clarifying that the provision of collateral exceeding 5 billion yen per case would be presented to the Board of Directors.

ii. Matters concerning internal controls were raised as prioritized audit items to the Board of Auditors in each fiscal year, and audits were performed. The prioritized audit items for the fiscal year ended March 2002 and the fiscal year ended March 2003 were as follows:

- Fiscal year ended March 2002: "The Establishment of Various Regulations and its Implementation Status" etc.
- Fiscal year ended March 2003: "Audit of Operations through the Internal Audit Function" etc.

iii. The Internal Audit Office was made independent of the Accounting Department from April 2001 (an Internal Audit Office was established in the Management Planning Department from April 2001, and in the Administration Management Headquarters from April 2002).

iv. After March 30, 2001, the department in charge of the management of financial assets formulated a “Financial Assets Management Implementation Plan” for the next half-year period in each half-year period, and reported the same to the Board of Directors before the beginning of the next half period (Said Implementation Plan also included past results. It also reported gains and losses on the management of financial assets, although on an irregular basis).

Also, after July 2001, reports on the status of the management of assets began being made to the Board of Directors on a quarterly basis, although on an irregular basis.

Furthermore, after May 2001, reports on the status of the management of securities began being made to the Board of Directors on a monthly basis.

Moreover, as previously noted, it was extremely difficult to recognize the State of Loss Separation.

Considering these circumstances collectively, we determined that the evaluation could not be made to the extent that there was a violation of the duty of due care of a prudent manager in regard to the formulation of a risk management system on the part of Okubo, who was the officer responsible for supervising the department in charge of the management of financial assets, at least during the period from April 2001 to the end of October 2002.

b) Regarding the Other Directors Other than the Participants and People Who Knew

As previously noted, with the exception of Okubo from April 1, 2001 to the end of October 2002, the directors other than the Participants and People Who Knew do not fall under a Representative Director or an executive director supervising the department that managed financial assets.

Therefore, the question of whether or not there was a violation of the duty to formulate a risk management system on the part of the directors other than the Participants and People Who Knew becomes a judgment that should be made from the viewpoint of whether or not it could be judged that there was a violation of the duty to monitor the status of the performance of duty to formulate a risk management system on the part of the Representative Director or the executive directors, and more specifically, as previously mentioned, whether or not there were special circumstances in particular that would give rise to the suspicion that there were problems with the formulation of a risk management system on the part of the Representative Director or the executive directors, and whether or not a “reasonable risk management system” had been formulated.

In consideration of the same, it can be evaluated that with respect to the management of financial assets, in addition to the items previously noted in A) i–iv, the structure, systems, standards, etc. had been revised and formulated and were in operation at Olympus at that time mainly as follows, and that the level of the risk management system improved with each passing year.

v. The Internal Audit Office was established as the Audit Office of the Corporate Center from April 2003 through March 2005, and was established as an organization under the direct supervision of the President after April 2005.

vi. From October 1, 2005, the Administration Department Compliance Office was established, and the operation of the Compliance Help Line began with said Office as the department in charge (The Compliance Help Line Operation Regulations were determined at the Board of Directors' meeting on November 8, 2005. The Compliance Office was separated from the Administration Department from April 1, 2006, and the CSR Department Compliance Office was established). Also, in January 2006, compliance cards were distributed to employees, and at the same time, compliance training was implemented via e-learning in April of the same year.

vii. The Basic Policy on the Internal Controls System was established at the Board of Directors' meeting of May 9, 2006 and has been in operation (Note that the Basic Policy on the Internal Controls System has been revised several times since then).

viii. From the fiscal year ending March 2009, internal controls reports have been submitted which contain statements to the effect that the internal controls concerning the financial reporting of Olympus were judged to be effective after being audited by the audit firm.

ix. The Board of Auditors has been conducting audits of the following prioritized audit items concerning internal controls in each fiscal year.

- Fiscal year ended March 2004: "Corporate Governance and Internal Controls" etc.
- Fiscal year ended March 2005: "Current Status of Internal Controls and its Challenges"
- Fiscal year ended March 2006: "Current Status of Group Governance (Corporate Group Governance Regime) and its Challenges"
- Fiscal year ended March 2007: "Degree of Adequacy of the Internal Controls System"
- Fiscal year ended March 2008: "Maintenance Status of the Internal Controls System and Verification of its Effectiveness under the Companies Act"
  "Determination of the Appropriateness of the Formulation of the Internal Controls System Concerning Financial Reporting under the Financial Instruments and Exchange Act"
- Fiscal year ended March 2009: "Verification of the Maintenance Status of the Internal Controls System Pursuant to the Companies Act and the Financial Instruments and Exchange Act"
  "Regarding Corporate Governance and Internal Controls"
- Fiscal year ended March 2010: "Verification of the Degree of Adequacy of the Internal Controls System Under the Companies Act and the Financial Instruments and Exchange Act"
  "Current Status of the Operations Audit System by the Internal Audit Division and its Desired Form"
- Fiscal year ended March 2011: "Determination of the Effectiveness and Appropriateness of the Deployment of the Internal Controls System Under the Companies Act and the Financial Instruments and Exchange Act" etc.

Moreover, as noted previously, it was extremely difficult to recognize the State of Loss Separation. From these circumstances, it is our judgment that the risk management system that had been formulated at each point in time by the Representative Director and the executive directors at the time can be evaluated as a “reasonable risk management system” that would at least become the basis in determining whether or not there was a violation of the “duty to monitor the status of the performance of duty to formulate a risk management system” by the other directors.

Also, we did not find any special circumstances in particular that would make the directors other than the Participants and People Who Knew suspect that there were some problems in the risk management system that had been formulated by the Representative Director or the executive directors at the time.

From the above, we can make the determination that a violation of the duty to monitor the formulation of a risk management system as a director cannot be acknowledged on the part of the directors other than the Participants and People Who Knew.

V. Whether or Not There Were Violations of the Duty of Due Care of a Prudent Manager on the Part of the Directors Concerning the Acquisition of Shares in the Three Domestic Companies

1. Facts That Serve as the Premise in Determining Liability

(1) Planning and Decisions Within Olympus on the Establishment of a Business Investment Fund

At the Management Committee meeting held at Olympus on January 28, 2000, a proposal to establish a Business Investment Fund was presented and approved under the agenda entitled “Classification Arranged by Purpose of Liquidity On Hand and its Management Method” for purposes of ① identifying and supporting the creation of (new) businesses through acquisitions, alliances, etc. of business plans and information on technology and businesses, ② establishing an investment structure and improving the speed of commercialization through the utilization of external resources, and ③ acquiring capital gains as a result of investments (amount to be invested by Olympus: 30 billion yen, term: 10 years). Note that the officer in charge of said agenda was Kikukawa, who was the Managing Director in charge of the Administration and Finance Department and for the Management Planning Department, and the person explaining it was Yamada, who was the Head of the Administration and Finance Department.

Also, at the Board of Directors’ meeting held on the same day as well, a proposal was made to establish and purchase a Business Investment Fund for purposes of ① identifying and supporting the creation of new businesses, and ② utilizing outside experts, and was unanimously approved (amount to be invested by Olympus: 30 billion yen or less, term: 10 years).

Note that according to the deliberation documents of the Management Committee meeting noted above (prepared by the Management Planning Department and the Administration and Finance Department), the following were purported:

- While the management company possesses the right to make investment decisions, an investor holding an investment interest of over two-thirds (the premise is that Olympus falls under this) possesses the right to veto the projects selected by the management company depending on the amount of the investment.
- A board (Board to Review Business Investments (provisional name)) that reports directly to the President will be established to review investment projects (including the review of projects selected by the management company).

(2) Approval By Means of Authorization Documents

Subsequently, in a written authorization dated February 23, 2000 (subject heading: Regarding the purchase of a Business Investment Fund), approvals were made with respect to an investment fund (GCNVV) that its operator/ administrator would be GCI Cayman, that purchases would total 30 billion yen, and that the Board to Review Business Investments would be established within the company, etc. The originator of said written authorization was Mori, and it was approved by Kikukawa, who was the Director in Charge of Accounting, by Yamada, the Vice Head of the Operations Management Office, and by Ohta, the Head of the Accounting Department, and was authorized by the President, Kishimoto.

(3) Agreement to establish a Business Investment Fund

Based on the resolutions of the Board of Directors and the Management Committee noted above in (1) and the written authorization noted above in (2), an agreement was executed for the establishment of the GCNVV Business Investment Fund dated March 1, 2000, in which Olympus and GV became Limited Partners and GCI Cayman became the General Partner (the "Exempted Limited Partnership Agreement" dated March 1, 2000. Hereinafter referred to as the "Agreement Dated March 1, 2000").

The main content of said agreement is as described below, and the signatories to said agreement are President Kishimoto for Olympus, and Nobumasa Yoko for GCI Cayman.

Note

①. Investment Amount: Olympus 30 billion yen, GV 5 billion yen, and GCI Cayman 100 million yen

②. Investments: The General Partner (GCI Cayman) may determine the target investments in principle, but a prior written approval (30 days prior) is required from the Limited Partner holding a majority of the equity (Olympus) in the event an investment is made in an amount exceeding 20% of the net asset value of the fund per investment.

③. Initial management fee: 1.5% of the amount invested by the Limited Partner (525 million yen).

④. Management fee: 0.25% of the net asset value on the record date (a total of 1% per annum since there are four record dates per year).

Olympus invested 30 billion yen in GCNVV on March 14, 2000, pursuant to the agreement mentioned above.

(4) Establishment of the Board to Review Business Investments

Olympus established a Board to Review Business Investments reporting directly to the President in April 2000 based on the resolutions of the Board of Directors and the Management Committee noted in (1) above and the written authorization mentioned in (2) above, and held the first meeting of the Board to Review Business Investments on April 10 of the same year (note that said Board to Review Business Investments was also called the Board of Business Investment).

According to the minutes of the first meeting of the Board to Review Business Investments, it has been confirmed that "with respect to investment projects by the General Partner – investments greater than 7 billion yen would be subject to deliberation by said Board", and matters having the same content as the agreement content ② in (3) above have been confirmed.

Also, while there were no clear rules with respect to the Board to Review Business Investments, there are notations concerning the purpose, composition, role, method of review, review criteria, etc. of the Board in a document entitled "Regarding the Activities of the Board to Review Business Investments" dated September 13, 2002, and according to said document, the roles of the Board to Review Business Investments were:

① The review of business prospectuses and decisions to invest in outside companies related to our company's new businesses, our company's proprietary projects, and proposed projects with outside entities

② The investment proposal in GCI, which was the project noted above

③ The review of business investments selected by the Business Investment Fund's management company that exceeded a certain amount

④ The management of the Business Investment Fund's investment performance, and reporting to the Board of Directors

⑤ The review of technology and patent matters related to investment projects

(5) Acquisition of Shares by GCNVV

1) Acquisitions in 2005

As noted below, GCNVV acquired shares in each of the Three Domestic Companies in 2005. Because the acquisition amounts for said acquisitions were not large, it is believed that they were executed based on the decision of the General Partner, GCI Cayman, and we could not find any evidence that Olympus' Board to Review Business Investments held deliberations.

	Acquisition Date	Unit Price of Acquisition	Number of Shares Acquired	Acquisition Amount
Altis	December 2005	50,000 yen	720 shares	36 million yen
NEWS CHEF	March 2005	200,000 yen	1000 shares	200 million yen
Humalabo	July 2005	50,000 yen	200 shares	10 million yen

2) March 2006 Acquisition

According to the "Summary Minutes of the Board to Review Business Investments" dated March 9, 2006, it is indicated that there was a proposal from GCI Cayman that Olympus make a key investment with respect to the Three Domestic Companies. Then, in relation to said proposal, it is indicated, "Our company (excerptor's note: Olympus) will consider this in a positive light for purposes of the creation of new businesses and for business success. However, we will respond after we have independently examined the equity stake, the method of holding additional acquisitions, etc. in the fund, and the business valuation."

Subsequently, when a document entitled "Report on the Review Results" dated March 16, 2006 was prepared in the name of the Chairman of the Board to Review Business Investments (the Chairman at that time was Yamada), it noted the fact that the acquisition of shares in the Three Domestic Companies by GCNVV had been approved under the following content:

①. Altis
- Number of shares to be acquired: 760 shares
- Acquisition amount: 4.4004 billion yen (excerptor's note: 5.79 million yen per share)
- Equity stake: 20.0% (cumulative total: 38.9%)

②. NEWS CHEF
- Number of shares to be acquired: 400 shares
- Acquisition amount: 1.78 billion yen (excerptor's note: 4.45 million yen per share)
- Equity stake: 11.1% (cumulative total: 38.9%)

③. Humalabo
- Number of shares to be acquired: 320 shares
- Acquisition amount: 4.6 billion yen (excerptor's note: 14.375 million yen per share)
- Equity stake: 20.0% (cumulative total: 32.5%)

Said document included the “Investment Proposal Deliberation Documents” dated March 16, 2006, in which Olympus calculated the business valuation of each company based on the business plans of the Three Domestic Companies, and a document entitled the “Estimated Business Value of the Venture Companies” dated March 16, 2006 prepared by the Isaka CPA Office, and according to said “Investment Proposal Deliberation Documents”, the business valuation of each company was Altis: 22 billion yen (5.79 million yen per share), NEWS CHEF: 16 billion yen (4.45 million yen per share), and Humalabo: 23 billion yen (14.375 million yen per share). Also, in the aforementioned “Estimated Business Value of the Venture Companies” as well, the business valuation of each company was calculated based on the business plans prepared by the Three Domestic Companies, and according to said calculation, it was Altis: 20.4 billion~37 billion yen, NEWS CHEF: 17.1 billion~30.6 billion yen, and Humalabo: 16.7 billion–30.6 billion yen.

We were not able to confirm any records of meeting minutes, etc. that would indicate that a meeting of the Board to Review Business Investments was held between March 9, 2006 and the 16th of the same month, and therefore, we were unable to verify the fact that the Board considered and deliberated matters based on said “Investment Proposal Deliberation Documents” and “Estimated Business Value of the Venture Companies.”

Subsequently, the shares of the Three Domestic Companies were acquired by GCNVV according to the content noted in ①–③ above (the payment dates for each of the stock acquisitions were Altis: March 23, 2006, NEWS CHEF: the 17th of the same month, and Humalabo: the 23rd of the same month).

Note that according to the Third Party Committee’s Investigation Report, the shares of Altis and Humalabo were purchased by Neo, and the shares of NEWS CHEF by ITV (pages 83~84 of said report), and it is stated that the shares of Altis and Humalabo were purchased by Neo for 50,000 yen per share, and the shares of NEWS CHEF were purchased by ITV for 200,000 yen per share (page 37 of said report). In other words, compared to the prices at which Neo or ITV, which were funds established in order to formulate or maintain the aforementioned Loss Separation Scheme, purchased the shares (from 50,000 to 200,000 yen per share), the prices paid in the acquisition of shares in the Three Domestic Companies by GCNVV were extremely high (NEWS CHEF for 4.45 million yen per share (roughly 22 times), Altis for 5.79 million yen per share (roughly 115 times), and Humalabo for 14.375 million yen per share (roughly 287 times)). Furthermore, even when compared with the acquisition prices by GCNVV in 2005 as mentioned in 1) above, which was only a few months or one year earlier at most, Altis (5.789 million yen) is roughly 115 times the acquisition unit price in December 2005 (50,000 yen), NEWS CHEF (4.45 million yen) is roughly 22 times the acquisition unit price in March 2005 (200,000 yen), and Humalabo (14.375 million yen) is roughly 287 times the acquisition unit price in July 2005 (50,000 yen), and said acquisition prices for the shares of the Three Domestic Companies represent a steep rise in value over a short period of time. In short, it is clear that the acquisition of shares in the Three Domestic Companies in March 2006 was not done for legitimate business investment purposes.

(6) Report to the Board of Directors with respect to the Acquisition of Shares in the Three Domestic Companies

The status on the management of funds at GCNVV was being reported to the Board of Directors at a rate of about once every three to six months, and with respect to the acquisition of shares in the Three Domestic Companies by GCNVV described previously in (5), a report was made by Yamada based on documents prepared by the Management Planning Headquarters at the Board of Directors' meeting held on April 28, 2006.

Note that in said Board of Directors' meeting report, the fact was reported that an investment had been made that exceeded the number of shares approved in the above noted document entitled "Report on the Review Results" dated March 16, 2006, but this Committee was not able to confirm from any records of the meeting minutes, etc. that an investment had been made that exceeded the number of shares approved.

(7) Mid-term Termination of GCNVV

Subsequently, at the Management Implementation Committee meeting held on July 20, 2007, a report was made by Mori, the Head of the Management Planning Headquarters (to note, the officer in charge was Yamada, Director and Senior Executive Officer), that the accounting treatment concerning the Business Investment Fund would be changed from the fiscal year ending March 2007, and that with respect to those companies in which the scale of investment out of GCNVV was large and its investees (the Three Domestic Companies), the equity method would be applied and the method would be changed to one in which they would be directly incorporated into consolidated accounting, and that in accordance with this, after continued negotiations to terminate before maturity the Agreement Dated March 1, 2000 mentioned in (3) above, arrangements had been made for its implementation.

Olympus then executed the "TERMINATION AGREEMENT OF G.C. NEW VISION VENTURES L.P." and the "Memorandum for Termination Agreement of G.C. New Vision Ventures L.P." dated September 21, 2007 with GCI Cayman, and settled the account of GCNVV. As a result, it was decided that Olympus would acquire the shares in the Three Domestic Companies held by GCNVV pursuant to said Agreements (they would be acquired at the book value in which GCNVV made the investment[4]).

(8) Resolution for the Additional Purchase of Shares (Turning the Companies into Subsidiaries)

At the Management Implementation Committee meeting held on February 8, 2008, and the Board of Directors' meeting held on the 22nd of the same month attended by Kikukawa, Yusa, Terada, Okubo, Yamada, Furuhata, Yanagisawa, Morishima, Takayama, Tsukaya, Nagasaki, and Mori, it was stated in reference to the Three Domestic Companies that "Under the current circumstances, the majority shareholders of each company are all other companies (Funds in Europe), and our company's (Note: Olympus') percentage of shares held is limited to around 40%, so we have not necessarily reached a solid position from the perspective of controlling management rights," and the proposal was made for Olympus to purchase additional shares in the Three Domestic Companies to turn them into subsidiaries in order to establish a strong position in the business field of each company, and each was

[4] To note, Olympus acquired shares in the Three Domestic Companies from a fund called Tensho Limited around this time from September through November 2007, but in the scope of the investigations conducted by this Commission, said acquisitions were not acknowledged to be related to the deferment of posting losses of the matter in question.

unanimously approved and passed (to note, the officer in charge of said Management Implementation Committee was Mori, the Head of the Management Planning Headquarters and the director in charge of the Management Headquarters For Companies Related To New Businesses, and the persons explaining this were Mori and an employee of the Management Headquarters For Companies Related To New Businesses. Also, at the Board of Directors' meeting, it was Kikukawa, the Board Chairman, who made an explanation of said proposal).

In said proposal, the method for calculating the stock value and the specific content proposed in acquiring the shares are as follows (The proposal document entitled "Proposal for the Additional Purchase of Shares in the Three Companies Related to New Businesses" that was submitted to the Management Implementation Committee and to the Board of Directors. Note that the content of these documents was the same in both the document submitted to the Management Implementation Committee and the document submitted to the Board of Directors, and the following discussion is based on that premise).

In other words, in said proposal, the business plans of the Three Domestic Companies (Exhibit ① – 1–3) were included as attachments to the proposal document entitled "Proposal for the Additional Purchase of Shares in the Three Companies Related to New Businesses", and the stock value was calculated as follows based on said business plans.

	DCF	PER	Average
Altis	32.1 billion yen	26.1 billion yen	29.1 billion yen
NEWS CHEF	45.5 billion yen	43.1 billion yen	44.3 billion yen
Humalabo	50.3 billion yen	46.1 billion yen	48.2 billion yen

A control premium of 30% was then added to the average value noted above and the calculated figure became the upper limit with respect to Altis; with respect to NEWS CHEF and Humalabo, as a result of careful scrutiny of the content of their plans, 80% of the above noted average values became the upper limit (the control premium was offset with the discount); the acquisition price for each was thus calculated. As a result, specifically, the following proposals were made.

	Number of Additional Shares to Purchase	Percentage After Acquisition	Projected Unit Price	Projected Acquisition Amount
Altis	1,030~2,180 (Currently 1,594)	66.7–95.9% (Currently 40.52%)	5.79 million-9.616 million yen	5.964 billion–20.963 billion yen
NEWS CHEF	1,001~2,050 (Currently 1,440)	66.7–95.4% (Currently 39.34%)	4.45 million–9.683 million yen	4.454 billion–19.85 billion yen
Humalabo	570~880 (Currently 560)	66.7–87.3% (Currently 32.12%)	14.375 million–23.37 million yen	8.194 billion–20.566 billion yen

Also, in said proposal, it was stated that "the number of additional shares to purchase and the acquisition unit price would be determined through future negotiations with the current shareholders." Note that said proposal maintains that "we are in the process of requesting an outside stock price valuation," but the fact could not be acknowledged that the results of stock value calculations performed by an external organization had been presented to either the Management Implementation Committee or the Board of Directors (to make the statement just in case, a document entitled "Report on the Calculation of Shareholder Value" dated February 29, 2008 was prepared by the Isaka CPA Office subsequent to the Board of Directors' meeting noted above, but said report contained the statement in regard to the business plans of the Three Domestic Companies upon which the evaluation was premised that "This Office assumes that the financial and income/expenditure projections prepared by the companies subject to the valuations (including not only the amounts but the feasibility of achieving the same) as well as the assumptions underlying said projections were reasonably prepared, and in the event this office were to revise or correct the same, such would be the revisions of processes and assumptions, and would not change the fact that this office relies on the accuracy and completeness of the information.")

(9) The Additional Purchase of Shares to Turn the Companies into Subsidiaries

Based on the Board of Directors' meeting resolution previously mentioned in (8), Olympus acquired shares in the Three Domestic Companies on March 26, 2008 and on April 25th, as shown below (the acquisitions on April 25th were all acquisitions by OFH, a wholly-owned subsidiary of Olympus, and these were subsequently transferred from OFH to Olympus on September 25th of the same year). Note that in each of the authorizations on March 26th and April 25th, Nakatsuka, who was the Vice Head of the Management Planning Headquarters at that time, made authorizations as one of the deliberators ("Basic Management Authorization Documents" dated March 24, 2008 in triplicate and "Financial Authorization Documents" dated April 24th of the same year in triplicate).

① March 26, 2008

	Number of Shares Acquired	Acquisition Unit Price	Total Amount	Percentage of Equity Interest
Altis	1650 shares	11 million yen	18.15 billion yen	41.94% (Cumulative total 82.46%)
NEWS CHEF	1600 shares	9.5 million yen	15.2 billion yen	43.7% (Cumulative total 83.06%)
Humalabo	670 shares	20.5 million yen	13.735 billion yen	40.6% (Cumulative total 74.55%)

* Altis and Humalabo shares were acquired from Neo, and NEWS CHEF shares were acquired from ITV.

② April 25, 2008

	Number of Shares Acquired	Acquisition Unit Price	Total Amount	Percentage of Equity Interest
Altis	530 shares	10.5 million yen	5.565 billion yen	13.47% (Cumulative total 95.93%)
NEWS CHEF	450 shares	9 million yen	4.05 billion yen	12.30% (Cumulative total 95.36%)
Humalabo	210 shares	19.5 million yen	4.095 billion yen	12.72% (Cumulative total 87.27%)

* Altis and NEWS CHEF shares were acquired from DD, and Humalabo shares were acquired from GT. Note that according to the Third Party Committee's Report, DD and GT acquired these shares from Neo (page 37 of said report).

It is assumed as well, that with respect to said acquisitions to turn the companies into subsidiaries, by acquiring the same at extremely high prices (9 million yen, 10.5 million yen, or 19.5 million yen per share) compared to the stock prices at which the seller, Neo or ITV, purchased them (50,000 yen or 200,000 yen per share), the amount difference was used for a partial settlement of the separated losses.

2. Liability of the Participants and People Who Knew

Of the six people who are the Participants and People Who Knew previously mentioned in Section III, we will first examine the liability of Yamada, Mori, Nakatsuka, and Kikukawa[5].

(1) Regarding the Acquisition of Shares by GCNVV in March 2006

As noted previously in 1 (5), the acquisition of shares in the Three Domestic Companies by GCNVV in March 2006 was undertaken at extremely high prices (Altis (5.79 million yen) at roughly 115 times the previously mentioned acquisition unit price (50,000 yen), NEWS CHEF (4.45 million yen) at roughly 22 times the previously mentioned acquisition unit price (200,000 yen), and Humalabo (14.375 million yen) at roughly 287 times the previously mentioned acquisition unit price (50,000 yen)) compared with the stock prices at which Neo or ITV purchased them (Altis: 50,000 yen per share, NEWS CHEF: 200,000 yen per share, and Humalabo: 50,000 yen per share), and it is clear that this was not done for legitimate business investment purposes.

Incidentally, to use the assets of a company or the assets of a Fund that the company established for business investment purposes that cannot be said to be legitimate business investment purposes should be deemed a violation of the duty of due care of a prudent manager as a director, since a director bears the obligation to perform duties (the duty of due care of a prudent manager) in compliance with Article 330 of the Companies Act (Article 644 of the Civil Code), which generally sets forth the duties of a delegate. This would hold true even if the greater part of the money for the stock acquisition had been planned to be returned to the company as a result of the disbursement. This is because the risk cannot be denied of an improper outflow of funds in the process of returning the money for the stock acquisition, and because the company would be made to suffer damages due to the burden of expenses that are fundamentally unnecessary, such as fees, etc. to outside collaborators who cooperated in the loss separation, maintenance, and settlement scheme.

1) Regarding Yamada

As noted previously in Section III, Yamada (a director at the time) actively participated in the formulation and execution of the overall scheme for the separation of losses and its maintenance.

Then, as noted previously in 1 (5), with respect to the acquisition of shares by GCNVV in March 2006,

[5] In regard to Shimoyama and Kishimoto, Shimoyama resigned as a director in June 2004 and Kishimoto resigned in June 2005, and because no special circumstances can be found that confirm the involvement of the aforementioned 2 people with respect to the acquisition of shares in the Three Domestic Companies by GCNVV in March 2006 and the additional purchase of shares by Olympus in February 2008, it cannot be acknowledged that there was a violation of the duty of due care of a prudent manager on the part of either of the aforementioned 2 people concerning the acquisition of shares in the Three Domestic Companies by GCNVV and Olympus.

Yamada was the Chairman of the Board to Review Business Investments at the time and the person on record in whose name the document entitled “Report on the Review Results” dated March 16, 2006 was prepared, and it can be acknowledged that he personally guided said acquisition.

Therefore, Yamada was actively involved in the acquisition of shares in the Three Domestic Companies by GCNVV in March 2006 for purposes that cannot be said to be legitimate business investment purposes, and clearly violated the duty of due care of a prudent manager as a director.

2) Regarding Mori

As previously noted in Section III, Mori actively participated in the formulation and execution of the overall scheme for the separation of losses and its maintenance, initially as an employee, and as previously noted in 1 (2), from the fact that he took actions on the occasion of purchasing GCNVV such as to propose the authorization document dated February 23, 2000 as an employee, and that it can be considered that he knew of its purpose and actively participated in the same, it can also be acknowledged that he actively participated in the acquisition of shares in the Three Domestic Companies by GCNVV in March of 2006 for purposes that cannot be said to be legitimate business investment purposes.

Mori was in the position of an employee in March 2006, but even if an employee, to use the assets of a Fund that the company established for business investment purposes for purposes that cannot be said to be legitimate business investment purposes is a violation of the duty of good faith based on his employment contract as an employee.

3) Regarding Nakatsuka

As previously noted in Section III, Nakatsuka was aware of the overall scheme for the separation of losses and its maintenance, and participated in the actual work as an employee.

However, we were not able to find definitive evidence, etc. with which to acknowledge Nakatsuka’s involvement with respect to the acquisition of shares by GCNVV in March 2006.

Therefore, it cannot be acknowledged that Nakatsuka violated his duties as an employee with respect to the acquisition of shares by GCNVV in March 2006.

4) Regarding Kikukawa

As previously noted in Section III, Kikukawa was aware, in January 2000 at the latest, that the Loss Separation Scheme had been formulated and was being executed with respect to the massive unrealized losses (around 100 billion yen), and had approved the same, and was also aware that the subsequent State of Loss Separation had been maintained, and had approved the same.

And, as previously noted in 1 (4), judging from the fact that the Board to Review Business Investments was an organization that reported directly to Kikukawa, who was the President and Representative Director, it can be acknowledged that Kikukawa also knew that the acquisition of shares in the Three Domestic Companies (acquisition through GCNVV) was not done for legitimate business investment purposes, and with respect to the acquisition of shares by GCNVV in March 2006 as well, it can be acknowledged that he performed duties as the Representative Director with the same knowledge.

Therefore, with respect to Kikukawa, as with Yamada, it can be acknowledged that he violated the duty of due care of a prudent manager as a director, as a person who participated in the maintenance of a State of Loss Separation by using the acquisition of shares in the Three Domestic Companies by GCNVV in March of 2006 or in the formulation and execution of the Loss Separation Settlement Scheme, or at the very least, that he violated the duty of due care of a prudent manager to monitor and supervise the actions of Yamada so that damages would not be incurred by the company, or that the other directors would not engage in illegal acts.

(2) Regarding the Additional Purchase of Shares Based on the Resolution of the Board of Directors' Meeting Held on February 22, 2008

As previously noted in 1 (9), the additional purchase of shares in the Three Domestic Companies (turning them into subsidiaries) by Olympus and its wholly-owned subsidiary, OFH, based on the resolution of the Board of Directors' meeting held on February 22, 2008 was done at abnormally high prices compared to the stock prices at which Neo or ITV purchased them, as shown below (Altis was more than 210 times, NEWS CHEF was more than 45 times, and Humalabo was more than 390 times), and it is assumed that the money for those acquisitions was used for a partial settlement of the loss separation.

	Unit Price of Purchase by Neo or ITV	Acquisition Unit Price for Olympus
Altis	50,000 yen	10.5–11 million yen
NEWS CHEF	200,000 yen	9–9.5 million yen
Humalabo	50,000 yen	19.5–20.5 million yen

And, as likewise noted previously in (1), for a director to use company assets for purposes that cannot be said to be legitimate business investment purposes should be deemed a violation of the duty of due care of a prudent manager as a director, and also, to try to maintain a State of Loss Separation or to partially settle the loss separation by means of an additional purchase of shares can be evaluated as an act that aided in the submission of securities reports etc. containing misrepresentations of material facts by the company, and from this perspective as well, it should be deemed a violation of the duty of due care of a prudent manager as a director.

1) Regarding Yamada

As previously noted, Yamada (a director at the time) actively participated in the formulation and execution of the loss separation and its maintenance as well as the overall Loss Separation Settlement Scheme.

Therefore, Yamada actively participated in the additional purchase of shares based on the resolution of the Board of Directors' meeting held on February 22, 2008 for the purpose of using the acquisition of shares in the Three Domestic Companies to partially settle the loss separation, and clearly violated the duty of due care of a prudent manager as a director. In addition, to try to partially settle the losses through the acquisition of shares in the Three Domestic Companies can be evaluated as an act that aided in the submission of securities reports etc. containing misrepresentations of material facts by the company, and on this point as well, there is a violation of the duty of due care of a prudent manager as a director.

2) Regarding Mori

As previously noted, Mori actively participated in the formulation and execution of the loss separation and its maintenance and the overall Loss Separation Settlement Scheme, initially as an employee, and subsequently as a director. Therefore, Mori actively participated in the purchase of additional shares based on the resolution of the Board of Directors' meeting held on February 22, 2008 for the purpose of partially settling the loss separation, and clearly violated the duty of due care of a prudent manager as a director. In addition, to try to partially settle the loss separation through the acquisition of shares in the Three Domestic Companies can be evaluated as an act that aided in the submission of securities reports etc. containing misrepresentations of material facts by the company, and on this point as well, is a violation of the duty of due care of a prudent manager as a director.

3) Regarding Nakatsuka

As previously noted, Nakatsuka was aware of the loss separation and its maintenance and the overall Loss Separation Settlement Scheme as an employee, and participated in the practical work. With respect to the resolution of the Board of Directors' meeting regarding the acquisition of shares held in February 2008, while Nakatsuka did not participate in the Board of Directors' meeting resolution because he was an employee, as previously noted in 1 (9), on the occasion of the actual acquisition of shares based on the Board of Directors' meeting resolution, he authorized the same as one of the deliberators. Furthermore, Nakatsuka had heard from Yamada at that time that the acquisition of shares in the Three Domestic Companies would be used for the purpose of partially settling the loss separation, and it is believed that at least with respect to the acquisition of shares based on the resolution of the Board of Director's meeting held in February 2008, in which he was involved with its authorization procedure, he knew that it would be used for the purpose of a partial settlement of the loss separation.

And, as previously noted, even if an employee, to use the company's assets for purposes that cannot be said to be legitimate business investment purposes is a violation of the duty of good faith based on his employment contract as an employee, and to aid in the act of making misrepresentations in securities reports, etc. is also a violation of the duty of good faith as an employee.

Therefore, Nakatsuka's actions in participating in the authorization of the acquisition of shares based on said Board of Directors' meeting resolution is a violation of the duty of good faith as an employee.

4) Regarding Kikukawa

As previously noted, Kikukawa was aware in January of 2000 at the latest that the Loss Separation Scheme had been formulated and was being executed with respect to the massive unrealized losses, and had approved the same, and was also aware that the subsequent State of Loss Separation had been maintained, and had approved the same. For this reason, it can be acknowledged that he was aware of the necessity to settle the loss separation. He also received reports from Yamada and Mori regarding the Loss Separation Settlement Scheme and had approved the same. Therefore, Kikukawa executed operations as the Representative Director related to the additional purchase of shares based on the resolution of the Board of Directors' meeting held on February 22, 2008, and clearly violated the duty of due care of a prudent manager as a director. In addition, to try to partially settle the loss separation by means of the acquisition of shares in the Three Domestic Companies can be evaluated as an act that aided in the submission of securities reports, etc. containing misrepresentations of material facts by the company, and on this point as well, is a violation of the duty of due care of a prudent manager.

3. Liability of the Directors Other than the Participants and People Who Knew

(1) Regarding the Acquisition of Shares by GCNVV in March 2006

1) Regarding Whether or Not There Was a Violation of the Duty to Monitor

As previously noted in 2 (5) 1) of Section IV, the directors of a stock company with an established Board of Directors are not restricted to monitoring only those matters that are presented to the Board of Directors, but also bear the responsibility of monitoring the performance of duties on the part of the Representative Director and the executive directors, and if necessary, to see that such performance of duties is properly executed through the Board of Directors. However, with respect to matters that are not presented to the Board of Directors, the interpretation is that a violation of the duty to monitor can only be acknowledged when the content of the operational activities of the Representative Director and the executive directors are overlooked while there are special circumstances such as that the same is known or can be found out.

For that reason, with respect to the acquisition of shares by GCNVV in March 2006, which was executed without having gone through a Board of Directors' meeting resolution, the issue becomes whether or not there was a violation of the duty to monitor regarding said acquisition on the part of the other directors (The directors other than Yamada and Kikukawa. Specifically, a total of 12 people consisting of Takahashi, Miyata, Toyoshima, Yusa, Furuhata, Robert A. Mandell, Terada, Nagasaki, Okubo, Yanagisawa, Morishima, and Suzuki).

However, with respect to the other 12 directors, in the first place, it is understood that they did not even know about the loss separation and its maintenance, and furthermore, it is also understood that they had no opportunity to gain prior knowledge of said acquisition of shares by GCNVV.

Therefore, it is believed that a violation of the duty to monitor in regard to said acquisition of shares could not be questioned (To make the statement just in case, while Nagasaki was a member of the Board to Review Business Investments at the time, he was not present at the meeting of the Board to Review Business Investments held on March 9, 2006, and the acknowledgment cannot be made to the extent that his circumstances were different from the other 11 directors).

2) Regarding Whether or Not There Were Violations of the Duty to Develop Internal Controls

A. Specific Content of Duties

As previously noted in 2 (5) 2) of Section IV, in large-scale stock companies such as Olympus, the following can be understood to complement the duty of oversight and supervision on the part of directors:

①. The Representative Director and the executive directors bear the duty to specifically determine the risk management system for the divisions they oversee, and

②. The other directors bear the duty to monitor the status of the performance of duties to formulate a risk management system on the part of the Representative Director or the executive directors.

Therefore, with respect to the other 12 directors, the issue also becomes whether or not there was a violation of duty under the above-mentioned ① or ②. Incidentally, as previously noted, considering that the Board to Review Business Investments reports directly to the President and Representative Director, and that the Chairman of the Board to Review Business Investments at that time was Yamada, it can be said that none of the other 12 directors correspond to either a Representative Director or an executive director, and therefore, the issue becomes whether or not they specifically violated their duties under the above-mentioned ②.

However, as already noted in 2 (5) 2) in Section IV, in the event a "reasonable risk management system" has been formulated, it is believed that the evaluation cannot be made that "there was a violation of the duty to monitor the status of the performance of duties to formulate a risk management system," provided that there were no special circumstances in particular that would give rise to the suspicion that the performance of duties on the part of the Directors in Charge was illegal (See Tokyo High Court Decision of May 21, 2008, *Hanrei Times*, No. 1281, Page 274).

It is therefore necessary to first consider whether or not a "reasonable risk management system" had been formulated at Olympus at that time, so that an acquisition of shares through a Business Investment Fund that did not have a legitimate business investment purpose would not take place.

B. Specific Risk Management System

(a) As previously noted in 1 (1), according to the deliberation documents (prepared by the Management Planning Department and the Administration and Finance Department) in the Management Committee meeting that was held on the occasion of the establishment of the Business Investment Fund, it was purported that:

- While the management company possesses the right to make investment decisions, an investor holding an investment interest of over two-thirds (the premise is that Olympus falls under this) possesses the right to veto the projects selected by the management company depending on the amount of the investment.
- A board (Board to Review Business Investments (provisional name)) that reports directly to the President will be established to review investment projects (including deliberations on projects selected by the management company).

The Board to Review Business Investments was then established following the decision by said Management Committee, etc., but as previously noted in 1 (4), with respect to the Board to Review Business Investments, there are notations concerning the purpose, composition, role, method of review, review criteria, etc. of the Board in a document entitled "Regarding the Activities of the Board to Review Business Investments" dated September 13, 2002, among which, as one of the roles of the Board, was "the review of business investments selected by the Business Investment Fund's management company that exceeded a certain amount" (Conversely, there was no stipulation to the effect that the Chairman of the Board to Review Business Investments could review an investment at his own discretion.). Also, as previously noted in 1 (3), because the Agreement Dated March 1, 2000 stipulated that the prior approval of Olympus was required in the event an investment is made in an amount exceeding 20% of the net asset value of the fund per investment, when these are considered together, it can be said that there was a stipulation for a review to be made by the Board to Review Business Investments in the event a major investment was to be made exceeding 20% of the net asset value of the fund (GCNVV).

(b) According to the summary minutes etc. of the Board to Review Business Investments, meetings of the Board to Review Business Investments were actually held at a rate of once or twice a year, and it was acknowledged that they had been making reports on the status of the investees, and asking questions concerning these, etc.

(c) Also, in the document entitled "Regarding the Activities of the Board to Review Business Investments" dated September 13, 2002, the following were set forth regarding the composition of the Board, and the Board was composed of multiple departments within the company (in other words, it was not composed only of the members of a specific department).

Board Chairman: Corporate Center Manager

Board Members: Head of the New Business Development Headquarters, Head of the R&D Center Strategy Department, Head of the Accounting Department, Head of the Finance Department, Head of the General Management Planning Office, Head of the Planning Department from the company affiliated with the division making a proposal

Administrative Office: General Management Planning Office, Finance Department

By having multiple departments participate in the Board to Review Business Investments in this manner, it is understood that a monitoring function is facilitated between the Board members, and as a result, contributes to the prevention of illegal acts.

(d) Furthermore, in the previously mentioned document entitled "Regarding the Activities of the Board to Review Business Investments" dated September 13, 2002, one of the roles of the Board is purported to be "the management of the Business Investment Fund's investment performance, and reporting to the Board of Directors," and as previously noted in 1 (6), in actuality, reports were being made on the status of the management of GCNVV to the Board of Directors at a rate of around once every three to six months. While said reports were reports after the investments had been made (reports after the fact), it can be said that by having said reports made regularly, it had a certain inhibiting and restraining effect with respect to improper investments in GCNVV.

C. Considering the circumstances above, it can be said that a "reasonable risk management system" had been formulated at Olympus at that time so that an acquisition of shares through a Business Investment Fund that did not have a legitimate business investment purpose would not take place.

Neither could any special circumstances be acknowledged in particular that would give rise to the suspicion that the performance of duties on the part of the Directors in Charge was illegal at the time in March 2006 (for example, circumstances suggesting that investment decisions had been made for improper purposes before March 2006).

Therefore, with respect to the other 12 directors, it cannot be acknowledged that there was a violation of the duty to monitor the status of the performance of duties to formulate a risk management system.

(2) Regarding the Additional Purchase of Shares (Turning the Companies Into Subsidiaries) Based on the Resolution of the Board of Directors' Meeting Held on February 22, 2008

1) Regarding Violations of the Duty of Due Care of a Prudent Manager

A) Business Judgment Rule

(a) Of the directors who participated in said Board of Directors' meeting resolution and approved the proposal to purchase additional shares in the Three Domestic Companies (the proposal to turn them into subsidiaries), with respect to the nine people (Takayama, Morishima, Yanagisawa, Tsukaya, Okubo, Terada, Nagasaki, Yusa, and Furuhata) other than the Participants and the People Who Knew (Yamada, Mori, and Kikukawa), it cannot be acknowledged that they were aware of the purpose of said additional purchase of shares (the purpose to partially settle the loss separation).

However, as previously noted in 1 (9), the shares that were to be acquired based on said resolution were shares originally purchased by Neo or ITV for 50,000 yen to 200,000 yen per share. In other words, even if we set aside the hidden purpose of said Board of Directors' meeting resolution (the purpose of partially settling the loss separation), said Board of Directors' meeting resolution approved the purchase of shares in the Three Domestic Companies at prices that were far higher than their actual value (at a maximum per share, Altis: 9.616 million yen, NEWS CHEF: 9.683 million yen, and Humalabo: 23.37 million yen. In total, a maximum of 61.379 billion yen). Given this, with respect as well to the nine directors other than the Participants and People Who Knew, the issue becomes whether or not there were violations of the duty of due care of a prudent manager on the part of the directors for having approved said Board of Directors' meeting resolution (the business judgment to acquire shares in the Three Domestic Companies for the aforementioned sums).

(b) Incidentally, directors are understood to be given broad discretion in performing their duties, since they must make a series of business judgments without missing opportunities after having accurately ascertained and collectively evaluated the various requisite elements of company management that occasionally change from time to time and having made future short-term and long-term projections (business judgment rule). For that reason, concerning the liability of a director for a violation of the duty of due care of a prudent manager in his business judgment, the judgment becomes whether or not there was a violation of the duty of due care of a prudent manager exceeding the scope of discretion permitted in decisions by directors from the following perspectives.

①. Whether or not there were careless errors and a lack of reasonableness in the process of recognizing the facts on which the business judgment was based (the gathering of information and its analysis and review)

②. Whether or not the process of inference and the content of the judgment based on such recognition of facts were clearly unreasonable

Concerning the standard in the above-mentioned ① of "Whether or not there were careless errors and a lack of reasonableness in the process of recognizing the facts on which the business judgment was based (the gathering of information and its analysis and review)", the decision then becomes whether or not there were careless errors in said gathering of information and its analysis and review on the part of the directors.

Therefore, with respect to whether or not the business judgment of the directors concerning said Board of Directors' meeting resolution would be a violation of the duty of due care of a prudent manager as well, it is believed to be reasonable to adhere to the standards noted in ① and ② above in making such judgment.

Incidentally, concerning the acquisition of shares in order to turn a company into a subsidiary as a measure of a business restructuring plan, such is generally left to professional managerial discretion extending over future projections, and concerning the price of stock acquisitions as well, a judgment can be made through a collective consideration of the necessity of the acquisition and the financial burden, etc., in addition to the appraised value of the shares, and unless there were significantly unreasonable aspects in the process of such judgment and its content, it is understood that such would not be a violation of the duty of due care of a prudent manager as a director (See Supreme Court Decision of July 15, 2010, *Hanrei Times*, No. 1332, Page 50), and it is understood that this reasoning also applies to the acquisition of shares in order to turn a company into a subsidiary for the purpose of creating new businesses, such as in the acquisition of shares in the Three Domestic Companies.

Below, we will consider whether or not the business judgment of the directors concerning said Board of Directors' meeting resolution would be a violation of the duty of due care of a prudent manager, premised on the above.

B) The Process of Recognizing the Facts On Which the Business Judgment Was Based (the Gathering of Information and its Analysis and Review)

In general, because there are occasionally instances when it is necessary for management to make a business judgment that carries high risk in order to create new wealth for the company, it should be said that it would be at odds with the purpose of the business judgment rule for directors, who are pressed to make a timely and appropriate business judgment in an uncertain business environment, to engage in minute, detailed scrutiny of the pros and cons of such business judgment based on knowledge and information after the fact.

However, said Board of Directors' meeting resolution approved the purchase of shares in the Three Domestic Companies for 61.379 billion yen at maximum, and not only was that sum itself extremely large, but it constituted an approval for investing an amount that exceeded the current net income for Olympus in the company's most recent fiscal year at the time (the fiscal year ended March 2007). In other words, the current net income for Olympus' most recent fiscal year was 47.799 billion yen on a consolidated basis (operating income was 98.729 billion yen), and it can be said to have an extremely large impact on the financial foundation, etc. of Olympus. Moreover, consideration for these shares was paid to the sellers who were the shareholders of the Three Domestic Companies, and we must keep in mind the fact that it was not directly invested in the business of the Three Domestic Companies, nor put to good use in expanding the businesses.

Therefore, even if it were judged that the business judgment rule should be considered, for Olympus, it can be said that the gathering of information and its analysis and review in judging the pros and cons of purchasing additional shares in the Three Domestic Companies needed to be done carefully, and the interpretation can be made that the question of whether or not there were careless errors in the gathering of information and its analysis and review requires that a judgment be made on such a premise.

(a) Business Description and Shareholder Composition of the Target Companies, the Sellers, and the History of Negotiations with the Sellers

According to the documents of said Board of Directors' meeting, the reasons explained for purchasing additional shares in the Three Domestic Companies were that the percentage of shares held by Olympus in each of the companies was limited to around 40%, and that since it had not necessarily reached a solid position from the perspective of controlling management rights, it would proceed to turn them into subsidiaries. If additional shares were to be purchased for such reasons, then it is first necessary to consider and determine how great of a necessity there was to turn them into subsidiaries.

In other words, it is essential to consider the relevance of the businesses of the Three Domestic Companies to Olympus' business (so-called synergistic effects). However, no evidence can be found that sufficient considerations were made regarding the relevance of the businesses of the Three Companies to Olympus' business. On the contrary, while the conclusion was reached in the Management Implementation Committee meeting of February 8, 2008 that it was difficult to identify the relevance to Olympus' business with respect to NEWS CHEF and Humalabo, they proceeded with matters without making a more in-depth review, and on this point, it must be said that the gathering of information and its analysis and review was insufficient.

Moreover, it can be said that information pertaining to the composition of shareholders in each company, and the intentions of the other shareholders regarding management (such as whether they would leave the management to Olympus, or whether there were differences with Olympus over management policy) was basic information for considering and determining how great of a necessity there was to turn them into subsidiaries. The interpretation can also be made that it was necessary to consider what kind of difficulties would arise in the event the percentage of shares held remained at around 40% without turning them into subsidiaries, in comparison to the risk in the event the companies targeted for acquisition do not perform as according to their business plans and their business value does not increase, particularly if the purchase amount were to become so massive, as previously mentioned. However, no evidence can be found that sufficient considerations were made at said Board of Directors' meeting regarding the composition of shareholders in each company, the intentions of the other shareholders regarding management, and the degree of the necessity of turning them into subsidiaries based on the same.

Furthermore, it is essential to know who the seller is and to know the history of negotiations with the seller (particularly the history of negotiations over the acquisition price) when making the decision to execute a purchase agreement and judging the pros and cons of its terms. The fact that the actual purchase price would be decided through price negotiations against the background of the strength of the desire to buy or sell on the part of both parties is a particularly important aspect since the Three Domestic Companies were not public companies; a market price does not exist for private companies, and there are many different methods for share price valuation. Therefore, it was extremely important to know the history of negotiations with the seller (particularly the history of negotiations over the acquisition price) in addition to the attributes of the seller in the decision to purchase shares in the Three Domestic Companies and whether or not its price was appropriate. However, we could not find any evidence indicating that sufficient information had been obtained regarding the attributes of the seller and the history of negotiations with the seller at said Board of Directors' meeting.

b) Business Plans of the Three Domestic Companies

The projected amount for the acquisition of shares in the Three Domestic Companies (totaling a maximum of 61.379 billion yen), etc. proposed at said Board of Directors' meeting was premised on the business plans of the Three Domestic Companies, and the details of each company's business plan is as shown in Exhibit ① – 1~3. According to each company's business plan presented to the Board of Directors, in all of the companies dramatic growth in sales, current net income, etc. had been planned over several years. When a comparison is made in each company of its fiscal 2008 plan versus its fiscal 2012 plan in sales and current net income, it would be as shown below.

(Sales)

	Fiscal 2008 Plan	Fiscal 2012 Plan
Altis	631 million yen	19.375 billion yen (about 30.7 times)
NEWS CHEF	2.679 billion yen	42.23 billion yen (about 15.76 times)
Humalabo	2.109 billion yen	26.937 billion yen (about 12.8 times)

(Current Net Income)

	Fiscal 2008 Plan	Fiscal 2012 Plan
Altis	△5 million yen	4.204 billion yen
NEWS CHEF	4 million yen	7.659 billion yen (about 1,914.8 times)
Humalabo	52 million yen	8.238 billion yen (about 158.4 times)

As noted previously, as long as the projected amount for the acquisition of shares in the Three Domestic

Companies (totaling a maximum of 61.379 billion yen), etc. was premised on said business plans, it would naturally be required to gather information and perform an analysis and review at said Board of Directors' meeting with respect to the feasibility of said business plans as well as the risks, etc. in the event they were not achieved (Without the gathering of information and its analysis and review, they should not have been able to review the appropriateness of said projected amount for the acquisition of shares). Therefore, in light of the magnitude of the projected amount for the acquisition of shares, it would not be said to be an excessive demand in terms of the response generally expected of managers to say that they should have sought a feasibility assessment (business due diligence) by a third party regarding the business plans of the Three Domestic Companies. This is even clearer in light of the fact that there was little relevance between the businesses of the Three Domestic Companies and Olympus' business, and that there were no departments in Olympus that could directly oversee the businesses of the Three Domestic Companies.

Also, since Olympus had been gradually acquiring shares in the Three Domestic Companies, it would easily have been possible to verify the past share acquisition prices or the business plans at the time of the acquisitions in the past and the corresponding business results etc., but no evidence can be found that such documents were verified. Hypothetically, if those points had been verified, it is believed that it would have been readily clear that the previous acquisition prices for shares in the Three Domestic Companies by GCNVV (the acquisition unit prices in March 2006) were extremely and abnormally high compared to the acquisition unit prices in 2005, only a few months or one year earlier at most.

	Acquisition Unit Price in 2005	Acquisition Unit Price in March 2006	Acquisition Unit Price in March 2008
Altis	50,000 yen	5.79 million yen	11 million yen
NEWS CHEF	200,000 yen	4.45 million yen	9.5 million yen
Humalabo	50,000 yen	14.375 million yen	20.5 million yen

Also, when we compare the business plans for the Three Domestic Companies, which were purported to be the basis in determining the acquisition unit prices in March 2006 (the business plans included in the document entitled "Investment Proposal Deliberation Documents" dated March 16, 2006), with the actual figures of the Three Domestic Companies' business results as of March 2008 or as of December 2007, we see, as noted below, that there were large discrepancies (underperformance), but despite this, the proposal presented at the Board of Directors' meeting on that day were, as previously noted, for an approval of the purchase of additional shares with maximum limits of roughly 1.9 times for Altis, roughly 2.1 times for NEWS CHEF, and 1.4 times for Humalabo compared to their acquisition unit prices in March 2006, and it should have been clear that this was an extremely abnormal proposal.

<Comparison of Business Results for the Fiscal Year Ended March 2008 or the Fiscal Year Ended December 2007>

Altis (Fiscal Year Ending March 2008)

	Business Plan in March 2006	Actual Results
Sales	3,168	23
Ordinary Income	486	△377
Current Net Income	395	△340

NEWS CHEF (Fiscal Year Ending March 2008)

	Business Plan in March 2006	Actual Results
Sales	11,719	242
Ordinary Income	894	△1,294
Current Net Income	894	△1,370

Humalabo (Fiscal Year Ending December 2007)

	Business Plan in March 2006	Actual Results
Sales	2,296	85
Ordinary Income	△372	△415
Current Net Income	△379	△462

This is not to deny that there are difficult aspects to performing a strict verification of the feasibility of business plans, particularly in light of the fact that the Three Domestic Companies were so-called venture companies, in addition to the fact that business plans are by nature a forecast of the future. However, if we look at the content of each company's business plan that was submitted to the Board of Directors, it is clear at a glance that both the sales and profits were based on extremely optimistic assumptions, and the fact that the possibility is reasonably high that the business results etc. would not be in line with said business plans is a matter that should naturally be anticipated by people involved in corporate management. If so, it is believed to have been essential to have anticipated the case that said business plans would not be achieved, and to have gathered information and performed an analysis and review to evaluate and calculate the share prices in such a case (and to have engaged in price negotiations with the sellers based on the same). Nevertheless, no evidence can be found that such analysis and review were performed at the Board of Directors' meeting.

As noted above, it is difficult to say that the gathering of information and its analysis and review had been sufficiently performed at the Board of Directors' meeting in regard to the feasibility said business plans or the risks, etc. in the case that they would not be achieved.

(c) Calculation of the Stock Value of the Three Domestic Companies

As previously noted in 1 (8), no evidence can be found that stock value calculations by an external organization had been presented at said Board of Directors' meeting; therefore, the projected amount for the acquisition of shares in the Three Domestic Companies (totaling a maximum of 61.379 billion yen) etc. proposed at said Board of Directors' meeting was approved without verifications etc. being performed based on the calculation results by an external organization (on the basis of the results of stock value calculations performed by Olympus alone).

However, in the case of investing such huge amounts, it would be reasonable to demand such prudence as to request stock value calculations from one or multiple external organizations, and to perform a review of the acquisition price for the shares based on such calculation results (or using said results as reference).

Therefore, with respect to the calculation of the stock value of the Three Domestic Companies as well, it is believed that the gathering of information and its analysis and review had not been sufficiently performed.

(d)Summary

As noted above, it can be acknowledged that the gathering of information and its analysis and review had not been sufficiently performed that would have been necessary for a business judgment at said Board of Directors' meeting (the judgment on whether or not to approve the proposal to purchase additional shares in the Three Domestic Companies), and that there was a lack of reasonableness.

C) The Process of Inference and the Content of the Judgment Based on the Recognition of Facts

As noted above, while it is true that directors are generally given broad managerial discretion in business judgments regarding the acquisition of shares by a company, as previously noted in 3 (2) 1) B, the gathering of information and its analysis and review that were necessary for the business judgment at said Board of Directors' meeting had not been sufficiently performed (the judgment on whether or not to approve the proposal to purchase additional shares in the Three Domestic Companies). In particular, the acquisition price for the shares in the Three Domestic Companies was, as previously stated, an extremely large sum totaling a maximum of 61.379 billion yen, and in relation to the extremely large impact it would have on the financial foundation etc. of Olympus, no evidence can be found that a sufficient review was made with respect to the necessity of the acquisition (turning them into subsidiaries), and with respect to the price as well, the valuations based on business plans that were extremely optimistic for which sufficient reviews were not made as to its feasibility were accepted without question, and the evaluation cannot be made that sufficient reviews were made with respect to the risks in the event that the business plans underperformed. Also, even if the creation of new businesses was an important business challenge for Olympus at that time, it cannot be said that sufficient reviews were made with respect to the relevance and synergistic effects between the businesses operated by the Three Domestic Companies and Olympus' main business, nor of the necessity or appropriateness in making an investment carrying significant risks in comparison to the same, and at the very least, it is clear that it would be difficult to recognize the necessity of deciding to urgently turn the companies into subsidiaries without having performed the necessary investigation and review, etc. of the points that should have been investigated and reviewed such as those noted above.

In light of each of the foregoing circumstances, we have no choice but to make the evaluation that the process and content of the decision-making was significantly unreasonable with respect to the fact that the decision was made without having undertaken the necessary investigation and review of each of the foregoing points that should have been investigated and considered for a transaction carrying significant risks such as the purchase of shares in the Three Domestic Companies for a substantial sum.

D) Summary

As noted above, not only did said Board of Directors' meeting resolution lack reasonableness in that the gathering of information that was necessary for business judgment and its analysis and review had not been sufficiently performed (the judgment on whether or not to approve the proposal to purchase additional shares in the Three Domestic Companies), but we are also forced to make the evaluation that the process and content of the decision-making was significantly unreasonable, and that with respect to said nine directors as well (Takayama, Morishima, Yanagisawa, Tsukaya, Okubo, Terada, Nagasaki, Yusa, and Furuhata), it can be acknowledged that there were violations of the duty of due care of a prudent manager.

2) Regarding Whether or Not There Were Violations of the Duty to Monitor

With respect to the three directors who were absent at said Board of Directors' meeting resolution (Suzuki, Fujita, and Robert. A. Mandell), no evidence can be found that they had stated opinions or pointed out matters in advance, and no evidence can be found that they had requested the resolution be withdrawn after the fact.

On the other hand, as noted previously in 3 (1) 1), the directors of a stock company with an established Board of Directors bear the duty to monitor with respect to matters that are presented to the Board of Directors. Given this, the issue becomes whether or not there were violations of the duty to monitor with respect to said Board of Directors' meeting resolution on the part of the aforementioned three people as well.

Documents regarding the proposal to purchase additional shares in the Three Domestic Companies (turning them into subsidiaries) were distributed to each of the directors in advance, but in the first place, agenda items that are presented to the Board of Directors are fundamentally explained by the director in charge at the meeting, and a judgment is made after holding discussions overall. Also, to hold discussions anew at another Board of Directors' meeting because some of the directors were absent could conversely prove to be an impediment to agile decision-making. Therefore, the interpretation can be made that there is no legal obligation for the directors who were absent to have stated any opinion or pointed out any matters in advance, or to have taken action to make confirmation after the fact (such as to obtain the minutes of the Board of Directors' meeting, confirm the status of the deliberations, and depending on the circumstances, move to have the resolution by the Board of Directors withdrawn, etc.), unless it can be acknowledged that it was apparent that said proposal was clearly unreasonable at a glance.

In considering the matter in question, it is believed to be difficult to acknowledge that it was apparent that the content of said proposal to purchase additional shares in the Three Domestic Companies was clearly unreasonable at a glance just from the documents that were distributed in advance.

Therefore, the evaluation cannot be made to the extent that the previously mentioned three directors violated the duty to monitor, even if they had not stated any opinion or pointed out any matters in advance, or had not requested that the Board of Directors' meeting resolution be withdrawn after the fact, with respect to the proposal to purchase additional shares in the Three Domestic Companies.

Given the above facts, it cannot be acknowledged that there were violations of the duty to monitor on the part of the three directors mentioned above.

VI: Whether or Not There Were Violations of the Duty of Due Care of a Prudent Manager Regarding the Payment of FA Fees Related to the Gyrus Acquisition

1. Facts that Serve as the Premise in Determining Liability

(1) Execution of the FA Agreement

On June 5, 2006, Olympus executed a Financial Advisor Agreement (hereinafter referred to as “FA Agreement”) with Axes America, LLC (hereinafter referred to as “AXES”) for purposes of reviewing M&As to expand the medical business and preparing for its implementation, the main points of which are noted below. The signatories to the written agreement for the FA Agreement are Kikukawa as the representative for Olympus and Sagawa as the representative of AXES.

- Business description of AXES

  ① Proposal of M&A Targets

  ② Formation of Working Groups (agreements with and forming teams consisting of Legal Advisors, Independent Accountants, and Investment bankers, etc.) to advance M&A Transactions, and operational management of Working Groups

  ③ Design and proposal of the optimum structure for Transactions

  ④ Provision of the requisite analysis, valuations, negotiations, and documentation for Transactions as well as requisite related services

- Fees

  ① Basic Fee (Basic Fee)
  3 million dollars: Payment at the time the agreement is executed
  2 million dollars: Payment one year from the agreement date

  ② Completion Fee (Completion Fee)

This shall be 1% of the acquisition price, 20% of which shall be paid in cash. The remaining 80% shall be paid through stock options on 4.9% of the total number of shares outstanding in the local company established for the acquisition (hereinafter referred to as “Acquisition Vehicle”) as calculated according to the following formula. The method of calculation for the stock option’s strike price shall be as follows:

(A x 8 0%)/B-C/D

A = Acquisition price
B = Total number of shares outstanding in the Acquisition Vehicle
C = 1% of the acquisition amount x 80%
D = Number of ordinary shares subject to the options (4.9% of the total number of shares outstanding in the Acquisition Vehicle)

Note that the main target for M&A at the time was Company B, a U.S.-based manufacturer of medical devices, and the acquisition price was projected to be 600-700 billion yen.

2) Prior to the execution of the FA Agreement, Olympus issued a written authorization for executing the FA Agreement on May 31, 2006. This authorization purported not to use electronic authorization “in order to make all possible efforts to ensure information management,” and the decision was made to “implement the internal authorization procedures necessary at each instance, once the specifics of the M&A project materialized.” The document of said authorization on paper has the seals of Kikukawa, Yamada, and Mori imprinted upon it.

There is no evidence that the execution of the FA Agreement was deliberated by the Board of Directors.

3) Based on the FA Agreement, Olympus paid 3 million dollars of the basic fee to AXES on June 16, 2006, and paid the remaining 2 million dollars on July 6, 2007.

(2) Execution of the Revised FA Agreement

1) On June 21, 2007, Olympus executed an agreement with AXES revising the FA Agreement noted above (hereinafter referred to as the “Revised FA Agreement”). The signatories to the written agreement for the Revised FA Agreement are Kikukawa as the representative for Olympus and Sagawa as the representative of AXES.

Due to the Revised FA Agreement, the content of the completion fee (Completion Fee) stipulated in the FA Agreement was revised as follows:

① Cash

Of the completion fee calculated based on the percentages listed in the table below, the percentages listed in the table below shall be paid in cash as the Cash Compensation Amount (Cash Compensation Amount).

Acquisition Amount	Completion Fee	Cash Compensation Amount	Minimum Cash Compensation Amount	Maximum Cash Compensation Amount
Over 5 billion dollars	2.5%	10%	15 million dollars	20 million dollars
2.5–5 billion dollars	3.75%	12.5%	12 million dollars	15 million dollars
1–2.5 billion dollars	5%	15%	10 million dollars	12 million dollars
Under 1 billion dollars	6.25%	17.5%	5 million dollars	10 million dollars

② Stock Options

Of the completion fee calculated based on the percentages listed in the table above, with respect to the portion other than the Cash Compensation Amount, payment will be made with stock options on 9.9% of the total number of shares outstanding in the Acquisition Vehicle.

The method for calculating the strike price for the stock options shall be as follows.

X-C/Y

X: In the event that the company to be acquired is a public company, 80% of the average stock price 30 days prior to the acquisition announcement.

In the event that the company to be acquired is a private company, the amount derived by dividing 70% of the acquisition price by the total number of shares outstanding in the Acquisition Vehicle.

C: The amount derived by subtracting the Cash Compensation Amount from the completion fee amount

Y: The number of ordinary shares in the Acquisition Vehicle subject to stock options

③ “Warrant Purchase Rights”

The right to subscribe for stock purchase warrants in the Acquisition Vehicle shall be granted with an upper limit of the lesser of either 20% of the total number of shares outstanding in the Acquisition Vehicle, or stock purchase warrants equivalent to an issue price of 200 million dollars (called “Warrant Purchase Rights” at Olympus, and thus called, hereinafter). The exercise period for the rights shall be within six months of the date on which the acquisition is effected.

The method for calculating the strike price for the stock purchase warrants shall be as follows.

In the event that the company to be acquired is a public company, the amount derived by multiplying 80% of the average stock price thirty days prior to the acquisition announcement by the number of shares acquired in the acquired company, divided by the total number of shares outstanding in the Acquisition Vehicle

In the event that the company is a private company, the amount derived by dividing 70% of the acquisition price by the total number of shares outstanding in the Acquisition Vehicle

The issue price for the stock purchase warrants shall be set forth by mutual consent of the parties in reference to the strike price.

Note that Gyrus was the main target for M&A at the time the Revised FA Agreement was executed, and the acquisition price was projected to be approximately 200 billion yen.

2) On June 21, 2007, the date of execution of the Revised FA Agreement, an authorization on paper was made at Olympus regarding the execution of the Revised FA Agreement. The document of said authorization on paper has the seals of Kikukawa, Yamada, and Mori imprinted upon it, and the only reason that it states for the execution of the Revised FA Agreement is, “We propose that the Financial Advisor Agreement currently executed with AXAM in the active pursuit of M&A be revised as follows, and that an attempt be made to speed up deployment” (Note that AXES was abbreviated as AXAM in the FA Agreement and in the Revised FA Agreement. “AXAM Investments Ltd.”, which appears later, is a separate corporate entity.). Also, no explanation was stated on the reasons etc. for increasing the completion fee from 1% of the acquisition price set forth in the FA Agreement to a range between 2.5 and 6.25%, and granting new Warrant Purchase Rights.

Note that the execution of an operating agreement under the content mentioned later with AXES and Perella Weinburg Partners UK LLP (hereinafter referred to as “Perella”) for the acquisition of Gyrus was approved at the Board of

Directors' meeting held on November 19, 2007 as mentioned later, but there is no evidence that the FA Agreement and the Revised FA Agreement were themselves submitted to the Board of Directors.

3) The Resolution Passed at the Board of Directors' Meeting Regarding the Execution of an Agreement with the FA

1) At the Board of Directors Meeting that was held on November 19, 2007, which was attended by Kikukawa, Yusa, Terada, Okubo, Yamada, Furuhata, Yanagisawa, Morishima, Takayama Tsukaya, Nagasaki, and Mori, the following proposal was made regarding the acquisition of Gyrus, and was approved unanimously. The specific content of the proposals were as follows.

① 100% of the shares of Gyrus, a company listed in the London Stock Exchange in the U.K., would be acquired and made into a subsidiary. The acquisition price would be approximately 935 million pounds (about 215 billion yen. 630 pence per share).

② For this acquisition, a 100% subsidiary of Olympus, which would serve as the direct entity for the acquisition, would be established in England (Olympus UK Acquisition Limited. Hereinafter referred to as "OUKA").

③ An investment corresponding to the necessary acquisition amount, or a loan, would be made to OUKA.

④ A maximum of 250 billion yen would be borrowed from banks as the acquisition fund.

⑤ In making this acquisition, an operating agreement would be executed with AXES and Perella as the Investment Advisors.

Note that, as noted previously, there is no evidence that the executed FA Agreement or the Revised FA Agreement were submitted at said Board of Directors' meeting or that there was an explanation that sought confirmation of the executed agreements.

2) Regarding the aforementioned ⑤, the explanation was given that the consignees were the two companies, AXES and Perella (however, the payee of the fee would be AXES), and the fee was explained to be

"5% of the acquisition amount (however, of that, the cash payment would be 15%, and the stock options in the subsidiary to be established for the acquisition would be 85%), plus the right would be granted to purchase the rights to purchase (warrants) up to 20% of the shares in the subsidiary to be established for the acquisition." Note that in the minutes of said Board of Directors' meeting of said date, the Warrant Purchase Rights is stated to be "the right to purchase stock purchase warrants of up to 20% of the total number of shares outstanding in OUKA."

Also, in the previously noted Board of Directors' meeting, it was approved unanimously to entrust to the President the decisions on the details of the agreement terms with the FA above and the payment procedures, etc.

(4) Payment of the Cash Compensation Amount Based on the Revised FA Agreement

Since the final acquisition price of Gyrus was decided to be 965 million pounds (the increase in price is due to the change in the number of shares), on November 26, 2007, Olympus paid to AXES 12 million dollars as the portion of the Cash Compensation Amount of the completion fee, based on the Revised FA Agreement.

(5) Completion of the Gyrus Acquisition

By February 14, 2008, the procedures necessary to acquire Gyrus under U.K. law and the payment of consideration to Gyrus shareholders were completed, and the acquisition of Gyrus was completed.

(6) Execution of the Call Option Agreement

1) On February 14, 2008, Olympus executed with AXES an agreement that specified the agreement terms concerning the stock options set forth in the Revised FA Agreement (Call Option Agreement. Hereinafter referred to as the "Call Option Agreement"). The issuer of the stock options in the Call Option Agreement should have been OUKA, the Acquisition Vehicle, according to the Revised FA Agreement, but was made Gyrus. Note that the written agreement concerning the Call Option Agreement was signed by Kikukawa as the Olympus representative, and Sagawa as the AXES representative, respectively.

Regarding the execution of the Call Option Agreement, there is no evidence that it was voted on or reported at the Board of Directors' meeting, either before the fact or after the fact.

2) The stock options in Gyrus issued to AXES based on the Revised FA Agreement and the Call Option Agreement were assigned in June 2008 for 24 million dollars from AXES to Axam Investments Ltd., a Cayman corporation (hereinafter referred to as "AXAM"), together with the Warrant Purchase Rights.

Note that AXAM was a Cayman corporation that Sagawa established on November 19, 2007.

(7) The Board of Directors' meeting in which the completion of the Gyrus acquisition was reported

At the Board of Directors' meeting that was held on February 22, 2008, it was reported that the Gyrus acquisition was completed.

It was also reported that the FA fee due AXES for the acquisition was 5% of the acquisition amount, of which the cash payment portion (15%) of 12 million dollars was paid on November 26, 2007, immediately after the acquisition announcement, and that the remaining amount corresponding to 85% and the additional options (Warrant Purchase Rights) were being negotiated with AXES, including the payment method. Note that there is no evidence that the execution of the Call Option Agreement was reported.

(8) The Mutual Consent for the Capital Restructuring of Gyrus and the Cash Settlement of Stock Options, and the Mutual Consent Concerning Warrants

1) After completion of the Gyrus acquisition, the capital restructuring of Gyrus was reviewed, and it was decided to proceed with the restructuring using the following method as the basic framework.

① The Gyrus shares owned by OUKA would be transferred to Olympus through a method of repayment by means of capital reduction with compensation.

② The shares of the Gyrus-owned subsidiaries in various countries would be transferred to the subsidiaries of Olympus in the various countries.

③ The gain on sale generated for Gyrus from the transfer in the aforementioned ② would be transferred to Olympus through the method of capital reduction with compensation.

2) In parallel with the review and implementation of Gyrus' capital restructuring, on March 1, 2008, Olympus executed a mutual agreement with AXES to the effect that either party could settle in cash the share options for 11.645 dollars per option (hereinafter referred to as the "Mutual Agreement on Cash Settlement"). The document for the Mutual Agreement on Cash Settlement contains the signature of Kikukawa as the Olympus representative.

Since the number of shares subject to the stock options granted to AXES based on the Revised FA Agreement was 15,198,034 shares, by multiplying this with the aforementioned unit price, the resulting 176,981,106 dollars would have been confirmed to be the value of the stock options in its entirety through the Mutual Agreement on Cash Settlement.

There is no evidence that this Mutual Agreement on Cash Settlement was approved at a Board of Directors' meeting.

3) On August 11, 2008, Olympus signed a letter of agreement with AXES, in which it was mutually agreed to change the exercise period of the Warrant Purchase Rights from "6 months" after completion of the acquisition to "9 months" after completion of the acquisition, and AXES notified Olympus that the Warrant Purchase Rights had been assigned to AXAM in accordance with said letter of agreement. This letter of agreement was signed by Kikukawa as the Olympus representative, and by Sagawa as the AXES representative, respectively. Also, there is no evidence that the execution of this letter of agreement was approved at a Board of Directors' meeting.

(9) The Resolution Passed at the Board of Directors' Meeting Regarding the Issuance of the Dividend Preferred Shares and the Purchase of the Warrant Purchase Rights

1) At the Board of Directors' meeting held on September 26, 2008, which was attended by Kikukawa, Terada, Okubo, Yamada, Morishima, Yanagisawa, Takayama, Tsukaya, Nagasaki, Mori, Fujita, Chiba, and Hayashi, with regard to the stock options portion of the completion fee based on the Revised FA Agreement, it was approved unanimously that payment would be made with the dividend Preferred Shares issued by Gyrus (issued face value approximately 177 million dollars. Hereinafter referred to as the "Preferred Shares") in place of the stock options in which BidCo (OUKA) would be the issuer under the Revised FA Agreement.

Regarding the content of rights (design) of the Preferred Shares, it was explained at the Board of Directors' meeting noted previously that:

"Issued face value 176,981,106 dollars. No voting rights. They are not subject to the distribution of profits on the gain on sale generated for Olympus of approximately 160 billion yen in accordance with the Gyrus Group restructuring of this time (capital reduction with compensation). However, they will receive a dividend of 85% of the earnings generated from the remaining financial assets after the capital reduction (after taxes)"

and in the minutes of the Board of Directors Meeting of said date, it is stated that:

"No voting rights, face value 176,981,106 U.S. dollars, they will receive a dividend of 85% of the earnings after taxes that are generated from the remaining financial assets after the capital reduction."

Note that there is no evidence that the stock options were assessed by outside experts, and there is no evidence that there were explanations at the above-noted Board of Directors' meeting on the grounds for its face value or on the grounds for the dividend ratio. On this point, while it was not submitted at the above-noted Board of Directors' meeting, there is in existence an in-house document that assesses the stock options at approximately 177 million dollars, but due to an error in the calculation method (while the market value of the stock options should have been based on the market value of the shares of Gyrus when it became an unlisted company after the acquisition, the calculation was erroneously based on the 630 pence per share which was the acquisition price when Gyrus was acquired (an amount in which a premium was added to the average market value before acquisition)), the valuation had increased.

2) Also, at the above-mentioned Board of Directors' meeting, the proposal was made to purchase the Warrant Purchase Rights portion of the completion fee based on the Revised FA Agreement for 50 million dollars on September 30, 2008, and this was approved unanimously. There is no evidence that an assessment was made by outside experts with respect to the Warrant Purchase Rights, and there is no evidence that an explanation was given on the grounds for the purchase price at the above-noted Board of Directors' meeting.

As for the reason for the purchase of the Warrant Purchase Rights, it was explained at the above-noted Board of Directors' meeting that it was "due to the possibility having disappeared for the re-listing of Gyrus in the process of the Gyrus Group restructuring of this time."

3) Having gone through the above-noted Board of Directors' meeting resolution, Olympus paid 50 million dollars to AXAM on September 30, 2008 as the purchase price for the Warrant Purchase Rights.

(10) Execution of the Share Subscription Agreement and the Revised Agreement for the same

1) Following an approval at the Board of Directors' meeting on September 26, 2008, the Share Subscription Agreement dated September 30, 2008 was executed between Olympus, Gyrus, and AXAM regarding the grant of the Preferred Shares to AXAM and the purchase of the Warrant Purchase Rights from AXAM (Share Subscription Agreement. Hereinafter referred to as "Share Subscription Agreement"). In said Agreement are the respective signatures of Kikukawa as the Olympus representative, Mori as the Gyrus representative, and Sagawa as the AXAM representative.

Under the Share Subscription Agreement, the substance of the Preferred Shares issued by Gyrus was set forth as follows.

- No voting rights.
- Possesses the right to receive a dividend of 85% of the balance after deducting various expenses and an amount corresponding to taxes (28%) from the interest income generated from Gyrus' cash and deposits and internal loans.
- Cannot be assigned to a third party outside the Olympus Group without the consent of Gyrus.

- Corresponds in principle to a repayment of Gyrus' capital, and there is no right to receive dividends.

2) However, dated October 3, 2008, which was immediately after executing the Share Subscription Agreement, a Revised Agreement of the Share Subscription Agreement was executed between Olympus, Gyrus, and AXAM. In said Agreement are the respective signatures of Kikukawa as the Olympus representative, Mori as the Gyrus representative, and Sagawa as the AXAM representative.

In accordance with said Revised Agreement, it was decided that Gyrus would not be able to engage in the following acts without the prior written consent of AXAM (hereinafter, the content that was amended by said Revised Agreement is referred to as the "Veto Right Provisions").

- Material changes to the content and scope of businesses that were conducted at the time of the share subscription
- The execution of agreements and its revisions and termination under terms other than for normal transactions
- Disposals of or the granting of option rights or preemptive rights in Gyrus-owned assets under terms other than for normal transactions in the businesses conducted at the time of the share subscription
- New transactions or revisions to transactions between Gyrus and the Olympus Group or the officers etc. of the Olympus Group

There were no explanations made at a Board of Directors' meeting regarding the granting of said veto rights, nor was an approval obtained.

Note that in the process of preparing and negotiating the Share Subscription Agreement, it could not be confirmed whether language corresponding to the Veto Right Provisions was incorporated into the draft agreement as well.[6]

(11) Approval of the Board of Directors Regarding the Purchase of the Preferred Shares (The First Time)

At the Board of Directors' meeting that was held on November 28, 2008, which was attended by Kikukawa, Terada, Okubo, Yamada, Morishima, Yanagisawa, Takayama, Tsukaya, Nagasaki, Mori, Fujita, Chiba, and Hayashi, Mori proposed that the Preferred Shares be purchased within the range of 530 million dollars to 590 million dollars for the following reasons, and this was approved unanimously. Regarding the grounds for the purchase price, the explanation was given that negotiations were held based on assessed amounts that were calculated using valuation documents by third parties (one by a domestic securities firm and two whose authors are unknown). Note that at the above-noted Board of Directors' meeting, there is no evidence that an explanation was given on the granting of veto rights as a reason for the purchase or for other circumstances.

① By making an early lump-sum purchase of the Preferred Shares, the future outflow of cash based on the dividend distribution terms of the Preferred Shares will be avoided.

② If the Preferred Shares were held by external shareholders, it would be difficult to implement future financial reforms, such as the capital structure of Gyrus and affiliated companies that have liabilities with Gyrus, so that by purchasing the Preferred Shares, the restructuring within the Group would become easier going forward.

[6] On this point, in pages 64 ~ 65 of the Third Party Committee's Report, it was recognized that the Veto Right Provisions had been incorporated in the draft of the original Share Subscription Agreement but that the Olympus person in charge deleted said provisions from the draft immediately before signing after consulting with lawyers, but given that there is a statement by the person in charge that language corresponding to the Veto Right Provisions was not incorporated into the draft from the preparation and negotiation stage of the Share Subscription Agreement, said fact could not be confirmed.

③ In relation to the request from Olympus to purchase the Preferred Shares, the current owner (AXAM) has demanded its purchase at market value, or for an approval of assignment to a third party, and we wish to avoid assignment to a third party.

(12) Problems Pointed Out by KPMG AZSA LLC

1) In December 2008, KPMG AZSA LLC, which was Olympus' accounting auditor, indicated to Olympus' Board of Auditors its concern about the payment to the FA in relation to the Gyrus acquisition, and opinions were exchanged between the two parties.

Subsequently, on April 23, 2009, as a report on the items that are considered important for the performance of duties of an auditor, KPMG AZSA LLC submitted to the Board of Auditors a notification that listed the specific concerns about the FA fee related to the Gyrus acquisition on the 2 points of ① whether the in-house review was sufficient regarding the payment of the expensive fee, and ② whether the in-house review was sufficient regarding the validity of the payee.

In response, the Board of Auditors resolved on May 9 of that year to request an investigation report from 3 outside experts, which included an attorney-at-law, and in response to said resolution, said outside experts submitted a report on the 17th of that month. The Board of Auditors responded to KPMG AZSA LLC that as a result of conducting deliberations based on said report, as the position of the Board of Auditors, the conclusion was reached that "fraudulent or unlawful acts were not found in the transaction itself, and that no violations of the duty of due care of a prudent manager on the part of the directors or procedural errors were found."

As a result, KPMG AZSA LLC issued an unqualified clean opinion of its audit results on both the non-consolidated and consolidated Olympus accounts for the fiscal year ending March 2009.

2) At the Board of Directors' meeting held on May 25, 2009, on the occasion of the settlement of accounts for the fiscal year ending March 2009 having been approved, Mori and Auditor Imai reported that there had been conflicting opinions with KPMG AZSA LLC regarding the purchase price of the Three Domestic Companies and the FA fee related to the Gyrus acquisition, and that because of this, the Board of Auditors sought the opinion of outside experts, and they also reported on the progress etc. on the formation of the outside experts' opinions.[7]

(13) Withdrawal of the Resolution Approving the Purchase of the Preferred Shares

At the Board of Directors' meeting held on June 5, 2009, which was attended by Kikukawa, Terada, Okubo, Yamada, Morishima, Yanagisawa, Takayama, Tsukaya, Nagasaki, Mori, Fujita, Chiba, and Hayashi, Mori made the proposal to withdraw the resolution to purchase the Preferred Shares under the content that was approved at the Board of Directors' meeting of November 28, 2008, and the withdrawal was approved unanimously. In the Board of Directors' meeting minutes and in the distributed documents, it is explained that the reason for the above-noted withdrawal was because a mutual agreement had not been reached in the price negotiations with the sellers, but the actual reason is assumed to have been due to the exchange with KPMG AZSA LLC previously noted in (12).

[7] On this point, in page 67 of the Third Party Committee' Report, it was recognized that there had been no reports at all by the Board of Auditors regarding the background of the above-noted exchange with KPMG AZSA LLC and the issuance of the unqualified clean opinion, but through the investigation by this Committee, it was found that a report had been made to the extent noted above.

Note that together with the above-noted resolution, it was purported that negotiations on its purchase would continue, and that coordination and negotiations would be conducted based on a re-examination of the content of the agreement (due date for redemption, dividend ratio, etc.) and reviews of the capital reduction of Gyrus and portfolio changes etc. in order to make the purchase amount closer to the book value of the Preferred Shares (177 million dollars).

(14) The Second Approval of the Board of Directors Regarding the Purchase of the Preferred Shares

At the Board of Directors' meeting held on February 26, 2010, which was attended by Kikukawa, Okubo, Yamada, Morishima, Yanagisawa, Takayama, Tsukaya, Mori, Nishigaki, Kawamata, Fujita, Chiba, and Hayashi, Mori gave the following explanation as the status report on the negotiation to purchase the Preferred Shares:

- AXAM will not approve Olympus' demand for the capital reduction of Gyrus.
- The dividend distribution on the Preferred Shared had been suspended in regard to AXAM's non-approval of Gyrus' capital reduction (the unpaid dividend as of the end of December 2009 being 27 million dollars).
- The handling in terms of accounting in case the Preferred Shares are purchased is being coordinated with Ernst & Young ShinNihon LLC, the accounting auditor.

Subsequently, as the response plan going forward towards the purchase of the Preferred Shares, proposals were made on the 3 items of ① holding negotiations with AXAM on revising the terms of the Preferred Shares, to see if the preferential right on dividend distributions could be reduced in exchange for granting voting rights that corresponded to the veto rights that AXAM owned, ② completing the negotiations as soon as possible, so that the current state of a breach of contract due to the suspension of the dividend payment would be avoided, and at the same time making the transfer from fixed liabilities to minority shareholding, and ③ purchasing the Preferred Shares by the end of March 2010, if possible.

Then, as a result of holding deliberations at the Board of Directors' meeting based on the above-noted explanation from Mori, it was approved unanimously that the purchase would be made by March 2010 with the condition that the amount after adding the unpaid amount of dividends to AXAM's appraised value of the Preferred Shares would be the upper limit in the negotiations going forward.

Note that in the documents distributed at the above-noted Board of Directors' meeting, it is stated as a condition of the Preferred Shares (substance of rights) that "there are veto rights with respect to changes in important assets and capital structure," but the statement regarding said Veto Right Provisions was not present in the above-noted Board of Directors' meeting documents distributed previously (Although in the previous document as well, there is the vague statement that "If the dividend Preferred Shares of GGL (Gyrus) were held by external shareholders, it would be difficult to implement future financial reforms, such as capital structure of GGL and affiliated companies that have liabilities with GGL (OCA, OKG, etc.), so that by repurchasing them, the restructuring with the Group would become easier going forward.) Also, in the above-noted Board of Directors' meeting, there is no evidence that the Veto Right Provisions themselves were considered a problem.

(15) The Approval of the Board of Directors Regarding the Purchase of the Preferred Shares for 620 Million Dollars

At the Board of Directors' meeting held on March 19, 2010, which was attended by Kikukawa, Okubo, Yamada, Morishima, Yanagisawa, Takayama, Tsukaya, Mori, Kawamata, Fujita, Chiba, and Hayashi, Mori made the proposal to have Olympus' financial subsidiary in England, Olympus Finance UK Ltd. (hereinafter referred to as "OFUK") purchase the Preferred Shares from AXAM for 620 million dollars, and this was approved unanimously.

As to the grounds for the purchase price, the explanation was given that the median was adopted between the 724 million dollars asserted by AXAM and the 519 million dollars asserted by Olympus based on the following ways of thinking, and that this price was equivalent to 50% of Gyrus' consolidated net asset value to which a control premium of approximately 30% had been added.

• AXAM's Assertion

① Gyrus' assets at market value (corporate value) as of the end of December 2009 are as follows.

944,995,701 dollars (book value of net assets 907,298,148 dollars + valuation gain 37,697,553 dollars)

② Gyrus' assets are mainly cash and deposits and loan claims, and its future earnings basically correspond to the cash flow that is generated by these loan claims. Corporate value is defined as the current value of future earnings, and since the rights held by the Preferred Shares is to receive dividend distributions of 85% of future earnings, the holder of the Preferred Shares has the right to claim 85% of Gyrus' corporate value. However, the dividend distributions that the Preferred Shares receive are after taxes (28%), so an adjustment is necessary.

944,995,701 dollars X (1-28%) X 85% = 578,337,369 dollars

③ Since the Preferred Shares have no voting rights, a discount for non-voting rights is necessary. According to the National Tax Agency's guidelines, the discount for non-voting rights is 5%; however, in general, Preferred Shares have a premium over ordinary shares for asset claims, and if said premium is assumed to be 5%, this is offset by the discount for non-voting rights.

④ Considering that the holder of the Preferred Shares has veto rights on important items of company management, and that they have a claim to 85% of the corporate value, a control premium should be added on the sale of the Preferred Shares. The control premium for M&As is 20–40%, and a minimum premium of 20% is assumed.

578,337,360 dollars X 120% = 694,004,832 dollars = 694 million dollars

⑤ In addition, the dividend for the Preferred Shares that have been unpaid as of the end of March 2010 is demanded.

30,214,885 dollars

⑥ From the foregoing, the demanded purchase price is as follows.

694 million dollars + 30 million dollars = 724 million dollars

Note that this amount asserted by AXAM exceeded the valuation that they themselves presented in November 2008 of approximately 530 million–590 million dollars.

• Olympus' Assertion

① Gyrus' assets at market value (corporate value) as of the end of December 2009 are as follows.

944,995,701 dollars (book value of net assets 907,298,148 dollars + valuation gain 37,697,553 dollars)

② Since the holder of the Preferred Shares has veto rights on important items of company management, a 50% claim right that would enable a veto of ordinary resolutions is assumed.

944,995,701 dollars X 50% = 472,497,850 dollars

③ A control premium of 10% is recognized for M&As.

472,497,850 dollars X 1.1 = 519,747,635 dollars

④ From the foregoing, the amount asserted is the following.

519 million dollars

In this manner, the existence of the veto rights that were granted to the Preferred Shares was an important factor as the basis for calculating the purchase price, but in the above-noted Board of Directors' meeting, there is no evidence that the Veto Right Provisions themselves were considered a problem. Also, there is no evidence that the validity of each of the amounts asserted by AXAM and Olympus was verified by outside experts.

(16) The Execution of the Purchase of the Preferred Shares

Based on the above-noted Board of Directors' meeting resolution, on March 22, 2010, OFUK executed with AXAM a purchase agreement for the Preferred Shares, and based on said agreement, on the 25th of that month, it paid 620 million dollars to AXAM and completed the purchase of the Preferred Shares. The signatories to the above-noted agreement were Kikukawa for Olympus, Mori and 1 other person for OFUK, and Sagawa for AXAM.

The 50 million dollar purchase price for the Warrant Purchase Rights and the 620 million dollar purchase price for the Preferred Shares that Olympus and OFUK paid to AXAM through the process above were used for settlement of the separated losses.

2. Liability of Participants and People Who Knew

(1) The Directors Who Knew About the Relationship Between the Gyrus Acquisition and the Settlement of the Loss Separation

As was noted in 2 of Section III above, the Participants and People Who Knew in this Incident were the 6 people consisting of Yamada, Mori, Nakatsuka, Shimoyama, Kishimoto, and Kikukawa, but of these, those who knew, or could have found out that the payment in the name of the FA fee for the Gyrus acquisition was for the purpose of the settlement of the loss separation were the 4 people consisting of Yamada, Mori, Nakatsuka, and Kikukawa.

First, we will review the liability of said 4 people.[8]

(2) Substance of the Violation of the Duty of Due Care of a Prudent Manager

Since a director bears the obligation to perform duties (the duty of due care of a prudent manager) in compliance with Article 330 of the Companies Act (Article 644 of the Civil Code), which generally sets forth the duties of a delegatee, for the director of a company that submits securities reports, etc. to have money paid in the name of a fee, by the company to an FA, while being aware that it would be used for the purpose of settlement of the loss separation, makes it difficult for a proper accounting treatment by the company, and not only does it become a cause for aiding the misrepresentations in its securities reports, etc., but could also become a cause for the company to suffer unnecessary burdens, and should be deemed a violation of the duty of due care of a prudent manager as a director. This would hold true even if the greater part of the payment made in the name of fees to the FA had been planned to flow back to the company based on the settlement scheme of the loss. This is because the risk cannot be denied of an unlawful outflow of funds in the process of back flow of the money paid in the name of the FA fee, and because the risk is high that the company would suffer damages by essentially paying money that is neither necessary nor reasonable, such as fees to outside collaborators who cooperated in the settlement scheme of the loss separation.

Therefore, in the case duties were performed as a director while knowing that the payment in the name of the FA fee in connection with the Gyrus acquisition would be used for the purpose of settlement of the loss separation at the time of each action described in 1 above, it can be acknowledged that there was a violation of the duty of due care of a prudent manager as a director.

Also, even in the case of an employee, if he knew that the director was making the payment to the FA in the name of a fee for the purpose of being used to settle the loss separation, the interpretation can be made that he bears the duty of good faith to the company under his labor agreement to stop this.

(3) Whether or Not There Were Violations of Duty on the part of the Aforementioned 4 People Who Were Participants and People Who Knew

1) Regarding Yamada and Mori

As noted in Section III above, Yamada and Mori were the ones that formulated and executed the Loss Separation Scheme, and were involved in the formulation and execution of the Loss Separation Settlement Scheme, including the FA fee connected with the Gyrus acquisition, and at the time of each of the facts described in 1 above (Yamada and Mori were the directors in charge of the Gyrus acquisition at that time), it is clear that they knew that the fee payment to the FA in connection with the Gyrus acquisition would be used to settle the loss separation.

Accordingly, Yamada and Mori are considered to have performed their duties as the directors in charge while they knew that the money payment in the name of the FA fee connected with the Gyrus acquisition would be used for the purpose of the loss separation settlement, so it can be acknowledged that they were in violation of the duty of due care of a prudent manager as directors.

2) Regarding Nakatsuka

[8] Regarding Shimoyama and Kishimoto, Shimoyama resigned as a director in June 2004 and Kishimoto resigned in June 2005, respectively, and because no special circumstances can be found that confirm the involvement of the aforementioned 2 people with respect to the settlement of loss separation in the Gyrus acquisition, it cannot be acknowledged that there was a violation of the duty of due care of a prudent manager etc. on the part of either of the aforementioned 2 people regarding the use of the money payment in the name of the FA fee in connection with the Gyrus acquisition for the settlement of the loss separation.

Section III above, Nakatsuka, while knowing about the content of the Loss Separation Scheme, was involved in its practical work under Yamada and Mori, and it can be acknowledged that he also knew it would become necessary to settle the State of Loss Separation that he himself was involved in. If so, it is reasonable to acknowledge that Nakatsuka knew that the money payment in the name of the FA fee in connection with the Gyrus acquisition would be used to settle the loss separation, or at least that he could have found out.

Nakatsuka was an employee and not a director of Olympus during the period from June 2006 to March 2010, when the series of actions described in 1 above was conducted. However, even if he was an employee, in the case he was aware that the fee payment to the FA would be used for the fraudulent purpose of settlement of the loss separation, he bore the duty of good faith under his labor agreement to stop this, so when Nakatsuka failed to stop this while he had such knowledge, it can be acknowledged that he was in violation of the duty of good faith.[9]

3) Regarding Kikukawa

As noted in Section III above, Kikukawa received reports from Yamada and Mori regarding the Loss Separation Settlement Scheme and approved the same, so it can be acknowledged that he knew that the money payment in the name of the FA fee connected with the Gyrus acquisition would be used for the loss separation settlement.

Therefore, Kikukawa, at the time of each action described in 1 above, is considered to have performed his duties as the representative director while he knew that the money payment in the name of the FA fee connected with the Gyrus acquisition would be used for the purpose of settlement of the loss separation, so it can be acknowledged that he was in violation of the duty of due care of a prudent manager as a director.

3. Regarding the Liability of the Directors Other than the Participants and People Who Knew

(1) Whether or Not There Were Violations of the Duty of Due Care of a Prudent Manager on the part of the Directors in the Board of Directors' Meeting Resolution of November 19, 2007 Concerning the Execution of the Agreement with the FA

1) Application of the Business Judgment Rule

Even for directors other than the Participants and People Who Knew, they bear, as a matter of course, the duty of due care of a prudent manager to ensure that the fees paid to an FA in accordance with the company's M&A does not become excessive. Of course, the execution of agreements with an FA is a necessary transaction for corporate acquisitions, so the interpretation can be made that the business judgment rule is to be applied in judging whether it was right or wrong.

Therefore, as stated previously, the following will be reviewed.

① Whether or not there were careless errors and a lack of reasonableness in the process of recognizing the facts on which the business judgment was based (the gathering of information and its analysis and review)

② Whether or not the process of inference and the content of the judgment based on such recognition of facts were clearly unreasonable will be examined.

---

[9] That Nakatsuka, who was involved in the execution of the Loss Separation Scheme in the first place, can be acknowledged to have been in violation of the duty of good faith as an employee is as stated in Section 4 above.

As already stated, even if there is the possibility of damages arising for the company, there are cases where it is necessary for the management team to make business judgments that accompany great risks in order to generate new wealth, so in reviewing the right or wrong of a business judgment by directors who are pressed to make timely and appropriate business judgments under uncertain business environments, making point-by-point detailed scrutiny based on after-the-fact knowledge and information, goes against the purpose of the Business Judgment Rule. Since the principle of trust is considered to extend especially to directors who are not in a position directly charged with items that require business judgment, whose behavior would be to trust the results of review of the directors in charge and the department in charge, unless there are special circumstances, in applying the Business Judgment Rule, this view should be given attention also.

2) Careless Errors in the Process for Recognizing Facts (the gathering of information and its analysis and review)

A. Regarding the Reason (Necessity) for Granting the Share Option and Warrant Purchase Rights

In the resolution of the Board of Directors Meeting of November 19, 2007, there is no sign that there were any explanations or confirmation on the need for granting the share option and warrant purchase right as a fee based on the FA Agreement. Of course, since there is no need to limit the fee payment to cash, for directors who were not in charge, who did not necessarily have professional knowledge about M&As, they cannot be said to have been unreasonable, to have thought that there are cases where share options and warrant purchase rights are part of the FA fee. In actuality, even directors who were not in charge were aware the advantage of granting share options as part of the fee was that that would limit cash outlays.

That being the case, issuing share options or warrant purchase rights as part of the fee based on the FA agreement, would not immediately lead to a violation of the duty due care of a prudent manager.

B. Regarding the Grounds (Facts to Support the Reason) for the Fee Amount

Even had there been the need to grant share options and warrant purchase rights as the fee based on the FA Agreement, if the substance was to pay a fee that was not reasonable, then it would naturally not be acceptable for a director to approve the conclusion of the FA Agreement. Therefore, it becomes a problem, whether there should be confirmation of a gap with FA fees in general M&A, and the content and value of the warrant purchase right, for which the size of the fee amount is not clear.

It goes without saying it is desirable to confirm the going market rate for FA fees in general M&A. Of course, since the amount of the FA fee changes with the work requested of FAs, unless the amount is clearly high, trusting that the amount was a result of negotiations with the FA, and not having conducted an investigation for confirming cases of other FA agreements, would not immediately be grounds for finding a violation of the duty of due care of a prudent manager. The explanation was given in this case, that the total of the cash fee and the share option amounted to 5% of the acquisition price, not only were there no special circumstances for doubting this explanation, and setting aside directors who were well-versed in M&A, it cannot be said of other directors that they would have known the price of 5% is clearly high (it was not found the directors other than the Participants and People Who Knew were well-versed about the practical work of M&A). On this point, there may be the opinion that the reduction of the fee should have been attempted, through comparative review by securing competitive quotations in the selection of a FA, but M&A transactions are generally highly confidential, and attention needs to be paid to the fact that there are no few cases where comparative reviews are not done by securing competitive quotations, for reasons, such as to proceed with negotiations quickly, and to maintain confidentiality.

On the other hand, since the warrant purchase right was granted outside the scope of 5% of the purchase price, unless the value of the warrant purchase right is known, the entire amount of the FA fee would not become clear, and since this warrant purchase right was to grant 20% of the total issued shares of the purchase vehicle, so it is also a fact that depending on the contractual condition to decide on it, that would have granted an excessive FA fee. In that sense, and looking back from the current point in time, entrusting the contractual conditions "entirely on the president" should have required more caution.

However, according to the document that was distributed at the Board of Directors Meeting on November 19, 2007, the major theme of this Board of Directors Meeting was the acquisition of Gyrus, whose total acquisition price was upwards of 215 billion Yen, and the establishment of the subsidiary for the purchase and the funds procurement for the acquisition, so that the conclusion of the operations consignment agreement with the FA was an incidental theme.

On top of which, the following explanation is listed as the content of the operations consignment agreement.

Note

Handling Charge: 5% of the purchase price (however, of which, the cash payment is 15%, the share option of the subsidiary to be established for the purchase 85%), plus, the right (warrant) for purchasing 20% of the shares of the subsidiary to be established for the purchase.

For the directors who were not Participants or People Who Knew, who saw this statement, it cannot be helped if they understood this to mean that this was no more than granting to the FA "the right to purchase" warrants, and that when they were to actually make the "purchase," the FA would have to pay a substantial consideration. At the same time, it would not have been unnatural to think that this was an incidental fee for the handling charge that was 5% of the purchase price, and that it was not large in comparison with the handling charge of 5% of the purchase price. On this point, while it cannot be confirmed from documents, according to statements by those who were involved, at the time the subject of the purchase was a company that was larger than Gyrus, based on the difficulty of procuring funds by Olympus alone, there was information that a request had been made to AXES, that was the FA, for joint investment, so that the possibility cannot be denied that the warrant purchase right was understood as part of such a joint investment.

Further, the Revised FA Agreement had been concluded before this Board of Directors Meeting, but in the Board of Directors Meeting Material, there were statements such as that the "operations consignment agreement will be concluded for the acquisition," so that explanations were being given as if the FA Agreement were to be concluded in future. For that reason, the directors other than the Participants and People Who Knew cannot naturally be criticized for not confirming the contractual conditions of the Revised FA Agreement, and since there were no clues for the directors to become aware of the fraudulent purpose of making use of the share option and warrant purchase right for settling the loss separation, that the Participants and People Who Knew had in mind at that point in time, they cannot be criticized for having trusted that the conditions of the warrant purchase right that was understood as an incidental fee, as noted above were not excessive, and was reasonable, through the negotiations by the directors in charge.

C. Situation at that Time

In addition, the review materials for the Board of Directors Meeting was distributed on the day of that Board of Directors Meeting, and its volume was such that it was difficult to read through in detail, and also, while an incidental circumstance, timely disclosure of the Gyrus purchase was to be made at the London Stock Exchange in the evening of the Board of Directors Meeting, on November 19, 2007, and the Tokyo Stock Exchange, and judgment was demanded under the premise or circumstance of timely emergency, one must feel some hesitance in making the judgment that there were significant careless errors in the process of recognizing facts, when, as a director other than Participants or People Who Knew, did not collect more detailed information, and delegated to the directors in charge and the department in charge further negotiations with the FA for the operations consignment agreement, and for entrusting to the president the final decision.

3) Unreasonableness in the Process of Inference for Judgments Based on Recognition of Facts and its Content

If the recognition of facts by the directors other than the Participants and People Who Knew were as noted above, then the judgment based on that, being the judgment of entrusting to the president the details of the contractual conditions, and approving the conclusion of the FA Agreement according to the fee in the above-noted framework, cannot be said to have been markedly irrational.

4) Summary

According to the foregoing, for the directors other than the Participants and People Who Knew who agreed to this resolution (Yusa, Terada, Okubo, Furuhata, Yanagisawa, Morishima, Takayama, Tsukaya, and Nagasaki), when considering that the granting of the share option and warrant purchase right according to the resolution of this Board of Directors Meeting would be made the material for the later payment of an enormous amount of money in the name of the FA fee, while it can be said that they should have made the judgment more carefully, in light of the circumstances noted above, it cannot be judged to the extent that there was a violation of the duty of due care of a prudent manager.

(2) Regarding the Violation of the Duty of Due Care of a Prudent Manager on the Part of Directors in the Resolution of the Board of Directors Meeting of September 26, 2008 on the Purchase of the Warrant Purchase Rights and the Issuance of Preferred Shares

The act of purchasing the warrant purchase right for cash, and the act of issuing preferred shares in place of share options, are transactions, and are considered subject to application of the Business Judgment Rule, and the judgment is to be made on the violation of the duty of due care of a prudent manager, under the same standards as noted above.

1) Careless Errors in the Process for Recognizing Facts (the gathering of information and its analysis and review)

A. The Need for Acquiring the Warrant Purchase Rights and the Need for Issuing the Preferred Shares in Place of the Share Option

The reason for acquiring the warrant purchase right and the reason for issuing preferred shares in place of share options are explained in the Board of Directors Meeting Material that these are needed for taxation purposes in the company reorganization scheme of the Gyrus Group (specifically, the point is that the reorganization of the Group can be brought forward advantageously for taxation purposes by making Gyrus a 100% subsidiary, including the share options, but it is unclear whether or not specific explanations to that extent were given at the Board of Directors Meeting on that day). Therefore, the reason (necessity) for acquiring the warrant purchase right and the reason (necessity) for issuing the preferred shares in place of the share option, themselves, were confirmed, in a fashion.

However, while the actual share option and warrant purchase right that was granted in response to the above-noted Board of Directors resolution of November 19, 2007, had as it subject Gyrus itself, but as noted above, the content of the FA Agreement that was approved by this Board of Directors Meeting was premised on granting the share option and warrant purchase right of the company that would be established for the purpose of acquiring Gyrus (OUKA), and in the Board of Directors Meeting Material, dated September 26, 2008, it is stated "④ As Operational Consignment Fee", "Warrant Purchase Rights: the warrant of BidCo (Note: company to be established for the purchase of the acquisition) the right to purchase up to 20% of BidCo shares will be granted," as content of the agreement for consignment of operations to the FA. Therefore, for the directors who were not participants or people who knew, it would be reasonable to make the judgment on the necessity for the acquisition, on the premise that the share option and warrant purchase right was being granted, not of Gyrus itself, but of OUKA, which was to be the shareholding company of Gyrus (at the Board of Directors Meeting, had there been an explanation that the share option and warrant purchase right of Gyrus itself was being granted, then there should have been a discussion about the change in the entity that granted the share option, etc., but there is no such sign.)

If that understanding were made the premise, then the Gyrus shares owned by OUKA, had all been acquired by Olympus on June 5, 2008, so that there should not have been any obstacles in proceeding advantageously with the reorganization of Gyrus, regardless of there being share options or a warrant purchase right of OUKA in existence. Therefore, the directors really should have issued preferred shares in place of the share option for OUKA, and to confirm the necessity for acquiring the warrant purchase right.

B. Share Option, Warrant Purchase Rights and Valuation of Preferred Shares

Supposing the need is approved for issuing preferred shares in place of share options, and for acquiring the warrant purchase right is approved, acquiring it for an unjustified price is not acceptable. Therefore, in the Board of Directors Meeting held on September 26, 2008, in issuing preferred shares for the share option and in resolving to acquire the warrant purchase right, it becomes a problem that the directors who attended the Board of Directors Meeting did not confirm:

① The objective valuations of the preferred shares, and the share option, in which place they would be issued;

② The grounds for making the price of the warrant purchase right 50 million dollars.

First, regarding the point of ① above, there should have been suspicions that, if the Board of Directors Meeting Material at the time the FA Agreement was approved were to be taken as premise, while the value of the share option that was granted was supposed to have been approximately 8.5 billion Yen (=acquisition price of approximately 200 billion Yen X 5% X 85%), the face value of the preferred shares that were to be issued in its place was 177 million dollars (approximately 22.1 billion Yen, under the exchange rate at that time). Also, even supposing that the variance in these prices could not have been known, since preferred shares of as high a value as 177 million dollars were being issued, confirming the grounds for the price and value is a duty that would have been naturally expected of the directors. In reality, the valuation of 177 million dollars, was calculated higher than the proper valuation by the person in charge of Olympus' Accounting Department, because for the market price of Gyrus' shares, that should have been used for the valuation of share options, he did not properly calculate the market price of Gyrus, which had become an unlisted company, but erroneously used the acquisition price at the time of Gyrus' acquisition (630 pence per share) as the market price of the share, and made the calculation. Therefore, had a third-party expert made the proper evaluation, there is a high possibility that the valuation would have been lower.

Next, regarding the point of ② above, this was to acquire the warrant purchase right for as much as 50 million dollars (about 5.25 billion Yen, under the exchange rate at that time), and particularly as noted above, since the warrant purchase right was absolutely to be granted as an incidental fee to the 5% handling charge of the purchase price (at least the directors who attended the Board of Directors Meeting of November 19, 2007 would have had that understanding), confirming the grounds for its value is naturally a duty that should have been accomplished by the directors, but such confirmation was not done. Further, the total of the share option and warrant purchase right was 227 million dollars, and considering also that that amount exceeded 10% of the purchase price itself, the only conclusion is that there were careless errors in the process of recognition of facts (the gathering of information and its analysis and review), in not having conducted the investigation and confirmation of ①–③ noted above,

Note that, regarding the point of ② above, actually on the judgment that the dividend yield of about 10% is acceptable, and on the premise that a capital reduction would be implemented that would make the dividend 17,700,000 dollars, the issue price of the preferred shares (177 million dollars) was decided, but it was not confirmed whether AXAM agreed to the capital reduction that was the premise, or whether it was clarified in the share subscription agreement for the preferred shares that there would be a capital reduction. Of course, since Olympus owned all voting rights of Gyrus after June 5, 2008, it is not unnatural to have thought that the capital reduction of Gyrus was possible, and since it was explained that the preferred shares would be issued on the premise of a capital reduction, it is not surprising to have thought that naturally the FA had already consented to the capital reduction also. Therefore, it cannot be said that the confirmation of facts was insufficient, since the directors did not seek confirmation of the FA's awareness or the presence of an agreement on executing the capital reduction.

Note that in the first place, when considering that no more than the outer form of issuance was created by Yamada, Mori, Kikukawa, and others granting the warrant purchase right and preferred shares as the FA fee (the preferred shares were converted from the share option that was granted as the FA fee), and by Olympus taking the form of purchasing them for a high price, the money paid as the purchase price to be used as the means for settling the loss separation scheme, after connecting with AXES America and AXAM, the FAs, it can be seen that they did not exist as a substantive right (and there are no facts of preferred dividends having been paid for the preferred shares).

2) Unreasonableness in the Process of Inference of the Judgment Based on Recognition of Facts and its Substance

After which, the directors who attended the Board of Directors Meeting of September 26, 2008, approved the acquisition of the warrant purchase right, without sufficiently verifying the need, and granted preferred shares that have or might have a markedly high value in comparison with the original size of the fee (approximately 8.5 billion Yen), and further, without conducting sufficient provisional calculation of value, approved the acquisition of the warrant purchase right by paying cash of as much as 50 million dollars (about 5.25 billion Yen under the exchange rate at that time), which must be assessed as having been markedly irrational in the process of decision making and its substance.

3) Summary of Violation of Duty of Due Care of a Prudent Manager

As noted above, the only conclusion is the directors other than the Participants and People Who Knew (Terada, Okubo, Morishima, Yanagisawa, Takayama, Tsukaya, Nagasaki, Fujita, Chiba, and Hayashi), on approving the issuance of preferred shares in place of share options, and purchasing for cash the warrant purchase right, did not collect information that they naturally should have, and passed a markedly irrational judgment, and violation is found of the duty of due care of a prudent manager.

(3) Regarding Violation of the Duty of Due Care of a Prudent Manager of Directors in the Board of Directors Resolution of March 19, 2010 on the Purchase of Preferred Shares

1) Application of Business Judgment Rule

The act of purchasing preferred shares for cash is also a transaction, and the judgment will be made on the violation of the duty of due care of a prudent manager, according to the same standards as before.

Note that as noted above, there were a total of 3 Board of Directors resolutions in preparation for purchasing preferred shares. The 1st time was the Board of Directors resolution of November 28, 2008 that approved the purchase for 530 ~ 590 million dollars. The 2nd time was the Board of Directors resolution of February 26, 2010, that approved “the purchase to be made from AXAM by the end of March, 2010, for AXAM’s preferred share valuation + unpaid dividend as the maximum,” and the 3rd time as the Board of Directors resolution of March 19, 2010, that approved the purchase for 620 million dollars. However, below, we will review only the directors’ duty of due care of a prudent manager in the Board of Directors resolution of March 19, 2010, that has a direct cause and effect relationship with the money payment in the name of the FA fee. (Hereinafter, “This Purchase Resolution.” However, the explanations that were made at the 1st and 2nd Board of Directors Meeting should also be considered for making the judgment on the violation of the duty of due care of a prudent manager in this purchase resolution.)

2) Careless Errors in the Process for Recognizing Facts (the gathering of information and its analysis and review)

A. Regarding the Reason (Necessity) for Purchasing Preferred Shares

As for the reasons for purchasing the preferred shares, explanations were given in the Board of Directors Meetings that were held on November 28, 2008 and on February 26, 2010, that ① prevention of outflow of funds, ② simplifying of re-organization within the Group, ③ prevention of resale to third party, (the foregoing are from the Board of Directors Meeting Material for November 28, 2008), ④ execution of capital reduction, ⑤ settlement of breach of contract through non-payment of dividend, ⑥ posting of goodwill will be possible if the purchase is done within the fiscal year (the foregoing from the Meeting Materials for the Board of Directors Meeting of February 26, 2010). This Purchase Resolution is seen to have been premised on these explanations (among the directors who participated in This purchase resolution, the directors other than Kawamata participated in the 1st and 2nd purchase resolution, while Kawamata took part in the 2nd purchase resolution only).

However, of the foregoing, ①, ⑤ and ⑥ cannot be said to be reasonable reasons for purchasing the Preferred Shares. In other words,

① To the extent dividend Preferred Shares have been issued, capital outflow through dividends has naturally been planned. If there is a problem with the amount of dividend that is to be distributed without capital reduction, then all that's needed is for the capital to be reduced.

⑤ Since the breach of contract will be cured if the dividend is paid, being in a state of non-payment of dividends does not constitute a reason (necessity) for purchasing the Preferred Shares.

⑥ Even if the ability to post to "goodwill" in the accounting is an advantage, as a result of having purchased the Preferred Shares within the fiscal year, the advantage of posting as "goodwill" is no more than an advantage that influences the judgment of the timing of the acquisition in case the Preferred Shares are to be acquired, and is not an advantage for the acquisition itself, so that acquiring the Preferred Shares is unacceptable, when there is no other need to acquire the Preferred Shares.

Note that for ③ above, resale to a third party is forbidden in the share subscription agreement in the first place, and originally would not be a reason for purchasing the Preferred Shares, but it is probably too much to expect of directors other than those who were Participants or People Who Knew to confirm the share subscription agreement itself. Of course, if they were Preferred Shares without voting rights, then it is normal not to have veto rights granted them, so even if they are resold to a third party, that would not cause an important obstacle to Gyrus' management. However, in the Board of Directors meeting of March 19, 2010, because it was premised on veto rights having been granted, the resale to a third party became a problem.

Therefore, in the end, among the above-noted reasons ①–⑥, ①, ⑤ and ⑥ are no reasons for purchase, and ② and ④ seemed to be caused by AXAM owning Preferred Shares to which the veto right was granted. However, on acquiring a corporation, it is clearly unreasonable to grant a veto right on material items connected with the corporation to be acquired as a fee to the FA. In addition, in this case, according to the resolution of the Board of Directors meeting of September 26, 2008, notwithstanding that the Preferred Shares were issued on the premise that they had no voting rights and that the capital would be reduced, a veto right had been granted to veto that capital reduction, then it can only be concluded that the directors who did not harbor doubts on this point were inattentive.

As noted later, the explanation was given at the Board of Directors meeting that 50% of Gyrus' corporate value is being held, with the veto right on material items being held, as the grounds for Olympus' assertion on the purchase price of the Preferred Shares. The explanation itself that with the veto right, 50% of shares being owned is unreasonable, but even setting this aside, making the explanation that issuing Preferred Shares to grant half of the corporate value that had been acquired at great effort to the FA as a given, is stunningly unreasonable.

In this way, given that the fact and explanation that the FA has the veto right is extremely unreasonable, the natural discussion in the Board of Directors Meeting would have been to question “What is the veto right,” “why is that being granted,” even by directors not in charge. Afterwards, should it have been identified that the veto right had been granted on the unilateral decision of the president and some of the directors, there should have been a discussion seeking re-negotiation by the directors in charge, setting aside the issue of validity or invalidity, without passing a resolution.

Note that when this Committee actually asked a British attorney about the validity of the Revised Share Subscription Agreement that granted the veto right (the governing law is U.K. law), the response was made that if that would increase the monetary payment in the name of the FA fee, and if it had been concluded for the illegal purpose of settling the Loss Separation Scheme, then this would be invalid under U.K. law also, and impossible to enforce. (This is the same as for the contract for the issuance of the Preferred Shares also.) Given that there was no reason (necessity) for purchasing the Preferred Shares other than the above-noted ② and ④, then the only conclusion is that there were careless errors on the part of the directors in the process of recognition of facts (the gathering of information and its analysis and review) in having unthinkingly passed the resolution, without harboring any doubts about the veto right.

B. Confirmation of Reasonableness of Price

(A) Regarding the Large Gap with the Issue Price

The Preferred Shares were issued at the price of 177 million dollars, based on the resolution of the Board of Directors meeting of September 26, 2008. However, at the Board of Directors meeting of November 28, 2008, which was only 2 months later, the proposal was made to “re-purchase” these Preferred Shares at a price that was more than three times the issue price (530 million dollars–590 million dollars: approximately 66.2 billion Yen–73.7 billion yen under the exchange rate at that time), but this was approved without any special doubts being expressed by the directors. Further, on June 5, 2009 the above-noted purchase proposal was withdrawn, and it was resolved to negotiate a repurchase at a price closer to 177 million dollars.

Amidst such development, this purchase resolution was, in the end, for purchasing the Preferred Shares for 3.5 times the issue price. Since this transaction for an exceedingly large amount, of 55.8 billion Yen, under the exchange rate at that time, had undergone such a peculiar course, the directors who knew about this course through the Board of Directors meetings (those who were appointed directors prior to June 2008) naturally should have confirmed why this peculiar course had taken place, and it is clear they needed to confirm why there was a reason (necessity) for making the purchase at a price that differed greatly from the issue price (book price).

Note that at the Board of Directors meeting on February 26, 2010, there was an officer who made a statement to the effect that "since 530 million dollars was too high, it was withdrawing (on June 5, 2009 the purchase of Preferred Shares that was approved on November 28, 2008), for the reason that negotiations would be held to lower it. Therefore, normally, there should be an explanation of the background for this turn of events." However, notwithstanding that an explanation of this type should have been provided before the purchase of the Preferred Shares, for some reason, the director made the statement that an explanation after the purchase of the Preferred Shares would suffice, so there was no explanation made on this point at the Board of Directors meeting.

(B) The Reason There is a Difference with the Valuation Document by Third Parties

The purchase price that was proposed at the Board of Directors meeting on March 19, 2010 (620 million dollars) significantly exceeded all of the 3 valuation documents that were distributed as Board of Directors Meeting Materials at the Board of Directors meeting on November 28, 2008, in other words, the valuation by a third party that Olympus requested (Shinko Securities: 557 million dollars), the prices in the valuation document that the AXAM side presented (522 million dollars–536 million dollars, and 592 million dollars. However, the authors are unknown). In addition, the grounds and logic of the valuation by both parties in the Board of Directors Meeting Material of March 19, 2010 differ completely from the evaluation method (logic) that was used in the above-noted valuation document, insofar as they made the existence of the veto right an important factor in the valuation. AXAM especially asserted a logic that differed from the prior evaluation document that they themselves had submitted, and presented a price that exceeded by more than 100 million dollars (724 million yen) the valuation in the evaluation document. Therefore, the directors should have investigated by confirming with outside experts, the reasonableness of the logic asserted by AXAM and the price.

On the other hand, those directors who did not know about the existence of the previous evaluation documents should have naturally checked whether or not the assertion by AXAM was a generally appropriate assertion given that the proposal to the Board of Directors involved an attempt to purchase at a "median" amount between AXAM's assertion and Olympus' assertion. Especially in this case, since there was a difference of more than 100 million dollars between the amount asserted by Olympus (519 million dollars) and the median price (purchase price), unless it was found that the assertion of the AXAM side was reasonable, unless there were special circumstances that there was an extremely high need for purchase of the Preferred Shares (there were no such circumstances seen), there should not have been an agreement, such as to simplistically agree to a "median" price.

Therefore, in any case, since a transaction that required a large expenditure of 620 million dollars would be undertaken, it can only be concluded that there were careless errors in the process of recognition of the facts (the gathering of information and its analysis and review) as directors, to have agreed unthinkingly to the purchase of Preferred Shares, without the Olympus directors confirming that the assertion of the AXAM side was reasonable.

C. About the Existence of Lawyers' Opinions

Note that in the report dated May 17, 2009 by experts, including lawyers (hereinafter, "2009 Committee Report"), the opinion was stated to the effect that with respect to the acquisition of Gyrus, circumstances were not found sufficient as to form an evaluation of violation of duty of due care of a prudent manager on the part of the directors, with respect to the actions from the conclusion of the FA Agreement to the replacement of share option with Preferred Shares, and the purchase of the Warrant Purchase Rights. And, on receiving this 2009 Committee Report, KPMG AZSA LLC issued the unqualified clean opinion for the financial statements for the fiscal year ending March 2009.

As noted above, the 2009 Committee Report makes no judgment about the violation of the duty for due care of a prudent manager regarding purchase of Preferred Shares, but was prepared after the Board of Directors meeting in November 2008, when the first resolution was passed regarding the purchase of Preferred Shares.

At the settlement Board of Directors Meeting on May 25, 2009, with the explanation by the auditor that "there was an opinion issued by KPMG AZSA LLC that the FA fee connected with the Gyrus acquisition was abnormally high, but the 2009 Committee issued the conclusion that there is no problem," and the directors other than Participants and People Who Knew came to know about the 2009 Committee Report. Of course, in the explanation by the auditor at the settlement Board of Directors Meeting on May 25, 2009, it was not explained that the 2009 Committee Report did not state opinions about the violation of the duty for due care of a prudent manager regarding the acquisition of Preferred Shares. For this reason, the possibility itself cannot be denied, that the directors other than the Participants and People Who Knew believed that the judgment had been made in the 2009 Committee Report that there had been no violation of the duty for due care of a prudent manager, including for the purchase of Preferred Shares that was approved at the Board of Directors meeting on November 28, 2008.

However, the reasonableness of the purchase price is an item that the directors should judge in the first place, so considering that a peculiar course had been followed, as noted above, and since the purchase price itself was extremely high, they should naturally have confirmed on what sort of premise, and on what sort of grounds the 2009 Committee Report concluded that there was no violation of the duty for due care of a prudent manager. The items pointed out in item “B” above, are items that directors who have no knowledge of laws or have no experience of corporate acquisitions can be expected to indicate, and misunderstanding that lawyers had provided an opinion of lawfulness, is no grounds for denying their liability.

3) Whether or not the Process of Inference for Judgments Based on Recognition of Facts and their Content were Unreasonable

On top of which, the directors who attended the Board of Directors meeting on March 19, 2010 approved the purchase of Preferred Shares, without having sufficiently verified the necessity for purchasing the Preferred Shares, and for a price that had a material effect on Olympus’ financial state (55.8 billion yen at the rate at the time), which was significantly different than the issue price. The assessment must be made that in the process of decision-making and in its content were markedly unreasonable.

4) Regarding the Liability of Kawamata

Among the directors who agreed to the resolution to purchase the Preferred Shares on March 19, 2010, Director Kawamata had been appointed director at the General Shareholders Meeting in June 2009, and had not attended the Board of Directors meeting on November 28, 2008, so there seems to have been a difference in his level of recognition of the facts from the directors other than Participants and People Who Knew, who took part in all of the preferred share purchase resolutions, which were held a total of 3 times.

However, that there was insufficient investigation or analysis of the “veto right” or its grounds or validity, which is an important factor in the need for purchasing the Preferred Shares, also applies equally to Kawamata.

Also, the fact that the issue price (issue book price) of the Preferred Shares was approximately 177 million dollars was listed in the Board of Directors Meeting Material for this purchase resolution. That being the case, it must be recognized that Kawamata was also aware of the issue price of the Preferred Shares. And considering that it was a transaction of 55.8 billion yen, an extremely large amount, Kawamata also should have confirmed as a director why it must be purchased for a price that was several times the issue price.

Moreover, Kawamata had participated in the meetings with the auditing firm and auditors, as the Head of the Accounting Department, when KPMG AZSA LLC pointed out from the end of 2008 to May 2009 that the FA fee for the Gyrus acquisition was abnormally high (at that time, that the fee that had already been paid was too high, including that the Warrant Purchase Rights was purchased for 50 million dollars, and that the Preferred Shares having been granted as part of the fee, were taken to be problems.) Therefore, he naturally grasped the particulars about how the FA fee for Gyrus had been increasing, and that it had the character of becoming problematic, and based on that awareness, he could have been expected to confirm the objective valuation of the Preferred Shares in this purchase resolution, but he did not do so.

Therefore, there were careless errors in the process of recognition of facts by Kawamata (the gathering of information and its analysis and review), and moreover, the judgment based on said erroneous recognition of facts was markedly unreasonable.

5) Summary

As noted above, the directors other than those who were participants or people who knew who agreed to this resolution (Okubo, Morishima, Yanagisawa, Takayama, Tsukaya, Kawamata, Fujita and Hayashi) did not collect information that they naturally should have as directors, and passed a judgment that was markedly unreasonable, and there was violation of the duty of due care of a prudent manager.

(4) Regarding the Directors Who Were Absent from Each Board of Directors Meeting

Of the directors other than participants or people who knew, the directors who were absent from the Board of Directors meetings listed in (1) to (3) above were as follows:

① For the Board of Directors meeting on November 19, 2007, Suzuki, Mandell, and Fujita.

② For the Board of Directors meeting on September 26, 2008, Suzuki and Watanabe.

③ For the Board of Directors meeting on March 19, 2010, Suzuki, Watanabe and Nishitani.

Since these absent Directors were not making business judgments at the various Board of Directors meetings, the question of whether or not there was any violation in their duty to monitor the resolutions of the various Board of Directors meetings at which they were absent becomes a problem. That is, as indicated in Section 5 above, the directors of a joint-stock company in which a Board of Directors has been established do not merely supervise those matters placed on the agenda of a Board of Directors meeting, but also have the duty of supervising the execution of business by the Representative Director and the Directors in charge of business, and if necessary they should supervise and direct through the Board of Directors in order that the execution of operations is performed properly. However, when it comes to the matters that are not placed on the agenda of the Board of Directors meeting, this is interpreted as meaning that a violation of the supervisory duty for the contents of the business activities of the Representative Director and the Directors in charge of business is acknowledged only "when there were special circumstances such as that the Director knew or could have known, but were overlooked."

Then, given that the Directors who were absent at the Board of Directors meetings did not know the matters placed on the agenda at the Board of Directors meetings from which they were absent, the question of whether or not there was a violation of the supervisory duty should be dealt with in the same manner as the matters that were not placed on the agenda of a Board of Directors meeting.

On this point, in each case materials for the Board of Directors meeting were distributed on the same day concerning the agenda item related to the FA fee for these Board of Directors meetings, and said absent directors could not know about the specific contents of the agenda item beforehand. In addition, although they could have read the materials, etc. after the Board of Directors meeting, it can't be helped if the absent directors trusted that the other Directors had made proper business judgments, as long as there was no evidence leading them to doubt that illegal resolutions had been passed in the past, and they are not seen to have been liable for a violation of the supervisory duty even if they did not devise measures such as ordering the materials related to resolutions that had already been passed and examining these, or seeking the convening of another Board of Directors meeting, etc.

Therefore, no violation of the duty for due care of a prudent manager is found for said absent Directors.

VII. Whether or not there were Violations of the Duty for Due Care of a Prudent manager on the part of the directors concerning the handling of matters after Woodford pointed out suspicions

1. Facts that serve as the premise in determining liability

(1) After Woodford held positions such as Representative Director in the English corporation that Olympus had made its English subsidiary and other Olympus affiliates, he assumed office as an Executive Officer of Olympus in June 2008, Chief Executive Officer in April 2011 and Representative Director and Chief Executive Officer/COO in June of the same year. On July 31, he obtained from an acquaintance a translated article from the August issue of FACTA (published on July 20), entitled “The Mystery of the Immense Losses for Olympus’ ‘Reckless M&A’,” and based on this he harbored concerns about the acquisition amount of the above-mentioned 3 Domestic Companies and the amount of the FA fee for the Gyrus share acquisition. The dates in the section below are all 2011 unless otherwise indicated.

(2) Given the fact that Woodford was a signatory to the Settlement Report, etc., in his capacity as Representative Director, he decided that he needed to receive a full explanation including the particulars, and asked Kikukawa, Mori, et al about the truth of the article in FACTA, but did not receive the response that he had expected.

(3) On September 20, the October issue of FACTA, entitled “Olympus’ ‘Tail’ was J Bridge: Part 2 of the Investigation Report Revealing the Dark Side of the Immensely Costly M&A,” and Woodford read the translation of this as well.

(4) Subsequently, on successive days from September 23 to September 28, Woodford, who was in England, asked Mori or Kikukawa questions about the suspicions about the M&A that had been pointed out, and requested that they submit materials (including translations into English), and the exchanges whereby Mori or Kikukawa responded to this were done by e-mail. Then, Woodford copied, either himself or through Mori, the other officers too on these exchanges by e-mails, and in addition also sent them to the Ernst and Young auditing firm (in Japan, Ernst and Young ShinNihon LLC) in Japan, Europe and the United States.

(5) A regular Board of Directors meeting was held on September 30. Woodford had arrived in Japan on the preceding day, and after speaking with Kikukawa and Mori, he attended this Board of Directors meeting.

At this Board of Directors meeting, in addition to the agenda items that had been scheduled originally, the following were proposed by Kikukawa, and were approved unanimously. ① That Woodford be appointed CEO as of October 1 (in addition, that Kikukawa continue to serve as Chairman of the Board of Directors.) ② That the right to make proposals to Board of Directors meeting related to personnel in the first hierarchy and second hierarchy be granted to Woodford. ③ That Kikukawa not attend Management Implementation Committee meetings from October 1 on.

Then, Woodford requested the opportunity to speak, and stated the following:

* Given that he was the one to sign the Settlement Report, etc., in his capacity as Representative Director, it was his desire to thoroughly confirm about the contents that have been indicated by FACTA that is the reason for undertaking the exchanges by e-mails on this occasion.

* Based on discussions with Kikukawa and Mori yesterday, an extremely constructive understanding was reached.

* Since he was now confident that none of the persons concerned inside the company have personally profited, it was his intention to turn his eyes to the future in a forward-looking manner.

(6) After the Board of Directors meeting on September 30, Woodford returned to England, and turned over the materials that he had acquired through the above-mentioned exchanges by e-mails with Mori to PriceWaterhouse Legal LLP (hereinafter, “PwC”).

Then, on October 11, he acquired from PwC an interim report in which the following were stated as the conclusions: “Based on the review implemented up to now, we are not confident that inappropriate conduct was undertaken, but if we take into consideration the total amount of the fee paid and the several instances of non-customary decision-making that were undertaken, at the present stage we cannot exclude the possibility that inappropriate conduct was undertaken.” “What is important for Olympus in connection with the above is the question of whether or not there was a violation of the regulations over a wide range like money laundering in the acquisition of Gyrus and the agreements between Olympus and AXES and AXAM; if there was, it must undertake a full investigation about what kind of actions and corrective steps should be taken, and must take appropriate steps in order to understand this. Moreover, if we consider the Bribery Act 2010, Olympus should consider the potential effects related to this law. The reason for this is that although the carrying out of the acquisition of Gyrus goes back to 2008, there is a possibility that questions will be raised about Olympus’ risk management and procedures in Olympus’ handling of this transaction, and there is a possibility that this will also be connected to investigations by the relevant regulatory authorities and prosecutorial authorities.” “Moreover, there is also the possibility of other illegal conduct, including inappropriate accounting treatment and financial advice, and violation of the directors’ duty of good faith.”

(7) On obtaining PwC’s interim report, Woodford stated the following in a letter dated October 11 addressed to Kikukawa: “As is clear from PwC’s Report related to the Gyrus acquisition, owing to the cumulative effects of an extremely large number of distressing errors, and your uncommonly poor judgment, the acquisition of the Three Domestic Companies resulted in losses to shareholders reaching the shocking amount of 1.3 billion US dollars. This is akin to the UBS scandal in recent years, in which huge losses were incurred due to a crooked trader in London. My sense is that the problem of essentially worthless corporations starting with Gyrus were acquired is made an even worse matter given the fact that the transactions were conducted not by Olympus’s lower level staff but rather by the uppermost management staff.” “Having reached the present situation, it is clear that this is an unsustainable state of affairs, and as a measure for proceeding in a forward looking manner from here, it is necessary that both of you (Kikukawa and Mori) resign from the Executive Committee. This will make it possible to handle prudently the current measures by this approach, and it will be possible to restrict to a minimum the worsening of Olympus’ and your own reputations. If you have no intention to resign, I will raise with the appropriate group my basic concerns about the governance of this company.” “I will return to Japan tomorrow,

but since I will go to Tohoku I want to meet with you and Mr. Mori on Friday (October 14), and to discuss the specific handling in the future.” He sent this letter and PwC’s interim report as an e-mail to all officers including Kikukawa and to the Ernst and Young’s auditing firm (in Japan, Ernst and Young ShinNihon LLC) in Japan, Europe and the United States.

(8) After receiving this letter, Kikukawa summoned all of the Directors other than Woodford, and almost all of them other than those persons who could not attend because they were overseas and so on gathered on the evening of October 13.

Then, Kikukawa explained the particulars to date, and made such statements as “I had thought we had ended the Board of Directors meeting on September 30 with the sense that we would work together in a forward-looking manner together, it is inexcusable for him to have taken the materials to PwC and requested an investigation on his own authority, regardless of his being the CEO.” and “He has acted on his own authority without consultation, to an excessive degree, and having him remain as the CEO is a problem.,” and moreover informed them that the plan was to remove Woodford at an extraordinary Board of Directors meeting on the next day.

(9) An extraordinary Board of Directors meeting was held from 9 a.m. on October 14. Two persons, Director Watanabe and Director Kuruma, who were overseas, were absent. Auditor Yamada was in attendance.

Although the agenda item noted in the e-mailed meeting notification on the preceding day was “Concerning Olympus’ past acquisition cases,” on that day, the agenda was changed, and four agenda items, namely “Re: Termination of the contract (Service Agreement) between this company and Woodford,” “Re: Dismissal of Woodford as Representative Director and Chief Executive Officer (CEO),” “Re: Selection of Kikukawa as Chief Executive Officer (CEO),” and “Re: Relieving of Woodford from his posts as an officer of subsidiaries and affiliates,” were deliberated, and were approved unanimously by all in attendance except for Woodford, who was a special interested party. The time required was less than 5 minutes.

(10) Faced with this, Woodford returned to England that same night, and he subsequently requested an investigation of the matter of Gyrus from England’s Serious Fraud Office (an investigative agency for financial crimes), and undertook consultations, etc. with the investigatory authorities of each country, while he made public statements about suspicions about the M&A to the mass media.

Then, from around October 17, all of the Japanese newspapers began reporting Woodford’s comments, and the criticisms of Olympus reached a peak. Owing to this as well, Olympus’ stock price fell precipitously, and questions about this matter were raised by shareholders too, and a full investigation by a Third Party Committee came to be requested.

(11) In response to this confusion, the demands for the resignation of Kikukawa, the subject of the suspicions in this matter, who was the reason causing the current confusion, became stronger within the Board of Directors also, and thus Kikukawa resolved to resign and relinquished his positions as Representative Director and Chairman, concurrent with President and Executive Officer on October 26, and Director Takayama was selected as the Representative Director and President, and Executive Officer as his successor.

(12) On November 1, the Third Party Committee was formally launched, and the investigation of the suspicions in this matter started.
(13) Subsequently, Mori and Yamada ended up acknowledging the facts about the loss deferral in this matter; this was publicly announced on November 8, and Mori was dismissed from his position as Vice President and Executive Officer and Auditor Yamada announced his intention to resign.
(14) On November 24, Kikukawa and Mori resigned as Directors, and Yamada resigned as Auditor, respectively.
(15) On December 1, Woodford resigned as Director.
(16) On December 6, the Third Party Committee Report was submitted.

2. Regarding the Liability of the Participants and People Who Knew (three Directors and one Auditor)
(1) As noted above, the three Directors, Kikukawa, Mori and Nakatsuka, and the Auditor Yamada were fully aware of the facts about the loss deferral in this matter.

Directors and Auditors have the duty to investigate suspicions of illegal conduct when such suspicions are found, and the duty to announce the facts publicly and to take other necessary responses when it is learned as a result of an investigation that those suspicions were true, as one of the duty of due care of a prudent manager, but an officer who is aware of illegal conduct from the very start has the duty to eliminate such illegal conduct without concealing it.
(2) However, in response to the raising of suspicions by Woodford from September 2011 on, the above-mentioned four persons did not try to raise the problem and discuss it properly in a Board of Directors meeting, and instead concealed the facts about the loss deferral from those Directors who were unaware of the loss deferral, and continued the false explanations that there were no problems that could be called illegalities whatsoever in connection with M&A for Gyrus and the Three Domestic Companies, and moreover criticized Woodford to those Directors who had little acquaintance with him and did not know him well, and guided them in the direction of approving his removal, and contrived so that those Directors who were unaware of the loss deferral harbored no suspicions about it, and attempted to avoid the discovery of the illegal conduct.
(3) It is clear that this violates the duty to eliminate illegal conduct without concealing it, and liability for the violation of the duty of the due care of a prudent manager is found in the case of the above-mentioned four persons.

Since Yamada resigned as director and assumed office as auditor in June 2011, he was responding in his capacity as auditor after the raising of suspicions by Woodford, but as noted above, the illegal conduct about which Yamada was aware became the subject of examination in This Committee out of consideration of the fact that it was mainly related to the time when Yamada was a Director.

3. Concerning the Liability of the Directors (11 people) Other Than the Participants and People Who Knew

(1) Concerning those 11 directors (Morishima, Suzuki, Yanagisawa, Takayama, Tsukaya, Watanabe, Nishigaki, Kawamata, Hayashi, Hayashida, Kuruma) who were not aware of the facts of the loss deferral in this matter at the time Woodford raised the suspicions, although there were differences depending on the length of time and the degree of their acquaintance with Woodford, the length of their time in office as directors, and the contents of the business that they were in charge of, their awareness about the raising of suspicions by Woodford and then the particulars of their approving Woodford's removal from office were roughly as follows.

1) Awareness of the exchanges between Woodford and Mori and Kikukawa from September 23 to September 28

① The resolutions about the M&A for Gyrus and the Three Domestic Companies raised by FACTA were passed at Board of Directors meetings at that time, although doubts had been raised by the auditing firm, ultimately an unqualified clean opinion was obtained, and although there may perhaps have been the aspects that the business forecasts and assessments were optimistic, or that the negotiations had been poorly handled, these were probably not problems that should have been evaluated as illegal. The journal in question was a tabloid lacking in reliability, and wasn't this just so-called bogus information that had been written in an interesting and amusing style?

② As for Woodford's request to submit materials, the deadline was stringent, when considering the need for translation, and the response seemed difficult, but Mori attempted to respond to it. If Woodford were to see these materials, and if he listened to a full explanation from Mori, wouldn't he have been able to understand them?

③ Instead of saying various things in e-mails from England, Woodford should come to Japan and discuss them properly at a Board of Directors meeting, etc.

④ Concerning the suspicions raised by FACTA, a time will probably come to address it as a formal agenda item at a Board of Directors meeting.

2) Awareness about the Board of Directors meeting on September 30

① Woodford had spoken with Kikukawa and Mori on the preceding day, and made statements whose gist was that he was now confident that none of the persons concerned inside the company had personally profited, and that he had arrived at an extremely constructive understanding, and to let us move ahead in a forward-looking manner, and there was no sense for him to try to pursue anything further, and there was no awareness that it had ended in a dispute.

② Of course, the sense was not that everything had been settled at that venue, but that the meeting ended with the sense that there would again be discussions in such venues as the Board of Directors meetings, etc., and we thought that it would naturally be discussed at Board of Directors meetings going forward.

3) Particulars that were approved in the dismissal on October 14

a. As noted above, on the evening of October 13, nearly all the directors other than those who could not attend because they were overseas and so on received a summons from Kikukawa and gathered, and were notified by Kikukawa to the effect that Woodford was acting on his own authority without consultation, and there were problems with him as the CEO, so he wanted to remove him at an extraordinary Board of Directors meeting on the next day.

b. Even in the case of the directors without any awareness about the loss deferral, many of them harbored the following feelings about Woodford based on their personal experience or hearsay, although they each had differences.

① Olympus is a manufacturer, and a medium to long-term view is necessary, but Woodford emphasized short-term results, and it was often not possible to gain his understanding.

② Since it is fatal if there is even one mistake in a product, the manufacturing sites really make strenuous efforts, but he had not visited the manufacturing sites (plants) since he had assumed office as president, and it was felt he did not understand the difficulties at the manufacturing sites.

③ Perhaps that is the way things are done in Europe or the United States, but there were things that were hard to understand when it came to his way of promoting business or his personnel policies.

④ He was frequently not in Japan, and it was difficult to maintain adequate communication with him.

⑤ At the Board of Directors meeting on September 30, he made statements in which the gist was that he was now confident that none of the persons concerned inside the company had personally profited, and that he had arrived at an extremely constructive understanding, and to let us move ahead in a forward-looking manner, and they understood that they would probably continue to have discussions at a venue like the Board of Directors meeting on how to address the suspicions raised by FACTA, but subsequently there was no proposal for discussion, and he immediately returned to England, provided materials to PwC and requested an investigation, and then all of a sudden a letter stating that if Kikukawa and Mori did not resign he would appeal to an appropriate agency was sent to Kikukawa with PwC's report attached on October 12. Even though it was supposed to be debated in the Board of Directors meeting, etc., there was no call to do this whatsoever, and he was away from Japan, and moreover saying that if [Kikukawa and Mori] did not resign he would appeal to an appropriate agency, based on the interim report that had by no means concluded that there were facts of fraud, was wrong as the way to deal with this.

C. In this manner, although there were differences respectively, each of the directors without any awareness about the loss deferral harbored doubts about Woodford's qualifications as President from his own experience or from hearsay information, and thus believed that it was no longer acceptable for the company for Woodford to be Representative Director, and all of them other than Director Watanabe and Director Kuruma, who were absent since they were overseas, approved his removal.

(2) Judging from the above particulars, the reason why each of the directors who were unaware of the

facts of the loss deferral approved the removal of Woodford was that they harbored doubts about Woodford's suitability as President, separate from the question of whether their awareness was right or wrong; moreover, they acknowledged the need to continue to discuss at a venue like the Board of Directors meetings how to respond to the suspicions that had been raised, as an issue separate from the removal of Woodford, and it is acknowledged that there was an intention to do so. Since Woodford remained as a director even though he had been removed as President, and FACTA's article had also already appeared, the notion that the pursuit of Woodford's suspicions would be settled if they removed him is hardly reasonable, so the argument that they considered the response to the suspicions that had been raised to be a separate issue from Woodford's removal is not unreasonable.

Then, as concerns the establishment of the Third Party Committee as well, while the effects due to extrinsic factors such as the criticism by the mass media after Woodford's dismissal, the requests from shareholders and the requests from the auditing firm are naturally recognized, there were also directors who had been thinking from the start that verification by a Third Party Committee was necessary (although theirs was an optimistic view that the suspicions would be dispelled once proper investigation was conducted), and at the very least, among each of the directors who were unaware of the facts of the loss deferral, there were none that stated negative opinions about establishing a Third Party Committee and having it investigate the suspicions that had been raised, it was clarified that preparations for the establishment of a Third Party Committee were being advanced in a press release on October 21, and the Third Party Committee was established on November 1 with a considerable sense of speed, and this led to the identification of the truth on November 8.

Therefore, it is believed that it cannot be judged, that with Woodford's removal, that the duty to investigate the suspicions that had been raised was abandoned, or that the duty to investigate was ignored.

The result that they trusted the false explanations based on concealment of the facts by Kikukawa, Mori and Yamada, and that they underestimated the suspicions pointed out by Woodford, needs to be fully reflected on from the standpoint of corporate governance, and it is believed that it cannot be judged to the extent that the actions taken by each of the directors who were unaware of the facts of the loss deferral after the raising of suspicions by Woodford violate the duty for due care of a prudent manager as a director (the duty to investigate in the event that suspicions of illegal conduct have been raised).

To add to that, the conclusion above is not based on an evaluation that Olympus' corporate governance regime was in a satisfactory state. When it is considered that the loss deferral in the past, and the Series of Problems related to this was not made clear for as long as 10 years, and that if there had not been Woodford who pointed out the suspicion, there was the possibility that the truth would have remained buried, we cannot help but be deeply concerned about the closed nature of Olympus' management organization and the weakness of governance that allowed this situation. It is clear to everyone involved that leaving an unlawful state unattended threatens the very existence of a corporation.

This Committee strongly desires that fundamental improvements be made to the management organization to date, so that these points are erased, and that Olympus survives as a truly vital corporation.

VIII. Whether or not There were Violations of the Duty of Due Care of a Prudent Manager on the part of Directors Concerning Misrepresentations in the securities reports, etc. Subsequent to the Fiscal Year Ending March 2007

1. Facts That Serve as the Premise in Determining Liability

Since it was discovered that Olympus had been deferring the posting of losses, by having Funds that were not subject to consolidated settlement purchase financial instruments that had failed as investments and had suffered huge losses, on December 14, 2011, Olympus submitted revised reports to the Kanto Regional Finance Bureau for the Securities Reports from the fiscal year ending March 2007 (139th Term) until the fiscal year ending March 2011 (143rd Term), and Quarterly Reports from the 3rd quarter of the fiscal year ending March 2009 (141st Term until the 1st quarter of the fiscal year ending March 2012 (144th Term) (hereinafter, the Securities Reports and Quarterly Reports are collectively referred to as “securities reports, etc.”) (further-revised reports were submitted on the December 26, 2011.).

In other words, from the 1990s, Olympus suffered large losses in securities investments, derivative transactions, etc., and in order to defer the recognition of those losses, starting from the end of the fiscal year ending March 2000, it made the Funds that were not subject to Olympus’ consolidation purchase at an amount equivalent to book value the financial instruments that had incurred unrealized losses, and separated the financial instruments that had suffered losses from Olympus’ Consolidated Financial Statements, but at that time, Olympus had financing provided to Receiver Funds or Pass-Through Funds from banks with Olympus’ deposits, etc. as security, in order that the Receiver Funds could purchase said financial instruments at an amount equivalent to book value, and in addition a Business Investment Fund was established at Olympus and it undertook investments, and capital was provided from said Business Investment Fund by lending to or investment in the Receiver Funds or Pass-Through Funds (hereinafter, the deposits, etc. and the contributions to the Investment Business Fund that are utilized in order to supply capital to the Receiver Funds are referred to as “specified assets”). Since it was identified that Olympus was essentially bearing those losses, it undertook the revision of the content to recognize the unrealized losses of financial assets that had been separated from Olympus in order to defer the posting of losses as Olympus’ losses in past fiscal years.

Specifically, it was determined that Olympus had essentially controlled the Receiver Funds or Pass-Through Funds, and undertook the following revisions of contents (the main items among the specific revised contents are as shown in Attachment ②).

① The borrowing and unrealized losses of the Receiver Funds or Pass-Through Funds that were not included in the consolidated balance sheet until now are reflected in the Consolidated Financial Statements by consolidating the Receiver Funds and Pass-Through Funds.

② A portion of Olympus’ specified assets that had been recognized in the consolidated balance sheets until now are eliminated by consolidation, and in their place, the managed assets in the Receiver Funds or Pass-Through Funds, which had been treated off the books are reflected in the consolidated balance sheets.

③ The acquisition money for the Three Domestic Companies that was used to make capital flow back to the

Receiver Funds and cover the losses and the repurchase capital of the FA fee or Preferred Shares accompanying the acquisition of Gyrus had been recognized in the goodwill in the consolidated balance sheets until now, so that goodwill was cancelled, and in addition the depreciation expenses of goodwill and impairment losses of goodwill were also cancelled.

④ The managed assets of the Receiver Funds or Pass-Through Funds differ from ordinary investments, and are managed in one bloc based on the scheme for deferring loss recognition, so they are indicated in one sum as "fund managed assets" in the consolidated balance sheets.

Therefore, at the very least it is clear that there were misrepresentations in the contents of the Securities Reports from the fiscal year ending March 2007 (139th Term) until the fiscal year ending March 2011 (143rd Term), and Quarterly Reports from the 3rd quarter of the fiscal year ending March 2009 (141st Term) until the 1st quarter of the fiscal year ending March 2012 (144th Term).

2. Liability related to Misrepresentations in the Securities Reports, etc.

(1) Regarding violations of the duty of compliance with laws and regulations related to the misrepresentations in the securities reports, etc.

A company should naturally observe laws and ordinances, and a Director has the duty to perform his duties by observing laws and regulations. All of the provisions that take the company as the addressee, and that the company should observe when conducting its business, in the Company Act and other laws and regulations, are included in these "laws and regulations" (judgment of the Supreme Court dated July 7, 2000).

Therefore, Olympus has the obligation to prepare and submit securities reports, etc. which are true, in accordance with the stipulations of the Securities Exchange Act and Financial Instruments and Exchange Act. The revision of the securities reports, etc. that Olympus undertook involved the Securities Reports starting from the end of the fiscal year ending March 2007 (139th Term), and since the contents of the misrepresentations prior to that are not clear, the liability of the Securities Reports starting from the end of the fiscal year ending March 2007 (139th Term) and the Quarterly Reports starting from the 3rd quarter of the fiscal year ending March 2009 (141st) period will be examined.

(2) Concerning the preparation and submission of securities reports, etc.

The Accounting Department was in charge of the preparation and submission of Olympus' Securities Reports from the fiscal year ending March 2007 (139th Term) until the 1st quarter of the fiscal year ending March 2012 (144th Term), and they were submitted after being approved by the Accounting Department Manager and his direct superior (Head of the Business Support Department from April 2007 to March 2011, and the Head of the Finance Department from April 2011).

Therefore, this is interpreted as meaning that starting from the end of the fiscal year ending March 2007, those who were engaged in the preparation and submission of securities reports, etc. as directors can be organized as follows:

① Between April 2007 and May 2009, Kikukawa, who was President, given the fact that the Head of the Business Support Department (Kawamata) was an employee;

② Between June 2009 and March 2011, the Head of the Business Support Department (Kawamata), who was a director, and Kikukawa, who was president;

③ From April 2011, the Head of the Finance Department (Kawamata), who was a director, and Kikukawa, who was president.

Therefore, Kikukawa in the period in ①, and Kikukawa and Kawamata in the periods in ② and ③, bore the duty of compliance with laws and regulations for preparing and submitting securities reports, etc. that were true, and this means the other Directors bore the duty of oversight and supervision Kikukawa and Kawamata. In other words, this is interpreted to mean that at Olympus, the preparation and submission themselves of the securities reports, etc., was not placed on the agenda for Board of Directors meeting, etc., but the other Directors bore the duty of oversight and supervision in the event that “there were special circumstances such as knowing or being able to know” about fraudulent conduct by the Representative Director or executive directors and employees, etc.

(3) Regarding the liability of the four directors who were Participants or People Who Knew

As described in (2) above, given that of the four persons, Yamada, Mori, Kikukawa and Nakatsuka, who were Participants and People Who Knew, it was Kikukawa who was involved in the preparation and submission of the securities reports, etc., this means that Kikukawa bore the duty of compliance with laws and regulations, while Yamada, Mori and Nakatsuka bore the duty of oversight and supervision the directors who were involved in the preparation and submission of the securities reports, etc.

Then, as is described in detail under item 2 of Section III, it was found that of the directors in office after April 1, 2007, the four persons, Yamada, Mori, Kikukawa and Nakatsuka, were involved in the formulation of the Loss Separation Scheme or were aware of it and approved it. Given that these directors were involved in or were aware of the fact that the recognition of the huge losses on securities investments, derivative transactions, etc., was deferred by the Loss Separation Scheme, it is possible to conclude that they were naturally aware that misrepresentations were included in the contents of the securities reports, etc., which did not reflect this in the accounting. Therefore, of the four persons, Kikukawa was negligent in the duty to prepare and submit true securities reports, etc., himself, and Yamada, Mori and Nakatsuka were negligent in not undertaking a response such as convening a Board of Directors meeting so that securities reports, etc., containing misrepresentations would not be prepared or submitted, despite the fact that they should have done so, based on their duty of oversight and supervision in their capacity as directors.

Therefore, this is interpreted to mean that there were violations of the duty of compliance with laws and regulations or violations of the duty of oversight and supervision in their capacity as directors as concerns the misrepresentations in the securities reports, etc. starting from the fiscal year ending March 2007 (139th Term) for Yamada, Mori and Kikukawa, and that there were violations of the duty of compliance with laws and regulations or violations of the duty of oversight and supervision in their capacity as directors as concerns the misrepresentations in the Securities Report for the fiscal year ending March 2011 (submitted on June 29, 2011) and the 1st Quarterly Report of the fiscal year ending March 2012 (submitted on August 11, 2011) as concerns Nakatsuka, who assumed office as director in June 2011, respectively (since Yamada assumed office as Auditor in June 2011, the duty of the due care of a prudent manager in his capacity as Auditor will be examined for the misrepresentations in the securities reports, etc. of the fiscal year ending March 2007 (139th Term) and the 1st

Quarterly Report of the fiscal year ending March 2012).

(4) Regarding the liability of the directors other than the four persons who were Participants or People Who Knew

1) Regarding the Securities Reports that were prepared and submitted in the period in which the State of Loss Separation was maintained (however, the period until the settlement of the State of Loss Separation was started in February 2008) (the Securities Report for the fiscal year ending March 2007)

A. Concerning violations of the duty of oversight and supervision the directors other than the Participants and People Who Knew

Regarding the directors other than the Participants and People Who Knew (except for Kawamata), the violations of the duty of oversight and supervision concerning the misrepresentations (①, ② and ④ in (1) above) in the securities reports, etc. accompanying the maintenance of the State of Loss Separation becomes a problem.

Then, according to the investigations to date by this Committee as indicated in Section III and Section IV above, sufficient circumstances were not found to make the assessment that the directors other than the Participants and People Who Knew were aware or could have been aware that acts of loss separation or maintenance of the State of Loss Separation was being done. This being the case, these directors were not aware or could not have become aware of the misrepresentations in the securities reports, etc., and no violation of the duty of oversight and supervision is found as concerns the misrepresentations (①, ② and ④ in (1) above) in the securities reports, etc. accompanying the fact that the State of Loss Separation was maintained without being corrected.

B. Whether or not there were violations of the duty to develop internal controls by the directors other than the Participants and People Who Knew

As indicated in Section IV above, in the period when the State of Loss Separation, which was the cause of the misrepresentations in the securities reports, etc., was maintained without being corrected, it is possible to make the assessment that a “reasonable risk management system” had been constructed, and no special circumstances that might cause one to suspect that there were any problems at all in that risk management system were discovered. Therefore, violations of the duty to develop internal controls by the directors other than the Participants and People Who Knew in their capacity as directors are not found.

2) Concerning the Securities Reports that were prepared and submitted in the period in which the maintenance of the State of Loss Separation was carried out (starting from February 2008) (the Securities Report starting from the fiscal year ending March 2008)

A. Concerning violations of the duty of oversight and supervision of the directors other than the Participants and People Who Knew

At this point in time as well, the misrepresentations (①, ② and ④ in (1) above) in the securities reports, etc. accompanying the fact that the State of Loss Separation was maintained without being corrected are still found, but as has already been noted, no circumstances sufficient to make the assessment that the directors other than the Participants and People Who Knew were aware or could have become aware that acts of loss separation or conduct of maintenance of the State of Loss Separation was being done can be found, and this point is the same in the period after the start of the settlement of the loss separation as well, so no violation of the duty of oversight and supervision is found as concerns the misrepresentations (①, ② and ④ in (1) above) in the securities reports, etc. in conjunction with the fact that the State of Loss Separation was maintained without being corrected.

However, as indicated in Section 5 and Section 6, violations of the duty of the due care of a prudent manager are found for those Directors who approved at the Board of Directors meetings the Warrant Purchase Rights and the purchase of Preferred Shares that were granted as the acquisition payment for the shares of the Three Domestic Companies as well as the FA fee for the acquisition of Gyrus, and since this is interpreted to mean that those Directors for whom these violations of the duty of the due care of a prudent manager are found could have been aware that the acquisition payment for the shares of the Three Domestic Companies or the FA fee for the acquisition of Gyrus were excessive, the question of whether or not it is possible to conclude that they could have been aware of the misrepresentations in the securities reports, etc. as well as a result of that awareness becomes a problem.

Accordingly, first of all, the question of what significance the fact itself has, that the acquisition payment for the shares of the Three Domestic Companies or the FA fee for the acquisition of Gyrus was excessive, in relation with the misrepresentations in the securities reports, etc. becomes a problem. The reason why the securities reports, etc. were revised recently is that since the acquisition payment for the shares of the Three Domestic Companies and the FA fee for the acquisition of Gyrus were discovered to have been used to settle unrealized losses, the unrealized losses of financial assets were recognized retroactively to the fiscal year ending March 2007, and in addition the goodwill for the acquisition payment for the shares of the Three Domestic Companies and the FA fee for the acquisition of Gyrus were cancelled retroactively, and the fact that the acquisition payment for the shares of the Three Domestic Companies and the FA fee for the acquisition of Gyrus were excessive was not by itself the reason. In other words, the reason why the recognition of goodwill for the acquisition payment for the shares of the Three Domestic Companies or the FA fee for the acquisition of Gyrus was unacceptable was due to the fact that they did not possess the essence of a share purchase payment or FA fee, for the reason that they were used only for the settlement of unrealized losses. Therefore, this is taken to mean that it is insufficient to state simply that the acquisition payment for the shares of the Three Domestic Companies or the FA fee for the acquisition of Gyrus was high in order to conclude that someone could have known that the contents of the securities reports, etc. were false based on the fact that the recognition of goodwill was unacceptable, but that an accounting treatment that differs from the accounting treatment that was actually taken based on the fact that the recognition of goodwill is unacceptable, etc. is needed, and that it needs to be found that they could have known that the contents of the securities reports, etc. were false.

To review this point, goodwill was posted and impairment loss recognized in the fiscal year ending March 2009 for the acquisition payment for the shares of the Three Domestic Companies and the FA fee for the acquisition of Gyrus, respectively, and the accounting auditors expressed an unqualified opinion for the financial statements in which said treatment was done. It can’t be helped that the directors, who had no professional knowledge of accounting, trusted that the accounting treatment had been done properly, given the fact that the accounting auditors had accepted the accounting treatment for the acquisition payment for the shares of the Three Domestic Companies and the acquisition of Gyrus conducted by Olympus.

Therefore, it is not possible to make an assessment that the directors for whom violations of the duty of the due care of a prudent manager are found in connection with the acquisition payment for the shares of the Three Domestic Companies and the FA fee for the acquisition of Gyrus, among those directors other than the

Participants and People Who Knew, could have known that the contents of the Securities Reports were false, and it is not found that there is a violation of the duty of oversight and supervision.

B. Concerning Kawamata

Kawamata, as Head of the Accounting Department, at the time from the end of 2008 to spring of 2009, actually received notice from KPMG AZSA LLC that the FA fee for the acquisition of Gyrus was excessive. Specifically,

① Around April 2009, Kawamata was told by KPMG AZSA LLC that KPMG, which was in charge of auditing Olympus Corporation of the Americas (OCA), had questioned the recording of the FA fee for Gyrus as goodwill, and that if KPMG did not issue a clean opinion, KPMG AZSA LLC likewise would probably not be able to issue an unqualified clean opinion.

② In addition to KPMG AZSA LLC indicating to Kawamata that the FA fee was high even just for the warrant purchase price of approximately 5 billion Yen (50 million dollars), and also on May 29, 2009, after the 2009 Committee's Report had been submitted, KPMG AZSA LLC indicated to Kawamata, "A fee of more than 60 billion is not socially acceptable, and problematical."

③ In the fiscal year ended March 2009, after being questioned by the auditing firm, Olympus determined that the portion (approximately 15.5 billion Yen) of the FA fee for the Gyrus acquisition, which was paid by the end of that fiscal year and exceeded 5% of the purchase amount, was actually not an FA fee and accounted for it as an impairment loss (recorded as losses from prior-term adjustments).

Therefore, at the Board of Directors meeting for approval of financial statements on which the annual securities report is based, Kawamata at least should have explained that items ① through ③ above had been indicated by KPMG AZSA LLC and asked other directors to use caution in deciding (i.e., to not record goodwill for the Preferred Shares), but he failed to give sufficient consideration on this point.

Meanwhile, Ernst & Young ShinNihon LLC, which had become the accounting auditor for Olympus in June 2010, confirmed the content of the document dated April 23, 2009, from KPMG AZSA LLC to the Olympus Board of Auditors entitled, "Matters Thought to be Particularly Important in Relation to the Execution of Auditor Duties," as well as the 2009 Committee's Report made by outside attorneys and others, came to understand the view and concerns that KPMG AZSA LLC had over the FA fee for Gyrus, and naturally recognized that Olympus, after being told by KPMG AZSA LLC, recorded the portion (approximately 15.5 billion Yen) of the FA fee for the Gyrus acquisition that exceeded 5% of the purchase amount as an impairment loss. In addition, Ernst & Young ShinNihon LLC allowed Olympus to record the acquisition price of the Gyrus Preferred Shares as "goodwill."

Thus, while various problems can be pointed out regarding Kawamata, given that the accounting auditor, an accounting expert, allowed the acquisition of Preferred Shares to be recorded as goodwill having fully understood the situation during that span, a violation of the duty of due care of a prudent manager cannot be found for having passed the judgment that said accounting treatment was allowed.

Therefore, Kawamata also could not have found out that this would constitute a misrepresentation in securities reports etc., so a violation of the duty of due care of a prudent manager cannot be found.

3. Regarding Criminal Liability

Those who submitted securities reports and quarterly reports containing misrepresentations about material information are subject to criminal charges (hereinafter referred to as “charge of submitting falsified securities reports, etc.”) under the provisions of the Financial Instruments and Exchange Act as follows:

① Article 197, Paragraph 1, Clause 1 of the Financial Instruments and Exchange Act, regarding securities reports (prior to September 30, 2007, the effective date of said Act, Article 197, Paragraph 1, Clause 1 of the Securities and Exchange Law)

② Article 197, Paragraph 2, Clause 6 of the Financial Instruments and Exchange Act, regarding quarterly reports

In the charge of submitting falsified securities reports, etc., “persons who submitted” include those involved in preparing documents containing misrepresentations under the assumption that they would be submitted, meaning not only in the process of preparing said documents in the accounting division, but also in the process of approval by the Board of Directors (Ryuichi Hirano et al, “Laws Concerning Special Crimes Annotated, Supplement (2),” p. 68), as well as directors and others who approved the financial statements that are part of the securities reports, etc. at meetings of the Board of Directors.

In addition, the charge of submitting falsified securities reports, etc. is an intentional crime, so an awareness is necessary that there are misrepresentations regarding material information in the securities reports and quarterly reports.

Furthermore, “material information” in securities reports, etc. is understood as fundamental information that may have an impact on the investment decisions of investors.

If Kikukawa, Yamada, Mori, and Nakatsuka satisfy these requirements, the charge of submitting falsified securities reports, etc. may be substantiated.

IX. Whether or Not There Were Violations of the duty of due care of a prudent manager in relation to dividend distributions of surplus money etc. that were implemented after April 1, 2007

1. Facts that are the Premise for Determining Liability

(1) The true and correct distributable amounts from the fiscal year ended March 2007 to the fiscal year ended March 2011

Since April 1, 2007, Olympus has paid dividend distributions of surplus money based on distributable amounts derived from accounting treatment that was premised on loss deferral. However, with the discovery of the circumstances described in detail in Section 8 - 1, on December 14, 2011, Olympus submitted revised securities reports for the fiscal years ended March 2007 (139th Term) through March 2011 (143rd Term) to the Kanto Regional Finance Bureau and also amended the non-consolidated balance sheets included in the securities reports. As a result of this, according to the non-consolidated balance sheets prior to amendment, dividend distributions of surplus money were paid within the distributable amounts calculated pursuant to the provisions of the Companies Act, but the distributable amounts for each fiscal year, computed based on Olympus' amended non-consolidated balance sheets, are all negative amounts as shown in Attachment ③.

Therefore, we find that the dividend distributions of surplus money in Attachment ④, which were paid by Olympus as year-end dividends and interim dividends on or after April 1, 2007, as well as the acquisition of treasury stock in Attachment ⑤ pursuant to the Articles of Incorporation, exceeded the distributable amounts in all cases.

(2) Regarding procedures in the delivery of money, etc. in the dividend distributions of surplus money

Like other companies, year-end dividends and interim dividends at Olympus are delivered, in accordance with the investor's choice, by means of either ① a dividend receipt being sent by postal mail to the shareholders who chose the method of receiving dividends by dividend receipt, and the entire amount of the dividend payments to these shareholders being deposited in advance with the post office, where shareholders receive payment of the respective dividend amount by submitting the dividend receipt received to the post office; or ② wire transfer of the dividend to an account in a financial institution designated by the shareholder. In addition, the person in charge in the General Affairs Department, which is responsible for share administration at Olympus, asks Chuo Mitsui Trust and Banking Co., Ltd., the shareholders registrar for Olympus, to send dividend receipts to shareholders in method ①, and the Finance Department, which is responsible for cash management, deposits the entire dividend amount at the post office under method ①. Wire transfers to accounts in financial institutions designated by shareholders under method ② flow from Olympus → Sumitomo Mitsui Banking Corporation and multiple other remitting banks → shareholder accounts in financial institutions designated by shareholders (hereinafter referred to as "Designated Bank"). Specifically, the person in charge in the General Affairs Department instructs Chuo Mitsui Trust and Banking Co., Ltd. which remitting bank will transfer money to which Designated Bank, and for each remitting bank, Chuo Mitsui Trust and Banking Co., Ltd. digitizes data on the shareholder's designated account in the Designated Bank that is to receive the transfer and the wire transfer amount, transfers the money to the respective remitting bank via the Japanese Bankers Association. Along with this, the person in charge in the Treasury Department, which is responsible for cash management, prepares a check for the total amount of the transfer from the remitting bank to the designated account of the shareholder in the respective Designated Bank, and delivers this to the remitting bank, thereby affecting payment of the entire amount of the dividend under method ②.

(3) Procedures in the delivery of money, etc. in the acquisitions of treasury stock

Olympus, when acquiring treasury stock on the open market, signs a treasury stock specified fund trust agreement with Mitsubishi UFJ Trust and Banking Corporation and transfers money for the acquisition of treasury stock to said trust bank in accordance with the provisions of Article 3, Paragraph 2 of said agreement, and payment to the securities firm is made from there. Transfers of money to accounts in the name of Olympus at said trust bank are made by the person in charge in the Treasury Department, which is responsible for cash management.

Based on the above, the liability of directors will be considered in relation to Olympus' dividend distributions of surplus money and acquisitions of treasury stock exceeding the distributable amounts on or after April 1, 2007.

2. Regarding the application of laws

Given that the Companies Act took effect on May 1, 2006, the problem is whether the Commercial Code or the Companies Act will be applied with regard to the liability of directors in relation to dividend distributions of surplus money paid based on the balance sheet for the fiscal year ended March 2007, including the period from April 1, 2006 to May 1, 2006, which was before the Companies Act took effect. Regarding this point, Article 100 of the Act on Arrangement of Relevant Acts Incidental to Enforcement of the Companies Act states, "Dividend distributions of surplus money for periods prior to the directly preceding fiscal term shall be subject to the provisions then in force," and "immediately preceding fiscal term" is defined in Article 99 of said Law as the "final fiscal term before the effective date" (of the Companies Act). Therefore, at Olympus, the immediately preceding fiscal term would be the fiscal year ended March 2006, so only dividends for fiscal terms prior to said fiscal term and the liability relating thereto would be "subject to the provisions then in force," but subsequent dividends and the liability relating thereto would be subject to the provisions of the Companies Act.

Accordingly. director liability for dividend distributions of surplus money paid by Olympus on or after April 1, 2007 will be determined in accordance with the provisions of the Companies Act.

3. Those who are liable concerning the illegal dividend distributions of surplus money and acquisitions of treasury stock

(1) Regarding liability based on Article 462, Paragraph 1 of the Companies Act

The Companies Act stipulates that if dividend distributions of surplus money exceed the distributable amounts, the persons who perform duties relating to dividend distributions of surplus money will jointly be obligated to pay the full amount of the money delivered (Article 462, Paragraph 1 of the Companies Act), and the following is stipulated for directors who are responsible for dividend distributions of surplus money and acquisitions of treasury stock.

1) Directors responsible for dividend distributions of surplus money

Pursuant to Article 462, Paragraph 1, Note 1 and Item 6 of the Companies Act, and Article 159 and Article 160 of the Companies Act Enforcement Regulations, if the dividend distributions of surplus money exceed the distributable amounts, the directors who are designated as those obligated to pay the full amount of the money delivered are the following directors.

a. Executive directors who performed duties relating to dividend distributions of surplus money

b. Directors who performed duties relating to the delivery of money, etc.

c. Directors who explained items concerning dividend distributions of surplus money, etc. at general meeting[s] of shareholders

d. Directors who made report[s] to auditors and accounting auditors regarding calculation of distributable amount[s]

e. Directors who proposed resolution[s] regarding dividend distributions of surplus money at general meeting[s] of shareholders

f. Directors who agreed to Board of Directors resolution[s] regarding decisions on proposals submitted to general meeting[s] of shareholders concerning dividend distributions of surplus money

Directors to whom items “a” through “f” above apply in relation to dividend distributions of surplus money made by Olympus on or after April 1, 2007, are as shown in Attachment ④, respectively.

Incidentally, with the exception of the year-end dividend paid in June 2011, in every case, the directors to whom items “a” through “e” above apply are among the directors to whom item “f” above applies, but Woodford, who was the representative director, and Nakatsuka, who was the Head of the Corporate Center (in charge of general affairs) as of the effective date of the year-end dividend paid in June 2011, both were elected as directors at the general meeting of shareholders held on June 29, 2011, where the resolution on said year-end dividend was made, and did not participate in the Board of Directors resolution on submitting said year-end dividend for resolution to the general meeting of shareholders (item “f” above does not apply), so the question is whether or not items “a” and “b” above apply.

① About Woodford (whether “executive director” is applicable)

Considering the delegation of duties determined by the Olympus Board of Directors, no directors were delegated duties relating to dividend distributions of surplus money, which means that the president managed operations concerning dividend distributions of surplus money. As of the effective date for the year-end dividend paid in June 2011, Woodford had assumed the position of representative director, which means that he was the executive director who performed duties relating to dividend distributions of surplus money as stated in “a” above.

② About Nakatsuka (whether “directors who performed duties relating to the delivery of money, etc.” is applicable)

In light of the procedures relating to dividend distributions of surplus money as described above, “directors who performed duties relating to the delivery of money, etc.” in “b” above is understood at Olympus to mean directors in charge of the Finance Department or Administration Department.

As of the effective date of the year-end dividend paid in June 2011, Nakatsuka as Head of the Corporate Center was the director in charge of the Administration Department, which means that he was a “director who performed duties relating to the delivery of money, etc.” with regard to said dividend distribution of surplus money.

2) Liability for acquisition of treasury stock pursuant to provisions of the Articles of Incorporation

According to Article 462, Note 1 and Item 1 of the Companies Act and Articles 159 and 161 of the Companies Act Calculation Rules, if an acquisition of treasury stock is made beyond the distributable amount, the directors responsible for paying the full amount of the money delivered are as follows:

a. Executive directors who performed duties relating to acquisition of treasury stock

b. Directors who performed duties relating to the delivery of money, etc.

c. Directors who agreed to Board of Directors resolution[s] concerning acquisitions of treasury stock

d. Directors who made reports to auditors and accounting auditors regarding calculation of distributable amount[s]

e. Directors who made proposal[s] to the Board of Directors in “c” above

The directors to whom the above-noted “a” through “e” apply with respect to acquisitions of treasury stock made pursuant to the Articles of Incorporation since April 1, 2007, are shown in Attachment ⑤.

(2) Regarding liability based on Article 423, Paragraph 1 (violation of the duty of due care of a prudent manager) of the Companies Act

In section (1) above, even in the case of directors who are not executive directors as set forth in Article 462 of the Companies Act (notably directors who were absent from the Board of Directors meetings concerning dividend distributions of surplus money), if acknowledged as having violated the duty of due care of a prudent manager with respect to dividend distributions of surplus money and acquisitions of treasury stock under the Articles of Incorporation exceeding the distributable amount, they will be obligated to compensate for damages arising as a result.

4. Regarding the meaning of “that they did not fail to exercise due care with respect to the performance of their duties” and whether or not this applies to each director

(1) The meaning of “that they did not fail to exercise due care with respect to the performance of their duties”

If dividend distributions of surplus money are made or treasury stock is acquired under the Articles of Incorporation in excess of the distributable amount, even for those to whom the above-noted Article 462, Paragraph 1 of the Companies Act or the provisions of the Companies Act Calculation Rules apply, there is no obligation to pay pursuant to the Notes of Article 462 of the Companies Act (Article 462, Paragraph 2 of the Companies Act), if it is proven “that they did not fail to exercise due care with respect to the performance of their duties.” Therefore, it becomes a problem what specific facts need to be proven in order to be able to say that a director “did not fail to exercise due care with respect to the performance of their duties.”

Regarding this point, given today’s advanced and specialized corporate accounting, if judgments and reports by directors in charge of accounting and finance, and especially at a company with accounting auditors such as Olympus, unqualified clean opinions have been issued by the accounting auditor regarding financial statements prepared by the company, then it is permissible to basically trust such judgments, and if the situation is such that these judgments and reports by those in charge of accounting and finance and the clean opinion of the accounting auditor were trusted, then in general it can be construed that a director "did not fail to exercise due care."

However, this should not be the case if circumstances are found such that said directors knew or could have known that the balance sheets used to calculate distributable amounts were erroneous or about facts that may have caused suspicion about their legitimacy.

In view of the above, with respect to dividend distributions of surplus money and acquisitions of treasury stock under the Articles of Incorporation since April 1, 2007, we will examine whether or not it is possible to say that "they did not fail to exercise due care with respect to the performance of their duties" by those to whom the above-noted Article 462, Paragraph 1 of the Companies Act or the provisions of the Companies Act Calculation Rules apply.

(2) The four directors who were Participants or People Who Knew

As described in detail in Section III-2, four directors who served on or after the date (May 8, 2007) of the Board of Directors resolution for submitting a proposal to the general meeting of shareholders in relation to the year-end dividend paid in June 2007, namely, Yamada, Mori, Kikukawa, and Nakatsuka, are acknowledged as having been involved in or known about the formulation and maintenance of the Loss Separation Scheme. These directors were involved in or knew about the deferment of posting large losses relating to securities investments, derivative transactions, and so forth by means of the Loss Separation Scheme, so naturally if accounting procedures had been performed correctly, they would have known that distributable amounts may not have existed at the time of the dividend distributions of surplus and acquisitions of treasury stock made on or after April 1, 2007; therefore, it is not possible to say that they "did not fail to exercise due care with respect to the performance of their duties."

Regarding Nakatsuka, as someone who "performed duties relating to the delivery of money in dividend distributions of surplus money" in relation to the year-end dividend paid in June 2011, the issue is liability under Article 462, Paragraph 1 of the Companies Act. In terms of actually delivering the dividend, the in-company procedures for paying the dividend had already been completed before Nakatsuka became a director, and immediately after becoming a director, in fact, he would not have been able to stop the dividend distribution of surplus money, so the question is whether or not we can say that he "they did not fail to exercise due care with respect to the performance of their duties." However, immediately after the general meeting of shareholders, it would have been entirely possible to ask Chuo Mitsui Trust and Banking Corporation, the shareholder registrar, to stop sending dividend receipts to shareholders. Even for transfers of dividends to accounts at financial institutions designated by shareholders, given that these are made the day following a general meeting of shareholders, procedures for transferring, etc. funds to financial institutions are already underway, and stopping the transfer of dividends would require clerical work for reimbursement by the financial institutions, which undeniably is procedurally bothersome, but not impossible. Furthermore, Article 462, Paragraph 1 of the Companies Act is understood as addressing liability arising from negligence, but no cause and effect relationship is required between the directors' violation of duty of due care and violation of financial resource rules (i.e., even if a director does not neglect his/her duty of due care, if a dividend distribution of surplus money is paid exceeding the distributable amount, the obligation to pay is not waived.) (Shigeru Morimoto and Masao Yanaga, *Companies Act Commentary, Volume 11*, p. 206) From this point as well, the question of whether or not dividend distributions of surplus money could have been stopped in the end does not affect the conclusion of whether or not duties were neglected.

Accordingly, after Nakatsuka became a director, since he did not try to stop the procedure for delivering money in relation to the dividend distribution of surplus money made in June 2011, it cannot be said of him that he "did not fail to exercise due care with respect to the performance of their duties."

(3) Regarding the directors other than the four who were Participants or People Who Knew

The directors other than the four who were Participants in or People Who Knew about the Loss Separation Scheme had no knowledge of the Loss Separation Scheme. Therefore, for these directors, the question is whether or not they could have known facts that would cast doubt over the legitimacy of the balance sheets used to calculate distributable amounts.

On this point, the Warrant Purchase Rights and Preferred Shares purchase money paid as an FA fee for the acquisition of the Three Domestic Companies and the purchase of Gyrus was excessive, and for directors regarded as having violated their duty of due care of a prudent manager with respect to the fact that they approved a resolution for the acquisition of shares of the Three Domestic Companies and for the purchase of Gyrus, the question is whether it can be said that they "did not fail to exercise due care with respect to the performance of their duties" if they later agreed with the resolution to distribute dividends of surplus money and acquire treasury stock exceeding the distributable amounts.

However, with regard to this point, as already explained in Section VIII, just because they could have known that the FA fee for the acquisition of the Three Domestic Companies and the purchase of Gyrus was excessive, in principle, this does not necessarily mean they could have known that there were misstatements in the balance sheets included in the securities reports, so we cannot say it is impossible to assess that they "did not fail to exercise due care with respect to the performance of their duties."

Nonetheless, Kawamata, from the end of 2008 through the spring of 2009, as Head of the Accounting Department, actually was specifically informed by KPMG AZSA LLC that the FA fee for the Gyrus purchase was excessive, so at least he could have known that the balance sheets included in the securities reports since the fiscal year ended March 2009 were not correct, so for the dividend distributions of surplus money since June 2009, the problem is that we really cannot say that he “did not fail to exercise due care with respect to the performance of their duties.” However, even regarding this point, as described in Section 8-2 (4) 2) b above, although various problems in his decision process can be cited regarding Kawamata, we cannot say that he could have known that there were misstatements in the balance sheets included in securities reports since March 2009, so we also are not unable to say that he “did not fail to exercise due care with respect to the performance of their duties.”

Accordingly, the directors other than Participants and People Who Knew can be regarded as “did not fail to exercise due care with respect to the performance of their duties.”

5. Regarding violations of the duty of due care of a prudent manager as stipulated in Article 423, Paragraph 1 of the Companies Act

As already stated, even in the case of directors who are not directors as set forth in Article 462 of the Companies Act (notably directors who were absent from the Board of Directors meetings concerning dividend distributions of surplus money), if acknowledged as having violated the duty of due care of a prudent manager with respect to dividend distributions of surplus money and acquisitions of treasury stock under the Articles of Incorporation exceeding the distributable amounts, they will be obligated to compensate for damages arising as a result.

Directors who do not fit the description of directors under Article 462 of the Companies Act are the directors listed under “Directors Other than Those Noted Above” in Attachments ④ and ⑤, but none of these directors participated in or knew about the Loss Separation Scheme, they basically trusted the judgment of the accounting auditor who gave an unqualified clean opinion about the financial statements prepared by the Company.

Accordingly, these directors cannot be regarded as having violated their duty of due care of a prudent manager for the dividend distributions of surplus money and acquisitions of treasury stock exceeding distributable amounts.

6. Criminal liability (regarding whether or not the criminal charges of acquiring treasury stock and the criminal charge of making illegal dividend distributions were established (Article 963, Paragraph 5, Items 1 and 2 of the Companies Act))

A director is subject to criminal punishment when he or she makes dividend distributions of surplus money in violation of the provisions of laws and regulations or the Articles of Incorporation, and when he or she, under any name, unlawfully acquires shares of a stock company on the account of such stock company (Article 963, Paragraph 5, Items 1 and 2 of the Companies Act).

These charges are intentional crimes, and in order for the charges to be substantiated, in addition to being a director, there needs to be an awareness and approval of the fact that the dividend distribution of surplus money violates the provisions of laws and regulations or the Articles of Incorporation or that the acquisition of treasury stock on the company’s account was unlawful, and that specifically these acts were conducted in excess of the distributable amounts provided in laws and regulations.

Therefore, not restricted to the above-noted four persons, but if the directors in whom willful intent was found regarding the absence of distributable amounts were also involved in the dividend distributions of surplus money and acquisitions of treasury stock by participating in the Board of Directors resolutions on dividend distributions of surplus money and acquisitions of treasury stock made since April 1, 2007, then the stock acquisition charges and the illegal dividend charges may be substantiated.

X. Violations of the duty of due care of a prudent manager on the part of the directors and damages

1. Basic approach to damages

Facts concerning the execution/maintenance of the Loss Separation Scheme and their settlement, and whether or not directors violated the duty of due care of a prudent manager in that regard are explained in the foregoing, but the following explains our basic approach to damages, which are in a substantial cause-effect relationship with the violation of the duty of care of a prudent manager.[10]

(1) Facts that serve as the premise in damages

① Around 1998, financial assets held by Olympus had incurred unrealized losses of approximately 95 billion yen.

Upon learning that accounting standards would be changed from the fiscal year ending March 2001, financial asset holdings that had incurred unrealized losses were assigned to Receiver Funds (CFC, QP) at book value and were continued to be held by the Receiver Funds.

② When the financial asset holdings incurring unrealized losses were assigned at book value from Olympus to the Receiver Funds, Olympus-owned deposits, government bonds, and other assets were pledged as third party collateral in order to borrow money from banks (through multiple Pass-Through Funds), which was injected into the Receiver Funds. After doing this and injecting capital that Olympus had invested in the exposed funds (LGT-GIM, SGBond, GCNVV) into the Receiver Funds, the injected money was made to flow back to Olympus as a book value assignment of financial asset holdings. (By doing this, deposits and other assets pledged as third party collateral and investments in the exposed funds would remain at Olympus.)

③ As described in ① and ② above, financial asset holdings incurring unrealized losses were assigned at book value to the Receiver Funds where they were continued to be held, and thus, as described in ② above, deposits, government bonds, and other assets that Olympus held were pledged as third party collateral in order to borrow money from banks (through multiple Pass-Through Funds), which was injected into the Receiver Funds, and investments by Olympus in the exposed funds were injected into the Receiver Funds, thereby maintaining the State of Loss Separation. During this time,

a. Interest and fund management fees were paid to banks and the managers of the exposed funds, Pass-Through Funds.

b. Money remaining in the Pass-Through Funds and not injected into the Receiver Funds was invested, which led to new losses (primarily acquisition of ITX shares by ITV).

④ In order to settle the condition in which the State of Loss Separation was maintained as in ③

[10] Calculation of damages is based on the thinking and figures underlying the revised securities reports, etc. dated December 14, 2011, and December 26, 2011, which Olympus submitted to the Kanto Regional Finance Bureau. Therefore, when calculating damages, in principle, payments made since April 2001 are considered.

above, of the money used to acquire the stock of the Three Domestic Companies and the FA fee on the Gyrus acquisition, Olympus injected the Warrant Purchase Rights and preferred share purchase money into the Receiver Funds via a Pass-Through Fund. Using the injected money, loans by the Receiver Funds from financial institutions were repaid, the third party security pledge on Olympus' deposits, government bonds, and other assets was cancelled, and the money invested by Olympus in the exposed funds, etc. was returned.

⑤ In settling the State of Loss Separation in ④ above, fees were paid to collaborators (persons in charge at banks and managers of Pass-Through Funds) in the loss separation and its settlement.

(2) Regarding the damages that were incurred at Olympus

1) Damages from maintaining the State of Loss Separation

a. As stated in (1) above, in order to procure funds for the purchase of Olympus' financial asset holdings incurring unrealized losses to the Receiver Funds at book value, Olympus invested in the exposed funds, and the Receiver Funds borrowed money from financial institutions, but incurred the following expenses as a result.

(i) As stated in (1)③a above, interest paid to banks (hereinafter referred to as "the Interest")

(ii) As stated in (1) ③a above, fund management fees, management fees, completion fees, and termination fees (hereinafter referred to as "the Fund Management Fees") paid to fund managers

(iii) As stated in (1) ③b above, new investment management losses (hereinafter referred to as "the Management Losses")

If the State of Loss Separation had been suspended, subsequent payments of the Interest, the Fund Management Fees, and so forth would not have been made, and the new investments in (1) ③ above would not have been made, so an amount of money equivalent to the Interest and the Fund Management Fees and money invested in new investments would have returned in the end to Olympus from the Pass-Through Funds or the exposed funds, and the Investment Losses would not have been incurred.

Accordingly, damages from maintaining the State of Loss Separation are the total of the above-noted Interest, Fund Management Fees, and Investment Losses, and the following is a description of their specific content and amounts.

b. The Interest ((i) above)

In order to maintain the State of Loss Separation along with funding the purchase of Olympus' financial asset holdings incurring unrealized losses to the Receiver Funds at book value, the Receiver Funds and pass-through funds borrowed money from financial institutions such as LGT Bank and Commerzbank (secured by a third party collateral pledge on deposits, government bonds, etc. from Olympus), and paid interest on them. Interest payment amounts to each financial institution for each year since April 2001 identified to date are shown in Attachment ⑥.

c. The Fund Management Fees ((ii) above))

(i) LGT fund management fees

In order to fund the purchase of Olympus' financial asset holdings incurring unrealized losses to the Receiver Funds at book value, Olympus and its wholly-owned subsidiary OAM purchased (the purchase amounts were 15 billion Yen for Olympus and 20.3 billion Yen for OAM) investment equity in LGT PS Investable Markets-0 (hereinafter referred to as "LGT-GIM Fund"), which LGT manages and established in January 2000.

As a result, Olympus and OAM paid fund management fees (hereinafter referred to as "LGT Fund Management Fees") of 1.61% of the investment amount per year to said fund manager LGT Capital Management. The LGT Fund Management Fees paid to LGT Capital Management each year since April 2001 identified to date are as shown in Attachment ⑦.

(ii) SG fund management fees

In order to maintain the State of Loss Separation formulated by the Receiver Funds purchasing at book value Olympus' financial asset holdings incurring unrealized losses, in February 2005, Olympus invested 60 billion Yen in the SG Bond Plus Fund, a fund for investment purposes established by Chan.

As a result, Olympus paid fund management fees (hereinafter referred to as "SG Fund Management Fees") of 0.2% of the investment amount per year to fund investment manager Strategic Growth Asset Management. The SB Fund Management Fees paid to Strategic Growth Asset Management each year since April 2005 identified to date are as shown in Attachment ⑦.

(iii) NEO fund management fees

In order to maintain the State of Loss Separation formulated by the Receiver Funds purchasing at book value Olympus' financial asset holdings incurring unrealized losses, fund management fees (management fees) were paid by NEO asset holdings to GCI Cayman, a general partner of NEO, a Pass-Through Fund. The fund management fees paid to GCI Cayman each year since April 2001 identified to date are as shown in Attachment ⑦.

(iv) Loss separation portion of GCNVV management fees, etc.

Olympus established GCNVV, a business investment fund, on March 1, 2000 (with an investment of 30 billion Yen by Olympus and 5 billion Yen by GV).

Based on this, the following fees, respectively, were paid to general partner GCI Cayman.

① 525 million Yen as an initial management fee

② 0.25% of the net asset value on record dates four times per year as a management fee

③ 1,124,780,000 Yen as a completion fee upon liquidation of GCNVV, and 537,270,010 Yen as a midterm termination fee

The objective of establishing GCNVV was primarily for loss separation and its maintenance, but it is acknowledged that incidental objectives such as founding new businesses also existed. Therefore, the portion of fees paid to GCI Cayman that is related to the management of money used by GCNVV for the purpose of loss separation and its maintenance is recognized as damages from the loss separation and maintenance. It is not very easy to accurately determine the percentage, but during almost the entire time from immediately after GCNVV was established until it was liquidated, at least approximately 24 billion Yen of the 35 billion Yen invested in GCNVV was transferred to the receiver fund QP, so we think that a percentage of at least 24/35 of the fees paid for GCNVV's maintenance, etc. was used for the purpose of maintaining the loss separation. Therefore, an amount (hereinafter referred to as "Loss Separation Portion of GCNVV Management Fees") equivalent to 24/35 of the management fees, completion fees, and midterm termination fees paid to GCI Cayman from April 2001 until August 2007 when GCNVV was liquidated is recognized as damages from loss separation and its maintenance. Specific amounts of GCNVV management fees, completion fees, and midterm termination fees recognized as damages for each year since April 2001 identified to date are as shown in Attachment ⑦.

d. The Management Losses ((iii) above)

In order for the Receiver Funds to purchase at book value Olympus' financial asset holdings incurring unrealized losses, money was borrowed (through multiple Pass-Through Funds) from banks by pledging Olympus-held deposits, government bonds, and other assets as third party collateral and injected into the Receiver Funds, or investments that Olympus made in the exposed funds were injected into the Receiver Funds, but considering the expenses in "b" and "c" above, those loans from financial institutions and investments by Olympus in the exposed funds were made in amounts larger than necessary in order for the Receiver Funds to purchase financial asset holdings from Olympus at book value. The Receiver Funds or Pass-Through Funds incurred additional losses as a result of new investments using such surplus money, primarily investments in ITX stock by the Pass-Through Fund ITV. Specifically, ITV acquired 9,323 shares of ITX stock by investing 10 billion Yen in March 2000 (which later became 18,646 shares due to a stock split in September 2001), but thereafter, in March and September 2005 and in March 2006, these were assigned to Olympus (some to OFH, a wholly-owned subsidiary of Olympus). The acquisition price for said ITX stock was 10 billion Yen, but thereafter, the ITX stock price fell, and ITX became an unlisted company through a TOB by Olympus in 2010, but the stock price of ITX before the TOB announcement by Olympus was roughly 45,000 Yen per share, so the valuation amount of 18,646 shares was approximately 839.07 million Yen. This results in a difference of approximately 9.16093 billion Yen from the acquisition price of 10 billion Yen, which means that this much value was not returned to Olympus.

2) Damages from the execution of the Loss Separation Settlement Scheme

a. In order to resolve the state in which financial asset holdings were separated from Olympus, based on the Board of Directors resolution of November 19, 2007, Olympus granted Warrant Purchase Rights and stock options as a portion of FA fees to AXES, the FA for the Gyrus acquisition. AXES transferred said Warrant Purchase Rights and stock options to AXAM, and AXAM received remittance[s] from Pass-Through Fund[s] for this and paid 2.544 billion Yen to AXES. AXAM received Warrant Purchase Rights and stock options from AXES for the purpose of settling the state of loss separation by means of Olympus purchasing said Warrant Purchase Rights and stock options at a high price from AXAM. Thus, if that settlement purpose had not existed, the 2.544 billion Yen paid by AXAM to AXES would have been returned to Olympus.

Accordingly, the 2.544 billion Yen can be regarded as damages incurred from the execution of the loss separation settlement scheme.

b. In addition, in order to resolve the state in which the financial asset holdings were separated from Olympus, of the 60.795 billion Yen paid to acquire stock of the Three Domestic Companies and the FA fee for the Gyrus acquisition, 670 million dollars was paid by Olympus to the Fund[s] to purchase Preferred Shares issued in place of Warrant Purchase Rights and stock options. At this point in time, money that really did not need to be paid flowed out from Olympus, so legally, damages equivalent to said payment amount can be understood as having been incurred by Olympus at that point in time. However, according to (1) above, much of the money that flowed out flowed back to the exposed funds via Pass-Through Funds and was returned to Olympus as a return of investment, so the damages were reversed at least for the returned amounts. It is not clear how much of the amount paid by Olympus was returned to Olympus, but with the settlement of the Fund[s], as stated below, money was paid as a fee by the Fund[s] to the persons in charge at banks and fund managers who cooperated in the loss separation and settlement in (1) above, so it is clear that at least this amount totaling 4,656,759,788 Yen was not returned to Olympus.

(i) 1,259,250,000 Yen paid to Gurdon Overseas S.A. in September 2008

Gurdon Overseas S.A. seems to be a fund involving Walch, from whom cooperation was received for funding in the LGT Bank route, and a payment of 1,259 million Yen was made by Neo in September 2008. Based on the resolution at the Board of Directors meeting held on February 22, 2008, when the LGT Route was settled by 31.9 billion Yen paid to Neo and 15.2 billion Yen remitted to Neo after paying ITV for the purchase of shares in the Three Domestic Companies on March 26, 2008, the above-noted 31.9 billion Yen paid to Neo was applied to the payment of that fee.

(ii) ¥950,000,000 paid to Nayland Overseas S.A. in December 2008

Likewise, 950 million Yen was paid from Teao to Nayland Overseas S.A., thought to be a fund in which Walch was involved, in conjunction with the settlement of the LGT Bank route. Based on the resolution at the Board of Directors meeting held on February 22, 2008, when the LGT Route was settled by means of Olympus paying 31.9 billion Yen to Neo and 15.2 billion Yen to ITV as payment for the purchase of shares in the Three Domestic Companies on March 26, 2008, and by means of OFH paying 9.6 billion Yen to DD and 4 billion yen to GT as payment for the purchase of the Three Domestic Companies on April 25, 2008, a portion of the above money transferred to the receiver fund TEAO in connection with the settlement is understood to have been applied to the payment of said fee.

(iii) 1,800,066,963 Yen paid to Nakagawa in April 2010

Nakagawa is a director of GPAI, a Pass-Through Fund, and by using the 620 million dollars paid to AXAM for the acquisition of Gyrus Preferred Shares that Olympus purchased from AXAM on March 25, 2010, based on a resolution made at the Board of Directors meeting held on March 19, 2010, the Singapore Route was settled (return of the SG Fund), and GPAI was settled; thus, since April 16, 2010 he received the cash balance remaining in said Fund, i.e. 11,481,524 dollars (1,080,066,963 Yen converted at 1 dollar = 94.07 Yen) as a fee.

The 620 million dollars that Olympus paid to AXAM for the purchase of the above-noted Preferred Shares was transferred by AXAM to GPAI.

(iv) 1,367,442,825 Yen paid to Chan in June 2010

Chan was a collaborator in the Singapore Route, and as in (iii) above, by using the money that Olympus paid to purchase Gyrus Preferred Shares from AXAM on March 25, 2010, the Singapore Route was settled (return of the SG Fund), at which time 1,367,442,825 Yen was paid to Chan as "professional fees" by Easterside, a Pass-Through Fund, in June 2010.

All or a portion of the 620 million dollars that Olympus paid to AXAM for the purchase of the above-noted Preferred Shares was transferred from AXAM to Easterside via Pass-Through Funds GPAI and CD.

At the same time, Olympus paid a total of 60.795 billion Yen in payment for shares of the Three Domestic Companies, and so it held shares in the Three Domestic Companies; so to calculate the losses suffered by Olympus, theoretically we must subtract the value of its shares in the Three Domestic Companies from this sum of 60.795 billion Yen. However, as already discussed in Section V-1 (9), to purchase these shares Olympus paid an extremely high price, compared with the shares already purchased by Neo and ITV (Altix 50,000 Yen per share, News Chef 20,000 Yen, Humalabo 50,000 Yen); it is speculated the company treated this difference in part as settlement of the separated losses and eliminated it; it is thought to be partly for this reason that the share price of the Three Domestic Companies is now so low. Also, in the process of acquiring these shares, in its financial reports for 2Q of the fiscal year ending March 2012 (submitted on December 14, 2012), Olympus reported the book value of these shares as zero (zero since time of acquisition). Consequently, in calculating the value of the losses, there is no particular need to consider the share value of the Three Domestic Companies.

In addition, Olympus paid funds to acquire Gyrus warrants and Preferred Shares, with which it was able to purchase these warrants and Preferred Shares. However, as described above, the company has acknowledged that these warrants and Preferred Shares do not exist as actual rights; if it is assumed that these items existed as actual rights, it is our understanding there is no reason why their value should be eliminated from any calculation of the value of losses.

Consequently, through the above measures for settlement of the separated losses, it is acknowledged that Olympus suffered losses totaling at least the above-named value of 4,656,759,788 Yen.

2 Damages based on the series of actions for loss deferral on the part of the Participants and People Who Knew

(1) Regarding Yamada

1) Damages based on efforts to maintain the State of Loss Separation

As described above, as an employee Yamada worked actively with Mori in acts of loss separation, and also newly managed the surpluses generated within the capital-injected state. In addition, after taking office in June 2003 as a member of the Board of Directors, he worked to maintain the State of Loss Separation, in violation of his duty of due care of a prudent manager, instead of working to terminate it. As a result of this, Olympus incurred costs for interest as well as management fees for the Funds, etc., and from the time Yamada became a Director in July 2003 until the State of Loss Separation was settled, the costs for such interest and fund management fees totaled 7,894,998,774 Yen, as detailed in Exhibit (8)-1.

2) Damage attributable to execution of loss separation settlement scheme

Yamada, in violation of his duty of due care of a prudent manager, and knowing that the purpose was execution of loss separation settlement scheme, granted warrants and stock options as part of the FA fee to AXES, which was the FA in the Gyrus acquisition; AXAM received warrants and stock options from AXES, for which it paid AXES a total of 2.544 billion Yen, which it received as money transfers from Pass-Through Funds. For the same purpose, Olympus paid 60.795 billion Yen to acquire shares of the Three Domestic Companies, plus 670 million dollars for the purchase of warrants and Preferred Shares as part of the FA fee in conjunction with the Gyrus acquisition, of which at least 4,656,759,788 Yen was paid in the name of fees to cooperating persons including bank contacts and fund managers, in conjunction with the settlement of the Funds.

Damages related to these violations of the duty of due care of a prudent manager are recognized as totaling at least 7,200,759,788 Yen, as detailed in the previous sections 1 (2) 2) A and B.

3) As a result, it is recognized that a total of at least 15,095,758,562 Yen, as described in the preceding sections

1) and 2), are damages attributable, with legally sufficient cause, to Yamada's violations of his duty of due care of a prudent manager, in his capacity as director (Exhibit (8)-1).

(2) Regarding Mori

1) Damages based on efforts to maintain the State of Loss Separation

As described above, as an employee Mori worked actively with Yamada in acts of loss separation, and also newly managed the surpluses generated within the capital-injected state. In addition, after taking office in June 2006 as a member of the Board of Directors, he worked to maintain the State of Loss Separation, in violation of his duty of due care of a prudent manager, instead of working to terminate it. As a result of this, Olympus incurred costs for interest as well as management fees for the Funds, etc., and from the time Mori became a Director in July 2006 until the State of Loss Separation was settled the costs for such interest and fund management fees totaled 4,036,435,786 Yen, as detailed in Exhibit (8)-2.

2) Damages attributable to execution of loss separation settlement scheme

Mori, in violation of his duty of due care of a prudent manager, and knowing that the purpose was execution of the loss separation settlement scheme, granted warrants and stock options as a part of the FA fee to AXES, which was the FA in the Gyrus acquisition; AXAM received warrants and stock options from Olympus, for which it paid AXES a total of 2.544 billion Yen, which it received as money transfers from Pass-Through Funds. For the same purpose, Olympus paid 60.795 billion Yen to acquire shares of the Three Domestic Companies, plus 670 million dollars for the purchase of warrants and Preferred Shares as part of the FA fee in conjunction with the Gyrus acquisition, of which at least 4,656,759,788 Yen was paid in the name of fees to cooperating persons including bank contacts and fund managers, in conjunction with the settlement of the Funds.

Damages related to these violations of the duty of due care of a prudent manager are recognized as totaling at least 7,200,759,788 Yen, as detailed in the previous sections 1 (2) 2) A and B.

3) As a result, it is recognized that a total of at least 11,237,195,574 Yen, as described in the preceding sections 1) and 2), are damages attributable, with legally sufficient cause, to Mori's violations of his duty of due care of a prudent manager, in his capacity as director (Exhibit (8)-2).

(3) Regarding Shimoyama

1) Interest, Fund management fees, etc. in this incident

As described above, by the time he retired from his director post in June 2004, Shimoyama was aware or could have become aware at least, that both the capital-injected state and the State of Loss Separation were being maintained, and despite this awareness, and in violation of his duty of due care of a prudent manager, left them unattended.

As a result, starting in April 2001, interest and funds management commissions were paid for the maintenance of the state of loss Separation, until such time as the State of Loss Separation was completely resolved.

Totaling these sums yields a figure of 10,750,681,400 Yen, as shown in Exhibit (8)-3, and this is the figure recognized as the damages with legally sufficient cause due to Shimoyama's violations of his duty of due care of a prudent manager.

2) Funds management losses in this incident

As discussed above, on March 31, 2000, while Shimoyama was clearly aware of or could have become aware of the acquisition of ITV and ITX shares, and in violation of his duty of due care of a prudent manager, he did nothing to stop these transactions, and left them unattended.

The funds management losses arising from this incident were a direct result of this, and this is the sum recognized with legally sufficient cause with Shimoyama's violations of this duty of due care of a prudent manager.

3) As a result, it is recognized that a total of at least 19,911,611,400 Yen, as described in the preceding sections 1) and 2), are losses attributable, with legally sufficient cause, to Shimoyama's violations of his duty of due care of a prudent manager (Exhibit (8)-3).

(4) Regarding Kishimoto

1) Interest and funds management fees in this incident

As discussed above, Kishimoto received and approved reports on the establishment and maintenance of the Loss Separation Scheme. Despite this, and in violation of his duties of care as a prudent manager, Kishimoto left the State of Loss Separation unattended, and did not terminate it.

Like Shimoyama in Item (3), totaling the interest and funds management fees paid in connection with the incident from April 2001 until the resolution of the State of Loss Separation yields a figure of 10,750,681,400 Yen, as shown in Exhibit (8)-4, and at least this amount is the figure recognized as the damages with legally sufficient cause with Kishimoto’s violations of his duty of due care of a prudent manager.

2) Funds management losses in this incident

As discussed above, on March 31, 2000, while Kishimoto was aware of the acquisition of ITV and ITX shares, and in violation of his duty of due care of a prudent manager, he did nothing to stop these transactions.

The funds management losses arising from this incident were a direct result of this, and this is the sum recognized with legally sufficient cause with Kishimoto’s violations of his duty of due care of a prudent manager.

3) As a result, it is recognized that a total of at least 19,911,611,400 Yen, as described in the preceding sections 1) and 2), are damages attributable with legally sufficient cause, to Kishimoto’s violations of his duty of due care of a prudent manager (Exhibit (8)-4).

(5) Regarding Kikukawa

1) Losses based on maintenance of the State of Loss Separation

As discussed above, at the latest as of January 2000, Kikukawa was aware of the loss separation actions taken by Kishimoto, Yamada and Mori, and he was found to have approved them. Nonetheless, and in violation of his duties of due care of a prudent manager, Kikukawa did nothing to stop the State of Loss Separation, and in fact maintained it; moreover, he managed surplus funds generated by the capital-injected state, and failed. As a result, Olympus incurred losses in the form of interest paid, funds management fees paid, and asset management losses in connection with this incident, totaling 19,911,611,400 (Exhibit (8)-5) Yen.

2) Damages attributable to execution of loss separation settlement scheme

Kikukawa, in violation of his duty of due care of a prudent manager, and for the purpose of execution of loss separation settlement scheme, granted warrants and stock options as part of the FA fee to AXES, which was the FA in the Gyrus acquisition; AXAM received warrants and stock options from AXES, for which it paid AXES a total of 2.544 billion Yen, which it received as money transfers from Pass-Through Funds. For the same purpose, Olympus paid 60.795 billion Yen to acquire shares of the Three Domestic Companies, plus 670 million dollars for the purchase of warrants and Preferred Shares as part of the FA fee in conjunction with the Gyrus acquisition, of which at least 4,656,759,788 Yen was paid in the name of compensation to cooperating persons including bank contacts and fund managers, in conjunction with the elimination of the Funds.

Losses related to these violations of the duty of due care of a prudent manager are recognized as totaling at least 7,200,759,788 Yen, as detailed in the previous sections 1 (2) 2) A and B.

3) Consequently, at least 27,112,370,188 Yen is recognized as the amount with legally sufficient cause to Kikukawa's violations of his duty of due care of a prudent manager (Exhibit (8)-5).

3 Damages based on the series of actions for loss deferral on the part of the directors other than the Participants and People Who Knew

(1) Regarding damages due to the acquisition of shares in the Three Domestic Companies based on the Board of Directors' meeting resolution on the February 22, 2008

As described above, on February 22, 2008, members of the Board of Directors, including those other than the Participants and People Who Knew, approved the resolution to purchase up to 61.379 billion Yen of shares in the Three Domestic Companies, in violation of their duties of due care of a prudent manager; as a result, Olympus paid the Funds a total of 60.795 billion Yen as payment for shares of the Three Domestic Companies.

Funds that Olympus did not, under ordinary circumstances, have to pay, flowed out from the company, and legally, at that point in time, Olympus suffered damages in the amount of 60.795 billion Yen paid in the name of consideration for shares in the Three Domestic Companies. However, as discussed above, part of the funds paid to the Funds was made to flow back through Pass-Through Fund(s) to exposed funds, and returned to Olympus in the form of return of capital, so losses on these funds alone were restored. Of the funds paid by Olympus for shares in the Three Domestic Companies as a result of the February 22, 2008 Board of Directors meeting, it is uncertain exactly how much was returned to Olympus; at a minimum, however, it is clear that at least 2.20925 billion yen, consisting of:

- 1.25925 billion yen paid by Neo to Gurdon Overseas S.A. in September 2008 (Item 1 (2) 2) b (i) above),
- and 950 million yen paid by Teao to Nayland Overseas S.A. in December 2008 (Item 1 (2) 2) b (ii) above)

were not repaid to Olympus.

We have already discussed the reasons why the share value of the Three Domestic Companies need not be taken into consideration in calculating the losses suffered by Olympus.

As a result, it is recognized that Olympus suffered at least 2.20925 billion yen in damages due to violations of the duty of due care of prudent managers by those members of the Board of Directors other than the Participants and People Who Knew with regard to the current incident who approved the proposal to purchase shares in the Three Domestic Companies presented at the Board of Directors meeting of February 22, 2008.

(2) Regarding the damages due to the issuance of Preferred Shares based on the resolution the Board of Directors' meeting held on September 26, 2008 and the purchase of Gyrus' Preferred Shares based on the resolution of the Board of Directors' meeting held on March 19, 2010

① the three members of the Board of Directors who were not Participants and People Who Knew with regard to the current incident who participated in the September 26, 2008 Board of Directors meeting approved the issue of Preferred Shares in violation of their duty of due care of a prudent manager,

② the three members of the Board of Directors who were not Participants and People Who Knew with regard to the current incident who participated in the March 19, 2010 Board of Directors meeting approved the purchase of 620 million dollars of Gyrus Preferred Shares in violation of their duty of due care of a prudent manager; as a result, Olympus paid AXAM 620 million dollars as payment for the purchase of Preferred Shares. Funds that Olympus would not, under ordinary circumstances, have to have paid, flowed away from the company, and in a legal sense it is acknowledged that Olympus suffered damages in the amount of 620 million dollars paid as compensation for the purchase of Preferred Shares.

However, as discussed above, part of the funds paid to the Funds was made to flow back through Pass-Through Fund(s) to exposed funds, and returned to Olympus in the form of return of capital, so damages of those amounts were reversed. Of the funds paid by Olympus for Gyrus' Preferred Shares as a result of the March 19, 2010 Board of

Directors meeting, it is uncertain exactly how much was returned to Olympus; at a minimum, however, it is clear that a total of 2,447,509,788 Yen, consisting of:

- 1,080,066,963 Yen paid by GPAI to Nakagawa in April 2010 (Item 1 (2) 2) b (iii) above),
- and 1,367,442,825 Yen paid by Easterside to Chan in June 2010 (Item 1 (2) 2) b (iv) above)

were not repaid to Olympus.

As a result, it is recognized that Olympus suffered at least 2,447,509,788 Yen in damages due to violations of the duty of due care of prudent managers by those members of the Board of Directors other than Participants and People Who Knew with regard to the current incident who approved the proposal to issue Preferred Shares of Gyrus at the Board of Directors meeting of September 26, 2008, and by those members of the Board of Directors other than the Participants and People Who Knew with regard to the current incident who approved the proposal to purchase Preferred Shares of Gyrus at the Board of Directors meeting of March 19, 2010. (For reasons discussed above, we see no reason the exclude the value of the Preferred Shares from loss calculations.)

The Board of Directors meeting of September 26, 2008 approved the purchase of the Warrant Purchase Rights, in violation of the duty of due care of a prudent manager by those members of the Board of Directors other than the Participants and People Who Knew with regard to the incident; as for the 50 million dollars paid by Olympus for the purchase of the Warrant Purchase Rights, Olympus suffered harm in the amount of the sum paid at that time, but it is not clear whether some of this money may or may not have been restored (returned to Olympus) over time (and if so, how much).

4 Regarding the damages based on inadequacies in the handling of matters after the Emergence of Suspicions

As discussed in Section 7 above, three directors (Kikukawa, Mori and Nakatsuka) and one auditor (Yamada) were fully aware of the decision to defer losses, and even after Woodford pointed out his suspicions starting in September 2011 they made no move to properly raise and discuss these problems at the Board of Director Meeting; instead they concealed facts about the loss deferral from those Directors who were unaware of the loss deferral; they continued their false explanations that there was no problems that could be described as illegal in conjunction with the FA fee paid for the Gyrus acquisition or the acquisition of shares in the Three Domestic Companies; in addition, with respect to directors who had only a shallow relationship with Woodford or who did not know Woodford well, they criticized Woodford and encouraged them to vote for his removal; they sought to avert discovery of illegal actions by discouraging the doubts held by directors unfamiliar with the deferral of losses.

Then on October 14, 2011, Woodford, who had pointed out his suspicions, was removed from his post as president; this intensified the critical gaze of the outside world, and Olympus' share price plummeted.

As a result, an announcement was made about the deferral of losses on November 8, about one week after the Third-Party Committee began its investigation. This gave the world the impression that Woodford was terminated because he had pointed out his suspicions, while the company was trying to cover up illegal activities. This flawed response to Woodford's accusations caused investors to lose faith in Olympus' governance, and the company's reputation was severely tarnished.

Over time, the company's efforts to restore its tarnished credibility may have a degree of success, but this too will cost money, and a company that has committed illegal acts and then sought to cover them up may never be able to fully recover its credibility.

It is difficult to put a monetary value on this loss of credibility, but at the very least it is not less than 10 million.

5 Regarding the damages based on the misrepresentations in the securities reports, etc., subsequent to the fiscal year ending March 2007

At this point it is not clear whether Olympus has suffered economic damages attributable to misrepresentations in financial filings since March 2007, but it is conceivable that damage could occur in the future due to any of the following factors.

(1) Damage incurred if Olympus must pay fines

Corporations that submit financial statements containing misrepresentations about significant matters may be fined up to 700 million Yen (Financial Instruments and Exchange Act, Article 207, Paragraph1, Clause 1. For actions that took place before that Act took effect (September 30, 2007), the Securities Exchange Act, Article 207, Paragraph 1, Clause 1 applies); corporations that issue quarterly financial statements containing misrepresentations can be fined up to 500 million Yen (Financial Instruments and Exchange Act, Article 207, Paragraph 1, Clause 2. For actions that took place before that Act took effect (September 30, 2007), the Securities Exchange Act article 207, Paragraph 1, Clause 2 applies.

Fines levied against joint-stock companies are addressed to the company itself; even in cases where the fine is based on a dereliction of duty by a director; there is also a cogent view that fines based on a director's dereliction of duty should not be seen as damage to the company itself (Tatsuo Uemura, “Range of Compensation when Directors bear responsibility for companies,” *Shojihomu* Issue 1600, Page 4 ff); in precedent lower court rulings in shareholder representative lawsuits (Tokyo District Court June 20, 1996 *Hanrei Jiho*, Number 1572 Page 27; Osaka District Court September 20, 2000 *Hanrei Jiho*, Number 1721 Page 3), in fines and charges paid by a company due to violations of a director's duty of due care of a prudent manager, the cause-effect relationship can be weighted, and all or part may be recognized as compensation the director must pay to the company.

Consequently, based on these precedents, if Olympus must pay fines due to the crime of submitting financial statements containing misrepresentations, all or part of such fines may be recognized as damages from a failure by Kikukawa, Yamada, Mori and Nakatsuka (for Nakatsuka only with respect to misrepresentations in the financial reports for the fiscal year ended March 2011 and 1Q of the fiscal year ending March 2012) to fulfill their duty of due care of a prudent manager, as described above.

(2) Damages incurred if surcharges are levied against the company

Corporations that submit financial statements containing misrepresentations about significant matters may be ordered to pay surcharges under (1) the Financial Instruments and Exchange Act, Article 172, Paragraph 2 (for actions that took place before that Act took effect (September 30, 2007), the Securities Exchange Act article 172, Paragraph 4, etc. applies); (2) the Financial Instruments and Exchange Act, Article 172 Paragraph 4, for actions that took place after the fiscal year ended March 2010.

Consequently, based on these precedents, if Olympus is ordered to pay surcharges due to having submitted financial statements containing misrepresentations, all or part of such charges may be recognized as damages from a failure by Kikukawa, Yamada, Mori and Nakatsuka (for Nakatsuka only with respect to misrepresentations in the financial reports for the fiscal year ended March 2011 and 1Q of the fiscal year ending March 2012) to fulfill their duty of due care of a prudent manager, as described above.[11]

(3) Damages incurred if the company must compensate shareholders for damages

If financial statements etc. are found to contain misrepresentations concerning important matters, the company that submitted the documents must compensate persons who bought shares in the company during the period such financial statements etc. were available for inspection by the public (except through private placements or public offerings) for any damages caused by those misrepresentations (Financial Instruments and Exchange Act, Article 21, Paragraph 2, Clause 1. For actions that took place before that Act took effect (September 30, 2009), the Securities Exchange Act Article 21, Paragraph 2, Clause 1 applies.). This liability is a no-fault liability, and for shareholders who obtained shares within one year after the publication date of the financial reports containing the misrepresentations, and for shareholders who held shares on the date of publication, the amount of damages is estimated as the difference between the average share price in the month prior to the date of publication and the average share price in the month following the date of publication (Financial Instruments and Exchange Act, Article 21, Paragraph 2, Clause 2) For actions that took place before that Act took effect (September 30, 2009), the Securities Exchange Act, Article 21, Paragraph 2, Clause 2 applies. Consequently, if this liability is invoked and Olympus must compensate shareholders, such compensation may be recognized as damages from a failure by Kikukawa, Yamada, Mori and Nakatsuka (for Nakatsuka only with respect to misrepresentations in the financial reports for the fiscal year ended March 2011 and 1Q of the fiscal year ending March 2012) to fulfill their duty of due care of a prudent manager, as described above.

[11] As is also the case when a fine is levied on a company, when a company is ordered to pay charges, the question of whether the entire amount attributable to dereliction of duty by the Director(s) can be seen as damages to the company (or some pro-rated amount, and if pro-rated by how much) becomes a problem.

6 Regarding the amount of the obligation to return money on the part of the directors concerning the dividend distributions of surplus money and the acquisitions of treasury stock that were executed after April 1, 2007

Beginning April 1, 2007, the company paid dividends from surplus and carried out a buyback of treasury stock; Director(s) bearing a responsibility for monetary payments based on the Companies Act, Article 462, Paragraph 1, and the amount they are obligated to pay, are as shown in Exhibit ⑨ “Year-end dividends” and “Interim Dividends,” and Exhibit ⑩ “Total Amount Paid (Yen).”

XI Regarding the liability of each of the current and former directors and whether or not it would be appropriate to pursue liability

1 Regarding the liability of each of the directors who were Participants or People Who Knew and whether or not it would be appropriate to pursue liability

(1) Regarding the liability of the Participants or People Who Knew during the time periods when they were employees (including the time periods when they were executive officers)

As discussed above, of the Participants and People Who Knew, Yamada and Mori, when they were employees of the Finance Department, formulated the Loss Separation Scheme, carried out the acts of loss separation, and later took action to maintain the State of Loss Separation. When Nakatsuka was an employee of the Finance Department, he was aware of the entire Loss Separation Scheme, and its purpose, and following the instructions of Yamada and Mori, was in charge of carrying out preparatory actions and other practical work for the acts of loss separation.

These actions taken by Yamada, Mori and Nakatsuka while they were employees were clearly violations of their obligations of good faith based on their employment contracts.

For employers who suffered damages directly from these employees' harmful acts in execution of these operations, or who suffered damages based on the bearing of liability for compensation for damages as employers, it should be recognized that they have a right to claim damages or seek compensation from those employees (Supreme Court judgment, July 8, 1976, *Minshu*, Vol. 30 No. 7 Page 689), based on the nature of business, scale, state of facilities, details of employee actions, labor conditions, working attitude, nature of harmful action, steps taken to prevent harmful acts or distribute losses, degree of attention paid by the employer, and other facts of the situation.

In the current case, Yamada and Mori, when they were employees, participated actively in the formulation and execution of acts intended to separate losses and schemes to maintain the State of Loss Separation; it must be said their liability is grave. That said, after their promotion to director, Yamada and Mori violated their duty of due care of a prudent manager by continuing to maintain the State of Loss Separation, and later they actively formulated and executed a scheme to eliminate the State of Loss Separation. Consequently, it is to be seen as appropriate that they should be held responsible for these actions in violation of their duty of due care of a prudent manager; consideration should be given to the fact there is little to be gained from also holding them responsible for the consequences of their earlier actions as employees.

Also, when Nakatsuka carried out preparatory actions and other practical work for the purposes of the Loss Separation Scheme, fully aware of the entire Loss Separation Scheme and its purpose, he was merely following the instructions of his superiors Yamada and Mori; it should be recognized that his role was secondary, compared with the roles played by Yamada and Mori. Nonetheless, because Nakatsuka, through the Loss Separation Scheme participated in or was aware of the deferral of the posting of large losses on securities, derivatives and other transactions, it is conceivable he was aware of the possibility that the company lacked sufficient funds for distribution when it paid a dividend from surplus funds in June 2011, if proper accounting procedures had been applied.

Regardless, when Nakatsuka became a Director on June 29, 2011, he was responsible for the arrangements for the funds needed for the payment of the dividend from surplus funds on June 30. Consequently, regarding Nakatsuka, it is to be seen as appropriate that he should be held responsible for his actions connected to the payment of dividends from surplus funds, in connection with the obligation to pay monies based on the Companies Act Article 462, Paragraph 1; consideration should be given to the fact there is little to be gained from also holding him responsible for the consequences of his earlier actions as an employee.

In the sections below, we shall describe the responsibilities of the Participants and People Who Knew, in terms of their duty of due care of a prudent manager, and the payment of dividends from surplus funds.[12]

Due consideration should be given that we see no reason not to pursue the liability of the Participants and People Who Knew.[13]

(2) Regarding Yamada

As shown in Exhibit (11)-1 “Sources of Responsibility, Etc.,” columns 1-3, Yamada's violation of his duty of due care of a prudent manager as a director is recognized (regarding “Sources of Responsibility, Etc.,” column 3, however, it is a matter of due care of a prudent manager in his capacity as Auditor), and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-3, which are damages with sufficient legal cause for these violations. In addition, as shown in Exhibit (11)-1 “Sources of Responsibility, Etc.,” columns 4-5, Yamada also bears responsibility with regard to the payment of dividends from surplus funds and the buyback of treasury stock, in excess of the distributable amount, based on the Companies Act, Article 462, Paragraph 1, and he bears an obligation to pay the amounts shown in “Losses Etc.” columns 4-5.

(3) Regarding Mori

As shown in Exhibit (11)-2 “Sources of Responsibility, Etc.,” columns 1-3, Mori's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-3, which are damages with sufficient legal cause for these violations. In addition, as shown in Exhibit (11)-2 “Sources of Responsibility, Etc.,” columns 4-5, Mori also bears responsibility with regard to the payment of dividends from surplus funds and the buyback of treasury stock, in excess of the distributable amount, based on Article 462, Paragraph 1 of the Companies Act, and he bears an obligation to pay the amounts shown in “Losses Etc.” columns 4-5.

(4) Regarding Nakatsuka

As shown in Exhibit (11)-3 “Sources of Responsibility, Etc.,” column 1, Nakatsuka's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations. In addition, as shown in Exhibit (11)-3 “Sources of Responsibility, Etc.,” column 2, Nakatsuka also bears responsibility with regard to the payment of dividends from surplus funds and

[12] These responsibilities for compensation for damages to the company based on the directors' dereliction of their duty of due care of a prudent manager are subject to a statute of limitations of 10 years. It is not clear whether the Directors will invoke this statute of limitations with respect to the series of past problems regarding deferral of Olympus losses, and if they do invoke it, whether such an assertion will be recognized from the perspective of fair and equitable principles; in addition, the starting point for the statute of limitations is understood to be the point at which the losses were generated. In this report, we disregard the possibility that responsibility will be expunged through invocation of the statute of limitations.

[13] Depending on considerations of these executives' ability to pay, among other factors, this should not be taken as a denial of the possibility that this might be part of some sum that should be sought through litigation or that someone should be required to pay.

the buyback of treasury stock, in excess of the distributable amount, based on Article 462, Paragraph 1 of the Companies Act, and he bears an obligation to pay the amounts shown in "Losses Etc." column 2.

(5) Regarding Shimoyama

As shown in Exhibit (11)-4 "Sources of Responsibility, Etc.," columns 1-2, Shimoyama's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in "Amount of Losses, Etc.," columns 1-2, which are damages with sufficient legal cause for these violations.

(6) Regarding Kishimoto

As shown in Exhibit (11)-5 "Sources of Responsibility, Etc.," columns 1-2, Kishimoto's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in "Amount of Losses, Etc.," columns 1-2, which are damages with sufficient legal cause for these violations.

(7) Regarding Kikukawa

As shown in Exhibit (11)-6 "Sources of Responsibility, Etc.," columns 1-4, Kikukawa's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in "Amount of Losses, Etc.," columns 1-4, which are damages with sufficient legal cause for these violations. In addition, as shown in Exhibit (11)-6 "Sources of Responsibility, Etc.," columns 5-6, Kikukawa also bears responsibility with regard to the payment of dividends from surplus funds and the buyback of treasury stock, in excess of the distributable amount, based on Article 462, Paragraph 1 of the Companies Act, and he bears an obligation to pay the amounts shown in "Losses Etc." columns 5-6.

2 Regarding the liability of each of the directors other than the Participants or People Who Knew and whether or not it would be appropriate to pursue liability

(1) Regarding whether or not it would be appropriate to pursue liability of the directors other than the Participants or People Who Knew

There are no facts establishing that directors other than the Participants and People Who Knew contributed actively to the deferral of Olympus' past losses or the series of related problems. However, as discussed above in sections 5-3-(2) and 6-3, it is recognized that the directors who voted at Board of Directors meetings to approve the purchase of shares in the Three Domestic Companies, and the payment of the FA fee in connection with the acquisition of Gyrus, for the purpose of settling the State of Loss Separation at Olympus, also had a duty of due care of a prudent manager. In addition, as described in section 10-3 above, it is recognized that these violations of the duty of due care of a prudent manager caused damages.

Regarding responsibility for compensation for damages stemming from violations of the duty of due care of a prudent manager by directors other than the Participants and People Who Knew as well, due consideration should be given that there are no circumstances for withdrawing that pursuit.

When directors other than the Participants and People Who Knew voted at Board of Directors meetings to approve the purchase of shares in the Three Domestic Companies, and the payment of the FA fee in connection with the acquisition of Gyrus, these actions separated the losses attached to Olympus financial products; it is recognized that these other directors were unaware of the intentions of the Participants and People Who Knew with regard to these schemes, to terminate the State of Loss Separation through these payments based on the Board of Directors decisions. For these reasons, in the Olympus pursuit of the liability of other directors besides the Participants and People Who Knew with regard to the scheme, it could be a problem to determine whether to seek an amount of compensation for damages similar to the amount sought from the Participants and People Who Knew, who had the awareness and intention of settling the State of Loss Separation; regarding the fair distribution of responsibility and burdens between the Participants and People Who Knew, on the one hand, and the others on the other hand, due consideration should be given to the directors' claims on one another for compensation. In other words, the Participants and People Who Knew, on the one hand, and the other directors on the other hand, bear different degrees of responsibility; according to the Companies Act, a director's responsibility to the company is a matter of joint liability; legally, the understanding is that a company seeking compensation for damages should not make distinctions in its investigation of liability (demands for compensation for damages); this should be considered only in the final stages of demands for compensation under joint liability. Consequently, this Committee, in its investigation of the liability of the directors other than the Participants and People Who Knew with regard to the scheme, made no particular distinction from the Participants and People Who Knew with regard to the scheme; regarding the damages that arose from all directors' violations of duty of due care of a prudent manager, we find it will be sufficient to demand compensation for damages. [14] [15]

(2) Regarding Kawamata

As shown in Exhibit (11)-7 “Sources of Responsibility, Etc.,” column 1, Kawamata's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(3) Regarding Yusa

As shown in Exhibit (11)-8 “Sources of Responsibility, Etc.,” column 1, Yusa's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(4) Regarding Furuhata

As shown in Exhibit (11)-9 “Sources of Responsibility, Etc.,” column 1, Furuhata's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(5) Regarding Terada

As shown in Exhibit (11)-10 “Sources of Responsibility, Etc.,” columns 1-2, Terada's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(6) Regarding Nagasaki

As shown in Exhibit (11)-11 “Sources of Responsibility, Etc.,” columns 1-2, Nagasaki's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

[14] Depending on considerations of these executives' ability to pay, among other factors, this should not be taken as a denial of the possibility that this might be part of some sum that should be sought through litigation, or damages for which compensation is justified.

[15] Regarding outside directors covered by contracts limiting their liability, there is a possibility that their liability may be limited to the amounts specified in those contracts.

(7) Regarding Okubo

As shown in Exhibit (11)-12 “Sources of Responsibility, Etc.,” columns 1-2, Okubo's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(8) Regarding Fujita

As shown in Exhibit (11)-13 “Sources of Responsibility, Etc.,” column 1, Fujita's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(9) Regarding Chiba

As shown in Exhibit (11)-14 “Sources of Responsibility, Etc.,” column 1, Chiba's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(10) Regarding Yanagisawa

As shown in Exhibit (11)-15 “Sources of Responsibility, Etc.,” columns 1-2, Yanagisawa's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(11) Regarding Morishima

As shown in Exhibit (11)-16 “Sources of Responsibility, Etc.,” columns 1-2, Morishima's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(12) Regarding Takayama

As shown in Exhibit (11)-17 “Sources of Responsibility, Etc.,” columns 1-2, Takayama's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(13) Regarding Tsukaya

As shown in Exhibit (11)-18 “Sources of Responsibility, Etc.,” columns 1-2, Tsukaya's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” columns 1-2, which are damages with sufficient legal cause for these violations.

(14) Regarding Hayashi

As shown in Exhibit (11)-19 “Sources of Responsibility, Etc.,” column 1, Hayashi's violation of his duty of due care of a prudent manager as a director is recognized, and he bears an obligation for an amount of compensation at least as shown in “Amount of Losses, Etc.,” column 1, which are damages with sufficient legal cause for these violations.

(15) Regarding the Directors and former Directors listed in Exhibit (12)

These Directors and former Directors are listed as subjects of the investigation, but no violation of their duty of due care of a prudent manager is recognized in connection with the performance of their duties; in addition, they are not recognized to have had any responsibility for the payment of dividends in excess of the funds available for distribution, or the acquisition of treasury stock.

END

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Appendix ①-1

Altis Inc.   Business Plan

(Attachment 1)
February 22, 2008

Balance Sheet (million yen)

	December 2007 Results		December 2007 Results
Cash and deposits	259	Accounts payable	0
Accounts receivable	0	Short-term debt	200
Inventory	22	Other	11
Other	39	Total current liabilities	211
		Fixed liabilities	518
Total current assets	321	Total debt	729
Tangible fixed assets	628	Capital	488
Intangible fixed assets	2	Capital reserve	478
Investments, etc.	15	Surplus	△ 730
Total fixed assets	644	Total capital	236
Total assets	965	Liabilities and total capital	965

Profit & Loss Statement (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Waste plastic recycling	488	3,626	5,949	9,716	9,805
Cycle FC	0	440	775	1,330	1,320
Plant sales	143	339	1,100	2,750	8,250
Total sales	631	4,405	7,824	13,796	19,375
Cost of sales	362	2,544	4,588	7,743	11,310
Sales profit	269	1,861	3,238	6,053	8,065
General administrative cost	257	363	677	873	1,059
Operating profit	12	1,498	2,561	5,180	7,006
Non-operating balance of payments	△ 17	△ 17	0	0	0
Ordinary profit	△ 5	1,481	2,561	5,180	7,006
Extraordinary profit or loss	0	0	0	0	0
Pretax current profit	△ 5	1,481	2,561	5,180	7,006
Corporate taxes	0	256	1,024	2,072	2,802
Current net profit	△ 5	1,225	1,537	3,108	4,204

Profit & Loss Statement (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Pretax profit	△ 5	1,481	2,561	5,180	7,006
Working capital	△ 14	△ 403	△ 109	△ 102	516
Capital investment	0	△ 500	△ 500	△ 500	△ 500
Taxes	0	0	△ 384	△ 1,932	△ 2,072
Depreciation	48	68	88	108	128
Subtotal	29	646	1,656	2,754	5,078
Balance brought forward	180	209	145	1,801	4,555
Capital increase					
Borrowing					
Repayment		710			
Balance	209	145	1,801	4,555	9,633

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Appendix ①-2

NEWS CHEF Inc. Business Plan

(Attachment 2)
February 22, 2008

Balance Sheet (million yen)

	February 2008 Estimate		February 2008 Estimate
Cash and deposits	125	Accounts payable	23
Accounts receivable	139	Short-term debt	2,272
Inventory	17	Other	263
Loan	272	Total current liabilities	2,558
Other	66	Long-term debt	1,500
Total current assets	619	Total debt	4,058
Tangible fixed assets	360	Capital	499
Intangible fixed assets	566	Capital reserve	459
Investments, etc.	3,378	Surplus	△ 93
Total fixed assets	4,303	Total capital	864
Total assets	4,922	liabilities ・ Total capital	4,922

Profit & Loss Statement (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Shop business	688	4,998	7,154	8,163	9,173
Products (licenses)	491	2,047	3,047	3,047	3,656
Products (OEM)	1,500	3,500	12,500	24,500	29,400
Sales	2,679	10,545	22,701	35,710	42,230
Cost of sales	1,253	4,396	10,294	17,338	20,532
Sales profit	1,425	6,149	12,407	18,372	21,698
General administrative cost	1,239	2,813	4,735	7,135	8,169
Operating profit	187	3,336	7,672	11,237	13,529
Non-operating balance of payments	△ 183	△ 156	△ 111	△ 92	△ 92
Ordinary profit	4	3,180	7,561	11,145	13,437
Extraordinary profit or loss	0	0	0	0	0
Pretax current profit	4	3,180	7,561	11,145	13,437
Corporate taxes	0	47	3,251	4,792	5,778
Current net profit	4	3,133	4,310	6,353	7,659

Cash Flow (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Pretax profit	4	3,180	7,561	11,145	13,437
Working capital	61	△ 1,062	△ 1,667	△ 1,145	△ 410
Capital investment	△ 157	△ 273	△ 793	△ 785	△ 755
Taxes	0	0	△ 1,673	△ 4,022	△ 5,285
Depreciation	215	272	502	711	871
Subtotal	122	2,118	3,931	5,905	7,859
Balance brought forward	125	377	365	2,796	8,701
Loan	272				
Borrowing					
Repayment	142	2,130	1,500		
Balance	377	365	2,796	8,701	16,560

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Appendix ①-3

Humalabo Inc. Business Plan

(Attachment 3)
February 22, 2008

Balance Sheet (million yen)

	December 2007 results		December 2007 results
Cash and deposits	278	Accounts payable	1
Accounts receivable	9	Short-term debt	600
Inventory	566	Other	38
Short-term Loan	435	Total current liabilities	639
Other	97	Fixed liabilities	800
Total current assets	1,385	Total debt	1,439
Tangible fixed assets	10	Capital	439
Intangible fixed assets	143	Capital reserve	359
Investments, etc.	112	Surplus	△ 587
Total fixed assets	266	Total capital	212
Total assets	1,651	Liabilities & total capital	1,651

Profit & Loss Statement (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Corelem L	1,479	5,079	10,159	11,683	13,786
Cremes	261	2,501	4,637	5,796	7,245
Corelem	369	2,034	3,101	4,343	5,906
Total sales	2,109	9,614	17,897	21,822	26,937
Cost of sales	947	3,603	5,934	7,139	8,724
Sales profit	1,162	6,011	11,963	14,683	18,213
General administrative cost	1,010	1,753	3,858	3,154	3,735
Operating profit	152	4,258	8,105	11,529	14,478
Non-operating balance of payments	△ 60	△ 28	△ 25	△ 25	△ 25
Ordinary profit	92	4,230	8,080	11,504	14,453
Extraordinary profit or loss	0	0	0	0	0
Pretax current profit	92	4,230	8,080	11,504	14, 453
Corporate taxes	40	1,819	3,474	4,947	6,215
Current net profit	52	2,411	4,606	6,557	8,238

Cash Flow (million yen)

	FY 2008 Plan	FY 2009 Plan	FY 2010 Plan	FY 2011 Plan	FY 2012 Plan
Pretax profit	92	4,230	8.080	11,504	14,453
Working capital	△ 99	△ 1,030	△ 1,186	△ 554	△ 720
Capital investment	0	△ 4	△ 4	△ 4	△ 4
Taxes	0	△ 40	△ 1,819	△ 3,474	△ 4,947
Depreciation	29	29	29	29	29
Subtotal	22	3,185	5,100	7,501	8,811
Balance brought forward	307	429	2,829	7,929	15,430
Loan	100	615			
Borrowing					
Repayment		1,400			
Balance	429	2,829	7,929	15,430	24,241

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ②

[Pre-revision] (million yen)

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Investment securities	216,636	193,843	127,144	140,271	59,342
Goodwill	78,718	299,800	180,540	194,065	175,472
Other assets	796,446	864,707	798,634	817,891	828,779
Total assets	1,091,800	1,358,349	1,106,318	1,152,227	1,063,593
Total liabilities	746,929	990,473	937,535	935,336	896,757
Net assets	344,871	367,876	168,784	216,891	166,836
Of which, returned earnings	191,122	237,817	110,407	168,238	170,439

[Revision Details]

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Revision of specific assets associated with fund integration	△ 111,640	△ 99,837	△ 64,555	△61,823	0
Effect in investment securities	△ 111,640	△ 99,837	△ 64,555	△ 61,823	0
Recognition of fund operation assets	57,505	67,816	8,458	65,880	0
Influx of capital into funds (goodwill revision)	0	△ 72,219	△ 90,989	△ 51,506	△ 49,164
Goodwill depreciation and impairment return	0	178	80,701	2,342	7,548
Goodwill depreciation recognition	0	0	0	0	△ 806
Effect on goodwill	0	△ 72,041	△ 10,288	△ 49,164	△ 42,422
Effect on other assets	△ 35,000	△ 37,115	△ 1,681	△ 2,590	△ 2,011
Increase / decrease of other liabilities	784	△ 17,581	△ 10,189	6,062	6,824
Recognition of amount of fund-related borrowing	30,000	0	0	0	0
Effect on total liabilities	30,784	△ 17,581	△ 10,189	6,062	6,824
Net unrealized gains (losses) on marketable securities	△ 730	△ 986	△ 854	△ 1,081	0
Foreign currency translation adjustment	0	0	1,261	840	5,649
Other	0	△ 77	0	0	127
Beginning-of-period surplus adjustment	△ 118,352	△ 119,189	△ 122,533	△ 58,283	△ 53,519
Current net profit adjusted amount	△ 837	△3,344	64,249	4,764	△ 3,515
Effect on net assets	△ 119,919	△ 123,596	△ 57,877	△ 59,760	△ 51,385

[Post-revision]

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Investment securities	104,996	94,005	62,589	78,448	59,342
Fund operating assets	57,505	67,816	8,458	65,880	0
Goodwill	78,718	227,759	170,252	144,900	133,050
Other assets	761,446	827,591	796,954	815,800	826,768
Total assets	1,002,665	1,217,172	1,038,253	1,104,528	1,019,160
Fund-related borrowing	30,000	0	0	0	0
Total liabilities	777,714	972,891	927,346	941,397	903,581
Net assets	224,951	244,281	110,907	163,131	115,579
Of which, returned earnings	71,933	115,285	52,124	114,719	113,532

TRANSLATION FOR REFERENCE PURPOSSE ONLY

[Pre-revision] (million yen)

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Sales	1,061,786	1,128,875	980,803	883,086	847,105
Operating profit	98,729	112,623	34,587	60,149	35,360
Ordinary profit	76,225	93,085	18,390	45,115	22,148
Taxes and other unadjusted profit	73,580	94,612	△ 91,301	86,204	22,759
Current net profit	47,799	57,969	△ 114,810	47,763	7,381

[Revision Details]

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Goodwill depreciation return (selling, general and administrative expenses)	0	178	7,894	810	2,770
Other operating profit revision	0	25	241	201	250
Effect on operating profit ①	0	203	8,135	1,011	3,020
Revision of equity method gain and loss	1,723	1,542	0	0	0
Cancellation of fund profit and loss	397	2,458	△ 1,274	0	△ 3,105
Other non-operating profit and loss revision	0	25	427	△ 52	1,153
Effect on ordinary profit ②	2,120	4,025	△ 847	△ 52	△ 1,952
Goodwill impairment loss cancellation	0	0	71,200	1,270	0
Fund-related loss	△2,113	△6,941	△ 1,755	△499	△ 327
Provision of allowance for doubtful accounts (fund-related)	0	0	△ 4,763	0	△ 2,448
Investment securities valuation loss revision	△694	△719	△394	3,037	0
Goodwill depreciation	0	0	0	0	△631
Other extraordinary profit or loss revision	0	0	△657	△269	△482
Effect on taxes and other unadjusted profit ③	△2,807	△7,660	63,631	3,539	3,888
Tax-related revision ④	△150	12	△6,656	265	△694
Minority interest revision⑤	0	77	△13	0	0
Effect on current net profit (① + ② + ③ + ④ + ⑤)	△837	△3,344	64,249	4,764	△3,515

[Post-revision]

	Fiscal year ending March 2007	Fiscal year ending March 2008	Fiscal year ending March 2009	Fiscal year ending March 2010	Fiscal year ending March 2011
Sales	1,061,786	1,128,875	980, 803	883,086	847,105
Operating profit	98,729	112,825	42,722	51,160	38,379
Ordinary profit	78,346	97,812	25,679	46,075	23,215
Taxes and other unadjusted profit	72,893	91,179	△20,383	90,703	19,938
Current net profit	46,962	54,625	△50,561	52,527	3,866

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Distributable amount in revised financial statements

Unit: million yen

Item		Effective date / Computation formula	Period 3 2007	Period 3 2008		Period 3 2009			Period 3, 2010		Period 3 2011		
			Period-end dividend	Interim dividend	Period-end dividend	Buyback	Interim dividend	Period-end dividend	Interim dividend	Period-end dividend	Buyback	Interim dividend	Period-end dividend
Item			2007/6/29	2007/12/17	2008/6/30	2008/5/9 ~ 2008/6/20	2008/12/5	2009/3/31 *1	2009/12/4	2010/6/30	2010/11/8 ~ 2010/12/8	2010/12/3	2011/6/30
Distributable amount			-26,276	-32,956	-17,305	-7,288	-22,881	-82,454	-42,710	-11,553	-15,605	-21,316	-20,684
Surplus dividend amount or Buyback amount			6,488	5,405	5,405	9,997	5,345	No dividend	4,050	4,049	9,995	4,060	4,004

*1: Regarding the distributable amount in period 3, 2009 (period-end dividend) amount, there was no dividend, so the mentioned distributable amount is as of March 31, 2009.

Distributable amount calculation process (effective items only)

		Computation formula	Period 3 2007	Period 3 2008		Period 3 2009			Period 3, 2010		Period 3 2011		
			Period-end dividend	Interim dividend	Period-end dividend	Buyback	Interim dividend	Period-end dividend	Interim dividend	Period-end dividend	Buyback	Interim dividend	Period-end dividend
(Surplus amount calculation)													
Total amount of other capital surplus and other profit surplus for most-recent business year		a=a1+a2	-23,916	-23,916	-4,647	-4,647	-4,647	-78,942	-78,942	-7,416	-7,416	-7,416	-9,536
Other capital surplus for most-recent business year		a1	22	22	22	22	22	22	22	32,139	32,139	32,139	31,761
Other profit surplus for most-recent business year		a2	-23,938	-23,938	-4,669	-4,669	-4,669	-78,964	-78,964	-39,555	-39,555	-39,555	-41,297
Change in surplus after most-recent business year last day		b=b1+b2+b3	-	-6,488	-	-	-5,405	-	46,442	-	-4,049	-4,049	-
Treasury stock disposition marginal loss and profit after the last day of the most-recent business year	*2	b1	-	-	-	-	-	-	-3,558	-	-	-	-
Reserve decrease/money decrease margin after most-recent business year last day (excluding capital transfer amount)	*3	b2	-	-	-	-	-	-	50,000	-	-	-	-
Surplus dividend after most-recent business year last day		b3	-	6,488	-		5,405	-	-	-	4,049	4,049	-
Surplus amount		A=a+b	-23,916	-30,404	-4,647	-4,647	-10,052	-78,942	-32,500	-7,416	-11,465	-11,465	-9,536
[Calculation of distributable amount]													
Surplus amount (as of date distribution effect occurs)		A	-23,916	-30,404	-4,647	-4,647	-10,052	-78,942	-32,500	-7,416	-11,465	-11,465	-9,536
Dividend restriction due to goodwill, etc.		e	-	-	-	-	-	-	-	-	-	-	-
Book value of treasury stock (as of date distribution effect occurs)		f=f1+f2+f3+f4	2,360	2,552	12,658	2,641	12,829	2,634	4,131	4,137	4,140	9,851	11,148
Balance on last day of most-recent business year		f1	2,264	2,264	2,634	2,634	2,634	2,634	12,874	4,136	4,136	4,136	11,097
Increase due to purchase of odd-lot shares	*4	f2	96	288	27	7	198	-	16	1	4	4	51
Increase due to other hand purchase of odd-lot shares	*5, 6	f3	-	-	9,997	-	9,997	-	-	-	-	5,711	-
Decrease	*7	f4	-	-	-	-	-	-	8,759	-	-	-	-
Amount of consideration of disposed treasury stock on last day of most-recent business year	*7	g	-	-	-	-	-	-	5,201	-	-	-	-
Negative balance of other net unrealized gains (losses) on marketable securities		h	-	-	-	-	-	878	878	-	-	-	-
Total		B=e+f+g+h	2,360	2,552	12,658	2,641	12,829	3,512	10,210	4,137	4,140	9,851	11,147
Distributable amount		A-B	-26,276	-32,956	-17,305	-7,288	-22,881	-82,454	-42,710	-11,553	-15,605	-21,315	20,684

*2: The treasury stock disposition margin in period 3, 2010 (interim dividend) was associated with the exchange with Iwaken Co. stock on June 1, 2009.
*3: The surplus reserve in period 3, 2010 (interim dividend) resulted from the transfer to capital reserve surplus in accordance with the June 26, 2009, resolution of general meeting of shareholders.
*4: Regarding the amount of increase in treasury stock as the result of odd-lot share purchases, except in the case of period-end dividends, simply mentioned the amount of increase until the end of the month immediately before the effective date.
*5: The amounts of increase in treasury stock in period 3, 2008 (period-end dividend) and in period 3, 2009 (interim dividend), resulted from the acquisition for value of treasury stock from May 9 to June 20, 2008.
*6: The amount of increase in treasury stock in period 3, 2011 (interim dividend) resulted from the acquisition for value of treasure stock from Nov. 8 to Dec. 3, 2010 (effective date of surplus dividend).
*7: The amount of consideration of disposed treasury stock and the decrease in treasury stock in period 3, 2010 (interim dividend) were associated with the exchange with Iwaken Co. stock on June 1, 2009.

Exhibit ③

		Period 139 (fiscal year ending March 2007)	Period 140 (fiscal year ending March 2008)	Period 141 (fiscal year ending March 2009)	Period 142 (fiscal year ending March 2010)	Period 143 (fiscal year ending March 2011)
Period-end dividend amount		6,487,732,272	5,404,783,360	0	4,049,527,545	4,004,019,900
Directors under the Companies Act, Article 462	Executive Director (Companies Act, Article 462, Par. 1)	President (Kikukawa)	President (Kikukawa)	President (Kikukawa)	President (Kikukawa)	President (Woodford)
	Directors who performed duties regarding the delivery of money, etc. (Computation Rules, Article 159, No. 8-a)	Director of Corporate Center (Yamada)	Director of Corporate Center (Yamada)	Director, Business Support HQ (Kawamata)	Director, Business Support HQ (Kawamata)	Director of Corporate Center (Nakatsuka.)、Director, Financial HQ (Kawamata)
	Directors who explained surplus dividends at the general shareholders' meeting (Company Accounting Regulations, Article 159, No. 8b)	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa and Director Mori	Chairman Kikukawa	Chairman Kikukawa
	Directors who proposed surplus dividend agenda items at general shareholders' meeting (Companies Act, Article 462, Par. 1.6-a, Computation Rules, Article 160, No. 1)	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa
	Directors who approved resolutions at board of directors' meeting where the aforementioned agenda items were approved (Companies Act, Article 462, Par. 1.6-a, Computation Rules, Article 160, No. 3)	Tsuyoshi Kikukawa, Atsushi Yusa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Hiroyuki Furuhata, Ikkou Yanagisawa, Haruhito Morishima, Masataka Suzuki, Tatsuo Nagasaki, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori	Tsuyoshi Kikukawa, Atsushi Yusa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Hiroyuki Furuhata, Ikkou Yanagisawa, Haruhito Morishima, Masataka Suzuki, Tatsuo Nagasaki, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Rikiya Fujita	Tsuyoshi Kikukawa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Shuichi Takayama, Tatsuo Nagasaki, Takashi Tsukaya, Hisashi Mori, Masanobu Chiba, Junichi Hayashi	Tsuyoshi Kikukawa, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Shinichi Nishigaki, Hironobu Kawamata, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi	Tsuyoshi Kikukawa, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Masataka Suzuki, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Shinichi Nishigaki, Hironobu Kawamata, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi
	Directors who reported the distributable amounts, at the request of auditors and accounting auditors (Computation Rules, Article 159, No. 8-d)	None	None	None	None	None
Directors other than those above		Toru Toyoshima, Robert A. Mandell	Robert A. Mandell	Masataka Suzuki, Kazuhiro Watanabe, Rikiya Fujita	Masataka Suzuki	None

Interim dividend amount		5,405,454,740	5,344,557,880	4,049,555,925	4,049,509,830
Directors under the Companies Act, Article 462	Operating officers (Companies Act, Article 462, Par. 1)	President (Kikukawa)	President (Kikukawa)	President (Kikukawa)	President (Kikukawa)
	Directors whose duties included the delivery of money, etc. (Computation Rules, Article 159, No. 8-a)	Director of Corporate Center (Yamada)	Director of Corporate Center (Yamada)	Director, Business Support HQ (Kawamata)	Director, Business Support HQ (Kawamata)
	Directors who proposed the aforementioned agenda items at the board of directors' meeting (Companies Act, Article 462, Par. 1.1-b, Computation Rules, Article 161)	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa	Chairman Kikukawa
	Directors who approve the resolutions at the board of directors' meeting where the aforementioned resolutions regarding the agenda items were made (Computation Rules, Article 159, No. 8-c*)	Tsuyoshi Kikukawa, Atsushi Yusa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Hiroyuki Furuhata, Ikkou Yanagisawa, Haruhito Morishima, Masataka Suzuki, Tatsuo Nagasaki, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori	Tsuyoshi Kikukawa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Shuichi Takayama, Tatsuo Nagasaki, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi	Tsuyoshi Kikukawa, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Masataka Suzuki, Ikkou Yanagisawa, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Shinichi Nishigaki, Hironobu Kawamata, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi	Tsuyoshi Kikukawa, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Shinichi Nishigaki, Hironobu Kawamata, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi
	Directors who reported the distributable amounts, at the request of the auditors and the accounting auditors (Computation Rules, Article 159, No. 8-d)	None	None	None	None
Directors other than those above		Robert A. Mandell, Rikiya Fujita	Masataka Suzuki	None	Masataka Suzuki

* Regarding interim dividends, "meeting of board of directors' involved in decisions under the provisions of the Law, Article 454, Par. 1" specified by the Computation Rules, Article 159, No. 8-c can be read as the board of directors' meeting at which interim dividends were resolved under the Law, Article 454, Par. 5.

Exhibit ④

TRANSLATION FOR REFERENCE PURPOSSE ONLY

		May 8, 2008 Buyback Resolution	Nov. 5, 2010, Buyback Resolution
Details of Buyback resolution	Total number of shares acquired	3.5 million shares (upper limit)	5.0 million shares (upper limit)
	Total acquisition cost	10 billion yen (upper limit)	10 billion yen (upper limit)
	Acquisition period	From May 9, 2008 to June 20, 2008	From Nov. 8, 2010 to Dec. 20, 2010
Buyback that actually occurred	Acquired shares	1,397,000	2,302,100
	Total acquisition cost (yen)	9,997,730,000	9,995,227,400
Directors under Companies Act, Article 462	Executive Director (Companies Act, Article 462, Par. 1)	President (Kikukawa)	President (Kikukawa)
	Directors whose duty it is to deliver money, etc. (Computation Rules, Article 159, No. 2-a)	Director of Corporate Center (Yamada)	Director, Business Support HQ (Kawamata）
	Directors who proposed the agenda items at the board of directors' meeting (Companies Act, Article 462, Par. 1)	Chairman Kikukawa	Chairman Kikukawa
	Directors who approved at the board of directors' meeting (Computation Rules, Article 159, No. 2-c)	Tsuyoshi Kikukawa, Atsushi Yusa, Masaaki Terada, Masaharu Okubo, Hideo Yamada, Hiroyuki Furuhata, Ikkou Yanagisawa, Haruhito Morishima, Masataka Suzuki, Shuichi Takayama, Takashi Tsukaya, Tatsuo Nagasaki, Hisashi Mori, Rikiya Fujita	Tsuyoshi Kikukawa, Masaharu Okubo, Hideo Yamada, Haruhito Morishima, Ikkou Yanagisawa, Shuichi Takayama, Takashi Tsukaya, Hisashi Mori, Kazuhiro Watanabe, Shinichi Nishigaki, Hironobu Kawamata, Rikiya Fujita, Masanobu Chiba, Junichi Hayashi
	Directors who reported the distributable amount, at the request of the auditors and accounting auditors (Computation Rules, Article 159, No. 2-d)	None	None
Directors other than the aforementioned		Robert A. Mandell	Masataka Suzuki

Exhibit ⑤

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Interest in this case

	2001.4.1~ 2002.3.31	2002.4.1~ 2003.1.31	2003.2.1~ 2003.3.31	2003.4.1~ 2004.3.31	2004.4.1~ 2005.3.31	2005.4.1~ 2006.3.31	2006.4.1~ 2007.3.31	2007.4.1~ 2008.3.31	2008.4.1~ 2009.3.31	2009.4.1~ 2010.3.31	2010.4.1~ 2011.3.31	Total
LGT Bank	262,430,004	214,442,804	42,888,561	251,632,884	258,231,124	262,500,000	361,500,000	495,000,000	0	0	0	2,148,625,377
Commerzbank or Société Générale	120,892,500	100,743,750	20,148,750	120,892,500	120,892,500	0	0	0	0	0	0	483,570,000
Total	383,322,504	315,186,554	63,037,311	372,525,384	379,123,624	262,500,000	361,500,000	495,000,000	0	0	0	2,632,195,377

Grand total: 2,632,195,377 yen

Exhibit ⑥

TRANSLATION FOR REFERENCE PURPOSSE ONLY

This Case’s Fund Management Fee, Etc.

(1) GIM, SG Fund, Neo portions

	2001.4.1~ 2002.3.31	2002.4.1~ 2003.1.31	2003.2.1~ 2003.3.31	2003.4.1~ 2004.3.31	2004.4.1~ 2005.3.31	2005.4.1~ 2006.3.31	2006.4.1~ 2007.3.31	2007.4.1~ 2008.3.31	2008.4.1~ 2009.3.31	2009.4.1~ 2010.3.31	2010.4.1~ 2011.3.31	Total
LGT-GIM (OT)	243,403,020	204,948,975	41,271,143	247,626,855	248,988,915	251,022,345	252,413,385	254,928,414	127,693,922	0	0	1,872,296,974
LGT-GIM (OAM/OFH)	327,313,000	272,760,833	54,552,167	327,313,000	327,313,000	327,313,000	327,313,000	331,728,972	166,209,171	0	0	2,461,816,143
SG Fund	0	0	0	0	0	120,486,192	118,557,000	120,526,248	121,214,232	122,880,960	92,734,848	696,399,480
Neo	79,680,930	59,760,697	19,920,232	86,877,724	86,877,724	124,434,825	180,174,384	-30,116,661	0	0	0	689,573,473
Total	650,396,950	537,470,505	115,743,542	663,179,639	663,179,639	823,256,362	878,457,769	677,066,973	415,117,325	122,880,960	92,734,848	5,720,086,070

(2) GCNVV portion

Total: 5,720,086,070 yen

	2001.4.1~ 2001.12.31	2002.1.1~ 2002.12.31	2003.1.1~ 2003.12.31	2004.1.1~ 2004.12.31	2005.1.1~ 2005.12.31	2006.1.1~ 2006.12.31	2007.1.1~ 2007.8	Contingency Fee	Midterm Termination Charge	Total
Management fee, etc., to GCI (Cayman)	271,725,559	322,501,703	303,270,603	296,382,155	291,519,515	222,171,012	128,046,040	1,124,780,000	537,270,010	3,349,666,597
Loss separation amount of GCNVV management fee, etc.	186,326,098	221,144,025	207,956,985	203,233,478	199,899,096	152,345,837	87,802,999	771,277,714	368,413,721	2,398,399,953

＊Computed on 9/12 thereof, by proportionally dividing over the period of one-year the fee to GCI (362,300,745 yen), for the amount from April 1, 2001, to Dec. 31, 2001.

* Loss separation amount for GCNVV management fee, etc.

Total: 2,398,399,953 yen

(3) Grand total: 8,118,486,023 yen

Exhibit ⑦

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑧-1

Damages attributable to Yamada

1. Interest in this case (July 2003 to March 2011)
372,525,384x9/12+379,123,624+262,500,000+361,500,000+495,000,000
= <u>1,777,517,662 yen</u>

* From April 1, 2003, to March 31, 2004, calculated for the 9 months after he assumed the post of Director.

2. This case’s fund management fee, etc. (July 2003 to March 2011)
・GIM, SG Fund, Neo amounts
743,781,197x9/12+663,179,639+823,256,362+878,457,769+677,066,973+415,117,325+122,880,960+92,734,848
= 4,230,529,774 yen

* From April 1, 2003, to March 31, 2004, calculated for the 9 months after he assumed the post of Director.

・GCNVV amount
207,956,985x6/12+203,233,478+199,899,096+152,345,837+87,802,999+771,277,714+368,413,721
= 1,886,951,338 yen

* From January 1, 2003, to December 31, 2003, calculated from the 6 months after he assumed the post of Director.

・Total of the aforementioned
<u>6,117,481,112 yen</u>

3. Damages attributable to implementation of loss separation settlement scheme
2,544,000,000 yen + 1,259,250,000 yen + 950,000,000 yen + 1,080,066,963 yen
+ 1,367,442,825 yen = <u>7,200,759,788 yen</u>

4. Grand total
1,777,517,662 yen + 6,117,481,112 yen + 7,200,759,788 yen = <u>15,095,758,562 yen</u>

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑧-2

Damages attributable to Mori

1. Interest in this case (July 2006 to March 2011)
361,500,000 yen × 9/12 + 495,000,000.yen.= 766,125,000 yen

* From April 1, 2003, to March 31, 2004, calculated for the 9 months after he assumed the post of Director.

2. Fund management few of this case, etc. (July 2006 to March 2011)
・GIM, SG Fund, Neo amounts
878,457,769x9/12+677,066,973+415,117,325+122,880,960+92,734,848
= 1,966,643,433 yen

* From April 1, 2006, to March 31, 2007, calculated for the 9 months after he assumed the post of Director.

・GCNVV amount
152,345,837x6/12+87,802,999+771,277,714+368,413,721
= 1,303,667,353 yen

* From January 1, 2006, to December 31, calculated for the 6 months after he assumed the post of Director.

・Total of the aforementioned
3,270,310,786 yen

3. Damages attributable to implementation of loss separation settlement scheme
2,544,000,000 yen + 1,259,250,000 yen + 950,000,000 yen + 1,080,066,963 yen
+ 1,367,442,825 yen = 7,200,759,788 yen

4. Grand total
766,125,000 yen + 3,270,310,788 yen + 7,200,759,788 yen = 11,237,195,574 yen

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑧-3

Damages attributable to Shimoyama

1. Interest in this case (April 2001 to March 2011)
383,322,504+315,186,554+63,037,311+372,525,384+379,123,624+262,500,000+361,500,000+495,000,000
= 2,632,195,377 yen

2. Fund management fee of this case, etc. (April 2001 to March 2011)
• GIM, SG Fund, Neo amounts
650,396,950+537,470,505+115,743,542+743,781,197+663,179,639+823,256,632+878,457,769+677,066,976+415,117,325+122,880,960+92,734,848
= 5,720,086,070 yen

• GCNVV amount
186,326,098+221,144,025+207,956,985+203,233,478+199,899,096+152,345,837+87,802,999+771,277,714+368,413,721
= 2,398,399,953 yen

• Total of the aforementioned
8,118,486,023 yen

3. Investment loss in this case
10,000,000,000 yen − (45,000 yen × 18,646 shares) = 9,160,930,000 yen

4. Grand total
2,632,195,377 yen + 8,118,486,023 yen + 9,160,930,000 yen = 19,911,611,400 yen

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑧-4

Damages attributable to Kishimoto

1. Interest in this case (April 2001 to March 2011)
383,322,504+315,186,554+63,037,311+372,525,384+379,123,624+262,500,000+361,500,000+495,000,000
= 2,632,195,377 yen

2. Fund management fee of this case, etc. (April 2001 to March 2011)
・GIM, SG Fund, Neo amounts
650,396,950+537,470,505+115,743,542+743,781,197+663,179,639+823,256,362+878,457,769+677,066,973
= 5,720,086,070 yen

・GCNVV amount
186,326,098+221,144,025+207,956,985+203,233,478+199,899,096+152,345,837+87,802,999+771,277,714+368,413,721
= 2,398,399,953 yen

・Total of the aforementioned
8,118,486,023 yen

3. Investment loss in this case
10,000,000,000 yen − (45,000 yen × 18,646 shares) = 9,160,930,000 yen

4. Grand total
2,632,195,377 yen + 8,118,486,023 yen + 9,160,930,000 yen = 19,911,611,400 yen

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑧-5

Damages attributable to Kikukawa

1. Interest in this case (April 2001 to March 2011)
383,322,504+315,186,554+63,037,311+372,525,384+379,123,624+262,500,000+361,500,000+495,000,000
= <u>2,632,195,377 yen</u>

2. Fund management fee of this case, etc. (April 2001 to March 2011)
• GIM, SG Fund, Neo amounts
650,396,950+537,470,505+115,743,542+743,781,197+663,179,639+823,256,632+878,457,769+677,066,973+415,117,325+122,880,960+92,734,848
= 5,720,086,070 yen

• GCNVV amount
186,326,098+221,144,025+207,956,985+203,233,478+199,899,096+152,345,837+87,802,999+771,277,714+368,413,721
= 2,398,399,953 yen

• Total of the aforementioned
<u>8,118,486,023 yen</u>

3. Investment loss in this case
10,000,000,000 yen − (45,000 yen × 18,646 shares) = <u>9,160,930,000 yen</u>

4. Damages attributable to implementation of loss separation settlement scheme
2,544,000,000 yen + 1,259,250,000 yen + 950,000,000 yen + 1,080,066,963 yen
+ 1,367,442,825 yen = <u>7,200,759,788 yen</u>

5. Grand total
2,632,195,377 yen + 8,118,486,023 yen + 9,160,930,000 yen + 7,200,759,788 yen = <u>27,112,371,188 yen</u>

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Period-End Dividends and Interim Dividends

[Period-end dividends]

Period	Period 139 (fiscal year ending March 2007)	Period 140 (fiscal year ending March 2008)	Period 141 (fiscal year ending March 2009)	Period 142 (fiscal year ending March 2010)	Period 143 (fiscal year ending March 2011)	Total
Period-end dividend amount	6,487,732,272	5,404,783,360	0	4,049,527,545	4,004,019,900	19,946,063,077
Responsible person	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	–	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori Makoto Nakatsuka	

[Interim dividends]

Period	Period 139 (fiscal year ending September 2007)	Period 140 (fiscal year ending September 2008)	Period 141 (fiscal year ending September 2009)	Period 142 (fiscal year ending September 2010)	Total
Period-end dividend amount	5,405,454,740	5,344,557,880	4,049,555,925	4,049,509,830	18,849,078,375
Responsible person	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	

Exhibit ⑨

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Payment of money based on treasury stock acquisition resolution

Share buyback resolution date	May 8, 2008	November 5, 2010	Total
Share value total (yen)	9,997,730,000	9,995,227,400	19,992,957,400
Responsible person	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	Tsuyoshi Kikukawa Hideo Yamada Hisashi Mori	

Exhibit ⑩

Responsibilities of Hideo Yamada as Director * Responsibility as auditors for no. 3 only

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding maintenance of loss separation state	7,894,998,774 yen	This case's interest, this case's fund fee, etc., since July 2003
2	Violations of duty of due care as a prudent manager regarding implementation of loss separation settlement scheme	7,200,759,788 yen	Compensation nominal payment to collaborator(s)
3	Violations of duty of due care as a prudent manager as auditors regarding response after emergence of suspicions	10 million yen	Damages attributable to disrepute
4	Period-end dividends and interim dividends from fiscal year ending March 2007 to fiscal year ending March 2011	38,795,141,452 yen	Dividend amount
5	Acquisition of treasury stock based on resolutions of May 8, 2008, and November 5, 2010	19,992,957,400 yen	Buyback value
	Total	73,893,857,414 yen	

Exhibit ⑪-1

Responsibilities of Hisashi Mori as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding maintenance of loss separation state	4,036,435,786 yen	This case's interest, this case's fund fee, etc., since July 2006
2	Violations of duty of due care as a prudent manager regarding implementation of loss separation settlement scheme	7,200,759,788 yen	Compensation nominal payment to collaborator(s)
3	Violations of duty of due care as a prudent manager as auditors regarding response after emergence of suspicions	10 million yen	Damages attributable to disrepute
4	Period-end dividends and interim dividends from fiscal year ending March 2007 to fiscal year ending March 2011	38,795,141,452 yen	Dividend amount
5	Acquisition of treasury stock based on resolutions of May 8, 2008, and November 5, 2010	19,992,957,400 yen	Buyback value
	Total	70,035,294,426 yen	

Exhibit ⑪-2

Responsibilities of Makoto Nakatsuka as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding response after emergence of suspicions	10 million yen	Damages attributable to disrepute
2	Period-end dividend for fiscal year ending March 2011	4,004,019,900 yen	Dividend amount
	Total	4,014,019,900yen	

Responsibilities of Toshiro Shimoyama as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding response after emergence of suspicions	10,750,681,400 yen	Interest in this case, fund fee in this case, etc.
2	Violations of duty of due care as a prudent manager regarding acquisition of ITX stock by ITV	9,160,930,000 yen	Investment loss of this case
	Total	19,911,611,400 yen	

Exhibit ⑪-4

Responsibilities of Masatoshi Kishimoto as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding maintenance of loss separation state	10,750,681,400 yen	Interest in this case, fund fee in this case, etc.
2	Violations of duty of due care as a prudent manager regarding acquisition of ITX stock by ITV	9,160,930,000 yen	Investment loss of this case
	Total	19,911,611,400 yen	

Exhibit ⑪-5

Responsibilities of Tsuyoshi Kikukawa as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding maintenance of loss separation state	10,750,681,400 yen	Interest in this case, fund fee in this case, etc.
2	Violations of duty of due care as a prudent manager regarding acquisition of ITX stock by ITV	9,160,930,000	Investment loss of this case
3	Violations of duty of due care as a prudent manager regarding implementation of loss separation settlement scheme	7,200,759,788 yen	Compensation nominal payment to collaborator(s)
4	Violations of duty of due care as a prudent manager regarding response after emergence of suspicions	10 million yen	Damages attributable to disrepute
5	Period-end dividends and interim dividends from fiscal year ending March 2007 to fiscal year ending March 2011	38,795,141,452 yen	Dividend amount
6	Acquisitions of treasury stock based on resolutions of May 8, 2008, and November 5, 2010	19,992,957,400 yen	Buyback value
	Total	85,910,470,040 yen	

Exhibit ⑪-6

Exhibit (11)-7

Responsibilities of Hironobu Kawamata as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding purchase of preferred shares based on resolution at board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	2,447,509,788 yen	

Exhibit ⑪-7

Responsibilities of Atsushi Yusa as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisitions of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
	Total	2,209,250,000 yen	

Exhibit ⑪-8

Responsibilities of Hiroyuki Furuhata as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisitions of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
	Total	2,209,250,000 yen	

Exhibit ⑪-9

Responsibilities of Masaaki Terada as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Exhibit ⑪-10

Responsibilities of Tatsuo Nagasaki as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Exhibit ⑪-11

Responsibilities of Masaharu Okubo as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Exhibit ⑪-12

Responsibilities of Rikiya Fujita as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	2,447,509,788 yen	

* When a contract for the limitation of liability is concluded, it is possible that the responsibility is limited to within the range of the amount specified the contract.

Responsibilities of Masanobu Chiba as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	2,447,509,788 yen	

* When a contract for the limitation of liability is concluded, it is possible that the responsibility is limited to within the range of the amount specified the contract.

Exhibit ⑪-14

Responsibilities of Masanobu Chiba as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Responsibilities of Haruhito Morishima as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Responsibilities of Shuichi Takayama as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Exhibit ⑪-17

Responsibilities of Takashi Tsukaya as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding acquisition of the three domestic companies of this case, based on the resolution of the board of directors' meeting held on February 22, 2008	2,209,250,000 yen	Total amount of 1,259,250,000 yen paid by Neo to Gurdon Overseas S.A. in September 2008 and 950,000,000 yen paid by Teao to Nayland Overseas S.A. in December 2008
2	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	4,656,759,788 yen	

Responsibilities of Junichi Hayashi as Director

No.	Reason for Responsibility, Etc.	Amount of Damages, Etc.	Remarks
1	Violations of duty of due care as a prudent manager regarding the issuance of preferred shares, based on the resolution of the board of directors' meeting held on September 26, 2008 and the purchase of preferred shares, based on the resolution of the board of directors' meeting held on March 19, 2010	2,447,509,788 yen	Total amount of 1,080,066,963 yen paid by GPAI to Nakagawa in April 2010 and 1,367,442,825 yen paid by Easterside to Chang in June 2010
	Total	2,447,509,788 yen	

* When a contract for the limitation of liability is concluded, it is possible that the responsibility is limited to within the range of the amount specified the contract.

Exhibit ⑪-19

TRANSLATION FOR REFERENCE PURPOSSE ONLY

Exhibit ⑫

List of Directors Cleared of Responsibility

No.	Name
1	Hidehiro Takemura
2	Yuzuru Yoden
3	Morito Imai
4	Kenji Fujii
5	Masaaki Ohkado
6	Ichiro Sawamura (Deceased)
7	Masao Kobayashi
8	Shohei Nagai
9	Yoshihide Yamaoka
10	Takeyuki Mori (Deceased)
11	Mikio Takagi
12	Kenichi Sekimoto
13	Ken Yonekubo
14	Shinya Kosaka
15	Hiroshi Komiya
16	Koji Miyata
17	Isao Takahashi
18	Toru Toyoshima (Deceased)
19	Robert A. Mandell
20	Masataka Suzuki
21	Kazuhiro Watanabe
22	Shinichi Nishigaki
23	Yasuo Hayashida
24	Hiroshi Kuruma
25	Michael Woodford